



STATE OF OKLAHOMA
OFFICE OF THE
SECRETARY OF ENVIRONMENT



February 14, 2002

Gregg A. Cooke, Regional Administrator (6RA)
U.S. Environmental Protection Agency – Region VI
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Subject: Revisions to Oklahoma Air Quality Control Implementation Plan

Dear Mr. Cooke:

In his letter dated October 5, 1999, Governor Frank Keating appointed me as his designee for the purpose of submitting documents to the U.S. Environmental Protection Agency for approval and incorporation into the State Implementation Plan ("SIP") for Oklahoma.

The last revision to Oklahoma's SIP was submitted on May 16, 1994 and included the entirely recodified OAC 252:100 Air Pollution Control rules. It was not our intent to include all of these rules in our SIP, so Eddie Terrill, Director of DEQ's Air Quality Division, submitted a letter dated October 4, 1999 requesting certain rules be withdrawn from inclusion in the SIP. The EPA published in the Federal Register on August 2, 2000 its approval of this revision, excluding the withdrawn sections. However, it has come to my attention that while the withdrawn sections were not included in the SIP, they were not formerly withdrawn because the request did not come from Governor Keating or his designee. As designee, I request withdrawal of the following rules from the 1994 SIP submittal: OAC 252:100-7 (Permits), 8 (Operating Permits (Part 70)), 11 (Alternative Emissions Reductions Permits), 21 (Particulate Matter Emissions from Wood-Waste Burning Equipment), 41 (Control of Emission of Hazardous and Toxic Air Contaminants) and Appendix D (Particulate Matter Emission Limits for Wood-Waste Burning Equipment).

In addition, we submit for your review and approval under Section 110 of the federal Clean Air Act and 40 CFR Part 51 revisions to the Oklahoma Air Quality Control Implementation Plan and the associated evidence as required by 40 CFR 51, Appendix V, 2.1. All changes and additions to Oklahoma's plan were accomplished by adopting new or amended permanent rules of the Department of Environmental Quality. These rules were promulgated in substantial compliance with the Oklahoma's Administrative Procedures Act and published in the *Oklahoma Register*, the official state publication for

rule making actions. We have included five copies of the submittal as required by 40 CFR 51.103(a).

If you have questions, please contact Eddie Terrill, Director, Air Quality Division, Department of Environmental Quality at (405) 702-4154.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian C. Griffin". The signature is fluid and cursive, with a large initial "B" and "G".

Brian C. Griffin
Secretary of Environment

Enclosures

cc: Mark S. Coleman, Executive Director, Department of Environmental Quality
Eddie Terrill, Director, DEQ Air Quality Division
Thomas H. Diggs, Section Chief, Air Planning Section, EPA Region VI (6PD-L)
David W. Neleigh, Section Chief, Air Permits, EPA Region VI (6PD-R)



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

2002

State Implementation Plan

Oklahoma Administrative Code
252:100

Submitted to EPA
January 2002

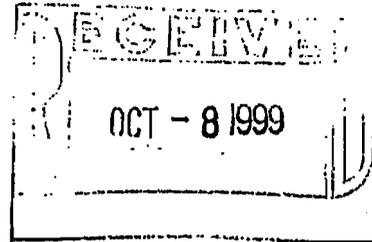
FOREWORD

OKLAHOMA STATE IMPLEMENTATION PLAN

SUBJECT: Oklahoma's 1994 SIP Submittal – Formal Withdrawal of Specific Rules

There is one remaining issue that we would like to resolve regarding Oklahoma's previous SIP submittal. The last revisions to Oklahoma's SIP were submitted on May 16, 1994 and included the entirely recodified OAC 252:100 Air Pollution Control rules. It was not our intent that all these rules be included in our SIP so Eddie Terrill, Director of DEQ's Air Quality Division, submitted a letter dated October 4, 1999, requesting certain rules be withdrawn from inclusion in the SIP. The EPA published in the Federal Register on August 2, 2000, its approval of these revisions, excluding the withdrawn sections. However, it has come to the DEQ's attention that while the withdrawn sections were not included in the SIP, they were not formerly withdrawn because the request did not come from Governor Keating or his designee. The cover letter for our new SIP submittal is signed by Brian Griffin, Secretary of the Environment and Governor Keating's designee, and includes a request for withdrawal of the following portions of the 1994 submittal:

- OAC 252:100-7 (Permits),
- OAC 252:100-8 (Operating Permits (Part 70)),
- OAC 252:100-11 (Alternative Emissions Reductions Permits),
- OAC 252:100-21 (Particulate Matter Emissions from Wood-Waste Burning Equipment),
- OAC 252:100-41 (Control of Emission of Hazardous and Toxic Air Contaminants), and
- OAC 252:100, Appendix D (Particulate Matter Emission Limits for Wood-Waste Burning Equipment).



Frank Keating
Governor

October 5, 1999

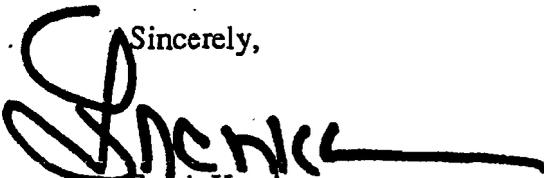
Gregg A. Cooke, Regional Administrator
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: Appointing Brian C. Griffin as designee
for State Implementation Plan purposes

Dear Mr. Cooke:

As Governor of the State of Oklahoma, I hereby appoint Secretary of Environment, Brian C. Griffin, as my designee for the purpose of submitting documents to the EPA for approval and incorporation into the State Implementation Plan for Oklahoma pursuant to section 110 of the federal Clean Air Act and EPA's implementing regulations in 40 CFR Part 51. Secretary Griffin will be my designee until you receive further notification in writing from this office.

Sincerely,


Frank Keating
Governor

cc: The Honorable Brian C. Griffin, Secretary of Environment
Mr. Mark S. Coleman, Executive Director, Department of Environmental Quality
Mr. Eddie Terrill, Director, DEQ Air Quality Division

INTRODUCTION

Oklahoma State Implementation Plan

SUBJECT: 2002 Revisions to Oklahoma State Implementation Plan (SIP)

Background. The DEQ implements most of the control measures and strategies in its portion of the SIP by promulgating permanent agency rules. The Oklahoma Administrative Procedures Act and state rules require that all notices of public hearings, agency rulemaking and rule adoption must be published in the *Oklahoma Register*, the official state publication. There are at least 7 major steps a rule must undergo to become a permanent rule.

1. The DEQ publishes notice of rulemaking intent in the Oklahoma Register at least 30 days before the Air Quality Council (AQC) hearing. The public comment period begins.
2. The Air Quality Council conducts the public hearing and votes to recommend that the Environmental Quality Board (EQB) adopt the rule. The public comment period is closed until the EQB hearing.
3. Notice of the EQB hearing is published in the Oklahoma Register at least 30 days before the hearing. This is usually included in the notice for the AQC hearing.
4. The EQB conducts the public hearing and votes to adopt the rule. Comments are accepted during the EQB hearing.
5. The Governor has 45 days to approve or disapprove the rule.
6. After the legislative session begins, the Oklahoma Legislature has 45 days to disapprove the rule and approves the rule through taking no action. (Note: The Oklahoma Legislature meets from February through May of each year.)
7. Notice of permanent rule adoption, including the preamble and rule, is published in the *Oklahoma Register*. The rule becomes effective 10 days after publication or at some specified date after those 10 days.

Rules affecting state air programs have undergone many changes in the last 7 years as the result of an agency, and later, statewide, initiative to simplify and clarify rules. Since we had not received a response to our 1994 submittal, we decided to reserve any additional revisions until EPA had approved or disapproved that submittal so EPA would not be attempting to review agency rules that were changing. In the interim, EPA was provided copies of any proposed rule changes that are included in the SIP revisions and had opportunities to comment before the rules were promulgated. We kept the groups in the EPA Regional office that are responsible for reviewing SIP revisions apprised of any proposed rule changes that could affect Oklahoma's SIP and actively solicited their comments.

All the proposed SIP revisions were implemented by promulgating new or amended permanent agency rules. These rules were considered by the Air Quality Council and the Environmental Quality Board and approved by the governor and state legislature. The public was provided opportunities to comment and participate in any of the public hearings held by the Air Quality Council and Environmental Quality Board. With the exception of the statement of legal

authority and the section on the Oklahoma administrative procedures, the submittal includes only documents from DEQ's permanent rule making records or summaries of these records.

Formal letter of submittal. In his letter dated October 5, 1999, Governor Keating appointed Brian Griffin, Oklahoma Secretary of the Environment, as his designee for the purpose of submitting documents to the U.S. Environmental Protection Agency (EPA) for the approval and incorporation into the State Implementation Plan (SIP). One original copy of the cover letter and 4 copies are provided. We enclosed copies of the original letter from Governor Keating designating Secretary Griffin.

Document organization. The body of the document contains 8,064 pages, excluding the table of contents and title page. Only odd pages are numbered. The numbers are in the lower right-hand corner of each page. The pages have been three-hole punched for easy insertion into binders. We have provided five copies of the entire SIP which have been packaged in labeled bankers boxes for easy transport. One complete set of the SIP revisions is contained in two boxes and will be labeled as Set 1, Box 1; Set 1 Box 2; etc.

Each complete document is divided into 3 major sections.

- **Section 1** contains evidence of legal authority, information on DEQ's rulemaking processes including the Oklahoma Administrative Procedures Act (APA), and the letter certifying that the public hearings were held in accordance with information in the public notices and the Oklahoma APA.
- **Section 2** contains copies of the official rules. The first complete Oklahoma Administrative Code (OAC) was published in 1996. The Office of Administrative Rules, the state office responsible for preparing the OAC, published supplements of rule changes in 1997, 1998 and 1999. Copies of the official rules and supplements provided to the DEQ by the OAR are in this section. The OAC does not include the dates of adoption or effective dates. These dates are available in Section 3 of this submittal. The OAR did not publish supplements in 2000 and 2001. The OAR provided copies of pages from the *Oklahoma Register* in lieu of the supplements for 2000 and 2001. Copies of pages of the official notices of permanent rule adoption published in the *Oklahoma Register* for 2000 and 2001 are included. The adoption and effective dates for rule changes during this time period will be found in the preambles published in the *Oklahoma Register*.
- **Section 3** contains the actual SIP revisions, the associated public notices of rulemaking intent and permanent adoption, hearing records, and compilations of public comments and our responses.

Section 3 is divided into 20 parts labeled according to rule. Each part contains the:

- **SIP revisions portion**, which is the actual text of the revisions to be made to the SIP.
- **Oklahoma Register portion**, which includes copies of the official notices of rulemaking intent and permanent adoption published in the *Oklahoma Register*.

- **Air Quality Council portion**, which includes agendas, text of the proposed rules, attendance records, meeting minutes, and associated information.
- **Environmental Quality Board portion**, which includes an agenda, the text of the proposed rules, and attendance records.
- **Additional comments portion**, which includes the hearing transcripts, written comments received by DEQ, and summaries of public comments and DEQ's responses. The summary of comments and responses is part of the Executive Summary document provided to the EQB.

SIP Revisions portion. There is only one version of the actual rule text submitted for inclusion in the SIP, except for two rule subchapters - OAC 252:100-5 and OAC 252:100-7. In the case of these two subchapters, the rules underwent more than one major rulemaking process so intermediate versions of these rules are included. Appendices to Chapter 100 rules are grouped with the rules that reference them.

We marked rule text for exclusion from the SIP revisions. The citation for the location of affected sections and the page number(s) where they are found is as follows:

- | | |
|--|--|
| 1. OAC 252:4-7-13 (c), (f)(1), (f)(2) and (f)(3) | pg. 707 |
| 2. OAC 252:4-7-32(c) | pg. 710 |
| 3. OAC 252:4-9-54 | pg. 718 |
| 4. OAC 252:100-5-1.1 | pg. 1721 |
| 5. OAC 252:100-7-1.1 & -2(b)(4) | pg. 3399, 3865, 3867 & 4059 |
| 6. OAC 252:100-7, Part 2 | pg. 3401, 3403, 3405, 3407, 3409,
3867 & 3869 |
| 7. OAC 252:100-7-60(b)(2) | pg. 3875 |
| 8. Appendix H | pg. 3465 |
| 9. OAC 252:100-8, Part 3 | pg. 4112 |
| 10. OAC 252:100-8-2 | pg. 4114 |
| 11. Appendix I | pg. 4159 |
| 12. Appendix J | pg. 4163 & 4164 |
| 13. OAC 252:100-9-2 | pg. 5045 |
| 14. OAC 252:100-23-3(b)(2) | pg. 5855 |
| 15. OAC 252:100-24-3(b)(2) | pg. 5975 |

Special rules worth mentioning.

OAC 252:4. Rules of Practice and Procedures and Appendices A, B, C & D

This Chapter sets out DEQ's administrative procedures for permit issuance, public notice, and administrative proceeding. The agency originally promulgated these procedures as two separate chapters – OAC 252:2 and 3. The provisions of the original chapters were combined to form the new Chapter 4, and OAC 252:2 and 3 were revoked.

OAC 252:100-8. Permits for Part 70 Sources and Appendices I & J

We are aware that this submission includes rules that are also part of our approved Title V program. Subchapter 8 contains the provisions for our new source review and construction permit programs for Part 70 sources. It would be difficult to separate these rules into Title V and SIP rules without omitting essential requirements, so we have not done so.

OAC 252:100-19 & 27 Control of Emissions of Particulate Matter and Appendices C & D

The current version of Subchapter 19 resulted from combining Subchapter 19, 21 and 27 into one Subchapter. While Subchapter 27 is part of our approved SIP, Subchapter 21 was never added to our SIP.

OAC 252:100-24 Particulate Matter Emissions from Grain, Feed and Seed Operation and Appendix L

Additional background information on rule development is provided in the Additional Comments portion.

Future submissions. The DEQ has permanent rules pending that should become effective by June 2002. We intend to submit another SIP revision this fall and annually thereafter, as necessary. The Fall 2002 submission will only include the rules adopted during the last year.

If you have questions regarding our submission or future submissions, please contact me, Cheryl Bradley or Pat Sullivan. Here are the telephone numbers and e-mail addresses to do so.

Scott Thomas
(405) 702-4157
scott.thomas@deq.state.ok.us

Cheryl Bradley
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cheryl.bradley@deq.state.ok.us

Pat Sullivan
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pat.sullivan@deq.state.ok.us

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MARK COLEMAN
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

FRANK KEATING
Governor

March 4, 2002



Mr. Gregg Cooke, Regional Administrator (6RA)
U. S. Environmental Protection Agency, Region VI
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Subject: Revisions to the Oklahoma Air Quality Control Implementation Plan

Dear Mr. Cooke:

The proposed revisions to the Oklahoma Air Quality Control Implementation Plan were all promulgated as new or revised Department of Environmental Quality (DEQ) rules. We certify that these rules were adopted in substantial compliance with the requirements of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250.1 through 323 and 40 CFR § 51.102 and submit this certification to satisfy the evidence requirements for state implementation plans in 40 CFR 51, Appendix V, 2.1(f). The rules to be added or amended in Oklahoma's plan and the dates of the public rulemaking hearings held by the DEQ's Air Quality Council and Environmental Quality Board are listed in the tables below:

OAC 252:100-3. Air Quality Standards and Increments

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
03/15/95	04/18/95	Air Quality Council
09/15/95	09/26/95	Environmental Quality Board

OAC 252:100, Appendix E. Primary Ambient Air Quality Standards

OAC 252:100, Appendix F. Secondary Ambient Air Quality Standards

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
07/15/98	08/18/98	Air Quality Council
07/15/98	09/15/98	Environmental Quality Board
11/15/99	12/14/99	Air Quality Council
01/18/00	02/25/00	Environmental Quality Board

OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
07/15/97	08/19/97	Air Quality Council



09/15/97	10/21/97	Air Quality Council
11/17/97	12/16/97	Air Quality Council
11/17/97	01/09/98	Air Quality Council
01/02/98	01/27/98	Environmental Quality Board
01/02/98	03/20/98	Environmental Quality Board
09/15/98	10/20/98	Air Quality Council
11/16/98	12/15/98	Air Quality Council
01/15/99	03/05/99	Environmental Quality Board
09/15/99	10/19/99	Air Quality Council
11/15/99	12/14/99	Air Quality Council
01/18/00	02/25/00	Environmental Quality Board

OAC 252:100-7. Permits For Minor Facilities**OAC 252:100, Appendix H. De Minimis Facilities**

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
02/02/87	03/17/87	Air Quality Council
04/01/87	05/19/87	Air Quality Council
06/01/87	07/21/87	Air Quality Council
08/03/87	09/22/87	Air Quality Council
01/04/88	01/28/88	Environmental Quality Board
08/03/92	08/11/92	Air Quality Council
08/17/92	09/15/92	Air Quality Council
10/15/92	11/05/92	Environmental Quality Board
07/15/93	08/17/93	Air Quality Council
08/02/93	09/14/93	Air Quality Council
09/15/93	10/19/93	Air Quality Council
12/01/93	12/22/93	Environmental Quality Board
09/15/95	10/17/95	Air Quality Council
09/15/95	11/13/95	Air Quality Council
09/15/95	12/19/95	Air Quality Council
09/15/95	01/16/96	Environmental Quality Board
05/15/96	06/11/96	Air Quality Council
07/15/96	08/13/96	Air Quality Council
09/16/96	10/15/96	Air Quality Council
09/16/96	11/26/96	Environmental Quality Board
07/15/97	08/19/97	Air Quality Council
09/15/97	10/21/97	Air Quality Council
09/15/97	12/16/97	Air Quality Council
09/15/97	01/09/98	Air Quality Council
01/02/98	01/27/98	Environmental Quality Board
01/02/98	03/20/98	Environmental Quality Board
07/15/98	08/18/98	Air Quality Council
09/15/98	10/20/98	Air Quality Council
11/16/98	12/15/98	Air Quality Council
01/15/99	03/05/99	Environmental Quality Board
09/15/00	10/18/00	Air Quality Council
09/15/00	11/14/00	Environmental Quality Board

OAC 252:100-8. Permits for Part 70 Sources**OAC 252:100, Appendix I. Insignificant Activities (Registration) List****OAC 252:100, Appendix J. Trivial Activities (De Minimis) List**

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
09/15/97	10/21/97	Air Quality Council
11/17/97	12/16/97	Air Quality Council
11/17/97	01/27/98	Environmental Quality Board
11/17/97	03/20/98	Environmental Quality Board
11/16/98	12/15/98	Air Quality Council
11/16/98	03/05/99	Environmental Quality Board
05/15/00	06/14/00	Air Quality Council
07/17/00	08/16/00	Air Quality Council
07/17/00	11/14/00	Environmental Quality Board

OAC 252:100-9. Excess Emission and Malfunction Reporting Requirements

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
05/17/99	06/15/99	Air Quality Council
08/02/99	08/24/99	Air Quality Council
09/15/99	10/19/99	Air Quality Council
11/15/99	12/14/99	Air Quality Council
01/18/00	02/16/00	Air Quality Council
03/15/00	04/19/00	Air Quality Council
03/15/00	06/20/00	Environmental Quality Board

OAC 252:100-13. Open Burning

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
09/15/99	10/19/99	Air Quality Council
11/15/99	12/14/99	Air Quality Council
11/15/99	02/25/00	Environmental Quality Board

OAC 252:100-17. Incinerators**OAC 252:100, Appendix A. Allowable Emissions for Incinerators with Capacities in Excess of 100 lbs/hr****OAC 252:100, Appendix B. Allowable Emissions for Incinerators with Capacities Less than 100 lbs/hr**

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
09/16/96	10/15/96	Air Quality Council
01/15/97	02/19/97	Air Quality Council
11/17/97	12/16/97	Air Quality Council
11/17/97	01/27/98	Environmental Quality Board
11/17/97	03/20/98	Environmental Quality Board
03/15/00	04/19/00	Air Quality Council
03/15/00	06/20/00	Environmental Quality Board

OAC 252:100-19. Control of Emission of Particulate Matter**OAC 252:100-21. Particulate Matter Emissions From Wood-Waste Burning Equipment [REVOKED];****Subchapter 252:100-27. Particulate Matter Emissions from Industrial and Other Processes and Operations [REVOKED]****OAC 252:100, Appendix C. Particulate Matter Emission Limits for Fuel-Burning Equipment****OAC 252:100, Appendix D. Particulate Matter Emission Limits for Wood-Waste Burning Equipment**

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
08/02/99	08/24/99	Air Quality Council
09/15/99	10/19/99	Air Quality Council
09/15/99	11/16/99	Environmental Quality Board

OAC 252:100-23. Control of Emissions From Cotton Gins

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
07/15/98	08/18/98	Air Quality Council
09/15/98	10/20/98	Air Quality Council
09/15/98	11/10/98	Environmental Quality Board

OAC 252:100-24. Particulate Matter Emissions from Grain, Feed or Seed Operations**OAC 252:100, Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators**

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
02/01/94	03/08/94	Air Quality Council
02/01/94	04/12/94	Air Quality Council
02/01/94	06/14/94	Air Quality Council
09/01/94	09/28/94	Environmental Quality Board
02/01/95	02/22/95	Air Quality Council
06/01/95	06/27/95	Environmental Quality Board
07/18/98	08/18/98	Air Quality Council
09/15/98	10/20/98	Air Quality Council
09/15/98	11/10/98	Environmental Quality Board

OAC 252:100-25. Smoke, Visible Emissions and Particulates

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
03/16/98	04/21/98	Air Quality Council
05/15/98	06/16/98	Air Quality Council
08/03/98	08/18/98	Air Quality Council
09/15/98	10/20/98	Air Quality Council
09/15/98	11/10/98	Environmental Quality Board

OAC 252:100-29. Control of Fugitive Dust

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
05/15/00	06/14/00	Air Quality Council
07/17/00	08/16/00	Air Quality Council
09/15/00	10/18/00	Air Quality Council
09/15/00	11/14/00	Environmental Quality Board

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

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
04/02/94	06/14/94	Air Quality Council
07/01/94	08/09/94	Air Quality Council
07/01/94	11/30/94	Environmental Quality Board

OAC 252:100-33. Control of Emission of Nitrogen Oxides

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
01/18/00	02/16/00	Air Quality Council
03/15/00	04/19/00	Air Quality Council
03/15/00	06/20/00	Environmental Quality Board

OAC 252:100-35. Control of Emission of Carbon Monoxide

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
08/02/99	08/24/99	Air Quality Council
09/15/99	10/19/99	Air Quality Council
09/15/99	11/16/99	Environmental Quality Board

OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs)

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
07/15/98	08/18/98	Air Quality Council
09/15/98	10/20/98	Air Quality Council
11/16/98	12/15/98	Air Quality Council
01/15/99	02/17/99	Air Quality Council
01/15/99	03/05/99	Environmental Quality Board

OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
07/15/98	08/18/98	Air Quality Council
09/15/98	10/20/98	Air Quality Council
11/16/98	12/15/98	Air Quality Council
01/15/99	02/17/99	Air Quality Council
01/15/99	03/05/99	Environmental Quality Board

OAC 252:100-45. Monitoring of Emissions

<i>NOTICE</i>	<i>PUBLIC HEARING</i>	<i>CONDUCTED HEARING</i>
09/01/94	10/11/94	Air Quality Council
11/01/94	11/30/94	Environmental Quality Board

All notices of DEQ's intent to adopt new or amended rules were published in the *Oklahoma Register*. The *Oklahoma Register* is semi-monthly publication prescribed by the Oklahoma Administrative Procedures Act in which all rulemaking actions and the associated documents must be published. Notices of rulemaking intent include the date, time and location of public hearings and information on how the public may submit written or oral comments on proposed rules. The public comment period for all Air Quality Council meetings begins on the date of publication of the notice and ends on the date of the public hearing. The Environmental Quality Board (EQB) accepts comments on the date of the EQB hearing.

If you have questions or require additional information, please contact Scott Thomas, Environmental Programs Manager, at (405) 702-4100.

Sincerely,



Eddie Terrill, Director
Air Quality Division

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 4. Rules of Practice and Procedure

OAC 252:4 Rules of Practice and Procedure; and Appendices A, B, C and D

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OAC 252:4 SIP Revision

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE
SUBCHAPTER 1. GENERAL PROVISIONS

252:4-1-1. Purpose and authority

- (a) **Purpose.** This Chapter describes the practices and procedures of the Environmental Quality Board, Advisory Councils, and the Department of Environmental Quality.
- (b) **Authority.** This Chapter is authorized by the Administrative Procedures Act, 75 O.S. § 302, and the Environmental Quality Code, 27A O.S. § 2-2-101.

252:4-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Administrative hearing" is defined at 27A O.S. § 2-1-102 and is synonymous with "individual proceeding" as that term is defined in the Administrative Procedures Act, 75 O.S. § 250.1 et seq.

"Administrative Law Judge" is synonymous with "hearing examiner" as that term is defined in the Administrative Procedures Act.

"Advisory Councils or Council" means any of the following Councils: the Air Quality Advisory Council, the Hazardous Waste Management Advisory Council, the Laboratory Services Advisory Council, the Radiation Management Advisory Council, the Solid Waste Management Advisory Council, the Water Quality Management Advisory Council, and the Waterworks and Wastewater Works Operator Certification Advisory Council.

"APA" means the Oklahoma Administrative Procedures Act, 75 O.S. § 250.1 et seq.

"Application" means "a document or set of documents, filed with the [DEQ], for the purpose of receiving a permit or the modification, amendment or renewal thereof from the [DEQ]... any subsequent additions, revisions or modifications submitted to the [DEQ] which supplement, correct or amend a pending application." [27A O.S. § 2-14-103(1)]

"Board" means the Environmental Quality Board.

"Code" means the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 et seq.

"Complaint" means any written or oral information submitted to DEQ alleging site-specific environmental pollution except information gained from facility inspections, or self-reported incidents.

"Department or DEQ" means the Department of Environmental Quality.

"Enforcement action" means:

- (A) a written communication from the DEQ to an alleged violator that identifies the alleged violations and directs or orders that the violations be corrected and/or their effect remedied;
- (B) an administrative action to revoke or suspend a permit or license;
- (C) a consent order or proposed consent order;
- (D) a civil petition, a complaint in municipal court, or a complaint in federal district court;
- (E) a referral by the DEQ to the Oklahoma Attorney General's office, a state District Attorney's office, a U.S. Attorney's office, or a state or federal law enforcement agency for investigation.

"Executive Director" means the Executive Director of the Department of Environmental

Quality.

"False complaint" means any written or oral information submitted to DEQ alleging site-specific environmental pollution by a person who knowingly and willfully gives false information or misrepresents material information.

"Individual proceeding" is defined in the APA [75 O.S. § 250.3(7)]. It includes an administrative evidentiary hearing to resolve issues of law or fact between parties, resulting in an order.

"Mediation" means a voluntary negotiating process in which parties to a dispute agree to use a mediator to assist them in jointly exploring and settling their differences, with a goal of resolving their differences by a formal agreement created by the parties.

"Notice of deficiencies" means a written notice to an applicant, describing with reasonable specificity the deficiencies in a permit application and requesting supplemental information.

"Off-site", as used in hazardous waste, solid waste and Underground Injection Control (UIC) tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.

"On-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry for the treatment, storage, processing, or disposal of its own waste exclusively.

"Program" means a regulatory section or division of the DEQ.

"Respondent" means a person or legal entity against whom relief is sought.

"Submittal" means a document or group of documents provided as part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"Technical review" means the evaluation of an application for compliance with applicable program rules.

252:4-1-3. Organization

(a) Environmental Quality Board. The Environmental Quality Board consists of thirteen (13) members, appointed by the Governor with the advice and consent of the Senate, selected from the environmental profession, general industry, hazardous waste industry, solid waste industry, water usage, petroleum industries, agriculture industries, conservation districts, local city or town governments, rural water districts, and statewide nonprofit environmental organizations. (See further 27A O.S. § 22-201.)

(b) Advisory Councils. There are seven advisory councils, each consisting of nine (9) members appointed by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or the Governor. (See further 27A O.S. § 22-201 and 59 O.S. § 1101 et seq.)

(c) DEQ. The DEQ consists of the following divisions: Administrative Services, Air Quality, Land Protection, Water Quality, Environmental Complaints and Local Services, Customer Services and the State Environmental Laboratory.

252:4-1-4. Office location and hours; communications

(a) Office location and hours. The principal office of the DEQ is 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677. Office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday except state holidays.

(b) Communications. Unless a person is working with a particular person or departmental area, written communication to the DEQ shall be addressed to the Executive Director.

- (1) Board. Communications to the Board may be made through the Executive Director.
- (2) Council. Communications to a Council may be made through the Division Director of the program with which the Council works.

252:4-1-5. Availability of a record

(a) Availability. Records of the Board, Advisory Councils, and DEQ, not otherwise confidential or privileged from disclosure by law, shall be available to the public for inspection and copying at the DEQ's principal office during normal business hours. Information, data or materials required to be submitted to the DEQ in a permit application process shall be made available to the public in accordance with the Oklahoma Uniform Environmental Permitting Act (27A O.S. § 24-101 et seq.) and the rules in this Chapter. The DEQ may take reasonable precautions in order to ensure the safety and integrity of records under its care.

(b) Removal. A record may be removed from the DEQ's offices or storage areas only with permission of the record's custodian.

(c) Reproduction.

(1) By DEQ. The DEQ may limit the number of copies made and the time and personnel available for reproduction of records requested by a member of the public.

(2) Commercial reproduction. With advance notice to the DEQ, a person may arrange for the pick-up, reproduction and return of records by a commercial copying service at his/her own expense.

(3) Other. With prior DEQ approval, a person may bring in and use his/her own copy machine.

(d) Confidentiality. Any person asserting a claim of confidentiality for any document submitted to the Board, Council or DEQ must substantiate the claim upon submission. The DEQ will make a determination on the claim and notify the person asserting the claim within a reasonable time. Each program may have more specific requirements, as required by state law or federal rule. [See 27A O.S. § 25-105(18) and 40 CFR § 2 Subpart B, particularly § 2.301 (Clean Air Act) § 2.302 (Clean Water Act), § 2.304 (Safe Drinking Water Act) § 2.305 (Solid Waste Disposal Act), as amended by the Resource Conservation and Recovery Act), and § 2.310 (Comprehensive Environmental Response, Compensation, and Liability Act, as amended by Superfund Amendments and Reauthorization Act)].

(e) Certification. Copies of official records of the Board, Advisory Councils or DEQ may be certified by the Executive Director or his/her designees.

(f) Charge. The DEQ's administrative fee schedule applies to in-house copying or reproduction of records for or by members of the public.

252:4-1-6. Administrative fees

(a) Photocopying. The fee for copying letter or legal sized paper is \$0.25 per page.

(b) Certified copy. The fee for a certified copy of a document is \$1.00 per document.

(c) Search fee. When the request is solely for commercial purpose or clearly would cause excessive disruption of the DEQ's essential functions, the document search fee is as follows:

(1) 0 - 15 minutes, no charge;

(2) 16 - 30 minutes, \$5.00;

(3) every subsequent 30-minute increment or portion thereof, \$5.00.

252:4-1-7. Fee credits for regulatory fees

(a) The Executive Director may authorize Divisions of the DEQ which have programs that collect recurring fees to apply a credit towards certain future invoices for those fees. The credit must be applied only within the program from which the carryover fees are derived. Only the amount that is projected to exceed three months of funding beyond the upcoming budget year for that program can be credited. A summary of any credit applied shall be reported to the Environmental Quality Board. For a credit to be applied:

- (1) there must be a projected balance in the fee account carried over from the previous year;
- (2) the credit must be distributable pro rata among the fee payers;
- (3) the credit must be large enough to justify its administrative cost; and
- (4) the Division must be unaware of a longer-range need, such as match for a superfund clean-up project.

(b) The DEQ shall explain on the invoices that a carryover exists and that an identified one-time credit is being applied.

252:4-1-8. Board and Councils

(a) **Officers.** A chair of the Board shall not serve as chair for more than three (3) consecutive years. Officers of a Council may succeed themselves as officers at the discretion of a Council.

(b) **Committees.** Ad hoc committees may be appointed to assist the Board or a Council for any lawful purpose.

252:4-1-9. Severability

The provisions of OAC 252 are severable, and if any part or provision hereof shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of OAC 252.

SUBCHAPTER 3. MEETINGS AND PUBLIC FORUMS

252:4-3-1. Meetings

(a) **Board.** The Board shall hold quarterly meetings and may hold other meetings as it deems necessary.

(b) **Council.** Each council shall hold at least one regularly scheduled meeting per calendar year, except the Air Quality Advisory Council which shall hold at least two regularly scheduled meetings.

(c) **Location.** The Board or a Council may meet at any location convenient and open to the public in this state to encourage public participation in the environmental rulemaking process.

(d) **Agenda.** The proposed agenda of a meeting may be developed with the advice of members and modified by the Chair. Time permitting, a copy of the proposed agenda shall be sent to each Board or Council member at least ten (10) calendar days before a regularly scheduled meeting. The Board or Council may, by majority vote during a meeting, continue an agenda item to or specify a new agenda item for another meeting or forum.

(e) **Public comment.** The agenda shall reserve time during the meeting for public comment on agenda action items. The DEQ shall provide sign-in sheets at each meeting for persons who wish to present written or oral comment on an agenda action item. The Chair reserves the right to rearrange the agenda items during the meeting to accommodate public comment. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council or the Board.

252:4-3-2. Public forums

- (a) Generally.** A public forum for receiving public comments and dissemination of information may be held in conjunction with a Council or Board meeting but shall be a separate meeting.
- (b) Location.** Each forum may be held at a different location in the state.
- (c) Format.** The forum shall be conducted by the Chair or the Chair's designee.
- (d) Public comment.** The DEQ shall provide sign-in sheets at each meeting for persons who wish to present written or oral comments. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council or the Board.

SUBCHAPTER 5. RULEMAKING

252:4-5-1. Adoption and revocation

The Board has the authority to adopt new or amended emergency or permanent rules and revoke existing rules within its jurisdiction.

252:4-5-2. Rule development

- (a) DEQ.** The DEQ may begin the development of rules at the request of or on behalf of the Board or a Council or upon petition by an interested person. The DEQ may appoint committees to assist in the development of rules.
- (b) Public.** Any person may informally discuss proposed rules with the DEQ or may suggest proposed rules during a council meeting. Also, any person may file a petition with the DEQ formally requesting the adoption, amendment, or revocation of one or more rules.

252:4-5-3. Petitions for Rulemaking

- (a) Form and content of petition.** Rulemaking petitions shall be in writing and filed with the DEQ. The petition shall include the information and follow the format in Appendix A of this Chapter. The DEQ shall provide a copy of the filed petition to the Board.
- (b) Referral.** The DEQ shall refer a filed petition to the appropriate Council or, if none, to the appropriate DEQ program for review. A petition referred to a Council shall be set on the agenda of the next available Council meeting for action.
- (c) Status.** The DEQ shall advise the Board of the status of rulemaking petitions.

252:4-5-4. Notice of permanent rulemaking

The DEQ shall submit notices of proposed permanent rulemaking to the Office of Administrative Rules for publication in accordance with the APA and the Administrative Rules on Rulemaking (OAC 655:10).

252:4-5-5. Rulemaking hearings

- (a) Hearing.** Hearings before a Council or the Board shall be conducted by the Chair or the Chair's designee.
- (b) Public comments.** The public may make comments orally at the hearing or submit comments in writing by the end of the specified public comment period, or both. Persons wishing to comment orally may be required to fill out a written request form. The person conducting the hearing may set reasonable time limits on oral presentations, may exclude repetitive or irrelevant comments and

may require that oral presentations be submitted in writing.

(c) **Public comment period.** The comment period shall end at the conclusion of the hearing if the agenda indicates that the Council intends to make a final recommendation on the rules or that the Board intends to take a final action on the rules. Otherwise, the comment period may be extended by the person conducting such hearing for no more than thirty (30) calendar days after the hearing or until the close of the hearing, if continued.

(d) **Summary of comments.** The DEQ shall maintain a summary of comments received on proposed rules during written comment periods. The summary shall be provided to the Council or Board prior to taking final action on the rule.

(e) **Hearing continuation.** A Council or the Board may continue the hearing by majority vote. Notice of the continuation shall be announced at the hearing and shall not require publication.

252:4-5-6. Council actions

(a) **Contents of recommendation.** On behalf of a Council, the DEQ shall prepare a recommendation submittal on proposed permanent rules, which shall include the text of the proposed rules, a summary of pertinent minutes of Council meetings, and a summary of comments received. Recommendations may also be made for rules with a finding of emergency. The Council may recommend that any proposed rule be adopted by the Board on a permanent and emergency basis simultaneously.

(b) **On remand.** The Council shall reconsider any rulemaking recommendation remanded by the Board.

252:4-5-7. Presentation to Board

(a) **Compliance with APA.** When proposed rules are presented to the Board, the DEQ shall indicate the rulemaking procedures which have been followed.

(b) **Board packets.** The DEQ shall prepare a board packet consisting of the text of proposed rules, an executive summary, a rule impact statement, an economic impact/environmental benefit statement (if applicable), a summary of comments received on proposed rules at rulemaking hearings and during written comment periods, the Council's recommendations and a summary of pertinent Council meeting minutes (if applicable). The Board packets shall be sent to members with the proposed agenda of the Board meeting at which rules are to be considered. Board packets for emergency rules may vary.

252:4-5-8. Board actions

(a) **Referral.** The Board may refer any rulemaking matter to the DEQ or an appropriate Council for review, comment or recommendation.

(b) **Proposed permanent rules.** The Board will not consider proposed permanent rules for adoption without the appropriate Council's recommendation except those rules for which no council has jurisdiction.

(c) **Proposed emergency rules.** The Board may adopt emergency rules without the advice of a Council in accordance with 27A O.S. § 22-101.

(d) **Final language of rules.** The rules adopted or repealed by the Board may vary from the Council recommendation except for rules recommended by the Air Quality Council. (See further, Oklahoma Clean Air Act at 27A O.S. § 25-106.)

(e) **Remand.** The Board may remand a Council's rulemaking recommendation for reconsideration.

(f) **Notice to Council.** The DEQ shall provide each Council with copies of emergency rules

adopted by the Board without the Council's recommendation and of any rules adopted by the Board which vary from that Council's recommendation.

252:4-5-9. Rulemaking record

The DEQ shall maintain a rulemaking record on all rules adopted or revoked by the Board.

SUBCHAPTER 7. ENVIRONMENTAL PERMIT PROCESS

PART 1. THE PROCESS

252:4-7-1. Authority

The rules in this Subchapter implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 24-101 et seq., and apply to applicants for and holders of DEQ permits and other authorizations.

252:4-7-2. Preamble

The Uniform Environmental Permitting Act requires that DEQ licenses, permits, certificates, approvals and registrations fit into an application category, or Tier, established under the uniform environmental permitting rules. Tier I is the category for those things that are basically administrative decisions which can be made by a technical supervisor with no public participation except for the landowner. Tier II is the category for those permit applications that have some public participation (notice to the public, the opportunity for a public meeting and public comment), and the administrative decision is made by the Division Director. Tier III is the category for those permit applications that have extensive public participation (notice to the public, the opportunity for a public meeting and public comment, and the opportunity for an administrative evidentiary hearing), and the administrative decision is made by the Executive Director.

252:4-7-3. Compliance

Applicants and permittees are subject to the laws and rules of the DEQ as they exist on the date of filing an application and afterwards as changed.

252:4-7-4. Filing an application

(a) Tier I. The applicant shall file (2) copies of a Tier I application unless the application form or instructions specifies that only one (1) copy is needed. Applicants seeking permits for alternative individual on-site sewage disposal systems and alternative small public on-site sewage disposal systems (OAC 252:641) shall file one copy with the local DEQ office for the county in which the real property is located.

(b) Tier II & III. The applicant shall file three (3) copies of Tier II and Tier III applications with the DEQ and place one (1) copy for public review in the county in which the site, facility or activity is located.

252:4-7-5. Fees

Fees shall be submitted with the application and, except as herein provided, will not be refunded.

252:4-7-6. Receipt of applications

When an application and appropriate fee are received, each program shall:

- (1) file stamp the application with the date of receipt, the Division and/or program name and an identification number;
- (2) assign the application to a permit reviewer; and
- (3) enter this information in a database or log book.

252:4-7-7. Administrative completeness review

The reviewer shall have 60 calendar days from the file-stamped date of filing to determine if the application is administratively complete.

- (1) Not complete. If the reviewer decides that the application is not complete, he/she shall immediately notify the applicant by mail, describing with reasonable specificity the deficiencies and requesting supplemental information. The reviewer may continue to ask for specific information until the application is administratively complete. If the reviewer does not notify the applicant of deficiencies, the period for technical review shall begin at the close of the administrative completeness review period.
- (2) Complete. When the application is administratively complete, the reviewer shall enter the date in the database or log book and immediately notify the applicant by mail. The period for technical review begins.

252:4-7-8. Technical review

(a) Each program shall have the time period specified in Parts 3 through 5 of this Subchapter to review each application for technical compliance with the relevant rules and to reach a final determination. If the data in the application does not technically comply with the relevant rules or law, the reviewer may notify the applicant by mail, describing with reasonable specificity the deficiencies and requesting supplemental information.

(b) Any environmental permit that is not described in this Subchapter shall be reviewed with all due and reasonable speed.

252:4-7-9. When review times stop

The time period for review stops during:

- (1) litigation;
- (2) public review and participation, including waiting periods, comment periods, public meetings, administrative hearings, DEQ preparation of response to comments and/or review by state or federal agencies;
- (3) requests for supplemental information; and
- (4) the time in which an applicant amends his/her application of his/her own accord.

252:4-7-10. Supplemental time

The Notice of Deficiencies and request for supplemental information may state that up to 30 additional calendar days may be added to the application processing time. Requests for supplemental information may also state that additional days for technical review equal to the number of days the applicant used to respond may be added to the review time.

252:4-7-11. Extensions

Extensions to the time lines of this Subchapter shall only be made by agreement or when the Executive Director certifies that circumstances outside the DEQ's control, including acts of God, a

substantial and unexpected increase in the number of applications filed, or additional review duties imposed on the DEQ from an outside source, prevent the reviewer from meeting the time periods.

252:4-7-12. Failure to meet deadline

Where failure to meet a deadline is imminent, then:

- (1) At least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline; or
- (2) The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

252:4-7-13. Notices

(a) **Statutory requirements for notice.** The Uniform Environmental Permitting Act requires an applicant to give notice in accordance with 27A O.S. § 2-14-301.

(b) **Notice to landowner.** Applicants shall certify by affidavit that they own the real property, have a current lease or easement which is given to accomplish the permitted purpose or have provided legal notice to the landowner.

(c) **Notice content.** The applicant shall provide DEQ with a draft notice for approval prior to publication. All published legal notice(s) shall contain the:

- (1) Name and address of the applicant;
- (2) Name, address and legal description of the site, facility and/or activity;
- (3) Purpose of notice;
- (4) Type of permit or permit action being sought;
- (5) Description of activities to be regulated;
- (6) Locations where the application may be reviewed;
- (7) Names, addresses and telephone numbers of contact persons for the DEQ and for the applicant;
- (8) Description of public participation opportunities and time period for comment and requests; and
- (9) Any other information required by DEQ rules.

(d) **Proof of publication.** Within twenty (20) days after the date of publication, an applicant shall provide the DEQ with a written affidavit of publication for each notice published. In case of a mistake in a published notice, the DEQ shall require a legal notice of correction or republication of the entire notice, whichever is appropriate. Inconsequential errors in spelling, grammar or punctuation shall not be cause for correction or republication.

~~(e) **Exception to notice requirement.** Applicants for solid waste transfer station permits may be exempt from public meeting requirements under 27A O.S. § 2-10-307.~~

(f) **Additional notice.**

~~(1) Applicants for a NPDES, RCRA or UIC permit are subject to additional notice provisions of federal requirements adopted by reference as DEQ rules.~~

~~(2) Applicants for a proposed wastewater discharge permit that may affect the water quality of a neighboring state or a Part 70 permit that may affect the air quality of a neighboring state must give written notice to the environmental regulatory agency of that state. [27A O.S. § 2-5-112(E)]~~

~~(3) Applicants for a landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See DuLaney v. OSDH, 868 P.2d 676 (~~

~~Ok. 1993).~~

252:4-7-14. Withdrawing applications

(a) By applicant. An applicant may withdraw an application at any time with written notice to the DEQ and forfeiture of fees.

(b) By DEQ. Except for good cause shown, when an applicant fails to supplement an application within 180 days after the mailing date of a Notice of Deficiencies, or by an agreed date, the DEQ shall void the application. The DEQ shall notify the applicant of an opportunity to show cause why this should not occur.

252:4-7-15. Permit issuance or denial

(a) Compliance required. A new, modified or renewed permit or other authorization sought by the applicant shall not be issued until the DEQ has determined the application is in substantial compliance with applicable requirements of the Code and DEQ rules.

(b) Conditions for issuance. The Department may not issue a new, modified or renewed permit or other authorization sought by the applicant if:

(1) The applicant has not paid all monies owed to the DEQ or is not in substantial compliance with the Code, DEQ rules and the terms of any existing DEQ permits and orders. The DEQ may impose special conditions on the applicant to assure compliance and/or a separate schedule which the DEQ considers necessary to achieve required compliance; or

(2) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.

252:4-7-16. Tier II and III modifications

For Tier II and III permit modification actions, only those issues relevant to the modification(s) shall be reopened for public review and comment.

252:4-7-17. Permit decision-making authority

(a) Designated positions. The Executive Director may delegate in writing the power and duty to issue, renew, amend, modify and deny permits and take other authorization or registration action. Unless delegated to a Division Director by formal assignment or rule, the authority to act on Tier I applications shall be delegated to positions within each permitting program having technical supervisory responsibilities and, for local actions authorized by law, to environmental specialist positions held by the DEQ's local services representatives. The authority to act on emergency permits or Tier II applications shall be delegated to the Division Director of the applicable permitting division.

(b) Revision. The Executive Director may amend any delegation in writing.

252:4-7-18. Pre-issuance permit review and correction

(a) Applicant review. The DEQ may ask an applicant to review its permit for calculation and clerical errors or mistakes of fact or law before the permit is issued.

(b) Correction. The DEQ may correct any permit before it is issued.

(1) Notice of significant corrections. For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by the DEQ which significantly alters a facility's permitted size, capacity or

limits.

(2) Comments. The DEQ may open a public comment period and/or reconvene a public meeting and/or administrative hearing to receive public comments on the proposed correction(s).

252:4-7-19. Consolidation of permitting process

(a) Discretionary. Whenever an applicant applies for more than one permit for the same site, the DEQ may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.

(b) Scope. When consolidation is authorized by the DEQ:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) The DEQ may also authorize the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.

(3) Final permits may be issued together.

(c) Renewal. The DEQ may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.

(d) Multiple modifications. Subsections (a) and (b) of this section shall also apply to multiple Tier II and III applications for permit modifications.

PART 3. AIR QUALITY DIVISION TIERS AND TIME LINES

252:4-7-31. Air quality time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

(A) PSD and Part 70 Sources - 365 days.

(B) Minor Facilities - 180 days.

(2) Operating permits:

(A) Part 70 Sources - 540 days.

(B) Minor Facilities - 365 days.

(3) Relocation permits - 30 days.

252:4-7-32. Air quality applications - Tier I

(a) Minor facility permits. The following air quality authorizations for minor facilities require Tier I applications.

(1) New permits. New construction, operating and relocation permits.

(2) Modifications of permits.

(A) Modification of a construction permit for a minor facility that will remain minor after the modification.

(B) Modification of an operating permit that will not change the facility's classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) Renewals. Renewals of operating permits.

(b) Part 70 source permits. The following air quality authorizations for Part 70 sources require

Tier I applications.

(1) New permits.

(A) New construction permit for an existing Part 70 source for any change considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).

(2) Modifications of permits.

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a Part 70 source's construction permit with no or minor modifications.

(c) Other authorizations. The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. ~~(Also subject to state implementation plan revision procedures in 252:100-11.)~~

252:4-7-33. Air quality applications - Tier II

(a) Minor facility permit actions. Any minor facility seeking a permit for a modification that when completed would turn it into a Part 70 source is required to apply under subsection (b) of this section.

(b) Part 70 source permits. The following air quality authorizations for Part 70 sources require Tier II applications.

(1) New permits.

(A) New construction permit for a new Part 70 source not classified under Tier III.

(B) New construction permit for an existing Part 70 source for any change considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(C) New operating permit for a Part 70 source that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(E) New acid rain permit that is independent of a Part 70 permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) Modifications of permits.

(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) Renewals. Renewals of operating permits.

(c) Other authorizations. The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

252:4-7-34. Air quality applications - Tier III

(a) New major stationary sources. A construction permit for any new major stationary source listed in this subsection requires a Tier III application. For purposes of this section, "Major stationary source" means:

(1) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(A) carbon black plants (furnace process),

(B) charcoal production plants,

(C) chemical process plants,

(D) coal cleaning plants (with thermal dryers),

(E) coke oven batteries,

(F) fossil-fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input,

(G) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(H) fuel conversion plants,

(I) glass fiber processing plants,

(J) hydrofluoric, sulfuric or nitric acid plants,

(K) iron and steel mill plants,

(L) kraft pulp mills,

(M) lime plants,

(N) incinerators, except where used exclusively as air pollution control devices,

(O) petroleum refineries,

(P) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(Q) phosphate rock processing plant,

(R) portland cement plants,

(S) primary aluminum ore reduction plants,

(T) primary copper smelters,

(U) primary lead smelters,

(V) primary zinc smelters,

(W) secondary metal production plants,

- (X) sintering plants,
- (Y) sulfur recovery plants, or
- (Z) taconite ore processing plants, and

(2) Any other source not specified in paragraph (1) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(b) Existing incinerators. An application for any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted shall require a Tier III application.

(c) Potential to emit. For purposes of this section, "potential to emit" means emissions resulting from the application of all enforceable permit limitations as defined in OAC 252:100-1-3.

SUBCHAPTER 9. ADMINISTRATIVE PROCEEDINGS

PART 1. ENFORCEMENT

252:4-9-1. Notice of Violation ("NOV")

Unless otherwise provided by the particular enabling legislation, administrative enforcement proceedings shall begin with a written notice of violation (NOV) being served upon the Respondent. The NOV shall set forth Respondent's action or omission and the specific provision of the Code, rules, license or permit alleged to be violated. An NOV may be a letter, inspection sheet, consent order or final order, if it meets the requirements of this Section.

252:4-9-2. Administrative compliance orders

(a) When issued. The Executive Director, upon the request of a Division, may issue an administrative order requiring compliance, assessing penalties for past violations and specifying penalties for continuing noncompliance.

(b) Contents. An administrative compliance order shall specify the findings of fact and conclusions of law upon which it is based and shall set a time for the Respondent to comply. The Order shall specify the penalty, not to exceed the statutory maximum per day of noncompliance, to be assessed in the event that the Respondent fails to comply with the Order within the prescribed time, and, if applicable, the penalty assessed for past violations of the Code, rules, or licenses or permits. The Order shall advise the Respondent that it shall become final unless an administrative hearing is requested in writing in accordance with 252:4-9-32 within fifteen (15) days of service of the Order.

(c) Service. An Order shall be served in accordance with 252:4-9-35.

(d) Order following hearing. Based on the hearing and record, a proposed order will be sustained, modified, or dismissed by the Executive Director. If the hearing process extends beyond any compliance deadline specified in the Order, fines specified in the Order for violations of the Order will continue to accrue during the hearing process unless the Administrative Law Judge stays the penalty upon request for good cause shown.

252:4-9-3. Determining penalty

In determining the amount of penalty specified in an administrative penalty order, the DEQ may consider the following:

- (1) the factors specified by 27A O.S. § 2-3-502(K)(2); and
- (2) the extent and severity of environmental degradation or adverse health effects caused by the

violation.

252:4-9-4. Assessment orders

(a) Issuance of assessment order. Any time the DEQ believes the Order has been violated, the Executive Director may issue an order assessing an administrative penalty pursuant to 27A O.S. § 2-3-502. In determining an appropriate administrative penalty, the Executive Director may consider Respondent's efforts to comply after being served with the Order.

(b) Content of assessment orders. An assessment order must state the nature and period of the violation and must determine the amount of the fine. The fine is due and payable immediately upon issuance of the assessment order, unless a hearing is requested within seven (7) days. See also 27A O.S. § 2-3-502.

(c) Continuing violations. If the DEQ believes that violations of the administrative compliance or penalty order continue after the issuance of an assessment order, the Executive Director may issue additional assessment orders covering periods of violation since the period covered by the issuance of a previous assessment order.

252:4-9-5. Considerations for self-reporting of noncompliance

(a) Conditions for not seeking administrative and civil penalties. Except in the case of habitual noncompliance or as otherwise provided in this section, in evaluating an enforcement action for a regulated entity's failure to comply with DEQ rules, the DEQ will not seek an administrative or civil penalty when the following circumstances are present:

(1) The regulated entity voluntarily, promptly and fully discloses the apparent failure to comply with applicable state environmental statutes or rules to the appropriate DEQ Division in writing before the Division learns of it or is likely to learn of it imminently;

(2) The failure is not deliberate or intentional;

(3) The failure does not indicate a lack or reasonable question of the basic good faith attempt to understand and comply with applicable state environmental statutes or rules through environmental management systems appropriate to the size and nature of the activities of the regulated entity;

(4) The regulated entity, upon discovery, took or began to take immediate and reasonable action to correct the failure (i.e., to cease any continuing or repeated violation);

(5) The regulated entity has taken, or has agreed in writing with the appropriate Division to take, remedial action as may be necessary to prevent recurrence of such failure. Any action the regulated entity agrees to take must be completed;

(6) The regulated entity has addressed, or has agreed in writing with the appropriate Division to address, any environmental impacts of the failure in an acceptable manner;

(7) The regulated entity has not realized and will not realize a demonstrable and significant economic or competitive advantage as a result of non-compliance; and

(8) The regulated entity cooperates with the DEQ as the DEQ performs its duties and provides such information as the DEQ reasonably requests to confirm the entity's compliance with these conditions.

(b) Partial qualification. Notwithstanding the failure of a regulated entity to meet all of the conditions in subsection a of this section, the DEQ will consider the nature and extent of such actions of the regulated entity in mitigation of any administrative or civil penalty otherwise appropriate. If the regulated entity meets all conditions in subsection (a) of this section except item seven (7) relating to significant economic or competitive advantage, the DEQ will seek an

administrative or civil penalty only to the extent of the economic or competitive advantage gained.
(c) Relationship to federal/state agreements. In the event of any conflict, the elimination or mitigation of penalties pursuant to subsections (a) and (b) of this section is subject to agreements between the DEQ and the United States Environmental Protection Agency (USEPA) relating to regulatory program delegation or authorization from the USEPA to the DEQ.
(d) Applicability. This section applies to all enforcement cases arising from violations discovered by or brought to the attention of the DEQ after June 2, 1997.

PART 3. INDIVIDUAL PROCEEDINGS

252:4-9-31. Individual proceedings filed by DEQ

(a) Initiation. Individual proceedings may be initiated by DEQ program areas by filing an administrative compliance or penalty order with the Administrative Law Clerk.
(b) Content. Each order shall name the Respondent(s), contain a brief statement of the facts, refer to the specific provision of the Code, rules, license or permit alleged to be violated, state the relief requested and include notice to the Respondent(s) of the opportunity to request an administrative hearing.
(c) Style. The style of the case shall be in accordance with the format in Appendix D.

252:4-9-32. Individual proceedings filed by others

(a) Request for administrative hearing in response to Order. A request for an individual proceeding initiated by the Respondent named in an Order shall be in writing and shall specifically set forth the Respondent's objections to the Order.
(b) Administrative hearing on Tier III permits. An individual proceeding on a proposed permit for a Tier III application may be requested in accordance with 27A O.S. § 2-14-304(C)(1).
(c) Style. The style of the case shall be in accordance with the format in Appendix D.
(d) Content. All requests for individual proceedings must be in writing, contain a brief statement of the basis of the request and the name and address of each requester, and be signed by the requester or an authorized representative.
(e) Declaratory ruling. Any person who alleges that any DEQ rule or order interferes with or impairs, or threatens to interfere with or impair, his/her legal rights may petition the DEQ, formally requesting a declaratory ruling on the applicability of the rule or order. After the petition is filed, the DEQ shall provide a copy to the Board.
(1) Form and content of petition. All petitions shall be in writing and filed with the Administrative Law Clerk. The petition shall include the information and follow the format in Appendix B.
(2) Determination. Petitions for declaratory rulings shall be decided by the DEQ. Rulings shall state the findings of fact and conclusions of law upon which they are based. If the DEQ refuses to make a ruling or begin an individual proceeding within 30 days, the petition shall be deemed to have been denied. If the DEQ begins an individual proceeding on the petition, it shall offer an opportunity for a hearing to the petitioner. After the DEQ issues a ruling or the Executive Director issues a final order, the DEQ shall provide a copy of the ruling or final order to the Board at its next available meeting.
(3) Mailing. The DEQ shall mail a copy of the ruling or final order to the petitioner.

252:4-9-33. Scheduling and notice of hearings

The DEQ shall schedule an administrative hearing after receipt of a proper and timely request. The Administrative Law Clerk shall notify the parties of the date, time and place of the hearing. Notice shall satisfy the requirements of the APA and shall be made at least fifteen (15) days prior to the hearing unless otherwise provided by law or agreed by the parties.

252:4-9-34. Administrative Law Judges and Clerks

(a) Administrative Law Judge. The Executive Director may designate an Administrative Law Judge for any administrative hearing in accordance with 27A O.S. § 2-3-103. Administrative Law Judges shall not have had prior involvement in the matter other than as an Administrative Law Judge, unless the parties waive this requirement.

(b) Administrative Law Clerk. The Executive Director may designate an Administrative Law Clerk to maintain the administrative hearing dockets and records, and perform such other duties as described in this Chapter or incidental thereto.

(c) Authority. Administrative Law Judges have complete authority to conduct individual proceedings and may take any action consistent with the APA and the rules of this subchapter. Administrative Law Judges may:

- (1) arrange and issue notice of the date, time and place of hearings and conferences;
- (2) establish the methods and procedures to be used in the presentation of the evidence;
- (3) hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;
- (4) administer oaths and affirmations;
- (5) regulate the course of the hearing and govern the conduct of participants;
- (6) examine witnesses;
- (7) rule on, admit, exclude and limit evidence, at or before hearings;
- (8) establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for such purposes;
- (9) rule on motions and pending matters;
- (10) divide the hearing into stages or join claims of parties whenever the number of parties is large or the issues are numerous and complex;
- (11) restrict attendance by persons not parties to the hearing in appropriate cases;
- (12) admit attorneys from other jurisdictions to practice law before the DEQ in accordance with Rules of the Oklahoma Bar Association, 5 O.S. Chapter 1, Appendix 1, Article II, § 5, and administer the oath required by 5 O.S. § 2.
- (13) require briefs on any relevant issues;
- (14) request proposed findings of fact, conclusions of law and a proposed order from all parties; and
- (15) restrict testimony to the facts alleged in an assessment order.

(d) Technical assistance. At the request of the Administrative Law Judge, the Executive Director may designate a DEQ representative, who has had no assigned responsibilities related to the matter at issue, to serve as technical adviser to the Administrative Law Judge.

252:4-9-35. Service

(a) Generally. Service shall be made in accordance with the Oklahoma Pleading Code, 12 O.S. § 2001 et seq., and 27A O.S. § 2-3-502 unless otherwise allowed by this section.

(b) By the DEQ. Where the DEQ is serving notice, personal service may be made by a person designated by the Executive Director for that purpose.

(c) **By certified mail.** Service by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal by the Respondent.

252:4-9-36. Responsive pleading

A Respondent may file, and the Administrative Law Judge may direct a Respondent to file, a responsive pleading to the initiated action.

252:4-9-37. Prehearing conferences

(a) **General.** The Administrative Law Judge may schedule and conduct prehearing conferences as necessary. The Administrative Law Clerk shall notify the parties of the scheduling of a prehearing conference. The Administrative Law Judge may hold a prehearing conference by telephone. On request, prehearing conferences shall be on the record.

(b) **Subjects.** Prehearing conferences may address:

- (1) identification and simplification of issues, including the elimination of frivolous claims or defenses;
- (2) amendments to the pleadings;
- (3) the plan and schedule of discovery and limitations to be placed thereon;
- (4) identification of admissions of fact to avoid unnecessary proof and cumulative evidence;
- (5) the identification of witnesses and substance of testimony, exhibits, and documents;
- (6) the use of prehearing briefs and prefiled testimony in the form of sworn affidavits;
- (7) settlement of all or some of the issues before the hearing;
- (8) adoption of special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems;
- (9) scheduling; and
- (10) such other matters as may aid disposition.

(c) **Schedules and orders.** A prehearing conference may result in a scheduling or other prehearing order. Subsequent changes to any prehearing or scheduling order may be made by the Administrative Law Judge by modifying the order upon good cause shown.

252:4-9-38. Discovery

Discovery shall be conducted in accordance with the Oklahoma Discovery Code (12 O.S. § 3224 et seq.) unless otherwise ordered by the Administrative Law Judge for good cause.

252:4-9-39. Subpoenas

(a) **Issuance.** Subpoenas for the attendance of witnesses, the furnishing of information required by the Administrative Law Judge and the production of evidence shall be issued in accordance with the APA and the Oklahoma Pleading Code.

(b) **Failure to obey.** The Executive Director may seek an appropriate judicial order to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing, or who refuse to answer a proper question during a hearing. The hearing may proceed despite any such refusal but the Administrative Law Judge may, in his/her discretion at any time, continue the proceedings as necessary to secure a court ruling.

252:4-9-40. Record

(a) **To be made.** A record of the hearing shall be made, which shall be a tape recording unless

otherwise agreed by the parties and the Administrative Law Judge. The recording will not be transcribed as a matter of course. A transcript may be obtained by submitting a written request to the Administrative Law Clerk and tendering payment in an amount sufficient to pay the cost of having the recording transcribed.

(b) Court reporter. A party may request a court reporter. The requesting party shall pay the costs, and the original transcript shall be filed in the case file as part of the record in the case. Each person or party requesting copies shall make arrangements with the reporter and pay the costs.

(c) Maintained. The record of a proceeding and the file containing the notices and the pleadings will be maintained by the Administrative Law Clerk. All pleadings, motions, orders and other papers submitted for filing in a proceeding shall be date/file stamped by the Administrative Law Clerk upon receipt. The burden of showing substantial prejudice by any failure to correctly file-stamp any submittal shall be upon the asserting party.

(d) Contents. The administrative record of all individual proceedings shall contain documents required by the APA, 75 O.S. § 309. An individual proceeding on a proposed permit for a Tier III application shall also include the following:

- (1) the permit application on file with the DEQ, as amended;
- (2) all written comments received during the public comment period;
- (3) the tape or transcript of the public meeting;
- (4) documents resulting from the DEQ's review of the permit application and public comments;
- (5) the draft permit, fact sheet and response to comments, if any, issued by the DEQ; and
- (6) all published notices.

252:4-9-41. Motions

(a) Filing. All requests for action in a matter already before the DEQ shall be made in a motion, signed by the party or his/her attorney, and filed with the Administrative Law Clerk.

(b) Service. Copies of motions shall be served on other parties in accordance with 252:4-9-35.

(c) Response. Within fifteen (15) days after service of any written motion, any party to the proceedings may file a response to the motion. The time for response may be extended or shortened by the Administrative Law Judge for good cause shown.

252:4-9-42. Continuances

A motion for an extension or continuance shall state the reasons for the request and specify the length of time requested. Unless made before the Administrative Law Judge in open hearing, motions for extensions of time or for a continuance of the hearing to another date or time shall be in writing and filed with the Administrative Law Clerk. The Administrative Law Judge shall promptly grant or deny such request at his/her discretion. If the motion is denied, it may be renewed orally by the party at the hearing.

252:4-9-43. Summary judgment

The Administrative Law Judge may grant a motion for summary judgment, subject to 252:4-9-46.

252:4-9-44. Default

(a) Generally. Any Respondent who fails to appear, after receipt of notice, may be determined to have waived the right to appear and present a defense. A Final Order may be issued by the

Executive Director granting the relief requested by default.

(b) Tier III application. The Executive Director may enter a default judgment against any party who fails to participate in an administrative hearing on a proposed permit for a Tier III application.

252:4-9-45. Withdrawal and dismissal

Parties may withdraw from a case and cases may be dismissed by the Administrative Law Judge in accordance with the Oklahoma Code of Civil Procedure.

252:4-9-46. Orders in administrative hearings

Proposed and final orders in administrative hearings shall be prepared and issued in accordance with the APA.

PART 5. AIR QUALITY ADVISORY COUNCIL HEARINGS

252:4-9-51. In general

The Air Quality Advisory Council is authorized to conduct individual proceedings on enforcement matters and requests for a variance from the Clean Air Act, 27A O.S. § 2-5-101 through 2-5-118, or the Air Pollution Control Rules, OAC 252:100.

252:4-9-52. Individual proceedings

Individual proceedings before the Air Quality Advisory Council will be conducted in accordance with the requirements in Part 3 of this Subchapter. To be heard by the Council, the request for hearing in response to an Order must include a request that the Council conduct the hearing. The Council may designate an Administrative Law Judge for individual proceedings to be held before the Council. The Council or its designee may perform Administrative Law Judge functions described in Part 3 of this Subchapter.

252:4-9-53. Variance

It is within the discretion of the Air Quality Advisory Council to decide whether or not an individual proceeding is necessary in granting a variance.

252:4-9-54. State implementation plan hearings

A state implementation plan (SIP) hearing may be initiated by an applicant for an alternative emissions reduction authorization ~~under 252:100-11~~ by filing a request for a SIP hearing with the Administrative Law Clerk. A request that the hearing be conducted by the Air Quality Advisory Council must be included in the request for hearing. ~~Additional requirements for a SIP hearing request are contained in 252:100-11-6.~~

APPENDIX B. PETITION FOR DECLARATORY RULING

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY [NEW]

IN THE MATTER OF _____) Matter No.
)
RULE OAC 252: _____) Date filed:
(or Case No. _____)

Subject area: Air Quality Solid Waste
 Hazardous Waste Water Quality
 Laboratory Operator Certification
 Radiation Other

Petition will be referred by the Department to its appropriate program.

1. Rule Number(s): _____
(OAC number if known)
2. Attach a brief statement of the issues raised by the rule(s) which cause such a request to be made and a statement of your personal interest in the ruling.
3. If this request has been discussed with the Department of Environmental Quality, please indicate the name of the Division and employee consulted; otherwise, state "n/a."

4. Attachment(s): List of Exhibits
 Further explanation

_____ by: _____
Name of Business or group (print name) (title)

or Name of Individual (print): _____

Signature: _____

Address: _____

Phone: _____

APPENDIX C. PERMITTING PROCESS SUMMARY [NEW]

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with the DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting - Notice - 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review - DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments - DEQ (written response)	No	Yes	Yes
Proposed permit - DEQ prepares this in response to comments on draft permit	No	No	Yes
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

APPENDIX D. STYLE OF THE CASE IN AN INDIVIDUAL PROCEEDING [NEW]

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
NAME OF DIVISION

IN THE MATTER OF:

)
)
)
) Case No.
)
)

NAME OF DOCUMENT

Oklahoma Register

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rule revocation will be on file at the DEQ and may be requested from the contact person.

CONTACT PERSON:

Contact Barbara Rauch by e-mail barbara.rauch@deqmail.state.ok.us or by phone (405) 702-7189 or fax (405) 702-7101. The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma, 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #00-2331; filed 9-21-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 4. RULES OF PRACTICE AND PROCEDURE

[OAR Docket #00-2332]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 4. Rules of Practice and Procedure [NEW]

SUMMARY:

The Administrative Procedures Act requires each agency to adopt rules describing its organization, methods of operation and methods by which people may obtain information from or give information to the agency. These rules must also specify the requirements of all formal and informal procedures available, including a description of forms and instructions. (75 O.S. § 302)

This proposed new Chapter 4 is a combination of three chapters of administrative rules relating to the DEQ, which will be revoked when Chapter 4 is adopted, i.e., current Chapter 1 (Procedures of the Environmental Quality Board), current Chapter 2 (Procedures of the Department of Environmental Quality), and current Chapter 3 (Procedures of the Environmental Quality Councils).

Duplicative and redundant rules were eliminated. The rulemaking process rules were rewritten in chronological order. The permitting process rules were substantially rewritten to simplify and clarify them. Three separate subchapters dealing with administrative proceedings were combined into one subchapter that addresses all individual proceedings. Statutory language was deleted.

The proposed Chapter 4 rules address general provisions, board and council meetings and public forums,

rulemaking, the environmental permit process, administrative proceedings, complaint processing, environmental education grants and local project funding.

This chapter also includes rules recommended by the Air Quality Council on June 14, 2000, which address hearings before that council. Rule numbers were changed to be consistent with the new proposed Chapter 4. See proposed Subchapter 4, Part 5.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Administrative Procedures Act, 75 O.S. § 302

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by this rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Deliver or mail written comments to the contact person from October 16 through November 6, 2000

PUBLIC HEARINGS:

Before the Environmental Quality Board at a meeting to be held at 9:30 a.m. on November 14, 2000, in Hooker, Oklahoma. Written or oral comments will be accepted.

COPY OF PROPOSED RULE:

The proposed rule may be obtained from the contact person and reviewed at the DEQ.

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rule will be on file at the DEQ and may be requested from the contact person.

CONTACT PERSON:

Contact Barbara Rauch by e-mail barbara.rauch@deqmail.state.ok.us or by phone (405) 702-7189 or fax (405) 702-7101. The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma, 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #00-2332; filed 9-21-00]

Permanent Final Adoptions

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 4. RULES OF PRACTICE AND PROCEDURE

[OAR Docket #01-875]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Chapter 4. Rules of Practice and Procedure [NEW]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Administrative Procedures Act, 75 O.S. § 302

DATES:

Comment period:

October 16, 2000, through November 6, 2000

Public hearing:

November 14, 2000 and February 23, 2001

Adoption:

February 23, 2001

Submitted to Governor:

March 2, 2001

Submitted to House:

March 2, 2001

Submitted to Senate:

March 2, 2001

Gubernatorial approval:

April 16, 2001

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 26, 2001

Final adoption:

April 26, 2001

Effective:

June 11, 2001

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATED BY REFERENCE:

None

ANALYSIS:

The Administrative Procedures Act requires each agency to adopt rules describing its organization, methods of operation and methods by which people may obtain information from or give information to the agency. These rules must also specify the requirements of all formal and informal procedures available, including a description of forms and instructions. (75 O.S. §302)

This proposed new Chapter 4 is a combination of three chapters of administrative rules relating to the DEQ, which will be revoked when Chapter 4 is adopted, i.e. current Chapter 1 (Procedures of the Environmental Quality Board), current Chapter 2 (Procedures of the DEQ), and current Chapter 3 (Procedures of the Environmental Quality Councils).

Duplicative and redundant rules were eliminated. The rulemaking process rules were rewritten in chronological order. The permitting process rules were substantially rewritten to simplify and clarify them. Three separate subchapters dealing with administrative proceedings were combined into one subchapter that addresses all individual proceedings. Statutory language was deleted.

The proposed Chapter 4 rules address general provisions, Board and council meetings and public forums, rulemaking, the environmental permit process, administrative proceedings, complaint processing, environmental education grants and local project funding.

This chapter also includes rules recommended by the Air Quality Council on June 14, 2000, which address hearings before that council. Rule numbers were changed to be consistent with the new proposed Chapter 4. See proposed Subchapter 4, Part 5.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are analogous federal rules for permitting. 40 CFR Part 124 contains federal rules entitled "Procedures for Decisionmaking". Subpart A, "General Program Requirements", contains EPA procedures for issuing RCRA, UIC, PSD and NPDES permits. In those programs for which DEQ has received delegation or authorization from EPA, the DEQ is required by federal law to follow some EPA procedures in addition to those required under state law. In those cases, the EPA procedures have been incorporated by reference by the specific program area either by rule or by program approval. In the current Chapter 2 and the proposed Chapter 4 rules, additional notice requirements are acknowledged for NPDES, RCRA, and UIC permits.

CONTACT PERSON:

Contact Barbara Rauch by e-mail barbara.rauch@deqmail.state.ok.us or by phone (405) 702-7189 or fax (702-7101). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma, 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

ADDITIONAL INFORMATION:

The adoption of this new chapter was first considered by the Environmental Quality Board at their November 14, 2000 meeting, at which time board members continued it until the February 23, 2001 meeting.

PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 2001.

SUBCHAPTER 1. GENERAL PROVISIONS

252:4-1-1. Purpose and authority

(a) Purpose. This Chapter describes the practices and procedures of the Environmental Quality Board, Advisory Councils, and the Department of Environmental Quality.

(b) Authority. This Chapter is authorized by the Administrative Procedures Act, 75 O.S. § 302, and the Environmental Quality Code, 27A O.S. § 2-2-101.

252:4-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Administrative hearing" is defined at 27A O.S. § 2-1-102 and is synonymous with "individual proceeding" as that term is defined in the Administrative Procedures Act, 75 O.S. § 250.1 *et seq.*

"Administrative Law Judge" is synonymous with "hearing examiner" as that term is defined in the Administrative Procedures Act.

"Advisory Councils or Council" means any of the following Councils: the Air Quality Advisory Council, the Hazardous Waste Management Advisory Council, the Laboratory Services Advisory Council, the Radiation Management Advisory Council, the Solid Waste Management Advisory Council, the Water Quality Management Advisory Council, and the Waterworks and Wastewater Works Operator Certification Advisory Council.

"APA" means the Oklahoma Administrative Procedures Act, 75 O.S. § 250.1 *et seq.*

"Application" means "a document or set of documents, filed with the [DEQ], for the purpose of receiving a permit or the modification, amendment or renewal thereof from the [DEQ]... any subsequent additions, revisions or modifications submitted to the [DEQ] which supplement, correct or amend a pending application." [27A O.S. § 2-14-103(1)]

"Board" means the Environmental Quality Board.

"Code" means the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 *et seq.*

"Complaint" means any written or oral information submitted to DEO alleging site-specific environmental pollution except information gained from facility inspections, or self-reported incidents.

"Department or DEO" means the Department of Environmental Quality.

"Enforcement action" means:

- (A) a written communication from the DEO to an alleged violator that identifies the alleged violations and directs or orders that the violations be corrected and/or their effect remedied;
- (B) an administrative action to revoke or suspend a permit or license;
- (C) a consent order or proposed consent order;
- (D) a civil petition, a complaint in municipal court, or a complaint in federal district court;
- (E) a referral by the DEO to the Oklahoma Attorney General's office, a state District Attorney's office, a U.S. Attorney's office, or a state or federal law enforcement agency for investigation.

"Executive Director" means the Executive Director of the Department of Environmental Quality.

"False complaint" means any written or oral information submitted to DEO alleging site-specific environmental pollution by a person who knowingly and willfully gives false information or misrepresents material information.

"Individual proceeding" is defined in the APA [75 O.S. § 250.3(7)]. It includes an administrative evidentiary hearing

to resolve issues of law or fact between parties, resulting in an order.

"Mediation" means a voluntary negotiating process in which parties to a dispute agree to use a mediator to assist them in jointly exploring and settling their differences, with a goal of resolving their differences by a formal agreement created by the parties.

"Notice of deficiencies" means a written notice to an applicant, describing with reasonable specificity the deficiencies in a permit application and requesting supplemental information.

"Off-site", as used in hazardous waste, solid waste and Underground Injection Control (UIC) tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.

"On-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry for the treatment, storage, processing, or disposal of its own waste exclusively.

"Program" means a regulatory section or division of the DEO.

"Respondent" means a person or legal entity against whom relief is sought.

"Submittal" means a document or group of documents provided as part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"Technical review" means the evaluation of an application for compliance with applicable program rules.

252:4-1-3. Organization

(a) Environmental Quality Board. The Environmental Quality Board consists of thirteen (13) members, appointed by the Governor with the advice and consent of the Senate, selected from the environmental profession, general industry, hazardous waste industry, solid waste industry, water usage, petroleum industries, agriculture industries, conservation districts, local city or town governments, rural water districts, and statewide nonprofit environmental organizations. (See further 27A O.S. § 2-2-101.)

(b) Advisory Councils. There are seven advisory councils, each consisting of nine (9) members appointed by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or the Governor. (See further 27A O.S. § 2-2-201 and 59 O.S. § 1101 *et seq.*)

(c) DEO. The DEO consists of the following divisions: Administrative Services, Air Quality, Land Protection, Water Quality, Environmental Complaints and Local Services, Customer Services and the State Environmental Laboratory.

252:4-1-4. Office location and hours; communications

(a) Office location and hours. The principal office of the

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DEO is 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677. Office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday except state holidays.

(b) **Communications.** Unless a person is working with a particular person or departmental area, written communication to the DEO shall be addressed to the Executive Director.

(1) **Board.** Communications to the Board may be made through the Executive Director.

(2) **Council.** Communications to a Council may be made through the Division Director of the program with which the Council works.

252:4-1-5. Availability of a record

(a) **Availability.** Records of the Board, Advisory Councils, and DEO, not otherwise confidential or privileged from disclosure by law, shall be available to the public for inspection and copying at the DEO's principal office during normal business hours. Information, data or materials required to be submitted to the DEO in a permit application process shall be made available to the public in accordance with the Oklahoma Uniform Environmental Permitting Act (27A O.S. § 2-14-101 *et seq.*) and the rules in this Chapter. The DEO may take reasonable precautions in order to ensure the safety and integrity of records under its care.

(b) **Removal.** A record may be removed from the DEO's offices or storage areas only with permission of the record's custodian.

(c) **Reproduction.**

(1) **By DEO.** The DEO may limit the number of copies made and the time and personnel available for reproduction of records requested by a member of the public.

(2) **Commercial reproduction.** With advance notice to the DEO, a person may arrange for the pick-up, reproduction and return of records by a commercial copying service at his/her own expense.

(3) **Other.** With prior DEO approval, a person may bring in and use his/her own copy machine.

(d) **Confidentiality.** Any person asserting a claim of confidentiality for any document submitted to the Board, Council or DEO must substantiate the claim upon submission. The DEO will make a determination on the claim and notify the person asserting the claim within a reasonable time. Each program may have more specific requirements, as required by state law or federal rule. [See 27A O.S. § 2-5-105(18) and 40 CFR § 2 Subpart B, particularly § 2.301 (Clean Air Act), § 2.302 (Clean Water Act), § 2.304 (Safe Drinking Water Act), § 2.305 (Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act), and § 2.310 (Comprehensive Environmental Response, Compensation, and Liability Act, as amended by Superfund Amendments and Reauthorization Act)].

(e) **Certification.** Copies of official records of the Board,

Advisory Councils or DEO may be certified by the Executive Director or his/her designees.

(f) **Charge.** The DEO's administrative fee schedule applies to in-house copying or reproduction of records for or by members of the public.

252:4-1-6. Administrative fees

(a) **Photocopying.** The fee for copying letter or legal sized paper is \$0.25 per page.

(b) **Certified copy.** The fee for a certified copy of a document is \$1.00 per document.

(c) **Search fee.** When the request is solely for commercial purpose or clearly would cause excessive disruption of the DEO's essential functions, the document search fee is as follows:

(1) 0 - 15 minutes, no charge;

(2) 16 - 30 minutes, \$5.00;

(3) every subsequent 30-minute increment or portion thereof, \$5.00.

252:4-1-7. Fee credits for regulatory fees

(a) The Executive Director may authorize Divisions of the DEO which have programs that collect recurring fees to apply a credit towards certain future invoices for those fees. The credit must be applied only within the program from which the carryover fees are derived. Only the amount that is projected to exceed three months of funding beyond the upcoming budget year for that program can be credited. A summary of any credit applied shall be reported to the Environmental Quality Board. For a credit to be applied:

(1) there must be a projected balance in the fee account carried over from the previous year;

(2) the credit must be distributable pro rata among the fee payers;

(3) the credit must be large enough to justify its administrative cost; and

(4) the Division must be unaware of a longer-range need, such as match for a superfund clean-up project.

(b) The DEO shall explain on the invoices that a carryover exists and that an identified one-time credit is being applied.

252:4-1-8. Board and Councils

(a) **Officers.** A chair of the Board shall not serve as chair for more than three (3) consecutive years. Officers of a Council may succeed themselves as officers at the discretion of a Council.

(b) **Committees.** Ad hoc committees may be appointed to assist the Board or a Council for any lawful purpose.

252:4-1-9. Severability

The provisions of OAC 252 are severable, and if any part or provision hereof shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of OAC 252.

SUBCHAPTER 3. MEETINGS AND PUBLIC FORUMS

252:4-3-1. Meetings

(a) **Board.** The Board shall hold quarterly meetings and may hold other meetings as it deems necessary.

(b) **Council.** Each council shall hold at least one regularly scheduled meeting per calendar year, except the Air Quality Advisory Council which shall hold at least two regularly scheduled meetings.

(c) **Location.** The Board or a Council may meet at any location convenient and open to the public in this state to encourage public participation in the environmental rulemaking process.

(d) **Agenda.** The proposed agenda of a meeting may be developed with the advice of members and modified by the Chair. Time permitting, a copy of the proposed agenda shall be sent to each Board or Council member at least ten (10) calendar days before a regularly scheduled meeting. The Board or Council may, by majority vote during a meeting, continue an agenda item to or specify a new agenda item for another meeting or forum.

(e) **Public comment.** The agenda shall reserve time during the meeting for public comment on agenda action items. The DEO shall provide sign-in sheets at each meeting for persons who wish to present written or oral comment on an agenda action item. The Chair reserves the right to rearrange the agenda items during the meeting to accommodate public comment. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council or the Board.

252:4-3-2. Public forums

(a) **Generally.** A public forum for receiving public comments and dissemination of information may be held in conjunction with a Council or Board meeting but shall be a separate meeting.

(b) **Location.** Each forum may be held at a different location in the state.

(c) **Format.** The forum shall be conducted by the Chair or the Chair's designee.

(d) **Public comment.** The DEO shall provide sign-in sheets at each meeting for persons who wish to present written or oral comments. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council or the Board.

SUBCHAPTER 5. RULEMAKING

252:4-5-1. Adoption and revocation

The Board has the authority to adopt new or amended emergency or permanent rules and revoke existing rules within its jurisdiction.

252:4-5-2. Rule development

(a) **DEO.** The DEO may begin the development of rules at

the request of or on behalf of the Board or a Council or upon petition by an interested person. The DEO may appoint committees to assist in the development of rules.

(b) **Public.** Any person may informally discuss proposed rules with the DEO or may suggest proposed rules during a council meeting. Also, any person may file a petition with the DEO formally requesting the adoption, amendment, or revocation of one or more rules.

252:4-5-3. Petitions for Rulemaking

(a) **Form and content of petition.** Rulemaking petitions shall be in writing and filed with the DEO. The petition shall include the information and follow the format in Appendix A of this Chapter. The DEO shall provide a copy of the filed petition to the Board.

(b) **Referral.** The DEO shall refer a filed petition to the appropriate Council or, if none, to the appropriate DEO program for review. A petition referred to a Council shall be set on the agenda of the next available Council meeting for action.

(c) **Status.** The DEO shall advise the Board of the status of rulemaking petitions.

252:4-5-4. Notice of permanent rulemaking

The DEO shall submit notices of proposed permanent rulemaking to the Office of Administrative Rules for publication in accordance with the APA and the Administrative Rules on Rulemaking (OAC 655:10).

252:4-5-5. Rulemaking hearings

(a) **Hearing.** Hearings before a Council or the Board shall be conducted by the Chair or the Chair's designee.

(b) **Public comments.** The public may make comments orally at the hearing or submit comments in writing by the end of the specified public comment period, or both. Persons wishing to comment orally may be required to fill out a written request form. The person conducting the hearing may set reasonable time limits on oral presentations, may exclude repetitive or irrelevant comments and may require that oral presentations be submitted in writing.

(c) **Public comment period.** The comment period shall end at the conclusion of the hearing if the agenda indicates that the Council intends to make a final recommendation on the rules or that the Board intends to take a final action on the rules. Otherwise, the comment period may be extended by the person conducting such hearing for no more than thirty (30) calendar days after the hearing or until the close of the hearing, if continued.

(d) **Summary of comments.** The DEO shall maintain a summary of comments received on proposed rules during written comment periods. The summary shall be provided to the Council or Board prior to taking final action on the rule.

(e) **Hearing continuation.** A Council or the Board may continue the hearing by majority vote. Notice of the continuation shall be announced at the hearing and shall not require publication.

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252:4-5-6. Council actions

(a) Contents of recommendation. On behalf of a Council, the DEO shall prepare a recommendation submittal on proposed permanent rules, which shall include the text of the proposed rules, a summary of pertinent minutes of Council meetings, and a summary of comments received. Recommendations may also be made for rules with a finding of emergency. The Council may recommend that any proposed rule be adopted by the Board on a permanent and emergency basis simultaneously.

(b) On remand. The Council shall reconsider any rulemaking recommendation remanded by the Board.

252:4-5-7. Presentation to Board

(a) Compliance with APA. When proposed rules are presented to the Board, the DEO shall indicate the rulemaking procedures which have been followed.

(b) Board packets. The DEO shall prepare a board packet consisting of the text of proposed rules, an executive summary, a rule impact statement, an economic impact/environmental benefit statement (if applicable), a summary of comments received on proposed rules at rulemaking hearings and during written comment periods, the Council's recommendations and a summary of pertinent Council meeting minutes (if applicable). The Board packets shall be sent to members with the proposed agenda of the Board meeting at which rules are to be considered. Board packets for emergency rules may vary.

252:4-5-8. Board actions

(a) Referral. The Board may refer any rulemaking matter to the DEO or an appropriate Council for review, comment or recommendation.

(b) Proposed permanent rules. The Board will not consider proposed permanent rules for adoption without the appropriate Council's recommendation except those rules for which no council has jurisdiction.

(c) Proposed emergency rules. The Board may adopt emergency rules without the advice of a Council in accordance with 27A O.S. § 2-2-101.

(d) Final language of rules. The rules adopted or repealed by the Board may vary from the Council recommendation except for rules recommended by the Air Quality Council. (See further, Oklahoma Clean Air Act at 27A O.S. § 2-5-106.)

(e) Remand. The Board may remand a Council's rulemaking recommendation for reconsideration.

(f) Notice to Council. The DEO shall provide each Council with copies of emergency rules adopted by the Board without the Council's recommendation and of any rules adopted by the Board which vary from that Council's recommendation.

252:4-5-9. Rulemaking record

The DEO shall maintain a rulemaking record on all rules adopted or revoked by the Board.

SUBCHAPTER 7. ENVIRONMENTAL PERMIT PROCESS

PART 1. THE PROCESS

252:4-7-1. Authority

The rules in this Subchapter implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 et seq., and apply to applicants for and holders of DEO permits and other authorizations.

252:4-7-2. Preamble

The Uniform Environmental Permitting Act requires that DEO licenses, permits, certificates, approvals and registrations fit into an application category, or Tier, established under the uniform environmental permitting rules. Tier I is the category for those things that are basically administrative decisions which can be made by a technical supervisor with no public participation except for the landowner. Tier II is the category for those permit applications that have some public participation (notice to the public, the opportunity for a public meeting and public comment), and the administrative decision is made by the Division Director. Tier III is the category for those permit applications that have extensive public participation (notice to the public, the opportunity for a public meeting and public comment, and the opportunity for an administrative evidentiary hearing), and the administrative decision is made by the Executive Director.

252:4-7-3. Compliance

Applicants and permittees are subject to the laws and rules of the DEO as they exist on the date of filing an application and afterwards as changed.

252:4-7-4. Filing an application

(a) Tier I. The applicant shall file (2) copies of a Tier I application unless the application form or instructions specifies that only one (1) copy is needed. Applicants seeking permits for alternative individual on-site sewage disposal systems and alternative small public on-site sewage disposal systems (OAC 252:641) shall file one copy with the local DEO office for the county in which the real property is located.

(b) Tier II & III. The applicant shall file three (3) copies of Tier II and Tier III applications with the DEO and place one (1) copy for public review in the county in which the site, facility or activity is located.

252:4-7-5. Fees

Fees shall be submitted with the application and, except as herein provided, will not be refunded.

252:4-7-6. Receipt of applications

When an application and appropriate fee are received, each program shall:

- (1) file stamp the application with the date of receipt, the Division and/or program name and an identification number;
- (2) assign the application to a permit reviewer; and
- (3) enter this information in a database or log book.

252:4-7-7. Administrative completeness review

The reviewer shall have 60 calendar days from the file-stamped date of filing to determine if the application is administratively complete.

- (1) **Not complete.** If the reviewer decides that the application is not complete, he/she shall immediately notify the applicant by mail, describing with reasonable specificity the deficiencies and requesting supplemental information. The reviewer may continue to ask for specific information until the application is administratively complete. If the reviewer does not notify the applicant of deficiencies, the period for technical review shall begin at the close of the administrative completeness review period.
- (2) **Complete.** When the application is administratively complete, the reviewer shall enter the date in the database or log book and immediately notify the applicant by mail. The period for technical review begins.

252:4-7-8. Technical review

(a) Each program shall have the time period specified in Parts 3 through 5 of this Subchapter to review each application for technical compliance with the relevant rules and to reach a final determination. If the data in the application does not technically comply with the relevant rules or law, the reviewer may notify the applicant by mail, describing with reasonable specificity the deficiencies and requesting supplemental information.

(b) Any environmental permit that is not described in this Subchapter shall be reviewed with all due and reasonable speed.

252:4-7-9. When review times stop

The time period for review stops during:

- (1) litigation;
- (2) public review and participation, including waiting periods, comment periods, public meetings, administrative hearings, DEO preparation of response to comments and/or review by state or federal agencies;
- (3) requests for supplemental information; and
- (4) the time in which an applicant amends his/her application of his/her own accord.

252:4-7-10. Supplemental time

The Notice of Deficiencies and request for supplemental information may state that up to 30 additional calendar days may be added to the application processing time. Requests for supplemental information may also state that additional days for technical review equal to the number of days the applicant used to respond may be added to the review time.

252:4-7-11. Extensions

Extensions to the time lines of this Subchapter shall only be made by agreement or when the Executive Director certifies that circumstances outside the DEO's control, including acts of God, a substantial and unexpected increase in the number of applications filed, or additional review duties imposed on the DEO from an outside source, prevent the reviewer from meeting the time periods.

252:4-7-12. Failure to meet deadline

Where failure to meet a deadline is imminent, then:

- (1) At least thirty (30) calendar days prior to the deadline the DEO shall reassign staff and/or retain outside consultants to meet such deadline; or
- (2) The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

252:4-7-13. Notices

(a) **Statutory requirements for notice.** The Uniform Environmental Permitting Act requires an applicant to give notice in accordance with 27A O.S. § 2-14-301.

(b) **Notice to landowner.** Applicants shall certify by affidavit that they own the real property, have a current lease or easement which is given to accomplish the permitted purpose or have provided legal notice to the landowner.

(c) **Notice content.** The applicant shall provide DEO with a draft notice for approval prior to publication. All published legal notice(s) shall contain the:

- (1) Name and address of the applicant;
- (2) Name, address and legal description of the site, facility and/or activity;
- (3) Purpose of notice;
- (4) Type of permit or permit action being sought;
- (5) Description of activities to be regulated;
- (6) Locations where the application may be reviewed;
- (7) Names, addresses and telephone numbers of contact persons for the DEO and for the applicant;
- (8) Description of public participation opportunities and time period for comment and requests; and
- (9) Any other information required by DEO rules.

(d) **Proof of publication.** Within twenty (20) days after the date of publication, an applicant shall provide the DEO with a written affidavit of publication for each notice published. In case of a mistake in a published notice, the DEO shall require a legal notice of correction or republication of the

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entire notice, whichever is appropriate. Inconsequential errors in spelling, grammar or punctuation shall not be cause for correction or republication.

(e) **Exception to notice requirement.** Applicants for solid waste transfer station permits may be exempt from public meeting requirements under 27A O.S. § 2-10-307.

(f) **Additional notice.**

(1) Applicants for a NPDES, RCRA or UIC permit are subject to additional notice provisions of federal requirements adopted by reference as DEO rules.

(2) Applicants for a proposed wastewater discharge permit that may affect the water quality of a neighboring state or a Part 70 permit that may affect the air quality of a neighboring state must give written notice to the environmental regulatory agency of that state. [27A O.S. § 2-5-112(E)]

(3) Applicants for a landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See *DuLaney v. OSDH*, 868 P2d 676 (Okl. 1993).

252:4-7-14. Withdrawing applications

(a) **By applicant.** An applicant may withdraw an application at any time with written notice to the DEO and forfeiture of fees.

(b) **By DEO.** Except for good cause shown, when an applicant fails to supplement an application within 180 days after the mailing date of a Notice of Deficiencies, or by an agreed date, the DEO shall void the application. The DEO shall notify the applicant of an opportunity to show cause why this should not occur.

252:4-7-15. Permit issuance or denial

(a) **Compliance required.** A new, modified or renewed permit or other authorization sought by the applicant shall not be issued until the DEO has determined the application is in substantial compliance with applicable requirements of the Code and DEO rules.

(b) **Conditions for issuance.** The Department may not issue a new, modified or renewed permit or other authorization sought by the applicant if:

(1) The applicant has not paid all monies owed to the DEO or is not in substantial compliance with the Code, DEO rules and the terms of any existing DEO permits and orders. The DEO may impose special conditions on the applicant to assure compliance and/or a separate schedule which the DEO considers necessary to achieve required compliance; or

(2) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.

252:4-7-16. Tier II and III modifications

For Tier II and III permit modification actions, only

those issues relevant to the modification(s) shall be reopened for public review and comment.

252:4-7-17. Permit decision-making authority

(a) **Designated positions.** The Executive Director may delegate in writing the power and duty to issue, renew, amend, modify and deny permits and take other authorization or registration action. Unless delegated to a Division Director by formal assignment or rule, the authority to act on Tier I applications shall be delegated to positions within each permitting program having technical supervisory responsibilities and, for local actions authorized by law, to environmental specialist positions held by the DEO's local services representatives. The authority to act on emergency permits or Tier II applications shall be delegated to the Division Director of the applicable permitting division.

(b) **Revision.** The Executive Director may amend any delegation in writing.

252:4-7-18. Pre-issuance permit review and correction

(a) **Applicant review.** The DEO may ask an applicant to review its permit for calculation and clerical errors or mistakes of fact or law before the permit is issued.

(b) **Correction.** The DEO may correct any permit before it is issued.

(1) **Notice of significant corrections.** For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by the DEO which significantly alters a facility's permitted size, capacity or limits.

(2) **Comments.** The DEO may open a public comment period and/or reconvene a public meeting and/or administrative hearing to receive public comments on the proposed correction(s).

252:4-7-19. Consolidation of permitting process

(a) **Discretionary.** Whenever an applicant applies for more than one permit for the same site, the DEO may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.

(b) **Scope.** When consolidation is authorized by the DEO:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) The DEO may also authorize the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.

(3) Final permits may be issued together.

(c) **Renewal.** The DEO may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.

(d) Multiple modifications. Subsections (a) and (b) of this section shall also apply to multiple Tier II and III applications for permit modifications.

PART 3. AIR QUALITY DIVISION TIERS AND TIME LINES

252:4-7-31. Air quality time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

- (1) Construction permits:
 - (A) PSD and Part 70 Sources - 365 days.
 - (B) Minor Facilities - 180 days.
- (2) Operating permits:
 - (A) Part 70 Sources - 540 days.
 - (B) Minor Facilities - 365 days.
- (3) Relocation permits - 30 days.

252:4-7-32. Air quality applications - Tier I

(a) Minor facility permits. The following air quality authorizations for minor facilities require Tier I applications.

- (1) New permits. New construction, operating and relocation permits.
- (2) Modifications of permits.
 - (A) Modification of a construction permit for a minor facility that will remain minor after the modification.
 - (B) Modification of an operating permit that will not change the facility's classification from minor to major.
 - (C) Extension of expiration date of a construction permit.
- (3) Renewals. Renewals of operating permits.

(b) Part 70 source permits. The following air quality authorizations for Part 70 sources require Tier I applications.

- (1) New permits.
 - (A) New construction permit for an existing Part 70 source for any change considered minor under 252:100-8-7.2(b)(1).
 - (B) New operating permit that:
 - (i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and
 - (ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).
- (2) Modifications of permits.
 - (A) Modification of any operating permit condition that:
 - (i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a Part 70 source's construction permit with no or minor modifications.

(c) Other authorizations. The following air quality authorizations require Tier I applications.

- (1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).
- (2) Burn approvals.
- (3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).
- (4) Administrative amendments of all air quality permits and other authorizations.
- (5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in 252:100-11.)

252:4-7-33. Air quality applications - Tier II

(a) Minor facility permit actions. Any minor facility seeking a permit for a modification that when completed would turn it into a Part 70 source is required to apply under subsection (b) of this section.

(b) Part 70 source permits. The following air quality authorizations for Part 70 sources require Tier II applications.

- (1) New permits.
 - (A) New construction permit for a new Part 70 source not classified under Tier III.
 - (B) New construction permit for an existing Part 70 source for any change considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.
 - (C) New operating permit for a Part 70 source that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.
 - (D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).
 - (E) New acid rain permit that is independent of a Part 70 permit application.
 - (F) New temporary source permit under 252:100-8-6.2.
- (2) Modifications of permits.
 - (A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

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(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) Renewals. Renewals of operating permits.

(c) Other authorizations. The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

252:4-7-34. Air quality applications - Tier III

(a) New major stationary sources. A construction permit for any new major stationary source listed in this subsection requires a Tier III application. For purposes of this section, "Major stationary source" means:

(1) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(A) carbon black plants (furnace process),

(B) charcoal production plants,

(C) chemical process plants,

(D) coal cleaning plants (with thermal dryers),

(E) coke oven batteries,

(F) fossil-fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input,

(G) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(H) fuel conversion plants,

(I) glass fiber processing plants,

(J) hydrofluoric, sulfuric or nitric acid plants,

(K) iron and steel mill plants,

(L) kraft pulp mills,

(M) lime plants,

(N) incinerators, except where used exclusively as air pollution control devices,

(O) petroleum refineries,

(P) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(Q) phosphate rock processing plant,

(R) portland cement plants,

(S) primary aluminum ore reduction plants,

(T) primary copper smelters,

(U) primary lead smelters,

(V) primary zinc smelters,

(W) secondary metal production plants,

(X) sintering plants,

(Y) sulfur recovery plants, or

(Z) taconite ore processing plants, and

(2) Any other source not specified in paragraph (1) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(b) Existing incinerators. An application for any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted shall require a Tier III application.

(c) Potential to emit. For purposes of this section, "potential to emit" means emissions resulting from the application of all enforceable permit limitations as defined in OAC 252:100-1-3.

PART 5. LAND PROTECTION DIVISION TIERS AND TIME LINES

252:4-7-51. Waste management time lines

The Land Protection Division shall technically review applications and issue or deny permits within the following periods of time:

(1) Hazardous waste applications, including new RCRA permits or renewals, new state recycling permits, Class 3 modifications, closure and post-closure plans, transfer station plans and plan modifications - 300 days;

(2) Brownfields applications and each submittal or resubmittal - 60 days;

(3) Solid waste applications and each submittal or resubmittal - 90 days;

252:4-7-52. Hazardous waste management applications - Tier I

The following hazardous waste management authorizations require Tier I applications.

(1) Class 1 modification of any hazardous waste permit requiring prior Department approval as specified in 40 CFR § 270.42.

(2) Modification to a recycling permit in accordance with 27A O.S. § 2-7-118(A).

(3) Class 2 permit modification as defined in 40 CFR § 270.42.

(4) Emergency hazardous waste disposal plan approval.

(5) Hazardous waste generator disposal plan approval.

(6) Technical plan approval.

(7) Hazardous waste transporter license.

(8) Hazardous waste transfer station plan modification which is not related to capacity.

(9) Emergency permit issued in accordance with 40 CFR § 270.61.

(10) Interim status closure plan approval in accordance with 40 CFR § 265.113(d)(4).

(11) Minor administrative modification of all permits and other authorizations.

(12) Renewal of disposal plan approval and transporter license.

(13) New, modified or renewed authorization under a general permit.

(14) Approval of temporary authorizations in accordance with 40 CFR § 270.42.

252:4-7-53. Hazardous waste management applications - Tier II

The following hazardous waste management authorizations require Tier II applications.

(1) On-site hazardous waste treatment, storage or disposal permit.

(2) Mobile recycling permit.

(3) Research & Development permit.

(4) Class 3 modification of any hazardous waste permit as specified in 40 CFR § 270.42.

(5) Modification of an on-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.

(6) Modification of an on-site hazardous waste facility permit for an expansion of permitted boundaries.

(7) Modification of on-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.

(8) Renewal of a hazardous waste treatment, storage or disposal permit.

(9) Hazardous waste transfer station plan approval.

(10) Hazardous waste transfer station plan modification involving increase in approved capacity.

(11) Variance which is not part of a permit application.

(12) Variance which is part of a Tier II permit application.

252:4-7-54. Hazardous waste management applications - Tier III

The following hazardous waste management authorizations require Tier III applications.

(1) Off-site hazardous waste treatment, storage, disposal, incineration and/or recycling permit.

(2) Modification of an off-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.

(3) Modification of an off-site hazardous waste facility permit for an expansion of permitted boundaries.

(4) Modification of off-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.

(5) Variance which is part of a Tier III application.

252:4-7-55. Radiation management applications - Tier I

The following radiation management authorizations require Tier I applications:

(1) New, amended and renewed operating permits for radiation machines;

(2) New, amended and renewed permits for x-ray fluorescence spectroscopy instruments used to detect lead in paint;

(3) New and renewed specific licenses under the state agreement program not classified under Tiers II or III;

(4) Industrial radiography certifications;

(5) Approvals of license termination plans that require no decommissioning or remediation;

(6) Decommissioning and remediation plans required for remediation due to the use, storage or disposal of one or more radioactive materials with a half-life of 120 days or less;

(7) DEQ approvals of documentation showing residual radioactivity levels for a site or property are within acceptable limits as set by Chapter 410;

(8) Minor amendments of all authorizations classified under Tiers I, II or III; and

(9) Major amendments of all authorizations classified under Tier I.

252:4-7-56. Radiation management applications - Tier II

The following radiation management authorizations require Tier II applications:

(1) Decommissioning and remediation plans required for on-site remediation due to the use, storage or disposal of one or more radioactive materials with a half-life of more than 120 days, except for those facilities described in 252:4-7-57(3)(A);

(2) New or renewed permits for the non-commercial treatment or disposal of radioactive waste, generated by the applicant, by incineration or the amendment of the incinerator permit for a capacity increase or for any expansion beyond permitted boundaries for the purpose of expanding operations or storage; and

(3) Major amendments of all authorizations classified under Tier II.

252:4-7-57. Radiation management applications - Tier III

The following radiation management authorizations require Tier III applications:

(1) New or renewed permits for the land disposal of low-level radioactive waste received from others and the major amendment thereof;

(2) New or renewed permits for the commercial treatment or disposal of radioactive waste by incineration and the major amendment thereof; and

(3) Decommissioning and remediation plans and the major amendment thereof:

(A) for nuclear fuel cycle facilities or facilities and sites involved in the manufacturing or processing of licensed quantities of radioactive materials; and

(B) for sites that require both on- and off-site remediation due to the use, storage or disposal of

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one or more radioactive materials with a half-life of more than 120 days.

252:4-7-58. Solid waste management applications - Tier I

The following solid waste management authorizations require Tier I applications.

(1) New permits.

(A) Locally approved solid waste transfer stations. Permit for a solid waste transfer station that, prior to application filing, received county commissioner approval according to 27A O.S. § 2-10-307.

(B) Biomedical waste transfer stations using only sealed containers. Biomedical waste transfer station permit when activities are limited to:

- (i) consolidation of sealed containers; and/or
- (ii) transfer of sealed containers from one vehicle or mode of transportation to another.

(C) Disaster relief. Emergency authorization for waste disposal resulting from a natural disaster.

(2) Modifications.

(A) All facilities.

(i) Modification of a solid waste permit to add methods, units or appurtenances for liquid bulking processes; yard waste composting; recycling operations; waste screening; or baling, chipping, shredding or grinding equipment or operations.

(ii) Modification to any solid waste permit to make minor changes.

(iii) Modification of plans for closure and/or post-closure.

(iv) Administrative modification of all permits and other authorizations.

(B) On-site and off-site land disposal facilities. Modification of an existing land disposal permit for a lateral expansion within permitted boundaries.

(C) Capacity increases of less than 25% with exceptions. The modification of a solid waste permit, excluding incineration permits, involving a request for less than twenty-five percent (25%) increase in permitted capacity for storage, processing or disposal when the request is for equivalent methods, units or appurtenances as those permitted and which does not involve expansions of permitted boundaries.

(3) Plans and other authorizations. The approval of new and when applicable, modified or renewed:

(A) Plans for composting of yard waste only.

(B) Permit transfers.

(C) Non-hazardous industrial solid waste disposal plans.

(D) Technical plans.

(E) County solid waste management plans.

(F) Individual authorizations under a general permit.

(G) All other administrative approvals required by solid waste rules.

252:4-7-59. Solid waste management applications - Tier II

The following solid waste management authorizations require Tier II applications.

(1) New permits.

(A) On-site solid waste processing facilities with exception. Permit for an on-site solid waste processing facility except yard waste composting as listed under Tier I.

(B) Solid waste transfer stations with exceptions. Permit for a solid waste transfer station except:

- (i) a transfer station permit with county commissioner approval as listed under Tier I, or
- (ii) a biomedical waste transfer station permit listed under Tier I.

(C) On-site incinerators with exceptions. Permit for an on-site incinerator except those exempt under solid waste rules or those that have an approved Air Quality permit or Solid Waste Management Plan.

(D) On-site land disposal sites. Permit for an on-site solid waste disposal site.

(E) Material Recovery Facility (MRF). Permit for a Material Recovery Facility if waste is not source-separated.

(2) Modifications.

(A) All facilities. Modification of a permit for a change in waste type.

(B) On-site facilities. Any modification of an on-site solid waste permit, except as listed under Tier I.

(C) Off-site facilities.

(i) Modification of any off-site solid waste permit involving a request for more than twenty-five percent (25%) but less than fifty percent (50%) increase in permitted capacity for storage, processing or disposal (excluding incineration) when the request is for equivalent methods, units or appurtenances as those permitted, except those listed under Tier I.

(ii) Modification of any off-site processing facility involving an expansion of permitted boundaries.

(D) Incinerators.

(i) Modification of an on-site incinerator permit for any increase in permitted capacity for storage, processing, or disposal.

(ii) Modification of an off-site incinerator permit involving a request for increases less than fifty percent (50%) in permitted capacity for storage, processing, or disposal when the

request is for equivalent methods, units or appurtenances as those permitted.

(3) General permit, New, modified or renewed general permit.

252:4-7-60. Solid waste management applications - Tier III

The following solid waste management authorizations require Tier III applications.

(1) New permits.

(A) Off-site processing facilities with exceptions. Permit for an off-site processing facility, unless otherwise specified in Tier I or Tier II.

(B) Off-site land disposal facility. Permit for an off-site solid waste land disposal site.

(C) Off-site incinerator. Permit for an off-site incinerator.

(2) Modifications.

(A) Off-site facilities; significant increase in capacity. Modification of any off-site solid waste permit involving a fifty percent (50%) or greater increase in permitted capacity for storage, processing, and/or disposal, including incineration.

(B) Off-site land disposal facility. Modification of an off-site solid waste land disposal permit for an expansion of permitted boundaries.

(C) Off-site facilities; different methods, units or appurtenances. Modification of an off-site solid waste permit in which the request involves different methods, units or appurtenances than those permitted, except those listed under Tier I.

(3) Variance approvals. All variances.

252:4-7-61. Brownfields applications - Tier I

A Tier I application shall be required for a Memorandum of Agreement for site characterization.

252:4-7-62. Brownfields applications - Tier II

A Tier II application shall be required for all Certificates.

252:4-7-63. Brownfields applications - Tier III

None.

PART 7. WATER QUALITY DIVISION TIERS AND TIME LINES

252:4-7-71. Water quality time lines

The Water Quality Division shall technically review applications and issue or deny permits within the following periods of time:

(1) Discharges, 401 Certifications, industrial wastewater other than discharge, pretreatment trust users, and sludge management plan - 180 days;

(2) Public water supply and water pollution control construction - 90 days; and

(3) UIC applications - 300 days.

252:4-7-72. Laboratory certification applications - Tier I

A Tier I application shall be required for a new, modified, amended or renewed laboratory certification.

252:4-7-73. Water quality applications - Tier I

The following water quality authorizations require Tier I applications.

(1) Permit for flow-through impoundment(s) as part of the pretreatment process.

(2) Re-permitting of facility with an expiring permit for industrial non-discharging impoundment or septic tank system.

(3) Re-permitting of expiring permit with minor or no change(s) for land application of sludge and/or wastewater for same site.

(4) New, modified or renewed authorization under a general permit, including but not limited to general permits for stormwater, underground storage tanks and petroleum storage and treatment facilities.

(5) Approval of new pretreatment program.

(6) Closure plan approval.

(7) Dredge and fill certification.

(8) Approval of exemption for water line extensions.

(9) Approval of exemption for water distribution and wastewater collection systems.

(10) Approval for alternative individual on-site sewage disposal systems.

(11) Approval for alternative small public on-site sewage disposal systems.

(12) Residential development approval.

(13) Transfer of discharge permit.

(14) Minor modification of discharge permit.

(15) Minor modification of permit for land application of sludge and/or wastewater.

(16) Modification of or addition to a municipal wastewater treatment system (including sewer line extensions).

(17) Modification of or addition to a public water supply treatment and/or distribution system.

(18) Modification of non-discharging impoundment and/or septic tank system permit.

(19) Modification of an approved pretreatment program.

(20) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.

252:4-7-74. Water quality applications - Tier II

The following water quality authorizations require Tier II applications.

(1) Permit for municipal wastewater treatment system.

(2) Permit for public water supply system.

(3) Discharge permit for minor facility.

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- (4) Individual storm water permit.
- (5) Permit for industrial non-discharging impoundment or septic tank.
- (6) Permit for land application of sludge and/or wastewater at new site system.
- (7) Re-permitting of a facility with expiring discharge permit.
- (8) Re-permitting of facility with expiring individual storm water discharge permit.
- (9) Re-permitting with major change(s) from expiring permit for land application of sludge and/or wastewater for the same site.
- (10) Variance including thermal components of effluent limitations for an individual discharge permit.
- (11) Major modification of discharge permit.
- (12) Major modification of permit for land application of sludge and/or wastewater.
- (13) New, modified or renewed general permit.

252:4-7-75. Water quality applications - Tier III

A new discharge permit for a major facility requires a Tier III application.

252:4-7-76. UIC applications-Tier I

The following underground injection control authorizations require Tier I applications.

- (1) Minor modification of a permit for Class I, III, and V wells in accordance with 40 CFR § 144.41.
- (2) Modification of an approved closure and/or post-closure plan for a Class I hazardous waste injection well.
- (3) Modification of an approved plugging and abandonment plan for Class I nonhazardous and Class III injection wells.
- (4) Modification of an approved corrective action plan for a Class I injection well.
- (5) Emergency permit in accordance with 40 CFR § 144.34.
- (6) New, modified or renewed authorization under a general permit.
- (7) Minor administrative modification of all permits and other authorizations.

252:4-7-77. UIC applications - Tier II

The following underground injection control authorizations require Tier II applications.

- (1) On-site Class I nonhazardous waste injection well permit.
- (2) Class III and V injection well permits except Class V permits issued under Tier III.
- (3) Modification and/or renewal of all DEQ-issued underground injection control well permits.

252:4-7-78. UIC applications - Tier III

The following underground injection control authorizations require Tier III applications.

- (1) Class I hazardous waste injection well permit.
- (2) Off-site Class I nonhazardous waste injection well permit.
- (3) Class V industrial waste injection well permit.

SUBCHAPTER 9. ADMINISTRATIVE PROCEEDINGS

PART 1. ENFORCEMENT

252:4-9-1. Notice of Violation ("NOV")

Unless otherwise provided by the particular enabling legislation, administrative enforcement proceedings shall begin with a written notice of violation (NOV) being served upon the Respondent. The NOV shall set forth Respondent's action or omission and the specific provision of the Code, rules, license or permit alleged to be violated. An NOV may be a letter, inspection sheet, consent order or final order, if it meets the requirements of this Section.

252:4-9-2. Administrative compliance orders

(a) **When issued.** The Executive Director, upon the request of a Division, may issue an administrative order requiring compliance, assessing penalties for past violations and specifying penalties for continuing noncompliance.

(b) **Contents.** An administrative compliance order shall specify the findings of fact and conclusions of law upon which it is based and shall set a time for the Respondent to comply. The Order shall specify the penalty, not to exceed the statutory maximum per day of noncompliance, to be assessed in the event that the Respondent fails to comply with the Order within the prescribed time, and, if applicable, the penalty assessed for past violations of the Code, rules, or licenses or permits. The Order shall advise the Respondent that it shall become final unless an administrative hearing is requested in writing in accordance with 252:4-9-32 within fifteen (15) days of service of the Order.

(c) **Service.** An Order shall be served in accordance with 252:4-9-35.

(d) **Order following hearing.** Based on the hearing and record, a proposed order will be sustained, modified, or dismissed by the Executive Director. If the hearing process extends beyond any compliance deadline specified in the Order, fines specified in the Order for violations of the Order will continue to accrue during the hearing process unless the Administrative Law Judge stays the penalty upon request for good cause shown.

252:4-9-3. Determining penalty

In determining the amount of penalty specified in an administrative penalty order, the DEO may consider the following:

- (1) the factors specified by 27A O.S. § 2-3-502(K)(2); and
- (2) the extent and severity of environmental

degradation or adverse health effects caused by the violation.

252:4-9-4. Assessment orders

(a) Issuance of assessment order. Any time the DEO believes the Order has been violated, the Executive Director may issue an order assessing an administrative penalty pursuant to 27A O.S. § 2-3-502. In determining an appropriate administrative penalty, the Executive Director may consider Respondent's efforts to comply after being served with the Order.

(b) Content of assessment orders. An assessment order must state the nature and period of the violation and must determine the amount of the fine. The fine is due and payable immediately upon issuance of the assessment order, unless a hearing is requested within seven (7) days. See also 27A O.S. § 2-3-502.

(c) Continuing violations. If the DEO believes that violations of the administrative compliance or penalty order continue after the issuance of an assessment order, the Executive Director may issue additional assessment orders covering periods of violation since the period covered by the issuance of a previous assessment order.

252:4-9-5. Considerations for self-reporting of noncompliance

(a) Conditions for not seeking administrative and civil penalties. Except in the case of habitual noncompliance or as otherwise provided in this section, in evaluating an enforcement action for a regulated entity's failure to comply with DEO rules, the DEO will not seek an administrative or civil penalty when the following circumstances are present:

(1) The regulated entity voluntarily, promptly and fully discloses the apparent failure to comply with applicable state environmental statutes or rules to the appropriate DEO Division in writing before the Division learns of it or is likely to learn of it imminently;

(2) The failure is not deliberate or intentional;

(3) The failure does not indicate a lack or reasonable question of the basic good faith attempt to understand and comply with applicable state environmental statutes or rules through environmental management systems appropriate to the size and nature of the activities of the regulated entity;

(4) The regulated entity, upon discovery, took or began to take immediate and reasonable action to correct the failure (i.e., to cease any continuing or repeated violation);

(5) The regulated entity has taken, or has agreed in writing with the appropriate Division to take, remedial action as may be necessary to prevent recurrence of such failure. Any action the regulated entity agrees to take must be completed;

(6) The regulated entity has addressed, or has agreed in writing with the appropriate Division to address, any

environmental impacts of the failure in an acceptable manner;

(7) The regulated entity has not realized and will not realize a demonstrable and significant economic or competitive advantage as a result of non-compliance; and

(8) The regulated entity cooperates with the DEO as the DEO performs its duties and provides such information as the DEO reasonably requests to confirm the entity's compliance with these conditions.

(b) Partial qualification. Notwithstanding the failure of a regulated entity to meet all of the conditions in subsection a of this section, the DEO will consider the nature and extent of such actions of the regulated entity in mitigation of any administrative or civil penalty otherwise appropriate. If the regulated entity meets all conditions in subsection (a) of this section except item seven (7) relating to significant economic or competitive advantage, the DEO will seek an administrative or civil penalty only to the extent of the economic or competitive advantage gained.

(c) Relationship to federal/state agreements. In the event of any conflict, the elimination or mitigation of penalties pursuant to subsections (a) and (b) of this section is subject to agreements between the DEO and the United States Environmental Protection Agency (USEPA) relating to regulatory program delegation or authorization from the USEPA to the DEO.

(d) Applicability. This section applies to all enforcement cases arising from violations discovered by or brought to the attention of the DEO after June 2, 1997.

PART 3. INDIVIDUAL PROCEEDINGS

252:4-9-31. Individual proceedings filed by DEO

(a) Initiation. Individual proceedings may be initiated by DEO program areas by filing an administrative compliance or penalty order with the Administrative Law Clerk.

(b) Content. Each order shall name the Respondent(s), contain a brief statement of the facts, refer to the specific provision of the Code, rules, license or permit alleged to be violated, state the relief requested and include notice to the Respondent(s) of the opportunity to request an administrative hearing.

(c) Style. The style of the case shall be in accordance with the format in Appendix D.

252:4-9-32. Individual proceedings filed by others

(a) Request for administrative hearing in response to Order. A request for an individual proceeding initiated by the Respondent named in an Order shall be in writing and shall specifically set forth the Respondent's objections to the Order.

(b) Administrative hearing on Tier III permits. An individual proceeding on a proposed permit for a Tier III application may be requested in accordance with 27A O.S. § 2-14-304(C)(1).

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(c) **Style.** The style of the case shall be in accordance with the format in Appendix D.

(d) **Content.** All requests for individual proceedings must be in writing, contain a brief statement of the basis of the request and the name and address of each requester, and be signed by the requester or an authorized representative.

(e) **Declaratory ruling.** Any person who alleges that any DEO rule or order interferes with or impairs, or threatens to interfere with or impair, his/her legal rights may petition the DEO, formally requesting a declaratory ruling on the applicability of the rule or order. After the petition is filed, the DEO shall provide a copy to the Board.

(1) **Form and content of petition.** All petitions shall be in writing and filed with the Administrative Law Clerk. The petition shall include the information and follow the format in Appendix B.

(2) **Determination.** Petitions for declaratory rulings shall be decided by the DEO. Rulings shall state the findings of fact and conclusions of law upon which they are based. If the DEO refuses to make a ruling or begin an individual proceeding within 30 days, the petition shall be deemed to have been denied. If the DEO begins an individual proceeding on the petition, it shall offer an opportunity for a hearing to the petitioner. After the DEO issues a ruling or the Executive Director issues a final order, the DEO shall provide a copy of the ruling or final order to the Board at its next available meeting.

(3) **Mailing.** The DEO shall mail a copy of the ruling or final order to the petitioner.

252:4-9-33. Scheduling and notice of hearings

The DEO shall schedule an administrative hearing after receipt of a proper and timely request. The Administrative Law Clerk shall notify the parties of the date, time and place of the hearing. Notice shall satisfy the requirements of the APA and shall be made at least fifteen (15) days prior to the hearing unless otherwise provided by law or agreed by the parties.

252:4-9-34. Administrative Law Judges and Clerks

(a) **Administrative Law Judge.** The Executive Director may designate an Administrative Law Judge for any administrative hearing in accordance with 27A O.S. § 2-3-103. Administrative Law Judges shall not have had prior involvement in the matter other than as an Administrative Law Judge, unless the parties waive this requirement.

(b) **Administrative Law Clerk.** The Executive Director may designate an Administrative Law Clerk to maintain the administrative hearing dockets and records, and perform such other duties as described in this Chapter or incidental thereto.

(c) **Authority.** Administrative Law Judges have complete authority to conduct individual proceedings and may take

any action consistent with the APA and the rules of this subchapter. Administrative Law Judges may:

(1) arrange and issue notice of the date, time and place of hearings and conferences;

(2) establish the methods and procedures to be used in the presentation of the evidence;

(3) hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;

(4) administer oaths and affirmations;

(5) regulate the course of the hearing and govern the conduct of participants;

(6) examine witnesses;

(7) rule on, admit, exclude and limit evidence, at or before hearings;

(8) establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for such purposes;

(9) rule on motions and pending matters;

(10) divide the hearing into stages or join claims of parties whenever the number of parties is large or the issues are numerous and complex;

(11) restrict attendance by persons not parties to the hearing in appropriate cases;

(12) admit attorneys from other jurisdictions to practice law before the DEO in accordance with Rules of the Oklahoma Bar Association, 5 O.S. Chapter 1, Appendix 1, Article II, § 5, and administer the oath required by 5 O.S. § 2.

(13) require briefs on any relevant issues;

(14) request proposed findings of fact, conclusions of law and a proposed order from all parties; and

(15) restrict testimony to the facts alleged in an assessment order.

(d) **Technical assistance.** At the request of the Administrative Law Judge, the Executive Director may designate a DEO representative, who has had no assigned responsibilities related to the matter at issue, to serve as technical adviser to the Administrative Law Judge.

252:4-9-35. Service

(a) **Generally.** Service shall be made in accordance with the Oklahoma Pleading Code, 12 O.S. § 2001 *et seq.*, and 27A O.S. § 2-3-502 unless otherwise allowed by this section.

(b) **By the DEO.** Where the DEO is serving notice, personal service may be made by a person designated by the Executive Director for that purpose.

(c) **By certified mail.** Service by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal by the Respondent.

252:4-9-36. Responsive pleading

A Respondent may file, and the Administrative Law

Judge may direct a Respondent to file a responsive pleading to the initiated action.

252:4-9-37. Prehearing conferences

(a) **General.** The Administrative Law Judge may schedule and conduct prehearing conferences as necessary. The Administrative Law Clerk shall notify the parties of the scheduling of a prehearing conference. The Administrative Law Judge may hold a prehearing conference by telephone. On request, prehearing conferences shall be on the record.

(b) **Subjects.** Prehearing conferences may address:

- (1) identification and simplification of issues, including the elimination of frivolous claims or defenses;
- (2) amendments to the pleadings;
- (3) the plan and schedule of discovery and limitations to be placed thereon;
- (4) identification of admissions of fact to avoid unnecessary proof and cumulative evidence;
- (5) the identification of witnesses and substance of testimony, exhibits, and documents;
- (6) the use of prehearing briefs and prefiled testimony in the form of sworn affidavits;
- (7) settlement of all or some of the issues before the hearing;
- (8) adoption of special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems;
- (9) scheduling; and
- (10) such other matters as may aid disposition.

(c) **Schedules and orders.** A prehearing conference may result in a scheduling or other prehearing order. Subsequent changes to any prehearing or scheduling order may be made by the Administrative Law Judge by modifying the order upon good cause shown.

252:4-9-38. Discovery

Discovery shall be conducted in accordance with the Oklahoma Discovery Code (12 O.S. § 3224 *et seq.*) unless otherwise ordered by the Administrative Law Judge for good cause.

252:4-9-39. Subpoenas

(a) **Issuance.** Subpoenas for the attendance of witnesses, the furnishing of information required by the Administrative Law Judge and the production of evidence shall be issued in accordance with the APA and the Oklahoma Pleading Code.

(b) **Failure to obey.** The Executive Director may seek an appropriate judicial order to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing, or who refuse to answer a proper question during a hearing. The hearing may proceed despite any such refusal but the Administrative Law Judge may, in his/her discretion at any time, continue the proceedings as necessary to secure a court ruling.

252:4-9-40. Record

(a) **To be made.** A record of the hearing shall be made, which shall be a tape recording unless otherwise agreed by the parties and the Administrative Law Judge. The recording will not be transcribed as a matter of course. A transcript may be obtained by submitting a written request to the Administrative Law Clerk and tendering payment in an amount sufficient to pay the cost of having the recording transcribed.

(b) **Court reporter.** A party may request a court reporter. The requesting party shall pay the costs, and the original transcript shall be filed in the case file as part of the record in the case. Each person or party requesting copies shall make arrangements with the reporter and pay the costs.

(c) **Maintained.** The record of a proceeding and the file containing the notices and the pleadings will be maintained by the Administrative Law Clerk. All pleadings, motions, orders and other papers submitted for filing in a proceeding shall be date/file stamped by the Administrative Law Clerk upon receipt. The burden of showing substantial prejudice by any failure to correctly file-stamp any submittal shall be upon the asserting party.

(d) **Contents.** The administrative record of all individual proceedings shall contain documents required by the APA, 75 O.S. § 309. An individual proceeding on a proposed permit for a Tier III application shall also include the following:

- (1) the permit application on file with the DEO, as amended;
- (2) all written comments received during the public comment period;
- (3) the tape or transcript of the public meeting;
- (4) documents resulting from the DEO's review of the permit application and public comments;
- (5) the draft permit, fact sheet and response to comments, if any, issued by the DEO; and
- (6) all published notices.

252:4-9-41. Motions

(a) **Filing.** All requests for action in a matter already before the DEO shall be made in a motion, signed by the party or his/her attorney, and filed with the Administrative Law Clerk.

(b) **Service.** Copies of motions shall be served on other parties in accordance with 252:4-9-35.

(c) **Response.** Within fifteen (15) days after service of any written motion, any party to the proceedings may file a response to the motion. The time for response may be extended or shortened by the Administrative Law Judge for good cause shown.

252:4-9-42. Continuances

A motion for an extension or continuance shall state the reasons for the request and specify the length of time requested. Unless made before the Administrative Law Judge in open hearing, motions for extensions of time or for

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a continuance of the hearing to another date or time shall be in writing and filed with the Administrative Law Clerk. The Administrative Law Judge shall promptly grant or deny such request at his/her discretion. If the motion is denied, it may be renewed orally by the party at the hearing.

252:4-9-43. Summary judgment

The Administrative Law Judge may grant a motion for summary judgment, subject to 252:4-9-46.

252:4-9-44. Default

(a) Generally. Any Respondent who fails to appear, after receipt of notice, may be determined to have waived the right to appear and present a defense. A Final Order may be issued by the Executive Director granting the relief requested by default.

(b) Tier III application. The Executive Director may enter a default judgment against any party who fails to participate in an administrative hearing on a proposed permit for a Tier III application.

252:4-9-45. Withdrawal and dismissal

Parties may withdraw from a case and cases may be dismissed by the Administrative Law Judge in accordance with the Oklahoma Code of Civil Procedure.

252:4-9-46. Orders in administrative hearings

Proposed and final orders in administrative hearings shall be prepared and issued in accordance with the APA.

PART 5. AIR QUALITY ADVISORY COUNCIL HEARINGS

252:4-9-51. In general

The Air Quality Advisory Council is authorized to conduct individual proceedings on enforcement matters and requests for a variance from the Clean Air Act, 27A O.S. §§ 2-5-101 through 2-5-118, or the Air Pollution Control Rules, OAC 252:100.

252:4-9-52. Individual proceedings

Individual proceedings before the Air Quality Advisory Council will be conducted in accordance with the requirements in Part 3 of this Subchapter. To be heard by the Council, the request for hearing in response to an Order must include a request that the Council conduct the hearing. The Council may designate an Administrative Law Judge for individual proceedings to be held before the Council. The Council or its designee may perform Administrative Law Judge functions described in Part 3 of this Subchapter.

252:4-9-53. Variance

It is within the discretion of the Air Quality Advisory Council to decide whether or not an individual proceeding is necessary in granting a variance.

252:4-9-54. State implementation plan hearings

A state implementation plan (SIP) hearing may be initiated by an applicant for an alternative emissions reduction authorization under 252:100-11 by filing a request for a SIP hearing with the Administrative Law Clerk. A request that the hearing be conducted by the Air Quality Advisory Council must be included in the request for hearing. Additional requirements for a SIP hearing request are contained in 252:100-11-6.

SUBCHAPTER 11. COMPLAINT PROCESSING

252:4-11-1. Purpose

This Subchapter establishes procedures used to process environmental complaints received from the public.

252:4-11-2. Receipt of complaints

(a) Complaints may be made by any of the following:

- (1) the toll-free hotline;
- (2) mail, including electronic transmission;
- (3) telephone to any DEO telephone number; or
- (4) in person at any office of the DEO.

(b) Complainants may request to be anonymous or to remain confidential.

252:4-11-3. Investigation

After receipt of a complaint, the DEO may assign an investigator to obtain any information which may tend to prove there has or has not been a violation of the Code or rules, who the potentially responsible persons are, and any other information which may be needed to resolve the complaint.

252:4-11-4. Notification

(a) Potential actions. Within two (2) working days of receipt of a complaint, the DEO shall notify the complainant of the potential actions which may occur to resolve the complaint.

(b) Course of action. Within seven (7) working days of the receipt of a complaint, the DEO shall notify the complainant, in writing, of the action to be taken by the DEO.

(c) Final letter. Within seven (7) working days of determining that there is no longer a DEO violation, the DEO shall notify the complainant in writing.

(d) Enforcement. Complainants shall be notified of enforcement actions taken in response to a complaint in accordance with 27A O.S. § 2-3-503.

252:4-11-5. Referral of complaints

(a) To appropriate agency. If the DEO receives a complaint for which DEO has no authority and which clearly falls within the jurisdiction of another governmental entity, the complaint shall be referred to that governmental entity.

(b) To mediation. DEO may notify a complainant and

persons named in the complaint (Respondents), by mail, of the opportunity to mediate the complaint in accordance with 27A O.S. § 2-3-104.

252:4-11-6. False complaint

When the DEO has a reasonable suspicion that a complainant has filed a false complaint, the Executive Director may refer all investigation materials, including but not limited to, reports, notes, initial data collection forms and letters to the District Attorney's office in the area where the complainant resides.

SUBCHAPTER 13. ENVIRONMENTAL EDUCATION GRANTS

252:4-13-1. Authority and eligibility

(a) **Authority.** This subchapter is adopted pursuant to 75 O.S. § 302, 27A O.S. § 2-2-101, 47 O.S. § 1104.2 and Executive Order 98-37.

(b) **Eligibility.** Oklahoma teachers and youth group leaders are eligible to apply for environmental education grants provided by the DEO.

252:4-13-2. Amount of grants

The DEO will award the following amounts to successful applicants:

- (1) Up to and including \$ 200.00 for field trips;
- (2) Up to and including \$ 500.00 for environmental education projects; and
- (3) Up to and including \$1000.00 for outdoor classrooms.

252:4-13-3. Criteria

The following will be considered by the DEO in determining grant awards:

- (1) Project proposed, including how the project accomplishes the following factors:
 - (A) Promotes enthusiasm to learn more about the environment;
 - (B) Fits in the school curriculum or youth group program;
 - (C) Involves community partnerships and/or outreach, if applicable.
- (2) Number of students/youth participating;
- (3) Grade level of students/youth; and
- (4) Geographic location.

252:4-13-4. Application

(a) **Complete application.** A complete application consists of a cover page, a letter of commitment, a summary of the project, a projected timeline, a proposed budget and a procedure for evaluation of the project.

(b) **Attachments.** Photographs, clippings, diagrams and

other graphic materials, not to exceed five (5) pages double sided, may be attached to the application.

(c) **Document submission.** An original and two (2) copies, double sided, of the application and attachments must be submitted to the DEO, date-stamped or postmarked on or before the published deadline. The DEO will not accept applications submitted by telecopy/facsimile or e-mail.

252:4-13-5. Cover page

The cover page must include the following information:

- (1) Title of the project;
- (2) Name of contact person, position held and relationship to project;
- (3) Name of school or youth group organization;
- (4) Grade level(s) and number of youth targeted;
- (5) Federal Employer Identification number (tax ID#);
- (6) Street address;
- (7) Mailing address, if different from street address;
- (8) E-mail address, if any;
- (9) Daytime and evening telephone numbers; and
- (10) Telecopy/facsimile number, if any.

252:4-13-6. Letter of commitment

The grant application must be accompanied by a letter from the applicant's principal or supervisor stating the organization's support for the performance of the grant objectives.

252:4-13-7. Summary of project

The applicant must submit a project summary, with a maximum length of one page, double sided. The project summary shall include the following:

- (1) **Synopsis.** Provide one paragraph summarizing the project;
- (2) **Description.** Give a clear concise description of the proposed project, indicating how the project promotes enthusiasm to learn more about the environment, fits in the school curriculum or youth group program and involves community partnerships and/or outreach, if applicable;
- (3) **Goals and objectives.** Clearly define realistic goals and objectives. Include information outlining where these goals address specific needs.
- (4) **Implementation.** Describe how the project will be implemented and whether it emphasizes a hands-on learning approach. Include the project's potential for broad implementation.

252:4-13-8. Timeline

The applicant must present target dates for project objectives.

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252:4-13-9. Budget

The applicant must provide an itemized budget with specific project expenditures of grant funds.

252:4-13-10. Evaluation procedure

The applicant must provide a description of the methods to be used to measure project effectiveness, including how the evaluation method will improve the project's strength. The applicant must indicate in the evaluation method how the project will be continued after grant funds are expended.

252:4-13-11. Final written report

Applicants who are awarded environmental education grants under this subchapter shall submit a final written report, outlining accomplishments of the grant objectives and expenditures on or before December 15 following the award.

252:4-13-12. Shared strategies

Strategies from applicants who are awarded environmental education grants under this subchapter will become the property of the Environmental Quality Education Committee and may be shared with other interested environmental educators.

(3) Number of persons benefitted; and

(4) Equitable geographic distribution.

252:4-15-3. Proposals

(a) The applicant must submit a proposal in accordance with the rules implementing the statutory program and/or forms provided by the DEO.

(b) Proposals must demonstrate that the proposed project will implement and be consistent with relevant statutes and rules of the specific program area.

252:4-15-4. Funding

Within the priority criteria, funds shall be granted on a first-come first-served basis until funds are depleted.

SUBCHAPTER 15. LOCAL PROJECT FUNDING

252:4-15-1. Purpose, authority and applicability

(a) Purpose. The purpose of this Subchapter is to implement Executive Order 98-37, mandating state agencies to establish criteria for local project funding contracts.

(b) Authority. This subchapter is adopted pursuant to 75 O.S. § 302, 27A O.S. § 2-2-101 and Executive Order 98-37.

(c) Applicability. The rules in this Subchapter apply to any private entity, political subdivision, and unit of local government, including municipal and county governments and school districts.

252:4-15-2. Criteria

(a) The DEO will consider the following criteria in determining funding priorities for local projects:

(1) Criteria established by relevant statutory authority;
and

(2) Criteria established by rules adopted for the specific Division pursuant to relevant statutory authority.

(b) If relevant statutory authority and program-specific rules do not establish criteria, the DEO will consider the following in determining funding priorities for local projects:

(1) Potential of the project to effectively promote environmental health and safety or environmental education and awareness;

(2) Potential to enhance related programs or efforts by the recipient;

APPENDIX A. PETITION FOR RULEMAKING BEFORE THE ENVIRONMENTAL QUALITY BOARD
[NEW]

IN THE MATTER OF) Matter No.
)
RULE OAC 252: _____) Date filed:

Subject area: () Air Quality () Solid Waste
() Hazardous Waste () Water Quality
() Laboratory () Operator Certification
() Radiation () Other

Petition will be referred by the Department to its appropriate program and to any appropriate Council.

1. Nature of request:
() Adoption of new rule(s)
() Amendment of existing rule(s)
() Repeal of existing rule(s)
Identified as Rule Number(s): _____
(OAC number if known)

2. Attach a brief statement of the issues raised by the rule(s) which cause such a request to be made, a statement of your personal interest in the ruling, and how the proposed rulemaking would affect those interests and would affect others.

3. If this request has been discussed with the Department of Environmental Quality, please indicate the name of the Division and employee consulted; otherwise, state "n/a."

4. If a Council has considered this matter, please indicate the name of the Council and the date(s) the matter was considered; otherwise, state "n/a."

5. Attachment(s): () suggested language () further explanation

_____ by: _____
Name of Business or group (print name) (title)

or Name of Individual (print): _____

Signature: _____

Address: _____

Phone: _____

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APPENDIX C. PERMITTING PROCESS SUMMARY [NEW]

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with the DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting - Notice - 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review - DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments - DEQ (written response)	No	Yes	Yes
Proposed permit - DEQ prepares this in response to comments on draft permit	No	No	Yes
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

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APPENDIX D. STYLE OF THE CASE IN AN INDIVIDUAL PROCEEDING [NEW]

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
NAME OF DIVISION

IN THE MATTER OF:

)
)
)
) Case No.
)
)

NAME OF DOCUMENT

[OAR Docket #01-875; filed 5-8-01]

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #00-2329; filed 9-21-00]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

[OAR Docket #00-2330]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 2. Procedures of the Department of Environmental Quality [REVOKED]

SUMMARY:

This Chapter is being revoked as part of the agency's re-right/de-wrong rules simplification process, subject to the adoption of Chapter 4, Rules of Practice and Procedure.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Administrative Procedures Act, 75 O.S. § 302

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COMMENT PERIOD:

Deliver or mail written comments to the contact person from October 16 through November 6, 2000

PUBLIC HEARINGS:

Before the Environmental Quality Board at a meeting to be held at 9:30 a.m. on November 14, 2000, in Hooker, Oklahoma. Written or oral comments will be accepted.

COPY OF PROPOSED RULE:

The proposed rule may be obtained from the contact person and reviewed at the DEQ.

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rule revocation will be on file at the DEQ and may be requested from the contact person.

CONTACT PERSON:

Contact Barbara Rauch by e-mail barbara.rauch@deqmail.state.ok.us or by phone (405) 702-7189 or fax (405) 702-7101. The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma, 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #00-2330; filed 9-21-00]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 3. PROCEDURES OF THE ENVIRONMENTAL QUALITY COUNCILS**

[OAR Docket #00-2331]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [REVOKED]

252:3-1-1 [REVOKED]

252:3-1-1.1 [REVOKED]

252:3-1-2 [REVOKED]

252:3-1-3 [REVOKED]

252:3-1-4 [REVOKED]

252:3-1-5 [REVOKED]

252:3-1-6 [REVOKED]

Subchapter 3. Rulemaking [REVOKED]

252:3-3-1 [REVOKED]

252:3-3-2 [REVOKED]

252:3-3-3 [REVOKED]

Appendix A. Petition for Rulemaking before the Environmental Quality Board [REVOKED]

SUMMARY:

This Chapter is being revoked as part of the agency's re-right/de-wrong rules simplification process, subject to the adoption of Chapter 4, Rules of Practice and Procedure.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Administrative Procedures Act, 75 O.S. § 302

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COMMENT PERIOD:

Deliver or mail written comments to the contact person from October 16 through November 6, 2000

PUBLIC HEARINGS:

Before the Environmental Quality Board at a meeting to be held at 9:30 a.m. on November 14, 2000, in Hooker, Oklahoma. Written or oral comments will be accepted.

COPY OF PROPOSED RULE:

The proposed rule may be obtained from the contact person and reviewed at the DEQ.

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

[OAR Docket #01-873]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Chapter 2. Procedures of the Department of Environmental Quality [REVOKED]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Administrative Procedures Act, 75 O.S. § 302

DATES:

Comment period:

October 16, 2000, through November 6, 2000

Public hearing:

November 14, 2000 and February 23, 2001

Adoption:

February 23, 2001

Submitted to Governor:

March 2, 2001

Submitted to House:

March 2, 2001

Submitted to Senate:

March 2, 2001

Gubernatorial approval:

April 16, 2001

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 26, 2001

Final adoption:

April 26, 2001

Effective:

June 11, 2001

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The rules in this Chapter were substantially rewritten and reorganized through the DEQ's re-right/de-wrong rules simplification process and can be found in proposed Chapter 4. This Chapter is being revoked in its entirety, subject to the adoption of Chapter 4.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

Since this is a revocation, there are no analogous federal rules.

CONTACT PERSON:

Contact Barbara Rauch by e-mail barbara.rauch@deqmail.state.ok.us or by phone (405) 702-7189 or fax (702-7101). The DEQ is located at 707 N. Robinson, Oklahoma Oklahoma, 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

ADDITIONAL INFORMATION:

The revocation of this chapter was first considered by the Environmental Quality Board at their November 14, 2000 meeting,

at which time board members continued it until the February 23, 2001 meeting.

PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 2001.

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

252:2-1-1. Purpose [REVOKED]

(a) **Purpose.** This Chapter establishes the organization and procedures of the Department of Environmental Quality.

(b) **Fair construction.** This Chapter is intended to simplify procedures, avoid delays, save expenses and facilitate implementing the Oklahoma Environmental Quality Code and any other Oklahoma Statutes under which the DEQ has jurisdiction.

(c) **Scope.** The rules in this Chapter are not intended to limit the lawful authority of the DEQ. The DEQ may address any matter under its jurisdiction and change any procedure for good cause.

(d) **Severability.** The repeal or invalidity of any particular rule of this Chapter or Title shall not affect other rules.

252:2-1-2. Definitions [REVOKED]

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**APA**" means the Oklahoma Administrative Procedures Act, 75:250.1 *et seq.*

"**Board**" means the Environmental Quality Board.

"**Code**" means the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 *et seq.*

"**Council**" means the Air Quality Council, the Hazardous Waste Management Advisory Council, the Laboratory Services Advisory Council, the Radiation Management Advisory Council, the Solid Waste Management Advisory Council, the Water Quality Management Advisory Council and the Waterworks and Wastewater Works (Operator Certification) Advisory Council.

"**DEQ**" or "**Department**" means the Oklahoma Department of Environmental Quality and its officers and employees.

"**Executive Director**" means the Executive Director of the Department of Environmental Quality.

"**Individual proceeding**" means the same as defined in 75:250.3(7), a part of which includes an administrative evidentiary hearing.

"**Respondent**" means a person or legal entity named in a petition for an individual proceeding against whom relief is sought.

"**Proposed rule or rule changes**" means rules proposed for recommendation and adoption or repeal.

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APPENDIX A. PETITION FOR RULEMAKING BEFORE THE ENVIRONMENTAL QUALITY BOARD
[REVOKED]

IN THE MATTER OF _____) Matter No. _____

RULE OAC 252: _____) Date filed: _____

Subject area: () Air Quality () Solid Waste
() Hazardous Waste () Water Quality
() Laboratory () Waterworks operators
() Radiation () Other

Petition will be referred by the Department to its appropriate program and to any appropriate Council.

- 1. Nature of request:
() Adoption of new rule(s)
() Amendment of existing rule(s)
() Repeal of existing rule(s)

Identified as Rule Number(s): _____
(OAC number if known)

2. Attach a brief statement of the issues raised by the rule(s) which cause such a request to be made, a statement of your personal interest in the ruling, and how the proposed rulemaking would affect those interests and would affect others.

3. If this request has been discussed with the Department of Environmental Quality, please indicate the name of the Division and employee consulted; otherwise, state "n/a."

4. If a Council has considered this matter, please indicate the name of the Council and the date(s) the matter was considered; otherwise, state "n/a."

5. Attachment(s): () suggested language () further explanation

_____ by: _____ (print name) _____ (title)
Name of Business or group

or Name of Individual (print): _____

[OAR Docket #01-872; filed 5-8-01]

"Rule package" means a set of rules or rule changes or a single rule or rule change proposed for a specific program or purpose.

252:2-1-3. Description of Department of Environmental Quality [REVOKED]

(a) **History.** The DEQ was created January 1, 1993, as a result of environmental legislation in 1992. On July 1, 1993, it assumed jurisdiction over air quality, hazardous waste, solid waste, water quality, environmental laboratory services and certification, radiation management and other programs and functions as specified in the Code.

(b) **Organization.** The DEQ consists of programs in air quality, waste management, water quality, complaints and local services, and offices of customer assistance, business and industry assistance, local government assistance, and administrative hearings. Such organization may be revised by the Executive Director. Organizational charts may be obtained upon request to the Office of the Executive Director.

(c) **Duties.** The DEQ has the following duties:

- (1) to implement the Code and other statutes under which it has jurisdiction;
- (2) to serve as the official state environmental agency of Oklahoma to cooperate with federal agencies in the management of environmental programs designated by law;
- (3) to perform such duties as required by law; and
- (4) to provide administrative assistance to the Board and Councils.

SUBCHAPTER 3. GENERAL OPERATION [REVOKED]

252:2-3-1. Office location and hours; communications [REVOKED]

(a) **Office.** The principal office of the DEQ is 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1212.

(b) **Hours of operation.** Office hours are from 8:00 a.m. to 4:30 p.m., unless otherwise designated by the Executive Director, each day except Saturday and Sunday and state holidays.

(c) **Communications.** Unless a person is working with a particular person or departmental area, written communication to the DEQ shall be addressed to the Executive Director at the principal office.

252:2-3-2. Availability of records [REVOKED]

(a) **Availability.** Records of the DEQ, not otherwise confidential or privileged from disclosure by law, shall be available to the public for inspection and copying at the DEQ's principal office or other offices during normal business hours. The DEQ may take reasonable precautions in order to ensure the safety and integrity of records under its care.

(b) **Removal.** Records may be removed from the DEQ's offices or storage areas only with permission of the record's custodian.

(c) **Reproduction.**

(1) **By DEQ.** The DEQ may limit the number of copies made and the time and personnel available for reproduction of open records requested by a member of the public or refer the requester to the provisions of paragraphs (2) and (3) of this subsection.

(2) **Commercial reproduction.** With advance notice to the DEQ, persons may arrange for the pick-up, reproduction and return of open records by a commercial copying service at their expense.

(3) **Other.** Provided the approval of the DEQ is obtained in advance and suitable floor space is available, a requester may bring in and use his own copy machine.

(d) **Confidentiality.** Any person submitting information, data or materials to the DEQ may assert and substantiate a claim of confidentiality upon submission. Absent such assertion and substantiation, information or materials shall be recognized and treated by the DEQ as being available for disclosure.

(e) **Certification.** Copies of official records of the DEQ may be certified by the Executive Director or Assistant Director or their designees.

(f) **Charge.** The DEQ's administrative fee schedule shall apply to in-house copying or reproduction of open records for or by members of the public.

252:2-3-3. Administrative fees [REVOKED]

(a) **Photocopying.** The fee for copying letter or legal sized paper is \$0.25 per page.

(b) **Certified copy.** The fee for a certified copy of a document is \$1.00 per document.

(c) **Search fee.** When the request is solely for commercial purpose or clearly would cause excessive disruption of the DEQ's essential functions, the document search fee is as follows:

- (1) 0-15 minutes, no charge;
- (2) 16-30 minutes, \$05.00;
- (3) 31-60 minutes, \$10.00;
- (4) 61-90 minutes, \$15.00;
- (5) 91-120 minutes, \$20.00;
- (6) every 30 minute increment or a portion thereof, \$5.00.

252:2-3-4. Fee credits [REVOKED]

The Executive Director may authorize Divisions of the DEQ which have programs that collect recurring fees to apply a credit towards certain future invoices for those fees. The credit must be applied only within the program from which the carryover fees are derived. Only the amount that is projected to exceed three months of funding beyond the upcoming budget year for that program can be credited. A

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summary of any credit applied shall be reported to the Environmental Quality Board. For a credit to be applied:

- (1) There must be a projected balance in the fee account carried over from the previous year;
- (2) The credit must be distributable pro rata among the fee payers;
- (3) The credit must be large enough to justify its administrative cost;
- (4) The Division is unaware of a longer range need, such as match for a superfund clean up project; and
- (5) The Department can explain on the invoices that a carryover exists and that an identified one-time credit is being applied.

SUBCHAPTER 5. RULEMAKING [REVOKED]

252:2-5-1. Petitions for rulemaking [REVOKED]

(a) ~~Rulemaking request.~~ Any person may file a petition with the DEQ formally requesting the adoption, amendment, or repeal of one or more rules.

(b) ~~Form and content of petition.~~ Rulemaking petitions shall be in writing and filed with the DEQ. A petition shall include the information and follow the format of OAC 252:2 Appendix A, Petition for Rulemaking. After the petition is filed, the DEQ shall provide a copy to the Board.

(c) ~~Referral.~~ The DEQ shall refer a filed petition to the appropriate Council or if none, to the appropriate program of the DEQ, for review. A petition referred to a Council shall be set on the agenda of the next available Council meeting.

(d) ~~Status.~~ If rulemaking based on the petition does not commence within 30 calendar days after the next available Council meeting or after referral to a program of the DEQ, the petition shall be deemed denied. The DEQ shall advise the Board of the status of petitions and shall provide the petitioner a copy of any final action relating to the petition.

252:2-5-2. Rule development [REVOKED]

The DEQ may commence the development of rules and rule changes at the request of, or on behalf of, the Board or a Council or upon petition by an interested person. The DEQ may appoint committees to assist in the development of such rules.

252:2-5-3. Notice of permanent rulemaking [REVOKED]

The DEQ shall cause notice of proposed permanent rulemaking and of dates of known hearings to be given in accordance with the APA. Notice of the continuation of any rulemaking hearing shall be announced at the hearing or meeting from which the hearing is to be continued and shall not require publication.

252:2-5-4. Rulemaking comment periods & hearings before the DEQ [REVOKED]

(a) ~~Comments.~~ The DEQ may ask for oral or written comments on proposed rules or rule changes from any person at any time.

(b) ~~Hearings.~~ On behalf of the Board or a Council, the DEQ may conduct a rulemaking hearing separate from a Board or Council meeting to receive comments on proposed permanent rule packages.

(c) ~~Hearing procedures for oral comments.~~ Persons wishing to comment orally at a hearing on permanent rule packages may be asked to make a written request. The hearing officer may set reasonable time limits on oral presentations, may exclude repetitive or irrelevant comments and may require that the presentations be submitted in writing prior to the close of the comment period.

(d) ~~Comment period for written comments.~~ Comments on proposed permanent rule packages may be submitted in writing at the hearing or by the end of the specified public comment period, or both.

(e) ~~Length of comment period.~~ The comment period shall end at the conclusion of the hearing unless extended for no more than 30 days.

(f) ~~Summary of comments.~~ The DEQ shall maintain a summary of comments received on proposed rule packages at rulemaking hearings and during written comment periods and provide the summary to the Board or a Council prior to the Board's or Council's final action on such rules.

252:2-5-5. Hearings before the Board or a Council [REVOKED]

At the request of the Board or a Council, the DEQ may designate a hearing officer to conduct a rulemaking hearing on proposed permanent rule packages before those bodies.

252:2-5-6. Preparation of rulemaking record [REVOKED]

The DEQ shall maintain a rulemaking record on all rules adopted or repealed by the Board.

SUBCHAPTER 7. DECLARATORY RULINGS [REVOKED]

252:2-7-1. Declaratory rulings [REVOKED]

Any person who alleges that any DEQ rule or order interferes with or impairs, or threatens to interfere with or impair, their legal rights may petition the DEQ, formally requesting a declaratory ruling on the applicability of the rule or order.

(1) ~~Form and content of petition.~~ All such petitions shall be in writing and filed with the Administrative Law Clerk. The petition shall include the information and follow the format of OAC 252:2 Appendix B, Petition for Declaratory Ruling. After the petition is filed, the

DEQ shall provide a copy to the Board at its next available meeting.

(2) **Determination.** Petitions for declaratory rulings shall be determined by the DEQ. Rulings shall state the findings and conclusions upon which they are based. If the DEQ refuses to make a ruling, then the petition shall be deemed to have been denied. If the DEQ commences an individual proceeding on the petition, it shall offer an opportunity for a hearing to the petitioner. After the DEQ issues a ruling or the Executive Director issues a final order, the DEQ shall provide a copy of the ruling or final order to the Board at its next available meeting.

(3) **Mailing.** The DEQ shall mail a copy of the ruling or final order to the petitioner.

SUBCHAPTER 9. INDIVIDUAL PROCEEDINGS IN GENERAL [REVOKED]

252:2-9-1. Purpose and applicability [REVOKED]

(a) **Purpose and applicability.** The purpose of this

Subchapter is to establish general procedures for individual proceedings conducted by the DEQ for purposes of enforcement and administrative permit proceedings as specified by Subchapter 13 of this Chapter.

(b) **Applicable law.** The APA, the Code and this Chapter govern individual proceedings, including administrative hearings, undertaken by the DEQ.

252:2-9-2. Enforcement petitions [REVOKED]

(a) **Persons entitled.** Individual proceedings may be initiated by DEQ program areas by filing a petition or an administrative compliance or penalty order with the Administrative Law Clerk.

(b) **Petition content.** Each petition shall name the Respondent(s) and shall contain a reference to the statutes and rules involved, and a brief statement of the facts giving a right to relief and of the relief requested. The petition shall be signed by the person presenting the same, or his attorney (see APA § 310), and shall include the signer's address and phone number.

(c) **Petition style.** The style of documents in a matter shall appear in substantially the following form:

BEFORE THE OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE: [Nature of proceeding _____)
 and name of Respondent _____)
 e.g. Request for _____] _____)
 _____) No. [Year & Case #1]
 -[name of program area or person], _____)
 Petitioner. _____)

[Nature of Request]

252:2-9-3. Declaratory ruling petitions [REVOKED]

For information on declaratory ruling petitions, see Subchapter 7 of this Chapter.

252:2-9-4. Administrative permit hearing petitions [REVOKED]

For information on administrative permit hearing petitions, see Subchapter 13 of this Chapter.

252:2-9-5. Matters filed by DEQ [REVOKED]

A petition or administrative compliance or penalty order filed by a DEQ program area shall include notice of the opportunity to request an administrative hearing and shall be served on the named Respondents.

252:2-9-6. Administrative hearings [REVOKED]

(a) **Request.** A hearing request shall be in writing and shall

be filed with the Administrative Law Clerk as part of or in response to a filed Petition.

(b) **Scheduling.** The DEQ shall schedule an administrative hearing after receipt of a proper and timely request.

(c) **Notice.** When the DEQ schedules an administrative hearing, the Administrative Law Clerk shall notify the parties of the date, time and place of the hearing. Such notice shall satisfy the notice requirements of the APA and shall be made at least fifteen (15) days prior to the hearing unless otherwise provided by law or agreed by the parties.

(d) **Procedure.** The Administrative Law Judge may refer to District Court Rules and Procedure in the absence of applicable APA and DEQ statutes and rules, including this Chapter. Subject to the limitations in OAC 252:2-9-7(d), the Administrative Law Judge, with the consent of all parties, may vary the procedures of this Chapter.

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252:2-9-7. Administrative Law Judges and Clerks [REVOKED]

(a) ~~Administrative Law Judge.~~ The Executive Director may designate an Administrative Law Judge for any administrative hearing properly and timely requested of the DEQ, unless precluded by law. Administrative Law Judges shall be familiar with the rules of procedure and generally familiar with the substantive rules governing the matter, and shall not have had prior involvement in the matter other than as an Administrative Law Judge. The Administrative Law Judge so designated shall have full authority to conduct all aspects of the hearing proceedings except for the issuance of a Final Order.

(b) ~~Administrative Law Clerk.~~ The Executive Director may designate an Administrative Law Clerk to maintain the administrative hearing dockets and records, and perform such other duties as described in this Chapter or incidental thereto.

(c) ~~References to Administrative Law Judge.~~ The Executive Director or designee may perform functions described in this Section for Administrative Law Judges.

(d) ~~Authority.~~ Administrative Law Judges have complete authority to conduct administrative hearing proceedings and may take any action not inconsistent with the provisions of the rules of this Chapter or of the APA for the maintenance of order at hearings and for the expeditious, fair, and impartial conduct of the proceedings. Administrative Law Judges may, without limitation:

- (1) arrange and issue notice of the date, time and place of hearings and conferences;
- (2) establish the methods and procedures to be used in the presentation of the evidence;
- (3) hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;
- (4) administer oaths and affirmations;
- (5) regulate the course of the hearing and govern the conduct of participants;
- (6) examine witnesses;
- (7) rule on, admit, exclude and limit evidence, at or before hearings;
- (8) establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for such purposes;
- (9) rule on motions and pending matters;
- (10) divide the hearing into stages or join claims of parties whenever the number of parties is large or the issues are numerous and complex; and
- (11) restrict attendance by persons not parties to the hearing in appropriate cases.

(e) ~~Technical assistance.~~ At the request of the Administrative Law Judge, the Executive Director may designate a DEQ representative, who has had no assigned

responsibilities related to the matter at issue, to serve as technical adviser to the Administrative Law Judge.

252:2-9-8. Service [REVOKED]

(a) ~~Methods of service.~~ Service of a petition and initial notice of hearing shall be by personal delivery served by a person licensed to make service of process in civil cases, or by certified mail with delivery shown by return receipt, or by publication if it is shown that service cannot be made by any other means despite the exercise of due diligence. Where the DEQ is serving a petition or notice, personal service may be made by a person designated by the Executive Director to make such service for the DEQ. Service by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal by the Respondent. Acceptance or refusal by any officer of a business or an authorized agent for a business shall constitute acceptance or refusal by the party addressed.

(b) ~~Proof of service.~~ The person making service shall file proof of service thereof with the Administrative Law Clerk promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service does not affect the validity of service. The Administrative Law Judge may refer to the Oklahoma Pleading Code for guidance regarding service.

(1) ~~Acknowledgment.~~ Acknowledgment in writing by the recipient, or appearance by the recipient at a hearing without objecting to service, is equivalent to proof of service.

(2) ~~Actions on a license.~~ Service by mail in a matter seeking to revoke or suspend any license may be deemed complete when there is an affirmation that the notice was mailed by certified mail to the licensee's last known address, and that he or she may not be found otherwise, despite the exercise of due diligence. The Administrative Law Judge shall inquire into and determine whether due diligence has been exercised.

(c) ~~Service by mail.~~ Except for service of the petition and initial notice, service by mail is complete upon mailing, and may be shown by the postmark.

(d) ~~Service on representative.~~ Service made upon an attorney of record constitutes service upon the party the attorney represents. Service made upon a person authorized by Oklahoma law to receive service on behalf of a party constitutes service upon that party.

252:2-9-9. Responsive pleading [REVOKED]

A Respondent may file, and the Administrative Law Judge may direct a Respondent to file, a responsive pleading to the enforcement petition or order that initiated the action.

252:2-9-10. Prehearing conferences [REVOKED]

(a) ~~General.~~ The Administrative Law Judge may schedule and conduct prehearing conferences as necessary to identify parties and issues and to set schedules and agendas for hearing-related activities. The Administrative Law Clerk

shall notify the parties of the scheduling of a prehearing conference. The Administrative Law Judge may authorize a prehearing conference by telephone. On request, prehearing conferences shall be on the record.

- (b) **Subjects.** Prehearing conferences may address:
 - (1) identification and simplification of issues, including the elimination of frivolous claims or defenses;
 - (2) amendments to the pleadings;
 - (3) the plan and schedule of discovery and limitations to be placed thereon;
 - (4) identification of admissions of fact to avoid unnecessary proof and cumulative evidence;
 - (5) the identification of witnesses and substance of testimony, exhibits, and documents;
 - (6) the use of prehearing briefs and prefiled testimony in the form of sworn affidavits;
 - (7) settlement of all or some of the issues before the hearing;
 - (8) adoption of special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems;
 - (9) scheduling pursuant to OAC 252:2-9-11; and
 - (10) such other matters as may aid disposition.

252:2-9-11. Prehearing scheduling conference [REVOKED]

(a) **Purpose.** A prehearing scheduling conference may be held for the scheduling of matters to be accomplished. Such conference shall be designed to expedite the disposition of the action and discourage wasteful prehearing activities, establish early and continuing control of the management of the hearing, and set dates for prehearing activities.

(b) **Scheduling.** The Administrative Law Judge may enter an interim order which establishes, insofar as feasible, the time:

- (1) to amend the pleadings;
- (2) to file and hear motions;
- (3) to complete discovery;
- (4) of further prehearing conferences; and
- (5) for accomplishing any other matters appropriate in the circumstances of the case.

(c) **Changes in scheduling order.** The Administrative Law Judge may change dates and time periods set in the scheduling order by issuing a modifying order upon good cause shown.

252:2-9-12. Discovery [REVOKED]

All parties shall act in good faith in the scheduling and conduct of discovery. Failure of a party to provide reasonable opportunity for the opposing party to depose any witness shall be grounds to exclude the testimony of that witness at the hearing. Discovery shall be conducted in accordance with the Oklahoma Discovery Code unless otherwise ordered by the Administrative Law Judge for good cause.

252:2-9-13. Prehearing Order [REVOKED]

(a) **Purpose and form.** Following a prehearing conference, the Administrative Law Judge may issue a Prehearing Order which recites and schedules the action to be taken and which shall control the course of the action unless modified by a subsequent order to prevent manifest injustice.

(b) **Content.** The Prehearing Order should include the results of the conference and advice to the Administrative Law Judge regarding the factual and legal issues, including summaries of material evidence, to be presented. The Prehearing Order should also present all questions of law in the case. All exhibits shall be marked, listed and identified in the Prehearing Order. If there is objection to the admission of any exhibits, the grounds for the objection must be specifically stated. Witnesses shall also be listed along with the nature of their testimony. No exhibit or witness may be added to the Prehearing Order once the Order has been prepared, signed, and filed by the Administrative Law Judge without a showing to the Administrative Law Judge by the requesting party that injustice would be created if the evidence or testimony were not allowed.

(c) **Applicability.** The contents of the Prehearing Order shall supersede the pleadings and govern the hearing of the case unless amended or allowed by the Administrative Law Judge to prevent injustice.

252:2-9-14. Subpoenas [REVOKED]

(a) **Issuance.** Subpoenas for the attendance of witnesses, the furnishing of information required by the Administrative Law Judge and the production of evidence shall be issued by the Administrative Law Clerk upon written request by a party or on the Administrative Law Judge's own motion. Subpoenas shall be served and a return made in the same manner as provided for state court proceedings.

(b) **Failure to obey.** The Executive Director may seek an appropriate judicial order to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing, or who refuse to answer a proper question during a hearing. The hearing may proceed despite any such refusal but the Administrative Law Judge may, in his discretion at any time, continue the proceedings as necessary to secure a court ruling.

252:2-9-15. Record [REVOKED]

(a) **To be made.** A record of the hearing shall be made, which shall be a tape recording unless otherwise agreed by the parties and the Administrative Law Judge. The recording will not be transcribed as a matter of course. A transcript may be obtained by submitting a written request to the Administrative Law Clerk and tendering payment in an amount sufficient to pay the cost of having the recording transcribed.

(b) **Court reporter.** A party may request a court reporter (CSR or LSR). The requesting party shall pay the costs, and the original transcript shall be filed in the case file as part of the record in the case. Each person or party requesting

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copies shall make arrangements for such with the reporter, and pay the costs.

(c) **Maintained.** The record of a proceeding and the file containing the notices and the pleadings will be maintained in a location designated by the Office of Administrative Hearings. All pleadings, motions, orders and other papers submitted for filing in such a proceeding shall be date/file stamped by the Administrative Law Clerk upon receipt. The burden of showing substantial prejudice by any failure to correctly file stamp any submittal shall be upon the party asserting such.

(d) **Designation on appeal.** On appeal, the parties may designate and counter-designate portions of the record to save costs, following the procedures applicable in the Courts of Oklahoma.

252:2-9-16. Motions [REVOKED]

(a) **Filing.** All requests for action in a matter already before the DEQ shall be made in the form of a motion or cross petition, signed by the party presenting same or his attorney, and filed with the Administrative Law Clerk. A cross petition shall be served in the manner provided in Rule 252:2-9-8. A copy of any motion shall be mailed by the movant to all parties of record concurrently with the filing of the motion, and a certification of such mailing shall appear on the motion.

(b) **Response.** Within ten (10) days after service of any written motion, any party to the proceedings may file a response to the motion. The time for response may be extended or shortened by the Administrative Law Judge for good cause shown.

252:2-9-17. Continuances [REVOKED]

A motion for an extension or continuance shall state the reasons for the request and specify the length of time requested. Unless made before the Administrative Law Judge in open hearing, motions for extensions of time or for a continuance of the hearing to another date or time shall be in writing and filed with the Administrative Law Clerk. The Administrative Law Judge shall promptly grant or deny such request at his or her discretion. If the motion is denied, it may be renewed orally by the party at the hearing.

252:2-9-18. Evidentiary hearing procedures [REVOKED]

(a) **Generally that of civil proceedings.** The order of procedure in hearings in all individual proceedings shall generally follow that which applies in District Court civil proceedings. At the discretion of the Administrative Law Judge, any party may reopen his case in chief, even after the adverse party has rested, consonant with the requirements of justice. Parties may stipulate to any lawful matter.

(b) **Further presentation.** After presentation of all cases in chief, parties to the action shall be confined to rebutting evidence unless the Administrative Law Judge, for

good reasons in furtherance of justice, permits them to offer evidence in the original case.

(c) **Rulings.** The Administrative Law Judge shall rule on the admissibility of evidence and objections to evidence, and on motions or objections raised during hearings, except for motions for summary judgments. All objections to a ruling shall be made promptly with statement of basis or they will be deemed waived. Parties shall be deemed to have taken exception to any adverse ruling on an objection.

(d) **Summary judgment.** The granting of a motion for summary judgment shall be subject to the provisions of 252:2-9-21 (Proposed order) and 252:2-9-22 (Final order).

252:2-9-19. Default [REVOKED]

Any Respondent who fails to appear as directed, after receipt of notice as provided by this Chapter, may be determined to have waived the right to appear and present a defense to the allegations contained in the notice and/or petition. A Final Order in such proceeding may be issued by the Executive Director granting by default no more than the relief prayed for in the petition.

252:2-9-20. Settlement [REVOKED]

Administrative hearings may be resolved by agreed settlement or consent order with the concurrence of the Executive Director. The Administrative Law Judge may grant continuances to allow the parties to discuss settlement.

252:2-9-21. Proposed orders [REVOKED]

(a) **Preparation of proposed orders.** The Administrative Law Judge shall hear all evidence and arguments applicable in a case and shall prepare a proposed order including findings of facts and conclusions of law. Prior to such preparation, the Administrative Law Judge may request or require briefs from the parties on any relevant issue. The Administrative Law Judge shall also have the discretion to request or accept from the parties, proposed findings and conclusions.

(b) **Service and presentation.** Upon finalization of a proposed order, the Administrative Law Judge shall:

(1) present the proposed order and the record of the matter to the Executive Director for review and entry of a final order; or

(2) serve it on the parties, by regular mail, offering an opportunity for parties to file exceptions to the proposed order before a final order is entered, pursuant to APA § 311; and then shall present the proposed order, the exceptions, if any, and the record of the matter to the Executive Director for entry of a final order. The parties may by written stipulation waive any of the requirements for a proposed order.

252:2-9-22. Final orders [REVOKED]

(a) **Executive Director.** For proceedings heard by an Administrative Law Judge, the Executive Director may adopt, amend, or reject any findings or conclusions of the

Administrative Law Judge or exceptions of any party, or may remand the proceeding for additional argument or the introduction of additional evidence at a hearing held for that purpose. This may be done after:

- (1) the opportunity for exceptions has lapsed without receiving exceptions, or after exceptions, briefs and oral arguments, if any, are made; or
- (2) review of the record.

(b) **Issuance.** At the conclusion of the proceedings and [except as provided in Rule 252:2-9-19, Default] after review of the record and/or proposed findings of fact and conclusions of law, the Executive Director shall issue a final order reflecting the findings of fact made, the conclusions of law reached, and specifying the action to be taken. Upon the resolution of motions of summary judgment that are dispositive of the entire case and rulings on standing that are adverse to a Petitioner(s), the Executive Director shall issue a final order.

(c) **Notice.** Parties shall be notified either personally or by mail of the issuance of a final order. A copy of the final order shall be provided to any party and its attorney.

252:2-9-23. Reconsideration [REVOKED]

Any party may petition the DEQ for rehearing, reopening or reconsideration of any decision in an individual proceeding within ten days of its entry, pursuant to APA § 317. Nothing in this Chapter shall prevent reconsideration of a matter in accordance with other statutory provisions.

252:2-9-24. Judicial review [REVOKED]

The provisions of Section 318 of title 75 of the Oklahoma Statutes shall apply.

SUBCHAPTER 11. ADMINISTRATIVE PENALTY PROCEEDINGS [REVOKED]

252:2-11-1. Applicability [REVOKED]

The requirements of this Subchapter are in addition to the preceding requirements of this Chapter and are applicable to matters brought under 27A O.S.Supp. 1993, Sections 2-3-502, 2-5-110, and 2-7-126, or any similar statutes providing for the assessment by the DEQ of administrative penalties.

252:2-11-2. Notice of Violation ("NOV") [REVOKED]

Unless otherwise provided by the particular enabling legislation, administrative penalty proceedings shall be preceded by a written notice of violation (NOV) informing the Respondent of the regulatory requirement at issue. This NOV must be served upon the Respondent and must state the factual allegations and particular standards or rules upon which the NOV is based. A letter, inspection sheet, petition, consent order or final order may constitute a NOV for

purposes of instituting administrative penalty proceedings, if it meets the requirements of this Section.

252:2-11-3. Administrative compliance and penalty orders [REVOKED]

(a) **When issued.** The Executive Director upon the request of a DEQ program area may issue an administrative order requiring compliance, assessing penalties for past violations and specifying penalties for continuing noncompliance. If a preceding Notice of Violation is required by the enabling legislation, an administrative compliance or penalty order shall be issued not less than fifteen days after service of the NOV upon the Respondent, or such reduced period as may be necessary to render the Order reasonably effectual.

(b) **Must specify.** An administrative compliance or penalty order shall specify the facts and conclusions upon which it is based and shall set a time for the Respondent to comply with the applicable regulations. The Order shall specify the penalty, not to exceed the statutory maximum per day of noncompliance, to be assessed in the event that the Respondent fails to comply with the Order within the prescribed time, and, if applicable, the penalty assessed for past violations of the Code, rules, or licenses or permits.

(c) **Service.** An administrative compliance or penalty order shall be served in accordance with Rule 252:2-9-8. The Order shall advise the Respondent that it shall become final unless an administrative hearing is requested in writing within fifteen (15) days of service of the Order.

(d) **Order following hearing.** Based on the hearing and record, an administrative compliance or penalty order will be sustained, modified, or dismissed by the Executive Director. If the hearing process extends beyond any compliance deadline specified in the Order, fines specified in the Order for violations of the Order will continue to accrue during the hearing process unless the Administrative Law Judge stays the penalty upon request for good cause shown.

252:2-11-4. Determining penalty [REVOKED]

In addition to factors specified by 27A O.S.Supp. 1993, Section 2-3-502(K)(2) or other law, the following factors, without limitation, may be considered in determining the amount of penalty specified in an administrative penalty order:

- (1) the gravity of the violation, including the likelihood of the development of adverse health effects caused by the violation, and the extent and severity of environmental degradation or adverse health effects caused or placed at risk by the violation,
- (2) the degree of variance from the applicable standards,
- (3) costs of correction of damage, and
- (4) good or bad faith of the Respondent.

252:2-11-5. Assessment orders [REVOKED]

(a) **Failure to comply with administrative orders.** After an administrative compliance or penalty order is issued,

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~~proceedings may be conducted to determine whether the Respondent has failed to comply with the Order for any period of time.~~

~~(b) Application for compliance and penalty hearing. Any time the DEQ believes the Order has been violated, it may with reasonable promptness apply to the Administrative Law Judge for a compliance and penalty hearing, alleging the period of noncompliance and the amount of the administrative penalty that has accrued. The DEQ shall provide a copy of the application to the Respondent.~~

~~(c) Elements to consider. The Executive Director, in deciding whether an administrative penalty or compliance order has been violated and whether the penalties are appropriate, may consider efforts to comply with applicable requirements made by the Respondent after issuance of the Order.~~

~~(d) Must request hearing within seven days. The DEQ's application shall advise the Respondent that the Respondent's right to contest the determination of noncompliance and the amount of the fine is waived if the request for hearing is not made within seven (7) calendar days of receiving notice. A request for hearing is deemed made when received by the DEQ. If timely requested, the hearing must be promptly set and held.~~

~~(e) Issuance of assessment orders. An assessment order shall be issued by the Executive Director following the determination of the application. An assessment order must state the nature and period of the violation, and determine the amount of the fine. The fine is due and payable immediately upon issuance of the assessment order, unless otherwise provided therein. A copy of the assessment order will be provided to the Respondent.~~

~~(f) Continuing violations. If the DEQ believes that violations of the administrative compliance or penalty order continue after the issuance of an assessment order, the DEQ may apply within a reasonable time for the issuance of additional assessment orders covering periods of violation since the period covered by the issuance of a previous assessment order.~~

252:2-11-6. Penalty-only proceedings [REVOKED]

~~(a) General. In accordance with 27A O.S. Supp. 1993, Section 2-3-502(L), the DEQ may, within three (3) years of discovery, issue an administrative penalty order proposing specified administrative penalties for non-continuing violations of the Code, rules promulgated thereunder, or permits or licenses issued pursuant thereto.~~

~~(b) Must specify. The administrative penalty order shall specify the facts and conclusions upon which it is based.~~

~~(c) Determining Penalty. For information on determining penalty, see 252:2-11-4.~~

~~(d) Service. The administrative penalty order shall be served in accordance with Rule 252:2-9-8. The Order shall advise the Respondent that it shall become final unless a hearing is requested in writing within fifteen (15) days of service of the Order.~~

~~(e) Hearing. Based on the hearing and the record, an administrative penalty order will be sustained, modified, or dismissed by the Executive Director.~~

252:2-11-7. Considerations for self-reporting of noncompliance [REVOKED]

~~(a) Purpose. The DEQ monitors the environmental compliance of regulated entities through activities such as periodic inspections and record reviews, but the regulated entities have a superior vantage point and generally greater resources to monitor their own performance. The public interest in environmental protection is served by positive incentives to promote, achieve and maintain compliance as well as by the negative incentive of a unilateral agency enforcement action with an associated penalty. The DEQ should encourage voluntary disclosure and prompt remedial action. The DEQ believes it is conducive to improved environmental compliance to mitigate an administrative and civil penalty which would otherwise be appropriate, in those cases where a regulated entity has disclosed an apparent violation, has taken prompt and appropriate action to correct the violation and its consequences, and has taken affirmative action to prevent its recurrence.~~

~~(b) Conditions for not seeking administrative and civil penalties. Except in the case of habitual noncompliance or as otherwise provided in this section, in evaluating enforcement action for a regulated entity's actual or apparent failure to comply with DEQ rules, the DEQ will not seek an administrative or civil penalty when the following circumstances are present:~~

~~(1) The regulated entity voluntarily, promptly and fully discloses the apparent failure to comply with applicable state environmental statutes or rules to the appropriate DEQ regulatory program in writing before the program learns of it or is likely to learn of it imminently;~~

~~(2) The failure is not deliberate or intentional;~~

~~(3) The failure does not indicate a lack or reasonable question of the basic good faith attempt to understand and comply with applicable state environmental statutes or rules through environmental management systems appropriate to the size and nature of the activities of the regulated entity;~~

~~(4) The regulated entity, upon discovery, took or began to take immediate and reasonable action to correct the failure (i.e., to cease any continuing or repeated violation);~~

~~(5) The regulated entity has taken, or has agreed in writing with the appropriate program to take, remedial action as may be necessary to prevent recurrence of such failure. Any action the regulated entity agrees to take must be completed;~~

~~(6) The regulated entity has addressed, or has agreed in writing with the appropriate program to address, any environmental impacts of the failure in an acceptable manner;~~

~~(7) The regulated entity has not realized and will not~~

realize a demonstrable and significant economic or competitive advantage as a result of non-compliance; and

(8) The regulated entity cooperates with the DEQ as the DEQ performs its duties and provides such information as the DEQ reasonably requests to confirm the entity's compliance with these conditions.

(c) **Partial qualification.** Notwithstanding the failure of a regulated entity to meet all of the conditions in subsection b, the DEQ will consider the nature and extent of such actions of the regulated entity in mitigation of any administrative or civil penalty otherwise appropriate. If the regulated entity meets all conditions in subsection b except item 7 relating to significant economic or competitive advantage, the DEQ will seek an administrative or civil penalty only to the extent of the economic or competitive advantage gained.

(d) **Relationship to federal/state agreements.** In the event of any conflict, the elimination or mitigation of penalties pursuant to subsections b and c is subject to agreements between the DEQ and the United States Environmental Protection Agency relating to regulatory program delegation or authorization from the United States Environmental Protection Agency to the DEQ.

(e) **Applicability.** This section applies to all enforcement cases arising from violations discovered by or brought to the attention of the DEQ after the effective date of this section.

SUBCHAPTER 13. FORMAL PUBLIC MEETINGS AND ADMINISTRATIVE PERMIT PROCEEDINGS
[REVOKED]

PART 3. ADMINISTRATIVE PERMIT PROCEEDINGS
[REVOKED]

252:2-13-30. Scope; purpose of proceedings
[REVOKED]

(a) **Applicability.** In addition to the requirements of Subchapter 9 of this Chapter, the requirements of this Part shall apply to administrative hearings on draft permits.

(b) **Purpose.** The purpose of an administrative permit proceeding is to provide for an evidentiary proceeding for challenges to draft permits and to determine their compliance with the Code and rules promulgated thereunder.

252:2-13-31. Definitions [REVOKED]

The following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administrative permit hearing" means an evidentiary hearing conducted by the DEQ as part of an administrative permit proceeding.

"Administrative permit proceeding" means all prehearing conferences, evidentiary hearings and other proceedings connected with an individual proceeding on a draft permit.

"Joining of parties" means the grouping of parties to an administrative permit proceeding who assert rights to relief in respect of or arising out of the same draft permit.

"Lead Counsel" means the attorney acting as coordinating counsel for all petitioners or, if only one petitioner, that party's legal representative.

"Petitioner(s)" means a person or group who requests an administrative permit hearing and is determined by the Administrative Law Judge to have standing as a party to the action.

"Respondent" means an applicant whose formally filed permit application and the draft permit related thereto are the subject of an administrative permit proceeding.

252:2-13-32. Request for administrative permit hearing [REVOKED]

(a) **Request.** A request for an administrative permit hearing must be in writing signed by the requester, requesters or authorized representative of a group of requesters and shall contain a brief statement of the basis of the request and the name and address of each requester. If the request is made by or on behalf of a group, the request should contain a list of names and addresses of group members. A request shall be considered an initial petition and should be personally delivered or sent to the address described in the notice telling of such request opportunity or to the DEQ's Office of Administrative Hearings.

(b) **Initiation of proceedings.** Unless otherwise provided by law, the initiation of administrative permit proceedings shall not occur until a draft permit has been prepared by the DEQ and amended, as appropriate, based on comments received during the public comment period.

(c) **Joinder of DEQ.** The DEQ, through the permit drafting program, shall be a party to the permit proceeding upon its own petition, or may be joined as a party upon order of the Administrative Law Judge. If the DEQ is not a party to the proceedings, the Administrative Law Judge may call witnesses, hear testimony and receive evidence from the permit drafting program. Such witnesses shall be subject to cross-examination by the parties.

(d) **Location for Administrative Permit Hearings.** Proceedings related to administrative permit hearings shall be held at the principal office of the DEQ unless otherwise specified by the Administrative Law Judge.

252:2-13-33. Relationship to other rules
[REVOKED]

In addition to the provisions of this Part, the requirements and procedures set forth in Subchapter 9 of this Chapter (OAC 252:2) for individual proceedings shall apply to administrative permit proceedings and hearings unless specified otherwise or in conflict. In cases of conflict, specific provisions of this Part control over Subchapter 9. The provisions include:

- (1) OAC 252:2-9-7 (Administrative Law Judges and Clerks);
- (2) OAC 252:2-9-8 (Service);

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- (3) ~~OAC 252:2-9-10 (Prehearing conferences);~~
- (4) ~~OAC 252:2-9-11 (Prehearing scheduling conference);~~
- (5) ~~OAC 252:2-9-12 (Discovery);~~
- (6) ~~OAC 252:2-9-13 (Prehearing Order);~~
- (7) ~~OAC 252:2-9-14 (Subpoenas);~~
- (8) ~~OAC 252:2-9-16 (Motions);~~
- (9) ~~OAC 252:2-9-17 (Continuances);~~
- (10) ~~OAC 252:2-9-18 (Evidentiary hearing procedures);~~
- (11) ~~OAC 252:2-9-19 (Default);~~
- (12) ~~OAC 252:2-9-20 (Settlement);~~
- (13) ~~OAC 252:2-9-21 (Proposed orders);~~
- (14) ~~OAC 252:2-9-22 (Final orders); and~~
- (15) ~~OAC 252:2-9-23 (Reconsideration).~~

252:2-13-35. Prehearing verification conference [REVOKED]

~~(a) Notice.~~ According to 75:309(b), the Administrative Law Judge shall give notice to requesters and Respondents of a prehearing verification conference on a request for an administrative permit hearing.

~~(b) Purpose.~~ The prehearing verification conference shall be attended by all requesters and Respondents and/or their representatives for the purpose of examining notice and identifying parties and their representatives.

~~(c) Verification of notice.~~ The Administrative Law Judge shall examine evidence and receive testimony on whether notice of the opportunity to request an administrative permit hearing was given in accordance with applicable law.

~~(d) Verification of request.~~ The Administrative Law Judge shall verify whether each requester made a timely and proper request for the hearing.

~~(e) Verification of standing.~~ The Administrative Law Judge shall verify the standing of all requesters to be parties pursuant to requirements set by applicable law.

~~(f) Cure of deficiencies.~~ The Administrative Law Judge may allow deficiencies in notice or proof of standing to be cured.

~~(g) Identification of representatives.~~ When verification is complete, each party shall identify its counsel. All counsel and individuals appearing pro se (representing themselves) shall enter a written entry of appearance with the Administrative Law Judge. In addition, each party shall designate one individual to receive notice and to take primary responsibility for the filing of documents with the Administrative Law Clerk.

~~(h) Groups.~~ Members of a formally organized group may request to be considered as one party to the hearing and shall be considered a single entity if they meet applicable standing requirements for such a group or if ten (10) members meet the applicable standing requirements for individuals. A group qualified to be a single party must be represented by Counsel during administrative permit proceedings.

252:2-13-36. Selection of Lead Counsel [REVOKED] When more than one Petitioner is verified as a party and

their representation is by more than one Counsel, the Petitioners shall select one Lead Counsel to coordinate action and communications on behalf of all Petitioners and their attorneys. The selection of a Lead Counsel shall not prohibit other attorneys for petitioners, or unrepresented Petitioners, from dividing responsibilities such as direct and cross examination, discovery, and opening/closing arguments. Designation as Lead Counsel shall not be deemed to establish an attorney-client relationship not otherwise existing. For good cause, the Administrative Law Judge may allow substitution of Lead Counsel and authorize additional Lead Counsel when conflicts of interest appear.

252:2-13-37. Identification of issues [REVOKED]

~~(a) Integrated petition.~~ The Lead Counsel, on behalf of all joined Petitioners, shall file an integrated petition in the office of Administrative Hearings within twenty (20) days after the completion of the prehearing verification conference. The integrated petition shall name the person against whom relief is requested, contain a reference to the statutes and/or rules involved, contain a brief statement of the facts giving a right to relief, and state clearly and concisely the action or relief sought and the ground therefor. The integrated petition shall be in the form set forth in Rule 252:2-9-2(c). Relief in the alternative may be pleaded. The petition shall also contain a preliminary listing of topics which the Petitioner(s) intends to put at issue in the hearing. Upon filing an integrated petition with the DEQ, Lead Counsel shall serve the Respondent with a copy of the petition and shall mail copies to, or make personal delivery to, all Petitioner(s) or their representatives.

~~(b) Answer.~~ The Respondent shall file an answer to the integrated petition within twenty (20) days after service of the petition upon him. An answer may contain specific responses or a general denial and shall be served by the Respondent on all other parties to the action.

~~(c) Cross petition.~~ The Respondent may file a cross petition and the named parties shall have the right to file answers within 20 days of service.

~~(d) Amendment of petition and answer.~~ The parties have the right to amend petitions and answers upon a showing of good cause and with leave of the Administrative Hearing Judge.

252:2-13-38. Administrative record [REVOKED]

~~(a) Content.~~ In addition to the provisions of Subchapter 9 of this Chapter, the administrative permit hearing record shall include:

- (1) the permit application on file with the DEQ, as amended;
- (2) all written comments received during the public comment period;
- (3) the tape or transcript of the formal public meeting;
- (4) documents resulting from the DEQ's review of the permit application and public comments;

- (5) the draft permit, fact sheet and the response to comments, if any, issued by the DEQ; and
- (6) all published notices.

(b) **Admission into evidence.** The documents referenced in (a) of this Section may be admitted and received in evidence. The Administrative Law Judge may direct that a witness be provided to sponsor a portion or portions of these documents. The Administrative Law Judge may direct the appropriate party to produce the witness for cross-examination. If a sponsoring witness cannot be provided, the Administrative Law Judge may reduce the weight accorded the appropriate portion of the record.

252:2-13-39. Withdrawal and dismissal [REVOKED]

(a) **Withdrawal.** Any Petitioner may formally withdraw from the proceedings at any time by filing a statement of withdrawal with the Administrative Law Clerk.

(b) **Dismissal and release.**

(1) **By motion of Petitioner(s).** At any time during the proceedings, Petitioner(s) may request dismissal of the action by filing a motion with the Hearing Clerk that is signed by all Petitioner(s) or their representative(s). Such dismissal shall be with prejudice unless the words "without prejudice" appear in the Order of Dismissal issued by the Administrative Law Judge.

(2) **By motion of Respondent.** An action shall be dismissed by the Administrative Law Judge upon withdrawal of the permit application by the Respondent. Any such dismissal shall be with prejudice as to that permit application and the draft permit related thereto.

(3) **By Administrative Law Judge.** An action may be dismissed by the Administrative Law Judge if all Petitioners fail to appear or to prosecute with diligence, or when Petitioner(s) are in disobedience to an Interim Order issued by the Administrative Law Judge. Any Petitioner may be dismissed from an ongoing action for failure to appear or prosecute with diligence or for disobedience to an Interim Order, only upon motion by a party to the action. Such dismissals shall not occur until a Petitioner subject to the Dismissal Order receives notice of the prospective dismissal and is given the opportunity to be heard concerning it. The Administrative Law Judge may release any party from the action upon proper motion at any time.

252:2-13-40. Evidentiary hearing procedures on draft permits [REVOKED]

(a) **Order of procedure.** For information on order of procedure, see OAC 252:2-9-18.

(b) **Burden of proof.** The Respondent has the burden of proof as to issues raised by Petitioner(s).

(1) **Petitioner(s).** Petitioner(s) shall have the burden of going forward to present an affirmative case on the issues identified in the petition.

(2) **Respondent.** After the conclusion of the case of

the Petitioner(s), the Respondent shall have the burden of presenting an affirmative case on all issues raised by the Petitioner(s).

(c) **Testimony and cross-examination.** The Administrative Law Judge may provide for the testimony of opposing witnesses to be heard consecutively. No cross-examination shall be allowed on questions of law, on matters that are not subject to challenge in an administrative hearing, or on questions of DEQ policy except to the extent such policy must be analyzed to disclose the basis for draft permit requirements. Issues between the parties that are relevant to the hearing but not raised at the hearing shall be dismissed as between the parties and may be so reflected in the final findings of fact and conclusions of law.

252:2-13-41. Orders [REVOKED]

(a) **Proposed and Final Orders.** For information on Proposed and Final Orders, see OAC 252:2-9-21 and 252:2-9-22.

(b) **Final Orders.** Final Orders issuing from an administrative permit hearing shall be based on the applicable provisions of statutes and rules, and may be conditioned in accordance with findings and recommendations of the Administrative Law Judge.

252:2-13-42. Issuance or denial of permit [REVOKED]

The applicant bears the burden of persuading the agency that the permit should issue. Title 75 O.S. 1991, § 307 is the appropriate mechanism to address any alleged failure by the DEQ to conform the issuance or denial of the permit to the requirements of a Final Order.

SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES [REVOKED]

PART 1. UNIFORM PERMITTING PROGRAM IN GENERAL [REVOKED]

252:2-15-1. Purpose and applicability [REVOKED]

(a) **Purpose.** The rules in this Subchapter implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S. Supp. 1995, § 2-14-101 *et seq.*, and apply to applicants for and holders of DEQ permits and other authorizations.

(b) **Supersedes inconsistent rules.** Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title.

(c) **Applicability.**

(1) Applications filed with the DEQ on and after July 1, 1996, are subject to the procedural requirements of 27A O.S. Supp. 1995, § 2-14-101 *et seq.*, this Subchapter and other applicable rules of the Board.

(2) Applications filed before July 1, 1996, are subject to the statutory and regulatory procedural requirements

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existing at the time of the filing unless the applicant elects to comply with the statutes and rules described in paragraph 1 of this subsection.

252:2-15-2. Definitions [REVOKED]

In addition to terms defined in 252:2-1-2, the following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-15-101 *et seq.*

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Application" See 27A O.S. Supp. 1995, § 2-14-103(1).

"Major facility", as used in air quality tier classifications, means a source subject to the permitting requirements of 40 CFR Part 70.

"Minor source", as used in air quality tier classifications, means a source that is not subject to the permitting requirements of 40 CFR Part 70.

"Off-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.

"On-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry for the treatment, storage, processing, or disposal of its own waste exclusively.

"Part" means a numbered Part of this Subchapter.

"Program" means a regulatory section or division of the DEQ.

"Submittal" means a document or group of documents provided as part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"UIC" means underground injection control.

PART 3. TIER I, II AND III PROCESS REQUIREMENTS [REVOKED]

252:2-15-26. Tier processes described [REVOKED]

To implement the three-tiered permitting processes of the Act, applications are classified in Part 5 as Tier I, II or III. The steps an applicant must follow for a Tier I, II or III application are shown in Appendix C of this Chapter.

252:2-15-27. Unclassified applications [REVOKED]

The tier designation for any type of application not classified in this Subchapter shall be determined according to 27A O.S. Supp. 1995, § 201.

252:2-15-28. Permit decision-making authority [REVOKED]

(a) **Designated positions.** The Executive Director may delegate in writing the power and duty to issue, renew, amend, modify and deny permits and take other authorization or registration action. Unless delegated to a Division Director by formal assignment or rule, the authority to act on Tier I applications shall be delegated to positions within each permitting program having technical supervisory responsibilities and, for local actions authorized by law, to environmental specialist positions held by the DEQ's local services representatives. The authority to act on emergency permits or Tier II applications shall be delegated to the Division Director of the applicable permitting division.

(b) **Revision.** The Executive Director may amend any delegation in writing.

252:2-15-29. Published notices [REVOKED]

(a) **Notice content.** In addition to content requirements of the Act, all published legal notice(s) shall contain the:

- (1) Name and address of the applicant;
- (2) Name, address and legal description of the site, facility and/or activity;
- (3) Purpose of notice;
- (4) Type of permit or permit action being sought;
- (5) Description of activities to be regulated;
- (6) Locations where the application may be reviewed;
- (7) Names, addresses and telephone numbers of contact persons for the DEQ and for the applicant;
- (8) Description of public participation opportunities and time period for comment and requests;
- (9) Any other information required by DEQ rules; and
- (10) Any information the applicant deems relevant.

(b) **Proof of publication.** An applicant, within twenty (20) days after the date of publication, shall provide the DEQ with a written affidavit of publication for each notice published. In case of a mistake in a published notice, the DEQ may approve the publication of a legal notice of correction or may require that the entire legal notice be republished.

252:2-15-30. Tier I process requirements [REVOKED]

(a) **Pre-application conference.** Prior to filing an application, an applicant may request a conference with the DEQ.

(b) **Application filing.**

(1) **Copies.** Two (2) copies of a Tier I application shall be filed with the DEQ except when the application form or instructions specifies that only one (1) copy is needed. Applicants for residential systems (OAC 252:640) and small public sewage systems (OAC 252:655-29) permits shall file their two copies with the local DEQ office for the county in which the real property is located.

(2) **Fees.** Fees established in DEQ program rules shall be payable at the time of application and are not refundable.

~~(3) Notice to landowner.~~ Applicants must demonstrate to the DEQ that they are not seeking a permit for land or for any operation upon land owned by others without their knowledge. Applicants shall certify by affidavit filed with the DEQ that: they own the real property; or they have a current lease or easement which is given to accomplish the permitted purpose; or if they do not own the real property, they have provided legal notice to those who do. The DEQ may rely on the affidavit, and the applicants shall bear the burden of meeting any challenges. Legal notice is governed by Oklahoma law which, for example, authorizes: service by sheriff or private process server; service by certified mail, restricted delivery; or service by publication, if the person cannot be located through due diligence. Notice to the person who signed a lease or to the administrator or executor of a trust or an estate may be sufficient.

~~(4) Withdrawal.~~ An applicant may withdraw an application at any time with written notice to the DEQ and forfeiture of fees.

~~(c) Application review.~~ Unless stated otherwise in new laws or rules, applications are subject to the laws and rules of the DEQ as they exist on the date of filing and afterward as changed, up to the date of issuance or denial. See Part 7 for review procedures and time lines.

~~(d) Issuance or denial.~~

~~(1) Compliance required.~~ A new, modified or renewed permit or other authorization shall not be issued until the DEQ has determined the application is in substantial compliance with applicable requirements of the Code and rules of the Board.

~~(2) Conditions for issuance.~~ The Department may not issue a new, modified or renewed permit or other authorization if:

~~(A) The applicant has not paid all monies owed to the DEQ or is not in substantial compliance with the Code, rules of the Board and the terms of any existing DEQ permits and orders. The DEQ may impose special conditions on the applicant to assure compliance and/or a separate schedule which the DEQ considers necessary to achieve required compliance; or~~

~~(B) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.~~

~~(3) Issuance.~~ See 252:2-15-28.

252:2-15-31. Tier II process requirements
[REVOKED]

~~(a) Pre-application conference.~~ "Tier I" requirements apply. See 252:2-15-30.

~~(b) Application.~~ "Tier I" requirements apply. See 252:2-15-30, except the applicant shall file three (3) copies of the application with the DEQ and place one (1) copy for

public review in the county in which the site, facility or activity is located.

~~(c) Published notice of filing.~~ See 27A O.S. § 2-14-301 and 252:2-15-29.

~~(d) Application review.~~ "Tier I" requirements apply. See 252:2-15-30.

~~(e) Draft permit or draft denial.~~ See 27A O.S. § 2-14-302.

~~(f) Notice of draft permit/denial.~~ See 27A O.S. § 2-14-302 and 252:2-15-29. For permit modification actions, only those issues relevant to the modification(s) shall be reopened for public review and comment.

~~(1) Exception to notice requirement.~~ Applicants for solid waste transfer station permits shall be exempt from public comment and public meeting requirements if the board of county commissioners of the county of the proposed site, after opportunity for written or oral public comment, has found the application to be within the scope of the county's solid waste management plan. See 27A O.S. Supp. 1995, § 2-10-307.

~~(2) Additional notice.~~ In addition to Section 302 notice:

~~(A) Applicants for a NPDES, RCRA or UIC permit are subject to applicable additional notice provisions of federal requirements promulgated as rules of the Board.~~

~~(B) Applicants for a proposed wastewater discharge or emissions permit which may affect the water quality or air quality of a neighboring state must give written notice to the environmental regulatory agency of that state.~~

~~(C) Applicants for a solid waste landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See *DuLaney v. OSDH*, Okl., 868 P.2d 676 (1993).~~

~~(g) Public comment and formal public meeting.~~ See 27A O.S. § 2-14-302 and 27A O.S. § 2-14-303. The DEQ shall determine the location of any formal public meeting to be held and the designated presiding officer shall establish its procedures.

~~(h) Response to comments.~~ See 27A O.S. § 2-14-304.

~~(i) Issuance or denial.~~ "Tier I" requirements apply. See 252:2-15-30.

252:2-15-32. Tier III process requirements
[REVOKED]

~~(a) Pre-application conference.~~ "Tier I" requirements apply. See 252:2-15-30.

~~(b) Filing, fees and withdrawal.~~ "Tier II" requirements apply. See 252:2-15-31.

~~(c) Notice of filing and process meeting opportunity.~~ The applicant shall include a 30-day opportunity to request a process meeting in the published notice of filing. See 27A O.S. § 2-14-301(B) and 252:2-15-29.

~~(d) Process meeting.~~ See 27A O.S. § 2-14-301(B). The

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location of and procedures for the process meeting shall be determined by the DEQ.

(e) **Application review.** "Tier I" requirements apply. See 252:2-15-30.

(f) **Draft permit or draft denial.** See 27A O.S. § 2-14-302.

(g) **Notice of draft permit/denial.** "Tier II" requirements apply. See 252:2-15-31.

(h) **Public comment period and public meeting.** "Tier II" requirements apply. See 252:2-15-31.

(i) **Proposed permit and notice.** After the DEQ reviews public comments and prepares a proposed permit by amending the draft permit in response to comments as necessary, the applicant shall publish notice of the proposed permit and of the opportunity to request an administrative permit hearing. See 27A O.S. § 2-14-304 and 252:2-15-29.

(j) **Administrative permit hearing.** See 27A O.S. § 2-14-304 and, for procedures, Subchapter 13 of this Chapter, except references to "draft permit" in Subchapter 13 shall mean "proposed permit" as used in 27A O.S. § 2-14-103 and 27A O.S. § 2-14-304 (C) and (D).

(k) **Response to comments.** See 27A O.S. § 2-14-304.

(l) **Issuance or denial.** "Tier I" requirements apply. See 252:2-15-30.

PART 5. TIER CLASSIFICATIONS [REVOKED]

252:2-15-40. Air quality applications - Tier I [REVOKED]

(a) **Minor facility permits.** The following air quality authorizations for minor facilities require Tier I applications.

(1) **New permits.** New construction, operating and relocation permits.

(2) **Modifications of permits.**

(A) Modification of a construction permit for a minor facility that will remain minor after the modification.

(B) Modification of an operating permit that will not change the facility's classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) **Renewals.** Renewals of operating permits.

(b) **Part 70 source permits.** The following air quality authorizations for Part 70 sources require Tier I applications.

(1) **New permits.**

(A) New construction permit for an existing Part 70 source for any change considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in

any way considered significant under 252:100-8-7.2(b)(2).

(2) **Modifications of permits.**

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a Part 70 source's construction permit with no or minor modifications.

(c) **Other authorizations.** The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).

(2) Burn approvals.

(3) Plant wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in 252:100-11.)

252:2-15-41. Air quality applications - Tier II [REVOKED]

(a) **Minor facility permit actions.** Any minor facility seeking a permit for a modification that when completed would turn it into a Part 70 source is required to apply under subsection (b) of this section.

(b) **Part 70 source permits.** The following air quality authorizations for Part 70 sources require Tier II applications.

(1) **New permits.**

(A) New construction permit for a new Part 70 source not classified under Tier III.

(B) New construction permit for an existing Part 70 source for any change considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(C) New operating permit for a Part 70 source that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(E) New acid rain permit that is independent of a Part 70 permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) **Modifications of permits.**

(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) **Renewals.** Renewals of operating permits.

(c) **Other authorizations.** The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

(P) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(Q) phosphate rock processing plant,

(R) portland cement plants,

(S) primary aluminum ore reduction plants,

(T) primary copper smelters,

(U) primary lead smelters,

(V) primary zinc smelters,

(W) secondary metal production plants,

(X) sintering plants,

(Y) sulfur recovery plants, or

(Z) taconite ore processing plants, and

(2) Any other source not specified in paragraph (1) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(b) **Existing incinerators.** An application for any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted shall require a Tier III application.

(c) **Potential to emit.** For purposes of this section, "potential to emit" means emissions resulting from the application of all enforceable permit limitations as defined in OAC 252:100-1-3.

252:2-15-42. Air quality applications - Tier III [REVOKED]

(a) **New major stationary sources.** A construction permit for any new major stationary source listed in this subsection requires a Tier III application. For purposes of this section, "Major stationary source" means:

(1) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(A) carbon black plants (furnace process),

(B) charcoal production plants,

(C) chemical process plants,

(D) coal cleaning plants (with thermal dryers),

(E) coke oven batteries,

(F) fossil fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input,

(G) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(H) fuel conversion plants,

(I) glass fiber processing plants,

(J) hydrofluoric, sulfuric or nitric acid plants,

(K) iron and steel mill plants,

(L) kraft pulp mills,

(M) lime plants,

(N) incinerators, except where used exclusively as air pollution control devices,

(O) petroleum refineries,

252:2-15-43. Hazardous waste management applications - Tier I [REVOKED]

The following hazardous waste management authorizations require Tier I applications.

(1) Class 1 modification of any hazardous waste permit requiring prior Department approval as specified in 40 CFR § 270.42.

(2) Modification to a recycling permit in accordance with 27A O.S. Supp. 1994, § 2-7-118(A).

(3) Class 2 permit modification as defined in 40 CFR § 270.42.

(4) Emergency hazardous waste disposal plan approval.

(5) Hazardous waste generator disposal plan approval.

(6) Technical plan approval.

(7) Hazardous waste transporter license.

(8) Hazardous waste transfer station plan modification which is not related to capacity.

(9) Emergency permit issued in accordance with 40 CFR § 270.61.

(10) Interim status closure plan approval in accordance with 40 CFR § 265.113(d)(4).

(11) Minor administrative modification of all permits and other authorizations.

(12) Renewal of disposal plan approval and transporter license.

(13) New, modified or renewed authorization under a general permit.

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~~(14) Approval of temporary authorizations in accordance with 40 CFR § 270.42.~~

252:2-15-47. Laboratory certification applications - Tier II [REVOKED]

None.

252:2-15-44. Hazardous waste management applications - Tier II [REVOKED]

252:2-15-48. Laboratory certification applications - Tier III [REVOKED]

None.

The following hazardous waste management authorizations require Tier II applications.

~~(1) On-site hazardous waste treatment, storage or disposal permit.~~

~~(2) Mobile recycling permit.~~

~~(3) Research & Development permit.~~

~~(4) Class 3 modification of any hazardous waste permit as specified in 40 CFR § 270.42.~~

~~(5) Modification of an on-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.~~

~~(6) Modification of an on-site hazardous waste facility permit for an expansion of permitted boundaries.~~

~~(7) Modification of on-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.~~

~~(8) Renewal of a hazardous waste treatment, storage or disposal permit.~~

~~(9) Hazardous waste transfer station plan approval.~~

~~(10) Hazardous waste transfer station plan modification involving increase in approved capacity.~~

~~(11) Variance which is not part of a permit application.~~

~~(12) Variance which is part of a Tier II permit application.~~

252:2-15-50. Operator certification applications - Tier II [REVOKED]

None.

252:2-15-51. Operator certification applications - Tier III [REVOKED]

None.

252:2-15-52. Radiation management applications - Tier I [REVOKED]

The following radiation management authorizations require Tier I applications:

~~(1) New, amended and renewed operating permits for radiation machines;~~

~~(2) New, amended and renewed permits for x-ray fluorescence spectroscopy instruments used to detect lead in paint;~~

~~(3) New and renewed specific licenses under the state agreement program not classified under Tiers II or III;~~

~~(4) Industrial radiography certifications;~~

~~(5) Approvals of license termination plans that require no decommissioning or remediation;~~

~~(6) Decommissioning and remediation plans required for remediation due to the use, storage or disposal of one or more radioactive materials with a half-life of 120 days or less;~~

~~(7) DEQ approvals of documentation showing residual radioactivity levels for a site or property are within acceptable limits as set by Chapter 410;~~

~~(8) Minor amendments of all authorizations classified under Tiers I, II or III; and~~

~~(9) Major amendments of all authorizations classified under Tier I.~~

252:2-15-45. Hazardous waste management applications - Tier III [REVOKED]

The following hazardous waste management authorizations require Tier III applications.

~~(1) Off-site hazardous waste treatment, storage, disposal, incineration and/or recycling permit.~~

~~(2) Modification of an off-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.~~

~~(3) Modification of an off-site hazardous waste facility permit for an expansion of permitted boundaries.~~

~~(4) Modification of off-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.~~

~~(5) Variance which is part of a Tier III application.~~

252:2-15-53. Radiation management applications - Tier II [REVOKED]

The following radiation management authorizations require Tier II applications:

~~(1) Decommissioning and remediation plans required for on-site remediation due to the use, storage or disposal of one or more radioactive materials with a half-life of more than 120 days, except for those facilities described in 252:2-15-54(3)(A);~~

~~(2) New or renewed permits for the non-commercial treatment or disposal of radioactive waste, generated by the applicant, by incineration or the amendment of the incinerator permit for a capacity increase or for any expansion beyond permitted boundaries for the purpose of expanding operations or storage; and~~

252:2-15-46. Laboratory certification applications - Tier I [REVOKED]

A Tier I application shall be required for a new, modified, amended or renewed laboratory certification.

(3) Major amendments of all authorizations classified under Tier II.

252:2-15-54. Radiation management applications - Tier III [REVOKED]

The following radiation management authorizations require Tier III applications:

- (1) New or renewed permits for the land disposal of low-level radioactive waste received from others and the major amendment thereof;
- (2) New or renewed permits for the commercial treatment or disposal of radioactive waste by incineration and the major amendment thereof; and
- (3) Decommissioning and remediation plans and the major amendment thereof:
 - (A) for nuclear fuel cycle facilities or facilities and sites involved in the manufacturing or processing of licensed quantities of radioactive materials; and
 - (B) for sites that require both on and off-site remediation due to the use, storage or disposal of one or more radioactive materials with a half-life of more than 120 days.

252:2-15-55. Solid waste management applications - Tier I [REVOKED]

The following solid waste management authorizations require Tier I applications:

- (1) **New permits.**
 - (A) **Locally approved solid waste transfer stations.** Permit for a solid waste transfer station that, prior to application filing, received county commissioner approval according to 27A O.S. Supp. 1995, § 2-10-307.
 - (B) **Biomedical waste transfer stations using only sealed containers.** Biomedical waste transfer station permit when activities are limited to:
 - (i) consolidation of sealed containers; and/or
 - (ii) transfer of sealed containers from one vehicle or mode of transportation to another.
 - (C) **Disaster relief.** Emergency authorization for waste disposal resulting from a natural disaster.
- (2) **Modifications.**
 - (A) **All facilities.**
 - (i) Modification of a solid waste permit to add methods, units or appurtenances for liquid bulking processes; yard waste composting; recycling operations; waste screening; or baling, chipping, shredding or grinding equipment or operations.
 - (ii) Modification to any solid waste permit to make minor changes.
 - (iii) Modification of plans for closure and/or post-closure.
 - (iv) Administrative modification of all permits and other authorizations.
 - (B) **On-site and off-site land disposal facilities.**

Modification of an existing land disposal permit for a lateral expansion within permitted boundaries.

(C) **Capacity increases of less than 25% with exceptions.** The modification of a solid waste permit, excluding incineration permits, involving a request for less than twenty five percent (25%) increase in permitted capacity for storage, processing or disposal when the request is for equivalent methods, units or appurtenances as those permitted and which does not involve expansions of permitted boundaries.

- (3) **Plans and other authorizations.** The approval of new and when applicable, modified or renewed:
 - (A) Plans for composting of yard waste only.
 - (B) Permit transfers.
 - (C) Non-hazardous industrial solid waste disposal plans.
 - (D) Technical plans.
 - (E) County solid waste management plans.
 - (F) Individual authorizations under a general permit.
 - (G) All other administrative approvals required by OAC 252:510 or OAC 252:520.

252:2-15-56. Solid waste management applications - Tier II [REVOKED]

The following solid waste management authorizations require Tier II applications:

- (1) **New permits.**
 - (A) **On-site solid waste processing facilities with exception.** Permit for an on-site solid waste processing facility except yard waste composting as listed under Tier I, Rule 252:2-15-55.
 - (B) **Solid waste transfer stations with exceptions.** Permit for a solid waste transfer station except:
 - (i) a transfer station permit with county commissioner approval as listed under Tier I, Rule 252:2-15-55, or
 - (ii) a biomedical waste transfer station permit listed under Tier I, Rule 252:2-15-55.
 - (C) **On-site incinerators with exceptions.** Permit for an on-site incinerator except those exempt under OAC 252:520 or those that have an approved Air Quality permit or Solid Waste Management Plan.
 - (D) **On-site land disposal sites.** Permit for an on-site solid waste disposal site.
 - (E) **Material Recovery Facility (MRF).** Permit for a Material Recovery Facility if waste is not source-separated.
- (2) **Modifications.**
 - (A) **All facilities.** Modification of a permit for a change in waste type.
 - (B) **On-site facilities.** Any modification of an on-site solid waste permit, except as listed under Tier I, Rule 252:2-15-55.
 - (C) **Off-site facilities.**

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(i) Modification of any off-site solid waste permit involving a request for more than twenty five percent (25%) but less than fifty percent (50%) increase in permitted capacity for storage, processing or disposal (excluding incineration) when the request is for equivalent methods, units or appurtenances as those permitted, except those listed under Tier I, Rule 252:2-15-55.

(ii) Modification of any off-site processing facility involving an expansion of permitted boundaries.

(D) Incinerators.

(i) Modification of an on-site incinerator permit for any increase in permitted capacity for storage, processing, or disposal.

(ii) Modification of an off-site incinerator permit involving a request for increases less than fifty percent (50%) in permitted capacity for storage, processing, or disposal when the request is for equivalent methods, units or appurtenances as those permitted.

(3) **General permit.** New, modified or renewed general permit.

252:2-15-57. Solid waste management applications - Tier III [REVOKED]

The following solid waste management authorizations require Tier III applications:

(1) New permits.

(A) **Off-site processing facilities with exceptions.** Permit for an off-site processing facility, unless otherwise specified in Tier I, Rule 252:2-15-55, or Tier II, Rule 252:2-15-56.

(B) **Off-site land disposal facility.** Permit for an off-site solid waste land disposal site.

(C) **Off-site incinerator.** Permit for an off-site incinerator.

(2) Modifications.

(A) **Off-site facilities: significant increase in capacity.** Modification of any off-site solid waste permit involving a fifty percent (50%) or greater increase in permitted capacity for storage, processing, and/or disposal, including incineration.

(B) **Off-site land disposal facility.** Modification of an off-site solid waste land disposal permit for an expansion of permitted boundaries.

(C) **Off-site facilities: different methods, units or appurtenances.** Modification of an off-site solid waste permit in which the request involves different methods, units or appurtenances than those permitted, except those listed under Tier I, Rule 252:2-15-55.

(3) **Variance approvals.** All variances.

252:2-15-58. UIC applications-Tier I [REVOKED]

The following underground injection control authorizations require Tier I applications:

(1) Minor modification of a permit for Class I, III, and V wells in accordance with 40 CFR § 144.41.

(2) Modification of an approved closure and/or post-closure plan for a Class I hazardous waste injection well.

(3) Modification of an approved plugging and abandonment plan for Class I nonhazardous and Class III injection wells.

(4) Modification of an approved corrective action plan for a Class I injection well.

(5) Emergency permit in accordance with 40 CFR § 144.34.

(6) New, modified or renewed authorization under a general permit.

(7) Minor administrative modification of all permits and other authorizations.

252:2-15-59. UIC applications - Tier II [REVOKED]

The following underground injection control authorizations require Tier II applications:

(1) On-site Class I nonhazardous waste injection well permit.

(2) Class III and V injection well permits except Class V permits issued under Tier III.

(3) Modification and/or renewal of all DEQ issued underground injection control well permits.

252:2-15-60. UIC applications - Tier III [REVOKED]

The following underground injection control authorizations require Tier III applications:

(1) Class I hazardous waste injection well permit.

(2) Off-site Class I nonhazardous waste injection well permit.

(3) Class V industrial waste injection well permit.

252:2-15-61. Water quality applications - Tier I [REVOKED]

The following water quality authorizations require Tier I applications:

(1) Permit for flow-through impoundment(s) as part of the pretreatment process.

(2) Re-permitting of facility with an expiring permit for industrial non-discharging impoundment or septic tank system.

(3) Re-permitting of expiring permit with minor or no change(s) for land application of sludge and/or wastewater for same site.

(4) New, modified or renewed authorization under a general permit, including but not limited to general permits for stormwater, underground storage tanks and petroleum storage and treatment facilities.

(5) Approval of new pretreatment program.

(6) Closure plan approval.

- (7) Dredge and fill certification.
- (8) Approval of exemption for water line extensions.
- (9) Approval of exemption for water distribution and wastewater collection systems.
- (10) Approval for individual residential sewage disposal system.
- (11) Approval of small public sewage system:
 - (A) with less than 5,000 gallons per day which do not discharge, land apply wastewater or sludge, or have lift stations designed to handle a peak capacity greater than 10 gallons per minute; or
 - (B) which serves less than ten (10) residential units.
- (12) Residential development approval.
- (13) Transfer of discharge permit.
- (14) Minor modification of discharge permit.
- (15) Minor modification of permit for land application of sludge and/or wastewater.
- (16) Modification of or addition to a municipal wastewater treatment system (including sewer line extensions).
- (17) Modification of or addition to a public water supply treatment and/or distribution system.
- (18) Modification of non-discharging impoundment and/or septic tank system permit.
- (19) Modification of an approved pretreatment program.
- (20) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.

252:2-15-62. Water quality applications - Tier II [REVOKED]

The following water quality authorizations require Tier II applications.

- (1) Permit for municipal wastewater treatment system.
- (2) Permit for public water supply system.
- (3) Discharge permit for minor facility.
- (4) Individual storm water permit.
- (5) Permit for industrial non-discharging impoundment or septic tank.
- (6) Permit for land application of sludge and/or wastewater at new site system.
- (7) Re-permitting of a facility with expiring discharge permit.
- (8) Re-permitting of facility with expiring individual storm water discharge permit.
- (9) Re-permitting with major change(s) from expiring permit for land application of sludge and/or wastewater for the same site.
- (10) Variance including thermal components of effluent limitations for an individual discharge permit.
- (11) Major modification of discharge permit.
- (12) Major modification of permit for land application of sludge and/or wastewater.
- (13) New, modified or renewed general permit.

252:2-15-63. Water quality applications - Tier III [REVOKED]

A new discharge permit for a major facility requires a Tier III application.

252:2-15-64. Brownfields applications - Tier I [REVOKED]

A Tier I application shall be required for a Memorandum of Agreement for site characterization.

252:2-15-65. Brownfields applications - Tier II [REVOKED]

A Tier II application shall be required for all Certificates.

252:2-15-66. Brownfields applications - Tier III [REVOKED]

None.

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES [REVOKED]

252:2-15-70. Common review procedures and time lines [REVOKED]

(a) **Receipt of applications.** Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:

- (1) File stamp the application with the date of receipt, the Division and/or Program name and an identification number;
- (2) Assign the application to a named person who will do the review; and
- (3) Timely log this information.

(b) **Administrative completeness review.** Unless otherwise provided in the Code or this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to determine whether the application is administratively complete.

(1) Not complete.

(A) Upon determining that the application is not complete, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application.

(B) This notice shall not require or preclude further review of the application and further requests for specific information.

(C) If the reviewer does not notify the applicant of inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.

(2) **Complete.** When the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.

(c) **Technical review.** Each Program involved shall have a certain time period to review each application for technical

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compliance with the relevant regulations and reach a final determination.

(d) ~~When times are tolled.~~ The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation [includes public meetings and administrative permit hearings (and waiting periods), public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies], or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant amends his application of his own accord.

(e) ~~Supplemental time.~~ To compensate for time spent in reviewing inadequate materials, the DEQ's notice of deficiencies and request for supplemental information may specify that up to 30 additional calendar days may be added to the application processing time. Requests for supplemental information and data may also specify that additional days for technical review equal to the number of days the applicant used to prepare and submit such supplement may be added to the application review time.

(f) ~~Failure to respond.~~ Except for good cause shown, failure by an applicant to supplement an application within 180 days after the mailing date of a notice of deficiencies, or by a date agreed to by the DEQ and the applicant, shall void the application and forfeit the fees. The DEQ shall notify the applicant of an opportunity to show cause why this should not occur. Failure to show cause shall result in an order appealable according to 75 O.S. § 318.

(g) ~~Extensions.~~ Extensions to the time lines of this Subchapter may be made as provided by law.

252:2-15-71. Pending failures [REVOKED]

(a) ~~Circumstances outside agency control.~~ Technical review times shall be tolled for specified times when, prior to the deadline, the Executive Director certifies that a failure to meet a deadline is imminent and is caused by circumstances outside the control of the DEQ. Such circumstances include, but are not limited to, acts of God, a substantial and unexpected increase in the number of applications filed, and additional review duties imposed on the DEQ from an outside source.

(b) ~~Other circumstances.~~ Where circumstances that are not clearly outside the control of the DEQ may cause a failure to meet a deadline, then:

(1) ~~At least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline.~~

(2) ~~The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.~~

252:2-15-72. Air quality permit time lines [REVOKED]

~~The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.~~

(1) ~~Construction permits:~~

(A) ~~PSD and Part 70 Sources—365 days.~~

(B) ~~Minor Facilities—180 days.~~

(2) ~~Operating permits:~~

(A) ~~Part 70 Sources—540 days.~~

(B) ~~Minor Facilities—365 days.~~

(3) ~~Relocation permits—30 days.~~

252:2-15-73. Hazardous waste permit time lines [REVOKED]

~~The following hazardous waste permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.~~

(1) ~~Hazardous waste permits:~~

(A) ~~New RCRA permit or the renewal thereof—300 days.~~

(B) ~~New State Recycling permit—300 days.~~

(C) ~~Class 3 permit modifications—300 days.~~

(2) ~~Closure plans, post-closure plans and transfer station plans and plan modifications—300 days.~~

252:2-15-74. Solid waste permit time lines [REVOKED]

~~The technical review period for solid waste permit applications and for each submittal and resubmittal shall be 90 days, subject to OAC 252:2-15-7-70.~~

252:2-15-75. Water quality permit time lines [REVOKED]

~~Applications for new or modified water quality permits, certifications and authorizations shall be technically reviewed and permits shall be issued or denied within the following time frames:~~

(1) ~~Discharges—180 days.~~

(2) ~~401 Certifications—180 days.~~

(3) ~~Industrial Wastewater other than discharge—180 days.~~

(4) ~~Pretreatment Trust Users—180 days.~~

(5) ~~Public Water Supply—90 days.~~

(6) ~~Underground Injection Control—300 days.~~

(7) ~~Water Pollution Control Construction—90 days.~~

(8) ~~Sludge management plan—180 days.~~

252:2-15-76. Other permits [REVOKED]

~~Any environmental license or permit that is not described in this Subchapter shall not be subject to these time frames but shall be reviewed with all due and reasonable speed.~~

252:2-15-76.1. Brownfields time lines [REVOKED]

~~The technical review period for Brownfields~~

applications and for each submittal and resubmittal shall be 60 days, subject to 252:2-15-70.

252:2-15-77. Pre-issuance permit review and correction [REVOKED]

(a) **Review.** In addition to its own review, the DEQ may, for Tier I and II, and shall, for Tier III, at any time before issuance, ask an applicant to review a permit for calculation and clerical errors or mistakes of fact or law.

(b) **Correction.** The DEQ may correct any permit before it is issued.

(1) **Notice of significant corrections.** For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by the DEQ which significantly alters a facility's permitted size, capacity or limits.

(2) **Comments.** The DEQ may open a public comment period, and/or reconvene a public meeting and/or administrative hearing to receive public comments on the proposed correction(s).

PART 9. CONSOLIDATED PERMITTING [REVOKED]

252:2-15-90. Consolidation of permitting process [REVOKED]

(a) **Discretionary.** Whenever an applicant applies for more than one permit for the same site, the DEQ may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.

(b) **Scope.** When consolidation is authorized by the DEQ:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) The DEQ may also authorize the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.

(3) Final permits may be issued together.

(c) **Renewal.** The DEQ may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.

(d) **Multiple modifications.** Subsections (a) and (b) of this section shall also apply to multiple Tier II and III applications for permit modifications.

SUBCHAPTER 17. COMPLAINT PROCESSING [REVOKED]

252:2-17-1. Purpose [REVOKED]

The rules in this Subchapter identify the procedures to process pollution complaints.

252:2-17-2. Definitions [REVOKED]

The following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Complaint" means any written or oral information submitted to ECLS alleging site specific environmental pollution. Information must be submitted by persons expecting a response, and does not include referrals from federal agencies, information gained from facility inspections or DEQ employees, or self-reported incidents.

"ECLS" means the Environmental Complaints and Local Services Division of the DEQ.

"Enforcement Action" means:

(A) any administrative compliance or penalty order;

(B) any administrative petition to revoke or suspend a permit or license;

(C) a consent order or proposed consent order in lieu of any enforcement action defined in subparagraph (A) or (B), of this definition; or

(D) A civil petition, or a criminal information or complaint in municipal or district court.

"Mediation" means a voluntary negotiating process in which parties to a dispute agree to use a mediator to assist them in jointly exploring and settling their differences, with a goal of resolving their differences by a formal agreement created by the parties.

"Resolution" means the determination by the DEQ, based on analysis and investigation of a complaint, that there has not been a violation of Oklahoma environmental statutes or rules as alleged by a complaint, that the violation has been corrected, or that an Enforcement Action has been filed and the 14 day complainant comment period has been considered.

"Response" means the initiation of appropriate action, including but not limited to investigation or referral of a complaint, and informing complainants regarding potential actions that may occur based on a complaint.

252:2-17-3. Receipt of complaints [REVOKED]

(a) **Toll free hot line.** The DEQ shall provide a toll free hot line to receive environmental complaints.

(b) **General mail or other DEQ phone numbers.** Complaints may be received by mail or by any of the DEQ's phone numbers during regular office hours.

(c) **DEQ offices.** Complaints may be made in person at any of the DEQ's offices during regular office hours.

252:2-17-4. Investigation of complaints [REVOKED]

After receipt of a complaint, ECLS may assign an investigator to the complaint. The investigator or other DEQ personnel may obtain any information which may tend to prove there has or has not been a violation of Oklahoma environmental statutes or rules, who the potentially

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responsible persons are, and any other information which may be needed to resolve the complaint.

252:2-17-5. Notification [REVOKED]

(a) **Potential actions.** Within two (2) working days of receipt of a complaint, the ECLS shall notify the complainant of the potential actions which may occur to resolve the complaint.

(b) **Written notification.**

(1) Within seven (7) working days of the receipt of a complaint, the ECLS shall notify the complainant, in writing, of the determination of the course of action to be taken by the DEQ.

(2) Within seven (7) working days of the resolution of the complaint, the ECLS shall notify the complainant of the resolution. If complainants notify the DEQ they are dissatisfied with the resolution reached by the DEQ, complainants shall be notified in writing of their options, including but not limited to referral on written request to an outside source trained in mediation.

(c) **Enforcement.** If as a result of a complaint the DEQ undertakes an Enforcement Action, the ECLS shall notify by mail the person whose complaint caused the Enforcement Action to be initiated of an opportunity to provide, within fourteen (14) calendar days after the date of the mailing of the notice, written information pertinent to the complaint.

252:2-17-6. Referral of complaints [REVOKED]

(a) **To appropriate agency.** If the DEQ receives a complaint which clearly falls within the jurisdiction of another state environmental agency, the complaint shall be referred to the appropriate agency within one working day of the date of determination of jurisdiction. Complaints referred to other agencies shall require no further action by the DEQ and will not be referred by the DEQ to mediation.

(b) **To mediation.** Complainants who are not satisfied with the DEQ's resolution of their complaint may ask the ECLS in writing to refer their complaints to an outside source trained in mediation. Participation in the mediation process shall not hinder or interfere with any enforcement action taken by the DEQ. The ECLS shall maintain a roster of certified mediators which shall be available to the public. Complainants and persons named in the complaint shall be advised that participation in the mediation process conducted by the outside source is completely voluntary and confidential and that fulfillment of any agreements reached in mediation shall be the responsibility of the parties of the dispute. The DEQ shall not be responsible for any mediation costs.

SUBCHAPTER 19. ENVIRONMENTAL EDUCATION GRANTS [REVOKED]

252:2-19-1. Authority and eligibility [REVOKED]

(a) **Authority.** This subchapter is adopted pursuant to 75 O.S. § 302, 27A O.S. § 2-2-101 and Executive Order 98-37.

(b) **Eligibility.** Oklahoma teachers and youth group leaders are eligible to apply for environmental education grants provided by the DEQ.

252:2-19-2. Amount of grants [REVOKED]

The DEQ will award the following amounts to successful applicants:

- (1) Up to and including \$ 200.00 for field trips;
- (2) Up to and including \$ 500.00 for activities; and
- (3) Up to and including \$1000.00 for outdoor classroom/youth group projects.

252:2-19-3. Criteria [REVOKED]

The following will be considered by the DEQ in determining grant awards:

- (1) Project proposed, including how the project accomplishes the following factors:
 - (A) Promotes enthusiasm to learn more about the environment;
 - (B) Fits in the school curriculum or youth group program;
 - (C) Involves community partnerships and/or outreach, if applicable.
- (2) Number of students/youth participating;
- (3) Grade level of students/youth; and
- (4) Geographic location.

252:2-19-4. Application [REVOKED]

(a) **Complete application.** A complete application consists of a cover page, a letter of commitment, a summary of the project, a projected timeline, a proposed budget and a procedure for evaluation of the project.

(b) **Attachments.** Photographs, clippings, diagrams and other graphic materials, not to exceed five (5) pages double sided, may be attached to the application.

(c) **Document submission.** An original and two (2) copies, double sided, of the application and attachments must be submitted to the DEQ, date stamped or postmarked on or before the published deadline. The DEQ will not accept applications submitted by telecopy/facsimile.

252:2-19-5. Cover page [REVOKED]

The cover page must include the following information:

- (1) Title of the project;
- (2) Name of contact person, position held and relationship to project;
- (3) Name of school or youth group organization;
- (4) Grade level(s) and number of youth targeted;
- (5) Federal Employer Identification number (tax ID#);

- (6) Street address;
- (7) Mailing address, if different from street address;
- (8) E-mail address, if any;
- (9) Daytime and evening telephone numbers; and
- (10) Telecopy/facsimile number, if any.

252:2-19-6. Letter of commitment [REVOKED]

The grant application must be accompanied by a letter from the applicant's principal or supervisor stating the organization's support for the performance of the grant objectives.

252:2-19-7. Summary of project [REVOKED]

The applicant must submit a project summary, with a maximum length of one page, double sided. The project summary shall include the following:

- (1) **Synopsis.** Provide one paragraph summarizing the project;
- (2) **Description.** Give a clear concise description of the proposed project, indicating how the project promotes enthusiasm to learn more about the environment, fits in the school curriculum or youth group program and involves community partnerships and/or outreach, if applicable;
- (3) **Goals and objectives.** Clearly define realistic goals and objectives. Include information outlining where these goals address specific needs.
- (4) **Implementation.** Describe how the project will be implemented and whether it emphasizes a hands on learning approach. Include the project's potential for broad implementation.

252:2-19-8. Timeline [REVOKED]

The applicant must present target dates for project objectives.

252:2-19-9. Budget [REVOKED]

The applicant must provide an itemized budget with specific project expenditures of grant funds.

252:2-19-10. Evaluation procedure [REVOKED]

The applicant must provide a description of the methods to be used to measure project effectiveness, including how the evaluation method will improve the project's strength. The applicant must indicate in the evaluation method how the project will be continued after grant funds are expended.

252:2-19-11. Final written report [REVOKED]

Applicants who are awarded environmental education grants under this subchapter shall submit a final written report, outlining accomplishments of the grant objectives and expenditures on or before December 15 following the award.

252:2-19-12. Shared strategies [REVOKED]

Strategies from applicants who are awarded environmental education grants under this subchapter will become the property of the Environmental Quality Education Committee and may be shared with other interested environmental educators.

SUBCHAPTER 21. LOCAL PROJECT FUNDING [REVOKED]

252:2-21-1. Purpose, authority and applicability [REVOKED]

- (a) **Purpose.** The purpose of this Subchapter is to implement Executive Order 98-37, mandating state agencies to establish criteria for local project funding contracts.
- (b) **Authority.** This subchapter is adopted pursuant to 75 O.S. §302, 27A O.S. §2-2-101 and Executive Order 98-37.
- (c) **Applicability.** The rules in this Subchapter apply to any private entity, political subdivision, and unit of local government, including municipal and county governments and school districts.

252:2-21-2. Criteria [REVOKED]

- (a) The DEQ will consider the following criteria in determining funding priorities for local projects:
 - (1) Criteria established by relevant statutory authority; and
 - (2) Criteria established by rules adopted for the specific DEQ program area pursuant to relevant statutory authority.
- (b) If relevant statutory authority and program specific rules do not establish criteria, the DEQ will consider the following in determining funding priorities for local projects:
 - (1) Potential of the project to effectively promote environmental health and safety or environmental education and awareness;
 - (2) Potential to enhance related programs or efforts by the recipient;
 - (3) Number of persons benefitted; and
 - (4) Equitable geographic distribution.

252:2-21-3. Proposals [REVOKED]

- (a) The applicant must submit a proposal in accordance with the rules implementing the statutory program and/or forms provided by the DEQ.
- (b) Proposals must demonstrate that the proposed project will implement and be consistent with relevant statutes and rules of the specific program area.

252:2-21-4. Funding [REVOKED]

Within the priority criteria, funds shall be granted on a first-come first-served basis until funds are depleted.

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APPENDIX A. PETITION FOR RULEMAKING BEFORE THE ENVIRONMENTAL QUALITY BOARD [REVOKED]

IN THE MATTER OF _____) Matter No. _____
)
)
RULE OAC 252: _____) Date filed: _____

Subject area: () Air Quality () Solid Waste
() Hazardous Waste () Water Quality
() Laboratory () Operator Certification
() Radiation () Other

Petition will be referred by the Department to its appropriate program and to any appropriate Council.

1. Nature of request:
() Adoption of new rule(s)
() Amendment of existing rule(s)
() Repeal of existing rule(s)
Identified as Rule Number(s): _____
(OAC number if known)

2. Attach a brief statement of the issues raised by the rule(s) which cause such a request to be made, a statement of your personal interest in the ruling, and how the proposed rulemaking would affect those interests and would affect others.

3. If this request has been discussed with the Department of Environmental Quality, please indicate the name of the Division and employee consulted; otherwise, state "n/a."

4. If a Council has considered this matter, please indicate the name of the Council and the date(s) the matter was considered; otherwise, state "n/a."

5. Attachment(s): () suggested language () further explanation

_____ by: _____ (print name) _____ (title)

or Name of Individual (print): _____

Signature: _____

Address: _____

Phone: _____

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APPENDIX B. PETITION FOR DECLARATORY RULING BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY [REVOKED] _

IN THE MATTER OF _____) Matter No. _____
)
)

RULE OAC 252: _____) Date filed: _____
(or Case No. _____)

Subject area: () Air Quality () Solid Waste
() Hazardous Waste () Water Quality
() Laboratory () Operator Certification
() Radiation () Other

Petition will be referred by the Department to its appropriate program.

1. Rule Number(s): _____
(OAC number if known)

2. Attach a brief statement of the issues raised by the rule(s) which cause such a request to be made and a statement of your personal interest in the ruling.

3. If this request has been discussed with the Department of Environmental Quality, please indicate the name of the Division and employee consulted; otherwise, state "n/a."

4. Attachment(s): () List of Exhibits
() Further explanation

_____ by: _____
Name of Business or group (print name) (title)

or Name of Individual (print): _____

Signature: _____

Address: _____

Phone: _____

APPENDIX C. PERMITTING PROCESS SUMMARY [REVOKED]

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with the DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting - Notice - 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review - DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments - DEQ (written response)	No	Yes	Yes
Proposed permit - DEQ prepares this in response to comments on draft permit	No	No	Yes
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

[OAR Docket #01-873; filed 5-8-01]

Permanent Final Adoptions

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 3. PROCEDURES OF THE ENVIRONMENTAL QUALITY COUNCILS

[OAR Docket #01-874]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions [REVOKED]

252:3-1-1 [REVOKED]

252:3-1-1.1 [REVOKED]

252:3-1-2 [REVOKED]

252:3-1-3 [REVOKED]

252:3-1-4 [REVOKED]

252:3-1-5 [REVOKED]

252:3-1-6 [REVOKED]

Subchapter 3. Rulemaking [REVOKED]

252:3-3-1 [REVOKED]

252:3-3-2 [REVOKED]

252:3-3-3 [REVOKED]

Appendix A. Petition for Rulemaking before the Environmental Quality Board [REVOKED]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Administrative Procedures Act, 75 O.S. § 302

DATES:

Comment period:

October 16, 2000, through November 6, 2000

Public hearing:

November 14, 2000 and February 23, 2001

Adoption:

February 23, 2001

Submitted to Governor:

March 2, 2001

Submitted to House:

March 2, 2001

Submitted to Senate:

March 2, 2001

Gubernatorial approval:

April 16, 2001

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 26, 2001

Final adoption:

April 26, 2001

Effective:

June 11, 2001

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The rules in this Chapter were substantially rewritten and reorganized through the DEQ's re-right/de-wrong rules simplification process and can be found in proposed Chapter 4. This Chapter is being revoked in its entirety, subject to the adoption of Chapter 4.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no analogous federal rules

CONTACT PERSON:

Contact Barbara Rauch by e-mail barbara.rauch@deqmail.state.ok.us or by phone (405) 702-7189 or fax (702-7101). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma, 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

ADDITIONAL INFORMATION:

The revocation of this chapter was first considered by the Environmental Quality Board at their November 14, 2000 meeting, at which time board members continued it until the February 23, 2001 meeting.

PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 2001.

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

252:3-1-1. Purpose [REVOKED]

~~This Chapter describes the practices of the Council, its organization, meetings and records, and its procedures to review and recommend the adoption, amendment and repeal of rules.~~

252:3-1-1.1. Scope and construction [REVOKED]

~~(a) Fair construction. This Chapter is intended to simplify procedures, avoid delays, save expenses and facilitate implementing the Oklahoma Environmental Quality Code and the Waterworks and Wastewater Works Operator Certification Act. To that end, these rules should be given a fair and impartial construction.~~

~~(b) Scope. The rules in this Chapter are not intended to limit the lawful authority of the Council. The Council may address any matter under its jurisdiction and change any procedure for good cause.~~

~~(c) Severability. The repeal or invalidity of any particular rule of this Chapter or Title shall not affect the remainder of the rules.~~

252:3-1-2. Definitions [REVOKED]

~~The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~"Board" means the Environmental Quality Board.~~

~~"Council" means any of the following Councils: the Air Quality Council, the Hazardous Waste Management Advisory Council, the Laboratory Services Advisory Council, the Radiation Management Advisory Council, the Solid Waste Management Advisory Council, the Water Quality Management Advisory Council, and the Waterworks and Wastewater Works Operator Certification Advisory Council.~~

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no federal rules.

CONTACT PERSON:

Contact Jimmy Givens by e-mail address: jimmy.givens@deqmail.state.ok.us or (405) 702-7189 (phone) or 702-7101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2000.

SUBCHAPTER 3. GENERAL OPERATION

252:2-3-3. Administrative fees

(a) Photocopying. The fee for copying letter or legal sized paper is \$0.25 per page.

(b) Certified copy. The fee for a certified copy of a document is \$1.00 per document.

(c) Search fee. When the request is solely for commercial purpose or clearly would cause excessive disruption of the DEQ's essential functions, the document search fee is as follows:

- (1) 0 - 15 minutes, no charge;
- (2) 16 - 30 minutes, \$05.00;
- (3) 31 - 60 minutes, \$10.00;
- (4) 61 - 90 minutes, \$15.00;
- (5) 91 - 120 minutes, \$20.00;
- (6) every 30 minute increment or a portion thereof, \$5.00.

[OAR Docket #00-852; filed 5-4-00]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

[OAR Docket #00-851]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

- Subchapter 15. Uniform Permitting Procedures
- Part 5. Tier Classifications
- 252:2-15-40 [AMENDED]
- 252:2-15-41 [AMENDED]
- Part 7. Review Procedures and Permitting Time Lines
- 252:2-15-72 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1999, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

November 15, 1999 through December 14, 1999

Public hearing:

December 14, 1999 and February 25, 2000

Adoption:

February 25, 2000

Submitted to Governor:

March 3, 2000

Submitted to House:

March 3, 2000

Submitted to Senate:

March 3, 2000

Gubernatorial approval:

April 10, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 28, 2000

Final adoption:

April 28, 2000

Effective:

June 12, 2000

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The Department is proposing amendments to the air quality provisions of 252:2-15-40, 41, and 72 to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2000.

SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES

PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I

(a) Minor source facility permits. The following air quality authorizations for minor sources-facilities require Tier I applications.

- (1) **New permits.** New construction, operating and relocation permits.
- (2) **Modifications of permits.**
 - (A) Modification of a construction permit for a

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minor ~~source-facility~~ that will remain minor after the modification.

(B) Modification of an operating permit that will not change the ~~source's-facility's~~ classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) **Renewals.** Renewals of operating permits.

(b) **Major facility Part 70 source permits.** The following air quality authorizations for ~~major facilities Part 70 sources~~ require Tier I applications.

(1) **New permits.**

(A) New construction permit for an existing ~~major facility Part 70 source~~ for any ~~facility-change~~ considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).

(2) **Modifications of permits.**

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a ~~major facility's Part 70 source's~~ construction permit with no or minor modifications.

(c) **Other authorizations.** The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in ~~see~~ 252:100-11.)

252:2-15-41. Air quality applications - Tier II

(a) **Minor ~~source-facility~~ permit actions.** Any minor ~~source~~ ~~facility~~ seeking a permit for a ~~facility~~-modification that when

completed would turn it into a ~~major facility Part 70 source~~ is required to apply under subsection (b) of this section.

(b) **Major facility Part 70 source permits.** The following air quality authorizations for ~~major facilities Part 70 sources~~ require Tier II applications.

(1) **New permits.**

(A) New construction permit for a new ~~major facility Part 70 source~~ not classified under Tier III.

(B) New construction permit for an existing ~~major facility Part 70 source~~ for any ~~facility-change~~ considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(C) New operating permit for a ~~major facility Part 70 source~~ that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(E) New acid rain permit that is independent of a ~~Title V Part 70~~ permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) **Modifications of permits.**

(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) **Renewals.** Renewals of operating permits.

(c) **Other authorizations.** The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

252:2-15-72. Air quality permit time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

- (A) PSD (Part 70 sources) - 540 and Part 70 Sources - 365 days.
- (B) Major Sources (Part 70 sources Sources (other than PSD) - 365 days.
- (C)(B) Minor Sources-Facilities - 180 days.
- (2) Operating permits:
 - (A) Major Part 70 Sources - 540 days.
 - (B) Minor Sources-Facilities - 365 days.
- (3) Relocation permits - 30 days.

[OAR Docket #00-851; filed 5-4-00]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

[OAR Docket #00-853]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 15. Uniform Permitting Procedures
Part 5. Tier Classifications
252:2-15-49 [REVOKED]

AUTHORITY:
Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; and the Waterworks and Wastewater Works Operator Certification Act, 59 O.S. §1101 *et seq.*

DATES:
Comment period:
November 1-30, 1999

Public hearing:
December 10, 1999, and February 25, 2000

Adoption:
February 25, 2000

Submitted to Governor:
March 3, 2000

Submitted to House:
March 3, 2000

Submitted to Senate:
March 3, 2000

Gubernatorial approval:
April 10, 2000

Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 28, 2000

Final adoption:
April 28, 2000

Effective:
June 12, 2000

SUPERSEDED EMERGENCY ACTIONS:
None

INCORPORATION BY REFERENCE:
None

ANALYSIS:

This rule is being revoked as part of the "re-right/de-wrong" process of simplifying DEQ rules. This revocation does not affect the operator certification program or the proposed rules in Chapter 710. Although the term "permit" includes certifications and registrations [27A O.S. §2-14-103(4)], it is the belief of the DEQ that the operator certification program is a personal licensure program which does not fall into a Tier category. A Tier I application is a "basic process of permitting which includes application, notice to the landowner, and Department review." [27A O.S. §2-14-103(9)]

Certifications and registrations issued by the DEQ to persons who complete certain training and successfully pass an examination do not fit into a permitting process as envisioned by the Uniform Environmental Permitting Act and the rules in OAC 252:2-15.

The basic Tier I permitting process was designated for environmental permits where notice was given to landowners. Personal licensure should not have been included in the Tier categories. The revocation of this rule is an effort to remedy that situation.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no corresponding federal rules

CONTACT PERSON:

Contact Chris Wisniewski by e-mail address: chris.wisniewski@deqmail.state.ok.us or (405) 702-8100 (phone) or 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2000.

SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES

PART 5. TIER CLASSIFICATIONS

252:2-15-49. Operator certification applications - Tier I [REVOKED]

The following authorizations require Tier I applications.

- (1) Waterworks operator certification (standard and temporary).
- (2) Wastewater works operator certification (standard and temporary).
- (3) Waterworks laboratory operator certification.
- (4) Wastewater works laboratory operator certification.
- (5) Septic tank installer certification.
- (6) Septic tank cleaner license.
- (7) Landfill operator and/or manager certification.
- (8) Waterworks helper registration.
- (9) Wastewater works helper registration.

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

[OAR Docket #97-1189]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

252:2. Procedures of the Department of Environmental Quality Subchapter 15. Uniform Permitting Procedures [AMENDED]

Summary:

The proposed amendments of 252:2-15-40 and 252:2-15-41 result from the U.S. Environmental Protection Agency's (EPA) review of the Department of Environmental Quality's (DEQ) air quality permitting program for Title V. Per EPA request and other comments received, the Air Quality Tier I and II rules of the uniform permitting program are being amended. Amendments include format changes for purposes of clarity and substantive changes to move certain permits from Tier I to Tier II to allow more public participation - e.g., acid rain permits, temporary permits, some operating permits, and general permit authorizations required to have compliance schedules under OAC 252:100-8.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Tuesday, September 15, 1997, through Wednesday, October 15, 1997, to contact person. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 18, 1997 - 9:30 a.m., in Oklahoma City, Oklahoma (Location to be determined. See contact person).

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, October 21, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 4616 East 15th Street, Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1189; filed 8-22-97]

~~TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL~~

~~[OAR Docket #97-1190]~~

~~INTENDED RULEMAKING ACTION:~~

~~Notice of proposed EMERGENCY and PERMANENT rulemaking~~

~~Proposed rules:~~

~~Subchapter 5. Registration of Air Contaminant Sources [AMENDED]~~

~~Subchapter 7. Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources [AMENDED]~~

~~Subchapter 8. Operating Permits (Part 70) [AMENDED]~~

~~Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]~~

~~Summary:~~

~~The proposed amendments to Subchapter 5 include moving the requirements to file an emission inventory from Subchapter 7 to Subchapter 5, moving the requirements to pay annual operating fees from Subchapters 7 and 8 to Subchapter 5, and revising the annual operating fees for~~

minor facilities, non-part 70 sources and part 70 sources. The proposed amendments to Subchapter 5 are designed to simplify and clarify the rules. The proposed amendments to Subchapter 7 are necessary to incorporate a new permit classification system into the Air Quality program. The proposed changes include: remove any requirements for Part 70 sources and major facilities (which will be moved to Subchapter 8); define and exempt "de minimis" facilities from the requirements of Subchapter 7; revise minor permit application fees; and introduce two new types of construction and operating permits, permit by rule and general permit. The proposed amendments to Subchapter 8 are necessary to incorporate a new permit classification system; move the requirements for construction permits for Part 70 sources and major facilities from Subchapter 7 to Subchapter 8; move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5; and meet the federal permitting requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The proposed amendments include: introduction of general permits for construction of Part 70 sources and major facilities not subject to Part 70 and general permits for operating major sources not subject to Part 70; addition of the requirements for construction permits for Part 70 sources and construction and operating permits for major facilities not subject to Part 70; revision of the permit application fees; deletion of annual operating fees (which will be moved to Subchapter 5); and amendments to meet the requirements for final approval of the Title V program including the incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§63.40, 63.41, 63.43 and 63.44). The following changes were set forth by EPA in the interim approval of the Oklahoma Program published in the Federal Register at 62 FR 4220, Monday, February 5, 1996: (1) Revise Subchapter 8 to Include Transition Schedule; (2) Revise Subchapter 8 definition of "Major Source"; (3) Revise Subchapter 8 Insignificant Activities Provision; (4) Revise Subchapter 8 Permit Content Language; (5) Revise Subchapter 8 Judicial Review Provision; (6) Revise Subchapter 8 Administrative Amendment Provision; and (7) Submission of a SIP Revision for Subchapter 7. The proposed amendments to Subchapter 41 include adopting by reference the existing Maximum Available Control Technology ("MACT") standards for hazardous air pollutants found in 40 CFR Part 63, Subparts F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, CC, DD, EE, GG, II, JJ, KK, OO, PP, QQ, RR, VV, JJJ. The Division is requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Tuesday, September 15, 1997, through Wednesday, October 15, 1997, to contact person. Also scheduled before the

Environmental Quality Board at their meeting on Tuesday, November 18, 1997 - 9:30 a.m., in Oklahoma City, Oklahoma (Location to be determined. See contact person).

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, October 21, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 4616 East 15th Street, Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for Subchapters 5, 7, and 41 represent a continuation of a hearing held on August 19, 1997, in Oklahoma City, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247

[OAR Docket #97-1190; filed 8-22-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 200. HAZARDOUS WASTE MANAGEMENT**

[OAR Docket #97-1191a]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking

Proposed rules:

252:200-3-1 [AMENDED]

252:200-3-2 [AMENDED]

252:200-9-7(b)(1) [AMENDED]

252:200-19-29 through 252:200-19-34 [AMENDED]

Summary:

The proposed amendment to 252:200-3-1 changes the "Reference to 40 CFR" Section of Subchapter 3, to allow the State of Oklahoma to continue to implement a hazardous waste management program in Oklahoma in lieu of the United States Environmental Protection Agency. The Section 3-1 amendment will update the reference of 40

Notices of Rulemaking Intent

SUMMARY:

The proposed amendment to OAC 60:10-3-5 deletes an obsolete provision relating to the destruction of duplicate records. The proposed amendments to 60:10-5-1 and OAC 60:10-9-1 revoke obsolete rules based on Executive Order 89-14 which is no longer in effect. The proposed amendment to OAC 60:10-7-4 provides for uncertified micrographics laboratories to have their microfilm and microfiche inspected by any certified laboratory and requires that certified laboratories submit copies of quality evaluation forms and a five percent (5%) sample of microfilm and microfiche they create or inspect to the Records Management Division of the Oklahoma Department of Libraries. OAC 60:10-10 establishes rules for state government records which will be maintained on video tapes and audio tapes.

AUTHORITY:

Archives and Records Commission; 67 O. S., § 212 and 67 O. S., § 301

COMMENT PERIOD:

Written and oral comments will be accepted prior to and during a public hearing on January 14, 1998. The January 14, 1998 public hearing will be held in the South Conference Room of the Allen Wright Building of the Oklahoma Department of Libraries, 200 N. E. 18th Street, Oklahoma City, Oklahoma 73105-3298. The public hearing will begin at 10:00 A. M. Oral comments may be made during the public hearing and written comments may be submitted during the public hearing or in writing prior to the public hearing. Written comments on OAC 60:10-3-5, 60:10-5-1, 60:10-7-4, 60:10-9-1, and 60:10-10 may be mailed to the Office of Government Information, Oklahoma Department of Libraries, 200 N. E. 18th Street, Oklahoma City, Oklahoma 73105-3298, c/o Thomas W. Kremm.

PUBLIC HEARING:

A public hearing regarding the proposed amendments to the rules will be held Wednesday January 14, 1998, at 10:00 A. M. in the South Conference Room of the Allen Wright Building of the Oklahoma Department of Libraries, 200 N. E. 18th Street, Oklahoma City, Oklahoma 73105-3298.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Office of Government Information, Oklahoma Department of Libraries, 200 N. E. 18th Street, Oklahoma City, Oklahoma 73105-3298.

RULE IMPACT STATEMENT:

Pursuant to 75 O. S., § 303 (D), a Rule Impact Statement will be prepared and will be available by December 15, 1997, at the Office of Government Information, Oklahoma Department of Libraries, 200 N. E. 18th Street, Oklahoma City, Oklahoma 73105-3298.

CONTACT PERSON:

Thomas W. Kremm, Office of Government Information
(405) 521-2502

ADDITIONAL INFORMATION:

The public hearing will be held in conjunction with the Archives and Records Commission's regularly scheduled January 14, 1998 meeting. The Commission intends to consider adoption of the proposed amendments at the regularly scheduled January 14, 1998 meeting. Notification of this intended action will be mailed within three days after publication of this Notice to all persons who have made a timely request for advanced notice of proposed rulemaking proceedings.

[OAR Docket #97-1284; filed 10-28-97]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

[OAR Docket #97-1271]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Uniform Permitting Procedures
[AMENDED]

SUMMARY:

The proposed amendments of 252:2-15-40 and 252:2-15-41 result from the U.S. Environmental Protection Agency's (EPA) review of the Department of Environmental Quality's (DEQ) air quality permitting program for Title V. Per EPA request and other comments received, the Air Quality Tier I and II rules of the uniform permitting program are being amended. Amendments include format changes for purposes of clarity and substantive changes to move certain permits from Tier I to Tier II to allow more public participation - e.g., acid rain permits, temporary permits, some operating permits, and general permit authorizations required to have compliance schedules under 252:100-8.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Monday, November 17, 1997, through Tuesday, December 16, 1997. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Wednesday, December 10, 1997. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, January 27, 1998 - 9:30 a.m. (Location to be determined. See contact person).

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, December 16, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the

Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 17, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for 252:2-15-40 and 41 represent a continuation of a hearing held on October 21, 1997, in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1271; filed 10-24-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #97-1272]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

- 252:100. Air Pollution Control
- Subchapter 5. Registration of Air Contaminant Sources [AMENDED]
- Subchapter 8. Operating Permits (Part 70) [AMENDED]
- Subchapter 17. Incinerators [AMENDED]

SUMMARY:

In Subchapter 5 at 252:100-5-2.2(b)(2), it is proposed to review the annual operating fees for Part 70 sources. The proposed amendments to Subchapter 8 are necessary to incorporate a new permit classification system; move the requirements for construction permits for Part 70 sources and major facilities from Subchapter 7 to Subchapter 8; move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5; and meet the federal requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The proposed amendments include: introduction of general permits for construction of Part 70

sources and major facilities not subject to Part 70 general permits for operating major sources not subj Part 70; addition of the requirements for permits for Part 70 sources and construction and oper permits for major facilities not subject to Part 70; revisi the permit application fees; deletion of annual oper fees (which will be moved to Subchapter 5); amendments to meet the requirements for final appro the Title V program including the incorporation reference of federal rules governing case-by-case M determinations (40 CFR §§63.40, 63.41, 63.43 and 63. The following changes were set forth by EPA in the int approval of the Oklahoma program published in Federal Register at 62 FR 4220, Monday, February 5, 1 (1) Revise Subchapter 8 to Include Transition Schedule Revise Subchapter 8 definition of "Major Source"; Revise Subchapter 8 Insignificant Activities Provision Revise Subchapter 8 Permit Content Language; (5) Re Subchapter 8 Judicial Review Provision; (6) Re Subchapter 8 Administrative Amendment Provision; (7) Submission of a SIP Revision for Subchapter 7. proposed to amend Subchapter 17 by adding a new Pa and a new Appendix K to address Municipal W Combustors (MWC). This amendment is necessary to n federal requirements for State plans under Section 11 of the federal Clean Air Act applicable to existing sour This change would adopt standards published on Decem 19, 1995, in the Federal register at 40 CFR 60, and amended on August 25, 1997. These stand apply to MWC units with the capacity to combust more t 250 tons per day of municipal solid waste. In addition, existing portions of Subchapter 17 are revised redesignated as Part 1, General Provisions, and Par Incinerators. Proposed revisions include deletion references to Ringelmann standards and substitutio relative opacity. Revisions were also made to Appendice and B for reasons of simplification. The Division requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Monday, November 17, 1997, through Tuesd December 16, 1997. To be thoroughly considered by st prior to the hearing, written comments should be submit to the contact person by Wednesday, December 10, 19 Also scheduled before the Environmental Quality Board their meeting on Tuesday, January 27, 1998 - 9:30 a [Location to be determined. See contact person.]

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, Decem 16, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at Department of Environmental Quality, Air Qua Division, 4545 N. Lincoln Blvd., Burgun Oklahoma City, Oklahoma.

~~shall, at a minimum, allow incoming calls from any location within the county, or a larger area if such area is demonstrated to be more economical, to be completed at no charge (i.e., toll free) to the calling party a larger area if the provision of such service is determined to be more economically efficient for the telecommunications carrier. The written request by a board of county commissioners shall be in the form and content approved by the Director of the Public Utility Division.~~

~~(b) Where the technical capability exists, the eligible telecommunications carrier shall periodically monitor the usage only of the provided telephone number, and if, upon review, usage does not support the requested number of access lines, the number of access lines may be reduced.~~

~~(b)(c) The eligible telecommunications carrier providing the Special Universal Service shall receive reimbursement from the OUSF in the amount of the tariffed rate or charge directly attributable to the provisioning of from the OUSF for reimbursement of the provided telephone number, access lines and associated usage the incoming, toll-free telephone number, the associated usage, the access lines and all access or other charges paid by the telecommunications carrier providing the Special Universal Service.~~

165:59-7-11. Dispute resolution

~~Any dispute(s) regarding any Special Universal Service shall be directed to the OUSF Administrator, resolved pursuant to OAC 165:59-3-36.~~

165:59-7-13. Resold Special Universal Services

~~To the extent Special Universal Services are purchased from a telecommunications service provider by another telecommunications carrier, such Special Universal Services provider of Special Universal Services are for the exclusive use of the not-for-profit hospital, public school and public library or county seat government which has submitted a bona fide request and demonstration of need written request for Special Universal Services. Under no circumstances shall Special Universal Services be resold, repackaged or shared with any other customer of the telecommunications carrier the not-for-profit hospital, public school, public library or county government sell, repackage or share Special Universal Services with any other entity.~~

165:59-7-14. [RESERVED]

165:59-7-15. Provision of Special Universal Services

~~(a) Upon receipt of a written request by a not-for-profit hospital, public school, public library or board of county commissioners, the provider of Special Universal Services receiving the request shall make a good faith effort to provide the requested Special Universal Service not later than ten (10) business days after receiving the request.~~

~~(b) If the requested Special Universal Service cannot be provided within the time limit established by subsection (a) of this Section, the provider of Special Universal Services~~

~~shall immediately notify the entity requesting the service of the estimated delay and any interim service that might be available. Service requests shall be filled as quickly as practicable, but no longer than thirty (30) days after the request for service has been received by the provider unless unavoidable delays beyond the provider's control are experienced. If the service will be delayed longer than thirty (30) days, the provider shall promptly notify the Commission of the reason for the delay upon becoming aware of the delay, and the anticipated completion date of the request for service.~~

165:59-7-16. [RESERVED]

165:59-7-17. Disclosure on bill regarding provided Special Universal Services

~~Each provider of Special Universal Services, which may be either a telecommunications carrier or OneNet, shall render a bill to the not-for-profit hospital, public school, public library, or county seat government regarding said Special Universal Services. The bill shall reflect the provider's tariffed rate or charge for the provided toll-free telephone number, access lines, usage and any other costs incurred by the provider in conjunction with the provision of the Special Universal Services, along with a credit equivalent to the reimbursement received by the provider from the Oklahoma Universal Service Fund.~~

[OAR Docket #98-793; filed 4-23-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

[OAR Docket #98-681]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 252:2-15-40. Air quality applications - Tier I [AMENDED]
- 252:2-15-41. Air quality applications - Tier II [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1993 §§ 2-2-101, 2-5-101, *et seq.* and 2-14-201

DATES:

Comment period:

- September 15, 1997 through October 15, 1997
- November 17, 1997 through December 16, 1997
- January 27, 1998

Public hearing:

- October 21, 1997
- December 16, 1997

Adoption:

January 27, 1998

Permanent Final Adoptions

Submitted to Governor:

February 6, 1998

Submitted to House:

February 6, 1998

Submitted to Senate:

February 6, 1998

Gubernatorial approval:

March 23, 1998

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 1, 1998.

Final adoption:

April 1, 1998

Effective:

June 1, 1998

SUPERSEDED EMERGENCY ACTIONS:**Superseded rules:**

252:2-15-40. Air quality applications - Tier I [AMENDED]

252:2-15-41. Air quality applications - Tier II [AMENDED]

Gubernatorial approval:

March 18, 1997

Register publication:

14 Ok Reg 1129

Docket number:

97-457

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The changes in the permit tier rules revise the air approvals at EPA's request for Title V compliance.

Air Quality Advisory Council recommended these amendments for adoption at their meeting on December 16, 1997.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no differences. The air approvals are consistent with EPA Title V guidance.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd. Suite 250, Oklahoma City, Oklahoma 73105. (405) 290-8247.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. 1997, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 1998.

SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES

PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I

The following air quality authorizations require Tier I applications:

- (1) Construction permit for a minor source.
- (2) Operating permit for a minor source.
- (3) Operating permit for a major facility, issued after a construction permit, which does not differ from the construction permit in any manner which would

otherwise subject the operating permit application to public review.

(4) ~~New, modified or renewed authorization under a general permit.~~

(5) ~~Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.~~

(6) ~~Minor modification of a major facility's construction and/or operating permit.~~

(7) ~~Acid rain permits.~~

(8) ~~Burn approval.~~

(9) ~~Relocation permit.~~

(10) ~~Temporary permit.~~

(11) ~~Plant-wide emission plan approval.~~

(12) ~~Administrative amendment of all permits and other authorizations.~~

(13) ~~Extension of a minor source's construction permit.~~

(14) ~~Extension of a major facility's construction permit with no or minor modification.~~

(15) ~~Renewal of an operating permit for a minor source.~~

(a) Minor source permits. The following air quality authorizations for minor sources require Tier I applications.

(1) New permits. New construction, operating and relocation permits.

(2) Modifications of permits.

(A) Modification of a construction permit for a minor source that will remain minor after the modification.

(B) Modification of an operating permit that will not change the source's classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) Renewals. Renewals of operating permits.

(b) Major facility permits. The following air quality authorizations for major facilities require Tier I applications.

(1) New permits.

(A) New construction permit for an existing major facility for any facility change considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).

(2) Modifications of permits.

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction

permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a major facility's construction permit with no or minor modifications.

(c) Other authorizations. The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in see 252:100-11.)

252:2-15-41. Air quality applications - Tier II

The following air quality authorizations require Tier II applications.

(1) Operating permit for a major facility, issued after a construction permit, which differs from the construction permit in a manner which subjects the operating permit application to public review.

(2) Operating permit for a major facility that does not have a construction permit.

(3) Significant modification, as defined in OAC 252:100-8-7(e)(2), of a major facility's construction or operating permit.

(4) New, modified or renewed general permit.

(5) Time extension of a major facility's construction permit with a modification that would otherwise be subject to public review.

(6) Renewal of an operating permit for a major facility.

(7) A construction permit for a new major facility or a major modification to an existing major facility.

(a) Minor source permit actions. Any minor source seeking a permit for a facility modification that when completed would turn it into a major facility is required to apply under subsection (b) of this section.

(b) Major facility permits. The following air quality authorizations for major facilities require Tier II applications.

(1) New permits.

(A) New construction permit for a new major facility not classified under Tier III.

(B) New construction permit for an existing major facility for any facility change considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(C) New operating permit for a major facility that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(E) New acid rain permit that is independent of a Title V permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) Modifications of permits.

(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) Renewals. Renewals of operating permits.

(c) Other authorizations. The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

[OAR Docket #98-681; filed 4-10-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-686]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

252:100-41-15 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A Q.S. Supp. 1993 §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

July 15, 1997 through August 13, 1997; and September 15, 1997 through October 15, 1997.

Public hearing:

August 19, 1997, October 21, 1997, and November 18, 1997.

Adoption:

November 18, 1997

793

Permanent Final Adoptions

Submitted to Governor:

November 20, 1997

Submitted to House:

November 20, 1997

Submitted to Senate:

November 20, 1997

Gubernatorial approval:

November 25, 1997

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 25, 1998.

Final adoption:

March 25, 1998

Effective:

June 1, 1998

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

252:100-41-15 [AMENDED]

Gubernatorial approval:

November 25, 1997

Register publication:

15 Ok Reg 859

Docket number:

97-1459

INCORPORATIONS BY REFERENCE:

Incorporated standards:

The following Subparts of 40 CFR Part 63, unless otherwise specified, are incorporated by reference in their entirety:

- (1) Subpart A
- (2) Subpart F
- (3) Subpart G
- (4) Subpart H
- (5) Subpart I
- (6) Subpart L
- (7) Subpart M
- (8) Subpart N
- (9) Subpart O
- (10) Subpart Q
- (11) Subpart R
- (12) Subpart T
- (13) Subpart U
- (14) Subpart W
- (15) Subpart X
- (16) Subpart Y
- (17) Subpart CC
- (18) Subpart DD
- (19) Subpart EE
- (20) Subpart GG
- (21) Subpart II
- (22) Subpart JJ
- (23) Subpart KK
- (24) Subpart OO
- (25) Subpart PP
- (26) Subpart QQ
- (27) Subpart RR
- (28) Subpart VV
- (29) Subpart JJJ

The following Subparts of 40 CFR Part 61, unless otherwise specified, are incorporated by reference in their entirety:

- (1) Subpart A

- (2) Subpart C
- (3) Subpart D
- (4) Subpart E
- (5) Subpart F
- (6) Subpart J
- (7) Subpart L
- (8) Subpart M
- (9) Subpart N
- (10) Subpart O
- (11) Subpart P
- (12) Subpart V
- (13) Subpart Y
- (14) Subpart BB
- (15) Subpart FF
- (16) Appendix A
- (17) Appendix B
- (18) Appendix C

Incorporating Rules:

252:100-41-15

Availability:

The standards are available to the public for examination at the Department of Environmental Quality office at 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, OK.

ANALYSIS:

The changes in Subchapter 41 adopt by reference the General Provisions as found in 40 CFR Part 63, Subpart A and the Maximum Available Control Technology (MACT) standards for hazardous air pollutants found in 40 CFR Part 63 as they exist on July 1, 1997; and update the NESHAP by adopting these standards (with the exception of Subparts B, H, I, K, Q, R, T, and W, and Appendices D and E which address radionuclides) as found in 40 CFR Part 61 as they exist on July 1, 1997.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd. Suite 250, Oklahoma City, Oklahoma 73105 (405) 290-8247

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 1998.

SUBCHAPTER 41. CONTROL OF EMISSION OF HAZARDOUS AND TOXIC AIR CONTAMINANTS

PART 3. HAZARDOUS AIR CONTAMINANTS

252:100-41-15. National emission standards for hazardous air pollutants

(a) ~~NESHAP, as utilized in this Subchapter, and found in the Code of Federal Regulations at 40 CFR Part 61, are hereby adopted by reference as they exist on March 1, 1993~~ July 1, 1997, with the exception of Subparts B, H, I, K, Q, R, T, and W and Appendices D and E, all of which address radionuclides. These standards shall apply to both existing

CA TITLE 252: DEPARTMENT OF ENVIRONMENTAL QUALITY
1R 10. UNIFORM ENVIRONMENTAL PERMITTING RULES [NEW]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT Rulemaking.

PROPOSED RULE: OAC 252:010 Uniform Environmental Permitting [NEW]

SUMMARY: These proposed rules, with an effective date of July 1, 1996, implement in part the Oklahoma Uniform Environmental Permitting Act, 27A O.S.Supp. 1994, § 2-14-101 et seq, as last amended by S.B. 247 (1995). For each individual permitting program of the Department of Environmental Quality (DEQ), these proposed rules classify applications for specific types of permits, certifications, licenses, registrations or other kinds of DEQ authorization actions as Tier I, II or III.

AUTHORITY: Environmental Quality Board; 27A O.S.Supp. 1994, §§ 2-2-101 and 2-14-201.

COMMENT PERIOD: Deliver or mail written comments Tuesday, August 1 through Thursday, August 31, 1995 to appropriate contact person.

PUBLIC HEARINGS:

Friday, August 4, 1995 - Operator Certification Tier Rules: Before the Operator Certification Advisory Council - Conference Room 107, Engineering Science Division, Rose State College, 6420 S.E. 15th, Midwest City, Oklahoma; 1:00 p.m.

Tuesday, August 15, 1995 - Air Quality Tier Rules: Before the Air Quality Council - Lincoln Plaza, Burgundy Room, 4545 N. Lincoln, Oklahoma City; Briefing - 9:30 a.m.; Hearing 1:00 p.m. (Contact: Dennis Doughty 405/271-5338).

Tuesday, August 29, 1995 - Solid Waste Management Tier Rules: Before the Solid Waste Management Advisory Council - Chamber of Commerce Building, 409 S. Main, Stillwater; 10:00 a.m.

Thursday, August 31, 1995 - Hazardous Waste Management Tier Rules: Before the Hazardous Waste Management Advisory Council - Cherokee Strip Convention Center, 123 W. Main, Enid; 1:00 p.m.

Tuesday, September 5, 1995 - Water Quality and Underground Injection Control Tier Rules: Before the Water Quality Council - Room 1102, Department of Health Building, 1000 N.E. 10th, Oklahoma City; 10:00 a.m.

Thursday, September 7, 1995 - Radiation Management Tier Rules: Before the Radiation Management Advisory Council - 10:00 a.m.; Oklahoma City [Location to be determined].

Tuesday, October 3, 1995 - Water Quality and Underground Injection Control Tier Rules: Before the Water Quality Council - Board Room, State Agriculture Building, 2800 N. Lincoln, Oklahoma City; 1:00 p.m.

Tuesday, October 10, 1995 - Laboratory Certification Tier Rules: Before the Laboratory Services Advisory Council - Room 1102, Health Department Building, 1000 N.E. 10th, Oklahoma City; 1:00 p.m.

Tuesday, October 17, 1995 - Air Quality Tier Rules: Before the Air Quality Council - Tulsa City-County Health Department Auditorium, 4616 E. 15th, Tulsa; Briefing - 9:30 a.m.; Hearing 1:00 p.m. (Contact: Dennis Doughty 405/271-5338).

Thursday, October 19, 1995 - Solid Waste Management Tier Rules: Before the Solid Waste Management Advisory Council - 10:00 a.m.; Tulsa [Location to be determined].

Friday, October 27, 1995 - Operator Certification Tier Rules: Before the Operator Certification Advisory Council - Conference Room 107, Engineering Science Division, Rosa State College, 6420 S.E. 15th, Midwest City; 1:00 p.m.

Tuesday, November 7, 1995 - Water Quality and Underground Injection Control Tier Rules: Before the Water Quality Council - [Location to be determined] 1:00 p.m.

Thursday, November 9, 1995 - Hazardous Waste Management Tier Rules: Before the Hazardous Waste Management Advisory Council - 10:00 a.m. [Location to be determined].

Tuesday, November 28, 1995 - All Tier Rules: Before the Environmental Quality Board. [Location to be determined].

COPIES OF PROPOSED RULES: Copies may be reviewed in Room 1214 of the Department of Environmental Quality, 1000 N.E. 10th, Oklahoma City or may be obtained from contact persons.

RULE IMPACT STATEMENT: See "Copies of Proposed Rules".

CONTACT PERSONS: Mailing address for each contact person is Department of Environmental Quality, 1000 N.E. 10th, Oklahoma City, OK 73117-1212 unless another address is listed.

Air Quality: Jan Yue, 4545 N. Lincoln, Ste. 250, Oklahoma City, Oklahoma 73105; 405/271-5220.

Hazardous Waste Management: Don Barrett, 405/271-5338.

Laboratory Certification: Tony Bright, 405/271-5240.

Operator Certification: Laird Hughes 405/271-5205.

Private Sewage Disposal Systems, Residential Plat Plans, and Waterwells: Don Maisch, 405-271-7484.

Radiation Management: Mike Broderick, 405/271-7484.

Solid Waste Management: Wes Squyres, 405/745-7100.

Water Quality: Norma Aldridge, 405/271-5205.

Underground Injection Control: Amil Lyon, 405/271-7128.

General information: Kay York, 405/271-8140.

[ADDITIONAL INFORMATION: PERSONS WITH DISABILITIES: Should you desire to attend a rulemaking hearing but have a disability and need an accommodation, please notify the Department of Environmental Quality three (3) days in advance at 405/271-5220.]

[Okla. Reg. 95-1129; filed July 10, 1995]

250:10

**TITLE 252: DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 10. UNIFORM ENVIRONMENTAL PERMITTING RULES**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT Rulemaking.

PROPOSED RULE: OAC 252:010 [Uniform Environmental Permitting];
[NEW]

SUMMARY: These proposed rules and rule changes, with an effective date of July 1, 1996, implement in part the Oklahoma Uniform Environmental Permitting Act, 27A O.S.Supp. 1994, § 2-14-101 et seq., as last amended by S.B. 247 (1995), and augment proposed rules (notice of which was published August 1, 1995) which classify applications for permits, certifications, licenses, registrations or other kinds of Department of Environmental Quality (DEQ) authorization actions as Tier I, II and III. Proposed OAC 252:010 contains uniform rules which establish tiered procedures that apply to all permitting programs, and program-specific rules which supplement the uniform rules. Also included for purposes of consistency and simplicity are program-specific rules and DEQ procedural rules which are located in other Chapters of Title 252 and which are to be amended, or revoked because they duplicate proposed OAC 252:010 rules. Specifically:

DEQ Procedural Rules: Revocation of Subchapter 15 ("Permitting Timelines") of OAC 252:002 and its recodification into OAC 252:010.

Air Quality Permitting Rules: Subchapter 21 of [NEW] OAC 252:010; Subchapters 7 and 8 and [NEW] Subchapter 6 of OAC 252:100.

Laboratory Certification Permitting Rules: Subchapter 41 of [NEW] OAC 252:010 and Subchapter 5 of OAC 252:300.

Solid Waste Management Permitting Rules: Subchapter 71 of [NEW] OAC 252:010; OAC 252:510; and [NEW] OAC 252:520.

Hazardous Waste Management Permitting Rules: Subchapter 31 of [NEW] OAC 252:010; OAC 252:200.

Operator Certification Procedural Rules: Subchapter 51 of [NEW] OAC 252:010; OAC 252:700; and OAC 252:645.

Radiation Management Permitting Rules: Subchapter 61 of [NEW] OAC 252:010; Subchapters 3 and 5 and proposed [NEW] Subchapter 17 ("XRF Licenses") of OAC 252:400.

Water Quality Permitting Rules: Subchapters 91 et seq. of [NEW] OAC 252:010 and OAC 252:605, 252:610, 252:615, 252:620, 252:622, 252:625, 252:630, 252:635, 252:640, 252:647 and 252:655.

Underground Injection Control Permitting Rules: Subchapter 81 of [NEW] OAC 252:010; OAC 252:650 and [NEW] OAC 252:652.

AUTHORITY: Environmental Quality Board; 27A O.S.Supp. 1994, §§ 2-2-101 and 2-14-201.

COMMENT PERIOD: Deliver or mail written comments to appropriate contact person Tuesday, August 15 through Thursday, September 7 on radiation rules. For all other rules, the comment period ends Friday, September 15, 1995.

PUBLIC HEARINGS: Hearings scheduled for 1995:

Tuesday, August 15 - Air Quality Permitting Rules: Before the Air Quality Council - Lincoln Plaza Burgundy Room, 4545 N. Lincoln, Oklahoma City; Briefing - 9:30 a.m.; Hearing 1:00 p.m. (Contact: Dennis Doughty 405/271-5220).

Tuesday, August 29 - Solid Waste Management Permitting Rules: Before Solid Waste Management Advisory Council - 409 S. Main, Chamber of Commerce Building, 409 S. Main, Stillwater; 10:00 a.m.

Thursday, August 31 - Hazardous Waste Management Permitting Rules: Before Hazardous Waste Management Advisory Council - Cherokee Strip Convention Center, 123 W. Main, Enid; 1:00 p.m.

Tuesday, September 5 - Water Quality & Underground Injection Control Permitting Rules: Before the Water Quality Council - Room 1102, Department of Health Building, 1000 N.E. 10th, Oklahoma City; 10:00 a.m.

Wednesday, September 6 - Uniform Agency-wide Permitting Rules (Subchapters 1 through 9 of [NEW] OAC 252:010): Before the DEQ - Rm. 314, Health Department Building, 1000 N.E. 10th, Oklahoma City.

Thursday, September 7 - Radiation Management Permitting Rules: Before the Radiation Management Advisory Council - 9:00 a.m.; Oklahoma City [Location to be determined].

Tuesday, October 3 - Water Quality & Underground Injection Control Permitting Rules: Before the Water Quality Council - Board Room, State Agriculture Building, 2800 N. Lincoln, Oklahoma City; 1:00 p.m.

Tuesday, October 10 - Laboratory Certification Permitting Rules: Before the Laboratory Services Advisory Council - Room 1102, Health Department Building, 1000 N.E. 10th, Oklahoma City; 1:00 p.m.

Tuesday, October 17 - Air Quality Permitting Rules: Before the Air Quality Council - Tulsa City-County Health Department Auditorium, 4616 E. 15th, Tulsa; Briefing - 9:30 a.m.; Hearing 1:00 p.m. (Contact: Dennis Doughty 405/271-5338).

Thursday, October 19 - Solid Waste Management Permitting Rules: Before the Solid Waste Management Advisory Council - 10:00 a.m.; Tulsa [Location to be determined].

Friday, October 27 - Operator Certification Permitting Rules: Before Operator Certification Advisory Council - Conference Room 107, Engineering Science Division, Rose State College, 6420 S.E. 15th, Midwest City; 1:00 p.m.

Tuesday, November 7 - Water Quality & Underground Injection Control Permitting Rules: Before the Water Quality Council - State Agriculture Building, 2800 N. Lincoln, Oklahoma City; 1:00 p.m.

Thursday, November 9 - Hazardous Waste Management Permitting Rules: Before the Hazardous Waste Management Advisory Council - 10:00 a.m. [Location to be determined].

Tuesday, December 5 - Water Quality & Underground Injection Control Permitting Rules: Before the Water Quality Council - State Agriculture Building, 2800 N. Lincoln, Oklahoma City; 1:00 p.m.

Thursday, December 7 - Radiation Management Permitting Rules: Before the Radiation Management Advisory Council - St. Francis Hospital, Classroom 2, Tulsa; 10:00 a.m.

Tuesday, December 19 - Air Quality Permitting Rules: Before the Air Quality Council - Burgundy Room, Lincoln Plaza, 4545 N. Lincoln, Oklahoma City; Briefing - 9:30 a.m.; Hearing 1:00 p.m. (Contact: Dennis Doughty 405/271-5220).

PUBLIC HEARINGS: Hearings scheduled for 1996:

Before Councils: (Individual Permitting Rules) Any continuance announced at 1995 hearings.

Before Environmental Quality Board: (All Permitting Rules) (Prior to March 1, 1996) [Exact date and location to be determined].

COPIES OF PROPOSED RULES: Copies may be reviewed in Room 1214 of the Department of Environmental Quality, 1000 N.E. 10th, Oklahoma City or may be obtained from contact persons.

RULE IMPACT STATEMENT: See "Copies of Proposed Rules".

CONTACT PERSONS: Mailing address for each contact person is Department of Environmental Quality, 1000 N.E. 10th, Oklahoma City, OK 73117-1212 unless another address is listed.

Air Quality: Jan Yue, 4545 N. Lincoln, Ste. 250, Oklahoma City, Oklahoma 73105; 405/271-5220.

Hazardous Waste Management: Don Barrett, 405/271-5338.

Laboratory Certification: Tony Bright, 405/271-5240.

Operator Certification: Laird Hughes 405/271-5205.

Radiation Management: Mike Broderick, 405/271-5338.

Solid Waste Management: Wes Squyres, 405/745-7100.

Water Quality (Private Sewage Disposal Systems, Residential Flat Plans, Small Public Sewage Systems & Private Individual Waterwells): Don Maisch, 405-271-8140.

Water Quality (All other rules): Norma Aldridge, 405/271-5205

Underground Injection Control: Amil Lyon, 405/271-7128.

General information and Uniform Rules: Kay York, 405/271-8140.

[ADDITIONAL INFORMATION: PERSONS WITH DISABILITIES: Should you desire to attend a rulemaking hearing but have a disability and need an accommodation, please notify the Department of Environmental Quality three (3) days in advance at 405/271-5220.]

[Okla. Reg. 95-1148; filed July 25, 1995]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 002. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT Rulemaking.
PROPOSED RULE: OAC 252:002 [Procedures of the Department of Environmental Quality]; [AMENDED] -

SUMMARY: These proposed rules and rule changes, with an effective date of July 1, 1996, implement in part the Oklahoma Uniform Environmental Permitting Act, 27A O.S.Supp. 1994, § 2-14-101 et seq, as last amended by S.B. 247 (1995), and augment proposed rules (notice of which was published August 1, 1995) which classify applications for permits, certifications, licenses, registrations or other kinds of Department of Environmental Quality (DEQ) authorization actions as Tier I, II and III. The proposed amendments and new rules in Subchapter 15 of OAC 252:002 contain uniform rules which establish tiered procedures that apply to all permitting programs. To avoid duplication or conflict with the proposed uniform permitting procedures, certain changes are necessary for program-specific rules located in other Chapters of Title 252. These related actions for which separate notices are being published include:

Air Quality Permitting Rules: OAC 252:100 - Subchapters 7, 8 and 11 [AMENDED] and Subchapter 6 [NEW].

Hazardous Waste Management Permitting Rules: OAC 252:200 [AMENDED].

Laboratory Certification Permitting Rules: Subchapter 5 of OAC 252:300 [AMENDED].

Operator Certification Procedural Rules: OAC 252:700 and OAC 252:645 [AMENDED].

Radiation Management Permitting Rules: OAC 252:400, Subchapters 3 and 5 [AMENDED] and 17 [NEW] [AMENDED].

Solid Waste Management Permitting Rules: OAC 252:510 [AMENDED]; OAC 252:520 [NEW] [AMENDED].

Underground Injection Control Permitting Rules: OAC 252:650 [AMENDED] and OAC 252:652 [NEW].

Water Quality Permitting Rules: OAC 252:605, 252:610, 252:615, 252:620, 252:625, 252:640, 252:647 and 252:655 [ALL AMENDED].

AUTHORITY: Environmental Quality Board; 27A O.S.Supp. 1994, §§ 2-2-101 and 2-14-201.

COMMENT PERIOD: Deliver or mail written comments to appropriate contact person beginning Friday, September 15, 1995 and ending in 1995 on:

- Uniform permitting rules: Monday, October 16.
- Air Quality permitting rules: Friday, December 15.
- Hazardous Waste permitting rules: Friday, November 3.
- Laboratory Certification permitting rules: Friday, October 6.
- Operator Certification permitting rules: Friday, October 20.
- Radiation Management permitting rules: Friday, December 1.
- Solid Waste permitting rules: Friday, October 13.
- Underground Injection Control permitting rules and Water Quality permitting rules: Friday, December 1.

PUBLIC HEARINGS: Hearings scheduled for 1995:

Tuesday, October 10 - Laboratory Certification Permitting Rules: Before the Laboratory Services Advisory Council - Room 1102, Health Department Building, 1000 N.E. 10th, Oklahoma City; 1:00 p.m.

Wednesday, October 11 - Uniform Permitting Rules (OAC 252:002) Before the DEQ - Rm. 806, Health Department Building, 1000 N.E. 10th, Oklahoma City; 10:00 a.m. - 12:00 p.m.

Tuesday, October 17 - Air Quality Permitting Rules: Before the Air Quality Council - Tulsa City-County Health Department Auditorium, 4616 E. 15th, Tulsa; Briefing - 9:30 a.m.; Hearing 1:00 p.m. (Contact: Dennis Doughty 405/271-5338).

Thursday, October 19 - Solid Waste Management Permitting Rules: Before the Solid Waste Management Advisory Council - 10:00 a.m.; Tulsa [Location to be determined].

Friday, October 27 - Operator Certification Permitting Rules: Before Operator Certification Advisory Council - Conference Room 107, Engineering Science Division, Rose State College, 6420 S. 15th, Midwest City; 1:00 p.m.

Tuesday, November 7 - Water Quality & Underground Injection Control Permitting Rules: Before the Water Quality Council - State Agriculture Building, 2800 N. Lincoln, Oklahoma City; 1:00 p.m.

Thursday, November 9 - Hazardous Waste Management Permitting Rules: Before the Hazardous Waste Management Advisory Council - 10:00 a.m. [Location to be determined].

Tuesday, December 5 - Water Quality & Underground Injection Control Permitting Rules: Before the Water Quality Council - State Agriculture Building, 2800 N. Lincoln, Oklahoma City; 1:00 p.m.

Thursday, December 7 - Radiation Management Permitting Rules: Before the Radiation Management Advisory Council - St. Francis Hospital, Classroom 2, Tulsa; 10:00 a.m.

Tuesday, December 19 - Air Quality Permitting Rules; Before the Air Quality Council - Burgundy Room, Lincoln Plaza, 4545 N. Lincoln, Oklahoma City; Briefing - 9:30 a.m.; Hearing 1:00 p.m. (Contact: Dennis Doughty 405/271-5220).

PUBLIC HEARINGS: Hearings scheduled for 1996:

Before Councils: Any continuances to be announced at 1995 hearings.

Before Environmental Quality Board: (Uniform and Program Permitting Rules) (Prior to March 1, 1996) [Exact date and location to be determined].

COPIES OF PROPOSED RULES: Copies may be reviewed in Room 1214 of the Department of Environmental Quality, 1000 N.E. 10th, Oklahoma City or may be obtained from contact persons.

RULE IMPACT STATEMENT: See "Copies of Proposed Rules".

* Ref 2/15/95 ABC: 252:100-010 Uniform Permitting rules "will appear in a new subchapter Chapter 002 Procedures of the Department of Environmental Quality Subchapter 15 Uniform Permitting Procedures."

CONTACT PERSONS: Mailing address for each contact person is Department of Environmental Quality, 1000 N.E. 10th, Oklahoma City, OK 73117-1212 unless another address is listed.
Air Quality: Jan Yue, 4545 N. Lincoln, Ste. 250, Oklahoma City, Oklahoma 73105; 405/271-5220.
Hazardous Waste Management: Don Barrett, 405/271-5338.
Laboratory Certification: Tony Bright, 405/271-5240.
Operator Certification: Laird Hughes 405/271-5205.
Radiation Management: Mike Broderick, 4545 N. Lincoln, Ste. 250, Oklahoma City 73105; 405/271-7484.
Solid Waste Management: Wes Squyres, 405/745-7100.
Water Quality (Residential Sewage Disposal Systems, Residential Developments, Small Public Sewage Systems & Private Individual Waterwells): Don Maisch, 405-271-8140.
Water Quality (All other rules): Norma Aldridge, 405/271-5205.
Underground Injection Control: Amil Lyon, 405/271-7128.
General information and Uniform Rules: Kay York, 405/271-8140.

[**ADDITIONAL INFORMATION: PERSONS WITH DISABILITIES:** Should you desire to attend a rulemaking hearing but have a disability and need an accommodation, please notify the contact person for the program area three (3) days in advance at the number given above.]

[Okla. Reg. 95-1198; filed August 25, 1995]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

RULEMAKING ACTION: PERMANENT FINAL ADOPTION

RULE: 252:2-13-1 [REVOKED]; 252:2-15-1 [AMENDED]; 252:2-15-2 [AMENDED]; 252:2-15-3 [AMENDED AND RENUMBERED TO 252:2-15-70]; 252:2-15-4 [AMENDED AND RENUMBERED TO 252:2-15-71]; 252:2-15-5 [AMENDED AND RENUMBERED TO 252:2-15-72]; 252:2-15-6 [AMENDED AND RENUMBERED TO 252:2-15-73]; 252:2-15-7 [AMENDED AND RENUMBERED TO 252:2-15-74]; 252:2-15-8 [AMENDED AND RENUMBERED TO 252:2-15-75]; 252:2-15-9 [RENUMBERED TO 252:2-15-76]; 252:2-15-26 [NEW]; 252:2-15-27 [NEW]; 252:2-15-28 [RESERVED]; 252:2-15-29 [NEW]; 252:2-15-30 [NEW]; 252:2-15-31 [NEW]; 252:2-15-32 [NEW]; 252:2-15-70 through 252:2-15-77 [NEW]; 252:2-15-90 [NEW]; and APPENDIX C [NEW].

AUTHORITY: Environmental Quality Board, 27A O.S.Supp. 1993, Section 2-2-101; 27A O.S.Supp. 1995, Section 2-14-201.

DATES:

Comment period: September 15, 1995 through October 16, 1995.

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Submitted to Governor: January 26, 1996.

Submitted to House: January 26, 1996.

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Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 27, 1996.

Final adoption: March 27, 1996.

Effective: July 1, 1996.

SUPERSEDED EMERGENCY ACTIONS: None.

INCORPORATION BY REFERENCE: None.

ANALYSIS: These rules implement in part the Oklahoma Uniform Environmental Permitting Act ("Act"), 27A O.S.Supp. 1995, § 2-14-101 et seq. as last amended in S.B. 247 (1995). Proposed as permanent rules to take effect July 1, 1996, these rules amend Subchapter 15 of OAC 252:2, Parts 1, 3, 7 & 9. Part 1 rules state the purpose, scope and applicability of Subchapter 15 and define terms. The specified rules in Part 3 supplement the Tier process requirements of the Act. Part 7 consists of existing OAC 252:2-15 rules which have been renumbered, and amended and added to as necessary to update permitting review procedures and time lines. Part 9 specifies the types of permissive procedural consolidations available to applicants.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. 1991, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 1996.

SUBCHAPTER 13. FORMAL PUBLIC MEETINGS AND ADMINISTRATIVE PERMIT PROCEEDINGS

PART 1. FORMAL PUBLIC MEETINGS

252:2-13-1. Formal public meetings [REVOKED]

~~(a) Location. The DEQ shall determine the location and the facility at which a formal public meeting on a permit application and/or draft permit shall be held.~~

~~(b) Purpose. The designated presiding officer of a formal public meeting shall establish the procedure by which such meeting shall be conducted based on the requirements of the Code and applicable program specific rules.~~

Agency Note (1): The language of this revoked section has been amended and can now be found at 252:2-14-31(g).

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING-TIMS UNIFORM PERMITTING PROCEDURES

PART 1. UNIFORM PERMITTING PROGRAM IN GENERAL

252:2-15-1. Purpose and applicability

(a) Purpose. The rules in this Subchapter establish time periods for issuance or denial of environmental permits and licenses that are required by law implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S.Supp. 1995, § 2-14-101 et seq., and apply to applicants for and holders of DEQ permits and other authorizations.

(b) Permits included. The provisions of this Subchapter apply to permits reviewed by the following programs and their successors:

~~(1) the Air Quality Division;~~

~~(2) the Hazardous Waste Management Program;~~

~~(3) the Solid Waste Management Program; and~~

~~(4) the Water Quality Division. Supersedes inconsistent rules. Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title.~~

~~(c) Supersedes inconsistent rules. Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title. Applicability.~~

~~(1) Applications filed with the DEQ on and after July 1, 1996, are subject to the procedural requirements of 27A O.S.Supp. 1995, § 2-14-101 et seq., this Subchapter and other applicable rules of the Board.~~

~~(2) Applications filed before July 1, 1996, are subject to the statutory and regulatory procedural requirements existing at the time of the filing unless the applicant elects to comply with the statutes and rules described in paragraph 1 of this subsection.~~

252:2-15-2. Definitions

~~The In addition to terms defined in 252:2-1-2, the following words~~

and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-15-101 et seq.

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Application" means a document prepared in accordance with the rules and the forms and instruction provided by the respective Program and submitted with the expectation of providing that information necessary for review and determination of the permit. The application consists of the initial submittal and all supplements. See 27A O.S. Supp., 1995, § 2-14-103(1).

"Major facility", as used in air quality tier classifications, means a source subject to the permitting requirements of 40 CFR Part 70.

"Minor source", as used in air quality tier classifications, means a source that is not subject to the permitting requirements of 40 CFR Part 70.

"Off-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.

"On-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry for the treatment, storage, processing, or disposal of its own waste exclusively.

"Part" means a numbered Part of this Subchapter.

"Program" means the services or divisions of the DEQ that are specified in Section 252-002-15-1a regulatory section or division of the DEQ.

"Submittal" means each separately submitted document or group of document package that forms documents provided as part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"UIC" means underground injection control.

252:2-15-3. Common permitting procedures and timelines [AMENDED AND RENUMBERED TO 252:2-15-70]

(a) ~~Filing of applications. Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:~~

(1) ~~file stamp the application with the date of receipt, the Service name and an identification number;~~

(2) ~~assign the application to a named person who will do the review; and~~

(3) ~~timely log this information.~~

(b) ~~Administrative completeness review. Unless otherwise provided in this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to initially determine if the application is administratively complete.~~

(1) ~~Not complete. Upon determining that the application is not~~

~~administratively complete, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application. This notice shall not require or preclude further review of the application and further requests for specific information. If the reviewer does not notify the applicant of such inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.~~

(2) ~~Complete. Upon a determination that the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.~~

(c) ~~Technical review. Each Program involved shall have a certain time period to review each application for technical compliance with the relevant regulations and reach a final determination.~~

(d) ~~When times are tolled. The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation (includes public meetings and administrative permit hearings (and waiting periods therefor); public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies), or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant amends his application of his own accord.~~

(e) ~~Supplemental time. To compensate for time spent in reviewing inadequate materials, the DEQ's notice of deficiencies and request for supplemental information may specify that up to 30 additional calendar days may be added to the application processing time. This may also include the number of days the DEQ spent in preparing the notice and request. Requests for supplemental information and data may also specify that additional days for technical review equal to the number of days the applicant used to prepare and submit such supplement may be added to the application review time.~~

(f) ~~Withdrawal. Unless specified otherwise in a program's rules, failure by an applicant to supplement an application within 180 days after the request shall be deemed to be a withdrawal until the time is extended by agreement for good cause.~~

(g) ~~Extensions. Extensions to the timelines of this Subchapter may be made as provided by law.~~

252:2-15-4. Pending failures [AMENDED AND RENUMBERED TO 252:2-15-71]

(a) ~~Circumstances outside agency control. Technical review times shall be tolled for specified times when, prior to the deadline, the Executive Director certifies that a failure to meet a deadline is imminent and is caused by circumstances outside the control of the DEQ. Such circumstances include, but are not limited to, acts of God, a substantial and unexpected increase in the number of applications filed, and additional review duties imposed on the DEQ from an outside source.~~

(b) ~~Other circumstances. Where circumstances that are not clearly outside the control of the DEQ may cause a failure to meet a~~

deadline, then:

- (1) at least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline.
- (2) the Applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

252:2-15-5. Air quality permit timelines [AMENDED AND RENUMBERED TO 252:2-15-72]

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below:

- (1) Construction permits:
 - (A) PSD 540 days.
 - (B) Major Sources 365 days.
 - (C) Minor 180 days.
- (2) Operating permits for new construction or modifications 730 days.
- (3) Relocation permits 30 days.

252:2-15-6. Hazardous waste permit timelines [AMENDED AND RENUMBERED TO 252:2-15-73]

The following hazardous waste permits and authorizations shall be technically reviewed and issued or denied within the timeframes specified below:

- (1) Hazardous waste permits:
 - (A) New RCRA Operations permit or the renewal thereof 300 days.
 - (B) New State Recycling permit 300 days.
 - (C) New State Construction permit 300 days.
 - (D) Class 3 permit modifications 300 days.
 - (E) Underground Injection Control permit 300 days.
- (2) Class 1 and Class 2 permit modifications 300 days.
- (3) Closure plans, post closure plans and transfer station plans and plan modifications 300 days.

252:2-15-7. Solid waste permit timelines [AMENDED AND RENUMBERED TO 252:2-15-74]

Times for issuance or denial of applications for all solid waste permits shall be in accordance with applicable chapters of Solid Waste Regulations, OAC 252:500 et seq., or, if not specified therein, the technical review period for solid waste permit applications and for each submittal and resubmittal related thereto shall be 90 days, subject to OAC 252:2-15-3.

252:2-15-8. Water quality permit timelines [AMENDED AND RENUMBERED TO 252:2-15-75]

- (a) Applications for Water Quality permits, certifications and authorizations shall be technically reviewed and permits shall be issued or denied within the following timeframes:
 - (1) Dairy Waste 180 days
 - (2) Discharges 180 days

- (3) 401 Certifications 180 days
- (4) Industrial Wastewater other than discharge 180 days
- (5) Pretreatment Trust Users 180 days
- (6) Public Water Supply 90 days
- (7) Septage and Septic Tank Cleaners 120 days
- (8) Underground Injection Control (nonhazardous) 120 days
- (9) Water Pollution Control Construction 90 days
- (b) Preliminary and secondary applications associated with the State Revolving Fund shall be reviewed and, if acceptable, transmitted to the Oklahoma Water Resources Board for approval. If the DEQ can not concur in the preliminary or secondary loan applications, it will notify the applicant in writing. Transmittal of application to the Oklahoma Water Resources Board or a written notice of non approval shall occur within 90 days after receipt of the application.

252:2-15-9. Other permits [RENUMBERED TO 252:2-15-76]
Any environmental license or permit that is not described in this Subchapter shall not be subject to these time frames but shall be reviewed with all due and reasonable speed.

PART 3. TIER I, II AND III PROCESS REQUIREMENTS

252:2-15-26. Tier processes described
To implement the three tiered permitting processes of the Act, applications are classified in Part 5 as Tier I, II or III. The steps an applicant must follow for a Tier I, II or III application are shown in Appendix C of this Chapter.

252:2-15-27. Unclassified applications
The tier designation for any type of application not classified in this Subchapter shall be determined according to 27A O.S. Supp. 1995, § 201.

252:2-15-28. (RESERVED)

- 252:2-15-29. Published notices
 - (a) Notice content. In addition to content requirements of the Act, all published legal notice(s) shall contain the:
 - (1) Name and address of the applicant;
 - (2) Name, address and legal description of the site, facility and/or activity;
 - (3) Purpose of notice;
 - (4) Type of permit or permit action being sought;
 - (5) Description of activities to be regulated;
 - (6) Locations where the application may be reviewed;
 - (7) Names, addresses and telephone numbers of contact persons for the DEQ and for the applicant;
 - (8) Description of public participation opportunities and time period for comment and requests;
 - (9) Any other information required by DEQ rules; and
 - (10) Any information the applicant deems relevant.
 - (b) Proof of publication. An applicant, within twenty (20) days

after the date of publication, shall provide the DEO with a written affidavit of publication for each notice published. In case of a mistake in a published notice, the DEO may approve the publication of a legal notice of correction or may require that the entire legal notice be republished.

Agency Note (2): 27A O.S. Sections 2-14-301, 302 and 304 add requirements for Tier II and Tier III notices.

252:2-15-30. Tier I process requirements

(a) Pre-application conference. Prior to filing an application, an applicant may request a conference with the DEO.

(b) Application filing.

(1) Copies. Two (2) copies of a Tier I application shall be filed with the DEO except when the application form or instructions specifies that only one (1) copy is needed. Applicants for residential systems (OAC 252:640) and small public sewage systems (OAC 252:655-29) permits shall file their two copies with the local DEO office for the county in which the real property is located.

(2) Fees. Fees established in DEO program rules shall be payable at the time of application and are not refundable.

(3) Notice to landowner. Applicants must demonstrate to the DEO that they are not seeking a permit for land or for any operation upon land owned by others without their knowledge. Applicants shall certify by affidavit filed with the DEO that: they own the real property; or they have a current lease or easement which is given to accomplish the permitted purpose; or if they do not own the real property, they have provided legal notice to those who do. The DEO may rely on the affidavit, and the applicants shall bear the burden of meeting any challenges. Legal notice is governed by Oklahoma law which, for example, authorizes: service by sheriff or private process server; service by certified mail, restricted delivery; or service by publication, if the person cannot be located through due diligence. Notice to the person who signed a lease or to the administrator or executor of a trust or an estate may be sufficient.

(4) Withdrawal. An applicant may withdraw an application at any time with written notice to the DEO and forfeiture of fees.

(c) Application review. Unless stated otherwise in new laws or rules, applications are subject to the laws and rules of the DEO as they exist on the date of filing and afterward as changed, up to the date of issuance or denial. See Part 7 for review procedures and time lines.

(d) Issuance or denial.

(1) Compliance required. A new, modified or renewed permit or other authorization shall not be issued until the DEO has determined the application is in substantial compliance with applicable requirements of the Code and rules of the Board.

(2) Conditions for issuance. The Department may not issue a new, modified or renewed permit or other authorization if:

(A) The applicant has not paid all monies owed to the DEO or

is not in substantial compliance with the Code, rules of the Board and the terms of any existing DEO permits and orders. The DEO may impose special conditions on the applicant to assure compliance and/or a separate schedule which the DEO considers necessary to achieve required compliance; or
(B) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.

(3) Issuance. See 252:2-15-28.

252:2-15-31. Tier II process requirements

(a) Pre-application conference. "Tier I" requirements apply See 252:2-15-30.

(b) Application. "Tier I" requirements apply. See 252:2-15-30, except the applicant shall file three (3) copies of the application with the DEO and place one (1) copy for public review in the county in which the site, facility or activity is located.

(c) Published notice of filing. See 27A O.S. § 2-14-301 and 252:2-15-29.

(d) Application review. "Tier I" requirements apply. See 252:2-15-30.

(e) Draft permit or draft denial. See 27A O.S. § 2-14-302.

(f) Notice of draft permit/denial. See 27A O.S. § 2-14-302 and 252:2-15-29. For permit modification actions, only those issues relevant to the modification(s) shall be reopened for public review and comment.

(1) Exception to notice requirement. Applicants for solid waste transfer station permits shall be exempt from public comment and public meeting requirements if the board of county commissioners of the county of the proposed site, after opportunity for written or oral public comment, has found the application to be within the scope of the county's solid waste management plan. See 27A O.S. Supp. 1995, §2-10-307.

(2) Additional notice. In addition to Section 302 notice:

(A) Applicants for a NPDES, RCRA or UIC permit are subject to applicable additional notice provisions of federal requirements promulgated as rules of the Board.

(B) Applicants for a proposed wastewater discharge & emissions permit which may affect the water quality or air quality of a neighboring state must give written notice to the environmental regulatory agency of that state.

(C) Applicants for a solid waste landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See *DuLaney v. OSDH*, Okl., 868 P.2d 676 (1993).

(g) Public comment and formal public meeting. See 27A O.S. § 2-14-302 and 27A O.S. § 2-14-303. The DEO shall determine the location of any formal public meeting to be held and the designated presiding officer shall establish its procedures.

(h) Response to comments. See 27A O.S. § 2-14-304.

(i) Issuance or denial. "Tier I" requirements apply. See 252:2-15-

20.

Agency Note (3): Additional federal notice requirements may include radio announcements and letters to certain entities. See 40 CFR Part 124. For modifications of RCRA permits, also see Part 270, Subpart D.

252:2-15-32. Tier III process requirements

(a) Pre-application conference. "Tier I" requirements apply. See 252:2-15-30.

(b) Filing, fees and withdrawal. "Tier II" requirements apply. See 252:2-15-31.

(c) Notice of filing and process meeting opportunity. The applicant shall include a 30-day opportunity to request a process meeting in the published notice of filing. See 27A O.S. § 2-14-301(B) and 252:2-15-29.

(d) Process meeting. See 27A O.S. § 2-14-301(B). The location of and procedures for the process meeting shall be determined by the DEQ.

(e) Application review. "Tier I" requirements apply. See 252:2-15-30.

(f) Draft permit or draft denial. See 27A O.S. § 2-14-302.

(g) Notice of draft permit/denial. "Tier II" requirements apply. See 252:2-15-31.

(h) Public comment period and public meeting. "Tier II" requirements apply. See 252:2-15-31.

(i) Proposed permit and notice. After the DEQ reviews public comments and prepares a proposed permit by amending the draft permit in response to comments as necessary, the applicant shall publish notice of the proposed permit and of the opportunity to request an administrative permit hearing. See 27A O.S. § 2-14-304 and 252:2-15-29.

(j) Administrative permit hearing. See 27A O.S. § 2-14-304 and, for procedures, Subchapter 13 of this Chapter, except references to "draft permit" in Subchapter 13 shall mean "proposed permit" as used in 27A O.S. § 2-14-103 and 27A O.S. § 2-14-304 (C) and (D).

(k) Response to comments. See 27A O.S. § 2-14-304.

(l) Issuance or denial. "Tier I" requirements apply. See 252:2-15-30.

PART 5. TIER CLASSIFICATIONS (RESERVED)

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

252:2-15-70. Common review procedures and time lines

(a) Receipt of applications. Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:

- (1) File-stamp the application with the date of receipt, the Division and/or Program name and an identification number;
- (2) Assign the application to a named person who will do the review; and
- (3) Timely log this information.

(b) Administrative completeness review. Unless otherwise provided in the Code or this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to determine whether the application is administratively complete.

(1) Not complete.

(A) Upon determining that the application is not complete, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application.

(B) This notice shall not require or preclude further review of the application and further requests for specific information.

(C) If the reviewer does not notify the applicant of inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.

(2) Complete. When the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.

(c) Technical review. Each Program involved shall have a certain time period to review each application for technical compliance with the relevant regulations and reach a final determination.

(d) When times are tolled. The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation (includes public meetings and administrative permit hearings (and waiting periods), public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies), or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant amends his application of his own accord.

(e) Supplemental time. To compensate for time spent in reviewing inadequate materials, the DEQ's notice of deficiencies and request for supplemental information may specify that up to 30 additional calendar days may be added to the application processing time. Requests for supplemental information and data may also specify that additional days for technical review equal to the number of days the applicant used to prepare and submit such supplement may be added to the application review time.

(f) Failure to respond. Except for good cause shown, failure of an applicant to supplement an application within 180 days after the mailing date of a notice of deficiencies, or by a date agreed to by the DEQ and the applicant, shall void the application and forfeit the fees. The DEQ shall notify the applicant of an opportunity to show cause why this should not occur. Failure to show cause shall result in an order appealable according to 75 O.S. § 318.

(g) Extensions. Extensions to the time lines of this Subchapter may be made as provided by law.

252:2-15-71. Pending failures

(a) Circumstances outside agency control. Technical review times shall be tolled for specified times when, prior to the deadline, the Executive Director certifies that a failure to meet a deadline

is imminent and is caused by circumstances outside the control of the DEQ. Such circumstances include, but are not limited to, acts of God, a substantial and unexpected increase in the number of applications filed, and additional review duties imposed on the DEQ from an outside source.

(b) Other circumstances. Where circumstances that are not clearly outside the control of the DEQ may cause a failure to meet a deadline, then:

(1) At least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline.

(2) The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

252:2-15-72. Air quality permit time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

(A) PSD (Part 70 sources) - 540 days.

(B) Major Sources (Part 70 sources other than PSD) - 365 days.

(C) Minor Sources - 180 days.

(2) Operating permits:

(A) Major Sources - 540 days.

(B) Minor Sources - 365 days.

(3) Relocation permits - 30 days.

252:2-15-73. Hazardous waste permit time lines

The following hazardous waste permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Hazardous waste permits:

(A) New RCRA permit or the renewal thereof - 300 days.

(B) New State Recycling permit - 300 days.

(C) Class 3 permit modifications - 300 days.

(2) Closure plans, post-closure plans and transfer station plans and plan modifications - 300 days.

252:2-15-74. Solid waste permit time lines

The technical review period for solid waste permit applications and for each submittal and resubmittal shall be 90 days, subject to OAC 252:2-15-7-70.

252:2-15-75. Water quality permit time lines

Applications for new or modified water quality permits, certifications and authorizations shall be technically reviewed and permits shall be issued or denied within the following time frames:

(1) Discharges - 180 days.

(2) 401 Certifications - 180 days.

(3) Industrial Wastewater other than discharge - 180 days.

(4) Pretreatment Trust Users - 180 days.

(5) Public Water Supply - 90 days.

(6) Underground Injection Control - 300 days.

(7) Water Pollution Control Construction - 90 days.

(8) Sludge management plan - 180 days.

252:2-15-76. Other permits

Any environmental license or permit that is not described in this Subchapter shall not be subject to these time frames but shall be reviewed with all due and reasonable speed.

252:2-15-77. Pre-issuance permit review and correction

(a) Review. In addition to its own review, the DEQ may, for Tier I and II, and shall, for Tier III, at any time before issuance, require an applicant to review a permit for calculation and clerical errors, or mistakes of fact or law.

(b) Correction. The DEQ may correct any permit before it is issued.

(1) Notice of significant corrections. For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by the DEQ which significantly alters a facility's permitted size, capacity or limits.

(2) Comments. The DEQ may open a public comment period, and/or reconvene a public meeting and/or administrative hearing to receive public comments on the proposed correction(s).

Agency Note (4): For statutory provisions related to administrative review of permit conditions or actions after issuance, see 27A O.S. Supp. 1995, § 2-14-304(H), "Denial of permit"; 75 O.S. § 317, "Rehearing, reopening or reconsideration of final order"; and 75 O.S. § 307, "Declaratory rulings".

PART 9. CONSOLIDATED PERMITTING

252:2-15-90. Consolidation of permitting process

(a) Discretionary. Whenever an applicant applies for more than one permit for the same site, the DEQ may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.

(b) Scope. When consolidation is authorized by the DEQ:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) The DEQ may also authorize the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.

(3) Final permits may be issued together.

(c) Renewal. The DEQ may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.

(d) Multiple modifications. Subsections (a) and (b) of this section shall also apply to multiple Tier II and III applications.

for permit modifications.

APPENDIX C. PERMITTING PROCESS SUMMARY [NEW]

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with the DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting - Notice - 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review - DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments - DEQ (written response)	No	Yes	Yes
Proposed permit - DEQ prepares this in response to comments on draft permit	No	No	Y
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

[Okla. Reg. 96-446; filed April 25, 1996]

Uniform Permitti...

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

RULEMAKING ACTION: PERMANENT FINAL ADOPTION
RULES: 252:2-15-40 through 15-63. [NEW].
AUTHORITY: Environmental Quality Board, 27A O.S.Supp. 1993,
Section 2-2-101; 27A O.S.Supp. 1995, Section 2-14-201.
DATES:

Comment period: August 1 through November 28, 1995.
Public hearings: August 29 and 31; September 5 & 7; October
3, 10, 17, 19 and 27; November 7, 9, 13 and 28. Specifically:
August 29 Solid Waste Management Advisory Council,
August 31 Hazardous Waste Management Advisory Council,
Sept. 7 Radiation Management Advisory Council,
Oct. 3 Water Quality Advisory Council,
Oct. 10 Laboratory Services Advisory Council,
Oct. 17 Air Quality Council,
Oct. 19 Solid Waste Management Advisory Council,
Oct. 27 Operator Certification Advisory Council,
Nov. 7 Water Quality Advisory Council,
Nov. 9 Hazardous Waste Management Advisory Council,
Nov. 13 Air Quality Council (continued from 10/17),
and

Nov 28 Environmental Quality Board.
Adoption: November 28, 1995
Submitted to Governor: December 1, 1995.
Submitted to House: December 1, 1995.
Submitted to Senate: December 1, 1995.
Gubernatorial approval: December 11, 1995.
Legislative approval: Failure of the Legislature to
disapprove the rules resulted in approval on March 27, 1996.
Final adoption: March 27, 1996.
Effective: July 1, 1996.

SUPERSEDED EMERGENCY ACTIONS: None.
INCORPORATION BY REFERENCE: None.
ANALYSIS: These proposed rules, with an effective date of July 1,
1996, implement in part the Oklahoma Uniform Environmental
Permitting Act, 27A O.S.Supp. 1994, § 2-14-101 et seq., as last
amended by S.B. 247 (1995). For each individual permitting program
of the Department of Environmental Quality (DEQ), these proposed
rules classify applications for specific types of permits, DEQ
certifications, licenses, registrations and other kinds of DEQ
authorization actions as Tier I, II or III.
CONTACT PERSON: Kay York, Attorney, Department of Environmental
Quality, 1000 N.E. 10th, Oklahoma City, OK 73117-1212. Phone (405)
271-8140.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS
CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. 1991, SECTION
308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 1996.

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES UNIFORM
PERMITTING PROCEDURES

PART 1. (RESERVED)

PART 3. (RESERVED)

PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I
The following air quality authorizations require Tier I
applications:

- (1) Construction permit for a minor source.
- (2) Operating permit for a minor source.
- (3) Operating permit for a major facility, issued after
construction permit, which does not differ from the construction
permit in any manner which would otherwise subject the operating
permit application to public review.
- (4) New, modified or renewed authorization under a general
permit.
- (5) Modification of a minor source's construction and/or
operating permit when the source remains a minor source after
the modification.
- (6) Minor modification of a major facility's construction
and/or operating permit.
- (7) Acid rain permits.
- (8) Burn approval.
- (9) Relocation permit.
- (10) Temporary permit.
- (11) Plant-wide emission plan approval.
- (12) Administrative amendment of all permits and other author-
izations.
- (13) Extension of a minor source's construction permit.
- (14) Extension of a major facility's construction permit with no
or minor modification.
- (15) Renewal of an operating permit for a minor source.

252:2-15-41. Air quality applications - Tier II
The following air quality authorizations require Tier II
applications:

- (1) Operating permit for a major facility, issued after a c
struction permit, which differs from the construction permit in
a manner which subjects the operating permit application to
public review.
- (2) Operating permit for a major facility that does not have a
construction permit.
- (3) Significant modification, as defined in OAC 252:100-8-
7(e)(2), of a major facility's construction or operating permit.
- (4) New, modified or renewed general permit.
- (5) Time extension of a major facility's construction permit
with a modification that would otherwise be subject to public
review.
- (6) Renewal of an operating permit for a major facility.
- (7) A construction permit for a new major facility or a major
modification to an existing major facility.

252:2-15-42. Air quality applications - Tier III

(a) New major stationary sources. A construction permit for any new major stationary source listed in this subsection requires a Tier III application. For purposes of this section, "Major stationary source" means:

(1) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

- (A) carbon black plants (furnace process).
- (B) charcoal production plants.
- (C) chemical process plants.
- (D) coal cleaning plants (with thermal dryers).
- (E) coke oven batteries.
- (F) fossil-fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input.
- (G) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input.
- (H) fuel conversion plants.
- (I) glass fiber processing plants.
- (J) hydrofluoric, sulfuric or nitric acid plants.
- (K) iron and steel mill plants.
- (L) kraft pulp mills.
- (M) lime plants.
- (N) incinerators, except where used exclusively as air pollution control devices.
- (O) petroleum refineries.
- (P) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
- (Q) phosphate rock processing plant.
- (R) portland cement plants.
- (S) primary aluminum ore reduction plants.
- (T) primary copper smelters.
- (U) primary lead smelters.
- (V) primary zinc smelters.
- (W) secondary metal production plants.
- (X) sintering plants.
- (Y) sulfur recovery plants, or
- (Z) taconite ore processing plants, and

(2) Any other source not specified in paragraph (1) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(b) Existing incinerators. An application for any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted shall require a Tier III application.

(c) Potential to emit. For purposes of this section, "potential to emit" means emissions resulting from the application of all enforceable permit limitations as defined in OAC 252:100-1-3.

252:2-15-43. Hazardous waste management applications - Tier I

The following hazardous waste management authorizations require Tier I applications.

(1) Class 1 modification of any hazardous waste permit requiring prior Department approval as specified in 40 C.F.R. §

270.42.

- (2) Modification to a recycling permit in accordance with 27A O.S. Supp. 1994, §2-7-118(A).
- (3) Class 2 permit modification as defined in 40 C.F.R. §270.42.
- (4) Emergency hazardous waste disposal plan approval.
- (5) Hazardous waste generator disposal plan approval.
- (6) Technical plan approval.
- (7) Hazardous waste transporter license.
- (8) Hazardous waste transfer station plan modification which is not related to capacity.
- (9) Emergency permit issued in accordance with 40 C.F.R. § 270.61.
- (10) Interim status closure plan approval in accordance with 40 C.F.R. §265.113(d)(4).
- (11) Minor administrative modification of all permits and other authorizations.
- (12) Renewal of disposal plan approval and transporter license.
- (13) New, modified or renewed authorization under a general permit.
- (14) Approval of temporary authorizations in accordance with 40 C.F.R. § 270.42.

252:2-15-44. Hazardous waste management applications - Tier II
The following hazardous waste management authorizations require Tier II applications.

- (1) On-site hazardous waste treatment, storage or disposal permit.
- (2) Mobile recycling permit.
- (3) Research & Development permit.
- (4) Class 3 modification of any hazardous waste permit as specified in 40 C.F.R. § 270.42.
- (5) Modification of an on-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.
- (6) Modification of an on-site hazardous waste facility permit for an expansion of permitted boundaries.
- (7) Modification of on-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.
- (8) Renewal of a hazardous waste treatment, storage or disposal permit.
- (9) Hazardous waste transfer station plan approval.
- (10) Hazardous waste transfer station plan modification involving increase in approved capacity.
- (11) Variance which is not part of a permit application.
- (12) Variance which is part of a Tier II permit application.

252:2-15-45. Hazardous waste management applications - Tier III
The following hazardous waste management authorizations require Tier III applications.

- (1) Off-site hazardous waste treatment, storage, disposal, incineration and/or recycling permit.

(2) Modification of an off-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.

(3) Modification of an off-site hazardous waste facility permit for an expansion of permitted boundaries.

(4) Modification of off-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.

(5) Variance which is part of a Tier III application.

252:2-15-46. Laboratory certification applications - Tier I

A Tier I application shall be required for a new, modified, amended or renewed laboratory certification.

252:2-15-47. Laboratory certification applications - Tier II

None.

252:2-15-48. Laboratory certification applications - Tier III

None.

252:2-15-49. Operator certification applications - Tier I

The following authorizations require Tier I applications.

(1) Waterworks operator certification (standard and temporary).

(2) Wastewater works operator certification (standard and temporary).

(3) Waterworks laboratory operator certification.

(4) Wastewater works laboratory operator certification.

(5) Septic tank installer certification.

(6) Septic tank cleaner license.

(7) Landfill operator and/or manager certification.

(8) Waterworks helper registration.

(9) Wastewater works helper registration.

(10) Amendments, modifications and renewals of all authorizations.

252:2-15-50. Operator certification applications - Tier II

None.

252:2-15-51. Operator certification applications - Tier III

None.

252:2-15-52. Radiation management applications - Tier I

The following radiation management authorizations require Tier I applications.

(1) Industrial X-ray registration and the amendment, modification and/or renewal thereof.

(2) X-ray fluorescence spectroscopy instrument license and the amendment, modification and/or renewal thereof.

252:2-15-53. Radiation management applications - Tier II

None.

252:2-15-54. Radiation management applications - Tier III

None.

252:2-15-55. Solid waste management applications - Tier I

The following solid waste management authorizations require Tier I applications.

(1) New permits.

(A) Locally approved solid waste transfer stations.

Permit for a solid waste transfer station that, prior to application filing, received county commissioner approval according to 27A O.S. Supp., 1995, § 2-10-307.

(B) Biomedical waste transfer stations using only sealed containers. Biomedical waste transfer station permit when activities are limited to:

(i) consolidation of sealed containers; and/or
(ii) transfer of sealed containers from one vehicle or mode of transportation to another.

(C) Disaster relief. Emergency authorization for waste disposal resulting from a natural disaster.

(2) Modifications.

(A) All facilities.

(i) Modification of a solid waste permit to add methods, units or appurtenances for liquid bulking processes; yard waste composting; recycling operations; waste screening; or baling, chipping, shredding or grinding equipment or operations.

(ii) Modification to any solid waste permit to make minor changes.

(iii) Modification of plans for closure and/or post-closure.

(iv) Administrative modification of all permits and other authorizations.

(B) On-site and off-site land disposal facilities.

Modification of an existing land disposal permit for a lateral expansion within permitted boundaries.

(C) Capacity increases of less than 25% with exceptions. The modification of a solid waste permit, excluding incineration permits, involving a request for less than twenty-five percent (25%) increase in permitted capacity for storage, processing or disposal when the request is for equivalent methods, units or appurtenances as those permitted and which does not involve expansions of permit boundaries.

(3) Plans and other authorizations. The approval of new and when applicable, modified or renewed:

(A) Plans for composting of yard waste only.

(B) Permit transfers.

(C) Non-hazardous industrial solid waste disposal plans.

(D) Technical plans.

(E) County solid waste management plans.

(F) Individual authorizations under a general permit.

(G) All other administrative approvals required by OAC 252:510 or OAC 252:520.

252:2-15-56. Solid waste management applications - Tier II

The following solid waste management authorizations require Tier

II applications.

(1) New permits.

(A) On-site solid waste processing facilities with exception. Permit for an on-site solid waste processing facility except yard waste composting as listed under Tier I, Rule 252:2-15-55.

(B) Solid waste transfer stations with exceptions. Permit for a solid waste transfer station except:

(i) a transfer station permit with county commissioner approval as listed under Tier I, Rule 252:2-15-55, or

(ii) a biomedical waste transfer station permit listed under Tier I, Rule 252:2-15-55.

(C) On-site incinerators with exceptions. Permit for an on-site incinerator except those exempt under OAC 252:2-20 or those that have an approved Air Quality permit or Solid Waste Management Plan.

(D) On-site land disposal sites. Permit for an on-site solid waste disposal site.

(E) Material Recovery Facility (MRF). Permit for a Material Recovery Facility if waste is not source-separated.

(2) Modifications.

(A) All facilities. Modification of a permit for a change in waste type.

(B) On-site facilities. Any modification of an on-site solid waste permit, except as listed under Tier I, Rule 252:2-15-55.

(C) Off-site facilities.

(i) Modification of any off-site solid waste permit involving a request for more than twenty-five percent (25%) but less than fifty percent (50%) increase in permitted capacity for storage, processing or disposal (excluding incineration) when the request is for equivalent methods, units or appurtenances as those permitted, except those listed under Tier I, Rule 252:2-15-55.

(ii) Modification of any off-site processing facility involving an expansion of permitted boundaries.

(D) Incinerators.

(i) Modification of an on-site incinerator permit for any increase in permitted capacity for storage, processing, or disposal.

(ii) Modification of an off-site incinerator permit involving a request for increases less than fifty percent (50%) in permitted capacity for storage, processing, or disposal when the request is for equivalent methods, units or appurtenances as those permitted.

(3) General permit. New, modified or renewed general permit.252:2-15-57. Solid waste management applications - Tier III

The following solid waste management authorizations require Tier

III applications.

(1) New permits.(A) Off-site processing facilities with exceptions.

Permit for an off-site processing facility, unless otherwise specified in Tier I, Rule 252:2-15-55, or Tier II, Rule 252:2-15-56.

(B) Off-site land disposal facility. Permit for an off-site solid waste land disposal site.

(C) Off-site incinerator. Permit for an off-site incinerator.

(2) Modifications.

(A) Off-site facilities: significant increase in capacity. Modification of any off-site solid waste permit involving a fifty percent (50%) or greater increase in permitted capacity for storage, processing, and/or disposal, including incineration.

(B) Off-site land disposal facility. Modification of an off-site solid waste land disposal permit for an expansion of permitted boundaries.

(C) Off-site facilities: different methods, units or appurtenances. Modification of an off-site solid waste permit in which the request involves different methods, units or appurtenances than those permitted, except those listed under Tier I, Rule 252:2-15-55.

(3) Variance approvals. All variances.252:2-15-58. UIC applications-Tier I

The following underground injection control authorizations require Tier I applications.

(1) Minor modification of a permit for Class I, III, and V wells in accordance with 40 C.F.R. §144.41.

(2) Modification of an approved closure and/or post-closure plan for a Class I hazardous waste injection well.

(3) Modification of an approved plugging and abandonment plan for Class I nonhazardous and Class III injection wells.

(4) Modification of an approved corrective action plan for a Class I injection well.

(5) Emergency permit in accordance with 40 C.F.R. §144.34.

(6) New, modified or renewed authorization under a general permit.

(7) Minor administrative modification of all permits and other authorizations.

252:2-15-59. UIC applications - Tier II

The following underground injection control authorizations require Tier II applications.

(1) On-site Class I nonhazardous waste injection well permit.

(2) Class III and V injection well permits except Class V permits issued under Tier III.

(3) Modification and/or renewal of all DEQ-issued underground injection control well permits.

252:2-15-60. UIC applications - Tier III

The following underground injection control authorizations require Tier III applications.

(1) Class I hazardous waste injection well permit.

(2) Off-site Class I nonhazardous waste injection well permit.

(3) Class V industrial waste injection well permit.

252:2-15-61. Water quality applications - Tier I

The following water quality authorizations require Tier I applications.

- (1) Permit for flow-through impoundment(s) as part of the pretreatment process.
- (2) Re-permitting of facility with an expiring permit for industrial non-discharging impoundment or septic tank system.
- (3) Re-permitting of expiring permit with minor or no change(s) for land application of sludge and/or wastewater for same site.
- (4) New, modified or renewed authorization under a general permit, including but not limited to general permits for stormwater, underground storage tanks and petroleum storage and treatment facilities.
- (5) Approval of new pretreatment program.
- (6) Closure plan approval.
- (7) Dredge and fill certification.
- (8) Approval of exemption for water line extensions.
- (9) Approval of exemption for water distribution and wastewater collection systems.
- (10) Approval for individual residential sewage disposal system.
- (11) Approval of small public sewage system:
 - (A) with less than 5,000 gallons per day which do not discharge, land apply wastewater or sludge, or have lift stations designed to handle a peak capacity greater than 10 gallons per minute; or
 - (B) which serves less than ten (10) residential units.
- (12) Residential development approval.
- (13) Transfer of discharge permit.
- (14) Minor modification of discharge permit.
- (15) Minor modification of permit for land application of sludge and/or wastewater.
- (16) Modification of or addition to a municipal wastewater treatment system (including sewer line extensions).
- (17) Modification of or addition to a public water supply treatment and/or distribution system.
- (18) Modification of non-discharging impoundment and/or septic tank system permit.
- (19) Modification of an approved pretreatment program.
- (20) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.

252:2-15-62. Water quality applications - Tier II

The following water quality authorizations require Tier II applications.

- (1) Permit for municipal wastewater treatment system.
- (2) Permit for public water supply system.
- (3) Discharge permit for minor facility.
- (4) Individual storm water permit.
- (5) Permit for industrial non-discharging impoundment or septic tank system.
- (6) Permit for land application of sludge and/or wastewater at new site.
- (7) Re-permitting of a facility with expiring discharge permit.

(8) Re-permitting of facility with expiring individual storm water discharge permit.

- (9) Re-permitting with major change(s) from expiring permit for land application of sludge and/or wastewater for the same site.
- (10) Variance including thermal components of effluent limitations for an individual discharge permit.
- (11) Major modification of discharge permit.
- (12) Major modification of permit for land application of sludge and/or wastewater.

252:2-15-63. Water quality applications - Tier III

A new discharge permit for a major facility requires a Tier III application.

[Okla. Reg. 96-534; filed April 25, 1996]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF
ELEMENTARY, MIDDLE, SECONDARY AND AREA
VOCATIONAL AND TECHNICAL LEVEL SCHOOLS**

INTENDED RULEMAKING ACTION: Notice of proposed PERMANENT rulemaking Proposed rules: Subchapter 15. Expanded Opportunities in Summer Programs, 210:35-15-1 and 210:35-15-2 [NEW]; Subchapter 17. Co-Curricular and Extra Curricular Programs, 210:35-17-1 and 210:35-17-2 [NEW]; Subchapter 19. Concurrent Enrollment, 210:35-19-1 through 35-19-3 [NEW]; Subchapter 21. Alternative Instructional Delivery Systems, 210:35-21-1 and 210:35-21-2 [NEW]; Subchapter 25. Student Entrance and Progression Through the System, 210:35-25-1 and 210:35-25-2 [NEW]; and Subchapter 27. Proficiency Based Promotion, 210:35-27-1 through 35-27-3 [NEW]

Summary: Rules set forth requirements and procedures pertinent to the content areas specified in the various subchapter titles.

Proposed action: New subchapters are setting forth requirements and procedures pertinent to the content areas specified.

Need: 70 O.S. § 3-104 and 3-104.4 require the State Board of Education to promulgate rules for the accreditation of schools, and then further mandate that changes will be made in these rules to facilitate the implementation of the new state curriculum to take effect during the 1993-94 school year.

Effect: The intended effect is to reinstate and improve upon the effectiveness of previously existent rules which were originally published in the Appendices of the Accreditation Standards.

AUTHORITY: State Board of Education

70 O.S. § 3-104--Expanded Opportunities in Summer Programs, Co-Curricular and Extra Curricular Programs and Alternative Instructional Delivery Systems

70 O.S. § 628.13--Concurrent Enrollment

70 O.S. §§ 1-114 and 24-114.1--Student Entrance and Progression Through the System

70 O.S. § 11-103.6--Proficiency Based Promotion

COMMENT PERIOD: All interested persons are invited to submit data, views or arguments, orally or in writing, in support of or in opposition, to the new subchapters to the Office of the State Board of Education, Rm. 1-18 Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105-4599 between the hours of 8 a.m. and 4:30 p.m., November 16 through December 15, 1993.

PUBLIC HEARING: Hearings begin at 2 p.m., Thursday, December 16, 1993, in Rm. 1-20 of the Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES: Copies are on file for public viewing in the office of the State Board of Education, Rm. 1-18 Oliver Hodge Memorial Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105-4599.

RULE IMPACT STATEMENT: A Rule Impact Statement for the new subchapters will be prepared, as required by law, and will be available after November 19, 1993, at the Office of the State Board of Education, Rm. 1-18 Oliver Hodge Education Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma.

CONTACT PERSON: Garrelne A. Jurko, State Board of Education Office, Rm. 1-18 Oliver Hodge Education Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma, 405/521-3308

[Okla. Reg. 93-1609; filed October 22, 1993]

✓ **TITLE 252: DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 002. PROCEDURES OF THE DEPARTMENT
OF ENVIRONMENTAL QUALITY**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT/EMERGENCY Rulemaking.

Proposed Rules: OAC 252:002, Procedures of the Department of Environmental Quality [NEW]

Summary: The Oklahoma Environmental Quality Act directs the Board to promulgate replacement rules for programs transferred to the new Department of Environmental Quality ("DEQ"). (See Laws 1993, c. 324, Section 8.)

These proposed rules are intended to set forth procedures for the DEQ by renumbering, recodifying, and converting references from the OSDH (currently codified at 310:002) and implementing 27A:2-1-101 et seq. to the DEQ. They include general provisions and information about the DEQ, procedures to be followed in individual proceedings, administrative penalty proceedings, and public meetings and administrative hearings on permit applications; permit processing timelines; and complaint processing. New provisions include procedures for investigation and mediation of complaints and rulemaking.

AUTHORITY: Environmental Quality Board; Laws 1993, c. 145, Sections 55(H), 58(B) and 81; and 75 O.S. 1991, § 302.

COMMENT PERIOD: Deliver or mail comments November 15 through December 6, 1993 to contact person listed below.

PUBLIC HEARINGS: Oral and written comments will be received: Wednesday, December 15, 1993 - 9:00 a.m., Room 1211, Oklahoma State Department of Health Building, 1000 N.E. 10th, Oklahoma City, Oklahoma.
Wednesday, January 26, 1994 - Environmental Quality Board meeting.

COPIES OF PROPOSED RULES: May be obtained from the contact person listed below.

RULE IMPACT STATEMENT: May be obtained from contact person.

CONTACT PERSON: Office of General Counsel, 12th Floor, Department of Environmental Quality, 1000 N.E. 10th, Oklahoma City, Oklahoma 73117-1212; Mr. Robert Kellogg, 405/271-8060.

[Okla. Reg. 93-1610; filed October 25, 1993]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 002. PROCEDURES OF THE DEPARTMENT
OF ENVIRONMENTAL QUALITY**

**CHAPTER 002. PROCEDURES OF THE DEPARTMENT
OF ENVIRONMENTAL QUALITY**

SUBCHAPTER 1. GENERAL PROVISIONS

RULEMAKING ACTION: PERMANENT final adoption.

RULES: 252:002, Procedures of the Department of Environmental Quality [NEW]

AUTHORITY: Environmental Quality Board; Laws 1993, c. 145, Sections 55(H), 58(B) and 81; and 75 O.S. 1991, § 302.

DATES:

Comment period: November 15, 1993 through December 6, 1993.

Public hearing: December 15, 1993 and January 26, 1994.

Adoption: January 26, 1994.

Submitted to Governor: February 7, 1994.

Submitted to House: February 7, 1994.

Submitted to Senate: February 7, 1994.

Gubernatorial approval: March 24, 1994.

Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 31, 1994.

Final adoption: March 31, 1994.

Effective: May 26, 1994.

SUPERSEDED EMERGENCY ACTIONS: None.

INCORPORATIONS BY REFERENCE: None.

ANALYSIS: The Oklahoma Environmental Quality Act directs the Board to promulgate replacement rules for programs transferred to the new Department of Environmental Quality ("DEQ"). (See Laws 1993, c. 324, Section 8.)

These proposed rules are intended to set forth procedures for the DEQ by renumbering, recodifying, and converting references from the OSDH (currently codified at 310:002) and implementing 27A:2-1-101 et seq. to the DEQ. They include general provisions and information about the DEQ, procedures to be followed in individual proceedings, administrative penalty proceedings, and public meetings and administrative hearings on permit applications; permit processing timelines; and complaint processing. New provisions include procedures for investigation and mediation of complaints and rulemaking.

CONTACT PERSON: Mr. Robert Kellogg, (405) 271-8060.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF May 26, 1994:

252:002-1-1. Purpose

(a) **Purpose.** This Chapter establishes the organization and procedures of the Department of Environmental Quality.

(b) **Fair construction.** This Chapter is intended to simplify procedures, avoid delays, save expenses and facilitate implementing the Oklahoma Environmental Quality Code and any other Oklahoma Statutes under which the DEQ has jurisdiction.

(c) **Scope.** The rules in this Chapter are not intended to limit the lawful authority of the DEQ. The DEQ may address any matter under its jurisdiction and change any procedure for good cause.

(d) **Severability.** The repeal or invalidity of any particular rule of this Chapter or Title shall not affect other rules.

252:002-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"APA" means the Oklahoma Administrative Procedures Act, 75:250.1 et seq.

"Board" means the Environmental Quality Board.

"Code" means the Oklahoma Environmental Quality Code, 27A:2-1-101 et seq.

"Council" means the Air Quality Council, the Hazardous Waste Management Advisory Council, the Laboratory Services Advisory Council, the Radiation Management Advisory Council, the Solid Waste Management Advisory Council, the Water Quality Management Advisory Council and the Waterworks and Wastewater Works (Operator Certification) Advisory Council.

"DEQ" or "Department" means the Oklahoma Department of Environmental Quality and its officers and employees.

"Executive Director" means the Executive Director of the Department of Environmental Quality.

"Individual proceeding" means the same as defined in 75:250.3(7), a part of which includes an administrative evidentiary hearing.

"Respondent" means a person or legal entity named in a petition for an individual proceeding against whom relief is sought.

"Proposed rule or rule changes" means rules proposed for recommendation and adoption or repeal.

"Rule package" means a set of rules or rule changes or a single rule or rule change proposed for a specific program or purpose.

252:002-1-3. Description of Department of Environmental Quality

(a) **History.** The DEQ was created January 1, 1993, as a result of environmental legislation in 1992. On July 1, 1993, it assumed jurisdiction over air quality, hazardous waste, solid waste, water quality, environmental laboratory services and certification, radiation management and other programs and functions as specified

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in the Code.

(b) **Organization.** The DEQ consists of programs in air quality, waste management, water quality, complaints and local services, and offices of customer assistance, business and industry assistance, local government assistance, and administrative hearings. Such organization may be revised by the Executive Director. Organizational charts may be obtained upon request to the Office of the Executive Director.

(c) **Duties.** The DEQ has the following duties:

- (1) to implement the Code and other statutes under which it has jurisdiction;
- (2) to serve as the official state environmental agency of Oklahoma to cooperate with federal agencies in the management of environmental programs designated by law;
- (3) to perform such duties as required by law; and
- (4) to provide administrative assistance to the Board and Councils.

SUBCHAPTER 3. GENERAL OPERATION

252:002-3-1. Office location and hours; communications

- (a) **Office.** The principal office of the DEQ is 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1212.
- (b) **Hours of operation.** Office hours are from 8:00 a.m. to 4:30 p.m., unless otherwise designated by the Executive Director, each day except Saturday and Sunday and state holidays.
- (c) **Communications.** Unless a person is working with a particular person or departmental area, written communication to the DEQ shall be addressed to the Executive Director at the principal office.

252:002-3-2. Availability of records

- (a) **Availability.** Records of the DEQ, not otherwise confidential or privileged from disclosure by law, shall be available to the public for inspection and copying at the DEQ's principal office or other offices during normal business hours. The DEQ may take reasonable precautions in order to ensure the safety and integrity of records under its care.
- (b) **Removal.** Records may be removed from the DEQ's offices or storage areas only with permission of the record's custodian.
- (c) **Reproduction.**
- (1) **By DEQ.** The DEQ may limit the number of copies made and the time and personnel available for reproduction of open records requested by a member of the public or refer the requester to the provisions of paragraphs (2) and (3) of this subsection.
 - (2) **Commercial reproduction.** With advance notice to the DEQ, persons may arrange for the pick-up, reproduction and return of open records by a commercial copying service at their expense.
 - (3) **Other.** Provided the approval of the DEQ is obtained in advance and suitable floor space is available, a requester may bring in and use his own copy machine.
- (d) **Confidentiality.** Any person submitting information, data or materials to the DEQ may assert and substantiate a claim of

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confidentiality upon submission. Absent such assertion and substantiation, information or materials shall be recognized and treated by the DEQ as being available for disclosure.

(e) **Certification.** Copies of official records of the DEQ may be certified by the Executive Director or Assistant Director or their designees.

(f) **Charge.** The DEQ's administrative fee schedule shall apply to in-house copying or reproduction of open records for or by members of the public.

252:002-3-3. Administrative fees [RESERVED]

SUBCHAPTER 5. RULEMAKING

252:002-5-1. Petitions for rulemaking

- (a) **Rulemaking request.** Any person may file a petition with the DEQ formally requesting the adoption, amendment, or repeal of one or more rules.
- (b) **Form and content of petition.** Rulemaking petitions shall be in writing and filed with the DEQ. A petition shall include the information and follow the format of OAC 252:002 Appendix A, Petition for Rulemaking. After the petition is filed, the DEQ shall provide a copy to the Board.
- (c) **Referral.** The DEQ shall refer a filed petition to the appropriate Council or if none, to the appropriate program of the DEQ, for review. A petition referred to a Council shall be set on the agenda of the next available Council meeting.
- (d) **Status.** If rulemaking based on the petition does not commence within 30 calendar days after the next available Council meeting or after referral to a program of the DEQ, the petition shall be deemed denied. The DEQ shall advise the Board of the status of petitions and shall provide the petitioner a copy of any final action relating to the petition.

252:002-5-2. Rule development

The DEQ may commence the development of rules and rule changes at the request of, or on behalf of, the Board or a Council or petition by an interested person. The DEQ may appoint committees to assist in the development of such rules.

252:002-5-3. Notice of permanent rulemaking

The DEQ shall cause notice of proposed permanent rulemaking and of dates of known hearings to be given in accordance with the APA. Notice of the continuation of any rulemaking hearing shall be announced at the hearing or meeting from which the hearing is to be continued and shall not require publication.

252:002-5-4. Rulemaking comment periods & hearings before the DEQ

- (a) **Comments.** The DEQ may ask for oral or written comments on proposed rules or rule changes from any person at any time.
- (b) **Hearings.** On behalf of the Board or a Council, the DEQ may conduct a rulemaking hearing separate from a Board or Council

meeting to receive comments on proposed permanent rule packages.

(c) Hearing procedures for oral comments. Persons wishing to comment orally at a hearing on permanent rule packages may be asked to make a written request. The hearing officer may set reasonable time limits on oral presentations, may exclude repetitive or irrelevant comments and may require that the presentations be submitted in writing prior to the close of the comment period.

(d) Comment period for written comments. Comments on proposed permanent rule packages may be submitted in writing at the hearing or by the end of the specified public comment period, or both.

(e) Length of comment period. The comment period shall end at the conclusion of the hearing unless extended for no more than 30 days.

(f) Summary of comments. The DEQ shall maintain a summary of comments received on proposed rule packages at rulemaking hearings and during written comment periods and provide the summary to the Board or a Council prior to the Board's or Council's final action on such rules.

252:002-5-5. Hearings before the Board or a Council

At the request of the Board or a Council, the DEQ may designate a hearing officer to conduct a rulemaking hearing on proposed permanent rule packages before those bodies.

252:002-5-6. Preparation of rulemaking record

The DEQ shall maintain a rulemaking record on all rules adopted or repealed by the Board.

SUBCHAPTER 7. DECLARATORY RULINGS

252:002-7-1. Declaratory rulings

Any person who alleges that any DEQ rule or order interferes with or impairs, or threatens to interfere with or impair, their legal rights may petition the DEQ, formally requesting a declaratory ruling on the applicability of the rule or order.

(1) Form and content of petition. All such petitions shall be in writing and filed with the Administrative Law Clerk. The petition shall include the information and follow the format of OAC 252:002 Appendix B, Petition for Declaratory Ruling. After the petition is filed, the DEQ shall provide a copy to the Board at its next available meeting.

(2) Determination. Petitions for declaratory rulings shall be determined by the DEQ. Rulings shall state the findings and conclusions upon which they are based. If the DEQ refuses to make a ruling, then the petition shall be deemed to have been denied. If the DEQ commences an individual proceeding on the petition, it shall offer an opportunity for a hearing to the petitioner. After the DEQ issues a ruling or the Executive Director issues a final order, the DEQ shall provide a copy of the ruling or final order to the Board at its next available meeting.

(3) Mailing. The DEQ shall mail a copy of the ruling or final order to the petitioner.

SUBCHAPTER 9. INDIVIDUAL PROCEEDINGS IN GENERAL

252:002-9-1. Purpose and applicability

(a) Purpose and applicability. The purpose of this Subchapter is to establish general procedures for individual proceedings conducted by the DEQ for purposes of enforcement and administrative permit proceedings as specified by Subchapter 13 of this Chapter.

(b) Applicable law. The APA, the Code and this Chapter govern individual proceedings, including administrative hearings, undertaken by the DEQ.

252:002-9-2. Enforcement petitions

(a) Persons entitled. Individual proceedings may be initiated by DEQ program areas by filing a petition or an administrative compliance or penalty order with the Administrative Law Clerk.

(b) Petition content. Each petition shall name the Respondent(s) and shall contain a reference to the statutes and rules involved and a brief statement of the facts giving a right to relief and the relief requested. The petition shall be signed by the person presenting the same, or his attorney (see APA § 310), and shall include the signer's address and phone number.

(c) Petition style. The style of documents in a matter shall appear in substantially the following form:

BEFORE THE OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE: (Nature of proceeding)
and name of Respondent)
e.g. Request for _____) No. [Year & Case #]
[name of program area or person],)
Petitioner.)

[Nature of Request]

252:002-9-3. Declaratory ruling petitions

For information on declaratory ruling petitions, see Subchapter 7 of this Chapter.

252:002-9-4. Administrative permit hearing petitions

For information on administrative permit hearing petitions, see Subchapter 13 of this Chapter.

252:002-9-5. Matters filed by DEQ

A petition or administrative compliance or penalty order filed by a DEQ program area shall include notice of the opportunity to request an administrative hearing and shall be served on the named Respondents.

252:002-9-6. Administrative hearings

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(a) **Request.** A hearing request shall be in writing and shall be filed with the Administrative Law Clerk as part of or in response to a filed Petition.

(b) **Scheduling.** The DEQ shall schedule an administrative hearing after receipt of a proper and timely request.

(c) **Notice.** When the DEQ schedules an administrative hearing, the Administrative Law Clerk shall notify the parties of the date, time and place of the hearing. Such notice shall satisfy the notice requirements of the APA and shall be made at least fifteen (15) days prior to the hearing unless otherwise provided by law or agreed by the parties.

(d) **Procedure.** The Administrative Law Judge may refer to District Court Rules and Procedure in the absence of applicable APA and DEQ statutes and rules, including this Chapter. Subject to the limitations in OAC 252:002-9-7(d), the Administrative Law Judge, with the consent of all parties, may vary the procedures of this Chapter.

252:002-9-7. Administrative Law Judges and Clerks

(a) **Administrative Law Judge.** The Executive Director may designate an Administrative Law Judge for any administrative hearing properly and timely requested of the DEQ, unless precluded by law. Administrative Law Judges shall be familiar with the rules of procedure and generally familiar with the substantive rules governing the matter, and shall not have had prior involvement in the matter other than as an Administrative Law Judge. The Administrative Law Judge so designated shall have full authority to conduct all aspects of the hearing proceedings except for the issuance of a Final Order.

(b) **Administrative Law Clerk.** The Executive Director may designate an Administrative Law Clerk to maintain the administrative hearing dockets and records, and perform such other duties as described in this Chapter or incidental thereto.

(c) **References to Administrative Law Judge.** The Executive Director or designee may perform functions described in this Section for Administrative Law Judges.

(d) **Authority.** Administrative Law Judges have complete authority to conduct administrative hearing proceedings and may take any action not inconsistent with the provisions of the rules of this Chapter or of the APA for the maintenance of order at hearings and for the expeditious, fair, and impartial conduct of the proceedings. Administrative Law Judges may, without limitation:

- (1) arrange and issue notice of the date, time and place of hearings and conferences;
- (2) establish the methods and procedures to be used in the presentation of the evidence;
- (3) hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;
- (4) administer oaths and affirmations;
- (5) regulate the course of the hearing and govern the conduct of participants;
- (6) examine witnesses;

(7) rule on, admit, exclude and limit evidence, at or before hearings;

(8) establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for such purposes;

(9) rule on motions and pending matters;

(10) divide the hearing into stages or join claims of parties whenever the number of parties is large or the issues are numerous and complex; and

(11) restrict attendance by persons not parties to the hearing in appropriate cases.

(e) **Technical assistance.** At the request of the Administrative Judge, the Executive Director may designate a DEQ representative, who has had no assigned responsibilities related to the matter at issue, to serve as technical adviser to the Administrative Law Judge.

252:002-9-8. Service

(a) **Methods of service.** Service of a petition and initial notice of hearing shall be by personal delivery served by a person licensed to make service of process in civil cases, or by certified mail with delivery shown by return receipt, or by publication if it is shown that service cannot be made by any other means despite the exercise of due diligence. Where the DEQ is serving a petition or notice, personal service may be made by a person designated by the Executive Director to make such service for the DEQ. Service by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal by the Respondent. Acceptance or refusal by any officer of a business or an authorized agent for a business shall constitute acceptance or refusal by the party addressed.

(b) **Proof of service.** The person making service shall file proof of service thereof with the Administrative Law Clerk promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service does not affect the validity of service. The Administrative Law Judge may refer to the Oklahoma Pleading Code for guidance regarding service.

(1) **Acknowledgment.** Acknowledgment in writing by recipient, or appearance by the recipient at a hearing with objection to service, is equivalent to proof of service.

(2) **Actions on a license.** Service by mail in a matter seeking to revoke or suspend any license may be deemed complete when there is an affirmation that the notice was mailed by certified mail to the licensee's last known address, and that he or she may not be found otherwise, despite the exercise of due diligence. The Administrative Law Judge shall inquire into and determine whether due diligence has been exercised.

(c) **Service by mail.** Except for service of the petition and initial notice, service by mail is complete upon mailing, and may be shown by the postmark.

(d) **Service on representative.** Service made upon an attorney of record constitutes service upon the party the attorney represents. Service made upon a person authorized by Oklahoma law to receive

service on behalf of a party constitutes service upon that party.

252:002-9-9. Responsive pleading

A Respondent may file, and the Administrative Law Judge may direct a Respondent to file, a responsive pleading to the enforcement petition or order that initiated the action.

252:002-9-10. Prehearing conferences

(a) **General.** The Administrative Law Judge may schedule and conduct prehearing conferences as necessary to identify parties and issues and to set schedules and agendas for hearing-related activities. The Administrative Law Clerk shall notify the parties of the scheduling of a prehearing conference. The Administrative Law Judge may authorize a prehearing conference by telephone. On request, prehearing conferences shall be on the record.

(b) **Subjects.** Prehearing conferences may address:

- (1) identification and simplification of issues, including the elimination of frivolous claims or defenses;
- (2) amendments to the pleadings;
- (3) the plan and schedule of discovery and limitations to be placed thereon;
- (4) identification of admissions of fact to avoid unnecessary proof and cumulative evidence;
- (5) the identification of witnesses and substance of testimony, exhibits, and documents;
- (6) the use of prehearing briefs and prefiled testimony in the form of sworn affidavits;
- (7) settlement of all or some of the issues before the hearing;
- (8) adoption of special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems;
- (9) scheduling pursuant to OAC 252:002-9-11; and
- (10) such other matters as may aid disposition.

252:002-9-11. Prehearing scheduling conference

(a) **Purpose.** A prehearing scheduling conference may be held for the scheduling of matters to be accomplished. Such conference shall be designed to expedite the disposition of the action and discourage wasteful prehearing activities, establish early and continuing control of the management of the hearing, and set dates for prehearing activities.

(b) **Scheduling.** The Administrative Law Judge may enter an interim order which establishes, insofar as feasible, the time:

- (1) to amend the pleadings;
- (2) to file and hear motions;
- (3) to complete discovery;
- (4) of further prehearing conferences; and
- (5) for accomplishing any other matters appropriate in the circumstances of the case.

(c) **Changes in scheduling order.** The Administrative Law Judge may change dates and time periods set in the scheduling order by issuing a modifying order upon good cause shown.

252:002-9-12. Discovery

All parties shall act in good faith in the scheduling and conduct of discovery. Failure of a party to provide reasonable opportunity for the opposing party to depose any witness shall be grounds to exclude the testimony of that witness at the hearing. Discovery shall be conducted in accordance with the Oklahoma Discovery Code unless otherwise ordered by the Administrative Law Judge for good cause.

252:002-9-13. Prehearing Order

(a) **Purpose and form.** Following a prehearing conference, the Administrative Law Judge may issue a Prehearing Order which recites and schedules the action to be taken and which shall control the course of the action unless modified by a subsequent order to prevent manifest injustice.

(b) **Content.** The Prehearing Order should include the results of the conference and advice to the Administrative Law Judge regarding the factual and legal issues, including summaries of material evidence, to be presented. The Prehearing Order should also present all questions of law in the case. All exhibits shall be marked, listed and identified in the Prehearing Order. If there is an objection to the admission of any exhibits, the grounds for the objection must be specifically stated. Witnesses shall also be listed along with the nature of their testimony. No exhibit or witness may be added to the Prehearing Order once the Order has been prepared, signed, and filed by the Administrative Law Judge without a showing to the Administrative Law Judge by the requesting party that injustice would be created if the evidence or testimony were not allowed.

(c) **Applicability.** The contents of the Prehearing Order shall supersede the pleadings and govern the hearing of the case unless amended or allowed by the Administrative Law Judge to prevent injustice.

252:002-9-14. Subpoenas

(a) **Issuance.** Subpoenas for the attendance of witnesses, the furnishing of information required by the Administrative Law Judge and the production of evidence shall be issued by the Administrative Law Clerk upon written request by a party or on the Administrative Law Judge's own motion. Subpoenas shall be served and a return made in the same manner as provided for state court proceedings.

(b) **Failure to obey.** The Executive Director may seek an appropriate judicial order to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affidavit at a hearing, or who refuse to answer a proper question during hearing. The hearing may proceed despite any such refusal but the Administrative Law Judge may, in his discretion at any time, continue the proceedings as necessary to secure a court ruling.

252:002-9-15. Record

(a) **To be made.** A record of the hearing shall be made, which shall be a tape recording unless otherwise agreed by the parties

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and the Administrative Law Judge. The recording will not be transcribed as a matter of course. A transcript may be obtained by submitting a written request to the Administrative Law Clerk and tendering payment in an amount sufficient to pay the cost of having the recording transcribed.

(b) Court reporter. A party may request a court reporter (CSR or LSR). The requesting party shall pay the costs, and the original transcript shall be filed in the case file as part of the record in the case. Each person or party requesting copies shall make arrangements for such with the reporter, and pay the costs.

(c) Maintained. The record of a proceeding and the file containing the notices and the pleadings will be maintained in a location designated by the Office of Administrative Hearings. All pleadings, motions, orders and other papers submitted for filing in such a proceeding shall be date/file-stamped by the Administrative Law Clerk upon receipt. The burden of showing substantial prejudice by any failure to correctly file-stamp any submittal shall be upon the party asserting such.

(d) Designation on appeal. On appeal, the parties may designate and counter-designate portions of the record to save costs, following the procedures applicable in the Courts of Oklahoma.

252:002-9-16. Motions

(a) Filing. All requests for action in a matter already before the DEQ shall be made in the form of a motion or cross petition, signed by the party presenting same or his attorney, and filed with the Administrative Law Clerk. A cross petition shall be served in the manner provided in Rule 252:002-9-8. A copy of any motion shall be mailed by the movant to all parties of record concurrently with the filing of the motion, and a certification of such mailing shall appear on the motion.

(b) Response. Within ten (10) days after service of any written motion, any party to the proceedings may file a response to the motion. The time for response may be extended or shortened by the Administrative Law Judge for good cause shown.

252:002-9-17. Continuances

A motion for an extension or continuance shall state the reasons for the request and specify the length of time requested. Unless made before the Administrative Law Judge in open hearing, motions for extensions of time or for a continuance of the hearing to another date or time shall be in writing and filed with the Administrative Law Clerk. The Administrative Law Judge shall promptly grant or deny such request at his or her discretion. If the motion is denied, it may be renewed orally by the party at the hearing.

252:002-9-18. Evidentiary hearing procedures

(a) Generally that of civil proceedings. The order of procedure in hearings in all individual proceedings shall generally follow that which applies in District Court civil proceedings. At the discretion of the Administrative Law Judge, any party may reopen his case-in-chief, even after the adverse party has rested,

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consonant with the requirements of justice. Parties may stipulate to any lawful matter.

(b) Further presentation. After presentation of all cases-in-chief, parties to the action shall be confined to rebutting evidence unless the Administrative Law Judge, for good reasons in furtherance of justice, permits them to offer evidence in the original case.

(c) Rulings. The Administrative Law Judge shall rule on the admissibility of evidence and objections to evidence, and on motions or objections raised during hearings, except for motions for summary judgments. All objections to a ruling shall be made promptly with statement of basis or they will be deemed waived. Parties shall be deemed to have taken exception to any adverse ruling on an objection.

(d) Summary judgment. The granting of a motion for summary judgment shall be subject to the provisions of 252:002-9-21 (Proposed order) and 252:002-9-22 (Final order).

252:002-9-19. Default

Any Respondent who fails to appear as directed, after receipt of notice as provided by this Chapter, may be determined to have waived the right to appear and present a defense to the allegations contained in the notice and/or petition. A Final Order in such proceeding may be issued by the Executive Director granting by default no more than the relief prayed for in the petition.

252:002-9-20. Settlement

Administrative hearings may be resolved by agreed settlement or consent order with the concurrence of the Executive Director. The Administrative Law Judge may grant continuances to allow the parties to discuss settlement.

252:002-9-21. Proposed orders

(a) Preparation of proposed orders. The Administrative Law Judge shall hear all evidence and arguments applicable in a case and shall prepare a proposed order including findings of facts and conclusions of law. Prior to such preparation, the Administrative Law Judge may request or require briefs from the parties on any relevant issue. The Administrative Law Judge shall also have the discretion to request or accept from the parties, proposed findings and conclusions.

(b) Service and presentation. Upon finalization of a proposed order, the Administrative Law Judge shall:

- (1) present the proposed order and the record of the matter to the Executive Director for review and entry of a final order; or
- (2) serve it on the parties, by regular mail, offering an opportunity for parties to file exceptions to the proposed order before a final order is entered, pursuant to APA § 311; and then shall present the proposed order, the exceptions, if any, and the record of the matter to the Executive Director for entry of a final order. The parties may by written stipulation waive any of the requirements for a proposed order.

252:002-9-22. Final orders

(a) **Executive Director.** For proceedings heard by an Administrative Law Judge, the Executive Director may adopt, amend, or reject any findings or conclusions of the Administrative Law Judge or exceptions of any party, or may remand the proceeding for additional argument or the introduction of additional evidence at a hearing held for that purpose. This may be done after:

- (1) the opportunity for exceptions has lapsed without receiving exceptions, or after exceptions, briefs and oral arguments, if any, are made; or
- (2) review of the record.

(b) **Issuance.** At the conclusion of the proceedings and (except as provided in Rule 252:002-9-19, Default) after review of the record and/or proposed findings of fact and conclusions of law, the Executive Director shall issue a final order reflecting the findings of fact made, the conclusions of law reached, and specifying the action to be taken. Upon the resolution of motions of summary judgment that are dispositive of the entire case and rulings on standing that are adverse to a Petitioner(s), the Executive Director shall issue a final order.

(c) **Notice.** Parties shall be notified either personally or by mail of the issuance of a final order. A copy of the final order shall be provided to any party and its attorney.

252:002-9-23. Reconsideration

Any party may petition the DEQ for rehearing, reopening or reconsideration of any decision in an individual proceeding within ten days of its entry, pursuant to APA § 317. Nothing in this Chapter shall prevent reconsideration of a matter in accordance with other statutory provisions.

252:002-9-24. Judicial review

The provisions of Section 318 of title 75 of the Oklahoma Statutes shall apply.

SUBCHAPTER 11. ADMINISTRATIVE PENALTY PROCEEDINGS

252:002-11-1. Applicability

The requirements of this Subchapter are in addition to the preceding requirements of this Chapter and are applicable to matters brought under 27A O.S.Supp. 1993, Sections 2-3-502, 2-5-110, and 2-7-126, or any similar statutes providing for the assessment by the DEQ of administrative penalties.

252:002-11-2. Notice of Violation ("NOV")

Unless otherwise provided by the particular enabling legislation, administrative penalty proceedings shall be preceded by a written notice of violation (NOV) informing the Respondent of the regulatory requirement at issue. This NOV must be served upon the Respondent and must state the factual allegations and particular standards or rules upon which the NOV is based. A letter, inspection sheet, petition, consent order or final order may

constitute a NOV for purposes of instituting administrative penalty proceedings, if it meets the requirements of this Section.

252:002-11-3. Administrative compliance and penalty orders

(a) **When issued.** The Executive Director upon the request of a DEQ program area may issue an administrative order requiring compliance, assessing penalties for past violations and specifying penalties for continuing noncompliance. If a preceding Notice of Violation is required by the enabling legislation, an administrative compliance or penalty order shall be issued not less than fifteen days after service of the NOV upon the Respondent, or such reduced period as may be necessary to render the Order reasonably effectual.

(b) **Must specify.** An administrative compliance or penalty order shall specify the facts and conclusions upon which it is based and shall set a time for the Respondent to comply with the applicable regulations. The Order shall specify the penalty, not to exceed the statutory maximum per day of noncompliance, to be assessed in the event that the Respondent fails to comply with the Order within the prescribed time, and, if applicable, the penalty assessed for past violations of the Code, rules, or licenses or permits.

(c) **Service.** An administrative compliance or penalty order shall be served in accordance with Rule 252:002-9-8. The Order shall advise the Respondent that it shall become final unless an administrative hearing is requested in writing within fifteen (15) days of service of the Order.

(d) **Order following hearing.** Based on the hearing and record, an administrative compliance or penalty order will be sustained, modified, or dismissed by the Executive Director. If the hearing process extends beyond any compliance deadline specified in the Order, fines specified in the Order for violations of the Order will continue to accrue during the hearing process unless the Administrative Law Judge stays the penalty upon request for good cause shown.

252:002-11-4. Determining penalty

In addition to factors specified by 27A O.S.Supp. 1993, Section 2-3-502(K)(2) or other law, the following factors, without limitation, may be considered in determining the amount of penalty specified in an administrative penalty order:

- (1) the gravity of the violation, including the likelihood of the development of adverse health effects caused by the violation, and the extent and severity of environmental degradation or adverse health effects caused or placed at risk by the violation,
- (2) the degree of variance from the applicable standards,
- (3) costs of correction of damage, and
- (4) good or bad faith of the Respondent.

252:002-11-5. Assessment orders

(a) **Failure to comply with administrative orders.** After an administrative compliance or penalty order is issued, proceedings may be conducted to determine whether the Respondent has failed to

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comply with the Order for any period of time.

(b) **Application for compliance and penalty hearing.** Any time the DEQ believes the Order has been violated, it may with reasonable promptness apply to the Administrative Law Judge for a compliance and penalty hearing, alleging the period of noncompliance and the amount of the administrative penalty that has accrued. The DEQ shall provide a copy of the application to the Respondent.

(c) **Elements to consider.** The Executive Director, in deciding whether an administrative penalty or compliance order has been violated and whether the penalties are appropriate, may consider efforts to comply with applicable requirements made by the Respondent after issuance of the Order.

(d) **Must request hearing within seven days.** The DEQ's application shall advise the Respondent that the Respondent's right to contest the determination of noncompliance and the amount of the fine is waived if the request for hearing is not made within seven (7) calendar days of receiving notice. A request for hearing is deemed made when received by the DEQ. If timely requested, the hearing must be promptly set and held.

(e) **Issuance of assessment orders.** An assessment order shall be issued by the Executive Director following the determination of the application. An assessment order must state the nature and period of the violation, and determine the amount of the fine. The fine is due and payable immediately upon issuance of the assessment order, unless otherwise provided therein. A copy of the assessment order will be provided to the Respondent.

(f) **Continuing violations.** If the DEQ believes that violations of the administrative compliance or penalty order continue after the issuance of an assessment order, the DEQ may apply within a reasonable time for the issuance of additional assessment orders covering periods of violation since the period covered by the issuance of a previous assessment order.

252:002-11-6. Penalty-only proceedings

(a) **General.** In accordance with 27A O.S.Supp. 1993, Section 2-3-502(L), the DEQ may, within three (3) years of discovery, issue an administrative penalty order proposing specified administrative penalties for non-continuing violations of the Code, rules promulgated thereunder, or permits or licenses issued pursuant thereto.

(b) **Must specify.** The administrative penalty order shall specify the facts and conclusions upon which it is based.

(c) **Determining Penalty.** For information on determining penalty, see 252:002-11-4.

(d) **Service.** The administrative penalty order shall be served in accordance with Rule 252:002-9-8. The Order shall advise the Respondent that it shall become final unless a hearing is requested in writing within fifteen (15) days of service of the Order.

(e) **Hearing.** Based on the hearing and the record, an administrative penalty order will be sustained, modified, or dismissed by the Executive Director.

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SUBCHAPTER 13. FORMAL PUBLIC MEETINGS AND ADMINISTRATIVE PERMIT PROCEEDINGS

PART 1. FORMAL PUBLIC MEETINGS

252:002-13-1. Formal public meetings

(a) **Location.** The DEQ shall determine the location and the facility at which a formal public meeting on a permit application and/or draft permit shall be held.

(b) **Procedure.** The designated presiding officer of a formal public meeting shall establish the procedure by which such meeting shall be conducted based on the requirements of the Code and applicable program-specific rules.

PART 3. ADMINISTRATIVE PERMIT PROCEEDINGS

252:002-13-30. Scope; purpose of proceedings

(a) **Applicability.** In addition to the requirements of Subchapter 9 of this Chapter, the requirements of this Part shall apply to administrative hearings on draft permits.

(b) **Purpose.** The purpose of an administrative permit proceeding is to provide for an evidentiary proceeding for challenges to draft permits and to determine their compliance with the Code and rules promulgated thereunder.

252:002-13-31. Definitions

The following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administrative permit hearing" means an evidentiary hearing conducted by the DEQ as part of an administrative permit proceeding.

"Administrative permit proceeding" means all prehearing conferences, evidentiary hearings and other proceedings connected with an individual proceeding on a draft permit.

"Joining of parties" means the grouping of parties to an administrative permit proceeding who assert rights to relief respect of or arising out of the same draft permit.

"Lead Counsel" means the attorney acting as coordinating counsel for all petitioners or, if only one petitioner, that party's legal representative.

"Petitioner(s)" means a person or group who requests an administrative permit hearing and is determined by the Administrative Law Judge to have standing as a party to the action.

"Respondent" means an applicant whose formally filed permit application and the draft permit related thereto are the subject of an administrative permit proceeding.

252:002-13-32. Request for administrative permit hearing

(a) **Request.** A request for an administrative permit hearing must be in writing signed by the requester, requesters or authorized representative of a group of requesters and shall contain a brief statement of the basis of the request and the name and address of

each requester. If the request is made by or on behalf of a group, the request should contain a list of names and addresses of group members. A request shall be considered an initial petition and should be personally delivered or sent to the address described in the notice telling of such request opportunity or to the DEQ's Office of Administrative Hearings.

(b) Initiation of proceedings. Unless otherwise provided by law, the initiation of administrative permit proceedings shall not occur until a draft permit has been prepared by the DEQ and amended, as appropriate, based on comments received during the public comment period.

(c) Joinder of DEQ. The DEQ, through the permit drafting program, shall be a party to the permit proceeding upon its own petition, or may be joined as a party upon order of the Administrative Law Judge. If the DEQ is not a party to the proceedings, the Administrative Law Judge may call witnesses, hear testimony and receive evidence from the permit drafting program. Such witnesses shall be subject to cross-examination by the parties.

(d) Location for Administrative Permit Hearings. Proceedings related to administrative permit hearings shall be held at the principal office of the DEQ unless otherwise specified by the Administrative Law Judge.

252:002-13-33. Relationship to other rules

In addition to the provisions of this Part, the requirements and procedures set forth in Subchapter 9 of this Chapter (OAC 252:002) for individual proceedings shall apply to administrative permit proceedings and hearings unless specified otherwise or in conflict. In cases of conflict, specific provisions of this Part control over Subchapter 9. The provisions include:

- (1) OAC 252:002-9-7 (Administrative Law Judges and Clerks);
- (2) OAC 252:002-9-8 (Service);
- (3) OAC 252:002-9-10 (Prehearing conferences);
- (4) OAC 252:002-9-11 (Prehearing scheduling conference);
- (5) OAC 252:002-9-12 (Discovery);
- (6) OAC 252:002-9-13 (Prehearing Order);
- (7) OAC 252:002-9-14 (Subpoenas);
- (8) OAC 252:002-9-16 (Motions);
- (9) OAC 252:002-9-17 (Continuances);
- (10) OAC 252:002-9-18 (Evidentiary hearing procedures);
- (11) OAC 252:002-9-19 (Default);
- (12) OAC 252:002-9-20 (Settlement);
- (13) OAC 252:002-9-21 (Proposed orders);
- (14) OAC 252:002-9-22 (Final orders); and
- (15) OAC 252:002-9-23 (Reconsideration).

252:002-13-34. [RESERVED]

252:002-13-35. Prehearing verification conference

(a) Notice. According to 75:309(b), the Administrative Law Judge shall give notice to requesters and Respondents of a prehearing verification conference on a request for an administrative permit

hearing.

(b) Purpose. The prehearing verification conference shall be attended by all requesters and Respondents and/or their representatives for the purpose of examining notice and identifying parties and their representatives.

(c) Verification of notice. The Administrative Law Judge shall examine evidence and receive testimony on whether notice of the opportunity to request an administrative permit hearing was given in accordance with applicable law.

(d) Verification of request. The Administrative Law Judge shall verify whether each requester made a timely and proper request for the hearing.

(e) Verification of standing. The Administrative Law Judge shall verify the standing of all requesters to be parties pursuant to requirements set by applicable law.

(f) Cure of deficiencies. The Administrative Law Judge may allow deficiencies in notice or proof of standing to be cured.

(g) Identification of representatives. When verification is complete, each party shall identify its counsel. All counsel or individuals appearing pro se (representing themselves) shall enter a written entry of appearance with the Administrative Law Judge. In addition, each party shall designate one individual to receive notice and to take primary responsibility for the filing of documents with the Administrative Law Clerk.

(h) Groups. Members of a formally organized group may request to be considered as one party to the hearing and shall be considered a single entity if they meet applicable standing requirements for such a group or if ten (10) members meet the applicable standing requirements for individuals. A group qualified to be a single party must be represented by Counsel during administrative permit proceedings.

252:002-13-36. Selection of Lead Counsel

When more than one Petitioner is verified as a party and their representation is by more than one Counsel, the Petitioners shall select one Lead Counsel to coordinate action and communications on behalf of all Petitioners and their attorneys. The selection of a Lead Counsel shall not prohibit other attorneys for petitioners, or unrepresented Petitioners, from dividing responsibilities such as direct and cross examination, discovery, and opening/closing arguments. Designation as Lead Counsel shall not be deemed to establish an attorney-client relationship not otherwise existing. For good cause, the Administrative Law Judge may allow substitution of Lead Counsel and authorize additional Lead Counsel where conflicts of interest appear.

252:002-13-37. Identification of issues

(a) Integrated petition. The Lead Counsel, on behalf of all joined Petitioners, shall file an integrated petition in the office of Administrative Hearings within twenty (20) days after the completion of the prehearing verification conference. The integrated petition shall name the person against whom relief is requested, contain a reference to the statutes and/or rules

[NEW]

involved, contain a brief statement of the facts giving a right to relief, and state clearly and concisely the action or relief sought and the ground therefor. The integrated petition shall be in the form set forth in Rule 252:002-9-2(c). Relief in the alternative may be pleaded. The petition shall also contain a preliminary listing of topics which the Petitioner(s) intends to put at issue in the hearing. Upon filing an integrated petition with the DEQ, Lead Counsel shall serve the Respondent with a copy of the petition and shall mail copies to, or make personal delivery to, all Petitioner(s) or their representatives.

(b) **Answer.** The Respondent shall file an answer to the integrated petition within twenty (20) days after service of the petition upon him. An answer may contain specific responses or a general denial and shall be served by the Respondent on all other parties to the action.

(c) **Cross petition.** The Respondent may file a cross petition and the named parties shall have the right to file answers within 20 days of service.

(d) **Amendment of petition and answer.** The parties have the right to amend petitions and answers upon a showing of good cause and with leave of the Administrative Hearing Judge.

252:002-13-38. Administrative record

(a) **Content.** In addition to the provisions of Subchapter 9 of this Chapter, the administrative permit hearing record shall include:

- (1) the permit application on file with the DEQ, as amended;
- (2) all written comments received during the public comment period;
- (3) the tape or transcript of the formal public meeting;
- (4) documents resulting from the DEQ's review of the permit application and public comments;
- (5) the draft permit, fact sheet and the response to comments, if any, issued by the DEQ; and
- (6) all published notices.

(b) **Admission into evidence.** The documents referenced in (a) of this Section may be admitted and received in evidence. The Administrative Law Judge may direct that a witness be provided to sponsor a portion or portions of these documents. The Administrative Law Judge may direct the appropriate party to produce the witness for cross-examination. If a sponsoring witness cannot be provided, the Administrative Law Judge may reduce the weight accorded the appropriate portion of the record.

252:002-13-39. Withdrawal and dismissal

(a) **Withdrawal.** Any Petitioner may formally withdraw from the proceedings at any time by filing a statement of withdrawal with the Administrative Law Clerk.

(b) **Dismissal and release.**

- (1) **By motion of Petitioner(s).** At any time during the proceedings, Petitioner(s) may request dismissal of the action by filing a motion with the Hearing Clerk that is signed by all Petitioner(s) or their representative(s). Such dismissal shall

[NEW]

be with prejudice unless the words "without prejudice" appear in the Order of Dismissal issued by the Administrative Law Judge.

(2) **By motion of Respondent.** An action shall be dismissed by the Administrative Law Judge upon withdrawal of the permit application by the Respondent. Any such dismissal shall be with prejudice as to that permit application and the draft permit related thereto.

(3) **By Administrative Law Judge.** An action may be dismissed by the Administrative Law Judge if all Petitioners fail to appear or to prosecute with diligence, or when Petitioner(s) are in disobedience to an Interim Order issued by the Administrative Law Judge. Any Petitioner may be dismissed from an ongoing action for failure to appear or prosecute with diligence or for disobedience to an Interim Order, only upon motion by a party to the action. Such dismissals shall not occur until a Petitioner subject to the Dismissal Order receives notice of the prospective dismissal and is given the opportunity to be heard concerning it. The Administrative Law Judge may release any party from the action upon proper motion at any time.

252:002-13-40. Evidentiary hearing procedures on draft permits

(a) **Order of procedure.** For information on order of procedure, see OAC 252:002-9-18.

(b) **Burden of proof.** The Respondent has the burden of proof as to issues raised by Petitioner(s).

(1) **Petitioner(s).** Petitioner(s) shall have the burden of going forward to present an affirmative case on the issues identified in the petition.

(2) **Respondent.** After the conclusion of the case of the Petitioner(s), the Respondent shall have the burden of presenting an affirmative case on all issues raised by the Petitioner(s).

(c) **Testimony and cross-examination.** The Administrative Law Judge may provide for the testimony of opposing witnesses to be heard consecutively. No cross-examination shall be allowed on questions of law, on matters that are not subject to challenge in an administrative hearing, or on questions of DEQ policy except to the extent such policy must be analyzed to disclose the basis for draft permit requirements. Issues between the parties that are relevant to the hearing but not raised at the hearing shall be dismissed as between the parties and may be so reflected in the final findings of fact and conclusions of law.

252:002-13-41. Orders

(a) **Proposed and Final Orders.** For information on Proposed and Final Orders, see OAC 252:002-9-21 and 252:002-9-22.

(b) **Final Orders.** Final Orders issuing from an administrative permit hearing shall be based on the applicable provisions of statutes and rules, and may be conditioned in accordance with findings and recommendations of the Administrative Law Judge.

252:002-13-42. Issuance or denial of permit

The applicant bears the burden of persuading the agency that the

permit should issue. Title 75 O.S. 1991, § 307 is the appropriate mechanism to address any alleged failure by the DEQ to conform to the issuance or denial of the permit to the requirements of a Final Order.

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES

252:002-15-1. Purpose and applicability

(a) **Purpose.** The rules in this Subchapter establish time periods for issuance or denial of environmental permits and licenses that are required by law.

(b) **Permits included.** The provisions of this Subchapter apply to permits reviewed by the following Programs and their successors:

- (1) the Air Quality Division;
- (2) the Hazardous Waste Management Program;
- (3) the Solid Waste Management Program; and
- (4) the Water Quality Division.

(c) **Supersedes inconsistent rules.** Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title.

252:002-15-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Application" means a document prepared in accordance with the rules and the forms and instructions provided by the respective Program and submitted with the expectation of providing that information necessary for review and determination of the permit. The application consists of the initial submittal and all supplements.

"Program" means the services or divisions of the DEQ that are specified in Section 252:002-15-1.

"Submittal" means each separately submitted document or document package that forms a part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

252:002-15-3. Common permitting procedures and timelines

(a) **Filing of applications.** Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:

- (1) file-stamp the application with the date of receipt, the Service name and an identification number;
- (2) assign the application to a named person who will do the review; and
- (3) timely log this information.

(b) **Administrative completeness review.** Unless otherwise provided

in this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to initially determine if the application is administratively complete.

(1) **Not complete.** Upon determining that the application is not administratively complete, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application. This notice shall not require or preclude further review of the application and further requests for specific information. If the reviewer does not notify the applicant of such inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.

(2) **Complete.** Upon a determination that the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.

(c) **Technical review.** Each Program involved shall have a certain time period to review each application for technical compliance with the relevant regulations and reach a final determination.

(d) **When times are tolled.** The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation (includes public meetings and administrative permit hearings (and waiting periods therefor), public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies), or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant amends his application of his own accord.

(e) **Supplemental time.** To compensate for time spent in reviewing inadequate materials, the DEQ's notice of deficiencies and request for supplemental information may specify that up to 30 additional calendar days may be added to the application processing time. This may also include the number of days the DEQ spent in preparing the notice and request. Requests for supplemental information and data may also specify that additional days for technical review equal to the number of days the applicant used to prepare and submit such supplement may be added to the application review time.

(f) **Withdrawal.** Unless specified otherwise in a program's rules, failure by an applicant to supplement an application within 180 days after the request shall be deemed to be a withdrawal unless the time is extended by agreement for good cause.

(g) **Extensions.** Extensions to the timelines of this Subchapter may be made as provided by law.

252:002-15-4. Pending failures

(a) **Circumstances outside agency control.** Technical review time shall be tolled for specified times when, prior to the deadline, the Executive Director certifies that a failure to meet a deadline is imminent and is caused by circumstances outside the control of the DEQ. Such circumstances include, but are not limited to, acts of God; a substantial and unexpected increase in the number of applications filed, and additional review duties imposed on the DEQ

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from an outside source.

(b) Other circumstances. Where circumstances that are not clearly outside the control of the DEQ may cause a failure to meet a deadline, then:

- (1) at least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline.
- (2) the Applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

252:002-15-5. Air quality permit timelines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

- (1) Construction permits:
 - (A) PSD - 540 days.
 - (B) Major Sources - 365 days.
 - (C) Minor - 180 days.
- (2) Operating permits for new construction or modifications - 730 days.
- (3) Relocation permits - 30 days.

252:002-15-6. Hazardous waste permit timelines

The following hazardous waste permits and authorizations shall be technically reviewed and issued or denied within the timeframes specified below.

- (1) Hazardous waste permits:
 - (A) New RCRA Operations permit or the renewal thereof - 300 days.
 - (B) New State Recycling permit - 300 days.
 - (C) New State Construction permit - 300 days.
 - (D) Class 3 permit modifications - 300 days.
 - (E) Underground Injection Control permit - 300 days.
- (2) Class 1 and Class 2 permit modifications - 300 days.
- (3) Closure plans, post-closure plans and transfer station plans and plan modifications - 300 days.

252:002-15-7. Solid waste permit timelines

Times for issuance or denial of applications for all solid waste permits shall be in accordance with applicable chapters of Solid Waste Regulations, OAC 252:500 et seq., or, if not specified therein, the technical review period for solid waste permit applications and for each submittal and resubmittal related thereto shall be 90 days, subject to OAC 252:002-15-3.

252:002-15-8. Water quality permit timelines

(a) Applications for Water Quality permits, certifications and authorizations shall be technically reviewed and permits shall be issued or denied within the following timeframes:

- (1) Dairy Waste - 180 days
- (2) Discharges - 180 days
- (3) 401 Certifications - 180 days

- (4) Industrial Wastewater other than discharge - 180 days
- (5) Pretreatment Trust Users - 180 days
- (6) Public Water Supply - 90 days
- (7) Septage and Septic Tank Cleaners - 120 days
- (8) Underground Injection Control (nonhazardous) - 420 days
- (9) Water Pollution Control Construction - 90 days

(b) Preliminary and secondary applications associated with the State Revolving Fund shall be reviewed and, if acceptable, transmitted to the Oklahoma Water Resources Board for approval. If the DEQ can not concur in the preliminary or secondary applications, it will notify the applicant in writing. Transmittal of application to the Oklahoma Water Resources Board or a written notice of non-approval shall occur within 90 days after receipt of the application.

252:002-15-9. Other permits

Any environmental license or permit that is not described in this Subchapter shall not be subject to these time frames but shall be reviewed with all due and reasonable speed.

SUBCHAPTER 17. COMPLAINT PROCESSING

252:002-17-1. Purpose

The rules in this Subchapter identify the procedures to process pollution complaints.

252:002-17-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Complaint" means any written or oral information submitted to ECLS alleging site-specific environmental pollution. Information must be submitted by persons expecting a response, and does not include referrals from federal agencies, information gained from facility inspections or DEQ employees, or self-reported incidents.

"ECLS" means the Environmental Complaints and Local Services Division of the DEQ.

"Enforcement Action" means:

- (A) any administrative compliance or penalty order;
- (B) any administrative petition to revoke or suspend a permit or license;
- (C) a consent order or proposed consent order in lieu of any enforcement action defined in subparagraph (A) or (B), of this definition; or
- (D) A civil petition, or a criminal information or complaint in municipal or district court.

"Mediation" means a voluntary negotiating process in which parties to a dispute agree to use a mediator to assist them in jointly exploring and settling their differences, with a goal of resolving their differences by a formal agreement created by the parties.

"Resolution" means the determination by the DEQ, based on

analysis and investigation of a complaint, that there has not been a violation of Oklahoma environmental statutes or rules as alleged by a complaint, that the violation has been corrected, or that an Enforcement Action has been filed and the 14-day complainant comment period has been considered.

"Response" means the initiation of appropriate action, including but not limited to investigation or referral of a complaint, and informing complainants regarding potential actions that may occur based on a complaint.

252:002-17-3. Receipt of complaints

- (a) Toll free hot line. The DEQ shall provide a toll-free hot line to receive environmental complaints.
- (b) General mail or other DEQ phone numbers. Complaints may be received by mail or by any of the DEQ's phone numbers during regular office hours.
- (c) DEQ offices. Complaints may be made in person at any of the DEQ's offices during regular office hours.

252:002-17-4. Investigation of complaints

After receipt of a complaint, ECLS may assign an investigator to the complaint. The investigator or other DEQ personnel may obtain any information which may tend to prove there has or has not been a violation of Oklahoma environmental statutes or rules, who the potentially responsible persons are, and any other information which may be needed to resolve the complaint.

252:002-17-5. Notification

- (a) Potential actions. Within two (2) working days of receipt of a complaint, the ECLS shall notify the complainant of the potential actions which may occur to resolve the complaint.
- (b) Written notification.
 - (1) Within seven (7) working days of the receipt of a complaint, the ECLS shall notify the complainant, in writing, of the determination of the course of action to be taken by the DEQ.
 - (2) Within seven (7) working days of the resolution of the complaint, the ECLS shall notify the complainant of the resolution. If complainants notify the DEQ they are dissatisfied with the resolution reached by the DEQ, complainants shall be notified in writing of their options, including but not limited to referral on written request to an outside source trained in mediation.
- (c) Enforcement. If as a result of a complaint the DEQ undertakes an Enforcement Action, the ECLS shall notify by mail the person whose complaint caused the Enforcement Action to be initiated of an opportunity to provide, within fourteen (14) calendar days after the date of the mailing of the notice, written information pertinent to the complaint.

252:002-17-6. Referral of complaints

- (a) To appropriate agency. If the DEQ receives a complaint which clearly falls within the jurisdiction of another state

environmental agency, the complaint shall be referred to the appropriate agency within one working day of the date of determination of jurisdiction. Complaints referred to other agencies shall require no further action by the DEQ and will not be referred by the DEQ to mediation.

(b) To mediation. Complainants who are not satisfied with the DEQ's resolution of their complaint may ask the ECLS in writing to refer their complaints to an outside source trained in mediation. Participation in the mediation process shall not hinder or interfere with any enforcement action taken by the DEQ. The ECLS shall maintain a roster of certified mediators which shall be available to the public. Complainants and persons named in the complaint shall be advised that participation in the mediation process conducted by the outside source is completely voluntary and confidential and that fulfillment of any agreements reached in mediation shall be the responsibility of the parties of the dispute. The DEQ shall not be responsible for any mediation costs.

Air Quality Council

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, DECEMBER 13, 1994
9:30 A.M.

LINCOLN PLAZA OFFICE COMPLEX
4545 NORTH LINCOLN BOULEVARD
BROWN ROOM
OKLAHOMA CITY, OKLAHOMA

BRIEFING

- | | |
|---|-----------------|
| 1. Call to Order | Chairman |
| 2. Division Director's Report
Informational - An update of current events
and AQD activities | Director |
| Title V Status -
Attainment Status - Legislation
Contract Status - Staffing - Other | |
| Discussion by Council/Public | |
| 3. Schedule of Calendar Year 1995 Meetings
Discussion by Council/Public | Director |
| 4. Uniform Permit Processing
Discussion by Council/Public | Director |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

Lincoln Permitting

**AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL**

**A Public Meeting: TUESDAY, DECEMBER 13, 1994
1:00 P.M.**

**LINCOLN PLAZA OFFICE COMPLEX
4545 NORTH LINCOLN BOULEVARD
BROWN ROOM
OKLAHOMA CITY, OKLAHOMA**

MEETING

- | | |
|--|-----------------------------|
| 1. Call to Order | Chairman |
| 2. Roll Call | Secretary |
| 3. Resolution - Dr. Michael Hughes | Director |
| 4. Schedule of Calendar Year 1995 Meetings
Discussion by Council/Public | Chairman |
| 5. Approval of Minutes of October 11, 1994 | Chairman |
| 6. Grain and Feed (SC 24)
Oklahoma State University Study
Discussion by Council/Public | Staff/Grain Industry |
| 7. New Business
Discussion/consideration of subjects/business
arising within the past 24 hours. | Chairman |
| 8. ADJOURNMENT
Next Regular Meeting -
AS DETERMINED
Lincoln Plaza Office Complex Brown Room
4545 N. Lincoln
Oklahoma City, OK | Chairman |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 13, 1994

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Anna Clapper	OK Coalition for Clean Air	OKC	
2 John Wilson	ODEQ		
3 Tim Forrest	OC-ALC/JAV	Tinker AFB, OK 73445	No
4 Phil BERTON	MOBIL OIL	12450 GREENSPRING DR HOUSTON TX 77060	
5 GENE ASANDOR	MOBIL OIL	12450 GREENSPRING DR HOUSTON, TX 77060	No
6 Gerald Bercher	WPEC	PO Box 429 Ardmore, OK	No
7 Adam Kemmerly	ODEQ-ARD		
8 Randy Ward	"		
9 Gail T. Turner	gambler's union	101 S. Boston Ave Tulsa	NO
10 Reed Oxford	Hollinger	10 Edm 3 Tulsa	NO
11 Walt Hester	ERM Architects	4100 Long Valley Dallas	NO
12 Merrit Niewander	RMT/Jones & Neuse	12655 Central Dallas	No
13 Linn W. Hamner	CCADOC	921 NE 23rd St, OKC	No
13 Nelson Brensing	Ouapaw	Stillwater OK	NO
14 Ann Jayne	ODEQ-ARD		
15 Alan Dove	Western Gas	OKC City	NO
16 NATAN BIRAU	Western Gas	12200 Pecos St Denver, CO 80234	No
17 Frank Carlton	EQ Board		
18 Norris Moffatt	ARD	OKC	No
19 Metrice Johnson	ARD	OKC	NO

20	E. J. Berman	DEQ - Customer Assistance	No
21	John Coakley	EQ Board	
22	Rick Smith	DEQ/AQD	UCC
23	Brian Maca	DEQ	
24	Kathy Martin	CAP/DEQ	
25	Linda Koenig	ACOG	
26	Tammy Bennett	TXI	No
27	Lay Bishop	ODEQ	
28	Kent Stafford	ODEQ	
29	Steve Swinner	OGFA	
30	Rich Tackman	"	Enid, OK
31	Dan Kunt	TCSC	
32	Joan Hampton	OGFA	Enid, OK
33	Ph. Muehlgen II	OGFA	" "
34	Wade McInnes	OGFA	Wichita
35	Wade McInnes	DEQ/AQD	OK No
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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, AUGUST 15, 1995
9:30 A.M.

LINCOLN PLAZA OFFICE COMPLEX
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
OKLAHOMA CITY, OKLAHOMA

BRIEFING

- | | | |
|----|--|---------------|
| 1. | Call to Order | Chairman |
| 2. | Division Director's Report
Informational - An update of current events
and AQD activities

Title V Permitting
Fees -- Consumer Price Index
Hiring Freeze
ARACT -- Rockwell International
Other
Discussion by Council/Public | Director |
| 3. | Uniform Environmental Permitting Rules
Air Quality Permitting Rules
Subchapter 21 of [NEW] OAC 252:010
and Subchapters 6, 7, and 8 of OAC 252:100
Discussion by Council/Public | Staff |
| 4. | Public Hearing OAC 252:010
Uniform Environmental Permitting {New Chapter}
Tier Classifications of Permit Applications
Discussion by Council/Public | Staff |
| 5. | Public Hearing OAC 252:100-8
Operating Permits (Part 70) {AMENDED}
Phased Submittal Operating Permit Applications
Requirements for Final Approval
Discussion by Council/Public | Sheedy/Thomas |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, AUGUST 15, 1995
1:00 P.M.

LINCOLN PLAZA OFFICE COMPLEX
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
OKLAHOMA CITY, OKLAHOMA

HEARING/MEETING

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of Minutes / June 20, 1995 Chairman
4. Public Hearing OAC 252:010 Staff
Uniform Environmental Permitting (NEW CHAPTER)
Tier Classifications of Permit Applications
Discussion by Council/Public
5. Public Hearing OAC 252:100-8 Thomas/Sheedy
Operating Permits (Part 70) (AMENDED)
Phased Submittal Operating Permit Applications
Requirements for Final Approval
Discussion by Council/Public
6. New Business Chairman
Discussion/consideration of subjects/business
arising within the past 24 hours.
7. ADJOURNMENT Chairman
Next Regular Meeting - October 17, 1995
Tulsa City-County Health Department
4615 E. 15 AUDITORIUM
Tulsa, Oklahoma

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

MARK S. COLEMAN
Executive Director



FRANK KEATING
Governor

State of Oklahoma
DEPARTMENT OF ENVIRONMENTAL QUALITY

MEMORANDUM

August 1, 1995

TO: Interested Persons
FROM: Kay E. York *KE*
SUBJECT: Proposed Rules for Uniform Environmental Permitting

Our goal of having a simplified permitting procedure that applies uniformly to each program is almost here! The ***SUPER** program has been established by statute and will become effective on July 1, 1996, for applications filed on or after that date.

Now, implementing rules must be adopted by the Environmental Quality Board before March 1, 1996.

So, we've divided the rulemaking into 3 phases:

- A. "Designation/Delegation rule" (designates the positions to which the Executive Director may delegate the power and duty to issue/deny DEQ permits).
- B. "Tier Rules" (classify each type of permit or authorization the DEQ issues into 3 tiers).
- C. "Permitting Rules" - (New Chapter 10)
 - (uniform procedural rules that apply agency-wide), and
 - (program-specific rules to supplement the uniform rules.)

[NOTE: This 3rd phase also includes changes to existing program rules needed to implement Chapter 10 and ***SUPER**.]

Phases A and B are included in this packet.
Phase C will be mailed out on August 15.

Attached for your review:

1. Designation/Delegation rule (text and rulemaking notice).
2. Tier rules (text and rulemaking notice).
3. Tier I, II and III flow charts.

Please note dates of comment periods and public hearings. Comments received will be appreciated and considered.

Our program is forming the basis of programs under consideration by the EPA and in other states! Thanks to each of you for the assistance and support you have given us during these last 2 years.

* Simplified Uniform Permitting Through Environmental Regulation.

DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 010. UNIFORM ENVIRONMENTAL PERMITTING
SUBCHAPTER 21. AIR QUALITY

PART 1. APPLICATION CLASSIFICATIONS AND GENERAL PROVISIONS

252:010-21-1. Tier I air quality applications

The following air quality authorizations require Tier I applications:

- (1) Construction permit for a minor source.
- (2) Operating permit for a minor source.
- (3) Operating permit for a major facility*, issued after a construction permit, which does not differ from the construction permit in any manner which would otherwise subject the operating permit application to public review.
- (4) New, modified or renewed authorization under a general permit.
- (5) Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.
- (6) Minor modification of a major facility's* construction and/or operating permit.
- (7) Applicability determination.
- (8) Emergency burn approval.
- (9) Asbestos renovation/demolition approval.
- (10) Relocation permit.
- (11) Temporary permit.
- (12) Plant-wide emission plan approval.
- (13) Administrative amendment of all permits and other authorizations.
- (14) Extension of a minor source's construction permit.
- (15) Extension of a major facility's* construction permit with no or minor modification.
- (16) Renewal of an operating permit for a minor source.

252:010-21-2. Tier II air quality applications

The following air quality authorizations require Tier II applications.

- (1) Operating permit for a major facility*, issued after a construction permit, which differs from the construction permit in a manner which subjects the operating permit application to public review.
- (2) Operating permit for a major facility* that does not have a construction permit.
- (3) Significant modification of a major facility's* construction or operating permit.
- (4) New, modified or renewed general permit.
- (5) Extension of a major facility's* construction permit with significant modification.
- (6) Renewal of an operating permit for a major facility*.

252:010-21-3. Tier III air quality applications

A construction permit for a new or existing major facility* requires a Tier III application.

*"Major facility" means a source subject to Title V permitting requirements.

DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 010. UNIFORM ENVIRONMENTAL PERMITTING
SUBCHAPTER 31. HAZARDOUS WASTE MANAGEMENT

PART 1. APPLICATION CLASSIFICATIONS AND GENERAL PROVISIONS

252:010-31-1. Tier I hazardous waste management applications

The following hazardous waste management authorizations require Tier I applications.

- (1) Minor modification of any hazardous waste permit.
- (2) Modification to a recycling permit in accordance with 27A O.S. Supp. 1994, §2-7-118(A).
- (3) Class II permit modification as defined in 40 CFR §270.42.
- (4) Emergency hazardous waste disposal plan approval.
- (5) Hazardous waste generator disposal plan approval.
- (6) Technical plan approval.
- (7) Hazardous waste transporter license.
- (8) Hazardous waste transfer station plan modification which is not related to capacity.
- (9) Emergency permit issued in accordance with 40 CFR § 270.61.
- (10) Interim status closure plan approval in accordance with 40 CFR §265.113(d)(4).
- (11) Minor administrative modification of all permits and other authorizations.
- (12) Renewal of disposal plan approval and transporter license.
- (13) New, modified or renewed authorization under a general permit.

252:010-31-2. Tier II hazardous waste management applications

The following hazardous waste management authorizations require Tier II applications.

- (1) On-site hazardous waste treatment, storage or disposal permit.
- (2) Mobile recycling permit.
- (3) Research & Development permit.
- (4) Major modification of any hazardous waste permit.
- (5) Modification of an on-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.
- (6) Modification of an on-site hazardous waste facility permit for an expansion of permitted boundaries.
- (7) Modification of on-site hazardous waste facility permit in which the application is for methods, units or appurtenances that are different from those permitted.
- (8) Renewal of a hazardous waste treatment, storage or disposal permit.
- (9) Hazardous waste transfer station plan approval.
- (10) Hazardous waste transfer station plan modification involving increase in approved capacity.
- (11) Variance which is not part of a permit application.
- (12) Variance which is part of a Tier II permit application.
- (13) New, modified or renewed general permit.

1
2 The following hazardous waste management authorizations
3 require Tier III applications.

4 (1) Off-site hazardous waste treatment, storage, disposal
5 and/or recycling permit.

6 (2) Modification of an off-site hazardous waste facility
7 permit for a fifty percent (50%) or greater increase in
8 permitted capacity for storage, treatment, and/or disposal,
9 including incineration.

10 (3) Modification of an off-site hazardous waste facility
11 permit for an expansion of permitted boundaries.

12 (4) Modification of off-site hazardous waste facility permit
13 in which the application is for methods, units or
14 appurtenances that are different from those permitted.

15 (5) Variance which is part of a Tier III application.
16

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 CHAPTER 010. UNIFORM ENVIRONMENTAL PERMITTING
3 SUBCHAPTER 41. LABORATORY CERTIFICATION

6 PART 1. APPLICATION CLASSIFICATIONS AND GENERAL PROVISIONS

7 252:010-41-1. Tier I laboratory certification applications
8 A Tier I application shall be required for a new, modified,
9 amended or renewed laboratory certification.

10
11 252:010-41-2. Tier II laboratory certification applications
12 None

13
14 252:010-41-3. Tier III laboratory certification applications
15 None
16

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 CHAPTER 01 UNIFORM ENVIRONMENTAL PERMITTING
3 SUBCHAPTER 51. OPERATOR CERTIFICATION
4

5 PART 1. APPLICATION CLASSIFICATIONS AND GENERAL PROVISIONS
6

7 252:10-41-1. Tier I operator certification applications

8 The following authorizations require Tier I applications.

- 9 (1) Waterworks operator certification (standard and
10 temporary).
11 (2) Wastewater works operator certification (standard and
12 temporary).
13 (3) Waterworks laboratory operator certification.
14 (4) Wastewater works laboratory operation certification.
15 (5) Septic tank installer certification.
16 (6) Septic tank cleaner license.
17 (7) Landfill operator and/or manager certification.
18 (8) Waterworks helper registration.
19 (9) Wastewater works helper registration.
20 (10) Amendments, modifications and renewals of all
21 authorizations.

22
23 252:10-41-2. Tier II operator certification applications

24 None.

25
26 252:10-41-1. Tier III operator certification applications

27 None.
28

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 CHAPTER 10. UNIFORM ENVIRONMENTAL PERMITTING
3 SUBCHAPTER 61. RADIATION MANAGEMENT

6 PART 1. APPLICATION CLASSIFICATIONS AND GENERAL PROVISIONS

7 252:10-61-1. Tier I radiation management applications

8 The following radiation management authorizations require Tier
9 I applications.

10 (1) Industrial X-ray registration and the amendment,
11 modification and/or renewal thereof.

12 (2) X-ray fluorescence spectroscopy instrument license and
13 the amendment, modification and/or renewal thereof.

14
15 252:10-61-2. Tier II radiation management applications

16 None.

17
18 252:10-61-3. Tier III radiation management applications

19 None.

DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 010. UNIFORM ENVIRONMENTAL PERMITTING
SUBCHAPTER 71. SOLID WASTE MANAGEMENT

PART 1. APPLICATION CLASSIFICATIONS AND GENERAL PROVISIONS

252:010-71-1. Tier I solid waste management applications

The following solid waste management authorizations require Tier I applications.

- (1) Processing facility permit for the composting of yard waste only.
- (2) Emergency authorization for waste disposal resulting from a natural disaster.
- (3) Permit for a solid waste transfer station that, prior to application filing, received county commissioner approval according to 27A O.S. Supp 1995, §2-10-307.
- (4) Biomedical waste transfer station permit when activities are limited to the following:
 - (A) consolidation of sealed containers, and/or
 - (B) transfer of sealed containers from one vehicle or mode of transportation to another.
- (5) Modification of a solid waste permit to add methods, units or appurtenances for liquid bulking processes; yard waste composting; recycling operations; waste screening; or baling, chipping, shredding, grinding equipment and/or operations.
- (6) Modification of any solid waste permit involving a request for less than twenty-five percent (25%) increase in permitted capacity for storage, processing or disposal (including incineration) when the request is for equivalent methods, units or appurtenances as those permitted.
- (7) Modification to any solid waste permit to make minor changes that are not subject to Tier II or Tier III processes.
- (8) Modification of plans for closure and/or post-closure.
- (9) Nonhazardous industrial solid waste disposal plan approval, renewal or amendment.
- (10) County solid waste management plan approval.
- (11) Technical plan approval.
- (12) Permit transfer approval.
- (13) All other administrative approvals required by OAC 252:510 or OAC 252:520.
- (14) New, modified or renewed authorization under a general permit.
- (15) Administrative modification of all permits and other authorizations.

252:010-71-2. Tier II solid waste management applications

The following solid waste management authorizations require Tier II applications.

- (1) Permit for a solid waste processing facility except yard waste composting as listed under Tier I.
- (2) Permit for a solid waste transfer station except:
 - (A) a transfer station permit with county commissioner approval as listed under Tier I, or
 - (B) a biomedical waste transfer station permit listed under Tier I.
- (3) Permit for an on-site incinerator.
- (4) Permit for an on-site solid waste land disposal site.
- (5) Permit for a Material Recovery Facility (MRF) if waste is not source-separated.
- (6) Modification of any on-site solid waste permit except as listed under Tier I.

- 1 (7) Modification of an off-site (Tier III) solid waste
- 2 permit involving a request for more than twenty five percent
- 3 (25%) but less than fifty percent (50%) increase in permitted
- 4- capacity for storage, processing or disposal (including
- 5 - incineration) when the request is for equivalent methods,
- 6 - units or appurtenances as those permitted, except those listed
- 7 under Tier I, Rule 252:010-71-1(5).
- 8 (8) Modification of a permit for a change in waste type.
- 9 (9) New, modified or renewed general permit.

10
11 **252:010-71-3. Tier III solid waste management applications**

12 The following solid waste management authorizations require
13 Tier III applications.

- 14 (1) Permit for an off-site processing facility, unless
 - 15 otherwise specified in Tier I, Rule 252:010-71-1, or Tier II,
 - 16 Rule 252:010-71-2.
 - 17 (2) Permit for an off-site solid waste land disposal site.
 - 18 (3) Permit for an off-site incinerator.
 - 19 (4) Modification of any off-site solid waste permit involving
 - 20 a fifty percent (50%) or greater increase in permitted
 - 21 capacity for storage, processing, and/or disposal, including
 - 22 incineration.
 - 23 (5) Modification of an off-site solid waste land disposal
 - 24 permit for an expansion of permitted boundaries.
 - 25 (6) Modification of an off-site solid waste permit in which
 - 26 the request involves different methods, units or appurtenances
 - 27 than those permitted, except those listed under Tier I Rule
 - 28 252:010-71-1(5).
 - 29 (7) Variance.
- 30

DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 010. UNIFORM ENVIRONMENTAL PERMITTING
SUBCHAPTER 81. UNDERGROUND INJECTION CONTROL

PART 1. APPLICATION CLASSIFICATIONS AND GENERAL PROVISIONS

252:010-81-1. Tier I underground injection control applications

The following underground injection control authorizations require Tier I applications.

- (1) Minor modification of a permit for Class I, III, and V wells in accordance with 40 CFR §144.41 (1994).
- (2) Modification of an approved closure and/or post-closure plan for a Class I hazardous waste injection well.
- (3) Modification of an approved plugging and abandonment plan for Class I nonhazardous and Class III injection wells.
- (4) Modification of an approved corrective action plan for a Class I injection well.
- (5) Emergency permit in accordance with 40 CFR §144.34.
- (6) New, modified or renewed authorization under a general permit.
- (7) Minor administrative modification of all permits and other authorizations.

252:010-81-2. Tier II underground injection control applications

The following underground injection control authorizations require Tier II applications.

- (1) On-site Class I nonhazardous waste injection well permit.
- (2) Class III and V injection well permits except Class V permits issued under Tier III.
- (3) Modification and/or renewal of all DEQ-issued underground injection control well permits.
- (4) New, modified or renewed general permits.

252:010-81-3. Tier III underground injection control applications

The following underground injection control authorizations require Tier III applications.

- (1) Class I hazardous waste injection well permit.
- (2) Off-site Class I nonhazardous waste injection well permit.
- (3) Class V industrial waste injection well permit.

DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 010. UNIFORM ENVIRONMENTAL PERMITTING
SUBCHAPTER 91. WATER QUALITY

PART 1. APPLICATION CLASSIFICATIONS AND GENERAL PROVISIONS

252:010-91-1. Tier I water quality application

The following water quality authorizations require Tier I applications.

- (1) Permit for flow-through impoundment(s) as part of the pretreatment process.
- (2) Re-permitting of facility with an expiring permit for industrial non-discharging impoundment or septic tank system.
- (3) Re-permitting of expiring permit with minor or no change(s) for land application of sludge and/or wastewater for same site.
- (4) New, modified or renewed authorization under a general permit.
- (5) Approval of new pretreatment program.
- (6) Closure plan approval.
- (7) Dredge and fill certification.
- (8) Approval of exemption for water line extensions.
- (9) Approval of exemption for water distribution and wastewater collection systems.
- (10) Approval for individual residential sewage disposal system.
- (11) Approval of small public sewage system with less than 5,000 gallons per day which do not discharge, land apply wastewater or sludge, or have lift stations designed to handle a peak capacity greater than 10 gallons per minute.
- (12) Individual water well construction certification.
- (13) Residential development plan or plat approval.
- (14) Transfer of discharge permit.
- (15) Minor modification of discharge permit.
- (16) Minor modification of permit for land application of sludge and/or wastewater.
- (17) Modification of or addition to a municipal wastewater treatment system (including sewer line extensions).
- (18) Modification of or addition to a public water supply treatment and/or distribution system.
- (19) Modification of non-discharging impoundment and/or septic tank system permit.
- (20) Modification of an approved pretreatment program.
- (21) Administrative amendment of permits or other authorizations.

3 applications.

- 4- (1) Permit for municipal wastewater treatment system.
- 5- (2) Permit for public water supply system.
- 6- (3) Discharge permit for minor facility.
- 7 (4) Individual storm water permit.
- 8 (5) Permit for industrial non-discharging impoundment or
- 9 septic tank system.
- 10 (6) Permit for land application of sludge and/or wastewater
- 11 at new site.
- 12 (7) Re-permitting of a facility with expiring discharge
- 13 permit.
- 14 (8) Re-permitting of facility with expiring individual storm
- 15 water discharge permit.
- 16 (9) Re-permitting with major change(s) from expiring permit
- 17 for land application of sludge and/or wastewater for the same
- 18 site.
- 19 (10) Variance including thermal components of effluent
- 20 limitations for an individual discharge permit.
- 21 (11) New, modified and renewed general permits.
- 22 (12) Major modification of discharge permit.
- 23 (13) Major modification of permit for land application of
- 24 sludge and/or wastewater.

25
26 **252:010-91-3. Tier III water quality application**

27 A new discharge permit for a major facility requires a Tier
28 III application.
29

002

AIR QUALITY COUNCIL
AUGUST 15, 1995
1:00 p.m.
MINUTES

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
George Albright
David Branecky
Bill Fishback
Marlin "Ike" Glass
Kathryn Hinkle
Meribeth Slagell
Pierre Taron

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Scott Thomas
Joyce Sheedy
Kay York
Myrna Bruce

Council Members Absent

Larry Canter, Vice-Chairman

Guests Present

(see attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room at the Lincoln Plaza location, and the entrance to the Air Quality Division offices.

Call to Order - Mr. Breisch called the meeting to order and roll was taken: Mr. Branecky - aye; Dr. Canter - absent; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - aye; Mayor Taron - aye; Mr. Albright - aye; Mr. Glass - aye; Mr. Breisch - aye.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 20, 1995 Meeting/Hearing. Mr. Branecky questioned page two, the election of vice-chairman. Subject to that correction being made to the June 20, 1995 Minutes, Mr. Albright moved to accept the June 20, 1995 Minutes. Mr. Glass made a second to the motion. Roll call as follows: Mr. Branecky - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - abstain; Mayor Taron - aye; Mr. Albright - aye; Mr. Glass - aye; Mr. Breisch - aye.

PUBLIC HEARING
OAC 252:100-8 OPERATING PERMITS (PART 70)

As protocol officer, Larry Byrum convened the hearing and called Mr. Scott Thomas, staff representative.

Mr. Thomas: This hearing is a continuation of the hearing of June 20, 1995 in Tulsa, Oklahoma. The purpose of the proposed rule revisions are phased submittal of Title V Permit Applications and to correct deficiencies with Oklahoma's Title V Program. The EPA required these changes in the March 10, 1995 *Federal Register*. Following interim approval, EPA will allow eighteen months for corrections to be made to the rule for the purpose of obtaining final approval of the Title V Program.

Mr. Thomas entered into the record the written comments from EPA, the oil and gas industry, the aerospace industry, and Tinker Air Force Base. Commenters supported the proposal to allow for three-year phased submittal of a Title V permit application based on the source's SIC code. One commenter asked why refinery applications were delayed for twenty eight months. Mr. Thomas replied that refineries are complex sources. The additional time would allow for a more comprehensive review by staff, and in a better permit.

The proposed language of OAC 252:100-8-5, pages ten and eleven, would be consistent with EPA's source category limited approval. Additional time would allow for staff training and facilitating industry's preparation of comprehensive, accurate permit applications. The staff recommended these changes for adoption as a Permanent and Emergency rule.

Numerous comments were received on other revisions not related to OAC 252:100-8-5. Comments included nonaggregation of sources contained in the definition of 'major source' and what constitutes insignificant or trivial activity. Commenters had concern about revisions addressing the permit content providing for standing, judicial review, and administrative amendment procedures. Mr. Thomas responded that EPA final interim approval and recommendation is pending, therefore, for the State to take action at this time may not be appropriate. Postponing these rule revisions to a later date will allow Oklahoma's final approval to be consistent with other states and EPA guidance documents.

Deborah Perry, EnerCon: When a Title V permit for a source is not due for 28 months, will the source have until then to apply for a minor source permit.

Dr. Sheedy: At this time it is my understanding that they do.

Nick Hollinshed, ERM Southwest: Would one have to apply for a synthetic minor permit prior to the due date for that SIC code?

Mr. Thomas: That is the staff's understanding.

Merle Fritz, Sinclair Oil: Does the Council have a position on the recently issued EPA White Paper for the Title V permit?

Mr. Fishback: No position by Council has been taken.

Jole Luehrs, EPA, commented at the request of Mr. Byrum: Part 70 states that Oklahoma can receive interim approval with the caveat that if there were minor changes needed the State would have eighteen (18) months to correct those deficiencies and get full approval. This a very good program and EPA feels final approval can be issued sometime in 1996. During the interim time, permits issued are 'good permits and will not have to be recalled when final approval is received. Changes to permits can be made at renewal. There is a provision in Part 70 that insignificant activities at a source should not be part of the permit. The EPA has not come out with a definitive list of insignificant activities because the list is still being developed by states and EPA. The insignificant activities list is not part of the regulations, but an administrative-type list. The EPA knows during the transition period this list will increase and decrease as information is learned about activities that should be on the list.

Mr. Byrum: The staff recommends approval of the phased submittal portion of OAC 252:100-8-5 for Permanent and Emergency rulemaking.

Mr. Fishback made a motion to adopt OAC 252:100-5-8 as a Permanent and Emergency rule. Mr. Branecky seconded the motion. Roll call was as follows: Mr. Branecky - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - aye; Mayor Taron - aye; Mr. Albright - aye; Mr. Glass - aye; Mr. Breisch - aye.

This concluded the Hearing portion of the meeting.

OAC 252:100-010 UNIFORM PERMITTING

Mr. Breisch requested that Ms. York's handout describing the rule changes be made a part of the Minutes record (Attached).

Kay York, DEQ staff attorney: These rules will appear in a new subchapter, Chapter 002 Prodecures of the Department of Environmental Quality, subchapter 15 Uniform Permitting Procedures. Examples were given of the types of sources specific to each of the three Tiers. For the first time grandfathered sources subject to Title V will be required to apply for a Title V operating permits. Title V sources with current permits will require Title V operating permits and currently permitted sources that are modified will require a construction permit prior to the modification and an operating permit for start-up after the modification. New sources will require both a new construction permit and an operating permit.

Mr. Fishback: It would be helpful to the regulated community to provide examples within the rule language.

Mr. Byrum: A guidance document would be added to the rule rather than incorporated into the rule.

Susie King, Conoco: Conoco feels it is a workable, more streamlined approach, but it comes at a difficult time in conjunction with the Title V process.

Mr. Fishback: The process of uniform permitting would create additional paperwork, additional forms, creating delays in the process or inadvertent delays of other requirements at the source. In the absence of these things, no problems were foreseen. The affect on air permits may be very small.

Dennis Doughty, AQD staff attorney: Under the present system, all of the Title V permits would be in Tier 3. And after the adoption of the tier system, the Title V operating permits will change to Tier 2. Our current rules state any Title V operating permit would be subject to a trial-type hearing at the administrative level. This is going to move all of these down one Tier. There would be less public review under the Tier system. Tier 2 complies with the basic federal requirements for all permitting and Tier 1 will be the smaller, administrative-type decisions.

Chairman Breisch continued the hearing until the October 17, 1995 meeting.

Ms. York: The Council will have its first hearing regarding the supplemental rules that affect Air Quality and have the opportunity to comment on the uniform permitting rules at the October meeting.

New Business - None.

Adjournment - Chairman Breisch adjourned the meeting with a unanimous vote. The next regular meeting will be held Tuesday, October 17, 1995 at the Tulsa City-County Health Department Auditorium.

William B. Breisch, Chairman
Air Quality Council

Larry D. Byrum, Director
Air Quality Division

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

DATE AUGUST 15, 1995

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Robert Edgington	ARMSTRONG	4115 N. Beckman Stillwater	
2 Fred A. Martin	Fort Howard Corp	4901 Chandler Rd Muskogee	
3 Rick Tetens	OGPA	Enid Ok	
4 Bill Ruten	Fort Howard Corp	4901 Chandler Rd Muskogee, OK 74403	
5 Mike Wood	Weyerhaeuser	P.O. Box 1060; Hot Springs, AR 71913	
6 JOLE LUEHRS	US EPA, DALLAS		NO
7 PHILLIP MARSHALL	TOTAL PET.	P.O. 188 Ardmore	221-6214
8 CHAS MINTON	MINTON MACH	1721 G MAIN	OK N
9 Eddie Terrill	TCHD	4616 E 15th	Tulsa
10 Walter Catlett	TCHD	4616 E 15th	Tulsa
11 CLYDE JAMES	ZCA	P.O. Box 579	74003 NO
12 Doyle McWhiter	RMT	3750 W. Main	Norman
13 Eric M. Snyder	RMT	" "	" "
13 KRISTI SODERMAN	Mobil	12450 Greenspoint	Houston TX 77060
14 Randy Ward	ODEQ-AQD		
15 Matt Price	HLR D	4101 S. 76th Ave	Tulsa
16 Carol Barker	Tinker AFB		OK
17 Lt Col Keith Klein	Tinker AFB		OK
18 ED PORTKA	IEI		OK
19 LINDA PORTKA	AMERICAN CENTRAL GAS		OK

20	David Bradshaw	Rockwell	Tulsa
21	Jusie King	Conoco	OKC
22	LARRY MOORE	WHIRLPOOL	TULSA
23	Nancy Coleman	TAFES	OKC
24	Brenda Allen	AGES	OKC
25	Ed White	MCKINNEY, SPRINGER & WEBSTER	101 N. BROADWAY 73102
26	John Metzger	3M	PO Box 33331 ST PAUL, MN 55133
27	Ed Mize	Williams Nfld Gas	PO Box 3225 Tulsa OK 74101
28	Dick Reid	Dayton Tires	OKC
29	Lynn Wainner	DEQ/AQD	OKC
30	CAROL GRISSOM	BOONE SMITH	Suite 500 100 W. 5th St Tulsa OK 7410
31	James Fleak	Western Gas Res.	12200 N. Pecos St. Denver CO 80234
32	Kathy Martin	DEQ/CAP	
33	Kim Warram	DEQ/AIR	
34	Shauna Mullen	DEQ/AQD	
35	Regen B Clark	AQD	
36	Nelson Brensing	OCAPAW co.	Stillwater
37	Rock Miller	Continental Carbon	Aouston
38	Wesley John	DEQ/AIR	
39	Merle Fort	Sunclain Oil	Tulsa
40	Randy Pitar	OKY USA	OKC
41	M. Bell	ERM	Dallas
42	Nancy Barnett	TXI	Dallas
43	Ed Nichols	USG	Southern, OK
44	Bob Bowers	WTEC	ANADARKO, OK
45	Jay Faulkner	Western Gas Res	Ringwood OK
46	JB Bright	Morathen Oil Co	OKC

- 47 Malissa Edge Blue Circle Cement Tulsa Ok
- 48 George McDonald Gemini Coatings El Reno Ok
- 49 David Watson Blue Circle Cement Tulsa, OK
- 50 Gary Smith RSA Norman, Okla
- 51 Ron Tualove RSA Norman, Okla
- 52 TONY LUMPT MASTERALP MASTER
- 53 Tony Gardner PRC 350 N. St. Paul # 2600
Dallas TX 75201
- 54 TEA SMITH TEXACO PO Box 277
VERMACK OK 73091
- 55 CHARLES TURNER HALLIBURTON PO Box 1431
Duncan, OK 73136-0108
- 56 E.D. Mize Williams Hall Gas P.O. Box 3288
Tulsa, OK 74101
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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, OCTOBER 17, 1995
9:30 A.M.

TULSA CITY-COUNTY HEALTH DEPARTMENT
AUDITORIUM
4616 EAST 15 STREET
TULSA, OKLAHOMA

BRIEFING

1. Call to Order Chairman

2. Division Director's Report Director
Informational - An update of current events
and AQD activities

Hiring Freeze
Ozone Summary
Tulsa MOA
Fees for 1996 - CPI
Other
Discussion by Council/Public

3. Public Hearing OAC 252:010-002 Staff
Uniform Environmental Permitting {New Chapter}
Tier Classifications of Permit Applications
Discussion by Council/Public

*I have approved
voted to send
to O&E Bd.*

4. Public Hearing OAC 252:100-7 Permits {AMENDED} Staff
OAC 252:100-8 Operating Permits (Part 70)
OAC 252:100-11 Alternative Emissions Reductions
Permits {AMENDED}
OAC 252:100-6 {NEW}
Discussion by Council/Public

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, OCTOBER 17, 1995
1:00 P.M.

TULSA CITY-COUNTY HEALTH DEPARTMENT
4616 EAST 15TH STREET
TULSA, OK

HEARING/MEETING

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of Minutes / August 15, 1995 Chairman
4. Public Hearing Staff
OAC 252:010 Uniform Environmental Permitting {New Chapter}
Tier Classifications of Permit Applications
Discussion by Council/Public
Action by Council
5. Public Hearing Staff
OAC 252:100-7 Permits {AMENDED
OAC 252:100-8 Operating Permits (Part 70)
OAC 252:100-11 Alternative Emissions Reductions
Permits {AMENDED}
OAC 252:100-6 {NEW}
Discussion by Council/Public
Action by Council
6. New Business Chairman
Discussion/consideration of subjects/business
arising within the past 24 hours.
7. Adjournment Chairman
Next Regular Meeting - December 19, 1995
Lincoln Plaza Office Complex
4545 N. Lincoln Blvd.
Oklahoma City, OK 73105-3483

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 271-5220.

October 4, 1995

MEMORANDUM

TO: Air Quality Council

FROM: Larry D. Byrum, Director *LDB*
AIR QUALITY DIVISION

SUBJECT: UNIFORM PERMITTING RULES

Please note that rulemaking on the agenda for the Council's October 17, 1995 meeting involves our implementation of the Oklahoma Uniform Environmental Permitting Act.

Proposed rules **OAC 252:002-15-40, 41, and 42 -- Air Permitting Tier Classifications** -- are scheduled for final rulemaking hearing and action by the Air Quality Council on October 17, 1995. The Council held informal discussion and initial hearing on these rules on August 15, 1995.

Proposed air pollution control rules **OAC 252:100, Subchapter 6 - Permitting; OAC 252:100 Subchapter 7 - Construction Permits for Major and Minor Sources; OAC 252:100 Subchapter 8 - Operating Permits (Part 70); and OAC 252:100 Subchapter 11 - Alternate Emission Reduction** are scheduled for their first rulemaking hearing and discussion before the Council on October 17, 1995.

Attached are briefing papers and proposed rules.

**AIR QUALITY COUNCIL BRIEFING ON RULEMAKING
 PROPOSED PERMITTING RULES - AIR QUALITY TIER CLASSIFICATIONS
 OAC 252:002-15-40, 41 & 42**

Proposed action	Approval and recommendation of [NEW] air quality tier classifications.
Purpose	Implements in part Uniform Permitting Program for Air Quality.
Type/Effective Date	Permanent - effective July 1, 1996 after legislative review.
Comparison to Federal Regulations	Corresponding Air Quality federal regulations exist. However, these proposed tier classifications, as authorized by 27A O.S.Supp. 1995. § 101 <u>et seq.</u> are not more stringent. Therefore, no Economic Impact/Environmental Benefit Statement is required.
Notice of Rulemaking	Published in OK Register on August 1, 1995.
Public Comment Period	Began August 7. A comment summary/response will be presented at mtg.
Council Hearing (Date) (Procedure)	1. 8/15/95. AQ Council held informal discussion and hearing. 2. 10/18/95. Final rulemaking hearing and action by AQ Council.
Council Action (Options) Recommendation Form (Attached)	After hearing and final discussion, the Council may by roll call vote: 1. Approve and recommend the rule change (as proposed or as amended) to the Board as a permanent rule. [Takes minimum of 5 ayes.] 2. Or agree to continue the hearing and/or remand the proposed rule to the DEQ for further study and/or development. [NOTE: Would take a special meeting to be held on or before Wednesday, November 15, 1995.]
Other Considerations	Tier rule amendments made in response to comments received to date are shown by double underline and highlighted strikeover.
Before Board	Scheduled for Tuesday, November 28, 1995, in Muskogee.

002/15/95

CHAPTER 002. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES

*PART 1. UNIFORM PERMITTING PROGRAM IN GENERAL

- 252:002-15-1. Purpose and scope [AMENDED]
- 252:002-15-2. Definitions [AMENDED]

*PART 3. TIER I, II AND III PROCESS REQUIREMENTS

- 252:002-15-26. Tier processes described [NEW]
 - 252:002-15-27. Application classifications in general [NEW]
 - 252:002-15-28. Permit decision-making authority [NEW]
- NOTE: 8/1/95: RULEMAKING NOTICE PUBLISHED (EMERGENCY & PERMANENT). 9/6/95: HEARING HELD & COMMENT PERIOD CLOSED. 9/26/95: BOARD CONSIDERS ADOPTION.
- 252:002-15-29. Published notice content and verification [NEW]
 - 252:002-15-30. Tier I process requirements [NEW]
 - 252:002-15-31. Tier II process requirements [NEW]
 - 252:002-15-32. Tier III process requirements [NEW]

PART 5. TIER CLASSIFICATIONS

NOTE: 8/1/95: RULEMAKING NOTICE PUBLISHED. COMMENT PERIODS/HEARINGS BEFORE COUNCILS - NOW THROUGH NOV. (DATES VARY PER COUNCIL). 11/28/95: BOARD CONSIDERS ADOPTION.

- 252:002-15-40. Air quality applications - Tier I [AMENDS 8/1/95 DRAFT]
- 252:002-15-41. Air quality applications - Tier II [AMENDS 8/1/95 DRAFT]
- 252:002-15-42. Air quality applications - Tier III [AMENDS 8/1/95 DRAFT]
- 252:002-15-43. Hazardous waste applications - Tier I
- 252:002-15-44. Hazardous waste applications - Tier II
- 252:002-15-45. Hazardous waste applications - Tier III
- 252:002-15-46. Laboratory certification applications - Tier I
- 252:002-15-47. Laboratory certification applications - Tier II
- 252:002-15-48. Laboratory certification applications - Tier III
- 252:002-15-49. Operator certification applications - Tier I
- 252:002-15-50. Operator certification applications - Tier II
- 252:002-15-51. Operator certification applications - Tier III
- 252:002-15-52. Radiation management applications - Tier I
- 252:002-15-53. Radiation management applications - Tier II
- 252:002-15-54. Radiation management applications - Tier III
- 252:002-15-55. Solid waste applications - Tier I [AMENDS 8/1/95 DRAFT]
- 252:002-15-56. Solid waste applications - Tier II
- 252:002-15-57. Solid waste applications - Tier III
- 252:002-15-58. UIC applications - Tier I
- 252:002-15-59. UIC applications - Tier II
- 252:002-15-60. UIC applications - Tier III
- 252:002-15-61. Water quality applications - Tier I
- 252:002-15-62. Water quality applications - Tier II
- 252:002-15-63. Water quality applications - Tier III

*PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

- 252:002-15-70. Common review procedures and time lines [AMENDED]
- 252:002-15-71. Pending failures [AMENDED]
- 252:002-15-72. Air quality time lines [AMENDED]
- 252:002-15-73. Hazardous waste time lines [AMENDED]
- 252:002-15-74. Solid waste time lines [AMENDED]
- 252:002-15-75. Water quality time lines [AMENDED]
- 252:002-15-76. Other permits [NO CHANGE]

*PART 9. CONSOLIDATED PERMITTING

- 252:002-15-90. Consolidation of permitting processes [NEW]

*9/15/95: RULEMAKING NOTICE PUBLISHED. 9/15 - 10-16/95: PUBLIC COMMENT PERIOD.
10/11/95: HEARING (10:00 A.M., OSDH, RM. 806); 1/96: BOARD/ADOPTION.

PART 1. UNIFORM PERMITTING PROGRAM (GENERAL)

252:002-15-1. Purpose and scope

252:002-15-2. Definitions

252:002-15-1. Purpose and scope

(a) Purpose. ~~The rules in this Subchapter establish time periods for issuance or denial of environmental permits and licenses that are required by law~~ implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S. Supp. 1995, §2-14-101 et seq. and apply to applicants for and holders of DEQ permits and other authorizations.

(b) Supersedes inconsistent rules. Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title.

252:002-15-2. Definitions

~~The~~ In addition to terms defined in 252:002-1-2, the following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Uniform Environmental Permitting Act.

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Application" means a document prepared in accordance with the rules and the forms and instruction provided by the respective Program and submitted with the expectation of providing that information necessary for review and determination of the permit. The application consists of the initial submittal and all supplements.

"Major facility", as used in air quality tier classifications, means a source subject to Title V permitting requirements.

"Major modification", as used in hazardous waste tier classifications, is one which meets the criteria as a Class III permit modification as defined in 40 CFR § 270.42.

"Minor modification", as used in hazardous waste tier classifications for treatment, storage, disposal and/or recycling facility permits is one which meets the criteria as a Class I permit modification as defined in 40 CFR § 270.42.

"Minor source", as used in air quality tier classifications, means a source that is not subject to Title V permitting requirements.

"Off-site", as used in hazardous waste and solid waste tier classifications, means a facility which receives waste from various sources for treatment, processing, or disposal.

"On-site", as used in hazardous waste and solid waste tier classifications, means a facility owned and operated by an industry for the treatment, processing, or disposal of its own waste exclusively.

"Part" means a numbered Part of this Subchapter.

"Program" means the sections or divisions of the DEQ.

"Submittal" means each separately submitted document or document package that forms a part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"UIC" means underground injection control.

252:002-15-3. Common permitting procedures and timelines

Amended and renumbered to OAC 252:002-15-70.

1 252:002-15-4. Pen. ng failures
2 Amended and renumbered to OAC 252:002-15-71.

3
4 252:002-15-5. Air quality permit timelines
5 Amended and renumbered to OAC 252:002-15-72.

6
7 252:002-15-6. Hazardous waste permit timelines
8 Amended and renumbered to OAC 252:002-15-73.

9
10 252:002-15-7. Solid waste permit timelines
11 Amended and renumbered to OAC 252:002-15-74

12
13 252:002-15-8. Water quality permit timelines
14 Amended and renumbered to OAC 252:002-15-75.

15
16 252:002-15-9. Other permits
17 Amended and renumbered to OAC 252:002-15-76.

18
19
20 **PART 3. TIER I, II AND III PROCESS REQUIREMENTS**

21
22 Section

- 23 252:002-15-26. Tier processes described
24 252:002-15-27. Application classifications in general
25 252:002-15-28. Permit decision-making authority
26 252:002-15-29. Published notice content and verification
27 252:002-15-30. Tier I process requirements
28 252:002-15-31. Tier II process requirements
29 252:002-15-32. Tier III process requirements

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32 **252:002-15-26. Tier processes described**

33 To implement the three-tiered permitting processes of the Act,
34 applications for permits and other authorizations are classified in
35 Part 5 as Tier I, II or III. The steps an applicant must follow
36 for a Tier I, II or III application are shown in Table 15A.
37

TABLE 15A
Permitting Process Summary

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application and pays any required fee. Applicant may meet with the DEQ prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Notice of opportunity for process meeting - Applicant includes this 30-day opportunity in published notice of filing. Meeting on permitting process held by DEQ upon request and sufficient interest shown.	No	No	Yes
Administrative completeness review - DEQ reviews application; requests applicant to cure identified administrative deficiencies.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical completeness; requests applicant to cure identified deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments received - DEQ	No	Yes	Yes
Proposed permit - DEQ prepares this from draft permit in response to comments	No	No	Yes
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Culminates in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

1 **252:002-15-27. Unclassified applications**

2 The tier designation for any type of application not classified
3 in this Subchapter shall be determined according to the criteria of
4 Section 201 of the Act.

5
6 **252:002-15-28. Permit decision-making authority**

7 (a) **Designated positions.** The Executive Director may delegate in
8 writing the power and duty to issue, renew, amend, modify and deny
9 permits and take other authorization or registration action.
10 Unless delegated to a Division Director by formal assignment or
11 rule, the authority to act on Tier I applications shall be
12 delegated to positions within each permitting program having
13 technical supervisory responsibilities and, for local actions
14 authorized by law, to environmental specialist positions held by
15 DEQ's local services representatives. The authority to act on
16 emergency permits and Tier II applications shall be delegated to
17 the Division Director of the applicable permitting division.

18 (b) **Revision.** The Executive Director may amend any delegation in
19 writing.

20
21 **252:002-15-29. Published notice content and verification**

22 (a) **Notice content.** In addition to content requirements of the
23 Act, all published notice(s) shall contain the:

- 24 (1) Name and address of the applicant;
- 25 (2) Name and address or legal description of the site, facility
26 and/or activity;
- 27 (3) Purpose of notice;
- 28 (4) Type of permit or permit action being sought;
- 29 (5) Description of activities to be regulated;
- 0 (6) Locations where the application may be reviewed;
- 1 (7) Names, addresses and telephone numbers of contact persons
32 for the DEQ and for the applicant;
- 33 (8) Description of public participation opportunities and time
34 period for comment and requests;
- 35 (9) Any other information required by DEQ rules; and
- 36 (10) Any information the applicant deems relevant.

37 (b) **Notice publication verification.** An applicant, within ten
38 (10) days of the date of publication, shall provide the DEQ with a
39 written affidavit of publication for each notice published. In
40 case of a mistake in a published notice, the DEQ may approve the
41 publication of a notice of correction or may require that the
42 entire notice be re-published.

1 252:002-15-30. Tier I process requirements

2 (a) Pre-application conference. Prior to filing an application,
3 an applicant may request a conference with the DEQ.

4 (b) Application filing, fee payment, and application withdrawal.
5 Two (2) copies of a Tier I application shall be filed with the DEQ
6 except when the DEQ application form or instructions specifies that
7 only one (1) copy is needed. Applicants for permits for
8 residential systems (OAC 252:640) and small public sewage systems
9 (OAC 252:655-29) shall file their two copies with the local DEQ
10 office for the county in which the real property is located. A
11 nonrefundable fee as established in program-specific rules of the
12 Board shall be payable at the time of application. An applicant
13 may withdraw an application at any time with written notice to the
14 DEQ and forfeiture of fees.

15 (c) Application review. All applications shall be subject to the
16 laws and rules of the DEQ as they exist on the date of filing and
17 afterward as changed up to the date of issuance or denial. See
18 Part 7 for review procedures and time lines.

19 (d) Issuance or denial.

20 (1) Compliance required. A new, modified or renewed permit or
21 other authorization shall not be issued until the DEQ has
22 determined the application is in substantial compliance with
23 applicable requirements of the Code and rules of the Board.

24 (2) Conditions for issuance. The Department may not issue a
25 new, modified or renewed permit or other authorization if:

26 (A) The applicant has not paid all monies owed to the DEQ
27 and/or is not in substantial compliance with the Code, rules
28 of the Board and the terms of any existing DEQ permits and
29 orders. The DEQ may impose special conditions on the
30 applicant to assure compliance and/or a separate schedule
31 which the DEQ has determined is necessary to achieve required
32 compliance; or

33 (B) Material facts were misrepresented or omitted from the
34 application and the applicant knew or should have known of
35 such misrepresentation or omission.

36 (3) Authority to issue. See 252:002-15-28.
37
38

1 252:002-15-31. Tier II process requirements

2 (a) Pre-application conference. See "Tier I" at 252:002-15-30.

3 (b) Filing, fees, withdrawal. See "Tier I" at 252:002-15-30,
4 except instead of two (2) copies, the applicant shall file three
5 (3) copies of the application with the DEQ and place one (1) copy
6 for public review in the county in which the site, facility or
7 activity is located.

8 (c) Published notice of filing. See Section 301 of the Act and
9 252:002-15-29.

10 (d) Application review. See "Tier I" at 252:002-15-30.

11 (e) Draft permit or draft denial. See Section 302 of the Act.

12 (f) Notice of draft permit/denial. See Section 302 of the Act and
13 252:002-15-29. For permit modification actions, only those issues
14 relevant to the modification(s) shall be reopened for public review
15 and comment.

16 (1) Exception to notice requirement. Applicants for solid
17 waste transfer station permits shall be exempt from public
18 comment and public meeting requirements if the board of county
19 commissioners of the county of the proposed site, after
20 opportunity for written or oral public comment, has found the
21 application to be within the scope of the county's solid waste
22 management plan. See 27A O.S. Supp. 1995, §2-19-307.

23 (2) Additional notice. In addition to Section 302 notice:

24 (A) Applicants for an NPDES, RCRA or UIC permit shall be
25 subject to applicable provisions of 40 CFR Part 124.

26 (B) Applicants for a proposed wastewater discharge or
27 emissions permit which respectively may affect the water
28 quality or air quality of a neighboring state must give
29 notice to that state.

30 (C) Applicants for a solid waste landfill permit shall
31 provide notice by certified mail, return receipt requested,
32 to owners of mineral interests and to adjacent landowners
33 whose property may be substantially affected by
34 installation of a landfill site. See DuLaney v. OSDH,
35 Okl., 868 P2d 676 (1993).

36 (g) Public comment and formal public meeting. See Sections 302
37 and 303 of the Act. The DEQ shall determine the location of any
38 formal public meeting to be held and the designated presiding
39 officer shall establish its procedures.

40 (h) Response to comments. See Section 304 of the Act.

41 (i) Issuance or denial. See "Tier I" at 252:002-15-30.
42

1 252:002-15-32. Tier III process requirements

- 2 (a) Pre-application conference. See "Tier I" at 252:002-15-30.
3 (b) Filing, fees and withdrawal. See "Tier II" at 252:002-15-31.
4 (c) Notice of filing and process meeting opportunity. The
5 applicant shall include a 30-day opportunity to request a process
6 meeting in the published notice of filing. See Section 301(B) of
7 the Act and 252:002-15-29.
8 (d) Process meeting. See Section 301(B) of the Act. The location
9 of and procedures for the process meeting shall be determined by
10 the DEQ.
11 (e) Application review. See "Tier I" at 252:002-15-30.
12 (f) Draft permit or draft denial. See Section 302 of the Act.
13 (g) Notice of draft permit/denial. See "Tier II" at 252:002-15-
14 31.
15 (h) Public comment period and public meeting. See "Tier II" at
16 252:002-15-31.
17 (i) Proposed permit and notice. After the DEQ reviews public
18 comments and prepares a proposed permit by amending the draft
19 permit in response to comments as necessary, the applicant shall
20 publish notice of the proposed permit and of the opportunity to
21 request an administrative permit hearing. See Section 405 of the
22 Act and 252:002-15-29.
23 (j) Administrative permit hearing. See Section 304 of the Act
24 and, for procedures, Subchapter 13 of this Chapter.
25 (k) Response to comments. See Section 304 of the Act.
26 (l) Issuance or denial. See "Tier I" at 252:002-15-30.

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PART 5. TIER CLASSIFICATION

Section

- 252:002-15-40. Air quality applications: Tier I
- 252:002-15-41. Air quality applications: Tier II
- 252:002-15-42. Air quality applications: Tier III
- 252:002-15-43. Hazardous waste applications: Tier I
- 252:002-15-44. Hazardous waste applications: Tier II
- 252:002-15-45. Hazardous waste applications: Tier III
- 252:002-15-46. Laboratory certification applications: Tier I
- 252:002-15-47. Laboratory certification applications: Tier II
- 252:002-15-48. Laboratory certification applications: Tier III
- 252:002-15-49. Operator certification applications: Tier I
- 252:002-15-50. Operator certification applications: Tier II
- 252:002-15-51. Operator certification applications: Tier III
- 252:002-15-52. Radiation management applications: Tier I
- 252:002-15-53. Radiation management applications: Tier II
- 252:002-15-54. Radiation management applications: Tier III
- 252:002-15-55. Solid waste applications: Tier I
- 252:002-15-56. Solid waste applications: Tier II
- 252:002-15-57. Solid waste applications: Tier III
- 252:002-15-58. UIC applications: Tier I
- 252:002-15-59. UIC applications: Tier II
- 252:002-15-60. UIC applications: Tier III
- 252:002-15-61. Water quality applications: Tier I
- 252:002-15-62. Water quality applications: Tier II
- 252:002-15-63. Water quality applications: Tier III

252:002-15-40. Air quality applications - Tier I

The following air quality authorizations require Tier I applications:

- (1) Construction permit for a minor source.
- (2) Operating permit for a minor source.
- (3) Operating permit for a major facility, issued after a construction permit, which does not differ from the construction permit in any manner which would otherwise subject the operating permit application to public review.
- (4) New, modified or renewed authorization under a general permit.
- (5) Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.
- (6) Minor modification of a major facility's construction and/or operating permit.
- (7) ~~Applicability determinations~~ Acid rain permits.
- (8) Emergency burn approval.
- (9) Asbestos renovation/demolition approval.
- (10) Relocation permit.
- (11) Temporary permit.
- (12) Plant-wide emission plan approval.
- (13) Administrative amendment of all permits and other authorizations.
- (14) Extension of a minor source's construction permit.
- (15) Extension of a major facility's construction permit with no or minor modification.
- (16) Renewal of an operating permit for a minor source.

1 252:002-15-41. Air quality applications - Tier II

2 The following air quality authorizations require Tier II
3 applications.

4 (1) Operating permit for a major facility or commercial
5 incinerator, issued after a construction permit, which differs
6 from the construction permit in a manner which subjects the
7 operating permit application to public review.

8 (2) Operating permit for a major facility that does not have a
9 construction permit.

10 (3) Significant modification of a major facility's construction
11 or operating permit.

12 (4) New, modified or renewed general permit.

13 (5) Extension of a major facility's construction permit with
14 significant modification.

15 (6) Renewal of an operating permit for a major facility.

16 (7) Major modification of a construction or operating
17 incinerator permit for a commercial incinerator.

18
19 252:002-15-42. Air quality applications - Tier III

20 A construction permit for a new or existing major facility or
21 commercial incinerator requires a Tier III application.

22
23 252:002-15-43. Hazardous waste management applications - Tier I

24 The following hazardous waste management authorizations require
25 Tier I applications.

26 (1) Minor modification of any hazardous waste permit.

27 (2) Modification to a recycling permit in accordance with 27A
28 O.S. Supp. 1994, §2-7-118(A).

29 (3) Class II permit modification as defined in 40 CFR §270.42.

30 (4) Emergency hazardous waste disposal plan approval.

31 (5) Hazardous waste generator disposal plan approval.

32 (6) Technical plan approval.

33 (7) Hazardous waste transporter license.

34 (8) Hazardous waste transfer station plan modification which is
35 not related to capacity.

36 (9) Emergency permit issued in accordance with 40 CFR § 270.61.

37 (10) Interim status closure plan approval in accordance with 40
38 CFR §265.113(d)(4).

39 (11) Minor administrative modification of all permits and other
40 authorizations.

41 (12) Renewal of disposal plan approval and transporter license.

42 (13) New, modified or renewed authorization under a general
43 permit.

44
45 252:002-15-44. Hazardous waste management applications - Tier II

46 The following hazardous waste management authorizations require
47 Tier II applications.

48 (1) On-site hazardous waste treatment, storage or disposal
49 permit.

50 (2) Mobile recycling permit.

51 (3) Research & Development permit.

52 (4) Major modification of any hazardous waste permit.

53 (5) Modification of an on-site hazardous waste facility permit
54 for a fifty percent (50%) or greater increase in permitted
55 capacity for storage, treatment, and/or disposal, including
56 incineration.

57 (6) Modification of an on-site hazardous waste facility permit
58 for an expansion of permitted boundaries.

59

- (7) Modification of on-site hazardous waste facility permit in which the application is for methods, units or appurtenances that are different from those permitted.
- (8) Renewal of a hazardous waste treatment, storage or disposal permit.
- (9) Hazardous waste transfer station plan approval.
- (10) Hazardous waste transfer station plan modification involving increase in approved capacity.
- (11) Variance which is not part of a permit application.
- (12) Variance which is part of a Tier II permit application.
- (13) New, modified or renewed general permit.

252:002-15-45. Hazardous waste management applications - Tier III

The following hazardous waste management authorizations require Tier III applications.

- (1) Off-site hazardous waste treatment, storage, disposal and/or recycling permit.
- (2) Modification of an off-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.
- (3) Modification of an off-site hazardous waste facility permit for an expansion of permitted boundaries.
- (4) Modification of off-site hazardous waste facility permit in which the application is for methods, units or appurtenances that are different from those permitted.
- (5) Variance which is part of a Tier III application.

252:002-15-46. Laboratory certification applications - Tier I

A Tier I application shall be required for a new, modified, amended or renewed laboratory certification.

252:002-15-47. Laboratory certification applications - Tier II

None

252:002-15-48. Laboratory certification applications - Tier III

None

252:002-15-49. Operator certification applications - Tier I

The following authorizations require Tier I applications.

- (1) Waterworks operator certification (standard and temporary).
- (2) Wastewater works operator certification (standard and temporary).
- (3) Waterworks laboratory operator certification.
- (4) Wastewater works laboratory operation certification.
- (5) Septic tank installer certification.
- (6) Septic tank cleaner license.
- (7) Landfill operator and/or manager certification.
- (8) Waterworks helper registration.
- (9) Wastewater works helper registration.
- (10) Amendments, modifications and renewals of all authorizations.

252:002-15-50. Operator certification applications - Tier II

None.

252:002-15-51. Operator certification applications - Tier III

None.

1 252:002-15-52. Radiation management applications - Tier I

2 The following radiation management authorizations require Tier
3 I applications.

- 4 (1) Industrial X-ray registration and the amendment,
5 modification and/or renewal thereof.
6 (2) X-ray fluorescence spectroscopy instrument license and the
7 amendment, modification and/or renewal thereof.
8

9 252:002-15-53. Radiation management applications - Tier II

10 None.

11
12 252:002-15-54. Radiation management applications - Tier III

13 None.
14

15 252:002-15-55. Solid waste management applications - Tier I

16 The following solid waste management authorizations require Tier
17 I applications.

- 18 (1) ~~Processing facility permit~~ Plan approval for the composting
19 of yard waste only.
20 (2) Emergency authorization for waste disposal resulting from
21 a natural disaster.
22 (3) Permit for a solid waste transfer station that, prior to
23 application filing, received county commissioner approval
24 according to 27A O.S. Supp 1995, §2-10-307.
25 (4) Biomedical waste transfer station permit when activities
26 are limited to the following:
27 (A) consolidation of sealed containers, and/or
28 (B) transfer of sealed containers from one vehicle or mode
29 of transportation to another.
30 (5) Modification of a solid waste permit to add methods, units
31 or appurtenances for liquid bulking processes; yard waste
32 composting; recycling operations; waste screening; or baling,
33 chipping, shredding, grinding equipment and/or operations.
34 (6) Excluding applications for expansion of existing permitted
35 boundaries, the modification of any solid waste permit involving
36 a request for less than twenty-five percent (25%) increase in
37 permitted capacity for storage, processing or disposal
38 (including incineration) when the request is for equivalent
39 methods, units or appurtenances as those permitted.
40 (7) Modification to any solid waste permit to make minor
41 changes that are not subject to Tier II or Tier III processes.
42 (8) Modification of plans for closure and/or post-closure.
43 (9) Nonhazardous industrial solid waste disposal plan approval,
44 renewal or amendment.
45 (10) County solid waste management plan approval.
46 (11) Technical plan approval.
47 (12) Permit transfer approval.
48 (13) All other administrative approvals required by OAC 252:510
49 or OAC 252:520.
50 (14) New, modified or renewed authorization under a general
51 permit.
52 (15) Administrative modification of all permits and other
53 authorizations.
54 (16) ~~Modification for a lateral expansion under of an existing~~
55 permit for a lateral expansion within permitted boundaries.
56
57

1 **252:002-15-56. Solid waste management applications - Tier II**

2 The following solid waste management authorizations require Tier
3 II applications.

- 4 (1) Permit for a solid waste processing facility except yard
5 waste composting as listed under Tier I.
6 (2) Permit for a solid waste transfer station except:
7 (A) a transfer station permit with county commissioner
8 approval as listed under Tier I, or
9 (B) a biomedical waste transfer station permit listed
10 under Tier I.
11 (3) Permit for an on-site incinerator except those exempt under
12 OAC 252:520.
13 (4) Permit for an on-site solid waste land disposal site.
14 (5) Permit for a Material Recovery Facility (MRF) if waste is
15 not source-separated.
16 (6) Modification of any on-site solid waste permit except as
17 listed under Tier I.
18 (7) Modification of any off-site (Tier III) solid waste permit
19 involving a request for more than twenty-five percent (25%) but
20 less than fifty percent (50%) increase in permitted capacity for
21 storage, processing or disposal (including incineration) when
22 the request is for equivalent methods, units or appurtenances as
23 those permitted, except those listed under Tier I, Rule 252:002-
24 15-55(5).
25 (8) Modification of a permit for a change in waste type.
26 (9) New, modified or renewed general permit.

27
28 **252:002-15-57. Solid waste management applications - Tier III**

29 The following solid waste management authorizations require Tier
30 III applications.

- 31 (1) Permit for an off-site processing facility, unless
32 otherwise specified in Tier I, Rule 252:002-15-55, or Tier II,
33 Rule 252:002-15-56.
34 (2) Permit for an off-site solid waste land disposal site.
35 (3) Permit for an off-site incinerator.
36 (4) Modification of any off-site solid waste permit involving
37 a fifty percent (50%) or greater increase in permitted capacity
38 for storage, processing, and/or disposal, including
39 incineration.
40 (5) Modification of an off-site solid waste land disposal
41 permit for an expansion of permitted boundaries.
42 (6) Modification of an off-site solid waste permit in which the
43 request involves different methods, units or appurtenances than
44 those permitted, except those listed under Tier I, Rule 252:002-
45 15-55(5).
46 (7) Variance.

47
48 **252:002-15-58. UIC applications-Tier I**

49 The following underground injection control authorizations
50 require Tier I applications.

- 51 (1) Minor modification of a permit for Class I, III, and V
52 wells in accordance with 40 CFR §144.41 (1994).
53 (2) Modification of an approved closure and/or post-closure
54 plan for a Class I hazardous waste injection well.
55 (3) Modification of an approved plugging and abandonment plan
for Class I nonhazardous and Class III injection wells.
56 (4) Modification of an approved corrective action plan for a
57 Class I injection well.
58
59

- 1 (5) Emergency permit in accordance with 40 CFR §144.34.
- 2 (6) New, modified or renewed authorization under a general
- 3 permit.
- 4 (7) Minor administrative modification of all permits and other
- 5 authorizations.
- 6

7 **252:002-15-59. UIC applications - Tier II**

8 The following underground injection control authorizations
9 require Tier II applications.

- 10 (1) On-site Class I nonhazardous waste injection well permit.
- 11 (2) Class III and V injection well permits except Class V
- 12 permits issued under Tier III.
- 13 (3) Modification and/or renewal of all DEQ-issued underground
- 14 injection control well permits.
- 15 (4) New, modified or renewed general permits.
- 16

17 **252:002-15-60. UIC applications - Tier III**

18 The following underground injection control authorizations
19 require Tier III applications.

- 20 (1) Class I hazardous waste injection well permit.
- 21 (2) Off-site Class I nonhazardous waste injection well permit.
- 22 (3) Class V industrial waste injection well permit.
- 23

24 **252:002-15-61. Water quality applications - Tier I**

25 The following water quality authorizations require Tier I
26 applications.

- 27 (1) Permit for flow-through impoundment(s) as part of the
- 28 pretreatment process.
- 29 (2) Re-permitting of facility with an expiring permit for
- 30 industrial non-discharging impoundment or septic tank system.
- 31 (3) Re-permitting of expiring permit with minor or no
- 32 change(s) for land application of sludge and/or wastewater for
- 33 same site.
- 34 (4) New, modified or renewed authorization under a general
- 35 permit.
- 36 (5) Approval of new pretreatment program.
- 37 (6) Closure plan approval.
- 38 (7) Dredge and fill certification.
- 39 (8) Approval of exemption for water line extensions.
- 40 (9) Approval of exemption for water distribution and wastewater
- 41 collection systems.
- 42 (10) Approval for individual residential sewage disposal system.
- 43 (11) Approval of small public sewage system:
- 44 (A) with less than 5,000 gallons per day which do not
- 45 discharge, land apply wastewater or sludge, or have lift
- 46 stations designed to handle a peak capacity greater than 10
- 47 gallons per minute; or
- 48 (B) which serves less than ten (10) residential units.
- 49 (12) Individual water well construction certification.
- 50 (13) Residential development approval.
- 51 (14) Transfer of discharge permit.
- 52 (15) Minor modification of discharge permit.
- 53 (16) Minor modification of permit for land application of sludge
- 54 and/or wastewater.
- 55

- 1 (17) Modification of or addition to a municipal wastewater
- 2 treatment system (including sewer line extensions).
- 3 (18) Modification of or addition to a public water supply
- 4 treatment and/or distribution system.
- 5 (19) Modification of non-discharging impoundment and/or septic
- 6 tank system permit.
- 7 (20) Modification of an approved pretreatment program.
- 8 (21) Administrative amendment of permits or other
- 9 authorizations.

10
11 **252:002-15-62. Water quality applications - Tier II**

12 The following water quality authorizations require Tier II

13 applications.

- 14 (1) Permit for municipal wastewater treatment system.
- 15 (2) Permit for public water supply system.
- 16 (3) Discharge permit for minor facility.
- 17 (4) Individual storm water permit.
- 18 (5) Permit for industrial non-discharging impoundment or septic
- 19 tank system.
- 20 (6) Permit for land application of sludge and/or wastewater at
- 21 new site.
- 22 (7) Re-permitting of a facility with expiring discharge permit.
- 23 (8) Re-permitting of facility with expiring individual storm
- 24 water discharge permit.
- 25 (9) Re-permitting with major change(s) from expiring permit for
- 26 land application of sludge and/or wastewater for the same site.
- 27 (10) Variance including thermal components of effluent
- 28 limitations for an individual discharge permit.
- 29 (11) New, modified and renewed general permits.
- 30 (12) Major modification of discharge permit.
- 31 (13) Major modification of permit for land application of sludge
- 32 and/or wastewater.

33
34 **252:002-15-63. Water quality applications - Tier III**

35 A new discharge permit for a major facility requires a Tier III

36 application.

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

Section

- 252:002-15-70. Common review procedures and time lines
- 252:002-15-71. Pending failures
- 252:002-15-72. Air quality time lines
- 252:002-15-73. Hazardous waste time lines
- 252:002-15-74. Solid waste time lines
- 252:002-15-75. Water quality time lines
- 252:002-15-76. Other permits

252:002-15-70. Common review procedures and time lines

(a) ~~Filing Receipt~~ of applications. Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:

- (1) ~~file stamp~~ File-stamp the application with the date of receipt, the Division and/or Program name and an identification number;
- (2) ~~assign~~ Assign the application to a named person who will do the review; and
- (3) ~~timely~~ Timely log this information.

(b) **Administrative completeness review.** Unless otherwise provided in the Code or this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to initially determine if the application is administratively complete.

(1) **Not complete.**

(A) Upon determining that the application is not ~~administratively complete~~, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application.

(B) This notice shall not require or preclude further review of the application and further requests for specific information.

(C) If the reviewer does not notify the applicant of such inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.

(2) **Complete.** Upon a determination that the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.

(c) **Technical review.** Using the procedures described in subsection (b) (1) (A) and (B) of this section, Each each Program involved shall have a certain time period to review each application for technical compliance with the relevant regulations and reach a final determination.

(d) **When times are tolled.** The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation [includes public meetings and administrative permit hearings (and waiting periods therefor), public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies], or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant amends his application of his own accord.

1 **252:002-15-72. Air quality permit time lines**

2 The following air quality permits and authorizations shall be
3 technically reviewed and issued or denied within the time frames
4 specified below.

5 (1) Construction permits:

6 (A) PSD (Title V) - 540 days.

7 (B) Major Sources (Title V other than PSD) - 365 days.

8 (C) Minor Sources - 180 days.

9 ~~(2) Operating permits for new construction or modifications~~
10 ~~minor sources - 365 days.~~

11 (A) Major Sources - 540 days.

12 (B) Minor Sources - 365 days.

13 (3) Relocation permits - 30 days.

14
15 **252:002:15-73. Hazardous waste permit time lines**

16 The following hazardous waste permits and authorizations shall
17 be technically reviewed and issued or denied within the time frames
18 specified below.

19 (1) Hazardous waste permits:

20 (A) New RCRA Operations permit or the renewal thereof - 300
21 days.

22 (B) New State Recycling permit - 300 days.

23 (C) ~~New State Construction permit - 300 days.~~

24 ~~(D) Class 3 permit modifications - 300 days.~~

25 ~~(E) Underground Injection Control permit - 300 days.~~

26 (2) ~~Class 1 and Class 2 permit modifications - 300 days.~~

27 ~~(3) Closure plans, post-closure plans and transfer station~~
28 ~~plans and plan modifications - 300 days.~~

29
30 **252:002:15-74. Solid waste permit time lines**

31 Times for issuance or denial of applications for all solid waste
32 permits shall be in accordance with applicable chapters of Solid
33 Waste Regulations, OAC 252:520 et seq., Municipal Solid Waste
34 Landfill Rules, OAC 252:510 et seq., or if not specified therein,
35 the technical review period for solid waste permit applications and
36 for each submittal and resubmittal related thereto shall be 90
37 days, subject to OAC 252:002:15-7-70.

38
39 **252:002:15-75. Water quality permit time lines**

40 Applications for water quality permits, certifications and
41 authorizations shall be technically reviewed and permits shall be
42 issued or denied within the following time frames:

43 (1) ~~Dairy Waste - 180 days~~

44 ~~(2) Discharges - 180 days.~~

45 ~~(3) (2) 401 Certifications - 180 days.~~

46 ~~(4) (3) Industrial Wastewater other than discharge - 180 days.~~

47 ~~(5) (4) Pretreatment Trust Users - 180 days.~~

48 ~~(6) (5) Public Water Supply - 90 days.~~

49 ~~(7) Septage and Septic Tank Cleaners - 120 days.~~

50 ~~(8) (6) Underground Injection Control - 420-300 days.~~

51 ~~(8) (7) Water Pollution Control Construction - 90 days.~~

52 (8) Sludge management plan - 180 days.

53
54 **252:002:15-76. Other permits**

55 Any environmental license or permit that is not described in this
56 Subchapter shall not be subject to these time frames but shall be
57 reviewed with all due and reasonable speed.

PL 9. CONSOLIDATED PERMITT. ;

Section
252:002-15-90.

252:002-15-90. Consolidation of permitting process

(a) Discretionary. Whenever an applicant applies for more than one permit for the same site, the DEQ may require the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.

(b) Scope. When consolidation is required by the DEQ:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) The DEQ may also require the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.

(3) Final permits may be issued together.

(c) Renewal. The DEQ may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.

(d) Multiple major modifications. Subsection (a) of this section shall also apply to multiple applications for major modifications.

.....

OTHER PROPOSED AMENDMENTS TO 252:002

SUBCHAPTER 13. ADMINISTRATIVE PERMIT PROCEEDINGS

252:002-13-1. Formal public meetings

~~(a) Location. The DEQ shall determine the location and the facility at which a formal public meeting on a permit application and/or draft permit shall be held.~~

~~(b) Purpose. The designated presiding officer of a formal public meeting shall establish the procedure by which such meeting shall be conducted based on the requirements of the Code and applicable program specific rules.~~

Amended and renumbered to 252:002-15-31(g).

**AIR QUALITY TIER CLASSIFICATIONS
AMENDMENTS FROM 10/17/95 AQ COUNCIL MEETING.**

***252:002-15-40. Air quality applications - Tier I**

The following air quality authorizations require Tier I applications:

- (1) Construction permit for a minor source.
- (2) Operating permit for a minor source.
- (3) Operating permit for a major facility, issued after a construction permit, which does not differ from the construction permit in any manner which would otherwise subject the operating permit application to public review.
- (4) New, modified or renewed authorization under a general permit.
- (5) Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.
- (6) Minor modification of a major facility's construction and/or operating permit.
- (7) ~~Applicability determinations~~ Acid rain permits.
- (8) ~~Emergency burn~~ Burn approval.
- (9) ~~Asbestos renovation/demolition approval~~
- ~~(10)~~ Relocation permit.
- ~~(11)~~ (10) Temporary permit.
- ~~(12)~~ (11) Plant-wide emission plan approval.
- ~~(13)~~ (12) Administrative amendment of all permits and other authorizations.
- ~~(14)~~ (13) Extension of a minor source's construction permit.
- ~~(15)~~ (14) Extension of a major facility's construction permit with no or minor modification.
- ~~(16)~~ (15) Renewal of an operating permit for a minor source.

***252:002-15-41. Air quality applications - Tier II**

The following air quality authorizations require Tier II applications.

- (1) Operating permit for a major facility ~~or commercial incinerator~~, issued after a construction permit, which differs from the construction permit in a manner which subjects the operating permit application to public review.
- (2) Operating permit for a major facility that does not have a construction permit.
- (3) Significant modification, as defined in OAC 252:100-8-7(e)(2) of a major facility's construction or operating permit.
- (4) New, modified or renewed general permit.
- (5) ~~Extension~~ Time extension of a major facility's construction permit with a significant modification that would otherwise be subject to public review.
- (6) Renewal of an operating permit for a major facility.
- (7) ~~Major modification of a construction or operating incinerator permit for a commercial incinerator.~~ A construction permit for an existing major facility.

****252:002-15-42. Air quality applications - Tier III**

A construction permit for a new ~~or existing~~ major facility ~~or commercial incinerator~~ requires a Tier III application.

*Tiers I and II amendments approved by roll call vote.

**Tier III amendments pending.

AIR QUALITY TIER CLASSIFICATIONS
AMENDMENTS FROM 10/17/95 AQ COUNCIL MEETING.

***252:002-15-40. Air quality applications - Tier I**

The following air quality authorizations require Tier I applications:

- (1) Construction permit for a minor source.
- (2) Operating permit for a minor source.
- (3) Operating permit for a major facility, issued after a construction permit, which does not differ from the construction permit in any manner which would otherwise subject the operating permit application to public review.
- (4) New, modified or renewed authorization under a general permit.
- (5) Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.
- (6) Minor modification of a major facility's construction and/or operating permit.
- (7) ~~Applicability determinations~~ Acid rain permits.
- (8) ~~Emergency burn~~ Burn approval.
- (9) ~~Asbestos renovation/demolition approval~~
- ~~(10)~~ Relocation permit.
- ~~(11)~~ (10) Temporary permit.
- ~~(12)~~ (11) Plant-wide emission plan approval.
- ~~(13)~~ (12) Administrative amendment of all permits and other authorizations.
- ~~(14)~~ (13) Extension of a minor source's construction permit.
- ~~(15)~~ (14) Extension of a major facility's construction permit with no or minor modification.
- ~~(16)~~ (15) Renewal of an operating permit for a minor source.

***252:002-15-41. Air quality applications - Tier II**

The following air quality authorizations require Tier II applications.

- (1) Operating permit for a major facility ~~or commercial incinerator~~, issued after a construction permit, which differs from the construction permit in a manner which subjects the operating permit application to public review.
- (2) Operating permit for a major facility that does not have a construction permit.
- (3) Significant modification, as defined in OAC 252:100-8-7(e)(2) of a major facility's construction or operating permit.
- (4) New, modified or renewed general permit.
- (5) ~~Extension~~ Time extension of a major facility's construction permit with a significant modification that would otherwise be subject to public review.
- (6) Renewal of an operating permit for a major facility.
- (7) ~~Major modification of a construction or operating incinerator permit for a commercial incinerator~~ A construction permit for an existing major facility.

****252:002-15-42. Air quality applications - Tier III**

A construction permit for a new ~~or existing~~ major facility ~~or commercial incinerator~~ requires a Tier III application.

*Tiers I and II amendments approved by roll call vote.

**Tier III amendments pending

AIR QUALITY COUNCIL
OCTOBER 17, 1995 -- 1:00 P.M. -- TULSA
NOVEMBER 13, 1995 -- 9:30 A.M. -- OKC
MINUTES

LINCOLN PLAZA OFFICE COMPLEX
BURGUNDY ROOM
4545 N. LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA 74105-3483

OCTOBER 17, 1995

Council Members Present

William B. Breisch, Chairman
David Branecky
J. William "Bill" Fishback
Marlin "Ike" Glass
Kathryn Hinkle
Pierre Taron

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Linn Wainner
Ray Bishop
Kay York
Myrna Bruce

Council Members Absent

Larry Canter, Vice-Chairman
George Albright
Meribeth Slagell

Guests Present

(see attached list)

NOVEMBER 13, 1995

Council Members Present

William B. Breisch, Chairman
David Branecky
J. William "Bill" Fishback
Kathryn Hinkle
Meribeth Slagell
Larry Canter, Vice-Chairman
Pierre Taron

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Kay York
Scott Thomas
Joyce Sheedy
Myrna Bruce

Council Members Absent

Marlin "Ike" Glass
George Albright

Guests Present

(see attached list)

PUBLIC MEETING

Notice of Public Meeting for October 17, 1995 was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room at the Tulsa City-County Health Department location.

Call to Order - Mr. Breisch called the October 17 meeting to order and roll was taken: Mr. Branecky - aye; Dr. Canter - absent; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - absent; Mayor Taron - aye; Mr. Albright - absent; Mr. Glass - aye; Mr. Breisch - aye.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 15, 1995 Meeting/Hearing. Mr. Branecky made motion to approve with a second to the motion made by Mr. Glass. Roll call as follows: Mayor Taron - aye; Mr. Branecky - aye; Ms. Hinkle - aye; Mr. Fishback - aye; Mr. Breisch - aye; Mr. Glass had stepped out.

PUBLIC HEARING

OAC 252:010 UNIFORM ENVIRONMENTAL PERMITTING (NEW CHAPTER) TIER CLASSIFICATIONS OF PERMIT APPLICATIONS

Larry Byrum convened the hearing as protocol officer. Ms. Kay York, DEQ Staff Attorney, made statement that the purpose of the Tier Classifications for Air Quality was to be a part of the permitting program implementation that was authorized during the past year by the Oklahoma Uniform Environmental Permitting Act. Ms. York presented rules OAC 252:002-15-40 "Air Quality Applications Tier 1"; OAC 252:002-15-41 "Air Quality Applications Tier II", and OAC 252:002-15-42 "Air Quality Applications Tier III".

Numerous discussions concerning the proposed tier rules were held by the Council, staff, and public. A detailed transcript of these discussions, including motions and roll call votes of the Council are included as ATTACHMENT A of the minutes.

Mr. Breisch then entertained a motion to continue this hearing to a date agreed upon by Council.

Mr. Branecky moved that the meeting be continued to Monday, November 13, 1995 in Oklahoma City at a location to be determined.

With no further discussion on the motion, Mr. Breisch continued the hearing to 9:30 a.m. at Lincoln Plaza Office Complex, 4545 N. Lincoln Boulevard, Oklahoma City on November 13, 1995. Mr. Fishback made the second.

Roll Call as follows: Mayor Taron - aye; Mr. Branecky - aye; Mr. Fishback - aye; Mr. Glass - aye; Mr. Breisch - aye.

Discussions were also held to continue the hearing scheduled for revisions to subchapters 7, 8, 11 and 6 to the November meeting.

CONTINUED HEARING NOVEMBER 13, 1995

Hearing held on October 17, 1995 in Tulsa, Oklahoma was reconvened in Oklahoma City, Oklahoma on November 13, 1995 in the Brown Room of the Lincoln Plaza Office Complex, 4545 N. Lincoln Boulevard. Council members present were Mr. Bill Breisch, Mr. David Branecky, Mr. Bill Fishback, Ms. Kathryn Hinkle, Ms. Meribeth Slagell, Dr. Larry Canter, Mayor Pierre Taron. Members absent were Mr. Ike Glass and Mr. George Albright.

Continuing as protocol officer, Mr. Byrum stated that at the last meeting, Council had recommendations to the Environmental Quality Board on Tier I and Tier II along with extensive discussion on Tier III. Numerous discussions concerning the Tier III classifications were held by the Council, staff, and public. A transcript of these proceedings is included as ATTACHMENT B to these minutes.

Mr. Breisch entertained a motion for revision of the Tier rules with everything else remaining as previously discussed. Mayor Taron made the motion with second by Mr. Fishback to recommend the revised language. A copy of the motion is included as ATTACHMENT C of these Minutes.

With no further discussion, roll call vote was taken as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - aye; Mayor Taron - aye; Mr. Breisch - aye.

HEARING - OAC 252:100-7, 8- 11- 6

As protocol officer, Mr. Byrum convened hearing on OAC252:100-7 Permits; OAC252:100-8 Operating Permits, part 70; OAC 252:100-11 Alternative Emissions Reductions; and OAC 252:100-6 NEW and called upon Ms. Kay York to give the staff recommendations. Ms. York reiterated discussions had in Tulsa at the October meeting and accepted comments. A transcript of these proceedings is continued in ATTACHMENT D of these Minutes.

With discussion by Council and public Mr. Breisch advised that the hearing for all these rules will be continued to the December 19 meeting with comment period being extended to December 11, 1995.

NEW BUSINESS: Mr. Byrum made note of the fact that the Meeting schedule for 1996 is due to the Secretary of State and proposed possible dates to be voted on by Council in next meeting.

ADJOURNMENT: Mr. Breisch adjourned meeting announcing that the next meeting would be held at the Lincoln Plaza Office Complex, 4545 N. Lincoln Boulevard, Oklahoma City, with briefing beginning at 9:30 a.m. and Hearing at 1:00 p.m.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

LARRY D. BYRUM, DIRECTOR
AIR QUALITY DIVISION

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
CONTINUED MEETING
AIR QUALITY COUNCIL

HEARING/MEETING

MONDAY, NOVEMBER 13, 1995
9:30 A.M.
4545 N. LINCOLN BLVD.
BROWN ROOM
OKLAHOMA CITY, OK

(Continued from the regularly scheduled Meeting/Hearing on Tuesday, October 17, 1995 in Tulsa, Oklahoma.)

1. **Call to Order** **Chairman**
2. **Roll Call** **Secretary**
3. **Public Hearing** **Staff**
OAC 252:010 Uniform Environmental Permitting {New Chapter}
Tier Classifications of Permit Applications
Discussion by Council/Public
Action by Council
4. **Public Hearing** **Staff**
OAC 252:100-7 Permits {AMENDED
OAC 252:100-8 Operating Permits (Part 70)
OAC 252:100-11 Alternative Emissions Reductions
Permits {AMENDED}
OAC 252:100-6 {NEW}
Discussion by Council/Public
Action by Council
6. **New Business** **Chairman**
Discussion/consideration of subjects/business
arising within the past 24 hours.
7. **Adjournment** **Chairman**
Next Regular Meeting - December 19, 1995
Lincoln Plaza Office Complex
4545 N. Lincoln Blvd.
Oklahoma City, OK 73105-3483

AIR QUALITY COUNCIL
OCTOBER 17, 1995 -- 1:00 P.M. -- TULSA
NOVEMBER 13, 1995 -- 9:30 A.M. -- OKC
MINUTES

LINCOLN PLAZA OFFICE COMPLEX
BURGUNDY ROOM
4545 N. LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA 74105-3483

OCTOBER 17, 1995

Council Members Present

William B. Breisch, Chairman
David Branecky
J. William "Bill" Fishback
Marlin "Ike" Glass
Kathryn Hinkle
Pierre Taron

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Linn Wainner
Ray Bishop
Kay York
Myrna Bruce

Council Members Absent

Larry Canter, Vice-Chairman
George Albright
Meribeth Slagell

Guests Present

(see attached list)

NOVEMBER 13, 1995

Council Members Present

William B. Breisch, Chairman
David Branecky
J. William "Bill" Fishback
Kathryn Hinkle
Meribeth Slagell
Larry Canter, Vice-Chairman
Pierre Taron

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Kay York
Scott Thomas
Joyce Sheedy
Myrna Bruce

Council Members Absent

Marlin "Ike" Glass
George Albright

Guests Present

(see attached list)

PUBLIC MEETING

Notice of Public Meeting for October 17, 1995 was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room at the Tulsa City-County Health Department location.

Call to Order - Mr. Breisch called the October 17 meeting to order and roll was taken: Mr. Branecky - aye; Dr. Canter - absent; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - absent; Mayor Taron - aye; Mr. Albright - absent; Mr. Glass - aye; Mr. Breisch - aye.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 15, 1995 Meeting/Hearing. Mr. Branecky made motion to approve with a second to the motion made by Mr. Glass. Roll call as follows: Mayor Taron - aye; Mr. Branecky - aye; Ms. Hinkle - aye; Mr. Fishback - aye; Mr. Breisch - aye; Mr. Glass had stepped out.

PUBLIC HEARING

OAC 252:010 UNIFORM ENVIRONMENTAL PERMITTING (NEW CHAPTER) TIER CLASSIFICATIONS OF PERMIT APPLICATIONS

Larry Byrum convened the hearing as protocol officer. Ms. Kay York, DEQ Staff Attorney, made statement that the purpose of the Tier Classifications for Air Quality was to be a part of the permitting program implementation that was authorized during the past year by the Oklahoma Uniform Environmental Permitting Act. Ms. York presented rules OAC 252:002-15-40 "Air Quality Applications Tier 1"; OAC 252:002-15-41 "Air Quality Applications Tier II", and OAC 252:002-15-42 "Air Quality Applications Tier III".

Numerous discussions concerning the proposed tier rules were held by the Council, staff, and public. A detailed transcript of these discussions, including motions and roll call votes of the Council are included as ATTACHMENT A of the minutes.

Mr. Breisch then entertained a motion to continue this hearing to a date agreed upon by Council.

Mr. Branecky moved that the meeting be continued to Monday, November 13, 1995 in Oklahoma City at a location to be determined.

With no further discussion on the motion, Mr. Breisch continued the hearing to 9:30 a.m. at Lincoln Plaza Office Complex, 4545 N. Lincoln Boulevard, Oklahoma City on November 13, 1995. Mr. Fishback made the second.

Roll Call as follows: Mayor Taron - aye; Mr. Branecky - aye; Mr. Fishback - aye; Mr. Glass - aye; Mr. Breisch - aye.

Discussions were also held to continue the hearing scheduled for revisions to subchapters 7, 8, 11 and 6 to the November meeting.

CONTINUED HEARING NOVEMBER 13, 1995

Hearing held on October 17, 1995 in Tulsa, Oklahoma was reconvened in Oklahoma City, Oklahoma on November 13, 1995 in the Brown Room of the Lincoln Plaza Office Complex, 4545 N. Lincoln Boulevard. Council members present were Mr. Bill Breisch, Mr. David Branecky, Mr. Bill Fishback, Ms. Kathryn Hinkle, Ms. Meribeth Slagell, Dr. Larry Canter, Mayor Pierre Taron. Members absent were Mr. Ike Glass and Mr. George Albright.

Continuing as protocol officer, Mr. Byrum stated that at the last meeting, Council had recommendations to the Environmental Quality Board on Tier I and Tier II along with extensive discussion on Tier III. Numerous discussions concerning the Tier III classifications were held by the Council, staff, and public. A transcript of these proceedings is included as ATTACHMENT B to these minutes.

Mr. Breisch entertained a motion for revision of the Tier rules with everything else remaining as previously discussed. Mayor Taron made the motion with second by Mr. Fishback to recommend the revised language. A copy of the motion is included as ATTACHMENT C of these Minutes.

With no further discussion, roll call vote was taken as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - aye; Mayor Taron - aye; Mr. Breisch - aye.

HEARING - OAC 252:100-7, 8- 11- 6

As protocol officer, Mr. Byrum convened hearing on OAC252:100-7 Permits; OAC252:100-8 Operating Permits, part 70; OAC 252:100-11 Alternative Emissions Reductions; and OAC 252:100-6 NEW and called upon Ms. Kay York to give the staff recommendations. Ms. York reiterated discussions had in Tulsa at the October meeting and accepted comments. A transcript of these proceedings is continued in ATTACHMENT D of these Minutes.

With discussion by Council and public Mr. Breisch advised that the hearing for all these rules will be continued to the December 19 meeting with comment period being extended to December 11, 1995.

NEW BUSINESS: Mr. Byrum made note of the fact that the Meeting schedule for 1996 is due to the Secretary of State and proposed possible dates to be voted on by Council in next meeting.

ADJOURNMENT: Mr. Breisch adjourned meeting announcing that the next meeting would be held at the Lincoln Plaza Office Complex, 4545 N. Lincoln Boulevard, Oklahoma City, with briefing beginning at 9:30 a.m. and Hearing at 1:00 p.m.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

LARRY D. BYRUM, DIRECTOR
AIR QUALITY DIVISION

****252:002-15-42. Air quality applications - Tier III**

A construction permit for a new Major Stationary Source, as defined below, requires a Tier III application. "Major stationary source" means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

- (i) carbon black plants (furnace process.)
- (ii) charcoal production plants,
- (iii) chemical process plants,
- (iv) coal cleaning plants (with thermal dryers),
- (v) coke oven batteries,
- (vi) fossil-fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input,
- (vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,
- (viii) fuel conversion plants,
- (ix) glass fiber processing plants,
- (x) hydrofluoric, sulfuric or nitric acid plants,
- (xi) iron and steel mill plants,
- (xii) kraft pulp mills,
- (xiii) lime plants,
- (xiv) incinerators, except where used exclusively as air pollution control devices,
- (xv) petroleum refineries,
- (xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (xvii) phosphate rock processing plant,
- (xviii) portland cement plants,
- (xix) primary aluminum ore reduction plants,
- (xx) primary copper smelters,
- (xxi) primary lead smelters,
- (xxii) primary zinc smelters,
- (xxiii) secondary metal production plants,
- (xxiv) sintering plants,
- (xxv) sulfur recovery plants, or
- (xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any change in emissions, or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a Major Stationary Source when originally permitted.

(D) "Potential to emit" in 252:002-15-42 means emissions resulting from the application of all enforceable permit limitations as defined in 252:100-1-3.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL

9:30 A.M. TUESDAY, OCTOBER 21, 1997
Tulsa City-County Health Department Auditorium
TULSA, OKLAHOMA
BRIEFING AGENDA

- 1. Call to Order Chairman
- 2. Division Director's Report - Informational Director
An update of current events and AQD activities
 - §126 Issues
 - Final Ozone and PM Standards
 - Other
 Discussion by Council/Public
- 3. 1998 Meeting Schedule Byrum
Discussion by Council
- 4. Public Hearing Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public
- 5. Public Hearing Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR
SOURCES; OPERATING AND RELOCATION PERMITS FOR
MINOR SOURCES [AMENDED]
Discussion by Council/Public
- 6. Public Hearing Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public
- 7. Public Hearing Staff
OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND
TOXIC AIR CONTAMINANTS PART 3. HAZARDOUS AIR CONTAMINANTS
-15. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
[AMENDED]
Discussion by Council/Public
- 8. Public Hearing Staff
OAC 252:2-40 and 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 290-8247.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL

1:00 P.M. TUESDAY, OCTOBER 21, 1997
Tulsa City-County Health Department Auditorium
TULSA, OKLAHOMA

HEARING / MEETING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of Minutes (August 19, 1997) Chairman
4. 1998 Meeting Schedule
Discussion and Approval by Council
5. Public Hearing Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
6. Public Hearing Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS
Discussion by Council/Public; possible action by Council
7. Public Hearing Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public; possible action by Council
8. Public Hearing Staff
OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND TOXIC
AIR CONTAMINANTS PART 3. HAZARDOUS AIR CONTAMINANTS
-15 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR
POLLUTANTS [AMENDED]
Discussion by Council/Public; possible action by Council
9. Public Hearing Staff
OAC 252:2-40 and 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public; possible action by Council
10. New Business Chairman
Discussion/consideration of subjects/business arising
within the past 24 hours; possible action by Council
11. Adjournment Chairman
Next Regular Meeting
DATE: December 16 1997
PLACE: Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City OK

CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES

PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I

~~The following air quality authorizations require Tier I applications:~~

- ~~(1) Construction permit for a minor source.~~
- ~~(2) Operating permit for a minor source~~
- ~~(3) Operating permit for a major facility, issued after a construction permit, which does not differ from the construction permit in any manner which would otherwise subject the operating permit application to public review.~~
- ~~(4) New, modified or renewed authorization under a general permit.~~
- ~~(5) Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.~~
- ~~(6) Minor modification of a major facility's construction and/or operating permit.~~
- ~~(7) Acid rain permits.~~
- ~~(8) Burn approval.~~
- ~~(9) Relocation permit.~~
- ~~(10) Temporary permit.~~
- ~~(11) Plant wide emission plan approval.~~
- ~~(12) Administrative amendment of all permits and other authorizations.~~
- ~~(13) Extension of a minor source's construction permit.~~
- ~~(14) Extension of a major facility's construction permit with no or minor modification.~~
- ~~(15) Renewal of an operating permit for a minor source.~~

(a) Minor source permits. The following air quality authorizations for minor sources require Tier I applications.

(1) New permits. New construction, operating and relocation permits.

(2) Modifications of permits.

(A) Modification of a construction permit for a minor source that will remain minor after the modification.

(B) Modification of an operating permit that will not change the source's classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) Renewals. Renewals of operating permits.

(b) Major facility permits. The following air quality authorizations for major facilities require Tier I applications.

(1) New permits.

(A) New construction permit for an existing major facility for any facility change considered minor under 252:100-8-7(e)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7(e) (2) (A).

(2) Modifications of permits.

(A) Modification of any operating permit condition that:
(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and
(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7(e) (2) (A).

(B) A construction or operating permit modification that is minor under 252:100-8-7(e) (1) (A).

(C) Extension of expiration date of a major facility's construction permit with no or minor modifications.

(c) Other authorizations. The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(d) (8) (C) (iii).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. [Also subject to state implementation plan revision procedures in see 252:100-11.]

252:2-15-41. Air quality applications - Tier II

~~The following air quality authorizations require Tier II applications.~~

~~(1) Operating permit for a major facility, issued after a construction permit, which differs from the construction permit in a manner which subjects the operating permit application to public review.~~

~~(2) Operating permit for a major facility that does not have a construction permit.~~

~~(3) Significant modification, as defined in OAC 252:100-8-7(e) (2), of a major facility's construction or operating permit.~~

~~(4) New, modified or renewed general permit.~~

~~(5) Time extension of a major facility's construction permit with a modification that would otherwise be subject to public review.~~

~~(6) Renewal of an operating permit for a major facility.~~

~~(7) A construction permit for a new major facility or a major modification to an existing major facility.~~

(a) Minor source permit actions. Any minor source seeking a permit for a facility modification that when completed would turn it into a major facility is required to apply under subsection (b) of this section.

(b) Major facility permits. The following air quality authorizations for major facilities require Tier II applications.

(1) New permits.

(A) New construction permit for a new major facility not classified under Tier III.

(B) New construction permit for an existing major facility for any facility change considered significant under 252:100-8-7(e) (2) (A) and which is not classified under Tier III.

(C) New operating permit for a major facility that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7(e) (2) (A).

(E) New acid rain permit that is independent of a Title V permit application.

(F) New temporary source permit under 252:100-8-6(e).

(2) Modifications of permits.

(A) Significant modification, as described in 252:100-8-7(e) (2) (A), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7(e) (2) (A).

(C) A construction permit modification considered significant under 252:100-8-7(e) (2) (A) and which is not classified under Tier III.

(3) Renewals. Renewals of operating permits.

(c) Other authorizations. The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(d) (8) (C) (iii).

MINUTES
AIR QUALITY COUNCIL
October 21, 1997
Tulsa City County Health Department Auditorium
4616 East 15th Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
Meribeth Slagell
Gary Kilpatrick
J. William "Bill" Fishback
David Branecky
Sharon Myers

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Barbara Hoffinan
Scott Thomas
Linn Wainner
Joyce Sheedy
Jeanette Buttram
Morris Moffett
Myrna Bruce

Council Members Absent

Larry Canter, Vice-Chairman
Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 21, 1997 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Andrews and Dr. Canter were absent.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 21, 1997 Public Meeting/Hearing. Motion was made by Mr. Branecky to approve the Minutes and second to the motion was made by Ms. Myers. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - abstain; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Meeting Schedule - Mr. Breisch entertained motion to approve the 1998 Meeting Schedule as proposed. Ms. Myers made the motion with the second being made by Mr. Kilpatrick. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. (Note: Dates proposed were February 18, April 21, June 16, August 18, October 20, December 15).

After discussion and comments from Council and audience, Mr. Breisch entertained motion to continue the hearing to the December 16 Air Quality Council meeting to be voted on along with SC 8 and SC 5. Ms. Slagell made that motion and second was by Mr. Kilpatrick. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes. Mr. Byrum called upon Dr. Joyce Sheedy to give staff position on the proposed rule.

Dr. Sheedy stated that it was staff's objective to correct deficiencies listed in the approval of the interim Title V Program to incorporate case-by-case MACT requirements; to incorporate permit continuum; as well as to clarify, simplify, and streamline the rule. Dr. Sheedy advised that staff recommendation was that the hearing on the revisions be continued to Council's December 16 meeting.

Mr. Byrum opened the floor for discussion and comments. Ms. Barton complimented staff on the monumental task accomplished making these changes.

Mr. Breisch entertained motion to continue this item to the next meeting on December 16 and that the comment period would remain open. Ms. Myers made this motion with second being made by Mr. Branecky. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:10041-15 CONTROL OF EMISSIONS OF HAZARDOUS AND TOXIC AIR CONTAMMANTS PART 3: HAZARDOUS AIR CONTAMINANTS -15 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS [AMENDED]

As protocol officer, Mr. Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations (CFR) Part 51, and Title 27A Oklahoma Statutes. Mr. Byrum called upon Dr. Joyce Sheedy to give staff recommendations.

Dr. Sheedy pointed out that the hearing on the proposed revisions to 252:100-41-15 was continued from the August 19, 1997 AQC meeting. She noted that revisions were made based on comments received. Dr. Sheedy outlined proposed changes to 252:100-41-15(a) as follows:

NEW BUSINESS - Mr. Byrum advised that a fax had been received from EnerCon Services dealing with a problem anticipated by those who worked on the Aerospace/ARACT rules. In the fax, EnerCon pointed out that at that time EPA had rules under NESHAP provision which could be in conflict with the State rules. He added that now industry petitioned to revisit these rules so that industry is not covered by two different rules that say two different things. Mr. Byrum suggested that a committee be formed with four people from the aerospace industry and four staff to handle most of the items administratively; then to bring any changes to the Council. He also pointed out that no action was required from Council at this time.

Nadine Barton recognized Mr. Byrum's years of service saying 'good luck'.

ADJOURNMENT: With no further business, meeting was adjourned with next meeting being held on December 16, 1997 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

October 21, 1997

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 TODD SMITH	TERACO	PO BOX 377 VERA, OK 73091	
2 Adrian Summers	ODEQ	1000 NE 10th OKC	
3 Howard Ground	PSO	P.O. Box 201 Tulsa OK 74102	
4 Kyle Brown	ODEQ	1000 N.E. 10th St. OKC	
5 Deborah Perry	Emercon Services	10820 E 45th, Suite 100 Tulsa 74146	
6 Perry-Friedrich	GRDA	PO Box 10 Chouteau OK 74337	
7 FRANK CONDON	EQ BOARD		
8 JOHN JOHNSON	ODEN MARTIN SYSTEMS	TULSA 2122 S. PARKWAY AVE TULSA 74107	
9 Chuck McCune	RSA	TULSA 2485 E 81 ST STREET 610	
10 Frank Erwin	City of Tulsa	2445 S. Jackson Ave Tulsa	
11 Nadine Barton	CASE	6609 E. 86th Pl Tulsa	
12 Thelma Douglas	American Airlines		
13 Rich Tramm	OGEA	Box 1307 E. D PL 73702	
14 [Signature]		1408 S. Denver Tulsa 74119	
15 Gerald Bucher	WFEC	Arckerka OK 9101 WEST 121 ST STREET	
16 DAVID GIBBS	WEBCO IND.	SAND SPRINGS, OK 7406	

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, DECEMBER 16, 1997
9:30 A.M.

LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

BRIEFING AGENDA

1. Call to Order Chairman
2. Division Director's Report - Informational Director
 - An update of current events and AQD activities
 - Upcoming Activities
 - Other
3. PUBLIC HEARING Staff
OAC 252:100-5-2.2(b) (2) PART 70 SOURCES ANNUAL OPERATING FEES [AMENDED]
Discussion by Council/Public
4. PUBLIC HEARING Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public
5. PUBLIC HEARING Staff
OAC 252:100-17 INCINERATORS
Discussion by Council/Public
6. PUBLIC HEARING Staff
OAC 252:2-15-40 and 252:2-15-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public of proposed Council action
7. ACTION ITEM Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public of proposed Council action
8. ACTION ITEM Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public of proposed Council action

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, DECEMBER 16, 1997
1:00 P.M.

LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

MEETING/HEARING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of OCTOBER 21, 1997 Minutes Chairman
4. PUBLIC HEARING Staff
OAC 252:100-5-2.2(b)(2) PART 70 SOURCES ANNUAL OPERATING FEE [AMENDED]
Discussion by Council/Public; possible action by Council
5. PUBLIC HEARING Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public; possible action by Council
6. PUBLIC HEARING Staff
OAC 252:100-17 INCINERATORS [AMENDED]
Discussion by Council/Public; possible action by Council
7. PUBLIC HEARING Staff
OAC 252:2-15-40 and 252:2-15-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public; possible action by Council
8. ACTION ITEM Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997
9. ACTION ITEM Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997
10. NEW BUSINESS Chairman
Discussion/consideration of subjects/business arising within
the past 24 hours; possible action by Council
11. Adjournment Chairman
Next Regular Meeting WEDNESDAY, FEBRUARY 18, 1998
LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM, 4545 N. Lincoln, Oklahoma City

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

December 2, 1997

MEMORANDUM

TO: Air Quality Council

FROM: David Dyke, Assistant Director
Air Quality Division *DD*

SUBJECT: Modifications to Chapter 2

Enclosed is a copy of the proposed modifications to Chapter 2, Procedures of the Department of Environmental Quality, Subchapter 15, Uniform Permitting Procedures, which will be brought to public hearing on December 16, 1997. The rules proposed for revision are OAC 252:2-15-40, Air Quality applications - Tier I, and OAC 252:2-15-41, Air Quality applications - Tier II. This rulemaking arises from EPA requirements for the Title V permitting program. At EPA's request, Title V acid rain permits, temporary permits, and general permit authorizations required to have compliance schedules under OAC 252:100-8 are reclassified from Tier I to Tier II. In addition, a reorganization of the rules' format is also proposed due to general comments received from the public. Under the proposed format, Tier I and II classifications are reorganized by facility size and type of permit for simplification purposes. References in OAC 252:2-15-40 and OAC 252:2-15-41 to Air Quality regulations have been changed to reflect the proposed amendments to those regulations that will also be before the Council on December 16, 1997. The proposed modifications will aid the Air Quality Division in obtaining final EPA approval of the Title V permitting program.

Enclosure: 1

CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES

PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I

~~The following air quality authorizations require Tier I applications:~~

- ~~(1) Construction permit for a minor source.~~
- ~~(2) Operating permit for a minor source~~
- ~~(3) Operating permit for a major facility, issued after a construction permit, which does not differ from the construction permit in any manner which would otherwise subject the operating permit application to public review.~~
- ~~(4) New, modified or renewed authorization under a general permit.~~
- ~~(5) Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.~~
- ~~(6) Minor modification of a major facility's construction and/or operating permit.~~
- ~~(7) Acid rain permits.~~
- ~~(8) Burn approval.~~
- ~~(9) Relocation permit.~~
- ~~(10) Temporary permit.~~
- ~~(11) Plant wide emission plan approval.~~
- ~~(12) Administrative amendment of all permits and other authorizations.~~
- ~~(13) Extension of a minor source's construction permit.~~
- ~~(14) Extension of a major facility's construction permit with no or minor modification.~~
- ~~(15) Renewal of an operating permit for a minor source.~~

(a) Minor source permits. The following air quality authorizations for minor sources require Tier I applications.

(1) New permits. New construction, operating and relocation permits.

(2) Modifications of permits.

(A) Modification of a construction permit for a minor source that will remain minor after the modification.

(B) Modification of an operating permit that will not change the source's classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) Renewals. Renewals of operating permits.

(b) Major facility permits. The following air quality authorizations for major facilities require Tier I applications.

(1) New permits.

(A) New construction permit for an existing major facility for any facility change considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).

(2) Modifications of permits.

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a major facility's construction permit with no or minor modifications.

(c) Other authorizations. The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. [Also subject to state implementation plan revision procedures in see 252:100-11.]

252:2-15-41. Air quality applications - Tier II

The following air quality authorizations require Tier II applications.

~~(1) Operating permit for a major facility, issued after a construction permit, which differs from the construction permit in a manner which subjects the operating permit application to public review.~~

~~(2) Operating permit for a major facility that does not have a construction permit.~~

~~(3) Significant modification, as defined in OAC 252:100-8-7(e)(2), of a major facility's construction or operating permit.~~

~~(4) New, modified or renewed general permit.~~

~~(5) Time extension of a major facility's construction permit with a modification that would otherwise be subject to public review.~~

~~(6) Renewal of an operating permit for a major facility.~~

~~(7) A construction permit for a new major facility or a major modification to an existing major facility.~~

(a) Minor source permit actions. Any minor source seeking a permit for a facility modification that when completed would turn it into a major facility is required to apply under subsection (b) of this section.

(b) Major facility permits. The following air quality authorizations for major facilities require Tier II applications.

(1) New permits.

(A) New construction permit for a new major facility not classified under Tier III.

(B) New construction permit for an existing major facility for any facility change considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(C) New operating permit for a major facility that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(E) New acid rain permit that is independent of a Title V permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) Modifications of permits.

(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) Renewals. Renewals of operating permits.

(c) Other authorizations. The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

252:2-15-42. Air quality applications - Tier III

(a) **New major stationary sources.** A construction permit for any new major stationary source listed in this subsection requires a Tier III application. For purposes of this section, "Major stationary source" means:

(1) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

- (A) carbon black plants (furnace process),
- (B) charcoal production plants,
- (C) chemical process plants,
- (D) coal cleaning plants (with thermal dryers),
- (E) coke oven batteries,
- (F) fossil-fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input,
- (G) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,
- (H) fuel conversion plants,
- (I) glass fiber processing plants,
- (J) hydrofluoric, sulfuric or nitric acid plants,
- (K) iron and steel mill plants,
- (L) kraft pulp mills,
- (M) lime plants,
- (N) incinerators, except where used exclusively as air pollution control devices,
- (O) petroleum refineries,
- (P) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (Q) phosphate rock processing plant,
- (R) portland cement plants,
- (S) primary aluminum ore reduction plants,
- (T) primary copper smelters,
- (U) primary lead smelters,
- (V) primary zinc smelters,
- (W) secondary metal production plants,
- (X) sintering plants,
- (Y) sulfur recovery plants, or
- (Z) taconite ore processing plants, and

(2) Any other source not specified in paragraph (1) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(b) **Existing incinerators.** An application for any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted shall require a Tier III application.

(c) **Potential to emit.** For purposes of this section, "potential to emit" means emissions resulting from the application of all enforceable permit limitations as defined in OAC 252:100-1-3.

MINUTES
AIR QUALITY COUNCIL

December 16, 1997

Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Gary Kilpatrick
J. William "Bill" Fishback
Meribeth Slagell
Larry Canter, Vice-Chairman
Sharon Myers
David Branecky

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner
Larry Trent
Joyce Sheedy
Jeanette Buttram
Michelle Martinez
Cheryl Bradley
Myrna Bruce

Council Members Absent

Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for December 16, 1997 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Andrews was absent during the hearing session.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 21, 1997 Public Meeting/Hearing. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-5-2.2(B)(2) PART 70 SOURCES ANNUAL OPERATING FEE [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A Oklahoma Statutes, Section 2-5-101 through 2-5-118.. Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed changes to the rule.

Ms. Buttram advised that staff's recommendation was that the annual operating fee billed in 1998 for Part 70 sources be adjusted by the Consumer Price Index as specified in the existing rule which would render a 2.2 % increase from \$16.03 to \$16.39 per ton. She also pointed out staff's intention to bring before the Council any proposed adjustments to the fee on an annual basis.

Dr. Canter introduced the committee's report *Title V Fee Committee Findings and Recommendations* dated December 15, 1997 into the record. Members of this committee were Dr. Canter, Mr. Fishback, and Mr. Branecky. The full report is made an official part of these Minutes. Mr. Kilpatrick made motion to accept the committee's report and second was made by Mr. Fishback. With discussion that perhaps Mr. Fishback should not make the second since he was on the committee, Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Ms. Myers made additional motion to leave the fees as stated for 1998 with only the Consumer Price Index increase from \$16.03 to \$16.39. Mr. Fishback made the second. Mr. Doughty, staff attorney, mentioned that Council is recommending no action; therefore, this portion of the rule would not go before the Environmental Quality Board specifically. Roll call was as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke stated that since there was extensive discussion in the briefing session regarding continuation of this subchapter to a later date, Dr. Joyce Sheedy would stand ready to discuss staff proposal for the rule.

Mr. Kilpatrick made motion to continue the hearing to January 9, 1998 at 1:00. Mr. Branecky made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-17 INCINERATORS [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51

and Title 27A Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke called upon Michelle Martinez to give staff position on the proposed changes to the rule. Staff's recommendation was for approval as both emergency and permanent adoption.

Mr. Kilpatrick made motion to continue this hearing until January 9, 1998 at 1:00 p.m. Second was made by Ms. Slagell. During discussion, it was noted that continuing this hearing to February would cause the rule to be adopted by the Board as an emergency rule only, which could possibly put the State Plan at risk. Roll call as follows: Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Fishback – no; Dr. Canter – no; Ms. Myers - no; Mr. Branecky - no; Mr. Breisch - no.

After this discussion, Mr. Branecky made motion that Council accept Subchapter 17 as amended and recommend to the Environmental Quality Board for both emergency and permanent adoption. Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick – no; Ms. Slagell – no; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:2-40 and OAC 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations Part 51, and Title 27A Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke called upon Ms. Barbara Hoffman to give staff recommendations.

Staff requested that the Council recommend the revisions to the Environmental Quality Board for adoption as a permanent rule. After discussion, Ms. Myers made motion to approve the rule as amended and recommend to the Environmental Quality Board for permanent adoption. Mr. Branecky made the second. Roll call as follows: Mr. Kilpatrick – no; Ms. Slagell – aye; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

OLD BUSINESS

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCE [AMENDED]

Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed changes to this rule. After summarizing the changes, Ms. Buttram stated staff's recommendation was that Subchapter 5 be approved by Council and forwarded to the Environmental Quality Board at the same time that Subchapter 8 is approved.

Mr. Branecky moved that Council continue this hearing to January 9, 1998; and Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

**OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]**

Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed rule. After summarizing the changes, Ms. Buttram stated that staff recommended that Subchapter 7 be approved by Council at the same time that Subchapter 8 is approved.

Mr. Kilpatrick moved that Council continue the hearing on to the January 9, 1998 meeting. Second to the motion was made by Ms. Myers. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

NEW BUSINESS Dr. Canter stated that no one member of the public could claim to represent all of the public, and that he believes Council hearings provide the proper forum to hear comments from the public on proposed rules. While it is sometimes difficult to decide what rule changes requested at hearings by AQD staff or the public are substantive, Dr. Canter said he resented the implication that the public was not given adequate opportunity to comment on Subchapter 17, since it had been presented at two Council meetings.

ADJOURNMENT With no further business, meeting was adjourned and an additional meeting scheduled for January 9, 1998 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

DECEMBER 16, 1997

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	Wayne Ebarb	Nov Am Energy	Shreveport, La	
2	Laura Armistead	Nov Am Energy	Shreveport, La	
3	Joe W Hampton	OKLA Grassroots Fuel Assoc	Emm, OK	
4	Cheryl Bradley	DEQ - AQD		
5	Nancy Coleman	ICSA	Norman 73072 3700 W Robinson Ste 200	
6	TOAA SMITH	TEXACO	NO OK 277 VERNA, OK 73091	
7	Frank Erwin	City of Tulsa	2445 S Jackson Av Tulsa 74107	
8	Kurt S. Anderson	TAFB		
9	Carol Barker	OCALC/Emv	Tinker AFB	
10	FRANK CONDON	EQ BOARD		
11	Geri Hart	TAFB		
12	Connie White	TAFB		
13	Pat Davenport	N-S	Stillwater	
14	Kyle Brown	DEQ/CAP		
15	Donald Buehler	WFEC	Andarko	
16	Charles M. Peto	EPA	TULSA	

17 Paul Ann (DAVID GIBBS) WESCO SAND SPRINGS

18 Rick Bant EPA DALLAS, TX

19 Mark Bant CASE

20 Adrian Sumner DEW-FSD OKC

21 Shyaleh Young Trinity Dallas

22 Ray Bant ConSec OKC

23 Robert N Elding to NAMSTAR

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**AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING**

*** 9:00 A.M.**

**Tuesday, December 14, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson
Oklahoma City Oklahoma**

1. Call to Order - Bill Breisch
2. Roll Call - Myrna Bruce *CALLON LEE PADEN (E & F)*
3. INTRODUCTION - RICK FREEMAN
3. CY 2000 Meeting Schedule - ADA Rec'd by Sharon Meyer, 2001
- A. Discussion by Council **AMENDED**
- B. Roll call vote
4. Resolution for Meribeth Slagell
5. Approval of Minutes of the October 19, 1999 Regular Meeting
6. Public Rulemaking Hearings

A. OAC 252:100 Appendices E and F [AMENDED]

Appendix E Primary Ambient Air Quality Standards [REVOKED]

Appendix E Primary Ambient Air Quality Standards [NEW]

Appendix F Secondary Ambient Air Quality Standards [REVOKED]

Appendix F Secondary Ambient Air Quality Standards [NEW]

Proposal would restore the primary and secondary ambient air quality standards for ozone and particulate matter to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard. *MILERY RITZ - MINOR SAVINGS OFFICE*

1. Presentation - Michelle Martinez
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

** Lee Paden - Chair Env. Qual by Board*

B. OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; to require an owner or operator of a facility to report excess emissions on their annual emission inventory; to require inventories to be submitted one month earlier than presently required; to allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and to reduce the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.

1. Presentation - Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

** Howard Bud Greenwood*

C. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include establishing a time limit on excess emissions caused by properly reported malfunctions, startup/shutdowns, and maintenance procedures. The burden of proving that excess emissions occurring more than eight hours or 1.5 percent of the process's operation time in a 3-month period are due to excusable malfunctions, startup/shutdowns or maintenance procedures rather than negligent, marginal, or improper operation is on the owner or operator of the process. Language was added to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement; and additional demonstration requirements for malfunctions, maintenance, and startup/shutdowns were added under proposed section 252:100-9-3.2, Demonstration of cause.

1. Presentation - Jeanette Buttram

Passed

*PASSED
w/Amendments
Ken Williams
ALL ESTABLISHED*

CONFIDENTIAL
*✓ Laura Armistead
• Bill Fishback
• Tom Diggs*

3.2109

- Lunch*
2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

D. OAC 252:100-13. Prohibition of Open Burning [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add definitions for "domestic refuse" and "land clearing operation" along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were expanded and moved to a new section. Also the rule would only allow material from a land clearing operation to be burned in an open-pit incinerator.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

E. OAC 252:100- 23 Control of Emissions from Cotton Gins [AMENDED]

- gather*
1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-23-3(a) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

F. OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-24-3(a)(1) and (2) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

G. OAC 252:2-15 Environmental Permit Processing Times [AMENDED]

The proposal would change the terms used in 252:2-15-40, 41 and 72 to be consistent with those used in 252:100, Air Pollution Control. The terms "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

7. Division Director's Report – Eddie Terrill

8. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

9. Adjournment – Next Regular Meeting

Date and Time: To Be Announced
Place: DEQ Multi-Purpose Room - OKC

FEES- BILLING
STAPPA
GENSARA/REGIONAL PLANNING BODY
REGULATORS Mtg. APRIL/MAY

* Council decided at its October 19 meeting to begin at 9:00 a.m. due to the number of agenda items.

Lunch Break, if necessary

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 720-4100.

December 1, 1999

MEMORANDUM

TO: Air Quality Council
FROM: Eddie Terrill, Director ^{CT}
Air Quality Division
Re: Modifications to Chapter 2

Enclosed is a copy of the proposed amendments to OAC 252:2-15, Environmental Permit Processing Times. The Department is proposing to amend Sections 40, 41 and 72 to make them consistent with 252:100, Air Pollution Control. The references to "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

At the hearing, staff will suggest that the Council vote to recommend to the Environmental Quality Board adoption of the amendment as a permanent rule.

Enclosures: 1

CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES
PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I

(a) ~~Minor source facility~~ permits. The following air quality authorizations for ~~minor sources facilities~~ require Tier I applications.

(1) **New permits.** New construction, operating and relocation permits.

(2) **Modifications of permits.**

(A) Modification of a construction permit for a ~~minor source facility~~ that will remain minor after the modification.

(B) Modification of an operating permit that will not change the ~~source's facility's~~ classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) **Renewals.** Renewals of operating permits.

(b) ~~Major facility Part 70 source~~ permits. The following air quality authorizations for ~~major facilities Part 70 sources~~ require Tier I applications.

(1) **New permits.**

(A) New construction permit for an existing ~~major facility Part 70 source~~ for any ~~facility~~ change considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).

(2) **Modifications of permits.**

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a ~~major facility's Part 70 source's~~ construction permit with no or minor modifications.

(c) **Other authorizations.** The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

252:2-15-72. Air quality permit time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

(A) PSD ~~(Part 70 sources)~~ - 540 days.

(B) ~~Major Sources~~ (Part 70 sources Sources (other than PSD) - 365 days.

(C) ~~Minor Sources~~ Facilities - 180 days.

(2) Operating permits:

(A) ~~Major~~ Part 70 Sources - 540 days.

(B) ~~Minor Sources~~ Facilities - 365 days.

(3) Relocation permits - 30 days.

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MINUTES
AIR QUALITY COUNCIL
DECEMBER 14, 1999
Department of Environmental Quality
MultiPurpose Room - 707 North Robinson, OKC

Council Members Present

William B. Breisch, Chairman
Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz

Staff Present

David Dyke
Dennis Doughy
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Myrna Bruce

Council Members Absent

Larry Canter
Sharon Myers
Gary Kilpatrick

Guests Present

**see attached list

Notice of Public Meeting for December 14, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye. Dr. Canter, Ms. Myers, and Mr. Kilpatrick did not attend. Mr. Breisch and Mr. Terrill presented Meribeth Slagell a Resolution from the Council and Certificate of Appreciation from Mr. Coleman and thanked her for her years of dedicated service on the Council. Mr. Breisch introduced new Council member, Rick Treeman, who was appointed by the Governor to replace the position vacated by Mrs. Slagell.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Fallon to approve the Minutes as presented and second was made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

CY 2000 Meeting Schedule - Staff suggested the following Year 2000 meeting dates:

- Wednesday, February 16 at Tulsa
- Wednesday, April 19 at Lawton
- Wednesday, June 14 at Tulsa
- Wednesday, August 16 at Ponca City
- Wednesday, October 18 at Oklahoma City
- Wednesday, December 14 at Oklahoma City

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Motion to accept the schedule was made by Mr. Fallon with second by Mr. Branecky with following vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100- Appendices E & F

Appendix E Primary Ambient Air Quality Standards [AMENDED]

Appendix F Secondary Ambient Air Quality Standards [AMENDED]

Ms. Michelle Martinez made the staff presentation stating that the proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards for ozone to what they were prior to June 1, 1999. She advised that the 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored; and that the PM-2.5 standards would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

Ms. Martinez entered into the record a fax received from EPA Region 6 dated December 10, 1999 which stated that updating these appendices was timely and appropriate. Ms. Martinez then asked that Council recommend proposed Appendices E and F to the Environmental Quality Board for permanent adoption.

Following discussion, Mr. Breisch asked for a motion to recommend the rule for adoption. Mr. Branecky made motion to recommend to the Board for permanent/emergency adoption. Second was made by Mr. Fallon. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-5

Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram presented the staff presentation and advised that the proposed changes to Subchapter 5 were designed to allow the agency the ability to bill annual operating fees on a flexible schedule, and that these changes would also allow the fees to be based on the most recent emission data possible. Ms. Buttram pointed out that the proposed rule clarified that an owner or operator of a facility must report quantifiable excess emissions on their annual emission inventory. She stated that substantive changes included the requirement that all inventories be submitted prior to March 1, and the Agency would provide up to a 30-day extension upon request. Council made a recommendation that the language be changed to allow an additional 30-day extension for good cause shown. Also, the rule will allow fee payers five years after payment is made to notify the DEQ that they overpaid and receive

credit for such overpayment. Also, new language was proposed to reduce to six months after inventories are due or submitted, the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the methods used to calculate the facility's emissions for "fee calculation purposes."

Ms. Buttram advised that comments had been received from Central and Southwest Services and she entered them into the record. She stated that it was staff's recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Following comments from Council members and the audience, changes were made in the wording and Mr. Wilson made a motion to forward this rule, with changes, to the Environmental Quality Board for adoption. Second was made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram was called upon to make the staff recommendation for this rule. She stated that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language; and that the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative.

Substantive changes include the addition of new definitions and the addition of a new subsection for certification of the information submitted.

Also, language was added under 100-9-3.3, Demonstration of cause, which states excess emissions caused by malfunction and maintenance, start-up/shutdown, can be exempt from compliance which air emission limitations established in permits, rules, orders of the DEQ if the owner/operator properly complies with the requirements in 252:100-9-3.1 and 252:100-9-3.2, respectively; and meets the demonstrations listed in those subsections. Then additional subsections added to 100-9-3.3 were discussed.

Ms. Buttram advised that comments had been received from EPA Region 6 and from Central and Southwest Services and entered them into the record. She stated that staff suggested that the rule be recommended for adoption by the Environmental Quality Board.

After much discussion with staff, Council, and audience members, Mr. Breisch called for a motion. Mr. Fallon made motion to continue this rule to the next regular meeting. Mr. Branecky made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Ms. Jeanette Buttram was called upon to give the staff recommendation concerning this rule. She stated that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She added that such changes included consolidating the general conditions and requirements for allowed open burning into a new section. She pointed out that a few substantive changes were made such as adding definitions for "domestic refuse" and "landclearing operation" and a section on disaster relief procedures; and that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. Ms. Buttram stated that new language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. She stated that existing language on open-pit incinerators was expanded it would now prohibit accepting any material owned by other persons and from transporting any material to be burned to the property where the open-pit incinerator is located. She advised that it was staffs recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Ms. Buttram entered written comments from Central and Southwest Services into the record. Following questions and discussion by Council, changes were made in the wording after which Mr. Breisch entertained motion to accept the changes made and forward the rule to the Board for adoption as a permanent rule. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

Mr. Dyke called upon Mr. Max Price who advised Council that the proposed changes to 100-23-3 and 100-24-3, would substitute references to 252:100-19-12 for references to Subchapter 27. He added that these revisions were necessary because the substantive requirements of Subchapter 27 would be moved to 100-19-12 and Subchapter 27 would be revoked in June of 2000. He added that the references to Subchapter 27 would become meaningless unless they are replaced by references to 100-19-12. Mr. Price stated that it was staff's recommendation that Council refer these rules to the Environmental Quality Board for emergency adoption effective June 1, 2000.

Mr. Breisch stated that these two rules would be voted on separately and called for a motion on Subchapter 23. Mr. Wilson made the motion to forward to the Board as recommended

by staff. The second made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Mr. Breisch then called for the same motion for Subchapter 24. Mr. Branecky made the motion and Dr. Grosz made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:2-15

Environmental Permit Processing Times [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who stated that the proposed amendments to Sections 40, 41, and 72 would make them consistent with 252:100, Air Pollution Control; and that the references to "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and Part 70 source(s)", respectively. She added that changes were also made at the Council meeting to section 2-15-72(1)(A) such that the phrase "and part 70 sources" was added along with changing the number of days from 540 to 365. Ms. Bradley stated that comments had been received from EPA Region 6 and she entered them into the record. Following discussion Ms. Bradley advised that it was staff's recommendation that Council refer this rule to the Board for permanent adoption of the proposed amendments. Mr. Breisch called for a motion. Mr. Branecky made motion to accept the changes as stated and forward the rule to the Board for adoption. Mr. Fallon made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

DIVISION DIRECTOR'S REPORT - Mr. Terrill advised that he and Mr. Dyke would be attending a meeting with Central States Air Resources Board (CenSARA) to discuss, among other things, the status of the Regional Planning Body activities. He stated that he would like to take a few minutes at the next regular meeting for an update on these activities.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 16, 2000 at 9:00 a.m. in the Auditorium at OSU-Tulsa (formerly UCAT).

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 14, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	CSW	ADDRESS	TELEPHONE
1. Howard Ground	PO Box 460164	Dallas TX.	214-777-1711
2. Tom Diggs	U.S. EPA Reg 4	1445 Ross Ave Dallas TX	214-465-7214
3. LEE Moody	Trinity	DALLAS	972 661 8100
4. John Wheeler	"	"	"
5. Marty Smith	Duke Energy	New	(303) 599 3331
6. Mike Peters	McKinney & Steiger	(405)	272-1907
7. ^{Sandoz} Bill CLARK	P.O. Box 2039	Tulsa OK	918-594-6368
8. Preston Barta	Howell Corp.	3805 Douglas Midland TX 79703	915 699 5214
9. FRANK CONDON	EQ BOARD		
10. Wilbur Stagell	Rt 1/Box 182	Nuevo	405 663 2290
11. BILL FISHBACK	3424	LYAL TER EDMOND	405-348-8683
12. KEN WILLIAMS	320 S. Barton,	Tulsa OK	918-594-0519
13. LEE PADEN	ODEQ Board	P.O. Box 52072, Tulsa 74152	918-743-71
14. Laura Armistead	Reliant Energy	P.O. Box 21734 Spout, LA 71118	318 429 370
15. Tom Buckman	Reliant Energy	189 NW 50th OKC	OK 73118 405-556-24
16. DUSTIN GIVENS	Ft. James	4701 Chandler Rd, Mustang	918/68
17. Steve Lenders	"	"	"
18. Adam Kutz	Mayor's Office		
19. Vance McSpadden	5115 N. Western	OKC	842-6625
20. Kirk Potter	Boeing-Tulsa	3330 N. Mineo Tulsa	832-3178
21. Carol Barker	7701 Arnold St, Suite 204,	TAFB OK 73115	736-5986
22. Bob Kellogg	OKC		405 235-0808
23. Travis Tindle	2500 S. Council,	OKC, OK 73128	405 745-4442 ext 2
24. DAVID FARRAND	P.O. Box 3288	Tulsa OK 74101	918-573-4489
25. ERICA Schwenneker	301 NW 63rd Street,	#215, OKC 73116	

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
DECEMBER 14, 1999
SIGN IN SHEET Page Two

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Gary Pink	111026	918 384 7526
27. Cary Collins	TERRA	918 266 1511
28. Pat Davenport	N-S	405 377 5050
29. Jon Pickett	MARATHON OIL Co	405-920-5532
30. Deanne Hughes	Cardinal Engineering	842-1006
31. Julia Bevers	321 N. Hawey 73101	553-3439
32. Rhonda Jeffers	DEO / POAT	918 961-7412
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Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, September 26, 1995
Elk City Civic Center, 1016 Airport Blvd.
Elk City, Oklahoma

1. Call to Order - Frank Condon
2. Roll Call - Lynda Finch
3. Approval of Minutes of the January 24, 1995 Regular Meeting
4. Consideration of New Rule 252:002-15-5 regarding signatory delegation of permits
 - A. Presentation of Proposed Rule - Kay York
 - B. Questions and Discussion by Board
 - C. Questions and Discussion by Public
 - D. Discussion by Board
 - E. Roll Call Vote
5. Consideration of amendments to 252:100-3 regarding prevention of significant deterioration (PSD) increments for particulate matter
 - A. Presentation of Proposed Rules - Larry Byrum
 - B. Questions and Discussion by Board
 - C. Questions and Discussion by Public
 - D. Discussion by Board
 - E. Roll Call Vote
6. Consideration of amendments to 252:100-8-5 regarding the phased submittal of Title V air pollution operating permits
 - A. Presentation of Proposed Rules - Larry Byrum
 - B. Questions and Discussion by Board
 - C. Questions and Discussion by Public
 - D. Discussion by Board
 - E. Roll Call Vote
7. Consideration of amendments to 252:200-11-4 (c) regarding hazardous waste facilities in the 100-year floodplain.
 - A. Presentation of Proposed Rules - Scott Nicholson
 - B. Questions and Discussion by Board
 - C. Questions and Discussion by Public
 - D. Discussion by Board
 - E. Roll Call Vote
8. Consideration of reformatting 252:500 into new series 252:520
 - A. Presentation of Proposed Rules - Steve Mason
 - B. Questions and Discussion by Board
 - C. Questions and Discussion by Public

- D. Discussion by Board
- E. Roll Call Vote

9. Consideration of amendments to 252:510 regarding stormwater discharge at municipal landfills

- A. Presentation of Proposed Rules - Steve Mason
- B. Questions and Discussion by Board
- C. Questions and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote

10. Consideration of finding of emergency for agenda items 4 through 9.

- A. Presentation of Proposed Finding - Bob Kellogg
- B. Questions and Discussion by Board
- C. Questions and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote

11. Consideration of the Department's FY97 Operational Budget Request

- A. Presentation - Mark Coleman
- B. Questions and Discussion by Board
- C. Questions and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote

12. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)

13. Executive Director's Report

- A. Update on hazardous waste transportation registration issues
- B. Progress on Uniform Permitting

14. Calendar of Events

15. Adjournment

Attachments (rulemaking preamble pages)

Should you have a disability and need an accommodation, please notify our Department three days in advance at 271-8056. TDD number 232-0591.

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES

252:2-15-28. Permit decision-making authority.

(a) Designated positions. The Executive Director may delegate in writing the power and duty to issue, renew, amend, modify and deny permits and take other authorization or registration action. Unless delegated to a Division Director by formal assignment or rule, the authority to act on Tier I applications shall be delegated to positions within each permitting program having technical supervisory responsibilities and, for local actions authorized by law, to environmental specialist positions held by the DEQ's local services representatives. The authority to act on emergency permits or Tier II applications shall be delegated to the Division Director of the applicable permitting division.

(b) Revision. The Executive Director may amend any delegation in writing.

Sign-In Sheet

Name	Representing
David Branceley	OG & F
Rick TREEMAN	OGFA OGFA
Claire Newsom	Save The Cimarron
Scott Nicholson	ECCI
Ellen Bussert	DEQ
Jim Barnett	EFO
Glen Jones	DEQ
Catherine Sharp	DEQ
Steve Mason	Solid Waste Advisory Comm!
Chris Vang	DEQ
Michael Galloway	Bris. J. Custer County LEPC - chair OKlahoma Herz MAT Emerg Response Commis
Randy Butler	Okla. House of Reps.
Fred Kyler	O A I F
Robert Noel Patten	DEQ - Beckham/Roger Mills
BT	

**REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

cc: Craig
Dennis
Jimmy

**A Public Meeting: 9:30am, November 28, 1995
Muskogee Civic Center, Room E
425 Boston – Muskogee, Oklahoma**

- 1. Call to Order - Frank Condon**
- 2. Roll Call - Lynda Finch**
- 3. Approval of Minutes of the September 26, 1995 Regular Meeting**
- 4. SUPER Innovations—Permitting - Mark Coleman**
- 5. Consideration of changes to Chapter 252:002, Procedures of the DEQ;
New rules that classify permit applications into the three tiers under the Uniform Permitting system:**
 - 15-40 thru 42 (air quality applications)**
 - 15-43 thru 45 (hazardous Waste applications)**
 - 15-46 thru 48 (laboratory certification applications)**
 - 15-49 thru 51 (operator certification applications)**
 - 15-52 thru 54 (radiation management applications)**
 - 15-55 thru 57 (solid waste applications)**
 - 15-58 thru 60 (UIC applications)**
 - 15-61 thru 63 (water quality applications)**
 - A. Presentation of Proposed Rules - Kay York**
 - B. Questions and Discussion by Board**
 - C. Questions, Comments and Discussion by Public**
 - D. Discussion by Board**
 - E. Roll Call Vote**
- 6. Consideration of changes to Chapter 252:300, Laboratory Certification;
252:300-7-9 relating to recordkeeping and reporting.**
 - A. Presentation of Proposed Rules - Judy Duncan**
 - B. Questions and Discussion by Board**
 - C. Questions, Comments and Discussion by Public**
 - D. Discussion by Board**
 - E. Roll Call Vote**
- 7. Consideration of biomedical waste Certificates of Need**
 - A. Discussion of Issue - H.A. Caves**
 - B. Questions and Discussion by Board**
 - C. Questions and Discussion by Public**

 - D. Presentation of Application of American Medical Disposal**
 - E. Questions and Discussion by Board**
 - F. Roll Call Vote**

continued on reverse

- G. Presentation of Application of Browning Ferris Industries
- H. Questions and Discussion by Board
- I. Roll Call Vote

8. Oklahoma Environmental Quality Report

- A. Presentation of Report - Steve Thompson
- B. Questions and Discussion by Board
- C. Questions and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote

9. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)

10. Executive Director's Report

11. 1996 Environmental Quality Board Meeting Dates

12. Calendar of Events

13. Adjournment

**Attachments: (rulemaking preamble pages)
Certificate of Need law**

Should you have a disability and need an accommodation, please notify our Department three days in advance at 271-8056. TDD number 232-0591.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 002. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES
PART 5. TIER CLASSIFICATIONS

Section

- 252:002-15-40. Air quality applications: Tier I
- 252:002-15-41. Air quality applications: Tier II
- 252:002-15-42. Air quality applications: Tier III
- 252:002-15-43. Hazardous waste applications: Tier I
- 252:002-15-44. Hazardous waste applications: Tier II
- 252:002-15-45. Hazardous waste applications: Tier III
- 252:002-15-46. Laboratory certification applications: Tier I
- 252:002-15-47. Laboratory certification applications: Tier II
- 252:002-15-48. Laboratory certification applications: Tier III
- 252:002-15-49. Operator certification applications: Tier I
- 252:002-15-50. Operator certification applications: Tier II
- 252:002-15-51. Operator certification applications: Tier III
- 252:002-15-52. Radiation management applications: Tier I
- 252:002-15-53. Radiation management applications: Tier II
- 252:002-15-54. Radiation management applications: Tier III
- 252:002-15-55. Solid waste applications: Tier I
- 252:002-15-56. Solid waste applications: Tier II
- 252:002-15-57. Solid waste applications: Tier III
- 252:002-15-58. UIC applications: Tier I
- 252:002-15-59. UIC applications: Tier II
- 252:002-15-60. UIC applications: Tier III
- 252:002-15-61. Water quality applications: Tier I
- 252:002-15-62. Water quality applications: Tier II
- 252:002-15-63. Water quality applications: Tier III

252:002-15-40. Air quality applications - Tier I

The following air quality authorizations require Tier I applications:

- (1) Construction permit for a minor source.
- (2) Operating permit for a minor source.
- (3) Operating permit for a major facility, issued after a construction permit, which does not differ from the construction permit in any manner which would otherwise subject the operating permit application to public review.
- (4) New, modified or renewed authorization under a general permit.
- (5) Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.
- (6) Minor modification of a major facility's construction and/or operating permit.
- (7) Acid rain permits.
- (8) Burn approval.
- (9) Relocation permit.
- (10) Temporary permit.
- (11) Plant-wide emission plan approval.
- (12) Administrative amendment of all permits and other authorizations.
- (13) Extension of a minor source's construction permit.
- (14) Extension of a major facility's construction permit with no or minor modification.
- (15) Renewal of an operating permit for a minor source.

252:002-15-41. Air quality applications - Tier II

The following air quality authorizations require Tier II applications.

- (1) Operating permit for a major facility, issued after a construction permit, which differs from the construction permit in a manner which subjects the operating permit application to public review.
- (2) Operating permit for a major facility that does not have a construction permit.
- (3) Significant modification, as defined in OAC 252:100-8-7(e)(2), of a major facility's construction or operating permit.
- (4) New, modified or renewed general permit.
- (5) Time extension of a major facility's construction permit with a modification that would otherwise be subject to public review.
- (6) Renewal of an operating permit for a major facility.
- (7) A construction permit for a major modification to an existing major facility.

252:002-15-42. Air quality applications - Tier III

(a) New major stationary sources. A construction permit for any new major stationary source listed in this subsection requires a Tier III application. For purposes of this section, "Major stationary source" means:

(1) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

- (A) carbon black plants (furnace process),
- (B) charcoal production plants,
- (C) chemical process plants,
- (D) coal cleaning plants (with thermal dryers),
- (E) coke oven batteries,
- (F) fossil-fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input,
- (G) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,
- (H) fuel conversion plants,
- (I) glass fiber processing plants,
- (J) hydrofluoric, sulfuric or nitric acid plants,
- (K) iron and steel mill plants,
- (L) kraft pulp mills,
- (M) lime plants,
- (N) incinerators, except where used exclusively as air pollution control devices,
- (O) petroleum refineries,
- (P) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (Q) phosphate rock processing plant,
- (R) portland cement plants,
- (S) primary aluminum ore reduction plants,
- (T) primary copper smelters,
- (U) primary lead smelters,
- (V) primary zinc smelters,
- (W) secondary metal production plants,
- (X) sintering plants,
- (Y) sulfur recovery plants, or
- (Z) taconite ore processing plants, and

(2) Any other source not specified in paragraph (1) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(b) Existing incinerators. An application for any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted shall require a Tier III application.

(c) Potential to emit. For purposes of this section, "potential to emit" means emissions resulting from the application of all enforceable permit limitations as defined in OAC 252:100-1-3.

252:002-15-43. Hazardous waste management applications - Tier I

The following hazardous waste management authorizations require Tier I applications.

- (1) Class I modification of any hazardous waste permit requiring Department approval as specified in 40 C.F.R. § 270.42.
- (2) Modification to a recycling permit in accordance with 27A O.S. Supp. 1994, §2-7-118(A).
- (3) Class 2 permit modification as defined in 40 C.F.R. §270.42.
- (4) Emergency hazardous waste disposal plan approval.
- (5) Hazardous waste generator disposal plan approval.
- (6) Technical plan approval.
- (7) Hazardous waste transporter license.
- (8) Hazardous waste transfer station plan modification which is not related to capacity.
- (9) Emergency permit issued in accordance with 40 C.F.R. § 270.61.
- (10) Interim status closure plan approval in accordance with 40 C.F.R. §265.113(d)(4).
- (11) Minor administrative modification of all permits and other authorizations.
- (12) Renewal of disposal plan approval and transporter license.
- (13) New, modified or renewed authorization under a general permit.
- (14) Approval of temporary authorizations in accordance with 40 C.F.R. § 270.42.

252:002-15-44. Hazardous waste management applications - Tier II

The following hazardous waste management authorizations require Tier II applications.

- (1) On-site hazardous waste treatment, storage or disposal permit.
- (2) Mobile recycling permit.
- (3) Research & Development permit.
- (4) Class 3 modification of any hazardous waste permit as specified in 40 C.F.R. § 270.42.
- (5) Modification of an on-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.
- (6) Modification of an on-site hazardous waste facility permit for an expansion of permitted boundaries.
- (7) Modification of on-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.
- (8) Renewal of a hazardous waste treatment, storage or disposal permit.
- (9) Hazardous waste transfer station plan approval.
- (10) Hazardous waste transfer station plan modification involving increase in approved capacity.
- (11) Variance which is not part of a permit application.
- (12) Variance which is part of a Tier II permit application.

252:002-15-45. Hazardous waste management applications - Tier III
The following hazardous waste management authorizations require Tier III applications.

(1) Off-site hazardous waste treatment, storage, disposal, incineration and/or recycling permit.

(2) Modification of an off-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.

(3) Modification of an off-site hazardous waste facility permit for an expansion of permitted boundaries.

(4) Modification of off-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.

(5) Variance which is part of a Tier III application.

252:002-15-46. Laboratory certification applications - Tier I

A Tier I application shall be required for a new, modified, amended or renewed laboratory certification.

252:002-15-47. Laboratory certification applications - Tier II

None

252:002-15-48. Laboratory certification applications - Tier III

None

252:002-15-49. Operator certification applications - Tier I

The following authorizations require Tier I applications.

(1) Waterworks operator certification (standard and temporary).

(2) Wastewater works operator certification (standard and temporary).

(3) Waterworks laboratory operator certification.

(4) Wastewater works laboratory operation certification.

(5) Septic tank installer certification.

(6) Septic tank cleaner license.

(7) Landfill operator and/or manager certification.

(8) Waterworks helper registration.

(9) Wastewater works helper registration.

(10) Amendments, modifications and renewals of all authorizations.

252:002-15-50. Operator certification applications - Tier II

None.

252:002-15-51. Operator certification applications - Tier III

None.

252:002-15-52. Radiation management applications - Tier I

The following radiation management authorizations require Tier I applications.

- (1) Industrial X-ray registration and the amendment, modification and/or renewal thereof.
- (2) X-ray fluorescence spectroscopy instrument license and the amendment, modification and/or renewal thereof.

252:002-15-53. Radiation management applications - Tier II

None.

252:002-15-54. Radiation management applications - Tier III

None.

252:002-15-55. Solid waste management applications - Tier I

The following solid waste management authorizations require Tier I applications.

(1) New permits.

(A) Locally approved solid waste transfer stations.

Permit for a solid waste transfer station that, prior to application filing, received county commissioner approval according to 27A O.S.Supp. 1995, § 2-10-307.

(B) Biomedical waste transfer stations using only sealed containers. Biomedical waste transfer station permit when activities are limited to:

(i) consolidation of sealed containers; and/or

(ii) transfer of sealed containers from one vehicle or mode of transportation to another.

(C) Disaster relief. Emergency authorization for waste disposal resulting from a natural disaster.

(2) Modifications.

(A) All facilities:

(i) Modification of a solid waste permit to add methods, units or appurtenances for liquid bulking processes; yard waste composting; recycling operations; waste screening; or baling, chipping, shredding or grinding equipment or operations.

(ii) Modification to any solid waste permit to make minor changes.

(iii) Modification of plans for closure and/or post-closure.

(iv) Administrative modification of all permits and other authorizations.

(B) On-site and off-site land disposal facilities.

Modification of an existing land disposal permit for a lateral expansion within permitted boundaries.

(C) Capacity increases of less than 25% with exceptions. The modification of a solid waste permit, excluding incineration permits, involving a request for less than twenty-five percent (25%) increase in permitted capacity for storage, processing or disposal when the request is for equivalent methods, units or appurtenances as those permitted and which does not involve expansions of permitted boundaries.

(3) Plans and other authorizations. The approval of new and when applicable, modified or renewed:

(A) Plans for composting of yard waste only.

(B) Permit transfers.

(C) Non-hazardous industrial solid waste disposal plans.

(D) Technical plans.

(E) County solid waste management plans.

(F) Individual authorizations under a general permit.

(G) All other administrative approvals required by OAC 252:510 or OAC 252:520.

252:002-15-56. Solid waste management applications - Tier II

The following solid waste management authorizations require Tier II applications.

(1) New permits.

(A) On-site solid waste processing facilities with exception. Permit for an on-site solid waste processing facility except yard waste composting as listed under Tier I, Rule 252:002-15-55.

(B) Solid waste transfer stations with exceptions. Permit for a solid waste transfer station except:

(i) a transfer station permit with county commissioner approval as listed under Tier I, Rule 252:002-15-55, or

(ii) a biomedical waste transfer station permit listed under Tier I, Rule 252:002-15-55.

(C) On-site incinerators with exceptions. Permit for an on-site incinerator except those exempt under OAC 252:520 or those that have an approved Air Quality permit or Solid Waste Management Plan.

(D) On-site land disposal sites. Permit for an on-site solid waste disposal site.

(E) Material Recovery Facility (MRF). Permit for a Material Recovery Facility if waste is not source-separated.

(2) Modifications.

(A) All facilities. Modification of a permit for a change in waste type.

(B) On-site facilities. Any modification of an on-site solid waste permit, except as listed under Tier I, Rule 252:002-15-55.

(C) Off-site facilities.

(i) Modification of any off-site solid waste permit involving a request for more than twenty-five percent (25%) but less than fifty percent (50%) increase in permitted capacity for storage, processing or disposal (excluding incineration) when the request is for equivalent methods, units or appurtenances as those permitted, except those listed under Tier I, Rule 252:002-15-55.

(ii) Modification of any off-site processing facility involving an expansion of permitted boundaries.

(D) Incinerators.

(i) Modification of an on-site incinerator permit for any increase in permitted capacity for storage, processing, or disposal.

(ii) Modification of an off-site incinerator permit involving a request for increases less than fifty percent (50%) in permitted capacity for storage, processing, or disposal when the request is for equivalent methods, units or appurtenances as those permitted.

(3) General permit. New, modified or renewed general permit.

252:002-15-57. Solid waste management applications - Tier III

The following solid waste management authorizations require Tier III applications.

(1) New permits.

(A) Off-site processing facilities with exceptions.

Permit for an off-site processing facility, unless otherwise specified in Tier I, Rule 252:002-15-55, or Tier II, Rule 252:002-15-56.

(B) Off-site land disposal facility. Permit for an off-site solid waste land disposal site.

(C) Off-site incinerator. Permit for an off-site incinerator.

(2) Modifications.

(A) Off-site facilities: significant increase in capacity.

Modification of any off-site solid waste permit involving a fifty percent (50%) or greater increase in permitted capacity for storage, processing, and/or disposal, including incineration.

(B) Off-site land disposal facility. Modification of an off-site solid waste land disposal permit for an expansion of permitted boundaries.

(C) Off-site facilities: different methods, units or appurtenances. Modification of an off-site solid waste permit in which the request involves different methods, units or appurtenances than those permitted, except those listed under Tier I, Rule 252:002-15-55.

(3) Variance approvals. All variances.

252:002-15-58. UIC applications-Tier I

The following underground injection control authorizations require Tier I applications.

- (1) Minor modification of a permit for Class I, III, and V wells in accordance with 40 C.F.R. §144.41.
- (2) Modification of an approved closure and/or post-closure plan for a Class I hazardous waste injection well.
- (3) Modification of an approved plugging and abandonment plan for Class I nonhazardous and Class III injection wells.
- (4) Modification of an approved corrective action plan for a Class I injection well.
- (5) Emergency permit in accordance with 40 C.F.R. §144.34.
- (6) New, modified or renewed authorization under a general permit.
- (7) Minor administrative modification of all permits and other authorizations.

252:002-15-59. UIC applications - Tier II

The following underground injection control authorizations require Tier II applications.

- (1) On-site Class I nonhazardous waste injection well permit.
- (2) Class III and V injection well permits except Class V permits issued under Tier III.
- (3) Modification and/or renewal of all DEQ-issued underground injection control well permits.

252:002-15-60. UIC applications - Tier III

The following underground injection control authorizations require Tier III applications.

- (1) Class I hazardous waste injection well permit.
- (2) Off-site Class I nonhazardous waste injection well permit.
- (3) Class V industrial waste injection well permit.

252:002-15-61. Water quality applications - Tier I

The following water quality authorizations require Tier I applications.

- (1) Permit for flow-through impoundment(s) as part of the pretreatment process.
- (2) Re-permitting of facility with an expiring permit for industrial non-discharging impoundment or septic tank system.
- (3) Re-permitting of expiring permit with minor or no change(s) for land application of sludge and/or wastewater for same site.
- (4) New, modified or renewed authorization under a general permit, including but not limited to general permits for stormwater, underground storage tanks and petroleum storage and treatment facilities.
- (5) Approval of new pretreatment program.
- (6) Closure plan approval.
- (7) Dredge and fill certification.
- (8) Approval of exemption for water line extensions.
- (9) Approval of exemption for water distribution and wastewater collection systems.

- (10) Approval for individual residential sewage disposal system.
- (11) Approval of small public sewage system:
 - (A) with less than 5,000 gallons per day which do not discharge, land apply wastewater or sludge, or have lift stations designed to handle a peak capacity greater than 10 gallons per minute; or
 - (B) which serves less than ten (10) residential units.
- (12) Residential development approval.
- (13) Transfer of discharge permit.
- (14) Minor modification of discharge permit.
- (15) Minor modification of permit for land application of sludge and/or wastewater.
- (16) Modification of or addition to a municipal wastewater treatment system (including sewer line extensions).
- (17) Modification of or addition to a public water supply treatment and/or distribution system.
- (18) Modification of non-discharging impoundment and/or septic tank system permit.
- (19) Modification of an approved pretreatment program.
- (20) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.

252:002-15-62. Water quality applications - Tier II

The following water quality authorizations require Tier II applications.

- (1) Permit for municipal wastewater treatment system.
- (2) Permit for public water supply system.
- (3) Discharge permit for minor facility.
- (4) Individual storm water permit.
- (5) Permit for industrial non-discharging impoundment or septic tank system.
- (6) Permit for land application of sludge and/or wastewater at new site.
- (7) Re-permitting of a facility with expiring discharge permit.
- (8) Re-permitting of facility with expiring individual storm water discharge permit.
- (9) Re-permitting with major change(s) from expiring permit for land application of sludge and/or wastewater for the same site.
- (10) Variance including thermal components of effluent limitations for an individual discharge permit.
- (11) Major modification of discharge permit.
- (12) Major modification of permit for land application of sludge and/or wastewater.

252:002-15-63. Water quality applications - Tier III

A new discharge permit for a major facility requires a Tier III application.

Sign-In Sheet

Name	Representing
STEVE SHAWER	BFI
MIKE ARCHER	BFI
John Fields	BFI
Phil Lorenz	Scenic Rivers Assoc'n of Okla.
Charles Ashby	Midway / Party Ka
Nadine Dardun	CASE
Kent Robertson	AMD
KERN SENOUR	G+E ENG.
Dino Quinn	G+E ENG.
Steve Mason	myself @ SWAC
David Branecky	OG&E
Ken Raymond	OG&E Electric Services
Rick TREEMAN	OGFA
Zack Williams	OG&E
Harriet Muzjakovich	Yaffe Iron & Metal Co Muskogee
SYLVIA PRATT	CEA
Gene Wukhan	MUSELF
Bob Patten	Cherokee County
Thalia D. Beall	City of Muskogee
Clay M'Thompson	City of Muskogee
Sean White	ERS, Inc.

ENVIRONMENTAL QUALITY BOARD MEETING

November 28, 1995

Sign-In Sheet

Name	Representing
GARY McCuiston	ASPCA
BJ Madley	ECO
Roger Johnson	
LARRY LAGO	OK. BUSINESS NEWS
DORIS GUNN	Muskege Co.

Bob

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

Revised 1-3-96

A Public Meeting: 9:00am, Tuesday, January 16, 1996
University Center at Tulsa, 700 N. Greenwood
Administration Building, Board Room

- 1. Call to Order - Frank Condon
- 2. Roll Call - Lynda Finch *Absent Carkley, Minor & Paden*
- 3. Approval of Minutes of the November 28, 1995 Regular Meeting
- 4. Election of Officers *Condon & Roberts*
- 5. Executive Director's Report *see Paden arrival*

✓ 6. Consideration of changes to Chapter 252:002, Procedures of the DEQ. The proposed changes in Subchapter 15 contain uniform rules which establish tiered procedures that apply to all permitting programs. To avoid duplication or conflict with the proposed uniform permitting procedures, changes needed in the program-specific rules are found in agenda items 7-24. *11-0*

- A. Presentation of proposed amendments - Kay York
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote *11-0 changed*

✓ 7. Consideration of changes to Chapter 252:100, amendments to Air Quality permitting rules for consistency with the uniform procedures and which would reduce time limits for minor source operating permits and extend time for unpermitted minor sources to operate.

- A. Presentation of proposed amendments - Larry Byrum
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote *11-0*

8. Consideration of emergency changes to Chapter 252:100-10 (new), related to general operating permits for the natural gas industry.

- A. Presentation of proposed amendments - Larry Byrum
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote to adopt *NO, not adopted*
- F. Roll Call Vote on Finding of Emergency

referred back to AQ-C for consideration and any changes if necessary

✓ 9. Consideration of changes to Chapter 252:200, amendments to Hazardous Waste Management permitting rules for consistency with the uniform procedures.

- A. Presentation of proposed amendments - Scott Nicholson
- B. Questions and Discussion by Board

Jimmy Owens

- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote 11-0

10. Consideration of changes to Chapter 252:300, Laboratory Certification permitting rules, for consistency with the uniform procedures.

- A. Presentation of proposed amendments - Judy Duncan
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote 11-0

11. Consideration of changes to Chapter 252:400, Radiation Management permitting rules, for consistency with the uniform procedures.

- A. Presentation of proposed amendments - Dr. David Gooden
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote 11-0

12. Consideration of changes to Chapter 252:510, Solid Waste Management permitting rules, for consistency with the uniform procedures.

- A. Presentation of proposed amendments - H.A. Caves
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote 11-0

13. Consideration of changes to Chapter 252:520, Solid Waste Management permitting rules, for consistency with the uniform rules, and re-adoption of entire unpromulgated Chapter as it was adopted on 9/26/95.

- A. Presentation of proposed rules and rule amendments - H.A. Caves
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote 11-0

Agenda Items 14 through 23 are from the Water Quality Management Advisory Council

14. Consideration of changes to Chapter 252:605, Discharges OPDES, for consistency with the uniform rules, to simplify procedural text and renew general permits.

- A. Presentation of changes - Craig Kennamer
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote - 11-0

changed at staff request

changed

15. Consideration of changes to Chapter 252:610, General Water Quality rules, for consistency with the uniform rules and to simplify procedural text.

- A. Presentation of changes - Craig Kennamer
- B. Questions and Discussion by Board

D. Discussion by Board

E. Roll Call Vote 11-0

✓ 16. Consideration of changes to Chapter 252:615, Industrial Wastewater Systems, for consistency with the uniform rules and to simplify procedural text.

A. Presentation of changes - Jon Craig

B. Questions and Discussion by Board

C. Questions, Comments and Discussion by Public

D. Discussion by Board

E. Roll Call Vote 11-0

✓ 17. Consideration of changes to Chapter 252:620, Non-Industrial Impoundments, for consistency with the uniform rules and to simplify procedural text.

A. Presentation of changes - Jon Craig

B. Questions and Discussion by Board

C. Questions, Comments and Discussion by Public *changed*

D. Discussion by Board

E. Roll Call Vote 11-0

✓ 18. Consideration of changes to Chapter 252:625, Public Water Supply Construction, for consistency with the uniform rules and to simplify procedural text.

A. Presentation of changes - Jon Craig

B. Questions and Discussion by Board

C. Questions, Comments and Discussion by Public *changed*

D. Discussion by Board

E. Roll Call Vote 11-0

✓ 19. Consideration of changes to Chapter 252:640, Residential Sewage Disposal, for consistency with the uniform rules and to simplify procedural text.

A. Presentation of changes - Jon Craig

B. Questions and Discussion by Board

C. Questions, Comments and Discussion by Public

D. Discussion by Board

E. Roll Call Vote 11-0

✓ 20. Consideration of changes to Chapter 252:645, Septage Tank Cleaners, for consistency with the uniform rules and to simplify procedural text.

A. Presentation of changes - Jon Craig

B. Questions and Discussion by Board

C. Questions, Comments and Discussion by Public

D. Discussion by Board

E. Roll Call Vote 11-0

✓ 21. Consideration of changes to Chapter 252:647, Sludge Management, for consistency with the uniform rules and to simplify procedural text.

A. Presentation of changes - Jon Craig

B. Questions and Discussion by Board

C. Questions, Comments and Discussion by Public

D. Discussion by Board

E. Roll Call Vote 11-0

22. Consideration of changes to Chapter 252:652, Underground Injection Control, for consistency with the uniform rules and to simplify procedural text, adopting an entire new chapter to replace the current Chapter 650 and the UIC provisions of Chapter 200.

- A. Presentation of changes - Jon Craig
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public + revoke ch. 650
- D. Discussion by Board
- E. Roll Call Vote 11-0

23. Consideration of changes to Chapter 252:655, Water Pollution Control, for consistency with the uniform rules and to simplify procedural text.

- A. Presentation of change - Jon Craig
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote 11-0

24. Consideration of changes to Chapter 252:700, Operator Certification procedures, for consistency with the uniform rules and to simplify procedural text.

- A. Presentation of proposed amendments - Jon Craig
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote 11-0

25. Consideration of Certificate of Need applications from American Medical Disposal and Brown-Ferris Industries.

- A. Presentation of Workgroup Report/Recommendation
- B. Questions and Discussion by Board
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote(s)

AMD1 - Roberts abstain
10-0

BAI - 9-1 (Roberts abstain)
Smalley no

26. Consideration of a legislative recommendation for Certificate of Need.

- B. Presentation of proposed recommendation - H.A. Caves
- C. Questions, Comments and Discussion by Public
- D. Discussion by Board
- E. Roll Call Vote

guidelines
and no to
how a certifi: could be
denied

Refer to SW Comm cil
for their study &
recommendation
11-0

27. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)

28. Adjournment

Attachments: (rulemaking preamble pages)

Should you have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-8056. TDD number 232-0591.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SUBCHAPTER 13. FORMAL PUBLIC MEETINGS AND ADMINISTRATIVE
PERMIT PROCEEDINGS

PART 1. FORMAL PUBLIC MEETINGS

252:2-13-1. Formal public meetings [REVOKED]

~~(a) Location. The DEQ shall determine the location and the facility at which a formal public meeting on a permit application and/or draft permit shall be held.~~

~~(b) Purpose. The designated presiding officer of a formal public meeting shall establish the procedure by which such meeting shall be conducted based on the requirements of the Code and applicable program specific rules.~~

Agency Note (1): The language of this revoked section has been amended and can now be found at 252:2-14-31(g).

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMESUNIFORM PERMITTING PROCEDURES

PART 1. UNIFORM PERMITTING PROGRAM IN GENERAL

252:2-15-1. Purpose and applicability

(a) Purpose. The rules in this Subchapter establish time periods for issuance or denial of environmental permits and licenses that are required by law implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S.Supp. 1995, §2-14-101 et seq., and apply to applicants for and holders of DEQ permits and other authorizations.

(b) Permits included. The provisions of this Subchapter apply to permits reviewed by the following Programs and their successors:

~~(1) the Air Quality Division;~~

~~(2) the Hazardous Waste Management Program;~~

~~(3) the Solid Waste Management Program; and~~

~~(4) the Water Quality Division.~~ Supersedes inconsistent rules. Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title.

(c) Supersedes inconsistent rules. Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title. Applicability.

(1) Applications filed with the DEQ on and after July 1, 1996, are subject to the procedural requirements of 27A O.S.Supp. 1995, § 2-14-101 et seq., this Subchapter and other applicable rules of the Board.

(2) Applications filed before July 1, 1996, are subject to the statutory and regulatory procedural requirements existing at the time of the filing unless the applicant elects to comply with the statutes and rules described in paragraph 1 of this subsection.

252:2-15-2. Definitions

~~The~~In addition to terms defined in 252:2-1-2, the following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-15-101 *et seq.*

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

~~"Application" means a document prepared in accordance with the rules and the forms and instruction provided by the respective Program and submitted with the expectation of providing that information necessary for review and determination of the permit. The application consists of the initial submittal and all supplements~~See 27A O.S. Supp. 1995, § 2-14-103(1).

"Major facility", as used in air quality tier classifications, means a source subject to the permitting requirements of 40 CFR Part 70.

"Minor source", as used in air quality tier classifications, means a source that is not subject to the permitting requirements of 40 CFR Part 70.

"Off-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.

"On-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry for the treatment, storage, processing, or disposal of its own waste exclusively.

"Part" means a numbered Part of this Subchapter.

"Program" means the services or divisions of the DEQ that are specified in Section 252:002 15 1a regulatory section or division of the DEQ.

"Submittal" means each separately submitted a document or group of document package that forms a documents provided as part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"UIC" means underground injection control.

252:2-15-3. Common permitting procedures and timelines

~~(a) Filing of applications. Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:~~

~~(1) file stamp the application with the date of receipt, the Service name and an identification number;~~

~~(2) assign the application to a named person who will do the review; and~~

~~(3) timely log this information.~~

~~(b) Administrative completeness review. Unless otherwise provided in this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to initially determine if the application is administratively complete.~~

~~(1) Not complete.~~ Upon determining that the application is not administratively complete, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application. This notice shall not require or preclude further review of the application and further requests for specific information. If the reviewer does not notify the applicant of such inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.

~~(2) Complete.~~ Upon a determination that the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.

~~(c) Technical review.~~ Each Program involved shall have a certain time period to review each application for technical compliance with the relevant regulations and reach a final determination.

~~(d) When times are tolled.~~ The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation [includes public meetings and administrative permit hearings (and waiting periods therefor), public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies], or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant amends his application of his own accord.

~~(e) Supplemental time.~~ To compensate for time spent in reviewing inadequate materials, the DEQ's notice of deficiencies and request for supplemental information may specify that up to 30 additional calendar days may be added to the application processing time. This may also include the number of days the DEQ spent in preparing the notice and request. Requests for supplemental information and data may also specify that additional days for technical review equal to the number of days the applicant used to prepare and submit such supplement may be added to the application review time.

~~(f) Withdrawal.~~ Unless specified otherwise in a program's rules, failure by an applicant to supplement an application within 180 days after the request shall be deemed to be a withdrawal unless the time is extended by agreement for good cause.

~~(g) Extensions.~~ Extensions to the timelines of this Subchapter may be made as provided by law. [AMENDED AND RENUMBERED TO 252:2-15-70]

252:2-15-4. Pending failures

~~(a) Circumstances outside agency control.~~ Technical review times shall be tolled for specified times when, prior to the deadline, the Executive Director certifies that a failure to meet a deadline is imminent and is caused by circumstances outside the control of the DEQ. Such circumstances include, but are not limited to, acts of God, a substantial and unexpected increase in the number of applications filed, and additional review duties imposed on the DEQ from an outside source.

~~(b) Other circumstances.~~ Where circumstances that are not clearly outside the control of the DEQ may cause a failure to meet a

deadline, then:

- ~~(1) at least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline.~~
- ~~(2) the Applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law. [AMENDED AND RENUMBERED TO 252:2-15-71]~~

252:2-15-5. Air quality permit timelines

~~The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.~~

- ~~(1) Construction permits:
 - ~~(A) PSD 540 days.~~
 - ~~(B) Major Sources 365 days.~~
 - ~~(C) Minor 180 days.~~~~
- ~~(2) Operating permits for new construction or modifications 730 days.~~
- ~~(3) Relocation permits 30 days. [AMENDED AND RENUMBERED TO OAC 252:2-15-72]~~

252:2-15-6. Hazardous waste permit timelines

~~The following hazardous waste permits and authorizations shall be technically reviewed and issued or denied within the timeframes specified below.~~

- ~~(1) Hazardous waste permits:
 - ~~(A) New RCRA Operations permit or the renewal thereof 300 days.~~
 - ~~(B) New State Recycling permit 300 days.~~
 - ~~(C) New State Construction permit 300 days.~~
 - ~~(D) Class 3 permit modifications 300 days.~~
 - ~~(E) Underground Injection Control permit 300 days.~~~~
- ~~(2) Class 1 and Class 2 permit modifications 300 days.~~
- ~~(3) Closure plans, post closure plans and transfer station plans and plan modifications 300 days. [AMENDED AND RENUMBERED TO OAC 252:2-15-73]~~

252:2-15-7. Solid waste permit timelines

~~Times for issuance or denial of applications for all solid waste permits shall be in accordance with applicable chapters of Solid Waste Regulations, OAC 252:500 et seq., or, if not specified therein, the technical review period for solid waste permit applications and for each submittal and resubmittal related thereto shall be 90 days, subject to OAC 252:2-15-3. [AMENDED AND RENUMBERED TO OAC 252:2-15-74]~~

252:2-15-8. Water quality permit timelines

~~(a) Applications for Water Quality permits, certifications and authorizations shall be technically reviewed and permits shall be issued or denied within the following timeframes:~~

- ~~(1) Dairy Waste 180 days~~
- ~~(2) Discharges 180 days~~

- ~~(3) 401 Certifications — 180 days~~
 - ~~(4) Industrial Wastewater other than discharge — 180 days~~
 - ~~(5) Pretreatment Trust Users — 180 days~~
 - ~~(6) Public Water Supply — 90 days~~
 - ~~(7) Septage and Septic Tank Cleaners — 120 days~~
 - ~~(8) Underground Injection Control (nonhazardous) — 420 days~~
 - ~~(9) Water Pollution Control Construction — 90 days~~
- ~~(b) Preliminary and secondary applications associated with the State Revolving Fund shall be reviewed and, if acceptable, transmitted to the Oklahoma Water Resources Board for approval. If the DEQ can not concur in the preliminary or secondary loan applications, it will notify the applicant in writing. Transmittal of application to the Oklahoma Water Resources Board or a written notice of non approval shall occur within 90 days after receipt of the application. [AMENDED AND RENUMBERED TO OAC 252:2-15-75]~~

252:2-15-9. Other permits

~~Any environmental license or permit that is not described in this Subchapter shall not be subject to these time frames but shall be reviewed with all due and reasonable speed. [RENUMBERED TO OAC 252:2-15-76]~~

PART 3. TIER I, II AND III PROCESS REQUIREMENTS

252:2-15-26. Tier processes described

To implement the three tiered permitting processes of the Act, applications are classified in Part 5 as Tier I, II or III. The steps an applicant must follow for a Tier I, II or III application are shown in Appendix C of this Chapter.

252:2-15-27. Unclassified applications

The tier designation for any type of application not classified in this Subchapter shall be determined according to 27A O.S.Supp. 1995, § 201.

252:2-15-28. [RESERVED]

252:2-15-29. Published notices

(a) Notice content. In addition to content requirements of the Act, all published legal notice(s) shall contain the:

- (1) Name and address of the applicant;
- (2) Name, address and legal description of the site, facility and/or activity;
- (3) Purpose of notice;
- (4) Type of permit or permit action being sought;
- (5) Description of activities to be regulated;
- (6) Locations where the application may be reviewed;
- (7) Names, addresses and telephone numbers of contact persons for the DEQ and for the applicant;
- (8) Description of public participation opportunities and time period for comment and requests;
- (9) Any other information required by DEQ rules; and
- (10) Any information the applicant deems relevant.

(b) Proof of publication. An applicant, within twenty (20) days after the date of publication, shall provide the DEQ with a written affidavit of publication for each notice published. In case of a mistake in a published notice, the DEQ may approve the publication of a legal notice of correction or may require that the entire legal notice be republished.

Agency Note (2): 27A O.S. Sections 2-14-301, 302 and 304 add requirements for Tier II and Tier III notices.

252:2-15-30. Tier I process requirements

(a) Pre-application conference. Prior to filing an application, an applicant may request a conference with the DEQ.

(b) Application filing.

(1) Copies. Two (2) copies of a Tier I application shall be filed with the DEQ except when the application form or instructions specifies that only one (1) copy is needed. Applicants for residential systems (OAC 252:640) and small public sewage systems (OAC 252:655-29) permits shall file their two copies with the local DEQ office for the county in which the real property is located.

(2) Fees. Fees established in DEQ program rules shall be payable at the time of application and are not refundable.

(3) Notice to landowner. Applicants must demonstrate to the DEQ that they are not seeking a permit for land or for any operation upon land owned by others without their knowledge. Applicants shall certify by affidavit filed with the DEQ that: they own the real property; or they have a current lease or easement which is given to accomplish the permitted purpose; or if they do not own the real property, they have provided legal notice to those who do. The DEQ may rely on the affidavit, and the applicants shall bear the burden of meeting any challenges. Legal notice is governed by Oklahoma law which, for example, authorizes: service by sheriff or private process server; service by certified mail, restricted delivery; or service by publication, if the person cannot be located through due diligence. Notice to the person who signed a lease or to the administrator or executor of a trust or an estate may be sufficient.

(4) Withdrawal. An applicant may withdraw an application at any time with written notice to the DEQ and forfeiture of fees.

(c) Application review. Unless stated otherwise in new laws or rules, applications are subject to the laws and rules of the DEQ as they exist on the date of filing and afterward as changed, up to the date of issuance or denial. See Part 7 for review procedures and time lines.

(d) Issuance or denial.

(1) Compliance required. A new, modified or renewed permit or other authorization shall not be issued until the DEQ has determined the application is in substantial compliance with applicable requirements of the Code and rules of the Board.

(2) Conditions for issuance. The Department may not issue a new, modified or renewed permit or other authorization if:

- (A) The applicant has not paid all monies owed to the DEQ or is not in substantial compliance with the Code, rules of the Board and the terms of any existing DEQ permits and orders. The DEQ may impose special conditions on the applicant to assure compliance and/or a separate schedule which the DEQ considers necessary to achieve required compliance; or
- (B) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.

(3) Issuance. See 252:2-15-28.

252:2-15-31., Tier II process requirements

(a) Pre-application conference. "Tier I" requirements apply. See 252:2-15-30.

(b) Application. "Tier I" requirements apply. See 252:2-15-30, except the applicant shall file three (3) copies of the application with the DEQ and place one (1) copy for public review in the county in which the site, facility or activity is located.

(c) Published notice of filing. See 27A O.S. § 2-14-301 and 252:2-15-29.

(d) Application review. "Tier I" requirements apply. See 252:2-15-30.

(e) Draft permit or draft denial. See 27A O.S. § 2-14-302.

(f) Notice of draft permit/denial. See 27A O.S. § 2-14-302 and 252:2-15-29. For permit modification actions, only those issues relevant to the modification(s) shall be reopened for public review and comment.

(1) Exception to notice requirement. Applicants for solid waste transfer station permits shall be exempt from public comment and public meeting requirements if the board of county commissioners of the county of the proposed site, after opportunity for written or oral public comment, has found the application to be within the scope of the county's solid waste management plan. See 27A O.S. Supp. 1995, §2-10-307.

(2) Additional notice. In addition to Section 302 notice:

(A) Applicants for a NPDES, RCRA or UIC permit are subject to applicable additional notice provisions of federal requirements promulgated as rules of the Board.

(B) Applicants for a proposed wastewater discharge or emissions permit which may affect the water quality or air quality of a neighboring state must give written notice to the environmental regulatory agency of that state.

(C) Applicants for a solid waste landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See *DuLaney v. OSDH*, Okl., 868 P.2d 676 (1993).

(g) Public comment and formal public meeting. See 27A O.S. § 2-14-302 and 27A O.S. § 2-14-303. The DEQ shall determine the location of any formal public meeting to be held and the designated presiding officer shall establish its procedures.

(h) Response to comments. See 27A O.S. § 2-14-304.

(i) Issuance or denial. "Tier I" requirements apply. See 252:2-15-30.

Agency Note (3): Additional federal notice requirements may include radio announcements and letters to certain entities. See 40 CFR Part 124. For modifications of RCRA permits, also see Part 270, Subpart D.

252:2-15-32. Tier III process requirements

(a) Pre-application conference. "Tier I" requirements apply. See 252:2-15-30.

(b) Filing, fees and withdrawal. "Tier II" requirements apply. See 252:2-15-31.

(c) Notice of filing and process meeting opportunity. The applicant shall include a 30-day opportunity to request a process meeting in the published notice of filing. See 27A O.S. § 2-14-301(B) and 252:2-15-29.

(d) Process meeting. See 27A O.S. § 2-14-301(B). The location of and procedures for the process meeting shall be determined by the DEQ.

(e) Application review. "Tier I" requirements apply. See 252:2-15-30.

(f) Draft permit or draft denial. See 27A O.S. § 2-14-302.

(g) Notice of draft permit/denial. "Tier II" requirements apply. See 252:2-15-31.

(h) Public comment period and public meeting. "Tier II" requirements apply. See 252:2-15-31.

(i) Proposed permit and notice. After the DEQ reviews public comments and prepares a proposed permit by amending the draft permit in response to comments as necessary, the applicant shall publish notice of the proposed permit and of the opportunity to request an administrative permit hearing. See 27A O.S. § 2-14-304 and 252:2-15-29.

(j) Administrative permit hearing. See 27A O.S. § 2-14-304 and, for procedures, Subchapter 13 of this Chapter, except references to "draft permit" in Subchapter 13 shall mean "proposed permit" as used in 27A O.S. § 2-14-103 and 27A O.S. § 2-14-304 (C) and (D).

(k) Response to comments. See 27A O.S. § 2-14-304.

(l) Issuance or denial. "Tier I" requirements apply. See 252:2-15-30.

PART 5. TIER CLASSIFICATIONS [RESERVED]

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

252:2-15-70. Common review procedures and time lines

(a) Receipt of applications. Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:

(1) File-stamp the application with the date of receipt, the Division and/or Program name and an identification number;

(2) Assign the application to a named person who will do the review; and

(3) Timely log this information.

(b) Administrative completeness review. Unless otherwise provided in the Code or this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to determine whether the application is administratively complete.

(1) Not complete.

(A) Upon determining that the application is not complete, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application.

(B) This notice shall not require or preclude further review of the application and further requests for specific information.

(C) If the reviewer does not notify the applicant of inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.

(2) Complete. When the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.

(c) Technical review. Each Program involved shall have a certain time period to review each application for technical compliance with the relevant regulations and reach a final determination.

(d) When times are tolled. The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation [includes public meetings and administrative permit hearings (and waiting periods), public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies], or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant amends his application of his own accord.

(e) Supplemental time. To compensate for time spent in reviewing inadequate materials, the DEQ's notice of deficiencies and request for supplemental information may specify that up to 30 additional calendar days may be added to the application processing time. Requests for supplemental information and data may also specify that additional days for technical review equal to the number of days the applicant used to prepare and submit such supplement may be added to the application review time.

(f) Failure to respond. Except for good cause shown, failure by an applicant to supplement an application within 180 days after the mailing date of a notice of deficiencies, or by a date agreed to by the DEQ and the applicant, shall void the application and forfeit the fees. The DEQ shall notify the applicant of an opportunity to show cause why this should not occur. Failure to show cause shall result in an order appealable according to 75 O.S. § 318.

(g) Extensions. Extensions to the time lines of this Subchapter may be made as provided by law.

252:2-15-71. Pending failures

(a) Circumstances outside agency control. Technical review times shall be tolled for specified times when, prior to the deadline,

the Executive Director certifies that a failure to meet a deadline is imminent and is caused by circumstances outside the control of the DEQ. Such circumstances include; but are not limited to, acts of God, a substantial and unexpected increase in the number of applications filed, and additional review duties imposed on the DEQ from an outside source.

(b) Other circumstances. Where circumstances that are not clearly outside the control of the DEQ may cause a failure to meet a deadline, then:

(1) At least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline.

(2) The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

252:2-15-72. Air quality permit time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

(A) PSD (Part 70 sources) - 540 days.

(B) Major Sources (Part 70 sources other than PSD) - 365 days.

(C) Minor Sources - 180 days.

(2) Operating permits:

(A) Major Sources - 540 days.

(B) Minor Sources - 365 days.

(3) Relocation permits - 30 days.

252:2:15-73. Hazardous waste permit time lines

The following hazardous waste permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Hazardous waste permits:

(A) New RCRA permit or the renewal thereof - 300 days.

(B) New State Recycling permit - 300 days.

(C) Class 3 permit modifications - 300 days.

(2) Closure plans, post-closure plans and transfer station plans and plan modifications - 300 days.

252:2:15-74. Solid waste permit time lines

The technical review period for solid waste permit applications and for each submittal and resubmittal shall be 90 days, subject to OAC 252:2:15-7-70.

252:2:15-75. Water quality permit time lines

Applications for new or modified water quality permits, certifications and authorizations shall be technically reviewed and permits shall be issued or denied within the following time frames:

(1) Discharges - 180 days.

(2) 401 Certifications - 180 days.

(3) Industrial Wastewater other than discharge - 180 days.

- (4) Pretreatment Trust Users - 180 days.
- (5) Public Water Supply - 90 days.
- (6) Underground Injection Control - 300 days.
- (7) Water Pollution Control Construction - 90 days.
- (8) Sludge management plan - 180 days.

252:2:15-76. Other permits

Any environmental license or permit that is not described in this Subchapter shall not be subject to these time frames but shall be reviewed with all due and reasonable speed.

252:2-15-77. Pre-issuance permit review and correction

(a) Review. In addition to its own review, the DEQ may, for Tier I and II, and shall, for Tier III, at any time before issuance, ask an applicant to review a permit for calculation and clerical errors or mistakes of fact or law.

(b) Correction. The DEQ may correct any permit before it is issued.

(1) Notice of significant corrections. For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by the DEQ which significantly alters a facility's permitted size, capacity or limits.

(2) Comments. The DEQ may open a public comment period, and/or reconvene a public meeting and/or administrative hearing to receive public comments on the proposed correction(s).

Agency Note (4): For statutory provisions related to administrative review of permit conditions or actions after issuance, see 27A O.S.Supp. 1995, § 2-14-304(H), "Denial of permit"; 75 O.S. § 317, "Rehearing, reopening or reconsideration of final order"; and 75 O.S. § 307, "Declaratory rulings".

PART 9. CONSOLIDATED PERMITTING

252:2-15-90. Consolidation of permitting process

(a) Discretionary. Whenever an applicant applies for more than one permit for the same site, the DEQ may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.

(b) Scope. When consolidation is authorized by the DEQ:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) The DEQ may also authorize the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.

(3) Final permits may be issued together.

(c) Renewal. The DEQ may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.

(d) Multiple modifications. Subsections (a) and (b) of this

section shall also apply to multiple Tier II and III applications for permit modifications.

APPENDIX C. PERMITTING PROCESS SUMMARY [NEW]

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with the DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting - Notice - 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review - DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments - DEQ (written response)	No	Yes	Yes
Proposed permit - DEQ prepares this in response to comments on draft permit	No	No	Yes
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 002. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES

PART 1. UNIFORM PERMITTING PROGRAM IN GENERAL

252:002-15-1. Purpose and scope

(a) **Purpose.** ~~The rules in this Subchapter establish time periods for issuance or denial of environmental permits and licenses that are required by law~~ implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S.Supp. 1995, §2-14-101 et seq., and apply to applicants for and holders of DEQ permits and other authorizations.

(b) **Supersedes inconsistent rules.** Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title.

(c) **Applicability.**

(1) Applications filed with the DEQ on and after July 1, 1996, are subject to the procedural requirements of 27A O.S.Supp. 1995, § 2-14-101 et seq., this Subchapter and other applicable rules of the Board.

(2) Applications filed before July 1, 1996, are subject to the statutory and regulatory procedural requirements existing at the time of the filing unless the applicant elects to comply with the statutes and rules described in paragraph 1 of this subsection.

252:002-15-2. Definitions

The~~In~~ addition to terms defined in 252:002-1-2, the following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-15-101 et seq.

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Application" means a document prepared in accordance with the rules and the forms and instruction provided by the respective Program and submitted with the expectation of providing that information necessary for review and determination of the permit. The application consists of the initial submittal and all supplements~~See 27A O.S.Supp. 1995, § 2-14-103(1).~~

"Major facility", as used in air quality tier classifications, means a source subject to the permitting requirements of 40 CFR Part 70.

"Minor source", as used in air quality tier classifications, means a source that is not subject to the permitting requirements of 40 CFR Part 70.

"Off-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.

"On-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry

for the treatment, storage, processing, or disposal of its own waste exclusively.

"Part" means a numbered Part of this Subchapter.

"Program" means the sections or divisions a regulatory section or division of the DEQ.

"Submittal" means each separately submitted a document or group of document package that forms a documents provided as part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"UIC" means underground injection control.

252:002-15-3. Common permitting procedures and timelines

Amended and renumbered to OAC 252:002-15-70.

252:002-15-4. Pending failures

Amended and renumbered to OAC 252:002-15-71.

252:002-15-5. Air quality permit timelines

Amended and renumbered to OAC 252:002-15-72.

252:002-15-6. Hazardous waste permit timelines

Amended and renumbered to OAC 252:002-15-73.

252:002-15-7. Solid waste permit timelines

Amended and renumbered to OAC 252:002-15-74

252:002-15-8. Water quality permit timelines

Amended and renumbered to OAC 252:002-15-75.

252:002-15-9. Other permits

Amended and renumbered to OAC 252:002-15-76.

PART 3. TIER I, II AND III PROCESS REQUIREMENTS

252:002-15-26. Tier processes described

To implement the three tiered permitting processes of the Act, applications are classified in Part 5 as Tier I, II or III. The steps an applicant must follow for a Tier I, II or III application are shown in Table 15A.

[NEW]
TABLE 15A
Permitting Process Summary

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with the DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting - Notice - 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review - DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments - DEQ (written response)	No	Yes	Yes
Proposed permit - DEQ prepares this in response to comments on draft permit	No	No	Yes
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

252:002-15-27. Unclassified applications

The tier designation for any type of application not classified in this Subchapter shall be determined according to 27A O.S. Supp. 1995, § 201.

252:002-15-29. Published notices

(a) Notice content. In addition to content requirements of the Act, all published legal notice(s) shall contain the:

- (1) Name and address of the applicant;
- (2) Name, address and legal description of the site, facility and/or activity;
- (3) Purpose of notice;
- (4) Type of permit or permit action being sought;
- (5) Description of activities to be regulated;
- (6) Locations where the application may be reviewed;
- (7) Names, addresses and telephone numbers of contact persons for the DEQ and for the applicant;
- (8) Description of public participation opportunities and time period for comment and requests;
- (9) Any other information required by DEQ rules; and
- (10) Any information the applicant deems relevant.

(b) Proof of publication. An applicant, within twenty (20) days after the date of publication, shall provide the DEQ with a written affidavit of publication for each notice published. In case of a mistake in a published notice, the DEQ may approve the publication of a legal notice of correction or may require that the entire legal notice be re-published.

Agency Note (1): 27A O.S. Sections 2-14-301, 302 and 304 add requirements for Tier II and Tier III notices.

252:002-15-30. Tier I process requirements

(a) Pre-application conference. Prior to filing an application, an applicant may request a conference with the DEQ.

(b) Application filing.

(1) Copies. Two (2) copies of a Tier I application shall be filed with the DEQ except when the application form or instructions specifies that only one (1) copy is needed. Applicants for residential systems (OAC 252:640) and small public sewage systems (OAC 252:655-29) permits shall file their two copies with the local DEQ office for the county in which the real property is located.

(2) Fees. Fees established in DEQ program rules shall be payable at the time of application and are not refundable.

(3) Notice to landowner. Applicants must demonstrate to the DEQ that they are not seeking a permit for land or for any operation upon land owned by others without their knowledge. Applicants shall certify by affidavit filed with the DEQ that: they own the real property; or they have a current lease or easement which is given to accomplish the permitted purpose; or if they do not own the real property, they have provided legal notice to those who do. The DEQ may rely on the affidavit, and the applicants shall bear the burden of meeting any challenges.

Legal notice is governed by Oklahoma law which, for example, authorizes: service by sheriff or private process server; service by certified mail, restricted delivery; or service by publication, if the person cannot be located through due diligence. Notice to the person who signed a lease or to the administrator or executor of a trust or an estate may be sufficient.

(4) **Withdrawal.** An applicant may withdraw an application at any time with written notice to the DEQ and forfeiture of fees.

(c) **Application review.** Unless stated otherwise in new laws or rules, applications are subject to the laws and rules of the DEQ as they exist on the date of filing and afterward as changed, up to the date of issuance or denial. See Part 7 for review procedures and time lines.

(d) **Issuance or denial.**

(1) **Compliance required.** A new, modified or renewed permit or other authorization shall not be issued until the DEQ has determined the application is in substantial compliance with applicable requirements of the Code and rules of the Board.

(2) **Conditions for issuance.** The Department may not issue a new, modified or renewed permit or other authorization if:

(A) The applicant has not paid all monies owed to the DEQ or is not in substantial compliance with the Code, rules of the Board and the terms of any existing DEQ permits and orders. The DEQ may impose special conditions on the applicant to assure compliance and/or a separate schedule which the DEQ considers necessary to achieve required compliance; or

(B) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.

(3) **Issuance.** See 252:002-15-28.

252:002-15-31. Tier II process requirements

(a) **Pre-application conference.** "Tier I" requirements apply. See 252:002-15-30.

(b) **Application.** "Tier I" requirements apply. See 252:002-15-30, except the applicant shall file three (3) copies of the application with the DEQ and place one (1) copy for public review in the county in which the site, facility or activity is located.

(c) **Published notice of filing.** See 27A O.S. § 2-14-301 and 252:002-15-29.

(d) **Application review.** "Tier I" requirements apply. See 252:002-15-30.

(e) **Draft permit or draft denial.** See 27A O.S. § 2-14-302.

(f) **Notice of draft permit/denial.** See 27A O.S. § 2-14-302 and 252:002-15-29. For permit modification actions, only those issues relevant to the modification(s) shall be reopened for public review and comment.

(1) **Exception to notice requirement.** Applicants for solid waste transfer station permits shall be exempt from public comment and public meeting requirements if the board of county commissioners of the county of the proposed site, after opportunity for written or oral public comment, has found the

application to be within the scope of the county's solid waste management plan. See 27A O.S. Supp. 1995, §2-10-307.

(2) Additional notice. In addition to Section 302 notice:

(A) Applicants for an NPDES, RCRA or UIC permit are subject to applicable additional notice provisions of federal requirements promulgated as rules of the Board.

(B) Applicants for a proposed wastewater discharge or emissions permit which may affect the water quality or air quality of a neighboring state must give written notice to the environmental regulatory agency of that state.

(C) Applicants for a solid waste landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See DuLaney v. OSDH, Okl., 868 P2d 676 (1993).

(g) Public comment and formal public meeting. See 27A O.S. § 2-14-302 and 27A O.S. § 2-14-303. The DEQ shall determine the location of any formal public meeting to be held and the designated presiding officer shall establish its procedures.

(h) Response to comments. See 27A O.S. § 2-14-304.

(i) Issuance or denial. "Tier I" requirements apply. See 252:002-15-30.

Agency Note (2): Additional federal notice requirements include radio announcements and letters to certain entities. For example see 40 CFR Part 124.

252:002-15-32. Tier III process requirements

(a) Pre-application conference. "Tier I" requirements apply. See 252:002-15-30.

(b) Filing, fees and withdrawal. "Tier II" requirements apply. See 252:002-15-31.

(c) Notice of filing and process meeting opportunity. The applicant shall include a 30-day opportunity to request a process meeting in the published notice of filing. See 27A O.S. § 2-14-301(B) and 252:002-15-29.

(d) Process meeting. See 27A O.S. § 2-14-301(B). The location of and procedures for the process meeting shall be determined by the DEQ.

(e) Application review. "Tier I" requirements apply. See 252:002-15-30.

(f) Draft permit or draft denial. See 27A O.S. § 2-14-302.

(g) Notice of draft permit/denial. "Tier II" requirements apply. See 252:002-15-31.

(h) Public comment period and public meeting. "Tier II" requirements apply. See 252:002-15-31.

(i) Proposed permit and notice. After the DEQ reviews public comments and prepares a proposed permit by amending the draft permit in response to comments as necessary, the applicant shall publish notice of the proposed permit and of the opportunity to request an administrative permit hearing. See 27A O.S. § 2-14-304 and 252:002-15-29.

(j) Administrative permit hearing. See 27A O.S. § 2-14-304 and, for procedures, Subchapter 13 of this Chapter, except references to "draft permit" in Subchapter 13 shall mean "proposed permit" as used in 27A O.S. § 2-14-103 and 27A O.S. § 2-14-304 (C) and (D).

(k) Response to comments. See 27A O.S. § 2-14-304.

(l) Issuance or denial. "Tier I" requirements apply. See 252:002-15-30.

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

252:002-15--3-70. Common ~~permitting review~~ procedures and ~~timelines~~ time lines

(a) Filing Receipt of applications. Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:

(1) ~~file stamp~~ File-stamp the application with the date of receipt, the Division and/or Program name and an identification number;

(2) ~~assign~~ Assign the application to a named person who will do the review; and

(3) ~~timely~~ Timely log this information.

(b) Administrative completeness review. Unless otherwise provided in the Code or this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to ~~initially~~ determine ~~if whether~~ the application is administratively complete.

(1) Not complete.

(A) Upon determining that the application is not ~~administratively~~ complete, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application.

(B) This notice shall not require or preclude further review of the application and further requests for specific information.

(C) If the reviewer does not notify the applicant of ~~such~~ inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.

(2) Complete. ~~Upon a determination that~~ When the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.

(c) Technical review. Each Program involved shall have a certain time period to review each application for technical compliance with the relevant regulations and reach a final determination.

(d) When times are tolled. The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation [includes public meetings and administrative permit hearings (and waiting periods ~~therefor~~), public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies], or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant

amends his application of his own accord.

(e) **Supplemental time.** To compensate for time spent in reviewing inadequate materials, the DEQ's notice of deficiencies and request for supplemental information may specify that up to 30 additional calendar days may be added to the application processing time. ~~This may also include the number of days the DEQ spent in preparing the notice and request.~~ Requests for supplemental information and data may also specify that additional days for technical review equal to the number of days the applicant used to prepare and submit such supplement may be added to the application review time.

(f) **Failure to respond.** ~~Unless specified otherwise in a program's rules~~ Except for good cause shown, failure by an applicant to supplement an application within 180 days after the request shall be deemed to be a withdrawal unless the time is extended by agreement for good cause mailing date of a notice of deficiencies, or by a date agreed to by the DEQ and the applicant, shall void the application and forfeit the fees. The DEQ shall notify the applicant of an opportunity to show cause why this should not occur. Failure to show cause shall result in an order appealable according to 75 O.S. § 318.

(g) **Extensions.** Extensions to the ~~timelinetime~~ time lines of this Subchapter may be made as provided by law.

252:002-15-4--71. Pending failures

(a) **Circumstances outside agency control.** Technical review times shall be tolled for specified times when, prior to the deadline, the Executive Director certifies that a failure to meet a deadline is imminent and is caused by circumstances outside the control of the DEQ. Such circumstances include, but are not limited to, acts of God, a substantial and unexpected increase in the number of applications filed, and additional review duties imposed on the DEQ from an outside source.

(b) **Other circumstances.** Where circumstances that are not clearly outside the control of the DEQ may cause a failure to meet a deadline, then:

(1) At least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline.

(2) The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

252:002-15-5--72. Air quality permit ~~timelinetime~~ lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

(A) PSD (Part 70 sources) - 540 days.

(B) Major Sources (Part 70 sources other than PSD) - 365 days.

(C) Minor Sources - 180 days.

(2) Operating permits ~~for new construction or modifications~~ minor sources - 365 days :

- (A) Major Sources - 540 days.
- (B) Minor Sources - 365 days.
- (3) Relocation permits - 30 days.

252:002:15-6-73. Hazardous waste permit ~~timelinestime~~ lines

The following hazardous waste permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

- (1) Hazardous waste permits:
 - (A) New RCRA ~~Operations~~ permit or the renewal thereof - 300 days.
 - (B) New State Recycling permit - 300 days.
 - (C) ~~New State Construction permit - 300 days.~~
 - ~~(D) Class 3 permit modifications - 300 days.~~
 - ~~(E) Underground Injection Control permit - 300 days.~~
- (2) ~~Class 1 and Class 2 permit modifications - 300 days.~~
- ~~(3) Closure plans, post-closure plans and transfer station plans and plan modifications - 300 days.~~

252:002:15-7-74. Solid waste permit ~~timelinestime~~ lines

~~Times for issuance or denial of applications for all solid waste permits shall be in accordance with applicable chapters of Solid Waste Regulations, OAC 252:520 et seq., Municipal Solid Waste Landfill Rules, OAC 252:510 et seq., or if not specified therein, the~~The technical review period for solid waste permit applications and for each submittal and resubmittal ~~related thereto~~ shall be 90 days, subject to OAC 252:002:15-7-70.

252:002:15-8-75. Water quality permit ~~timelinestime~~ lines

Applications for new or modified water quality permits, certifications and authorizations shall be technically reviewed and permits shall be issued or denied within the following time frames:

- ~~(1) Dairy Waste - 180 days~~
- ~~(2) Discharges - 180 days.~~
- ~~(3) (2) 401 Certifications - 180 days.~~
- ~~(4) (3) Industrial Wastewater other than discharge - 180 days.~~
- ~~(5) (4) Pretreatment Trust Users - 180 days.~~
- ~~(6) (5) Public Water Supply - 90 days.~~
- ~~(7) Septage and Septic Tank Cleaners - 120 days~~
- ~~(8) (6) Underground Injection Control - 420-300 days.~~
- ~~(8) (7) Water Pollution Control Construction - 90 days.~~
- (8) Sludge management plan - 180 days.

252:002:15-9-76. Other permits

Any environmental license or permit that is not described in this Subchapter shall not be subject to these time frames but shall be reviewed with all due and reasonable speed.

252:002-15-77. Pre-issuance permit review and correction

(a) Review. In addition to its own review, the DEQ may, for Tier I and II, and shall, for Tier III, at any time before issuance, ask an applicant to review a permit for calculation and clerical errors or mistakes of fact or law.

(b) Correction. The DEQ may correct any permit before it is issued.

(1) Notice of significant corrections. For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by the DEQ which significantly alters a facility's permitted size, capacity or limits.

(2) Comments. The DEQ may open a public comment period, and/or reconvene a public meeting and/or administrative hearing to receive public comments on the proposed correction(s).

Agency Note (3): For statutory provisions related to administrative review of permit conditions or actions after issuance, see 27A O.S.Supp. 1995, § 2-14-304(H), "Denial of permit"; 75 O.S. § 317, "Rehearing, reopening or reconsideration of final order"; and 75 O.S. § 307, "Declaratory rulings".

PART 9. CONSOLIDATED PERMITTING

252:002-15-90. Consolidation of permitting process

(a) Discretionary. Whenever an applicant applies for more than one permit for the same site, the DEQ may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.

(b) Scope. When consolidation is authorized by the DEQ:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) The DEQ may also authorize the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.

(3) Final permits may be issued together.

(c) Renewal. The DEQ may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.

(d) Multiple modifications. Subsections (a) and (b) of this section shall also apply to multiple Tier II and III applications for permit modifications.

SUBCHAPTER 13. ADMINISTRATIVE PERMIT PROCEEDINGS

252:002-13-1. Formal public meetings

~~(a) Location. The DEQ shall determine the location and the facility at which a formal public meeting on a permit application and/or draft permit shall be held.~~

~~(b) Purpose. The designated presiding officer of a formal public meeting shall establish the procedure by which such meeting shall be conducted based on the requirements of the Code and applicable program specific rules.~~

Amended and renumbered to 252:002-15-31(g).

Sign-In Sheet

Name	Representing
John Fields	BFI
Steve Shiner	BFI
Jim Haught	EFO
Zack Williams	OGSE
John Raymond	OGSE Electric Services
Bob Patterson	Cherokee County
Burt Huber	AKKA
Don Raley	TWIG
Thelma Douglas	ONB
Rick Treeman	OGFA
Sylvia Pratt	CEA
Gene Wickham	self
Bruce Bauer	SINCLAIR OIL
GORDON LEAMAN	SINCLAIR OIL CORP.
Bob Bannell	Crown
Patty Eator	
Sean White	EBS
Ken Coburn	AMD
KEN EDE	American Airlines
Gary Cox	TECHO
BJ Medley	ECO
Nelson Bolton	Cluse

M. Laird [unclear] HWAC

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, January 28, 1997
Guest House Inn and Dome
810 East Trudgeon
Henryetta, Oklahoma

1. Call to Order - Frank Condon
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 26, 1996 Regular Meeting
4. Election of Officers
5. **OAC 252:220 Brownfields:**
Consideration of permanent and emergency adoption of a new chapter. The new chapter implements the 1996 Oklahoma Brownfields Act and establishes standard procedures for the voluntary redevelopment of contaminated property needed for liability protection under the new law. There are no analogous federal rules. Recommended by the Hazardous Waste Management Advisory Council, October 3, 1996.
 - A. Presentation - Scott Nicholson *on Catherine*
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent and emergency adoption
6. **OAC 252:002 DEQ Procedures:**
Four rules are involved. The first is a new rule 252:2-3-4 (Fee credits). This new rule is a permanent rule identical to the emergency rule adopted on November 28, 1996. The fee credit rule will allow balances of recurring fees that are carried over from a previous year to be applied as a credit on future invoices. There is no analogous federal rule.

The other three permanent and emergency rules involve the Uniform permitting program:
 - **Air Quality.** Amendments to rules 252:2-15-40 and 41 (Tiers I and II). These amendments change some Title V classifications at EPA's request and revise the format to improve clarity. Title V-based amendments are consistent with federal rules.
 - **Brownfields.** Adoption of new rules 252:2-15-64, 65 and 66 (Tiers I, II & III) and 252:2-15-76.1 (Permitting timeline, 60 days). These new rules establish Brownfield permit procedures, for which there are no analogous federal rules.
 - **Water Quality.** Amendment of rule 252:2-15-62 (Tier II). This amendment adds general permits as in other programs, and is consistent with federal rules.
 - A. Presentation - Bob Kellogg
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent and emergency adoption

7. **OAC 252:400 Radiation Management:**

Consideration of the permanent adoption of new Subchapter 17, 252:400-17 (X-Ray Fluorescence [XRF] instruments). The Board remanded this issue to the Council on August 20, 1996. The Radiation Council has revised the August version by limiting it to mobile instruments used to detect lead in paint, to improve readability and refine requirements through general permit format. There are no analogous federal rules. Recommended by the Radiation Management Advisory Council on December 5, 1996.

- A. Presentation - Steve Woods *Vice chair*
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

8. **OAC 252:510 Municipal Solid Waste Landfills:**

Three permanent and emergency amendments are proposed. The first amendment being considered is to rule 252:510-21-6 (Financial assurances). This amendment limits the pay-in period for Trust Fund financial assurance to 15 years or to the life of the site, whichever is less. The Office of Administrative Rules requires that we also incorporate the emergency amendments now in effect (adopted on June 18 and approved by the Governor on August 1, 1996). The proposed trust fund pay-in period is more stringent than the federal rule. This amendment was recommended by Solid Waste Management Advisory Council on January 14, 1997.

The other two amendments are to rules 252:510-1-5 (Definitions) and 252:510-17-9 (Reporting requirements). These two amendments define large industrial waste generators for fee exemption, and add three and delete three reports. These amendments are not more stringent than federal rules. Recommended by Solid Waste Management Advisory Council on October 17, 1996.

- A. Presentation - Steve Mason
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent and emergency adoption

9. **OAC 252:605 Discharges - OPDES (NPDES):**

Consideration of permanent amendments to 252:605 Appendices G, H & I, by revising the criteria and procedures for calculating fees. There are no analogous federal rules. Recommended by the Water Quality Management Advisory Council on January 7, 1997.

- A. Presentation - Jon L. Craig
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

10. **OAC 252:615 Industrial Wastewater Systems:**
 Consideration of permanent amendments to rule 252:615-3-4 (Fees for industrial surface impoundments). The fee changes for industrial surface impoundments are tied to existing wastewater classifications. There are no analogous federal rules. Recommended by the Water Quality Management Advisory Council on January 7, 1997.
- A. Presentation - Jon L. Craig
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent adoption
11. **OAC 252:620 Non-Industrial Impoundments:**
 Consideration of permanent amendments to rule 252:620-13-1 (Annual permit fees for non-industrial surface impoundments). The fee changes are tied to new population range categories. There are no analogous federal rules. Recommended by the Water Quality Management Advisory Council on January 7, 1997.
- A. Presentation - Jon L. Craig
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent adoption
12. **OAC 252:633 Drinking Water State Revolving Fund:**
 Consideration of permanent and emergency adoption of a new chapter. The new chapter enables Oklahoma to use EPA capitalization grant monies to provide low cost loans to state water supply systems under the federal Safe Drinking Water Act. There are no analogous federal rules. Recommended by Water Quality Management Advisory Council on January 7, 1997.
- A. Presentation - Jon L. Craig
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent and emergency adoption
13. **OAC 252:647 Sludge and Land Application of Wastewater:**
 Consideration of permanent amendments to rule 252:647-3-7 (Fees for non-industrial land application). The fee changes are tied to new population range categories. There are no analogous federal rules. Recommended by Water Quality Management Advisory Council on January 7, 1997.
- A. Presentation - Jon L. Craig
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent adoption

14. **Consideration of Finding of Emergency for agenda items 5, 8, 12 and the permit tier amendments in item 6 (252:2-3-4, Fee credit, is already in effect by emergency).**

The Environmental Quality Board finds that a compelling extraordinary circumstance necessitates the seeking of emergency certification of the rules and regulations adopted today. These actions provide modern tools for the protection of environmental health in their respective fields of regulation. Without an emergency, these amendments would not take effect until the spring of 1997 and Oklahomans should not have to wait that long.

- A. Presentation - Bob Kellogg
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote

15. **Addendum to the 1997 Environmental Quality Report.**

The statutorily-mandated Environmental Quality Report requires the Department to, among other thing, report to the Governor and to the Legislature any new federal mandates and their cost. The report was approved by the Board at its meeting on November 28, 1996 and was submitted on the January 1, 1997 deadline. Since the submittal, a potential new federal mandate related to changes in the National Ambient Air Quality Standards for ozone and particulate matter has been proposed by EPA. This new mandate is of such import that an amendment to the report is being proposed.

- A. Presentation - Steve Thompson
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote

16. **New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)**

17. **Executive Director's Report**

18. **Adjournment**

Public Forum

Should you have a disability and need an accommodation, please notify our department three days in advance at 271-8056. TDD number 232-0591.

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES

PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I

(a) ~~Minor source~~-facility permits. The following air quality authorizations for ~~minor sources~~-facilities require Tier I applications.

(1) **New permits.** New construction, operating and relocation permits.

(2) **Modifications of permits.**

(A) Modification of a construction permit for a minor ~~source~~ facility that will remain minor after the modification.

(B) Modification of an operating permit that will not change the ~~source's~~-facility's classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) **Renewals.** Renewals of operating permits.

(b) ~~Major facility~~-Part 70 source permits. The following air quality authorizations for ~~major facilities~~-Part 70 sources require Tier I applications.

(1) **New permits.**

(A) New construction permit for an existing ~~major facility~~ Part 70 source for any ~~facility~~ change considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).

(2) **Modifications of permits.**

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a ~~major facility's~~ Part 70 source's construction permit with no or minor modifications.

(c) **Other authorizations.** The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in see

252:100-11.)

252:2-15-41. Air quality applications - Tier II

(a) **Minor ~~source-facility~~ permit actions.** Any minor ~~source~~ facility seeking a permit for a ~~facility~~ modification that when completed would turn it into a ~~major-facility-Part 70 source~~ is required to apply under subsection (b) of this section.

(b) **~~Major-facility-Part 70 source~~ permits.** The following air quality authorizations for ~~major-facilities-Part 70 sources~~ require Tier II applications.

(1) **New permits.**

(A) New construction permit for a new ~~major-facility-Part 70 source~~ not classified under Tier III.

(B) New construction permit for an existing ~~major-facility-Part 70 source~~ for any ~~facility~~ change considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(C) New operating permit for a ~~major-facility-Part 70 source~~ that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(E) New acid rain permit that is independent of a ~~Title-V-Part 70~~ permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) **Modifications of permits.**

(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) **Renewals.** Renewals of operating permits.

(c) **Other authorizations.** The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

252:2-15-72. Air quality permit time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

(A) PSD ~~(Part 70 sources)~~ 540 and Part 70 Sources - 365

days.

~~(B) Major Sources (Part 70 sources Sources (other than PSD) - 365 days.~~

~~(C) (B) Minor Sources Facilities - 180 days.~~

(2) Operating permits:

(A) ~~Major Part 70 Sources~~ - 540 days.

(B) ~~Minor Sources Facilities~~ - 365 days.

(3) Relocation permits - 30 days.

Sign-In Sheet

Name	Representing
Madhu Barton	CASF
Wayne Farris	CITY OF HENRYETTA
Steve Woods	RMAZ
Shella Chadman	DEQ Water Quality
Verna Alford	DEQ WQD
Jess Watson	Okmulgee County
James Higgins	Muskogee County
J. E. Henry III	CITY OF DEWAR
Guy E. Vail	CITY Henryetta
Bessie Monroe	Bryant Okla
Steve B. Gray	Morris News
Matt Swiggard	
Royce H. Bentley	
Jack Walling	ODEQ - Okmulgee
Jimmie Sisson	Henryetta
Dorene Fry	Henryetta
ZACK WILPIANS	OGSE
"Kela" Sordgen	RC+D Cross Timbers
Lynne Kimmel	O'Brien Electric Services
Chelsea C Cothran	Henryetta Daily Free Press

COPY

Sign-In Sheet

Name	Representing
Chris Winego	Deep Fork Community Action
J. R. Thompson	Thompson Pump Co
Barbara Rivera	Okmulgee Daily Times
Flint Kyles	Osage Landfill
Bette G. Lawrence	T50
Chris Vargo	DEQ
Jan Lulloto	OH
Casey Elliott	Okmulgee Landfill
Chuck Shigley	SHIPLEY, JENNINGS & CHAMPLIN
Rick TRELMAN	OBPA
Mike Broderick	DEQ
MARVIN BOATRIGHT	DEQ
John Fox	Mayor of Harper

COPY

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, January 27, 1998
Canadian Valley Vo Tech
1401 Michigan Avenue
Chickasha, Oklahoma

✓ 1. Call to Order - Herschel Roberts

✓ 2. Roll Call - Lynda Finch *All present except Roger Miner and Carla Smalts*

✓ 3. Approval of Minutes of the November 18, 1997 Regular Meeting

✓ 4. Election of Officers *Same slate, same salary*

5. OAC 252:2 DEQ Procedures:

Changes to 252:2-15-40 and 41 are proposed to the air quality uniform permit tiers. This is in part at EPA's request for the Title 5 permit program, and to make the material more clear. Some permits, such as acid rain permits, are being moved from Tier 1 to Tier 2 to allow for more public input. Approved by the Air Quality Council on December 16, 1997. *we have an on-going obligation to the citizens of this state & work a regulatory process as clear and understandable as possible*

- ✓ A. Presentation - David Branecky, Air Quality Council member
- ✓ B. Questions and discussion by the Board *yes, affect gen op. permit? No*
- ✓ C. Questions, comments and discussion by the public *concern = Cheryl Proadine*
- ✓ D. Discussion by the Board *in verbal memos*
- ✓ E. Roll call vote for permanent adoption *6-5 passed*

** we need a common set of definitions that apply uniformly in every rule
* We need to make our rules clear. Not the rules.*

6. OAC 252:100 Air Pollution Control:

Title V permitting criteria in four subchapters are addressed for consistency with EPA criteria, and they are simplified and clarified. Some provisions are also relocated among the subchapters. Approved by the Air Quality Council on December 16, 1997 and January 9, 1998. The major substantive changes in -

- Subchapter 5 (currently Registration of Air Contaminant Sources), would change the annual operating fees for minor facilities from a tiered system to a set figure per ton of pollutant emitted.
- Subchapter 7 (currently Construction Permits for Major and Minor Sources ...), would incorporate a new permit classification system according to impact, emissions levels and source categories, and introduce two new types of permits, permit by rule and general permit. This is part of the agency's "permit continuum" initiative.
- Subchapter 8 (currently Operating Permits), would adopt the federal case-by-case procedures in 40 CFR Part 63 for determining a MACT standard for a particular facility. These changes are needed to obtain EPA's final approval of our Title V program.
- Subchapter 17 (Incinerators), would address large municipal waste combustors.

- ✓ A. Presentation - David Branecky, Air Quality Council member
- ✓ B. Questions and discussion by the Board *depts & internal mtg.*
- ✓ C. Questions, comments and discussion by the public *rod aware of 25 mile & impact*
- ✓ D. Discussion by the Board *Sylvia - stack tests on furans*
- NO E. Roll call vote for permanent and emergency adoption *Continue to March 20, OKC*

*Roger Miner arrived
Full Board is present
except Smalts*

7. OAC 252:200 Hazardous Waste Management:

Three revisions, approved by the Hazardous Waste Management Advisory Council on January 8, 1998, are proposed:

- The first would amend 252:200-3-1 and 3-2 to update the incorporation by reference of federal hazardous waste rules to the current, 7-1-97, edition of the CFR.
- The second would amend rule 9-7 (additional waste analysis requirements) to change the terminology used in paragraph (b)(1) to establish the waste characteristic.
- Third, the drum recycling provisions of Subchapter 19 would be deleted.

No Cookley, Aldo Wuerflin, Roberts

- ✓ A. Presentation - Scott Nicholson, Hazardous Waste Council Chair *Nadine*
- ✓ B. Questions and discussion by the Board
- ✓ C. Questions, comments and discussion by the public *Clare, address reaction; don't react to*
- ✓ D. Discussion by the Board *discussed empty seat. drum recycling until you have a replacement.*
- ✓ E. Roll call vote for permanent and emergency adoption

Approval vote on 102 8-41 Subch 19 continued 4 3-20-98

8. OAC 252:520 Solid Waste Management:

This proposal would add a new subchapter to process disposal plans for the off-site disposal of non-hazardous industrial solid waste. These rules streamline the process across a "continuum" of industrial solid waste. Recommended by the Solid Waste Management Advisory Council on October 16, 1997.

Robert left

Minor, Savage No Roberts Abstained

- 7 A. Presentation - Steve Mason, Solid Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption *Clare H. why public access rules removed?*

Larry B. - concern of priority, waste category, liners, metals, approval time, catchment in wrong categories.
Ken R. - G(c) problematic. Concept good, but practicality, a problem due to limited availability of kind landfills.
Nadine B. - Problem with drinking water DER role in general; wants public access provision. Concern of deal with from CAPOs.
Mr. Brewer - on behalf of 10 other members - need requirements for OR approval; need category. to obtain Robert H. - 2-6 to be away right of landfills to take certain wastes, need to be statement.

9. OAC 252:633 Drinking Water State Revolving Fund:

This proposal would reform the Chapter to meet federal guidelines. The rules are also simplified and clarified according to the agency's rules review process. Recommended by the Water Quality Management Advisory Council on January 6, 1998.

- A. Presentation - Jeffrey Short, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent and emergency adoption

10. Rulemaking Finding of Emergency:

The Environmental Quality Board finds that a compelling extraordinary circumstance necessitates the seeking of emergency certification of the rule changes of agenda items 7 and 9 adopted today. The changes provide modern tools to protect environmental health. Without an emergency the changes could not take effect until June 1998, and Oklahomans should not have to wait that long.

- A. Presentation - Bob Kellogg, DEQ General Counsel.
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote

11. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda) *Resolution commanding RDK, final language to be drafted*

12. Executive Director's Report

13. Adjournment

Clarif. that mtg on 3-20 is a continued mtg.

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Past Recycling Project - Melinda Alfred
John Gilgren - Pro Coalition for Protection of Clear Creek - oppose Hidden Valley LF - no coop. from DEQ
Nadine Barton - Following up on Gilgren's comments. Commendation of RDK. Title V - comments made missing Findings very disappointing. Consol. of TCHD env. w/ DEQ. What happens to TCC rules?
Sylvia Pratt - Indoor air quality
Clare Newsum - Captive insurance. Laidlaw has switched to bond. But no response to DEQ from Ins. Comm. yet. Laidlaw didn't pay premiums for 75-96? Laidlaw Cell 5 CA finan. asser. - where from? Excess. teachers in Cals 11, 12, 13. why has cell 11 not been repaired?

Should you have a disability and need an accommodation, please notify our department three days in advance at 271-8056. TDD number 232-0591.

*London/Cookley
Appr. w/ 2-6(c) strikers
Charges to 1, 3 and 2-1 at rec. by Comm
8-2-91*

Cohen left

*Mari Berger Johnson
10-0*

*Johnson
10-0*

from minute

11, 12, 13. why has cell 11 not been repaired?

CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 15. UNIFORM PERMITTING PROCEDURES

PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I

~~The following air quality authorizations require Tier I applications.~~

- ~~(1) Construction permit for a minor source.~~
- ~~(2) Operating permit for a minor source.~~
- ~~(3) Operating permit for a major facility, issued after a construction permit, which does not differ from the construction permit in any manner which would otherwise subject the operating permit application to public review.~~
- ~~(4) New, modified or renewed authorization under a general permit.~~
- ~~(5) Modification of a minor source's construction and/or operating permit when the source remains a minor source after the modification.~~
- ~~(6) Minor modification of a major facility's construction and/or operating permit.~~
- ~~(7) Acid rain permits.~~
- ~~(8) Burn approval.~~
- ~~(9) Relocation permit.~~
- ~~(10) Temporary permit.~~
- ~~(11) Plant wide emission plan approval.~~
- ~~(12) Administrative amendment of all permits and other authorizations.~~
- ~~(13) Extension of a minor source's construction permit.~~
- ~~(14) Extension of a major facility's construction permit with no or minor modification.~~
- ~~(15) Renewal of an operating permit for a minor source.~~

(a) Minor source permits. The following air quality authorizations for minor sources require Tier I applications.

(1) New permits. New construction, operating and relocation permits.

(2) Modifications of permits.

(A) Modification of a construction permit for a minor source that will remain minor after the modification.

(B) Modification of an operating permit that will not change the source's classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) Renewals. Renewals of operating permits.

(b) Major facility permits. The following air quality authorizations for major facilities require Tier I applications.

(1) New permits.

(A) New construction permit for an existing major facility for any facility change considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).

(2) Modifications of permits.

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).

(C) Extension of expiration date of a major facility's construction permit with no or minor modifications.

(c) Other authorizations. The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c)(8)(B)(i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in see 252:100-11.)

252:2-15-41. Air quality applications - Tier II

~~The following air quality authorizations require Tier II applications.~~

~~(1) Operating permit for a major facility, issued after a construction permit, which differs from the construction permit in a manner which subjects the operating permit application to public review.~~

~~(2) Operating permit for a major facility that does not have a construction permit.~~

~~(3) Significant modification, as defined in OAC 252:100-8-7(e)(2), of a major facility's construction or operating permit.~~

~~(4) New, modified or renewed general permit.~~

~~(5) Time extension of a major facility's construction permit with a modification that would otherwise be subject to public review.~~

~~(6) Renewal of an operating permit for a major facility.~~

~~(7) A construction permit for a new major facility or a major modification to an existing major facility.~~

(a) Minor source permit actions. Any minor source seeking a permit for a facility modification that when completed would turn it into a major facility is required to apply under subsection (b) of this section.

(b) Major facility permits. The following air quality authorizations for major facilities require Tier II applications.

(1) New permits.

(A) New construction permit for a new major facility not classified under Tier III.

(B) New construction permit for an existing major facility for any facility change considered significant under 252:100-

8-7.2(b)(2) and which is not classified under Tier III.

(C) New operating permit for a major facility that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(E) New acid rain permit that is independent of a Title V permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) Modifications of permits.

(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) Renewals. Renewals of operating permits.

(c) Other authorizations. The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, February 25, 2000
Department of Environmental Quality
707 North Robinson
Oklahoma City, Oklahoma 73102

NOTE: The business meeting of the Board will be preceded at 8:30 a.m. by a continental breakfast. No business will be conducted, but there will be opportunity for an informal interchange among attendees, particularly on matters of interest raised by individual Board members. Board members and DEQ staff will be present, and the public may attend.

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 16, 1999 Regular Meeting
4. **Election of Officers**
Election of Chair and Vice-Chair for 2000
5. **Rulemaking – OAC 252:002 Procedures of the DEQ (Administrative Fees)**
The proposed rule relates to administrative fees. The Oklahoma Open Records Act allows an agency to charge a document copying fee, a fee for certified copies, and a reasonable fee for document searches when the search request is solely for a commercial purpose or clearly would cause an excessive disruption of the agency's essential functions. Fees must be promulgated as rules under the Administrative Procedures Act (1999 Okl.Op.Atty.Gen. 55, August 17, 1999). The proposed rule establishes a photocopy fee of \$0.25 per page, a certified copy fee of \$1.00 per document, and a document search fee of \$5.00 per one-half (1/2) hour (with the first 15 minutes free).
 - A. Presentation – Jimmy Givens, DEQ General Counsel
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption
6. **Rulemaking – OAC 252:100 Air Pollution Control**
Four sets of changes are proposed:
 - Subchapter 5: The proposed amendments are designed to allow the agency to bill on a flexible schedule those owners and operators with sources that produce emissions. The changes also allow the fees to be based on the most recent emission data possible. The proposal clarifies that an owner or operator of a facility must report quantifiable excess emissions on the annual emission inventory, which must be submitted prior to March 1 unless an extension is granted. The proposal also establishes time frames for requests for credit based on overpayment and for challenges to the method used to calculate the facility's emissions for fee calculation purposes.
 - Subchapter 13: The proposed amendments simplify and clarify the rule as part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. Some substantive changes were made,

including adding a section on disaster relief procedures; requiring notification to the DEQ or other appropriate official for authorization to burn in some circumstances; requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators; and prohibiting burning of off-site material in open-pit incinerators.

- Subchapters 23 and 24: The changes replace references to Subchapter 27 with references to 252:100-19-12. These changes are necessary because, based on Board action last November, the substantive requirements of Subchapter 27 will be moved to section 252:100-19-12 and Subchapter 27 will be revoked, effective June of 2000.
- Appendices E and F: The proposed amendments restore the primary and secondary ambient air quality standards to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

- A. Presentation— David Branecky, Air Quality Council Member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption of amendments to Subchapters 5 and 13, on emergency adoption* (only) of amendments to Subchapters 23 and 24, and on both permanent and emergency adoptions of amended Appendices E and F .

7. Rulemaking— OAC 252:002 Procedures of the DEQ (Air Quality-Related)

The Department is proposing amendments to the air quality provisions of OAC 252:2-15, Environmental Permit Processing Times, to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

- A. Presentation— David Branecky, Air Quality Council Member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

8. Rulemaking— OAC 252:205 Hazardous Waste Management

Two sets of changes are proposed:

- Subchapter 3: The proposed amendment to OAC 252:205-3-1 updates the adoption by reference of federal hazardous waste regulations to July 1, 1999. Proposed revisions to 252:205-3-3 incorporate new or superseding amendments to 40 CFR contained in 64 FR 36465-36490, published July 6, 1999, which add hazardous waste lamps as a universal waste at the federal level. Corresponding changes are made in other sections.
- Subchapters 5 and 9: The proposed revisions to 252:205-5 move language from 252:205-5-5(b) to 252:205-5-3(b)(5). The amendment to 252:205-9-6 provides alternative waste characterization mechanisms for off-site hazardous waste facilities.

- A. Presentation— Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption of amendments to Subchapter 3, and on permanent adoption of amendments to Subchapters 5 and 9 .

9. Rulemaking-- OAC 252:220 Brownfields

The proposed language is the result of recent legislation. It states the criteria by which the DEQ will verify loan application eligibility of Brownfields sites for loans from the Wastewater Facility Construction Revolving Loan Account and other state funding sources.

- A. Presentation-- Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption

10. Rulemaking -- OAC 252:615 and 616 Industrial Wastewater Systems

Chapter 615 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 615 be revoked and a new Chapter 616 created to replace it. Language has been simplified and clarified and rules deemed unenforceable have been removed.

- A. Presentation-- Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

11. Rulemaking -- OAC 252:630 and 631 Public Water Supply Operation

Chapter 630 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 630 be revoked and a new Chapter 631 created to replace it. Language has been simplified and clarified and unenforceable rules have been removed. The most recent federal requirements for maintaining primacy over the Safe Drinking Water Act program have been included.

- A. Presentation-- Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

12. Rulemaking -- OAC 252:641 On-Site Sewage Disposal Systems

The proposed rule amendments eliminate the document search fee, combination fee (soil percolation test and final inspection or existing system evaluation report) and residential plat review fees, and reduce the soil percolation/soil profile fee, final inspection fee, existing system evaluation fee and the certified installer final inspection fee.

- A. Presentation -- Gary Collins, Director, DEQ Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

13. **Rulemaking – OAC 252:700 and 710 Waterworks/Wastewater Works Operator Certification**
Chapter 700 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 700 be revoked and a new chapter 710 created to replace it. New subchapters have been created; many rules have been simplified and/or broken into several shorter rules for clarity; and statutory citations have been updated. The rules for landfill operator certification are being revoked as inappropriate to these chapters.

- A. Presentation – Rick Stebbens, Waterworks and Wastewater Works Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

14. **Rulemaking – OAC 252:002 Procedures of the DEQ (Operator Certification-Related)**

The DEQ proposes that Section 252:2-15-49 be revoked as part of the "re-right/de-wrong" rules simplification process. This revocation does not affect the operator certification program or the proposed rules in Chapter 710. The basic Tier I permitting process was designed for environmental permits where notice was given to landowners. The DEQ believes that personal licensure should not have been included in the Tier categories.

- A. Presentation – Rick Stebbens, Waterworks and Wastewater Works Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

15. **New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)**

16. **Executive Director's Report**

17. **Adjournment**

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from the DEQ Water Quality Division about State Water Quality Standards implementation, the State "303(d)" (impaired waters) list, and related issues.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until on or about June 1st.

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES

PART 5. TIER CLASSIFICATIONS

252:2-15-40. Air quality applications - Tier I

(a) ~~Minor source-facility permits.~~ The following air quality authorizations for minor ~~sources-facilities~~ require Tier I applications.

(1) **New permits.** New construction, operating and relocation permits.

(2) **Modifications of permits.**

(A) Modification of a construction permit for a minor ~~source facility~~ that will remain minor after the modification.

(B) Modification of an operating permit that will not change the ~~source's-facility's~~ classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) **Renewals.** Renewals of operating permits.

(b) ~~Major facility Part 70 source permits.~~ The following air quality authorizations for ~~major facilities-Part 70 sources~~ require Tier I applications.

(1) **New permits.**

(A) New construction permit for an existing ~~major facility Part 70 source~~ for any ~~facility~~ change considered minor under 252:100-8-7.2(b) (1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b) (2).

(2) **Modifications of permits.**

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b) (2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b) (1).

(C) Extension of expiration date of a ~~major facility's-Part 70 source's~~ construction permit with no or minor modifications.

(c) **Other authorizations.** The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c) (8) (B) (i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in-see

252:100-11.)

252:2-15-41. Air quality applications - Tier II

(a) ~~Minor source-facility permit actions.~~ Any minor ~~source facility~~ seeking a permit for a ~~facility~~ modification that when completed would turn it into a ~~major facility-Part 70 source~~ is required to apply under subsection (b) of this section.

(b) ~~Major facility-Part 70 source permits.~~ The following air quality authorizations for ~~major facilities-Part 70 sources~~ require Tier II applications.

(1) **New permits.**

(A) New construction permit for a new ~~major facility-Part 70 source~~ not classified under Tier III.

(B) New construction permit for an existing ~~major facility-Part 70 source~~ for any ~~facility~~ change considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(C) New operating permit for a ~~major facility-Part 70 source~~ that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(E) New acid rain permit that is independent of a ~~Title V-Part 70~~ permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) **Modifications of permits.**

(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) **Renewals.** Renewals of operating permits.

(c) **Other authorizations.** The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES

252:2-15-72. Air quality permit time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

(A) PSD (~~Part 70 sources~~) ~~540~~ and Part 70 Sources - 365

days.

~~(B) Major Sources (Part 70 sources Sources (other than PSD) - 365 days.~~

~~(C) (B) Minor Sources Facilities - 180 days.~~

(2) Operating permits:

(A) Major Part 70 Sources - 540 days.

(B) Minor Sources Facilities - 365 days.

(3) Relocation permits - 30 days.

Attendance Sign-In Sheet

Name	Representing
Margaret Ruff	OWF
Claire Newsom	
Richard Jones	City of Edmond
Flit Kyle	Osage Landfill
Dorothy Davis	Northern Ok Disposal
Gary Shockley	City OKC
Madeline Gentry	CASE

REGISTER

PUBLIC FORUM

February 25, 2000
Oklahoma City

The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Sign-In Sheet

Name	Representing
Bonnie McGilbra	Ogden Martin
Robert B. Johnston	City of Frederick/WQMAc
Robert RABATINE	Environmental Management Inc
Jody Reinart	ODEP - HWMAc
Jill Ryler	Orange Landfill
Margaret Ruff	OFF

REGISTER

PUBLIC FORUM

February 25, 2000
Oklahoma City

The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Sign-In Sheet

Name	Representing
Claire Newsom -	Safetiken Issues -
Gary Stocker	City of OKC -
Nobuo Datta	OASE -
	Issues - opportunities to hear
	about Forum -

Finch

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, February 23, 2001
Room 3, The Commons
University of Oklahoma
1620 Asp Avenue
Norman, Oklahoma

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 14, 2000 Regular Meeting
4. **Election of Officers**
Election of Chair and Vice-Chair for 2001

5. **Rulemaking-- OAC 252:1, 2, 3 and 4 Rules of Practice and Procedure**

The proposed new Chapter 4 (Rules of Practice and Procedure) is a product of DEQ's "re-right/de-wrong" rules simplification process. It represents a comprehensive and integrated rewrite of existing Chapter 1 (Procedures of the Environmental Quality Board), Chapter 2 (Procedures of the DEQ) and Chapter 3 (Procedures of the Environmental Quality Councils), in an effort to make the procedures easier to follow. Among the changes are: reorganization into more logical arrangements; language simplification; elimination of duplicative rules; updating of statutory citations; and deletion of statutory language. Chapter 4 also includes rules recommended by the Air Quality Council, which address hearings before that council. Chapters 1, 2 and 3 are proposed for revocation, subject to the adoption of proposed Chapter 4. This agenda item was initially discussed at the November 14, 2000 Board meeting. The Board voted to continue the item to the current meeting.

- A. Presentation – Jimmy Givens, DEQ General Counsel
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption of Chapter 4 and permanent revocation of Chapters 1, 2 and 3

6. **Rulemaking – OAC 252:205 Hazardous Waste Management**

The proposed amendment to 252:205-3-1 updates the adoption by reference of the federal hazardous waste regulations from July 1, 1999 to July 1, 2000. In general, the proposed amendments to 252:205-3-2 delineate hazardous waste regulatory duties that remain with the U.S. EPA. The proposed amendment to 252:205-3-2(b) provides for the operation of a state hazardous waste delisting program in lieu of the federal program. Section 252:205-3-3 is revoked because it is no longer necessary after the update of the adoption by reference.

- A. Presentation – Jody Reinhart, Hazardous Waste Management Advisory Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

7. **Rulemaking – OAC 252:305 Laboratory Services**

In connection with the statutory requirement that the analytical fee rates for the DEQ's State Environmental Laboratory be based on actual cost of performing the analyses and providing the services, the proposed changes include both increases and decreases of those fees. Language is added to clarify the associated services that are provided. An option for a price discount for large-volume prescheduled samples is included. A provision is added regarding handling of analyses and services not listed in the rule, specifying how fees for such special services will be determined.

- A. Presentation – Bill Janacek, Laboratory Services Advisory Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

8. **Rulemaking – OAC 252:410 Radiation Management**

The proposed amendments establish a \$90.00 fee to take the radiography certification examination, and a \$20.00 fee for the issuance of a replacement certification card. This allows the DEQ to recover the cost of purchasing and administering the certification examination and issuing cards to those individuals who pass it. Currently, individuals must take the examination and pay the fee in another state, then become authorized under reciprocity recognition to perform industrial radiography in Oklahoma.

- A. Presentation – Dr. David Gooden, Chair, Radiation Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

9. **Rulemaking – OAC 252:605 Discharge (OPDES) Standards**

Proposed revisions correct typographical errors, update the adoption by reference of federal rules from July 1, 1999 to July 1, 2000, update references to other DEQ rules, remove outdated language, and remove requirements for which the DEQ no longer has jurisdiction.

- A. Presentation – Jeffrey Short, Water Quality Management Advisory Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

10. **Rulemaking – OAC 252:616 Industrial Wastewater Systems**

Proposed revisions correct typographical errors, add a definition ("engineer"), and include language that was mistakenly omitted during the DEQ's "re-right/de-wrong" rules simplification process.

- A. Presentation – Jeffrey Short, Water Quality Management Advisory Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

11. **Rulemaking – OAC 252:631 Public Water Supply Operation**
Proposed revisions correct typographical errors, update the adoption by reference of federal rules from July 1, 1999 to July 1, 2000, and include language that was mistakenly omitted during the DEQ's "re-right/de-wrong" rules simplification process.
 - A. Presentation – Jeffrey Short, Water Quality Management Advisory Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption

12. **Rulemaking – OAC 252:656 Water Pollution Control Facility Construction**
Proposed revisions correct typographical errors, update citations of other DEQ rules and clarify confusing language.
 - A. Presentation – Jeffrey Short, Water Quality Management Advisory Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption

13. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of the agenda)

14. Executive Director's Report

15. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Chapter 2. Procedures of the Department of Environmental Quality
[REVOKED]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Administrative Procedures Act, 75 O.S. § 302

DATES:

Comment period:

October 16, 2000, through November 6, 2000

Public hearing:

November 14, 2000 and February 23, 2001

Adoption:

February 23, 2001 (proposed)

Submitted to Governor:

Submitted to House:

Submitted to Senate:

Gubernatorial approval:

Legislative approval:

Final adoption:

Effective:

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The rules in this Chapter were substantially rewritten and reorganized through the DEQ's re-right/de-wrong rules simplification process and can be found in proposed Chapter 4. This Chapter is being revoked in its entirety, subject to the adoption of Chapter 4.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

Since this is a revocation, there are no analogous federal rules.

CONTACT PERSON:

Contact Barbara Rauch by e-mail barbara.rauch@deqmail.state.ok.us or by phone (405) 702-7189 or fax (702-7101). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma, 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

ADDITIONAL INFORMATION:

The revocation of this chapter was first considered by the Environmental Quality Board at their November 14, 2000 meeting, at which time board members continued it until the February 23, 2001 meeting.

PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 2001.

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

252:2-1-1. Purpose [REVOKED]

- ~~(a) Purpose. This Chapter establishes the organization and procedures of the Department of Environmental Quality.~~
- ~~(b) Fair construction. This Chapter is intended to simplify procedures, avoid delays, save expenses and facilitate implementing the Oklahoma Environmental Quality Code and any other Oklahoma Statutes under which the DEQ has jurisdiction.~~
- ~~(c) Scope. The rules in this Chapter are not intended to limit the lawful authority of the DEQ. The DEQ may address any matter under its jurisdiction and change any procedure for good cause.~~
- ~~(d) Severability. The repeal or invalidity of any particular rule of this Chapter or Title shall not affect other rules.~~

252:2-1-2. Definitions [REVOKED]

~~The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~"APA" means the Oklahoma Administrative Procedures Act, 75:250.1 et seq.~~

~~"Board" means the Environmental Quality Board.~~

~~"Code" means the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 et seq.~~

~~"Council" means the Air Quality Council, the Hazardous Waste Management Advisory Council, the Laboratory Services Advisory Council, the Radiation Management Advisory Council, the Solid Waste Management Advisory Council, the Water Quality Management Advisory Council and the Waterworks and Wastewater Works (Operator Certification) Advisory Council.~~

~~"DEQ" or "Department" means the Oklahoma Department of Environmental Quality and its officers and employees.~~

~~"Executive Director" means the Executive Director of the Department of Environmental Quality.~~

~~"Individual proceeding" means the same as defined in 75:250.3(7), a part of which includes an administrative evidentiary hearing.~~

~~"Respondent" means a person or legal entity named in a petition for an individual proceeding against whom relief is sought.~~

~~"Proposed rule or rule changes" means rules proposed for recommendation and adoption or repeal.~~

~~"Rule package" means a set of rules or rule changes or a single rule or rule change proposed for a specific program or purpose.~~

252:2-1-3. Description of Department of Environmental Quality [REVOKED]

~~(a) History. The DEQ was created January 1, 1993, as a result of environmental legislation in 1992. On July 1, 1993, it assumed jurisdiction over air quality, hazardous waste, solid waste, water quality, environmental laboratory services and certification, radiation management and other programs and functions as specified in the Code.~~

~~(b) Organization. The DEQ consists of programs in air quality, waste management, water quality, complaints and local services, and offices of customer assistance, business and industry assistance,~~

~~local government assistance, and administrative hearings. Such organization may be revised by the Executive Director. Organizational charts may be obtained upon request to the Office of the Executive Director.~~

~~(c) Duties. The DEQ has the following duties:~~

- ~~(1) to implement the Code and other statutes under which it has jurisdiction;~~
- ~~(2) to serve as the official state environmental agency of Oklahoma to cooperate with federal agencies in the management of environmental programs designated by law;~~
- ~~(3) to perform such duties as required by law; and~~
- ~~(4) to provide administrative assistance to the Board and Councils.~~

SUBCHAPTER 3. GENERAL OPERATION [REVOKED]

252:2-3-1. Office location and hours; communications [REVOKED]

~~(a) Office. The principal office of the DEQ is 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1212.~~

~~(b) Hours of operation. Office hours are from 8:00 a.m. to 4:30 p.m., unless otherwise designated by the Executive Director, each day except Saturday and Sunday and state holidays.~~

~~(c) Communications. Unless a person is working with a particular person or departmental area, written communication to the DEQ shall be addressed to the Executive Director at the principal office.~~

252:2-3-2. Availability of records [REVOKED]

~~(a) Availability. Records of the DEQ, not otherwise confidential or privileged from disclosure by law, shall be available to the public for inspection and copying at the DEQ's principal office or other offices during normal business hours. The DEQ may take reasonable precautions in order to ensure the safety and integrity of records under its care.~~

~~(b) Removal. Records may be removed from the DEQ's offices or storage areas only with permission of the record's custodian.~~

~~(c) Reproduction.~~

~~(1) By DEQ. The DEQ may limit the number of copies made and the time and personnel available for reproduction of open records requested by a member of the public or refer the requester to the provisions of paragraphs (2) and (3) of this subsection.~~

~~(2) Commercial reproduction. With advance notice to the DEQ, persons may arrange for the pick up, reproduction and return of open records by a commercial copying service at their expense.~~

~~(3) Other. Provided the approval of the DEQ is obtained in advance and suitable floor space is available, a requester may bring in and use his own copy machine.~~

~~(d) Confidentiality. Any person submitting information, data or materials to the DEQ may assert and substantiate a claim of confidentiality upon submission. Absent such assertion and substantiation, information or materials shall be recognized and treated by the DEQ as being available for disclosure.~~

~~(e) Certification. Copies of official records of the DEQ may be certified by the Executive Director or Assistant Director or their designees.~~

~~(f) Charge. The DEQ's administrative fee schedule shall apply to in house copying or reproduction of open records for or by members of the public.~~

252:2-3-3. Administrative fees [REVOKED]

~~(a) Photocopying. The fee for copying letter or legal sized paper is \$0.25 per page.~~

~~(b) Certified copy. The fee for a certified copy of a document is \$1.00 per document.~~

~~(c) Search fee. When the request is solely for commercial purpose or clearly would cause excessive disruption of the DEQ's essential functions, the document search fee is as follows:~~

~~(1) 0 - 15 minutes, no charge;~~

~~(2) 16 - 30 minutes, \$05.00;~~

~~(3) 31 - 60 minutes, \$10.00;~~

~~(4) 61 - 90 minutes, \$15.00;~~

~~(5) 91 - 120 minutes, \$20.00;~~

~~(6) every 30 minute increment or a portion thereof, \$5.00.~~

252:2-3-4. Fee credits [REVOKED]

~~The Executive Director may authorize Divisions of the DEQ which have programs that collect recurring fees to apply a credit towards certain future invoices for those fees. The credit must be applied only within the program from which the carryover fees are derived. Only the amount that is projected to exceed three months of funding beyond the upcoming budget year for that program can be credited. A summary of any credit applied shall be reported to the Environmental Quality Board. For a credit to be applied:~~

~~(1) There must be a projected balance in the fee account carried over from the previous year;~~

~~(2) The credit must be distributable pro rata among the fee payers;~~

~~(3) The credit must be large enough to justify its administrative cost;~~

~~(4) The Division is unaware of a longer range need, such as match for a superfund clean up project; and~~

~~(5) The Department can explain on the invoices that a carryover exists and that an identified one time credit is being applied.~~

SUBCHAPTER 5. RULEMAKING [REVOKED]

252:2-5-1. Petitions for rulemaking [REVOKED]

~~(a) Rulemaking request. Any person may file a petition with the DEQ formally requesting the adoption, amendment, or repeal of one or more rules.~~

~~(b) Form and content of petition. Rulemaking petitions shall be in writing and filed with the DEQ. A petition shall include the information and follow the format of OAC 252:2 Appendix A, Petition for Rulemaking. After the petition is filed, the DEQ shall provide a copy to the Board.~~

~~(c) Referral. The DEQ shall refer a filed petition to the appropriate Council or if none, to the appropriate program of the DEQ, for review. A petition referred to a Council shall be set on the agenda of the next available Council meeting.~~

~~(d) Status. If rulemaking based on the petition does not commence~~

~~within 30 calendar days after the next available Council meeting or after referral to a program of the DEQ, the petition shall be deemed denied. The DEQ shall advise the Board of the status of petitions and shall provide the petitioner a copy of any final action relating to the petition.~~

252:2-5-2. Rule development [REVOKED]

~~The DEQ may commence the development of rules and rule changes at the request of, or on behalf of, the Board or a Council or upon petition by an interested person. The DEQ may appoint committees to assist in the development of such rules.~~

252:2-5-3. Notice of permanent rulemaking [REVOKED]

~~The DEQ shall cause notice of proposed permanent rulemaking and of dates of known hearings to be given in accordance with the APA. Notice of the continuation of any rulemaking hearing shall be announced at the hearing or meeting from which the hearing is to be continued and shall not require publication.~~

252:2-5-4. Rulemaking comment periods & hearings before the DEQ [REVOKED]

~~(a) Comments. The DEQ may ask for oral or written comments on proposed rules or rule changes from any person at any time.~~

~~(b) Hearings. On behalf of the Board or a Council, the DEQ may conduct a rulemaking hearing separate from a Board or Council meeting to receive comments on proposed permanent rule packages.~~

~~(c) Hearing procedures for oral comments. Persons wishing to comment orally at a hearing on permanent rule packages may be asked to make a written request. The hearing officer may set reasonable time limits on oral presentations, may exclude repetitive or irrelevant comments and may require that the presentations be submitted in writing prior to the close of the comment period.~~

~~(d) Comment period for written comments. Comments on proposed permanent rule packages may be submitted in writing at the hearing or by the end of the specified public comment period, or both.~~

~~(e) Length of comment period. The comment period shall end at the conclusion of the hearing unless extended for no more than 30 days.~~

~~(f) Summary of comments. The DEQ shall maintain a summary of comments received on proposed rule packages at rulemaking hearings and during written comment periods and provide the summary to the Board or a Council prior to the Board's or Council's final action on such rules.~~

252:2-5-5. Hearings before the Board or a Council [REVOKED]

~~At the request of the Board or a Council, the DEQ may designate a hearing officer to conduct a rulemaking hearing on proposed permanent rule packages before those bodies.~~

252:2-5-6. Preparation of rulemaking record [REVOKED]

~~The DEQ shall maintain a rulemaking record on all rules adopted or repealed by the Board.~~

SUBCHAPTER 7. DECLARATORY RULINGS [REVOKED]

252:2-7-1. Declaratory rulings [REVOKED]

~~Any person who alleges that any DEQ rule or order interferes with or impairs, or threatens to interfere with or impair, their legal rights may petition the DEQ, formally requesting a declaratory ruling on the applicability of the rule or order.~~

~~(1) Form and content of petition. All such petitions shall be in writing and filed with the Administrative Law Clerk. The petition shall include the information and follow the format of OAC 252:2 Appendix B, Petition for Declaratory Ruling. After the petition is filed, the DEQ shall provide a copy to the Board at its next available meeting.~~

~~(2) Determination. Petitions for declaratory rulings shall be determined by the DEQ. Rulings shall state the findings and conclusions upon which they are based. If the DEQ refuses to make a ruling, then the petition shall be deemed to have been denied. If the DEQ commences an individual proceeding on the petition, it shall offer an opportunity for a hearing to the petitioner. After the DEQ issues a ruling or the Executive Director issues a final order, the DEQ shall provide a copy of the ruling or final order to the Board at its next available meeting.~~

~~(3) Mailing. The DEQ shall mail a copy of the ruling or final order to the petitioner.~~

SUBCHAPTER 9. INDIVIDUAL PROCEEDINGS IN GENERAL [REVOKED]

252:2-9-1. Purpose and applicability [REVOKED]

~~(a) Purpose and applicability. The purpose of this Subchapter is to establish general procedures for individual proceedings conducted by the DEQ for purposes of enforcement and administrative permit proceedings as specified by Subchapter 13 of this Chapter.~~

~~(b) Applicable law. The APA, the Code and this Chapter govern individual proceedings, including administrative hearings, undertaken by the DEQ.~~

252:2-9-2. Enforcement petitions [REVOKED]

~~(a) Persons entitled. Individual proceedings may be initiated by DEQ program areas by filing a petition or an administrative compliance or penalty order with the Administrative Law Clerk.~~

~~(b) Petition content. Each petition shall name the Respondent(s) and shall contain a reference to the statutes and rules involved, and a brief statement of the facts giving a right to relief and of the relief requested. The petition shall be signed by the person presenting the same, or his attorney (see APA § 310), and shall include the signer's address and phone number.~~

~~(c) Petition style. The style of documents in a matter shall appear in substantially the following form:~~

~~BEFORE THE OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~IN RE: [Nature of proceeding])
and name of Respondent)
e.g. Request for [])~~

~~) No. [Year & Case #]~~

~~[name of program area or person],)
Petitioner.)~~

~~{Nature of Request}~~

252:2-9-3. Declaratory ruling petitions [REVOKED]

~~For information on declaratory ruling petitions, see Subchapter 7 of this Chapter.~~

252:2-9-4. Administrative permit hearing petitions [REVOKED]

~~For information on administrative permit hearing petitions, see Subchapter 13 of this Chapter.~~

252:2-9-5. Matters filed by DEQ [REVOKED]

~~A petition or administrative compliance or penalty order filed by a DEQ program area shall include notice of the opportunity to request an administrative hearing and shall be served on the named Respondents.~~

252:2-9-6. Administrative hearings [REVOKED]

~~(a) Request. A hearing request shall be in writing and shall be filed with the Administrative Law Clerk as part of or in response to a filed Petition.~~

~~(b) Scheduling. The DEQ shall schedule an administrative hearing after receipt of a proper and timely request.~~

~~(c) Notice. When the DEQ schedules an administrative hearing, the Administrative Law Clerk shall notify the parties of the date, time and place of the hearing. Such notice shall satisfy the notice requirements of the APA and shall be made at least fifteen (15) days prior to the hearing unless otherwise provided by law or agreed by the parties.~~

~~(d) Procedure. The Administrative Law Judge may refer to District Court Rules and Procedure in the absence of applicable APA and DEQ statutes and rules, including this Chapter. Subject to the limitations in OAC 252:2-9-7(d), the Administrative Law Judge, with the consent of all parties, may vary the procedures of this Chapter.~~

252:2-9-7. Administrative Law Judges and Clerks [REVOKED]

~~(a) Administrative Law Judge. The Executive Director may designate an Administrative Law Judge for any administrative hearing properly and timely requested of the DEQ, unless precluded by law. Administrative Law Judges shall be familiar with the rules of procedure and generally familiar with the substantive rules governing the matter, and shall not have had prior involvement in the matter other than as an Administrative Law Judge. The Administrative Law Judge so designated shall have full authority to conduct all aspects of the hearing proceedings except for the issuance of a Final Order.~~

~~(b) Administrative Law Clerk. The Executive Director may designate an Administrative Law Clerk to maintain the administrative hearing dockets and records, and perform such other duties as described in this Chapter or incidental thereto.~~

~~(c) References to Administrative Law Judge. The Executive Director or designee may perform functions described in this Section for Administrative Law Judges.~~

~~(d) Authority. Administrative Law Judges have complete authority to conduct administrative hearing proceedings and may take any~~

~~action not inconsistent with the provisions of the rules of this Chapter or of the APA for the maintenance of order at hearings and for the expeditious, fair, and impartial conduct of the proceedings. Administrative Law Judges may, without limitation:~~

- ~~(1) arrange and issue notice of the date, time and place of hearings and conferences;~~
- ~~(2) establish the methods and procedures to be used in the presentation of the evidence;~~
- ~~(3) hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;~~
- ~~(4) administer oaths and affirmations;~~
- ~~(5) regulate the course of the hearing and govern the conduct of participants;~~
- ~~(6) examine witnesses;~~
- ~~(7) rule on, admit, exclude and limit evidence, at or before hearings;~~
- ~~(8) establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for such purposes;~~
- ~~(9) rule on motions and pending matters;~~
- ~~(10) divide the hearing into stages or join claims of parties whenever the number of parties is large or the issues are numerous and complex; and~~
- ~~(11) restrict attendance by persons not parties to the hearing in appropriate cases.~~

~~(e) Technical assistance. At the request of the Administrative Law Judge, the Executive Director may designate a DEQ representative, who has had no assigned responsibilities related to the matter at issue, to serve as technical adviser to the Administrative Law Judge.~~

252:2-9-8. Service [REVOKED]

~~(a) Methods of service. Service of a petition and initial notice of hearing shall be by personal delivery served by a person licensed to make service of process in civil cases, or by certified mail with delivery shown by return receipt, or by publication if it is shown that service cannot be made by any other means despite the exercise of due diligence. Where the DEQ is serving a petition or notice, personal service may be made by a person designated by the Executive Director to make such service for the DEQ. Service by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal by the Respondent. Acceptance or refusal by any officer of a business or an authorized agent for a business shall constitute acceptance or refusal by the party addressed.~~

~~(b) Proof of service. The person making service shall file proof of service thereof with the Administrative Law Clerk promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service does not affect the validity of service. The Administrative Law Judge may refer to the Oklahoma Pleading Code for guidance regarding service.~~

- ~~(1) Acknowledgment. Acknowledgment in writing by the recipient, or appearance by the recipient at a hearing without objecting to service, is equivalent to proof of service.~~

~~(2) Actions on a license. Service by mail in a matter seeking to revoke or suspend any license may be deemed complete when there is an affirmation that the notice was mailed by certified mail to the licensee's last known address, and that he or she may not be found otherwise, despite the exercise of due diligence. The Administrative Law Judge shall inquire into and determine whether due diligence has been exercised.~~

~~(c) Service by mail. Except for service of the petition and initial notice, service by mail is complete upon mailing, and may be shown by the postmark.~~

~~(d) Service on representative. Service made upon an attorney of record constitutes service upon the party the attorney represents. Service made upon a person authorized by Oklahoma law to receive service on behalf of a party constitutes service upon that party.~~

252:2-9-9. Responsive pleading [REVOKED]

~~A Respondent may file, and the Administrative Law Judge may direct a Respondent to file, a responsive pleading to the enforcement petition or order that initiated the action.~~

252:2-9-10. Prehearing conferences [REVOKED]

~~(a) General. The Administrative Law Judge may schedule and conduct prehearing conferences as necessary to identify parties and issues and to set schedules and agendas for hearing related activities. The Administrative Law Clerk shall notify the parties of the scheduling of a prehearing conference. The Administrative Law Judge may authorize a prehearing conference by telephone. On request, prehearing conferences shall be on the record.~~

~~(b) Subjects. Prehearing conferences may address:~~

- ~~(1) identification and simplification of issues, including the elimination of frivolous claims or defenses;~~
- ~~(2) amendments to the pleadings;~~
- ~~(3) the plan and schedule of discovery and limitations to be placed thereon;~~
- ~~(4) identification of admissions of fact to avoid unnecessary proof and cumulative evidence;~~
- ~~(5) the identification of witnesses and substance of testimony, exhibits, and documents;~~
- ~~(6) the use of prehearing briefs and prefiled testimony in the form of sworn affidavits;~~
- ~~(7) settlement of all or some of the issues before the hearing;~~
- ~~(8) adoption of special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems;~~
- ~~(9) scheduling pursuant to OAC 252:2-9-11; and~~
- ~~(10) such other matters as may aid disposition.~~

252:2-9-11. Prehearing scheduling conference [REVOKED]

~~(a) Purpose. A prehearing scheduling conference may be held for the scheduling of matters to be accomplished. Such conference shall be designed to expedite the disposition of the action and discourage wasteful prehearing activities, establish early and continuing control of the management of the hearing, and set dates for prehearing activities.~~

~~(b) Scheduling. The Administrative Law Judge may enter an interim order which establishes, insofar as feasible, the time:~~

- ~~(1) to amend the pleadings;~~
- ~~(2) to file and hear motions;~~
- ~~(3) to complete discovery;~~
- ~~(4) of further prehearing conferences; and~~
- ~~(5) for accomplishing any other matters appropriate in the circumstances of the case.~~

~~(c) Changes in scheduling order. The Administrative Law Judge may change dates and time periods set in the scheduling order by issuing a modifying order upon good cause shown.~~

252:2-9-12. Discovery [REVOKED]

~~All parties shall act in good faith in the scheduling and conduct of discovery. Failure of a party to provide reasonable opportunity for the opposing party to depose any witness shall be grounds to exclude the testimony of that witness at the hearing. Discovery shall be conducted in accordance with the Oklahoma Discovery Code unless otherwise ordered by the Administrative Law Judge for good cause.~~

252:2-9-13. Prehearing Order [REVOKED]

~~(a) Purpose and form. Following a prehearing conference, the Administrative Law Judge may issue a Prehearing Order which recites and schedules the action to be taken and which shall control the course of the action unless modified by a subsequent order to prevent manifest injustice.~~

~~(b) Content. The Prehearing Order should include the results of the conference and advice to the Administrative Law Judge regarding the factual and legal issues, including summaries of material evidence, to be presented. The Prehearing Order should also present all questions of law in the case. All exhibits shall be marked, listed and identified in the Prehearing Order. If there is objection to the admission of any exhibits, the grounds for the objection must be specifically stated. Witnesses shall also be listed along with the nature of their testimony. No exhibit or witness may be added to the Prehearing Order once the Order has been prepared, signed, and filed by the Administrative Law Judge without a showing to the Administrative Law Judge by the requesting party that injustice would be created if the evidence or testimony were not allowed.~~

~~(c) Applicability. The contents of the Prehearing Order shall supersede the pleadings and govern the hearing of the case unless amended or allowed by the Administrative Law Judge to prevent injustice.~~

252:2-9-14. Subpoenas [REVOKED]

~~(a) Issuance. Subpoenas for the attendance of witnesses, the furnishing of information required by the Administrative Law Judge and the production of evidence shall be issued by the Administrative Law Clerk upon written request by a party or on the Administrative Law Judge's own motion. Subpoenas shall be served and a return made in the same manner as provided for state court proceedings.~~

~~(b) Failure to obey. The Executive Director may seek an~~

~~appropriate judicial order to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing, or who refuse to answer a proper question during a hearing. The hearing may proceed despite any such refusal but the Administrative Law Judge may, in his discretion at any time, continue the proceedings as necessary to secure a court ruling.~~

252:2-9-15. Record [REVOKED]

~~(a) To be made. A record of the hearing shall be made, which shall be a tape recording unless otherwise agreed by the parties and the Administrative Law Judge. The recording will not be transcribed as a matter of course. A transcript may be obtained by submitting a written request to the Administrative Law Clerk and tendering payment in an amount sufficient to pay the cost of having the recording transcribed.~~

~~(b) Court reporter. A party may request a court reporter (CSR or LSR). The requesting party shall pay the costs, and the original transcript shall be filed in the case file as part of the record in the case. Each person or party requesting copies shall make arrangements for such with the reporter, and pay the costs.~~

~~(c) Maintained. The record of a proceeding and the file containing the notices and the pleadings will be maintained in a location designated by the Office of Administrative Hearings. All pleadings, motions, orders and other papers submitted for filing in such a proceeding shall be date/file stamped by the Administrative Law Clerk upon receipt. The burden of showing substantial prejudice by any failure to correctly file stamp any submittal shall be upon the party asserting such.~~

~~(d) Designation on appeal. On appeal, the parties may designate and counter designate portions of the record to save costs, following the procedures applicable in the Courts of Oklahoma.~~

252:2-9-16. Motions [REVOKED]

~~(a) Filing. All requests for action in a matter already before the DEQ shall be made in the form of a motion or cross petition, signed by the party presenting same or his attorney, and filed with the Administrative Law Clerk. A cross petition shall be served in the manner provided in Rule 252:2-9-8. A copy of any motion shall be mailed by the movant to all parties of record concurrently with the filing of the motion, and a certification of such mailing shall appear on the motion.~~

~~(b) Response. Within ten (10) days after service of any written motion, any party to the proceedings may file a response to the motion. The time for response may be extended or shortened by the Administrative Law Judge for good cause shown.~~

252:2-9-17. Continuances [REVOKED]

~~A motion for an extension or continuance shall state the reasons for the request and specify the length of time requested. Unless made before the Administrative Law Judge in open hearing, motions for extensions of time or for a continuance of the hearing to another date or time shall be in writing and filed with the Administrative Law Clerk. The Administrative Law Judge shall promptly grant or deny such request at his or her discretion. If the motion is denied, it may be renewed orally by the party at the~~

hearing.

252:2-9-18. Evidentiary hearing procedures [REVOKED]

~~(a) Generally that of civil proceedings. The order of procedure in hearings in all individual proceedings shall generally follow that which applies in District Court civil proceedings. At the discretion of the Administrative Law Judge, any party may reopen his case in chief, even after the adverse party has rested, consonant with the requirements of justice. Parties may stipulate to any lawful matter.~~

~~(b) Further presentation. After presentation of all cases in chief, parties to the action shall be confined to rebutting evidence unless the Administrative Law Judge, for good reasons in furtherance of justice, permits them to offer evidence in the original case.~~

~~(c) Rulings. The Administrative Law Judge shall rule on the admissibility of evidence and objections to evidence, and on motions or objections raised during hearings, except for motions for summary judgments. All objections to a ruling shall be made promptly with statement of basis or they will be deemed waived. Parties shall be deemed to have taken exception to any adverse ruling on an objection.~~

~~(d) Summary judgment. The granting of a motion for summary judgment shall be subject to the provisions of 252:2-9-21 (Proposed order) and 252:2-9-22 (Final order).~~

252:2-9-19. Default [REVOKED]

~~Any Respondent who fails to appear as directed, after receipt of notice as provided by this Chapter, may be determined to have waived the right to appear and present a defense to the allegations contained in the notice and/or petition. A Final Order in such proceeding may be issued by the Executive Director granting by default no more than the relief prayed for in the petition.~~

252:2-9-20. Settlement [REVOKED]

~~Administrative hearings may be resolved by agreed settlement or consent order with the concurrence of the Executive Director. The Administrative Law Judge may grant continuances to allow the parties to discuss settlement.~~

252:2-9-21. Proposed orders [REVOKED]

~~(a) Preparation of proposed orders. The Administrative Law Judge shall hear all evidence and arguments applicable in a case and shall prepare a proposed order including findings of facts and conclusions of law. Prior to such preparation, the Administrative Law Judge may request or require briefs from the parties on any relevant issue. The Administrative Law Judge shall also have the discretion to request or accept from the parties, proposed findings and conclusions.~~

~~(b) Service and presentation. Upon finalization of a proposed order, the Administrative Law Judge shall:~~

- ~~(1) present the proposed order and the record of the matter to the Executive Director for review and entry of a final order; or~~
- ~~(2) serve it on the parties, by regular mail, offering an opportunity for parties to file exceptions to the proposed order~~

~~before a final order is entered, pursuant to APA § 311, and then shall present the proposed order, the exceptions, if any, and the record of the matter to the Executive Director for entry of a final order. The parties may by written stipulation waive any of the requirements for a proposed order.~~

252:2-9-22. Final orders [REVOKED]

~~(a) Executive Director. For proceedings heard by an Administrative Law Judge, the Executive Director may adopt, amend, or reject any findings or conclusions of the Administrative Law Judge or exceptions of any party, or may remand the proceeding for additional argument or the introduction of additional evidence at a hearing held for that purpose. This may be done after:~~

~~(1) the opportunity for exceptions has lapsed without receiving exceptions, or after exceptions, briefs and oral arguments, if any, are made, or~~

~~(2) review of the record.~~

~~(b) Issuance. At the conclusion of the proceedings and [except as provided in Rule 252:2-9-19, Default] after review of the record and/or proposed findings of fact and conclusions of law, the Executive Director shall issue a final order reflecting the findings of fact made, the conclusions of law reached, and specifying the action to be taken. Upon the resolution of motions of summary judgment that are dispositive of the entire case and rulings on standing that are adverse to a Petitioner(s), the Executive Director shall issue a final order.~~

~~(c) Notice. Parties shall be notified either personally or by mail of the issuance of a final order. A copy of the final order shall be provided to any party and its attorney.~~

252:2-9-23. Reconsideration [REVOKED]

~~Any party may petition the DEQ for rehearing, reopening or reconsideration of any decision in an individual proceeding within ten days of its entry, pursuant to APA § 317. Nothing in this Chapter shall prevent reconsideration of a matter in accordance with other statutory provisions.~~

252:2-9-24. Judicial review [REVOKED]

~~The provisions of Section 318 of title 75 of the Oklahoma Statutes shall apply.~~

SUBCHAPTER 11. ADMINISTRATIVE PENALTY PROCEEDINGS [REVOKED]

252:2-11-1. Applicability [REVOKED]

~~The requirements of this Subchapter are in addition to the preceding requirements of this Chapter and are applicable to matters brought under 27A O.S.Supp. 1993, Sections 2-3-502, 2-5-110, and 2-7-126, or any similar statutes providing for the assessment by the DEQ of administrative penalties.~~

252:2-11-2. Notice of Violation ("NOV") [REVOKED]

~~Unless otherwise provided by the particular enabling legislation, administrative penalty proceedings shall be preceded by a written notice of violation (NOV) informing the Respondent of the regulatory requirement at issue. This NOV must be served upon the~~

~~Respondent and must state the factual allegations and particular standards or rules upon which the NOV is based. A letter, inspection sheet, petition, consent order or final order may constitute a NOV for purposes of instituting administrative penalty proceedings, if it meets the requirements of this Section.~~

252:2-11-3. Administrative compliance and penalty orders [REVOKED]

~~(a) When issued. The Executive Director upon the request of a DEQ program area may issue an administrative order requiring compliance, assessing penalties for past violations and specifying penalties for continuing noncompliance. If a preceding Notice of Violation is required by the enabling legislation, an administrative compliance or penalty order shall be issued not less than fifteen days after service of the NOV upon the Respondent, or such reduced period as may be necessary to render the Order reasonably effectual.~~

~~(b) Must specify. An administrative compliance or penalty order shall specify the facts and conclusions upon which it is based and shall set a time for the Respondent to comply with the applicable regulations. The Order shall specify the penalty, not to exceed the statutory maximum per day of noncompliance, to be assessed in the event that the Respondent fails to comply with the Order within the prescribed time, and, if applicable, the penalty assessed for past violations of the Code, rules, or licenses or permits.~~

~~(c) Service. An administrative compliance or penalty order shall be served in accordance with Rule 252:2-9-8. The Order shall advise the Respondent that it shall become final unless an administrative hearing is requested in writing within fifteen (15) days of service of the Order.~~

~~(d) Order following hearing. Based on the hearing and record, an administrative compliance or penalty order will be sustained, modified, or dismissed by the Executive Director. If the hearing process extends beyond any compliance deadline specified in the Order, fines specified in the Order for violations of the Order will continue to accrue during the hearing process unless the Administrative Law Judge stays the penalty upon request for good cause shown.~~

252:2-11-4. Determining penalty [REVOKED]

~~In addition to factors specified by 27A O.S.Supp. 1993, Section 2-3-502(K)(2) or other law, the following factors, without limitation, may be considered in determining the amount of penalty specified in an administrative penalty order:~~

- ~~(1) the gravity of the violation, including the likelihood of the development of adverse health effects caused by the violation, and the extent and severity of environmental degradation or adverse health effects caused or placed at risk by the violation,~~
- ~~(2) the degree of variance from the applicable standards,~~
- ~~(3) costs of correction of damage, and~~
- ~~(4) good or bad faith of the Respondent.~~

252:2-11-5. Assessment orders [REVOKED]

~~(a) Failure to comply with administrative orders. After an administrative compliance or penalty order is issued, proceedings~~

~~may be conducted to determine whether the Respondent has failed to comply with the Order for any period of time.~~

~~(b) Application for compliance and penalty hearing. Any time the DEQ believes the Order has been violated, it may with reasonable promptness apply to the Administrative Law Judge for a compliance and penalty hearing, alleging the period of noncompliance and the amount of the administrative penalty that has accrued. The DEQ shall provide a copy of the application to the Respondent.~~

~~(c) Elements to consider. The Executive Director, in deciding whether an administrative penalty or compliance order has been violated and whether the penalties are appropriate, may consider efforts to comply with applicable requirements made by the Respondent after issuance of the Order.~~

~~(d) Must request hearing within seven days. The DEQ's application shall advise the Respondent that the Respondent's right to contest the determination of noncompliance and the amount of the fine is waived if the request for hearing is not made within seven (7) calendar days of receiving notice. A request for hearing is deemed made when received by the DEQ. If timely requested, the hearing must be promptly set and held.~~

~~(e) Issuance of assessment orders. An assessment order shall be issued by the Executive Director following the determination of the application. An assessment order must state the nature and period of the violation, and determine the amount of the fine. The fine is due and payable immediately upon issuance of the assessment order, unless otherwise provided therein. A copy of the assessment order will be provided to the Respondent.~~

~~(f) Continuing violations. If the DEQ believes that violations of the administrative compliance or penalty order continue after the issuance of an assessment order, the DEQ may apply within a reasonable time for the issuance of additional assessment orders covering periods of violation since the period covered by the issuance of a previous assessment order.~~

252:2-11-6. Penalty-only proceedings [REVOKED]

~~(a) General. In accordance with 27A O.S. Supp. 1993, Section 2-3-502(L), the DEQ may, within three (3) years of discovery, issue an administrative penalty order proposing specified administrative penalties for non-continuing violations of the Code, rules promulgated thereunder, or permits or licenses issued pursuant thereto.~~

~~(b) Must specify. The administrative penalty order shall specify the facts and conclusions upon which it is based.~~

~~(c) Determining Penalty. For information on determining penalty, see 252:2-11-4.~~

~~(d) Service. The administrative penalty order shall be served in accordance with Rule 252:2-9-8. The Order shall advise the Respondent that it shall become final unless a hearing is requested in writing within fifteen (15) days of service of the Order.~~

~~(e) Hearing. Based on the hearing and the record, an administrative penalty order will be sustained, modified, or dismissed by the Executive Director.~~

252:2-11-7. Considerations for self-reporting of noncompliance [REVOKED]

~~(a) Purpose.~~ The DEQ monitors the environmental compliance of regulated entities through activities such as periodic inspections and record reviews, but the regulated entities have a superior vantage point and generally greater resources to monitor their own performance. The public interest in environmental protection is served by positive incentives to promote, achieve and maintain compliance as well as by the negative incentive of a unilateral agency enforcement action with an associated penalty. The DEQ should encourage voluntary disclosure and prompt remedial action. The DEQ believes it is conducive to improved environmental compliance to mitigate an administrative and civil penalty which would otherwise be appropriate, in those cases where a regulated entity has disclosed an apparent violation, has taken prompt and appropriate action to correct the violation and its consequences, and has taken affirmative action to prevent its recurrence.

~~(b) Conditions for not seeking administrative and civil penalties.~~ Except in the case of habitual noncompliance or as otherwise provided in this section, in evaluating enforcement action for a regulated entity's actual or apparent failure to comply with DEQ rules, the DEQ will not seek an administrative or civil penalty when the following circumstances are present:

~~(1) The regulated entity voluntarily, promptly and fully discloses the apparent failure to comply with applicable state environmental statutes or rules to the appropriate DEQ regulatory program in writing before the program learns of it or is likely to learn of it imminently;~~

~~(2) The failure is not deliberate or intentional;~~

~~(3) The failure does not indicate a lack or reasonable question of the basic good faith attempt to understand and comply with applicable state environmental statutes or rules through environmental management systems appropriate to the size and nature of the activities of the regulated entity;~~

~~(4) The regulated entity, upon discovery, took or began to take immediate and reasonable action to correct the failure (i.e., to cease any continuing or repeated violation);~~

~~(5) The regulated entity has taken, or has agreed in writing with the appropriate program to take, remedial action as may be necessary to prevent recurrence of such failure. Any action the regulated entity agrees to take must be completed;~~

~~(6) The regulated entity has addressed, or has agreed in writing with the appropriate program to address, any environmental impacts of the failure in an acceptable manner;~~

~~(7) The regulated entity has not realized and will not realize a demonstrable and significant economic or competitive advantage as a result of non-compliance; and~~

~~(8) The regulated entity cooperates with the DEQ as the DEQ performs its duties and provides such information as the DEQ reasonably requests to confirm the entity's compliance with these conditions.~~

~~(c) Partial qualification.~~ Notwithstanding the failure of a regulated entity to meet all of the conditions in subsection b, the DEQ will consider the nature and extent of such actions of the regulated entity in mitigation of any administrative or civil penalty otherwise appropriate. If the regulated entity meets all conditions in subsection b except item 7 relating to significant

~~economic or competitive advantage, the DEQ will seek an administrative or civil penalty only to the extent of the economic or competitive advantage gained.~~

~~(d) Relationship to federal/state agreements. In the event of any conflict, the elimination or mitigation of penalties pursuant to subsections b and c is subject to agreements between the DEQ and the United States Environmental Protection Agency relating to regulatory program delegation or authorization from the United States Environmental Protection Agency to the DEQ.~~

~~(e) Applicability. This section applies to all enforcement cases arising from violations discovered by or brought to the attention of the DEQ after the effective date of this section.~~

SUBCHAPTER 13. FORMAL PUBLIC MEETINGS AND ADMINISTRATIVE PERMIT PROCEEDINGS [REVOKED]

PART 3. ADMINISTRATIVE PERMIT PROCEEDINGS [REVOKED]

252:2-13-30. Scope; purpose of proceedings [REVOKED]

~~(a) Applicability. In addition to the requirements of Subchapter 9 of this Chapter, the requirements of this Part shall apply to administrative hearings on draft permits.~~

~~(b) Purpose. The purpose of an administrative permit proceeding is to provide for an evidentiary proceeding for challenges to draft permits and to determine their compliance with the Code and rules promulgated thereunder.~~

252:2-13-31. Definitions [REVOKED]

~~The following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~"Administrative permit hearing" means an evidentiary hearing conducted by the DEQ as part of an administrative permit proceeding.~~

~~"Administrative permit proceeding" means all prehearing conferences, evidentiary hearings and other proceedings connected with an individual proceeding on a draft permit.~~

~~"Joining of parties" means the grouping of parties to an administrative permit proceeding who assert rights to relief in respect of or arising out of the same draft permit.~~

~~"Lead Counsel" means the attorney acting as coordinating counsel for all petitioners or, if only one petitioner, that party's legal representative.~~

~~"Petitioner(s)" means a person or group who requests an administrative permit hearing and is determined by the Administrative Law Judge to have standing as a party to the action.~~

~~"Respondent" means an applicant whose formally filed permit application and the draft permit related thereto are the subject of an administrative permit proceeding.~~

252:2-13-32. Request for administrative permit hearing [REVOKED]

~~(a) Request. A request for an administrative permit hearing must be in writing signed by the requester, requesters or authorized representative of a group of requesters and shall contain a brief statement of the basis of the request and the name and address of~~

~~each requester. If the request is made by or on behalf of a group, the request should contain a list of names and addresses of group members. A request shall be considered an initial petition and should be personally delivered or sent to the address described in the notice telling of such request opportunity or to the DEQ's Office of Administrative Hearings.~~

~~(b) Initiation of proceedings. Unless otherwise provided by law, the initiation of administrative permit proceedings shall not occur until a draft permit has been prepared by the DEQ and amended, as appropriate, based on comments received during the public comment period.~~

~~(c) Joinder of DEQ. The DEQ, through the permit drafting program, shall be a party to the permit proceeding upon its own petition, or may be joined as a party upon order of the Administrative Law Judge. If the DEQ is not a party to the proceedings, the Administrative Law Judge may call witnesses, hear testimony and receive evidence from the permit drafting program. Such witnesses shall be subject to cross examination by the parties.~~

~~(d) Location for Administrative Permit Hearings. Proceedings related to administrative permit hearings shall be held at the principal office of the DEQ unless otherwise specified by the Administrative Law Judge.~~

252:2-13-33. Relationship to other rules [REVOKED]

~~In addition to the provisions of this Part, the requirements and procedures set forth in Subchapter 9 of this Chapter (OAC 252:2) for individual proceedings shall apply to administrative permit proceedings and hearings unless specified otherwise or in conflict. In cases of conflict, specific provisions of this Part control over Subchapter 9. The provisions include:~~

- ~~(1) OAC 252:2-9-7 (Administrative Law Judges and Clerks);~~
- ~~(2) OAC 252:2-9-8 (Service);~~
- ~~(3) OAC 252:2-9-10 (Prehearing conferences);~~
- ~~(4) OAC 252:2-9-11 (Prehearing scheduling conference);~~
- ~~(5) OAC 252:2-9-12 (Discovery);~~
- ~~(6) OAC 252:2-9-13 (Prehearing Order);~~
- ~~(7) OAC 252:2-9-14 (Subpoenas);~~
- ~~(8) OAC 252:2-9-16 (Motions);~~
- ~~(9) OAC 252:2-9-17 (Continuances);~~
- ~~(10) OAC 252:2-9-18 (Evidentiary hearing procedures);~~
- ~~(11) OAC 252:2-9-19 (Default);~~
- ~~(12) OAC 252:2-9-20 (Settlement);~~
- ~~(13) OAC 252:2-9-21 (Proposed orders);~~
- ~~(14) OAC 252:2-9-22 (Final orders); and~~
- ~~(15) OAC 252:2-9-23 (Reconsideration).~~

252:2-13-34. [RESERVED] [REVOKED]

252:2-13-35. Prehearing verification conference [REVOKED]

~~(a) Notice. According to 75:309(b), the Administrative Law Judge shall give notice to requesters and Respondents of a prehearing verification conference on a request for an administrative permit hearing.~~

~~(b) Purpose. The prehearing verification conference shall be attended by all requesters and Respondents and/or their~~

~~representatives for the purpose of examining notice and identifying parties and their representatives.~~

~~(c) Verification of notice. The Administrative Law Judge shall examine evidence and receive testimony on whether notice of the opportunity to request an administrative permit hearing was given in accordance with applicable law.~~

~~(d) Verification of request. The Administrative Law Judge shall verify whether each requester made a timely and proper request for the hearing.~~

~~(e) Verification of standing. The Administrative Law Judge shall verify the standing of all requesters to be parties pursuant to requirements set by applicable law.~~

~~(f) Cure of deficiencies. The Administrative Law Judge may allow deficiencies in notice or proof of standing to be cured.~~

~~(g) Identification of representatives. When verification is complete, each party shall identify its counsel. All counsel and individuals appearing pro se (representing themselves) shall enter a written entry of appearance with the Administrative Law Judge. In addition, each party shall designate one individual to receive notice and to take primary responsibility for the filing of documents with the Administrative Law Clerk.~~

~~(h) Groups. Members of a formally organized group may request to be considered as one party to the hearing and shall be considered a single entity if they meet applicable standing requirements for such a group or if ten (10) members meet the applicable standing requirements for individuals. A group qualified to be a single party must be represented by Counsel during administrative permit proceedings.~~

252:2-13-36. Selection of Lead Counsel [REVOKED]

~~When more than one Petitioner is verified as a party and their representation is by more than one Counsel, the Petitioners shall select one Lead Counsel to coordinate action and communications on behalf of all Petitioners and their attorneys. The selection of a Lead Counsel shall not prohibit other attorneys for petitioners, or unrepresented Petitioners, from dividing responsibilities such as direct and cross examination, discovery, and opening/closing arguments. Designation as Lead Counsel shall not be deemed to establish an attorney client relationship not otherwise existing. For good cause, the Administrative Law Judge may allow substitution of Lead Counsel and authorize additional Lead Counsel when conflicts of interest appear.~~

252:2-13-37. Identification of issues [REVOKED]

~~(a) Integrated petition. The Lead Counsel, on behalf of all joined Petitioners, shall file an integrated petition in the office of Administrative Hearings within twenty (20) days after the completion of the prehearing verification conference. The integrated petition shall name the person against whom relief is requested, contain a reference to the statutes and/or rules involved, contain a brief statement of the facts giving a right to relief, and state clearly and concisely the action or relief sought and the ground therefor. The integrated petition shall be in the form set forth in Rule 252:2-9-2(c). Relief in the alternative may be pleaded. The petition shall also contain a preliminary listing~~

~~of topics which the Petitioner(s) intends to put at issue in the hearing. Upon filing an integrated petition with the DEQ, Lead Counsel shall serve the Respondent with a copy of the petition and shall mail copies to, or make personal delivery to, all Petitioner(s) or their representatives.~~

~~(b) Answer. The Respondent shall file an answer to the integrated petition within twenty (20) days after service of the petition upon him. An answer may contain specific responses or a general denial and shall be served by the Respondent on all other parties to the action.~~

~~(c) Cross petition. The Respondent may file a cross petition and the named parties shall have the right to file answers within 20 days of service.~~

~~(d) Amendment of petition and answer. The parties have the right to amend petitions and answers upon a showing of good cause and with leave of the Administrative Hearing Judge.~~

252:2-13-38. Administrative record [REVOKED]

~~(a) Content. In addition to the provisions of Subchapter 9 of this Chapter, the administrative permit hearing record shall include:~~

- ~~(1) the permit application on file with the DEQ, as amended;~~
- ~~(2) all written comments received during the public comment period;~~
- ~~(3) the tape or transcript of the formal public meeting;~~
- ~~(4) documents resulting from the DEQ's review of the permit application and public comments;~~
- ~~(5) the draft permit, fact sheet and the response to comments, if any, issued by the DEQ; and~~
- ~~(6) all published notices.~~

~~(b) Admission into evidence. The documents referenced in (a) of this Section may be admitted and received in evidence. The Administrative Law Judge may direct that a witness be provided to sponsor a portion or portions of these documents. The Administrative Law Judge may direct the appropriate party to produce the witness for cross examination. If a sponsoring witness cannot be provided, the Administrative Law Judge may reduce the weight accorded the appropriate portion of the record.~~

252:2-13-39. Withdrawal and dismissal [REVOKED]

~~(a) Withdrawal. Any Petitioner may formally withdraw from the proceedings at any time by filing a statement of withdrawal with the Administrative Law Clerk.~~

~~(b) Dismissal and release.~~

- ~~(1) By motion of Petitioner(s). At any time during the proceedings, Petitioner(s) may request dismissal of the action by filing a motion with the Hearing Clerk that is signed by all Petitioner(s) or their representative(s). Such dismissal shall be with prejudice unless the words "without prejudice" appear in the Order of Dismissal issued by the Administrative Law Judge.~~
- ~~(2) By motion of Respondent. An action shall be dismissed by the Administrative Law Judge upon withdrawal of the permit application by the Respondent. Any such dismissal shall be with prejudice as to that permit application and the draft permit related thereto.~~

~~(3) By Administrative Law Judge. An action may be dismissed by the Administrative Law Judge if all Petitioners fail to appear or to prosecute with diligence, or when Petitioner(s) are in disobedience to an Interim Order issued by the Administrative Law Judge. Any Petitioner may be dismissed from an ongoing action for failure to appear or prosecute with diligence or for disobedience to an Interim Order, only upon motion by a party to the action. Such dismissals shall not occur until a Petitioner subject to the Dismissal Order receives notice of the prospective dismissal and is given the opportunity to be heard concerning it. The Administrative Law Judge may release any party from the action upon proper motion at any time.~~

252:2-13-40. Evidentiary hearing procedures on draft permits [REVOKED]

~~(a) Order of procedure. For information on order of procedure, see OAC 252:2-9-18.~~

~~(b) Burden of proof. The Respondent has the burden of proof as to issues raised by Petitioner(s).~~

~~(1) Petitioner(s). Petitioner(s) shall have the burden of going forward to present an affirmative case on the issues identified in the petition.~~

~~(2) Respondent. After the conclusion of the case of the Petitioner(s), the Respondent shall have the burden of presenting an affirmative case on all issues raised by the Petitioner(s).~~

~~(c) Testimony and cross examination. The Administrative Law Judge may provide for the testimony of opposing witnesses to be heard consecutively. No cross examination shall be allowed on questions of law, on matters that are not subject to challenge in an administrative hearing, or on questions of DEQ policy except to the extent such policy must be analyzed to disclose the basis for draft permit requirements. Issues between the parties that are relevant to the hearing but not raised at the hearing shall be dismissed as between the parties and may be so reflected in the final findings of fact and conclusions of law.~~

252:2-13-41. Orders [REVOKED]

~~(a) Proposed and Final Orders. For information on Proposed and Final Orders, see OAC 252:2-9-21 and 252:2-9-22.~~

~~(b) Final Orders. Final Orders issuing from an administrative permit hearing shall be based on the applicable provisions of statutes and rules, and may be conditioned in accordance with findings and recommendations of the Administrative Law Judge.~~

252:2-13-42. Issuance or denial of permit [REVOKED]

~~The applicant bears the burden of persuading the agency that the permit should issue. Title 75 O.S. 1991, § 307 is the appropriate mechanism to address any alleged failure by the DEQ to conform the issuance or denial of the permit to the requirements of a Final Order.~~

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES [REVOKED]

PART 1. UNIFORM PERMITTING PROGRAM IN GENERAL [REVOKED]

252:2-15-1. Purpose and applicability [REVOKED]

~~(a) Purpose. The rules in this Subchapter implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S.Supp. 1995, § 2-14-101 et seq., and apply to applicants for and holders of DEQ permits and other authorizations.~~

~~(b) Supersedes inconsistent rules. Except as otherwise provided by statute, the provisions of this Subchapter shall supersede any inconsistent provision of other Chapters of this Title.~~

~~(c) Applicability.~~

~~(1) Applications filed with the DEQ on and after July 1, 1996, are subject to the procedural requirements of 27A O.S.Supp. 1995, § 2-14-101 et seq., this Subchapter and other applicable rules of the Board.~~

~~(2) Applications filed before July 1, 1996, are subject to the statutory and regulatory procedural requirements existing at the time of the filing unless the applicant elects to comply with the statutes and rules described in paragraph 1 of this subsection.~~

252:2-15-2. Definitions [REVOKED]

~~In addition to terms defined in 252:2-1-2, the following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise.~~

~~"Act" means the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-15-101 et seq.~~

~~"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.~~

~~"Application" See 27A O.S.Supp. 1995, § 2-14-103(1).~~

~~"Major facility", as used in air quality tier classifications, means a source subject to the permitting requirements of 40 CFR Part 70.~~

~~"Minor source", as used in air quality tier classifications, means a source that is not subject to the permitting requirements of 40 CFR Part 70.~~

~~"Off site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.~~

~~"On site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry for the treatment, storage, processing, or disposal of its own waste exclusively.~~

~~"Part" means a numbered Part of this Subchapter.~~

~~"Program" means a regulatory section or division of the DEQ.~~

~~"Submittal" means a document or group of documents provided as part of an application.~~

~~"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.~~

~~"UIC" means underground injection control.~~

PART 3. TIER I, II AND III PROCESS REQUIREMENTS [REVOKED]

252:2-15-26. Tier processes described [REVOKED]

~~To implement the three-tiered permitting processes of the Act,~~

~~applications are classified in Part 5 as Tier I, II or III. The steps an applicant must follow for a Tier I, II or III application are shown in Appendix C of this Chapter.~~

252:2-15-27. Unclassified applications [REVOKED]

~~The tier designation for any type of application not classified in this Subchapter shall be determined according to 27A O.S.Supp. 1995, § 201.~~

252:2-15-28. Permit decision-making authority [REVOKED]

~~(a) Designated positions. The Executive Director may delegate in writing the power and duty to issue, renew, amend, modify and deny permits and take other authorization or registration action. Unless delegated to a Division Director by formal assignment or rule, the authority to act on Tier I applications shall be delegated to positions within each permitting program having technical supervisory responsibilities and, for local actions authorized by law, to environmental specialist positions held by the DEQ's local services representatives. The authority to act on emergency permits or Tier II applications shall be delegated to the Division Director of the applicable permitting division.~~

~~(b) Revision. The Executive Director may amend any delegation in writing.~~

252:2-15-29. Published notices [REVOKED]

~~(a) Notice content. In addition to content requirements of the Act, all published legal notice(s) shall contain the:~~

- ~~(1) Name and address of the applicant;~~
- ~~(2) Name, address and legal description of the site, facility and/or activity;~~
- ~~(3) Purpose of notice;~~
- ~~(4) Type of permit or permit action being sought;~~
- ~~(5) Description of activities to be regulated;~~
- ~~(6) Locations where the application may be reviewed;~~
- ~~(7) Names, addresses and telephone numbers of contact persons for the DEQ and for the applicant;~~
- ~~(8) Description of public participation opportunities and time period for comment and requests;~~
- ~~(9) Any other information required by DEQ rules; and~~
- ~~(10) Any information the applicant deems relevant.~~

~~(b) Proof of publication. An applicant, within twenty (20) days after the date of publication, shall provide the DEQ with a written affidavit of publication for each notice published. In case of a mistake in a published notice, the DEQ may approve the publication of a legal notice of correction or may require that the entire legal notice be republished.~~

252:2-15-30. Tier I process requirements [REVOKED]

~~(a) Pre application conference. Prior to filing an application, an applicant may request a conference with the DEQ.~~

~~(b) Application filing.~~

- ~~(1) Copies. Two (2) copies of a Tier I application shall be filed with the DEQ except when the application form or instructions specifies that only one (1) copy is needed. Applicants for residential systems (OAC 252:640) and small~~

public sewage systems (OAC 252:655-29) permits shall file their two copies with the local DEQ office for the county in which the real property is located.

~~(2) Fees.~~ Fees established in DEQ program rules shall be payable at the time of application and are not refundable.

~~(3) Notice to landowner.~~ Applicants must demonstrate to the DEQ that they are not seeking a permit for land or for any operation upon land owned by others without their knowledge. Applicants shall certify by affidavit filed with the DEQ that they own the real property, or they have a current lease or easement which is given to accomplish the permitted purpose, or if they do not own the real property, they have provided legal notice to those who do. The DEQ may rely on the affidavit, and the applicants shall bear the burden of meeting any challenges. Legal notice is governed by Oklahoma law which, for example, authorizes: service by sheriff or private process server; service by certified mail, restricted delivery; or service by publication, if the person cannot be located through due diligence. Notice to the person who signed a lease or to the administrator or executor of a trust or an estate may be sufficient.

~~(4) Withdrawal.~~ An applicant may withdraw an application at any time with written notice to the DEQ and forfeiture of fees.

~~(c) Application review.~~ Unless stated otherwise in new laws or rules, applications are subject to the laws and rules of the DEQ as they exist on the date of filing and afterward as changed, up to the date of issuance or denial. See Part 7 for review procedures and time lines.

~~(d) Issuance or denial.~~

~~(1) Compliance required.~~ A new, modified or renewed permit or other authorization shall not be issued until the DEQ has determined the application is in substantial compliance with applicable requirements of the Code and rules of the Board.

~~(2) Conditions for issuance.~~ The Department may not issue a new, modified or renewed permit or other authorization if:

~~(A) The applicant has not paid all monies owed to the DEQ or is not in substantial compliance with the Code, rules of the Board and the terms of any existing DEQ permits and orders. The DEQ may impose special conditions on the applicant to assure compliance and/or a separate schedule which the DEQ considers necessary to achieve required compliance; or~~

~~(B) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.~~

~~(3) Issuance.~~ See 252:2-15-28.

252:2-15-31. Tier II process requirements [REVOKED]

~~(a) Pre-application conference.~~ "Tier I" requirements apply. See 252:2-15-30.

~~(b) Application.~~ "Tier I" requirements apply. See 252:2-15-30, except the applicant shall file three (3) copies of the application with the DEQ and place one (1) copy for public review in the county in which the site, facility or activity is located.

~~(c) Published notice of filing.~~ See 27A O.S. § 2-14-301 and 252:2-15-29.

~~(d) Application review. "Tier I" requirements apply. See 252:2-15-30.~~

~~(e) Draft permit or draft denial. See 27A O.S. § 2-14-302.~~

~~(f) Notice of draft permit/denial. See 27A O.S. § 2-14-302 and 252:2-15-29. For permit modification actions, only those issues relevant to the modification(s) shall be reopened for public review and comment.~~

~~(1) Exception to notice requirement. Applicants for solid waste transfer station permits shall be exempt from public comment and public meeting requirements if the board of county commissioners of the county of the proposed site, after opportunity for written or oral public comment, has found the application to be within the scope of the county's solid waste management plan. See 27A O.S. Supp. 1995, § 2-10-307.~~

~~(2) Additional notice. In addition to Section 302 notice:~~

~~(A) Applicants for a NPDES, RCRA or UIC permit are subject to applicable additional notice provisions of federal requirements promulgated as rules of the Board.~~

~~(B) Applicants for a proposed wastewater discharge or emissions permit which may affect the water quality or air quality of a neighboring state must give written notice to the environmental regulatory agency of that state.~~

~~(C) Applicants for a solid waste landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See *DuLaney v. OSDH*, Okl., 868 P.2d 676 (1993).~~

~~(g) Public comment and formal public meeting. See 27A O.S. § 2-14-302 and 27A O.S. § 2-14-303. The DEQ shall determine the location of any formal public meeting to be held and the designated presiding officer shall establish its procedures.~~

~~(h) Response to comments. See 27A O.S. § 2-14-304.~~

~~(i) Issuance or denial. "Tier I" requirements apply. See 252:2-15-30.~~

252:2-15-32. Tier III process requirements [REVOKED]

~~(a) Pre application conference. "Tier I" requirements apply. See 252:2-15-30.~~

~~(b) Filing, fees and withdrawal. "Tier II" requirements apply. See 252:2-15-31.~~

~~(c) Notice of filing and process meeting opportunity. The applicant shall include a 30-day opportunity to request a process meeting in the published notice of filing. See 27A O.S. § 2-14-301(B) and 252:2-15-29.~~

~~(d) Process meeting. See 27A O.S. § 2-14-301(B). The location of and procedures for the process meeting shall be determined by the DEQ.~~

~~(e) Application review. "Tier I" requirements apply. See 252:2-15-30.~~

~~(f) Draft permit or draft denial. See 27A O.S. § 2-14-302.~~

~~(g) Notice of draft permit/denial. "Tier II" requirements apply. See 252:2-15-31.~~

~~(h) Public comment period and public meeting. "Tier II" requirements apply. See 252:2-15-31.~~

~~(i) Proposed permit and notice. After the DEQ reviews public comments and prepares a proposed permit by amending the draft permit in response to comments as necessary, the applicant shall publish notice of the proposed permit and of the opportunity to request an administrative permit hearing. See 27A O.S. § 2-14-304 and 252:2-15-29.~~

~~(j) Administrative permit hearing. See 27A O.S. § 2-14-304 and, for procedures, Subchapter 13 of this Chapter, except references to "draft permit" in Subchapter 13 shall mean "proposed permit" as used in 27A O.S. § 2-14-103 and 27A O.S. § 2-14-304 (C) and (D).~~

~~(k) Response to comments. See 27A O.S. § 2-14-304.~~

~~(l) Issuance or denial. "Tier I" requirements apply. See 252:2-15-30.~~

PART 5. TIER CLASSIFICATIONS [REVOKED]

252:2-15-40. Air quality applications - Tier I [REVOKED]

~~(a) Minor facility permits. The following air quality authorizations for minor facilities require Tier I applications.~~

~~(1) New permits. New construction, operating and relocation permits.~~

~~(2) Modifications of permits.~~

~~(A) Modification of a construction permit for a minor facility that will remain minor after the modification.~~

~~(B) Modification of an operating permit that will not change the facility's classification from minor to major.~~

~~(C) Extension of expiration date of a construction permit.~~

~~(3) Renewals. Renewals of operating permits.~~

~~(b) Part 70 source permits. The following air quality authorizations for Part 70 sources require Tier I applications.~~

~~(1) New permits.~~

~~(A) New construction permit for an existing Part 70 source for any change considered minor under 252:100-8-7.2(b)(1).~~

~~(B) New operating permit that:~~

~~(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and~~

~~(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b)(2).~~

~~(2) Modifications of permits.~~

~~(A) Modification of any operating permit condition that:~~

~~(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and~~

~~(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b)(2).~~

~~(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b)(1).~~

~~(C) Extension of expiration date of a Part 70 source's construction permit with no or minor modifications.~~

~~(c) Other authorizations. The following air quality authorizations require Tier I applications.~~

~~(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is~~

~~not required by 252:100-8-5(e)(8)(B)(i).~~

~~(2) Burn approvals.~~

~~(3) Plant wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).~~

~~(4) Administrative amendments of all air quality permits and other authorizations.~~

~~(5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in 252:100-11.)~~

252:2-15-41. Air quality applications - Tier II [REVOKED]

~~(a) Minor facility permit actions. Any minor facility seeking a permit for a modification that when completed would turn it into a Part 70 source is required to apply under subsection (b) of this section.~~

~~(b) Part 70 source permits. The following air quality authorizations for Part 70 sources require Tier II applications.~~

~~(1) New permits.~~

~~(A) New construction permit for a new Part 70 source not classified under Tier III.~~

~~(B) New construction permit for an existing Part 70 source for any change considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.~~

~~(C) New operating permit for a Part 70 source that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.~~

~~(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).~~

~~(E) New acid rain permit that is independent of a Part 70 permit application.~~

~~(F) New temporary source permit under 252:100-8-6.2.~~

~~(2) Modifications of permits.~~

~~(A) Significant modification, as described in 252:100-8-7.2(b)(2), of an operating permit that is not based on an underlying construction permit processed under Tier II or III, and 252:100-8-8.~~

~~(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).~~

~~(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.~~

~~(3) Renewals. Renewals of operating permits.~~

~~(c) Other authorizations. The following air quality authorizations require Tier II applications.~~

~~(1) New, modified and renewed general operating permits.~~

~~(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(e)(8)(B)(i).~~

252:2-15-42. Air quality applications - Tier III [REVOKED]

~~(a) New major stationary sources. A construction permit for any~~

~~new major stationary source listed in this subsection requires a Tier III application. For purposes of this section, "Major stationary source" means:~~

~~(1) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:~~

~~(A) carbon black plants (furnace process),~~

~~(B) charcoal production plants,~~

~~(C) chemical process plants,~~

~~(D) coal cleaning plants (with thermal dryers),~~

~~(E) coke oven batteries,~~

~~(F) fossil fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input,~~

~~(G) fossil fuel fired steam electric plants of more than 250 million BTU per hour heat input,~~

~~(H) fuel conversion plants,~~

~~(I) glass fiber processing plants,~~

~~(J) hydrofluoric, sulfuric or nitric acid plants,~~

~~(K) iron and steel mill plants,~~

~~(L) kraft pulp mills,~~

~~(M) lime plants,~~

~~(N) incinerators, except where used exclusively as air pollution control devices,~~

~~(O) petroleum refineries,~~

~~(P) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,~~

~~(Q) phosphate rock processing plant,~~

~~(R) portland cement plants,~~

~~(S) primary aluminum ore reduction plants,~~

~~(T) primary copper smelters,~~

~~(U) primary lead smelters,~~

~~(V) primary zinc smelters,~~

~~(W) secondary metal production plants,~~

~~(X) sintering plants,~~

~~(Y) sulfur recovery plants, or~~

~~(Z) taconite ore processing plants, and~~

~~(2) Any other source not specified in paragraph (1) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.~~

~~(b) Existing incinerators. An application for any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted shall require a Tier III application.~~

~~(c) Potential to emit. For purposes of this section, "potential to emit" means emissions resulting from the application of all enforceable permit limitations as defined in OAC 252.100-1-3.~~

252:2-15-43. Hazardous waste management applications - Tier I [REVOKED]

~~The following hazardous waste management authorizations require Tier I applications.~~

~~(1) Class 1 modification of any hazardous waste permit requiring prior Department approval as specified in 40 CFR § 270.42.~~

- ~~(2) Modification to a recycling permit in accordance with 27A O.S. Supp. 1994, § 2-7-118(A).~~
- ~~(3) Class 2 permit modification as defined in 40 CFR § 270.42.~~
- ~~(4) Emergency hazardous waste disposal plan approval.~~
- ~~(5) Hazardous waste generator disposal plan approval.~~
- ~~(6) Technical plan approval.~~
- ~~(7) Hazardous waste transporter license.~~
- ~~(8) Hazardous waste transfer station plan modification which is not related to capacity.~~
- ~~(9) Emergency permit issued in accordance with 40 CFR § 270.61.~~
- ~~(10) Interim status closure plan approval in accordance with 40 CFR § 265.113(d)(4).~~
- ~~(11) Minor administrative modification of all permits and other authorizations.~~
- ~~(12) Renewal of disposal plan approval and transporter license.~~
- ~~(13) New, modified or renewed authorization under a general permit.~~
- ~~(14) Approval of temporary authorizations in accordance with 40 CFR § 270.42.~~

**252:2-15-44. Hazardous waste management applications - Tier II
[REVOKED]**

The following hazardous waste management authorizations require Tier II applications.

- ~~(1) On site hazardous waste treatment, storage or disposal permit.~~
- ~~(2) Mobile recycling permit.~~
- ~~(3) Research & Development permit.~~
- ~~(4) Class 3 modification of any hazardous waste permit as specified in 40 CFR § 270.42.~~
- ~~(5) Modification of an on site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.~~
- ~~(6) Modification of an on site hazardous waste facility permit for an expansion of permitted boundaries.~~
- ~~(7) Modification of on site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.~~
- ~~(8) Renewal of a hazardous waste treatment, storage or disposal permit.~~
- ~~(9) Hazardous waste transfer station plan approval.~~
- ~~(10) Hazardous waste transfer station plan modification involving increase in approved capacity.~~
- ~~(11) Variance which is not part of a permit application.~~
- ~~(12) Variance which is part of a Tier II permit application.~~

**252:2-15-45. Hazardous waste management applications - Tier III
[REVOKED]**

The following hazardous waste management authorizations require Tier III applications.

- ~~(1) Off site hazardous waste treatment, storage, disposal, incineration and/or recycling permit.~~
- ~~(2) Modification of an off site hazardous waste facility permit~~

~~for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.~~

~~(3) Modification of an off site hazardous waste facility permit for an expansion of permitted boundaries.~~

~~(4) Modification of off site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.~~

~~(5) Variance which is part of a Tier III application.~~

**252:2-15-46. Laboratory certification applications - Tier I
[REVOKED]**

~~A Tier I application shall be required for a new, modified, amended or renewed laboratory certification.~~

**252:2-15-47. Laboratory certification applications - Tier II
[REVOKED]**

~~None.~~

**252:2-15-48. Laboratory certification applications - Tier III
[REVOKED]**

~~None.~~

**252:2-15-50. Operator certification applications - Tier II
[REVOKED]**

~~None.~~

**252:2-15-51. Operator certification applications - Tier III
[REVOKED]**

~~None.~~

252:2-15-52. Radiation management applications - Tier I [REVOKED]

~~The following radiation management authorizations require Tier I applications:~~

~~(1) New, amended and renewed operating permits for radiation machines;~~

~~(2) New, amended and renewed permits for x ray fluorescence spectroscopy instruments used to detect lead in paint;~~

~~(3) New and renewed specific licenses under the state agreement program not classified under Tiers II or III;~~

~~(4) Industrial radiography certifications;~~

~~(5) Approvals of license termination plans that require no decommissioning or remediation;~~

~~(6) Decommissioning and remediation plans required for remediation due to the use, storage or disposal of one or more radioactive materials with a half life of 120 days or less;~~

~~(7) DEQ approvals of documentation showing residual radioactivity levels for a site or property are within acceptable limits as set by Chapter 410;~~

~~(8) Minor amendments of all authorizations classified under Tiers I, II or III; and~~

~~(9) Major amendments of all authorizations classified under Tier I.~~

252:2-15-53. Radiation management applications - Tier II
[REVOKED]

~~The following radiation management authorizations require Tier II applications:~~

- ~~(1) Decommissioning and remediation plans required for on-site remediation due to the use, storage or disposal of one or more radioactive materials with a half life of more than 120 days, except for those facilities described in 252:2-15-54(3)(A);~~
- ~~(2) New or renewed permits for the non-commercial treatment or disposal of radioactive waste, generated by the applicant, by incineration or the amendment of the incinerator permit for a capacity increase or for any expansion beyond permitted boundaries for the purpose of expanding operations or storage; and~~
- ~~(3) Major amendments of all authorizations classified under Tier II.~~

252:2-15-54. Radiation management applications - Tier III
[REVOKED]

~~The following radiation management authorizations require Tier III applications:~~

- ~~(1) New or renewed permits for the land disposal of low level radioactive waste received from others and the major amendment thereof;~~
- ~~(2) New or renewed permits for the commercial treatment or disposal of radioactive waste by incineration and the major amendment thereof; and~~
- ~~(3) Decommissioning and remediation plans and the major amendment thereof:
 - ~~(A) for nuclear fuel cycle facilities or facilities and sites involved in the manufacturing or processing of licensed quantities of radioactive materials; and~~
 - ~~(B) for sites that require both on and off site remediation due to the use, storage or disposal of one or more radioactive materials with a half life of more than 120 days.~~~~

252:2-15-55. Solid waste management applications - Tier I
[REVOKED]

~~The following solid waste management authorizations require Tier I applications:~~

- ~~(1) New permits.
 - ~~(A) Locally approved solid waste transfer stations. Permit for a solid waste transfer station that, prior to application filing, received county commissioner approval according to 27A O.S. Supp. 1995, § 2-10-307.~~
 - ~~(B) Biomedical waste transfer stations using only sealed containers. Biomedical waste transfer station permit when activities are limited to:
 - ~~(i) consolidation of sealed containers; and/or~~
 - ~~(ii) transfer of sealed containers from one vehicle or mode of transportation to another.~~~~
 - ~~(C) Disaster relief. Emergency authorization for waste disposal resulting from a natural disaster.~~~~
- ~~(2) Modifications.
 - ~~(A) All facilities.~~~~

- ~~(i) Modification of a solid waste permit to add methods, units or appurtenances for liquid bulking processes, yard waste composting, recycling operations, waste screening, or baling, chipping, shredding or grinding equipment or operations.~~
- ~~(ii) Modification to any solid waste permit to make minor changes.~~
- ~~(iii) Modification of plans for closure and/or post-closure.~~
- ~~(iv) Administrative modification of all permits and other authorizations.~~

~~(B) On site and off site land disposal facilities.~~ Modification of an existing land disposal permit for a lateral expansion within permitted boundaries.

~~(C) Capacity increases of less than 25% with exceptions.~~ The modification of a solid waste permit, excluding incineration permits, involving a request for less than twenty five percent (25%) increase in permitted capacity for storage, processing or disposal when the request is for equivalent methods, units or appurtenances as those permitted and which does not involve expansions of permitted boundaries.

~~(3) Plans and other authorizations.~~ The approval of new and when applicable, modified or renewed:

~~(A) Plans for composting of yard waste only.~~

~~(B) Permit transfers.~~

~~(C) Non hazardous industrial solid waste disposal plans.~~

~~(D) Technical plans.~~

~~(E) County solid waste management plans.~~

~~(F) Individual authorizations under a general permit.~~

~~(G) All other administrative approvals required by OAC 252:510 or OAC 252:520.~~

252:2-15-56. Solid waste management applications - Tier II
[REVOKED]

The following solid waste management authorizations require Tier II applications.

~~(1) New permits.~~

~~(A) On site solid waste processing facilities with exception.~~ Permit for an on site solid waste processing facility except yard waste composting as listed under Tier I, Rule 252:2 15-55.

~~(B) Solid waste transfer stations with exceptions.~~ Permit for a solid waste transfer station except:

~~(i) a transfer station permit with county commissioner approval as listed under Tier I, Rule 252:2 15-55, or~~

~~(ii) a biomedical waste transfer station permit listed under Tier I, Rule 252:2 15-55.~~

~~(C) On site incinerators with exceptions.~~ Permit for an on site incinerator except those exempt under OAC 252:520 or those that have an approved Air Quality permit or Solid Waste Management Plan.

~~(D) On site land disposal sites.~~ Permit for an on site solid waste disposal site.

~~(E) Material Recovery Facility (MRF).~~ Permit for a Material Recovery Facility if waste is not source separated.

~~(2) Modifications.~~

~~(A) All facilities. Modification of a permit for a change in waste type.~~

~~(B) On site facilities. Any modification of an on site solid waste permit, except as listed under Tier I, Rule 252:2 15 55.~~

~~(C) Off site facilities.~~

~~(i) Modification of any off site solid waste permit involving a request for more than twenty five percent (25%) but less than fifty percent (50%) increase in permitted capacity for storage, processing or disposal (excluding incineration) when the request is for equivalent methods, units or appurtenances as those permitted, except those listed under Tier I, Rule 252:2 15 55.~~

~~(ii) Modification of any off site processing facility involving an expansion of permitted boundaries.~~

~~(D) Incinerators.~~

~~(i) Modification of an on site incinerator permit for any increase in permitted capacity for storage, processing, or disposal.~~

~~(ii) Modification of an off site incinerator permit involving a request for increases less than fifty percent (50%) in permitted capacity for storage, processing, or disposal when the request is for equivalent methods, units or appurtenances as those permitted.~~

~~(3) General permit. New, modified or renewed general permit.~~

252:2-15-57. Solid waste management applications - Tier III
[REVOKED]

The following solid waste management authorizations require Tier III applications.

~~(1) New permits.~~

~~(A) Off site processing facilities with exceptions. Permit for an off site processing facility, unless otherwise specified in Tier I, Rule 252:2 15 55, or Tier II, Rule 252:2 15 56.~~

~~(B) Off site land disposal facility. Permit for an off site solid waste land disposal site.~~

~~(C) Off site incinerator. Permit for an off site incinerator.~~

~~(2) Modifications.~~

~~(A) Off site facilities: significant increase in capacity. Modification of any off site solid waste permit involving a fifty percent (50%) or greater increase in permitted capacity for storage, processing, and/or disposal, including incineration.~~

~~(B) Off site land disposal facility. Modification of an off site solid waste land disposal permit for an expansion of permitted boundaries.~~

~~(C) Off site facilities: different methods, units or appurtenances. Modification of an off site solid waste permit in which the request involves different methods, units or appurtenances than those permitted, except those listed under Tier I, Rule 252:2 15 55.~~

~~(3) Variance approvals. All variances.~~

252:2-15-58. UIC applications-Tier I [REVOKED]

~~The following underground injection control authorizations require Tier I applications.~~

- ~~(1) Minor modification of a permit for Class I, III, and V wells in accordance with 40 CFR § 144.41.~~
- ~~(2) Modification of an approved closure and/or post closure plan for a Class I hazardous waste injection well.~~
- ~~(3) Modification of an approved plugging and abandonment plan for Class I nonhazardous and Class III injection wells.~~
- ~~(4) Modification of an approved corrective action plan for a Class I injection well.~~
- ~~(5) Emergency permit in accordance with 40 CFR § 144.34.~~
- ~~(6) New, modified or renewed authorization under a general permit.~~
- ~~(7) Minor administrative modification of all permits and other authorizations.~~

252:2-15-59. UIC applications - Tier II [REVOKED]

~~The following underground injection control authorizations require Tier II applications.~~

- ~~(1) On site Class I nonhazardous waste injection well permit.~~
- ~~(2) Class III and V injection well permits except Class V permits issued under Tier III.~~
- ~~(3) Modification and/or renewal of all DEQ issued underground injection control well permits.~~

252:2-15-60. UIC applications - Tier III [REVOKED]

~~The following underground injection control authorizations require Tier III applications.~~

- ~~(1) Class I hazardous waste injection well permit.~~
- ~~(2) Off site Class I nonhazardous waste injection well permit.~~
- ~~(3) Class V industrial waste injection well permit.~~

252:2-15-61. Water quality applications - Tier I [REVOKED]

~~The following water quality authorizations require Tier I applications.~~

- ~~(1) Permit for flow through impoundment(s) as part of the pretreatment process.~~
- ~~(2) Re permitting of facility with an expiring permit for industrial non discharging impoundment or septic tank system.~~
- ~~(3) Re permitting of expiring permit with minor or no change(s) for land application of sludge and/or wastewater for same site.~~
- ~~(4) New, modified or renewed authorization under a general permit, including but not limited to general permits for stormwater, underground storage tanks and petroleum storage and treatment facilities.~~
- ~~(5) Approval of new pretreatment program.~~
- ~~(6) Closure plan approval.~~
- ~~(7) Dredge and fill certification.~~
- ~~(8) Approval of exemption for water line extensions.~~
- ~~(9) Approval of exemption for water distribution and wastewater collection systems.~~
- ~~(10) Approval for individual residential sewage disposal system.~~
- ~~(11) Approval of small public sewage system.~~

- ~~(A) with less than 5,000 gallons per day which do not discharge, land apply wastewater or sludge, or have lift stations designed to handle a peak capacity greater than 10 gallons per minute; or~~
- ~~(B) which serves less than ten (10) residential units.~~
- ~~(12) Residential development approval.~~
- ~~(13) Transfer of discharge permit.~~
- ~~(14) Minor modification of discharge permit.~~
- ~~(15) Minor modification of permit for land application of sludge and/or wastewater.~~
- ~~(16) Modification of or addition to a municipal wastewater treatment system (including sewer line extensions).~~
- ~~(17) Modification of or addition to a public water supply treatment and/or distribution system.~~
- ~~(18) Modification of non discharging impoundment and/or septic tank system permit.~~
- ~~(19) Modification of an approved pretreatment program.~~
- ~~(20) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.~~

252:2-15-62. Water quality applications - Tier II [REVOKED]

~~The following water quality authorizations require Tier II applications.~~

- ~~(1) Permit for municipal wastewater treatment system.~~
- ~~(2) Permit for public water supply system.~~
- ~~(3) Discharge permit for minor facility.~~
- ~~(4) Individual storm water permit.~~
- ~~(5) Permit for industrial non discharging impoundment or septic tank.~~
- ~~(6) Permit for land application of sludge and/or wastewater at new site system.~~
- ~~(7) Re-permitting of a facility with expiring discharge permit.~~
- ~~(8) Re-permitting of facility with expiring individual storm water discharge permit.~~
- ~~(9) Re-permitting with major change(s) from expiring permit for land application of sludge and/or wastewater for the same site.~~
- ~~(10) Variance including thermal components of effluent limitations for an individual discharge permit.~~
- ~~(11) Major modification of discharge permit.~~
- ~~(12) Major modification of permit for land application of sludge and/or wastewater.~~
- ~~(13) New, modified or renewed general permit.~~

252:2-15-63. Water quality applications - Tier III [REVOKED]

~~A new discharge permit for a major facility requires a Tier III application.~~

252:2-15-64. Brownfields applications - Tier I [REVOKED]

~~A Tier I application shall be required for a Memorandum of Agreement for site characterization.~~

252:2-15-65. Brownfields applications - Tier II [REVOKED]

~~A Tier II application shall be required for all Certificates.~~

252:2-15-66. Brownfields applications - Tier III [REVOKED]

~~None.~~

PART 7. REVIEW PROCEDURES AND PERMITTING TIME LINES [REVOKED]

252:2-15-70. Common review procedures and time lines [REVOKED]

~~(a) Receipt of applications. Unless otherwise provided in this Subchapter, upon the receipt of an application for filing and the proper fee, each Program shall:~~

- ~~(1) File, stamp the application with the date of receipt, the Division and/or Program name and an identification number;~~
- ~~(2) Assign the application to a named person who will do the review; and~~
- ~~(3) Timely log this information.~~

~~(b) Administrative completeness review. Unless otherwise provided in the Code or this Subchapter, the reviewer shall have 60 calendar days from the logged date of filing in which to determine whether the application is administratively complete.~~

~~(1) Not complete.~~

~~(A) Upon determining that the application is not complete, the reviewer shall immediately notify the applicant by mail, describing with reasonable specificity the inadequacies and measures necessary to complete the application.~~

~~(B) This notice shall not require or preclude further review of the application and further requests for specific information.~~

~~(C) If the reviewer does not notify the applicant of inadequacies, the period for technical review shall begin at the close of the administrative completeness review period.~~

~~(2) Complete. When the application is administratively complete, the reviewer shall log the date and immediately notify the applicant by mail. The period for technical review begins.~~

~~(c) Technical review. Each Program involved shall have a certain time period to review each application for technical compliance with the relevant regulations and reach a final determination.~~

~~(d) When times are tolled. The time period for review is tolled (the clock stops) during litigation, during periods of public review and participation [includes public meetings and administrative permit hearings (and waiting periods), public comment periods, time required for DEQ preparation of responses to public comments received, and review by other federal or State agencies], or when the Program has asked for supplemental information and advised the applicant that the time period is tolled pending receipt, or during the time in which an applicant amends his application of his own accord.~~

~~(e) Supplemental time. To compensate for time spent in reviewing inadequate materials, the DEQ's notice of deficiencies and request for supplemental information may specify that up to 30 additional calendar days may be added to the application processing time. Requests for supplemental information and data may also specify that additional days for technical review equal to the number of days the applicant used to prepare and submit such supplement may be added to the application review time.~~

~~(f) Failure to respond. Except for good cause shown, failure by an applicant to supplement an application within 180 days after the~~

mailing date of a notice of deficiencies, or by a date agreed to by the DEQ and the applicant, shall void the application and forfeit the fees. The DEQ shall notify the applicant of an opportunity to show cause why this should not occur. Failure to show cause shall result in an order appealable according to 75 O.S. § 318.

~~(g) Extensions.~~ Extensions to the time lines of this Subchapter may be made as provided by law.

252:2-15-71. Pending failures [REVOKED]

~~(a) Circumstances outside agency control.~~ Technical review times shall be tolled for specified times when, prior to the deadline, the Executive Director certifies that a failure to meet a deadline is imminent and is caused by circumstances outside the control of the DEQ. Such circumstances include, but are not limited to, acts of God, a substantial and unexpected increase in the number of applications filed, and additional review duties imposed on the DEQ from an outside source.

~~(b) Other circumstances.~~ Where circumstances that are not clearly outside the control of the DEQ may cause a failure to meet a deadline, then:

~~(1) At least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline.~~

~~(2) The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.~~

252:2-15-72. Air quality permit time lines [REVOKED]

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

~~(1) Construction permits:~~

~~(A) PSD and Part 70 Sources 365 days.~~

~~(B) Minor Facilities 180 days.~~

~~(2) Operating permits:~~

~~(A) Part 70 Sources 540 days.~~

~~(B) Minor Facilities 365 days.~~

~~(3) Relocation permits 30 days.~~

252:2-15-73. Hazardous waste permit time lines [REVOKED]

The following hazardous waste permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

~~(1) Hazardous waste permits:~~

~~(A) New RCRA permit or the renewal thereof 300 days.~~

~~(B) New State Recycling permit 300 days.~~

~~(C) Class 3 permit modifications 300 days.~~

~~(2) Closure plans, post closure plans and transfer station plans and plan modifications 300 days.~~

252:2-15-74. Solid waste permit time lines [REVOKED]

The technical review period for solid waste permit applications and for each submittal and resubmittal shall be 90 days, subject to OAC 252:2-15-7-70.

252:2-15-75. Water quality permit time lines [REVOKED]

~~Applications for new or modified water quality permits, certifications and authorizations shall be technically reviewed and permits shall be issued or denied within the following time frames:~~

- ~~(1) Discharges — 180 days.~~
- ~~(2) 401 Certifications — 180 days.~~
- ~~(3) Industrial Wastewater other than discharge — 180 days.~~
- ~~(4) Pretreatment Trust Users — 180 days.~~
- ~~(5) Public Water Supply — 90 days.~~
- ~~(6) Underground Injection Control — 300 days.~~
- ~~(7) Water Pollution Control Construction — 90 days.~~
- ~~(8) Sludge management plan — 180 days.~~

252:2-15-76. Other permits [REVOKED]

~~Any environmental license or permit that is not described in this Subchapter shall not be subject to these time frames but shall be reviewed with all due and reasonable speed.~~

252:2:15-76.1. Brownfields time lines [REVOKED]

~~The technical review period for Brownfields applications and for each submittal and resubmittal shall be 60 days, subject to 252:2:15-70.~~

252:2-15-77. Pre-issuance permit review and correction [REVOKED]

~~(a) Review. In addition to its own review, the DEQ may, for Tier I and II, and shall, for Tier III, at any time before issuance, ask an applicant to review a permit for calculation and clerical errors or mistakes of fact or law.~~

~~(b) Correction. The DEQ may correct any permit before it is issued.~~

~~(1) Notice of significant corrections. For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by the DEQ which significantly alters a facility's permitted size, capacity or limits.~~

~~(2) Comments. The DEQ may open a public comment period, and/or reconvene a public meeting and/or administrative hearing to receive public comments on the proposed correction(s).~~

PART 9. CONSOLIDATED PERMITTING [REVOKED]

252:2-15-90. Consolidation of permitting process [REVOKED]

~~(a) Discretionary. Whenever an applicant applies for more than one permit for the same site, the DEQ may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.~~

~~(b) Scope. When consolidation is authorized by the DEQ:~~

~~(1) The procedural requirements for the highest specified tier shall apply to each affected application.~~

~~(2) The DEQ may also authorize the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.~~

~~(3) Final permits may be issued together.~~

~~(c) Renewal. The DEQ may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.~~

~~(d) Multiple modifications. Subsections (a) and (b) of this section shall also apply to multiple Tier II and III applications for permit modifications.~~

SUBCHAPTER 17. COMPLAINT PROCESSING [REVOKED]

252:2-17-1. Purpose [REVOKED]

~~The rules in this Subchapter identify the procedures to process pollution complaints.~~

252:2-17-2. Definitions [REVOKED]

~~The following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~"Complaint" means any written or oral information submitted to ECLS alleging site specific environmental pollution. Information must be submitted by persons expecting a response, and does not include referrals from federal agencies, information gained from facility inspections or DEQ employees, or self reported incidents.~~

~~"ECLS" means the Environmental Complaints and Local Services Division of the DEQ.~~

~~"Enforcement Action" means:~~

~~(A) any administrative compliance or penalty order;~~

~~(B) any administrative petition to revoke or suspend a permit or license;~~

~~(C) a consent order or proposed consent order in lieu of any enforcement action defined in subparagraph (A) or (B), of this definition; or~~

~~(D) A civil petition, or a criminal information or complaint in municipal or district court.~~

~~"Mediation" means a voluntary negotiating process in which parties to a dispute agree to use a mediator to assist them in jointly exploring and settling their differences, with a goal of resolving their differences by a formal agreement created by the parties.~~

~~"Resolution" means the determination by the DEQ, based on analysis and investigation of a complaint, that there has not been a violation of Oklahoma environmental statutes or rules as alleged by a complaint, that the violation has been corrected, or that an Enforcement Action has been filed and the 14 day complainant comment period has been considered.~~

~~"Response" means the initiation of appropriate action, including but not limited to investigation or referral of a complaint, and informing complainants regarding potential actions that may occur based on a complaint.~~

252:2-17-3. Receipt of complaints [REVOKED]

~~(a) Toll free hot line. The DEQ shall provide a toll free hot line to receive environmental complaints.~~

~~(b) General mail or other DEQ phone numbers. Complaints may be received by mail or by any of the DEQ's phone numbers during regular office hours.~~

~~(c) DEQ offices. Complaints may be made in person at any of the DEQ's offices during regular office hours.~~

252:2-17-4. Investigation of complaints [REVOKED]

~~After receipt of a complaint, ECLS may assign an investigator to the complaint. The investigator or other DEQ personnel may obtain any information which may tend to prove there has or has not been a violation of Oklahoma environmental statutes or rules, who the potentially responsible persons are, and any other information which may be needed to resolve the complaint.~~

252:2-17-5. Notification [REVOKED]

~~(a) Potential actions. Within two (2) working days of receipt of a complaint, the ECLS shall notify the complainant of the potential actions which may occur to resolve the complaint.~~

~~(b) Written notification.~~

~~(1) Within seven (7) working days of the receipt of a complaint, the ECLS shall notify the complainant, in writing, of the determination of the course of action to be taken by the DEQ.~~

~~(2) Within seven (7) working days of the resolution of the complaint, the ECLS shall notify the complainant of the resolution. If complainants notify the DEQ they are dissatisfied with the resolution reached by the DEQ, complainants shall be notified in writing of their options, including but not limited to referral on written request to an outside source trained in mediation.~~

~~(c) Enforcement. If as a result of a complaint the DEQ undertakes an Enforcement Action, the ECLS shall notify by mail the person whose complaint caused the Enforcement Action to be initiated of an opportunity to provide, within fourteen (14) calendar days after the date of the mailing of the notice, written information pertinent to the complaint.~~

252:2-17-6. Referral of complaints [REVOKED]

~~(a) To appropriate agency. If the DEQ receives a complaint which clearly falls within the jurisdiction of another state environmental agency, the complaint shall be referred to the appropriate agency within one working day of the date of determination of jurisdiction. Complaints referred to other agencies shall require no further action by the DEQ and will not be referred by the DEQ to mediation.~~

~~(b) To mediation. Complainants who are not satisfied with the DEQ's resolution of their complaint may ask the ECLS in writing to refer their complaints to an outside source trained in mediation. Participation in the mediation process shall not hinder or interfere with any enforcement action taken by the DEQ. The ECLS shall maintain a roster of certified mediators which shall be available to the public. Complainants and persons named in the complaint shall be advised that participation in the mediation process conducted by the outside source is completely voluntary and confidential and that fulfillment of any agreements reached in mediation shall be the responsibility of the parties of the dispute. The DEQ shall not be responsible for any mediation costs.~~

SUBCHAPTER 19. ENVIRONMENTAL EDUCATION GRANTS [REVOKED]

252:2-19-1. Authority and eligibility [REVOKED]

~~(a) Authority. This subchapter is adopted pursuant to 75 O.S. § 302, 27A O.S. § 2-101 and Executive Order 98-37.~~

~~(b) Eligibility. Oklahoma teachers and youth group leaders are eligible to apply for environmental education grants provided by the DEQ.~~

252:2-19-2. Amount of grants [REVOKED]

~~The DEQ will award the following amounts to successful applicants:~~

- ~~(1) Up to and including \$ 200.00 for field trips;~~
- ~~(2) Up to and including \$ 500.00 for activities; and~~
- ~~(3) Up to and including \$1000.00 for outdoor classroom/youth group projects.~~

252:2-19-3. Criteria [REVOKED]

~~The following will be considered by the DEQ in determining grant awards:~~

- ~~(1) Project proposed, including how the project accomplishes the following factors:
 - ~~(A) Promotes enthusiasm to learn more about the environment;~~
 - ~~(B) Fits in the school curriculum or youth group program;~~
 - ~~(C) Involves community partnerships and/or outreach, if applicable.~~~~
- ~~(2) Number of students/youth participating;~~
- ~~(3) Grade level of students/youth; and~~
- ~~(4) Geographic location.~~

252:2-19-4. Application [REVOKED]

~~(a) Complete application. A complete application consists of a cover page, a letter of commitment, a summary of the project, a projected timeline, a proposed budget and a procedure for evaluation of the project.~~

~~(b) Attachments. Photographs, clippings, diagrams and other graphic materials, not to exceed five (5) pages double sided, may be attached to the application.~~

~~(c) Document submission. An original and two (2) copies, double sided, of the application and attachments must be submitted to the DEQ, date stamped or postmarked on or before the published deadline. The DEQ will not accept applications submitted by telecopy/facsimile.~~

252:2-19-5. Cover page [REVOKED]

~~The cover page must include the following information:~~

- ~~(1) Title of the project;~~
- ~~(2) Name of contact person, position held and relationship to project;~~
- ~~(3) Name of school or youth group organization;~~
- ~~(4) Grade level(s) and number of youth targeted;~~
- ~~(5) Federal Employer Identification number (tax ID#);~~
- ~~(6) Street address;~~
- ~~(7) Mailing address, if different from street address;~~
- ~~(8) E mail address, if any;~~

- ~~(9) Daytime and evening telephone numbers; and~~
- ~~(10) Telecopy/facsimile number, if any.~~

252:2-19-6. Letter of commitment [REVOKED]

~~The grant application must be accompanied by a letter from the applicant's principal or supervisor stating the organization's support for the performance of the grant objectives.~~

252:2-19-7. Summary of project [REVOKED]

~~The applicant must submit a project summary, with a maximum length of one page, double sided. The project summary shall include the following:~~

- ~~(1) Synopsis. Provide one paragraph summarizing the project;~~
- ~~(2) Description. Give a clear concise description of the proposed project, indicating how the project promotes enthusiasm to learn more about the environment, fits in the school curriculum or youth group program and involves community partnerships and/or outreach, if applicable;~~
- ~~(3) Goals and objectives. Clearly define realistic goals and objectives. Include information outlining where these goals address specific needs.~~
- ~~(4) Implementation. Describe how the project will be implemented and whether it emphasizes a hands on learning approach. Include the project's potential for broad implementation.~~

252:2-19-8. Timeline [REVOKED]

~~The applicant must present target dates for project objectives.~~

252:2-19-9. Budget [REVOKED]

~~The applicant must provide an itemized budget with specific project expenditures of grant funds.~~

252:2-19-10. Evaluation procedure [REVOKED]

~~The applicant must provide a description of the methods to be used to measure project effectiveness, including how the evaluation method will improve the project's strength. The applicant must indicate in the evaluation method how the project will be continued after grant funds are expended.~~

252:2-19-11. Final written report [REVOKED]

~~Applicants who are awarded environmental education grants under this subchapter shall submit a final written report, outlining accomplishments of the grant objectives and expenditures on or before December 15 following the award.~~

252:2-19-12. Shared strategies [REVOKED]

~~Strategies from applicants who are awarded environmental education grants under this subchapter will become the property of the Environmental Quality Education Committee and may be shared with other interested environmental educators.~~

SUBCHAPTER 21. LOCAL PROJECT FUNDING [REVOKED]

252:2-21-1. Purpose, authority and applicability [REVOKED]

~~(a) Purpose. The purpose of this Subchapter is to implement Executive Order 98 37, mandating state agencies to establish criteria for local project funding contracts.~~

~~(b) Authority. This subchapter is adopted pursuant to 75 O.S. §302, 27A O.S. §2-2-101 and Executive Order 98 37.~~

~~(c) Applicability. The rules in this Subchapter apply to any private entity, political subdivision, and unit of local government, including municipal and county governments and school districts.~~

252:2-21-2. Criteria [REVOKED]

~~(a) The DEQ will consider the following criteria in determining funding priorities for local projects:~~

- ~~(1) Criteria established by relevant statutory authority, and~~
- ~~(2) Criteria established by rules adopted for the specific DEQ program area pursuant to relevant statutory authority.~~

~~(b) If relevant statutory authority and program specific rules do not establish criteria, the DEQ will consider the following in determining funding priorities for local projects:~~

- ~~(1) Potential of the project to effectively promote environmental health and safety or environmental education and awareness;~~
- ~~(2) Potential to enhance related programs or efforts by the recipient;~~
- ~~(3) Number of persons benefitted, and~~
- ~~(4) Equitable geographic distribution.~~

252:2-21-3. Proposals [REVOKED]

~~(a) The applicant must submit a proposal in accordance with the rules implementing the statutory program and/or forms provided by the DEQ.~~

~~(b) Proposals must demonstrate that the proposed project will implement and be consistent with relevant statutes and rules of the specific program area.~~

252:2-21-4. Funding [REVOKED]

~~Within the priority criteria, funds shall be granted on a first-come first-served basis until funds are depleted.~~

APPENDIX A. PETITION FOR RULEMAKING
BEFORE THE ENVIRONMENTAL QUALITY BOARD [REVOKED]

IN THE MATTER OF) Matter No.
)
RULE OAC 252: _____) Date filed:

Subject area: () Air Quality () Solid Waste
() Hazardous Waste () Water Quality
() Laboratory () Operator Certification
() Radiation () Other

Petition will be referred by the Department to its appropriate program and to any appropriate Council.

1. Nature of request:
() Adoption of new rule(s)
() Amendment of existing rule(s)
() Repeal of existing rule(s)
Identified as Rule Number(s): _____
(OAC number if known)
2. Attach a brief statement of the issues raised by the rule(s) which cause such a request to be made, a statement of your personal interest in the ruling, and how the proposed rulemaking would affect those interests and would affect others.
3. If this request has been discussed with the Department of Environmental Quality, please indicate the name of the Division and employee consulted; otherwise, state "n/a."

4. If a Council has considered this matter, please indicate the name of the Council and the date(s) the matter was considered; otherwise, state "n/a."

5. Attachment(s): () suggested language () further explanation

_____ by: _____
Name of Business or group (print name) (title)

or Name of Individual (print): _____

Signature: _____

Address: _____

Phone: _____

APPENDIX C. PERMITTING PROCESS SUMMARY [REVOKED]

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with the DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting - Notice - 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review - DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments - DEQ (written response)	No	Yes	Yes
Proposed permit - DEQ prepares this in response to comments on draft permit	No	No	Yes
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Chapter 4. Rules of Practice and Procedure [NEW]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Administrative Procedures Act, 75 O.S. § 302

DATES:

Comment period:

October 16, 2000, through November 6, 2000

Public hearing:

November 14, 2000 and February 23, 2001

Adoption:

February 23, 2001

Submitted to Governor:

Submitted to House:

Submitted to Senate:

Gubernatorial approval:

Legislative approval:

Final adoption:

Effective:

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATED BY REFERENCE:

None

ANALYSIS:

The Administrative Procedures Act requires each agency to adopt rules describing its organization, methods of operation and methods by which people may obtain information from or give information to the agency. These rules must also specify the requirements of all formal and informal procedures available, including a description of forms and instructions. (75 O.S. §302)

This proposed new Chapter 4 is a combination of three chapters of administrative rules relating to the DEQ, which will be revoked when Chapter 4 is adopted, i.e. current Chapter 1 (Procedures of the Environmental Quality Board), current Chapter 2 (Procedures of the DEQ), and current Chapter 3 (Procedures of the Environmental Quality Councils).

Duplicative and redundant rules were eliminated. The rulemaking process rules were rewritten in chronological order. The permitting process rules were substantially rewritten to simplify and clarify them. Three separate subchapters dealing with administrative proceedings were combined into one subchapter that addresses all individual proceedings. Statutory language was deleted.

The proposed Chapter 4 rules address general provisions, Board and council meetings and public forums, rulemaking, the environmental permit process, administrative proceedings, complaint processing, environmental education grants and local project funding.

This chapter also includes rules recommended by the Air Quality Council on June 14, 2000, which address hearings before that

council. Rule numbers were changed to be consistent with the new proposed Chapter 4. See proposed Subchapter 4, Part 5.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are analogous federal rules for permitting. 40 CFR Part 124 contains federal rules entitled "Procedures for Decisionmaking". Subpart A, "General Program Requirements", contains EPA procedures for issuing RCRA, UIC, PSD and NPDES permits. In those programs for which DEQ has received delegation or authorization from EPA, the DEQ is required by federal law to follow some EPA procedures in addition to those required under state law. In those cases, the EPA procedures have been incorporated, by reference by the specific program area either by rule or by program approval. In the current Chapter 2 and the proposed Chapter 4 rules, additional notice requirements are acknowledged for NPDES, RCRA, and UIC permits.

CONTACT PERSON:

Contact Barbara Rauch by e-mail barbara.rauch@deqmail.state.ok.us or by phone (405) 702-7189 or fax (702-7101). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma, 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

ADDITIONAL INFORMATION:

The adoption of this new chapter was first considered by the Environmental Quality Board at their November 14, 2000 meeting, at which time board members continued it until the February 23, 2001 meeting.

PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 2001.

SUBCHAPTER 1. GENERAL PROVISIONS

252:4-1-1. Purpose and authority

(a) Purpose. This Chapter describes the practices and procedures of the Environmental Quality Board, Advisory Councils, and the Department of Environmental Quality.

(b) Authority. This Chapter is authorized by the Administrative Procedures Act, 75 O.S. § 302, and the Environmental Quality Code, 27A O.S. § 2-2-101.

252:4-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Administrative hearing" is defined at 27A O.S. § 2-1-102 and is synonymous with "individual proceeding" as that term is defined in the Administrative Procedures Act, 75 O.S. § 250.1 et seq.

"Administrative Law Judge" is synonymous with "hearing examiner" as that term is defined in the Administrative Procedures Act.

"Advisory Councils or Council" means any of the following Councils: the Air Quality Advisory Council, the Hazardous Waste Management Advisory Council, the Laboratory Services Advisory Council, the Radiation Management Advisory Council, the Solid Waste Management Advisory Council, the Water Quality Management Advisory Council, and the Waterworks and Wastewater Works Operator Certification Advisory Council.

"APA" means the Oklahoma Administrative Procedures Act, 75 O.S. § 250.1 et seq.

"Application" means "a document or set of documents, filed with the [DEQ], for the purpose of receiving a permit or the modification, amendment or renewal thereof from the [DEQ]... any subsequent additions, revisions or modifications submitted to the [DEQ] which supplement, correct or amend a pending application." [27A O.S. § 2-14-103(1)]

"Board" means the Environmental Quality Board.

"Code" means the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 et seq.

"Complaint" means any written or oral information submitted to DEQ alleging site-specific environmental pollution except information gained from facility inspections, or self-reported incidents.

"Department or DEQ" means the Department of Environmental Quality.

"Enforcement action" means:

(A) a written communication from the DEQ to an alleged violator that identifies the alleged violations and directs or orders that the violations be corrected and/or their effect remedied;

(B) an administrative action to revoke or suspend a permit or license;

(C) a consent order or proposed consent order;

(D) a civil petition, a complaint in municipal court, or a

complaint in federal district court;
(E) a referral by the DEQ to the Oklahoma Attorney General's office, a state District Attorney's office, a U.S. Attorney's office, or a state or federal law enforcement agency for investigation.

"Executive Director" means the Executive Director of the Department of Environmental Quality.

"False complaint" means any written or oral information submitted to DEQ alleging site-specific environmental pollution by a person who knowingly and willfully gives false information or misrepresents material information.

"Individual proceeding" is defined in the APA [75 O.S. § 250.3(7)]. It includes an administrative evidentiary hearing to resolve issues of law or fact between parties, resulting in an order.

"Mediation" means a voluntary negotiating process in which parties to a dispute agree to use a mediator to assist them in jointly exploring and settling their differences, with a goal of resolving their differences by a formal agreement created by the parties.

"Notice of deficiencies" means a written notice to an applicant, describing with reasonable specificity the deficiencies in a permit application and requesting supplemental information.

"Off-site", as used in hazardous waste, solid waste and Underground Injection Control (UIC) tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.

"On-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry for the treatment, storage, processing, or disposal of its own waste exclusively.

"Program" means a regulatory section or division of the DEQ.

"Respondent" means a person or legal entity against whom relief is sought.

"Submittal" means a document or group of documents provided as part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"Technical review" means the evaluation of an application for compliance with applicable program rules.

252:4-1-3. Organization

(a) Environmental Quality Board. The Environmental Quality Board consists of thirteen (13) members, appointed by the Governor with the advice and consent of the Senate, selected from the environmental profession, general industry, hazardous waste industry, solid waste industry, water usage, petroleum industries, agriculture industries, conservation districts, local city or town governments, rural water districts, and statewide nonprofit environmental organizations. (See further 27A O.S. § 2-2-101.)

(b) Advisory Councils. There are seven advisory councils, each consisting of nine (9) members appointed by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or the Governor. (See further 27A O.S. § 2-2-201 and 59 O.S. § 1101)

et seq.)

(c) DEQ. The DEQ consists of the following divisions: Administrative Services, Air Quality, Land Protection, Water Quality, Environmental Complaints and Local Services, Customer Services and the State Environmental Laboratory.

252:4-1-4. Office location and hours; communications

(a) Office location and hours. The principal office of the DEQ is 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677. Office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday except state holidays.

(b) Communications. Unless a person is working with a particular person or departmental area, written communication to the DEQ shall be addressed to the Executive Director.

(1) Board. Communications to the Board may be made through the Executive Director.

(2) Council. Communications to a Council may be made through the Division Director of the program with which the Council works.

252:4-1-5. Availability of a record

(a) Availability. Records of the Board, Advisory Councils, and DEQ, not otherwise confidential or privileged from disclosure by law, shall be available to the public for inspection and copying at the DEQ's principal office during normal business hours. Information, data or materials required to be submitted to the DEQ in a permit application process shall be made available to the public in accordance with the Oklahoma Uniform Environmental Permitting Act (27A O.S. § 2-14-101 et seq.) and the rules in this Chapter. The DEQ may take reasonable precautions in order to ensure the safety and integrity of records under its care.

(b) Removal. A record may be removed from the DEQ's offices or storage areas only with permission of the record's custodian.

(c) Reproduction.

(1) By DEQ. The DEQ may limit the number of copies made and the time and personnel available for reproduction of records requested by a member of the public.

(2) Commercial reproduction. With advance notice to the DEQ, a person may arrange for the pick-up, reproduction and return of records by a commercial copying service at his/her own expense.

(3) Other. With prior DEQ approval, a person may bring in and use his/her own copy machine.

(d) Confidentiality. Any person asserting a claim of confidentiality for any document submitted to the Board, Council or DEQ must substantiate the claim upon submission. The DEQ will make a determination on the claim and notify the person asserting the claim within a reasonable time. Each program may have more specific requirements, as required by state law or federal rule. [See 27A O.S. § 2-5-105(18) and 40 CFR § 2 Subpart B, particularly § 2.301 (Clean Air Act), § 2.302 (Clean Water Act), § 2.304 (Safe Drinking Water Act), § 2.305 (Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act), and § 2.310 (Comprehensive Environmental Response, Compensation, and Liability Act, as amended by Superfund Amendments and Reauthorization Act)].

(e) Certification. Copies of official records of the Board, Advisory Councils or DEQ may be certified by the Executive Director or his/her designees.

(f) Charge. The DEQ's administrative fee schedule applies to in-house copying or reproduction of records for or by members of the public.

252:4-1-6. Administrative fees

(a) Photocopying. The fee for copying letter or legal sized paper is \$0.25 per page.

(b) Certified copy. The fee for a certified copy of a document is \$1.00 per document.

(c) Search fee. When the request is solely for commercial purpose or clearly would cause excessive disruption of the DEQ's essential functions, the document search fee is as follows:

(1) 0 - 15 minutes, no charge;

(2) 16 - 30 minutes, \$5.00;

(3) every subsequent 30-minute increment or portion thereof, \$5.00.

252:4-1-7. Fee credits for regulatory fees

(a) The Executive Director may authorize Divisions of the DEQ which have programs that collect recurring fees to apply a credit towards certain future invoices for those fees. The credit must be applied only within the program from which the carryover fees are derived. Only the amount that is projected to exceed three months of funding beyond the upcoming budget year for that program can be credited. A summary of any credit applied shall be reported to the Environmental Quality Board. For a credit to be applied:

(1) there must be a projected balance in the fee account carried over from the previous year;

(2) the credit must be distributable pro rata among the fee payers;

(3) the credit must be large enough to justify its administrative cost; and

(4) the Division must be unaware of a longer-range need, such as match for a superfund clean-up project.

(b) The DEQ shall explain on the invoices that a carryover exists and that an identified one-time credit is being applied.

252:4-1-8. Board and Councils

(a) Officers. A chair of the Board shall not serve as chair for more than three (3) consecutive years. Officers of a Council may succeed themselves as officers at the discretion of a Council.

(b) Committees. Ad hoc committees may be appointed to assist the Board or a Council for any lawful purpose.

252:4-1-9. Severability

The provisions of OAC 252 are severable, and if any part or provision hereof shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of OAC 252.

252:4-3-1. Meetings

(a) Board. The Board shall hold quarterly meetings and may hold other meetings as it deems necessary.

(b) Council. Each council shall hold at least one regularly scheduled meeting per calendar year, except the Air Quality Advisory Council which shall hold at least two regularly scheduled meetings.

(c) Location. The Board or a Council may meet at any location convenient and open to the public in this state to encourage public participation in the environmental rulemaking process.

(d) Agenda. The proposed agenda of a meeting may be developed with the advice of members and modified by the Chair. Time permitting, a copy of the proposed agenda shall be sent to each Board or Council member at least ten (10) calendar days before a regularly scheduled meeting. The Board or Council may, by majority vote during a meeting, continue an agenda item to or specify a new agenda item for another meeting or forum.

(e) Public comment. The agenda shall reserve time during the meeting for public comment on agenda action items. The DEQ shall provide sign-in sheets at each meeting for persons who wish to present written or oral comment on an agenda action item. The Chair reserves the right to rearrange the agenda items during the meeting to accommodate public comment. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council or the Board.

252:4-3-2. Public forums

(a) Generally. A public forum for receiving public comments and dissemination of information may be held in conjunction with a Council or Board meeting but shall be a separate meeting.

(b) Location. Each forum may be held at a different location in the state.

(c) Format. The forum shall be conducted by the Chair or the Chair's designee.

(d) Public comment. The DEQ shall provide sign-in sheets at each meeting for persons who wish to present written or oral comments. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council or the Board.

SUBCHAPTER 5. RULEMAKING

252:4-5-1. Adoption and revocation

The Board has the authority to adopt new or amended emergency or permanent rules and revoke existing rules within its jurisdiction.

252:4-5-2. Rule development

(a) DEQ. The DEQ may begin the development of rules at the request of or on behalf of the Board or a Council or upon petition by an interested person. The DEQ may appoint committees to assist in the development of rules.

(b) Public. Any person may informally discuss proposed rules with the DEQ or may suggest proposed rules during a council meeting. Also, any person may file a petition with the DEQ formally requesting the adoption, amendment, or revocation of one or more

rules.

252:4-5-3. Petitions for Rulemaking

(a) Form and content of petition. Rulemaking petitions shall be in writing and filed with the DEQ. The petition shall include the information and follow the format in Appendix A of this Chapter. The DEQ shall provide a copy of the filed petition to the Board.

(b) Referral. The DEQ shall refer a filed petition to the appropriate Council or, if none, to the appropriate DEQ program for review. A petition referred to a Council shall be set on the agenda of the next available Council meeting for action.

(c) Status. The DEQ shall advise the Board of the status of rulemaking petitions.

252:4-5-4. Notice of permanent rulemaking

The DEQ shall submit notices of proposed permanent rulemaking to the Office of Administrative Rules for publication in accordance with the APA and the Administrative Rules on Rulemaking (OAC 655:10).

252:4-5-5. Rulemaking hearings

(a) Hearing. Hearings before a Council or the Board shall be conducted by the Chair or the Chair's designee.

(b) Public comments. The public may make comments orally at the hearing or submit comments in writing by the end of the specified public comment period, or both. Persons wishing to comment orally may be required to fill out a written request form. The person conducting the hearing may set reasonable time limits on oral presentations, may exclude repetitive or irrelevant comments and may require that oral presentations be submitted in writing.

(c) Public comment period. The comment period shall end at the conclusion of the hearing if the agenda indicates that the Council intends to make a final recommendation on the rules or that the Board intends to take a final action on the rules. Otherwise, the comment period may be extended by the person conducting such hearing for no more than thirty (30) calendar days after the hearing or until the close of the hearing, if continued.

(d) Summary of comments. The DEQ shall maintain a summary of comments received on proposed rules during written comment periods. The summary shall be provided to the Council or Board prior to taking final action on the rule.

(e) Hearing continuation. A Council or the Board may continue the hearing by majority vote. Notice of the continuation shall be announced at the hearing and shall not require publication.

252:4-5-6. Council actions

(a) Contents of recommendation. On behalf of a Council, the DEQ shall prepare a recommendation submittal on proposed permanent rules, which shall include the text of the proposed rules, a summary of pertinent minutes of Council meetings, and a summary of comments received. Recommendations may also be made for rules with a finding of emergency. The Council may recommend that any proposed rule be adopted by the Board on a permanent and emergency basis simultaneously.

(b) On remand. The Council shall reconsider any rulemaking

recommendation remanded by the Board.

252:4-5-7. Presentation to Board

(a) Compliance with APA. When proposed rules are presented to the Board, the DEQ shall indicate the rulemaking procedures which have been followed.

(b) Board packets. The DEQ shall prepare a board packet consisting of the text of proposed rules, an executive summary, a rule impact statement, an economic impact/environmental benefit statement (if applicable), a summary of comments received on proposed rules at rulemaking hearings and during written comment periods, the Council's recommendations and a summary of pertinent Council meeting minutes (if applicable). The Board packets shall be sent to members with the proposed agenda of the Board meeting at which rules are to be considered. Board packets for emergency rules may vary.

252:4-5-8. Board actions

(a) Referral. The Board may refer any rulemaking matter to the DEQ or an appropriate Council for review, comment or recommendation.

(b) Proposed permanent rules. The Board will not consider proposed permanent rules for adoption without the appropriate Council's recommendation except those rules for which no council has jurisdiction.

(c) Proposed emergency rules. The Board may adopt emergency rules without the advice of a Council in accordance with 27A O.S. § 2-2-101.

(d) Final language of rules. The rules adopted or repealed by the Board may vary from the Council recommendation except for rules recommended by the Air Quality Council. (See further, Oklahoma Clean Air Act at 27A O.S. § 2-5-106.)

(e) Remand. The Board may remand a Council's rulemaking recommendation for reconsideration.

(f) Notice to Council. The DEQ shall provide each Council with copies of emergency rules adopted by the Board without the Council's recommendation and of any rules adopted by the Board which vary from that Council's recommendation.

252:4-5-9. Rulemaking record

The DEQ shall maintain a rulemaking record on all rules adopted or revoked by the Board.

SUBCHAPTER 7. ENVIRONMENTAL PERMIT PROCESS

PART 1. THE PROCESS

252:4-7-1. Authority

The rules in this Subchapter implement the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 et seq., and apply to applicants for and holders of DEQ permits and other authorizations.

252:4-7-2. Preamble

The Uniform Environmental Permitting Act requires that DEQ

licenses, permits, certificates, approvals and registrations fit into an application category, or Tier, established under the uniform environmental permitting rules. Tier I is the category for those things that are basically administrative decisions which can be made by a technical supervisor with no public participation except for the landowner. Tier II is the category for those permit applications that have some public participation (notice to the public, the opportunity for a public meeting and public comment), and the administrative decision is made by the Division Director. Tier III is the category for those permit applications that have extensive public participation (notice to the public, the opportunity for a public meeting and public comment, and the opportunity for an administrative evidentiary hearing), and the administrative decision is made by the Executive Director.

252:4-7-3. Compliance

Applicants and permittees are subject to the laws and rules of the DEQ as they exist on the date of filing an application and afterwards as changed.

252:4-7-4. Filing an application

(a) Tier I. The applicant shall file (2) copies of a Tier I application unless the application form or instructions specifies that only one (1) copy is needed. Applicants seeking permits for alternative individual on-site sewage disposal systems and alternative small public on-site sewage disposal systems (OAC 252:641) shall file one copy with the local DEQ office for the county in which the real property is located.

(b) Tier II & III. The applicant shall file three (3) copies of Tier II and Tier III applications with the DEQ and place one (1) copy for public review in the county in which the site, facility or activity is located.

252:4-7-5. Fees

Fees shall be submitted with the application and, except as herein provided, will not be refunded.

252:4-7-6. Receipt of applications

When an application and appropriate fee are received, each program shall:

- (1) file stamp the application with the date of receipt, the Division and/or program name and an identification number;
- (2) assign the application to a permit reviewer; and
- (3) enter this information in a database or log book.

252:4-7-7. Administrative completeness review

The reviewer shall have 60 calendar days from the file-stamped date of filing to determine if the application is administratively complete.

- (1) Not complete. If the reviewer decides that the application is not complete, he/she shall immediately notify the applicant by mail, describing with reasonable specificity the deficiencies and requesting supplemental information. The reviewer may continue to ask for specific information until the application is administratively complete. If the reviewer does not notify

the applicant of deficiencies, the period for technical review shall begin at the close of the administrative completeness review period.

(2) Complete. When the application is administratively complete, the reviewer shall enter the date in the database or log book and immediately notify the applicant by mail. The period for technical review begins.

252:4-7-8. Technical review

(a) Each program shall have the time period specified in Parts 3 through 5 of this Subchapter to review each application for technical compliance with the relevant rules and to reach a final determination. If the data in the application does not technically comply with the relevant rules or law, the reviewer may notify the applicant by mail, describing with reasonable specificity the deficiencies and requesting supplemental information.

(b) Any environmental permit that is not described in this Subchapter shall be reviewed with all due and reasonable speed.

252:4-7-9. When review times stop

The time period for review stops during:

(1) litigation;

(2) public review and participation, including waiting periods, comment periods, public meetings, administrative hearings, DEQ preparation of response to comments and/or review by state or federal agencies;

(3) requests for supplemental information; and

(4) the time in which an applicant amends his/her application of his/her own accord.

252:4-7-10. Supplemental time

The Notice of Deficiencies and request for supplemental information may state that up to 30 additional calendar days may be added to the application processing time. Requests for supplemental information may also state that additional days for technical review equal to the number of days the applicant used to respond may be added to the review time.

252:4-7-11. Extensions

Extensions to the time lines of this Subchapter shall only be made by agreement or when the Executive Director certifies that circumstances outside the DEQ's control, including acts of God, a substantial and unexpected increase in the number of applications filed, or additional review duties imposed on the DEQ from an outside source, prevent the reviewer from meeting the time periods.

252:4-7-12. Failure to meet deadline

Where failure to meet a deadline is imminent, then:

(1) At least thirty (30) calendar days prior to the deadline the DEQ shall reassign staff and/or retain outside consultants to meet such deadline; or

(2) The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

252:4-7-13. Notices

(a) Statutory requirements for notice. The Uniform Environmental Permitting Act requires an applicant to give notice in accordance with 27A O.S. § 2-14-301.

(b) Notice to landowner. Applicants shall certify by affidavit that they own the real property, have a current lease or easement which is given to accomplish the permitted purpose or have provided legal notice to the landowner.

(c) Notice content. The applicant shall provide DEQ with a draft notice for approval prior to publication. All published legal notice(s) shall contain the:

- (1) Name and address of the applicant;
- (2) Name, address and legal description of the site, facility and/or activity;
- (3) Purpose of notice;
- (4) Type of permit or permit action being sought;
- (5) Description of activities to be regulated;
- (6) Locations where the application may be reviewed;
- (7) Names, addresses and telephone numbers of contact persons for the DEQ and for the applicant;
- (8) Description of public participation opportunities and time period for comment and requests; and
- (9) Any other information required by DEQ rules.

(d) Proof of publication. Within twenty (20) days after the date of publication, an applicant shall provide the DEQ with a written affidavit of publication for each notice published. In case of a mistake in a published notice, the DEQ shall require a legal notice of correction or republication of the entire notice, whichever is appropriate. Inconsequential errors in spelling, grammar or punctuation shall not be cause for correction or republication.

(e) Exception to notice requirement. Applicants for solid waste transfer station permits may be exempt from public meeting requirements under 27A O.S. § 2-10-307.

(f) Additional notice.

(1) Applicants for a NPDES, RCRA or UIC permit are subject to additional notice provisions of federal requirements adopted by reference as DEQ rules.

(2) Applicants for a proposed wastewater discharge permit that may affect the water quality of a neighboring state or a Part 70 permit that may affect the air quality of a neighboring state must give written notice to the environmental regulatory agency of that state. [27A O.S. § 2-5-112(E)]

(3) Applicants for a landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See *DuLaney v. OSDH*, 868 P.2d 676 (Okl. 1993).

252:4-7-14. Withdrawing applications

(a) By applicant. An applicant may withdraw an application at any time with written notice to the DEQ and forfeiture of fees.

(b) By DEQ. Except for good cause shown, when an applicant fails to supplement an application within 180 days after the mailing date of a Notice of Deficiencies, or by an agreed date, the DEQ shall void the application. The DEQ shall notify the applicant of an

opportunity to show cause why this should not occur.

252:4-7-15. Permit issuance or denial

(a) Compliance required. A new, modified or renewed permit or other authorization sought by the applicant shall not be issued until the DEQ has determined the application is in substantial compliance with applicable requirements of the Code and DEQ rules.

(b) Conditions for issuance. The Department may not issue a new, modified or renewed permit or other authorization sought by the applicant if:

(1) The applicant has not paid all monies owed to the DEQ or is not in substantial compliance with the Code, DEQ rules and the terms of any existing DEQ permits and orders. The DEQ may impose special conditions on the applicant to assure compliance and/or a separate schedule which the DEQ considers necessary to achieve required compliance; or

(2) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.

252:4-7-16. Tier II and III modifications

For Tier II and III permit modification actions, only those issues relevant to the modification(s) shall be reopened for public review and comment.

252:4-7-17. Permit decision-making authority

(a) Designated positions. The Executive Director may delegate in writing the power and duty to issue, renew, amend, modify and deny permits and take other authorization or registration action. Unless delegated to a Division Director by formal assignment or rule, the authority to act on Tier I applications shall be delegated to positions within each permitting program having technical supervisory responsibilities and, for local actions authorized by law, to environmental specialist positions held by the DEQ's local services representatives. The authority to act on emergency permits or Tier II applications shall be delegated to the Division Director of the applicable permitting division.

(b) Revision. The Executive Director may amend any delegation in writing.

252:4-7-18. Pre-issuance permit review and correction

(a) Applicant review. The DEQ may ask an applicant to review its permit for calculation and clerical errors or mistakes of fact or law before the permit is issued.

(b) Correction. The DEQ may correct any permit before it is issued.

(1) Notice of significant corrections. For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by the DEQ which significantly alters a facility's permitted size, capacity or limits.

(2) Comments. The DEQ may open a public comment period and/or reconvene a public meeting and/or administrative hearing to receive public comments on the proposed correction(s).

252:4-7-19. Consolidation of permitting process

(a) Discretionary. Whenever an applicant applies for more than one permit for the same site, the DEQ may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial and/or proposed permit is prepared at the same time and public participation opportunities are combined.

(b) Scope. When consolidation is authorized by the DEQ:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) The DEQ may also authorize the consolidation of public comment periods, process and public meetings, and/or administrative permit hearings.

(3) Final permits may be issued together.

(c) Renewal. The DEQ may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all the permits are of the same duration.

(d) Multiple modifications. Subsections (a) and (b) of this section shall also apply to multiple Tier II and III applications for permit modifications.

PART 3. AIR QUALITY DIVISION TIERS AND TIME LINES

252:4-7-31. Air quality time lines

The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.

(1) Construction permits:

(A) PSD and Part 70 Sources - 365 days.

(B) Minor Facilities - 180 days.

(2) Operating permits:

(A) Part 70 Sources - 540 days.

(B) Minor Facilities - 365 days.

(3) Relocation permits - 30 days.

252:4-7-32. Air quality applications - Tier I

(a) Minor facility permits. The following air quality authorizations for minor facilities require Tier I applications.

(1) New permits. New construction, operating and relocation permits.

(2) Modifications of permits.

(A) Modification of a construction permit for a minor facility that will remain minor after the modification.

(B) Modification of an operating permit that will not change the facility's classification from minor to major.

(C) Extension of expiration date of a construction permit.

(3) Renewals. Renewals of operating permits.

(b) Part 70 source permits. The following air quality authorizations for Part 70 sources require Tier I applications.

(1) New permits.

(A) New construction permit for an existing Part 70 source for any change considered minor under 252:100-8-7.2(b)(1).

(B) New operating permit that:

(i) is based on a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) has conditions which do not differ from the construction permit's operating conditions in any way considered significant under 252:100-8-7.2(b) (2).

(2) Modifications of permits.

(A) Modification of any operating permit condition that:

(i) is based on the operating conditions of a construction permit that was processed under Tier II or III, and 252:100-8-8, and

(ii) does not differ from those construction permit conditions in any way considered significant under 252:100-8-7.2(b) (2).

(B) A construction or operating permit modification that is minor under 252:100-8-7.2(b) (1).

(C) Extension of expiration date of a Part 70 source's construction permit with no or minor modifications.

(c) Other authorizations. The following air quality authorizations require Tier I applications.

(1) New, modified and renewed individual authorizations under general operating permits for which a schedule of compliance is not required by 252:100-8-5(c) (8) (B) (i).

(2) Burn approvals.

(3) Plant-wide emission plan approval under 252:100-37-25(b) or 252:100-39-46(j).

(4) Administrative amendments of all air quality permits and other authorizations.

(5) Alternative emissions reduction authorizations. (Also subject to state implementation plan revision procedures in 252:100-11.)

252:4-7-33. Air quality applications - Tier II

(a) Minor facility permit actions. Any minor facility seeking a permit for a modification that when completed would turn it into a Part 70 source is required to apply under subsection (b) of this section.

(b) Part 70 source permits. The following air quality authorizations for Part 70 sources require Tier II applications.

(1) New permits.

(A) New construction permit for a new Part 70 source not classified under Tier III.

(B) New construction permit for an existing Part 70 source for any change considered significant under 252:100-8-7.2(b) (2) and which is not classified under Tier III.

(C) New operating permit for a Part 70 source that did not have an underlying construction permit processed under Tier II or III, and 252:100-8-8.

(D) New operating permit with one or more conditions that differ from the underlying Tier II or III construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b) (2).

(E) New acid rain permit that is independent of a Part 70 permit application.

(F) New temporary source permit under 252:100-8-6.2.

(2) Modifications of permits.

(A) Significant modification, as described in 252:100-8-7.2(b) (2), of an operating permit that is not based on an

underlying construction permit processed under Tier II or III, and 252:100-8-8.

(B) Modification of an operating permit when the conditions proposed for modification differ from the underlying construction permit's operating conditions in a way considered significant under 252:100-8-7.2(b)(2).

(C) A construction permit modification considered significant under 252:100-8-7.2(b)(2) and which is not classified under Tier III.

(3) Renewals. Renewals of operating permits.

(c) Other authorizations. The following air quality authorizations require Tier II applications.

(1) New, modified and renewed general operating permits.

(2) Individual authorizations under any general operating permit for which a schedule of compliance is required by 252:100-8-5(c)(8)(B)(i).

252:4-7-34. Air quality applications - Tier III

(a) New major stationary sources. A construction permit for any new major stationary source listed in this subsection requires a Tier III application. For purposes of this section, "Major stationary source" means:

(1) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(A) carbon black plants (furnace process),

(B) charcoal production plants,

(C) chemical process plants,

(D) coal cleaning plants (with thermal dryers),

(E) coke oven batteries,

(F) fossil-fuel boilers (or combustion thereof), totaling more than 250 million BTU per hour heat input,

(G) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(H) fuel conversion plants,

(I) glass fiber processing plants,

(J) hydrofluoric, sulfuric or nitric acid plants,

(K) iron and steel mill plants,

(L) kraft pulp mills,

(M) lime plants,

(N) incinerators, except where used exclusively as air pollution control devices,

(O) petroleum refineries,

(P) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(Q) phosphate rock processing plant,

(R) portland cement plants,

(S) primary aluminum ore reduction plants,

(T) primary copper smelters,

(U) primary lead smelters,

(V) primary zinc smelters,

(W) secondary metal production plants,

(X) sintering plants,

(Y) sulfur recovery plants, or

(Z) taconite ore processing plants, and

(2) Any other source not specified in paragraph (1) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(b) Existing incinerators. An application for any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted shall require a Tier III application.

(c) Potential to emit. For purposes of this section, "potential to emit" means emissions resulting from the application of all enforceable permit limitations as defined in OAC 252:100-1-3.

PART 5. LAND PROTECTION DIVISION TIERS AND TIME LINES

252:4-7-51. Waste management time lines

The Land Protection Division shall technically review applications and issue or deny permits within the following periods of time:

(1) Hazardous waste applications, including new RCRA permits or renewals, new state recycling permits, Class 3 modifications, closure and post-closure plans, transfer station plans and plan modifications - 300 days;

(2) Brownfields applications and each submittal or resubmittal - 60 days;

(3) Solid waste applications and each submittal or resubmittal - 90 days;

252:4-7-52. Hazardous waste management applications - Tier I

The following hazardous waste management authorizations require Tier I applications.

(1) Class 1 modification of any hazardous waste permit requiring prior Department approval as specified in 40 CFR § 270.42.

(2) Modification to a recycling permit in accordance with 27A O.S. § 2-7-118(A).

(3) Class 2 permit modification as defined in 40 CFR § 270.42.

(4) Emergency hazardous waste disposal plan approval.

(5) Hazardous waste generator disposal plan approval.

(6) Technical plan approval.

(7) Hazardous waste transporter license.

(8) Hazardous waste transfer station plan modification which is not related to capacity.

(9) Emergency permit issued in accordance with 40 CFR § 270.61.

(10) Interim status closure plan approval in accordance with 40 CFR § 265.113(d)(4).

(11) Minor administrative modification of all permits and other authorizations.

(12) Renewal of disposal plan approval and transporter license.

(13) New, modified or renewed authorization under a general permit.

(14) Approval of temporary authorizations in accordance with 40 CFR § 270.42.

252:4-7-53. Hazardous waste management applications - Tier II

The following hazardous waste management authorizations require

Tier II applications.

- (1) On-site hazardous waste treatment, storage or disposal permit.
- (2) Mobile recycling permit.
- (3) Research & Development permit.
- (4) Class 3 modification of any hazardous waste permit as specified in 40 CFR § 270.42.
- (5) Modification of an on-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.
- (6) Modification of an on-site hazardous waste facility permit for an expansion of permitted boundaries.
- (7) Modification of on-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.
- (8) Renewal of a hazardous waste treatment, storage or disposal permit.
- (9) Hazardous waste transfer station plan approval.
- (10) Hazardous waste transfer station plan modification involving increase in approved capacity.
- (11) Variance which is not part of a permit application.
- (12) Variance which is part of a Tier II permit application.

252:4-7-54. Hazardous waste management applications - Tier III

The following hazardous waste management authorizations require Tier III applications.

- (1) Off-site hazardous waste treatment, storage, disposal, incineration and/or recycling permit.
- (2) Modification of an off-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.
- (3) Modification of an off-site hazardous waste facility permit for an expansion of permitted boundaries.
- (4) Modification of off-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.
- (5) Variance which is part of a Tier III application.

252:4-7-55. Radiation management applications - Tier I

The following radiation management authorizations require Tier I applications:

- (1) New, amended and renewed operating permits for radiation machines;
- (2) New, amended and renewed permits for x-ray fluorescence spectroscopy instruments used to detect lead in paint;
- (3) New and renewed specific licenses under the state agreement program not classified under Tiers II or III;
- (4) Industrial radiography certifications;
- (5) Approvals of license termination plans that require no decommissioning or remediation;
- (6) Decommissioning and remediation plans required for

remediation due to the use, storage or disposal of one or more radioactive materials with a half-life of 120 days or less;

(7) DEQ approvals of documentation showing residual radioactivity levels for a site or property are within acceptable limits as set by Chapter 410;

(8) Minor amendments of all authorizations classified under Tiers I, II or III; and

(9) Major amendments of all authorizations classified under Tier I.

252:4-7-56. Radiation management applications - Tier II

The following radiation management authorizations require Tier II applications:

(1) Decommissioning and remediation plans required for on-site remediation due to the use, storage or disposal of one or more radioactive materials with a half-life of more than 120 days, except for those facilities described in 252:4-7-57(3) (A);

(2) New or renewed permits for the non-commercial treatment or disposal of radioactive waste, generated by the applicant, by incineration or the amendment of the incinerator permit for a capacity increase or for any expansion beyond permitted boundaries for the purpose of expanding operations or storage; and

(3) Major amendments of all authorizations classified under Tier II.

252:4-7-57. Radiation management applications - Tier III

The following radiation management authorizations require Tier III applications:

(1) New or renewed permits for the land disposal of low-level radioactive waste received from others and the major amendment thereof;

(2) New or renewed permits for the commercial treatment or disposal of radioactive waste by incineration and the major amendment thereof; and

(3) Decommissioning and remediation plans and the major amendment thereof:

(A) for nuclear fuel cycle facilities or facilities and sites involved in the manufacturing or processing of licensed quantities of radioactive materials; and

(B) for sites that require both on- and off-site remediation due to the use, storage or disposal of one or more radioactive materials with a half-life of more than 120 days.

252:4-7-58. Solid waste management applications - Tier I

The following solid waste management authorizations require Tier I applications.

(1) New permits.

(A) Locally approved solid waste transfer stations. Permit for a solid waste transfer station that, prior to application filing, received county commissioner approval according to 27A O.S. § 2-10-307.

(B) Biomedical waste transfer stations using only sealed containers. Biomedical waste transfer station permit when activities are limited to:

- (i) consolidation of sealed containers; and/or
 - (ii) transfer of sealed containers from one vehicle or mode of transportation to another.
 - (C) Disaster relief. Emergency authorization for waste disposal resulting from a natural disaster.
- (2) Modifications.
 - (A) All facilities.
 - (i) Modification of a solid waste permit to add methods, units or appurtenances for liquid bulking processes; yard waste composting; recycling operations; waste screening; or baling, chipping, shredding or grinding equipment or operations.
 - (ii) Modification to any solid waste permit to make minor changes.
 - (iii) Modification of plans for closure and/or post-closure.
 - (iv) Administrative modification of all permits and other authorizations.
 - (B) On-site and off-site land disposal facilities. Modification of an existing land disposal permit for a lateral expansion within permitted boundaries.
 - (C) Capacity increases of less than 25% with exceptions. The modification of a solid waste permit, excluding incineration permits, involving a request for less than twenty-five percent (25%) increase in permitted capacity for storage, processing or disposal when the request is for equivalent methods, units or appurtenances as those permitted and which does not involve expansions of permitted boundaries.
- (3) Plans and other authorizations. The approval of new and when applicable, modified or renewed:
 - (A) Plans for composting of yard waste only.
 - (B) Permit transfers.
 - (C) Non-hazardous industrial solid waste disposal plans.
 - (D) Technical plans.
 - (E) County solid waste management plans.
 - (F) Individual authorizations under a general permit.
 - (G) All other administrative approvals required by solid waste rules.

252:4-7-59. Solid waste management applications - Tier II

The following solid waste management authorizations require Tier II applications.

- (1) New permits.
 - (A) On-site solid waste processing facilities with exception. Permit for an on-site solid waste processing facility except yard waste composting as listed under Tier I.
 - (B) Solid waste transfer stations with exceptions. Permit for a solid waste transfer station except:
 - (i) a transfer station permit with county commissioner approval as listed under Tier I, or
 - (ii) a biomedical waste transfer station permit listed under Tier I.
 - (C) On-site incinerators with exceptions. Permit for an on-site incinerator except those exempt under solid waste rules or those that have an approved Air Quality permit or Solid

Waste Management Plan.

(D) On-site land disposal sites. Permit for an on-site solid waste disposal site.

(E) Material Recovery Facility (MRF). Permit for a Material Recovery Facility if waste is not source-separated.

(2) Modifications.

(A) All facilities. Modification of a permit for a change in waste type.

(B) On-site facilities. Any modification of an on-site solid waste permit, except as listed under Tier I.

(C) Off-site facilities.

(i) Modification of any off-site solid waste permit involving a request for more than twenty-five percent (25%) but less than fifty percent (50%) increase in permitted capacity for storage, processing or disposal (excluding incineration) when the request is for equivalent methods, units or appurtenances as those permitted, except those listed under Tier I.

(ii) Modification of any off-site processing facility involving an expansion of permitted boundaries.

(D) Incinerators.

(i) Modification of an on-site incinerator permit for any increase in permitted capacity for storage, processing, or disposal.

(ii) Modification of an off-site incinerator permit involving a request for increases less than fifty percent (50%) in permitted capacity for storage, processing, or disposal when the request is for equivalent methods, units or appurtenances as those permitted.

(3) General permit. New, modified or renewed general permit.

252:4-7-60. Solid waste management applications - Tier III

The following solid waste management authorizations require Tier III applications.

(1) New permits.

(A) Off-site processing facilities with exceptions. Permit for an off-site processing facility, unless otherwise specified in Tier I or Tier II.

(B) Off-site land disposal facility. Permit for an off-site solid waste land disposal site.

(C) Off-site incinerator. Permit for an off-site incinerator.

(2) Modifications.

(A) Off-site facilities: significant increase in capacity. Modification of any off-site solid waste permit involving a fifty percent (50%) or greater increase in permitted capacity for storage, processing, and/or disposal, including incineration.

(B) Off-site land disposal facility. Modification of an off-site solid waste land disposal permit for an expansion of permitted boundaries.

(C) Off-site facilities: different methods, units or appurtenances. Modification of an off-site solid waste permit in which the request involves different methods, units or appurtenances than those permitted, except those listed under

Tier I.

(3) Variance approvals. All variances.

252:4-7-61. Brownfields applications - Tier I

A Tier I application shall be required for a Memorandum of Agreement for site characterization.

252:4-7-62. Brownfields applications - Tier II

A Tier II application shall be required for all Certificates.

252:4-7-63. Brownfields applications - Tier III

None.

PART 7. WATER QUALITY DIVISION TIERS AND TIME LINES

252:4-7-71. Water quality time lines

The Water Quality Division shall technically review applications and issue or deny permits within the following periods of time:

- (1) Discharges, 401 Certifications, industrial wastewater other than discharge, pretreatment trust users, and sludge management plan - 180 days;
- (2) Public water supply and water pollution control construction - 90 days; and
- (3) UIC applications - 300 days.

252:4-7-72. Laboratory certification applications - Tier I

A Tier I application shall be required for a new, modified, amended or renewed laboratory certification.

252:4-7-73. Water quality applications - Tier I

The following water quality authorizations require Tier I applications.

- (1) Permit for flow-through impoundment(s) as part of the pretreatment process.
- (2) Re-permitting of facility with an expiring permit for industrial non-discharging impoundment or septic tank system.
- (3) Re-permitting of expiring permit with minor or no change(s) for land application of sludge and/or wastewater for same site.
- (4) New, modified or renewed authorization under a general permit, including but not limited to general permits for stormwater, underground storage tanks and petroleum storage and treatment facilities.
- (5) Approval of new pretreatment program.
- (6) Closure plan approval.
- (7) Dredge and fill certification.
- (8) Approval of exemption for water line extensions.
- (9) Approval of exemption for water distribution and wastewater collection systems.
- (10) Approval for alternative individual on-site sewage disposal systems.
- (11) Approval for alternative small public on-site sewage disposal systems.
- (12) Residential development approval.
- (13) Transfer of discharge permit.
- (14) Minor modification of discharge permit.

- (15) Minor modification of permit for land application of sludge and/or wastewater.
- (16) Modification of or addition to a municipal wastewater treatment system (including sewer line extensions).
- (17) Modification of or addition to a public water supply treatment and/or distribution system.
- (18) Modification of non-discharging impoundment and/or septic tank system permit.
- (19) Modification of an approved pretreatment program.
- (20) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.

252:4-7-74. Water quality applications - Tier II

The following water quality authorizations require Tier II applications.

- (1) Permit for municipal wastewater treatment system.
- (2) Permit for public water supply system.
- (3) Discharge permit for minor facility.
- (4) Individual storm water permit.
- (5) Permit for industrial non-discharging impoundment or septic tank.
- (6) Permit for land application of sludge and/or wastewater at new site system.
- (7) Re-permitting of a facility with expiring discharge permit.
- (8) Re-permitting of facility with expiring individual storm water discharge permit.
- (9) Re-permitting with major change(s) from expiring permit for land application of sludge and/or wastewater for the same site.
- (10) Variance including thermal components of effluent limitations for an individual discharge permit.
- (11) Major modification of discharge permit.
- (12) Major modification of permit for land application of sludge and/or wastewater.
- (13) New, modified or renewed general permit.

252:4-7-75. Water quality applications - Tier III

A new discharge permit for a major facility requires a Tier III application.

252:4-7-76. UIC applications-Tier I

The following underground injection control authorizations require Tier I applications.

- (1) Minor modification of a permit for Class I, III, and V wells in accordance with 40 CFR § 144.41.
- (2) Modification of an approved closure and/or post-closure plan for a Class I hazardous waste injection well.
- (3) Modification of an approved plugging and abandonment plan for Class I nonhazardous and Class III injection wells.
- (4) Modification of an approved corrective action plan for a Class I injection well.
- (5) Emergency permit in accordance with 40 CFR § 144.34.
- (6) New, modified or renewed authorization under a general permit.
- (7) Minor administrative modification of all permits and other

authorizations.

252:4-7-77. UIC applications - Tier II

The following underground injection control authorizations require Tier II applications.

- (1) On-site Class I nonhazardous waste injection well permit.
- (2) Class III and V injection well permits except Class V permits issued under Tier III.
- (3) Modification and/or renewal of all DEQ-issued underground injection control well permits.

252:4-7-78. UIC applications - Tier III

The following underground injection control authorizations require Tier III applications.

- (1) Class I hazardous waste injection well permit.
- (2) Off-site Class I nonhazardous waste injection well permit.
- (3) Class V industrial waste injection well permit.

SUBCHAPTER 9. ADMINISTRATIVE PROCEEDINGS

PART 1. ENFORCEMENT

252:4-9-1. Notice of Violation ("NOV")

Unless otherwise provided by the particular enabling legislation, administrative enforcement proceedings shall begin with a written notice of violation (NOV) being served upon the Respondent. The NOV shall set forth Respondent's action or omission and the specific provision of the Code, rules, license or permit alleged to be violated. An NOV may be a letter, inspection sheet, consent order or final order, if it meets the requirements of this Section.

252:4-9-2. Administrative compliance orders

(a) When issued. The Executive Director, upon the request of a Division, may issue an administrative order requiring compliance, assessing penalties for past violations and specifying penalties for continuing noncompliance.

(b) Contents. An administrative compliance order shall specify the findings of fact and conclusions of law upon which it is based and shall set a time for the Respondent to comply. The Order shall specify the penalty, not to exceed the statutory maximum per day of noncompliance, to be assessed in the event that the Respondent fails to comply with the Order within the prescribed time, and, if applicable, the penalty assessed for past violations of the Code, rules, or licenses or permits. The Order shall advise the Respondent that it shall become final unless an administrative hearing is requested in writing in accordance with 252:4-9-32 within fifteen (15) days of service of the Order.

(c) Service. An Order shall be served in accordance with 252:4-9-35.

(d) Order following hearing. Based on the hearing and record, a proposed order will be sustained, modified, or dismissed by the Executive Director. If the hearing process extends beyond any compliance deadline specified in the Order, fines specified in the Order for violations of the Order will continue to accrue during the hearing process unless the Administrative Law Judge stays the

penalty upon request for good cause shown.

252:4-9-3. Determining penalty

In determining the amount of penalty specified in an administrative penalty order, the DEQ may consider the following:

- (1) the factors specified by 27A O.S. § 2-3-502(K)(2); and
- (2) the extent and severity of environmental degradation or adverse health effects caused by the violation.

252:4-9-4. Assessment orders

(a) Issuance of assessment order. Any time the DEQ believes the Order has been violated, the Executive Director may issue an order assessing an administrative penalty pursuant to 27A O.S. § 2-3-502. In determining an appropriate administrative penalty, the Executive Director may consider Respondent's efforts to comply after being served with the Order.

(b) Content of assessment orders. An assessment order must state the nature and period of the violation and must determine the amount of the fine. The fine is due and payable immediately upon issuance of the assessment order, unless a hearing is requested within seven (7) days. See also 27A O.S. § 2-3-502.

(c) Continuing violations. If the DEQ believes that violations of the administrative compliance or penalty order continue after the issuance of an assessment order, the Executive Director may issue additional assessment orders covering periods of violation since the period covered by the issuance of a previous assessment order.

252:4-9-5. Considerations for self-reporting of noncompliance

(a) Conditions for not seeking administrative and civil penalties. Except in the case of habitual noncompliance or as otherwise provided in this section, in evaluating an enforcement action for a regulated entity's failure to comply with DEQ rules, the DEQ will not seek an administrative or civil penalty when the following circumstances are present:

(1) The regulated entity voluntarily, promptly and fully discloses the apparent failure to comply with applicable state environmental statutes or rules to the appropriate DEQ Division in writing before the Division learns of it or is likely to learn of it imminently;

(2) The failure is not deliberate or intentional;

(3) The failure does not indicate a lack or reasonable question of the basic good faith attempt to understand and comply with applicable state environmental statutes or rules through environmental management systems appropriate to the size and nature of the activities of the regulated entity;

(4) The regulated entity, upon discovery, took or began to take immediate and reasonable action to correct the failure (i.e., to cease any continuing or repeated violation);

(5) The regulated entity has taken, or has agreed in writing with the appropriate Division to take, remedial action as may be necessary to prevent recurrence of such failure. Any action the regulated entity agrees to take must be completed;

(6) The regulated entity has addressed, or has agreed in writing with the appropriate Division to address, any environmental impacts of the failure in an acceptable manner;

(7) The regulated entity has not realized and will not realize a demonstrable and significant economic or competitive advantage as a result of non-compliance; and

(8) The regulated entity cooperates with the DEQ as the DEQ performs its duties and provides such information as the DEQ reasonably requests to confirm the entity's compliance with these conditions.

(b) Partial qualification. Notwithstanding the failure of a regulated entity to meet all of the conditions in subsection a of this section, the DEQ will consider the nature and extent of such actions of the regulated entity in mitigation of any administrative or civil penalty otherwise appropriate. If the regulated entity meets all conditions in subsection (a) of this section except item seven (7) relating to significant economic or competitive advantage, the DEQ will seek an administrative or civil penalty only to the extent of the economic or competitive advantage gained.

(c) Relationship to federal/state agreements. In the event of any conflict, the elimination or mitigation of penalties pursuant to subsections (a) and (b) of this section is subject to agreements between the DEQ and the United States Environmental Protection Agency (USEPA) relating to regulatory program delegation or authorization from the USEPA to the DEQ.

(d) Applicability. This section applies to all enforcement cases arising from violations discovered by or brought to the attention of the DEQ after June 2, 1997.

PART 3. INDIVIDUAL PROCEEDINGS

252:4-9-31. Individual proceedings filed by DEQ

(a) Initiation. Individual proceedings may be initiated by DEQ program areas by filing an administrative compliance or penalty order with the Administrative Law Clerk.

(b) Content. Each order shall name the Respondent(s), contain a brief statement of the facts, refer to the specific provision of the Code, rules, license or permit alleged to be violated, state the relief requested and include notice to the Respondent(s) of the opportunity to request an administrative hearing.

(c) Style. The style of the case shall be in accordance with the format in Appendix D.

252:4-9-32. Individual proceedings filed by others

(a) Request for administrative hearing in response to Order. A request for an individual proceeding initiated by the Respondent named in an Order shall be in writing and shall specifically set forth the Respondent's objections to the Order.

(b) Administrative hearing on Tier III permits. An individual proceeding on a proposed permit for a Tier III application may be requested in accordance with 27A O.S. § 2-14-304(C) (1).

(c) Style. The style of the case shall be in accordance with the format in Appendix D.

(d) Content. All requests for individual proceedings must be in writing, contain a brief statement of the basis of the request and the name and address of each requester, and be signed by the requester or an authorized representative.

(e) Declaratory ruling. Any person who alleges that any DEQ rule

or order interferes with or impairs, or threatens to interfere with or impair, his/her legal rights may petition the DEQ, formally requesting a declaratory ruling on the applicability of the rule or order. After the petition is filed, the DEQ shall provide a copy to the Board.

(1) Form and content of petition. All petitions shall be in writing and filed with the Administrative Law Clerk. The petition shall include the information and follow the format in Appendix B.

(2) Determination. Petitions for declaratory rulings shall be decided by the DEQ. Rulings shall state the findings of fact and conclusions of law upon which they are based. If the DEQ refuses to make a ruling or begin an individual proceeding within 30 days, the petition shall be deemed to have been denied. If the DEQ begins an individual proceeding on the petition, it shall offer an opportunity for a hearing to the petitioner. After the DEQ issues a ruling or the Executive Director issues a final order, the DEQ shall provide a copy of the ruling or final order to the Board at its next available meeting.

(3) Mailing. The DEQ shall mail a copy of the ruling or final order to the petitioner.

252:4-9-33. Scheduling and notice of hearings

The DEQ shall schedule an administrative hearing after receipt of a proper and timely request. The Administrative Law Clerk shall notify the parties of the date, time and place of the hearing. Notice shall satisfy the requirements of the APA and shall be made at least fifteen (15) days prior to the hearing unless otherwise provided by law or agreed by the parties.

252:4-9-34. Administrative Law Judges and Clerks

(a) Administrative Law Judge. The Executive Director may designate an Administrative Law Judge for any administrative hearing in accordance with 27A O.S. § 2-3-103. Administrative Law Judges shall not have had prior involvement in the matter other than as an Administrative Law Judge, unless the parties waive this requirement.

(b) Administrative Law Clerk. The Executive Director may designate an Administrative Law Clerk to maintain the administrative hearing dockets and records, and perform such other duties as described in this Chapter or incidental thereto.

(c) Authority. Administrative Law Judges have complete authority to conduct individual proceedings and may take any action consistent with the APA and the rules of this subchapter. Administrative Law Judges may:

(1) arrange and issue notice of the date, time and place of hearings and conferences;

(2) establish the methods and procedures to be used in the presentation of the evidence;

(3) hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;

(4) administer oaths and affirmations;

(5) regulate the course of the hearing and govern the conduct

of participants;

(6) examine witnesses;

(7) rule on, admit, exclude and limit evidence, at or before hearings;

(8) establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for such purposes;

(9) rule on motions and pending matters;

(10) divide the hearing into stages or join claims of parties whenever the number of parties is large or the issues are numerous and complex;

(11) restrict attendance by persons not parties to the hearing in appropriate cases;

(12) admit attorneys from other jurisdictions to practice law before the DEQ in accordance with Rules of the Oklahoma Bar Association, 5 O.S. Chapter 1, Appendix 1, Article II, § 5, and administer the oath required by 5 O.S. § 2.

(13) require briefs on any relevant issues;

(14) request proposed findings of fact, conclusions of law and a proposed order from all parties; and

(15) restrict testimony to the facts alleged in an assessment order.

(d) Technical assistance. At the request of the Administrative Law Judge, the Executive Director may designate a DEQ representative, who has had no assigned responsibilities related to the matter at issue, to serve as technical adviser to the Administrative Law Judge.

252:4-9-35. Service

(a) Generally. Service shall be made in accordance with the Oklahoma Pleading Code, 12 O.S. § 2001 et seq., and 27A O.S. § 2-3-502 unless otherwise allowed by this section.

(b) By the DEQ. Where the DEQ is serving notice, personal service may be made by a person designated by the Executive Director for that purpose.

(c) By certified mail. Service by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal by the Respondent.

252:4-9-36. Responsive pleading

A Respondent may file, and the Administrative Law Judge may direct a Respondent to file, a responsive pleading to the initiated action.

252:4-9-37. Prehearing conferences

(a) General. The Administrative Law Judge may schedule and conduct prehearing conferences as necessary. The Administrative Law Clerk shall notify the parties of the scheduling of a prehearing conference. The Administrative Law Judge may hold a prehearing conference by telephone. On request, prehearing conferences shall be on the record.

(b) Subjects. Prehearing conferences may address:

(1) identification and simplification of issues, including the elimination of frivolous claims or defenses;

(2) amendments to the pleadings;

(3) the plan and schedule of discovery and limitations to be placed thereon;

(4) identification of admissions of fact to avoid unnecessary proof and cumulative evidence;

(5) the identification of witnesses and substance of testimony, exhibits, and documents;

(6) the use of prehearing briefs and prefiled testimony in the form of sworn affidavits;

(7) settlement of all or some of the issues before the hearing;

(8) adoption of special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems;

(9) scheduling; and

(10) such other matters as may aid disposition.

(c) **Schedules and orders.** A prehearing conference may result in a scheduling or other prehearing order. Subsequent changes to any prehearing or scheduling order may be made by the Administrative Law Judge by modifying the order upon good cause shown.

252:4-9-38. Discovery

Discovery shall be conducted in accordance with the Oklahoma Discovery Code (12 O.S. § 3224 et seq.) unless otherwise ordered by the Administrative Law Judge for good cause.

252:4-9-39. Subpoenas

(a) **Issuance.** Subpoenas for the attendance of witnesses, the furnishing of information required by the Administrative Law Judge and the production of evidence shall be issued in accordance with the APA and the Oklahoma Pleading Code.

(b) **Failure to obey.** The Executive Director may seek an appropriate judicial order to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing, or who refuse to answer a proper question during a hearing. The hearing may proceed despite any such refusal but the Administrative Law Judge may, in his/her discretion at any time, continue the proceedings as necessary to secure a court ruling.

252:4-9-40. Record

(a) **To be made.** A record of the hearing shall be made, which shall be a tape recording unless otherwise agreed by the parties and the Administrative Law Judge. The recording will not be transcribed as a matter of course. A transcript may be obtained by submitting a written request to the Administrative Law Clerk and tendering payment in an amount sufficient to pay the cost of having the recording transcribed.

(b) **Court reporter.** A party may request a court reporter. The requesting party shall pay the costs, and the original transcript shall be filed in the case file as part of the record in the case. Each person or party requesting copies shall make arrangements with the reporter and pay the costs.

(c) **Maintained.** The record of a proceeding and the file containing the notices and the pleadings will be maintained by the Administrative Law Clerk. All pleadings, motions, orders and other papers submitted for filing in a proceeding shall be date/file

stamped by the Administrative Law Clerk upon receipt. The burden of showing substantial prejudice by any failure to correctly file-stamp any submittal shall be upon the asserting party.

(d) Contents. The administrative record of all individual proceedings shall contain documents required by the APA, 75 O.S. § 309. An individual proceeding on a proposed permit for a Tier III application shall also include the following:

- (1) the permit application on file with the DEQ, as amended;
- (2) all written comments received during the public comment period;
- (3) the tape or transcript of the public meeting;
- (4) documents resulting from the DEQ's review of the permit application and public comments;
- (5) the draft permit, fact sheet and response to comments, if any, issued by the DEQ; and
- (6) all published notices.

252:4-9-41. Motions

(a) Filing. All requests for action in a matter already before the DEQ shall be made in a motion, signed by the party or his/her attorney, and filed with the Administrative Law Clerk.

(b) Service. Copies of motions shall be served on other parties in accordance with 252:4-9-35.

(c) Response. Within fifteen (15) days after service of any written motion, any party to the proceedings may file a response to the motion. The time for response may be extended or shortened by the Administrative Law Judge for good cause shown.

252:4-9-42. Continuances

A motion for an extension or continuance shall state the reasons for the request and specify the length of time requested. Unless made before the Administrative Law Judge in open hearing, motions for extensions of time or for a continuance of the hearing to another date or time shall be in writing and filed with the Administrative Law Clerk. The Administrative Law Judge shall promptly grant or deny such request at his/her discretion. If the motion is denied, it may be renewed orally by the party at the hearing.

252:4-9-43. Summary judgment

The Administrative Law Judge may grant a motion for summary judgment, subject to 252:4-9-46.

252:4-9-44. Default

(a) Generally. Any Respondent who fails to appear, after receipt of notice, may be determined to have waived the right to appear and present a defense. A Final Order may be issued by the Executive Director granting the relief requested by default.

(b) Tier III application. The Executive Director may enter a default judgment against any party who fails to participate in an administrative hearing on a proposed permit for a Tier III application.

252:4-9-45. Withdrawal and dismissal

Parties may withdraw from a case and cases may be dismissed by

the Administrative Law Judge in accordance with the Oklahoma Code of Civil Procedure.

252:4-9-46. Orders in administrative hearings

Proposed and final orders in administrative hearings shall be prepared and issued in accordance with the APA.

PART 5. AIR QUALITY ADVISORY COUNCIL HEARINGS

252:4-9-51. In general

The Air Quality Advisory Council is authorized to conduct individual proceedings on enforcement matters and requests for a variance from the Clean Air Act, 27A O.S. §§ 2-5-101 through 2-5-118, or the Air Pollution Control Rules, OAC 252:100.

252:4-9-52. Individual proceedings

Individual proceedings before the Air Quality Advisory Council will be conducted in accordance with the requirements in Part 3 of this Subchapter. To be heard by the Council, the request for hearing in response to an Order must include a request that the Council conduct the hearing. The Council may designate an Administrative Law Judge for individual proceedings to be held before the Council. The Council or its designee may perform Administrative Law Judge functions described in Part 3 of this Subchapter.

252:4-9-53. Variance

It is within the discretion of the Air Quality Advisory Council to decide whether or not an individual proceeding is necessary in granting a variance.

252:4-9-54. State implementation plan hearings

A state implementation plan (SIP) hearing may be initiated by an applicant for an alternative emissions reduction authorization under 252:100-11 by filing a request for a SIP hearing with the Administrative Law Clerk. A request that the hearing be conducted by the Air Quality Advisory Council must be included in the request for hearing. Additional requirements for a SIP hearing request are contained in 252:100-11-6.

SUBCHAPTER 11. COMPLAINT PROCESSING

252:4-11-1. Purpose

This Subchapter establishes procedures used to process environmental complaints received from the public.

252:4-11-2. Receipt of complaints

(a) Complaints may be made by any of the following:

- (1) the toll-free hotline;
- (2) mail, including electronic transmission;
- (3) telephone to any DEQ telephone number; or
- (4) in person at any office of the DEQ.

(b) Complainants may request to be anonymous or to remain confidential.

252:4-11-3. Investigation

After receipt of a complaint, the DEQ may assign an investigator to obtain any information which may tend to prove there has or has not been a violation of the Code or rules, who the potentially responsible persons are, and any other information which may be needed to resolve the complaint.

252:4-11-4. Notification

(a) Potential actions. Within two (2) working days of receipt of a complaint, the DEQ shall notify the complainant of the potential actions which may occur to resolve the complaint.

(b) Course of action. Within seven (7) working days of the receipt of a complaint, the DEQ shall notify the complainant, in writing, of the action to be taken by the DEQ.

(c) Final letter. Within seven (7) working days of determining that there is no longer a DEQ violation, the DEQ shall notify the complainant in writing.

(d) Enforcement. Complainants shall be notified of enforcement actions taken in response to a complaint in accordance with 27A O.S. § 2-3-503.

252:4-11-5. Referral of complaints

(a) To appropriate agency. If the DEQ receives a complaint for which DEQ has no authority and which clearly falls within the jurisdiction of another governmental entity, the complaint shall be referred to that governmental entity.

(b) To mediation. DEQ may notify a complainant and persons named in the complaint (Respondents), by mail, of the opportunity to mediate the complaint in accordance with 27A O.S. § 2-3-104.

252:4-11-6. False complaint

When the DEQ has a reasonable suspicion that a complainant has filed a false complaint, the Executive Director may refer all investigation materials, including but not limited to, reports, notes, initial data collection forms and letters to the District Attorney's office in the area where the complainant resides.

SUBCHAPTER 13. ENVIRONMENTAL EDUCATION GRANTS

252:4-13-1. Authority and eligibility

(a) Authority. This subchapter is adopted pursuant to 75 O.S. § 302, 27A O.S. § 2-2-101, 47 O.S. § 1104.2 and Executive Order 98-37.

(b) Eligibility. Oklahoma teachers and youth group leaders are eligible to apply for environmental education grants provided by the DEQ.

252:4-13-2. Amount of grants

The DEQ will award the following amounts to successful applicants:

- (1) Up to and including \$ 200.00 for field trips;
- (2) Up to and including \$ 500.00 for environmental education projects; and
- (3) Up to and including \$1000.00 for outdoor classrooms.

252:4-13-3. Criteria

The following will be considered by the DEQ in determining grant awards:

- (1) Project proposed, including how the project accomplishes the following factors:
 - (A) Promotes enthusiasm to learn more about the environment;
 - (B) Fits in the school curriculum or youth group program;
 - (C) Involves community partnerships and/or outreach, if applicable.
- (2) Number of students/youth participating;
- (3) Grade level of students/youth; and
- (4) Geographic location.

252:4-13-4. Application

(a) Complete application. A complete application consists of a cover page, a letter of commitment, a summary of the project, a projected timeline, a proposed budget and a procedure for evaluation of the project.

(b) Attachments. Photographs, clippings, diagrams and other graphic materials, not to exceed five (5) pages double sided, may be attached to the application.

(c) Document submission. An original and two (2) copies, double sided, of the application and attachments must be submitted to the DEQ, date-stamped or postmarked on or before the published deadline. The DEQ will not accept applications submitted by telecopy/facsimile or e-mail.

252:4-13-5. Cover page

The cover page must include the following information:

- (1) Title of the project;
- (2) Name of contact person, position held and relationship to project;
- (3) Name of school or youth group organization;
- (4) Grade level(s) and number of youth targeted;
- (5) Federal Employer Identification number (tax ID#);
- (6) Street address;
- (7) Mailing address, if different from street address;
- (8) E-mail address, if any;
- (9) Daytime and evening telephone numbers; and
- (10) Telecopy/facsimile number, if any.

252:4-13-6. Letter of commitment

The grant application must be accompanied by a letter from the applicant's principal or supervisor stating the organization's support for the performance of the grant objectives.

252:4-13-7. Summary of project

The applicant must submit a project summary, with a maximum length of one page, double sided. The project summary shall include the following:

- (1) Synopsis. Provide one paragraph summarizing the project;
- (2) Description. Give a clear concise description of the proposed project, indicating how the project promotes enthusiasm to learn more about the environment, fits in the school curriculum or youth group program and involves community

partnerships and/or outreach, if applicable;

(3) Goals and objectives. Clearly define realistic goals and objectives. Include information outlining where these goals address specific needs.

(4) Implementation. Describe how the project will be implemented and whether it emphasizes a hands-on learning approach. Include the project's potential for broad implementation.

252:4-13-8. Timeline

The applicant must present target dates for project objectives.

252:4-13-9. Budget

The applicant must provide an itemized budget with specific project expenditures of grant funds.

252:4-13-10. Evaluation procedure

The applicant must provide a description of the methods to be used to measure project effectiveness, including how the evaluation method will improve the project's strength. The applicant must indicate in the evaluation method how the project will be continued after grant funds are expended.

252:4-13-11. Final written report

Applicants who are awarded environmental education grants under this subchapter shall submit a final written report, outlining accomplishments of the grant objectives and expenditures on or before December 15 following the award.

252:4-13-12. Shared strategies

Strategies from applicants who are awarded environmental education grants under this subchapter will become the property of the Environmental Quality Education Committee and may be shared with other interested environmental educators.

SUBCHAPTER 15. LOCAL PROJECT FUNDING

252:4-15-1. Purpose, authority and applicability

(a) Purpose. The purpose of this Subchapter is to implement Executive Order 98-37, mandating state agencies to establish criteria for local project funding contracts.

(b) Authority. This subchapter is adopted pursuant to 75 O.S. § 302, 27A O.S. § 2-2-101 and Executive Order 98-37.

(c) Applicability. The rules in this Subchapter apply to any private entity, political subdivision, and unit of local government, including municipal and county governments and school districts.

252:4-15-2. Criteria

(a) The DEQ will consider the following criteria in determining funding priorities for local projects:

(1) Criteria established by relevant statutory authority; and

(2) Criteria established by rules adopted for the specific Division pursuant to relevant statutory authority.

(b) If relevant statutory authority and program-specific rules do

not establish criteria, the DEQ will consider the following in determining funding priorities for local projects:

- (1) Potential of the project to effectively promote environmental health and safety or environmental education and awareness;
- (2) Potential to enhance related programs or efforts by the recipient;
- (3) Number of persons benefitted; and
- (4) Equitable geographic distribution.

252:4-15-3. Proposals

(a) The applicant must submit a proposal in accordance with the rules implementing the statutory program and/or forms provided by the DEQ.

(b) Proposals must demonstrate that the proposed project will implement and be consistent with relevant statutes and rules of the specific program area.

252:4-15-4. Funding

Within the priority criteria, funds shall be granted on a first-come first-served basis until funds are depleted.

APPENDIX C. PERMITTING PROCESS SUMMARY [NEW]

Steps	Tier I	Tier II	Tier III
Filing - Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with the DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing - Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting - Notice - 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review - DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review - DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial - DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity - Applicant publishes this in one newspaper local to site. (DEQ publishes notice of draft denial.)	No	Yes	Yes
Public comment period - 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting - Conducted by DEQ if held	No	Yes	Yes
Review of comments - DEQ (written response)	No	Yes	Yes
Proposed permit - DEQ prepares this in response to comments on draft permit	No	No	Yes
Notice of proposed permit - Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing - Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial - DEQ's final decision	Yes	Yes	Yes

APPENDIX D. STYLE OF THE CASE IN AN INDIVIDUAL PROCEEDING [NEW]

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
NAME OF DIVISION

IN THE MATTER OF:

)
)
)
) Case No.
)

)

NAME OF DOCUMENT

Attendance Sign-In Sheet

Name	Representing
Ellen Buxton	DEQ
Shellie Chard	DEQ, WAD
Howard Ground	AEP
Mark Gipsen	AEP - P&O
Julia Bevers	OGE
Bonnie McGilbra	Ogden
Pat Davenport	National Standard
Jeff Perkins	DEQ
DAVID Dyke	DEQ
David Branceley	OGE
Jennifer Galvin	Phillips Petroleum Co.
Jody Reinkut	Safety-Kleen HWMAC
Chris Bruehl	Governor's Office
Harvey McLaughlin	on
Dan Cary	Cleveland County EMI
Walter Kelley	on
Jon Craig	DEQ WQ D
Dolores Smith	City of Norman
Ruhel McDaniel	DEQ
The Tech	DEQ

Please Sign

EQB 11-14-00

Bob Howell	Hooker OK
Clifford Krenetsky	Hooker OK
Jerry Johnston	DEQ 130110
Jody Reinhart	AWMAE
Sam Christopher	VAIL Inc.
Jane Likens	Hooker, OK
A.E. Osborn	"
Alan W. Obayashi	Fryor, OK
Edward Quinn	Quinn OK
Steve	Hooker, OK
Alison Mark	Hooker, OK
Julie Jackson	Hooker, OK
Ashley Barkstr	Hooker OK
Mindy Mathis	Hooker, OK
Karla Huxman	Hooker, OK
Amanda Pritchard	Hooker, OK
Angela Janson	Hooker, OK
Kyla Campbell	Hooker
Lore Witt	Hooker
Edward R. Siffault	Adams
Elizabeth Schumann	Hooker
Amanda L. Street	Adams, OK
Bobbie Blanton	Hooker, OK
DUSTIN Jones	Hooker OK
GABE MURPHY	Hooker
Kirby James	Hooker
Brandon Rhodes	Hooker

Sign-in Sheet 11-14-00 EQB Meeting

Mary Brown
Audrey Conley
China Lundquist
Lance Harrison
Landon Hise
Josh Lewis
Cathi George
Donnell Packard
Glenn Goff

Oklahoma history - Hooker

High School

Name

From

Brittany Burkey

Hooker

Javitha Brown

Hooker

Katni DeSelms

Hooker

Kristen Casaus

Chelsey Carrillo

Hooker

Raúl Garcia

Hooker

Saul Gomez

Hooker

Marla James

Hooker

Ashley McBee

Caldo Phelps

Hooker

Lindsay White

Hooker

Hooker

Please Sign

Heather Smotherman

Shanda Jwis

Sara Fast

RICK HERSCHMIDT

LARRY CLAPP

Jennifer Anderson

Tyler Humble

Trayson Ansley

Ashley Marshall

Naura Mendoca

Jessica Mays

Tim Ubent

Clint Arnold

Darius Livesay

Josh Gilkey

Hooker, OK

Hooker, OK

Hooker, OK

FORGAN, OK

FORGAN, OK

Hooker, OK

Additional Comments

BOARD BRIEFING PAPER
TITLE 252: DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 002. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
EMERGENCY AND PERMANENT RULEMAKING

EXECUTIVE SUMMARY: This rule implements Section 2-1-201(C)(4) of the Uniform Environmental Permitting Act, 27A O.S.Supp. 1995, § 2-14-101 et seq. It is proposed as OAC 252:002-15-28, the Subchapter in which all the uniform permitting rules will be codified after promulgation. This rule specifies the positions to which the Executive Director may delegate the power and authority to issue, renew, amend, modify and deny permits, certifications, licenses and take other authorization or registration action based on Tier I and Tier II applications.

STATUTORY AUTHORITY: 27A O.S.Supp. 1993, § 2-1-101 and 27A O.S.Supp. 1995, § 2-14-201.

COMPARISON WITH FEDERAL REQUIREMENTS. No corresponding federal requirements exist; therefore, no economic impact/environmental benefit statement is required.

PUBLIC PARTICIPATION. Notice of opportunity to submit written comments was published on August 1, 1995 for the period from August 1, 1995 through September 6, 1995, with a rulemaking hearing on September 6. Persons who requested notices of rulemaking were mailed notices on August 1, 1995.

COMMENTS: No comments were received during the public comment period and no one attended the hearing.

SUMMARY OF MAJOR AMENDMENTS IN RESPONSE TO COMMENTS RECEIVED: None

CORRECTIONS AND AMENDMENTS PROPOSED BY STAFF:

1. The effective date has been struck; as an emergency rule it will become effective on the date the Governor signs it.

(a) *Designated positions. Beginning November 15, 1995, the The Executive Director may delegate in writing....*

2. The Chapter and rule number for codification has been corrected.

~~252:10-3-70.~~ 252:002-15-28.

SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES

252:2-15-28. Permit decision-making authority.

(a) Designated positions. The Executive Director may delegate in writing the power and duty to issue, renew, amend, modify and deny permits and take other authorization or registration action. Unless delegated to a Division Director by formal assignment or rule, the authority to act on Tier I applications shall be delegated to positions within each permitting program having technical supervisory responsibilities and, for local actions authorized by law, to environmental specialist positions held by the DEQ's local services representatives. The authority to act on emergency permits or Tier II applications shall be delegated to the Division Director of the applicable permitting division.

(b) Revision. The Executive Director may amend any delegation in writing.

COMMENT SUMMARY AND RESPONSE

AIR QUALITY TIER CLASSIFICATIONS OAC 252:002-15-40, 41 and 42

Comments regarding the air quality tiered permitting system were considered by the Air Quality Council at its meetings on October 17 and November 13, 1995.

Burn approval clarified in Tier I. A commenter pointed out that there are permissible open burning events for which approvals may be sought that are not considered emergencies. The Council concurred and in the October 17th hearing chose to remove the word "emergency" from the proposed listing.

Makes clear that existing facilities fall under Tier II when making major modifications to their facilities. Written as well as oral comments were received on whether to classify construction permits filed by existing facilities in Tier II or III. The Council elected to put them in Tier II.

Alternate emissions reduction as a permit omitted. A commenter pointed out that alternate emission reduction permits required by OAC 252:100-11 were not included in the tier classifications. These were intentionally left out. Proposed amendments pending before the Council makes these "authorizations" rather than "permits". The DEQ will thus handle them as modifications of the applicant's permit rather than as a separate permit.

Incinerators with potential to emit 100 tons per year classified as Tier III. Comments regarding the high degree of public concern about incinerators caused the Council to place these incinerators in Tier III regardless of whether they are proposed (new) or are existing facilities requesting to increase net emissions to 100 tons or more per year.

PSD sources placed in Tier III. After much discussion and many comments as to the advisability of Tier III processes, the Council elected to include in Tier III the 26 sources classified as PSD (Prevention of Significant Deterioration) facilities.

Actions involving only filing of plans or notice removed from classifications. Commenters pointed out that applicability determinations and asbestos renovation/demolition notifications do not require applications or DEQ approval. Consequently, the Council struck these from the Tier I rule.

Meaning of "significant [permit] modification" clarified. In response to questions about what a "significant modification" was, Council added a cross-reference to the existing definition in Subchapter 8 of the air quality rules.

COMMENT SUMMARY AND RESPONSE
HAZARDOUS WASTE MANAGEMENT TIER CLASSIFICATIONS
OAC 252:002-15-43, 44 and 45

Comments regarding the hazardous waste tiered permitting system were considered by the Hazardous Waste Management Advisory Council at its meetings on August 31 and November 9, 1995.

Modification descriptions clarified. One commenter suggested removing the terms "minor permit modification" and "major permit modification" and replacing these terms with the appropriate classification term, consistent with the federal hazardous waste rules (i.e., Class 1, 2 and 3). This was discussed during the Council meeting and the terms "minor permit modification" and "major permit modification" were recommended to be removed. As a result, the Council also recommends that these terms be removed from the definition section of the tiered rules which will come before the Board in January, 1996.

Requested increase in storage, treatment, disposal (including incineration) as permit modification category maintained at 50% or more level. Some commenters suggested that the levels of requested increases set at 50% or more in the Tier categories be lowered to 10% or 25%. Since the 50% action level is prescribed for Tier III by statute (Hazardous Waste Management Act), the Council made no change in the Tier III category for off-site facilities. The Council also elected to maintain the modification action level in Tier II at 50% for on-site facilities in the interest of consistency.

Expansion of administrative hearing opportunity declined. One commenter suggested that adjacent property owners and mineral interest owners should have the right to an administrative hearing prior to issuance of any facility permit. The Council did not elect to expand the administrative hearing opportunity beyond the grounds imposed by the Oklahoma Uniform Environmental Permitting Act.

Changing certain applications to higher tier classifications not recommended. Several commenters requested that some of the applications classified as Tier II be moved into Tier III. The Council chose to not move any application types from one Tier to another.

COMMENT SUMMARY AND RESPONSE
RULEMAKING HEARING ON PROPOSED SOLID WASTE TIER RULES

Comments regarding the solid waste tiered permitting system were considered by the Solid Waste Management Advisory Council at its meetings on August 29, and October 19, 1995.

Comment: There was concern yard waste composting facilities would require a permit under the Tiered system, yet they were exempted from permitting in the OAC 252:520 rules recently passed.

Response: OAC 252:002-15-55(3)(A) was modified to clarify that composting of yard waste would be done under a Tier I plan approval process.

Comment: There was concern that a new Transfer Station should not be permitted within a Tier I process.

Response: The Solid Waste Management Act currently allows Transfer Stations that are included within the County Commissioners' approved County Solid Waste Management Plan to be permitted without the typical public notification process required for other transfer station permits. This is because an approved County Solid Waste Management Plan is subject to public participation requirements at the local level. It is consistent with the statute to include such facilities under a Tier I approval process.

Comment: OAC 252:002-15-56(1)(C) only exempts on-site incinerators operated by hospitals, clinics, or laboratories or other similar facilities for incineration of infectious or pathological waste generated on-site. Does the Department intend to start regulating other facilities that burn solid waste on-site, such as grocery stores that burn cardboard?

Response: Neither the rules or statutes previously exempted such facilities from having to obtain a solid waste permit. However, the Waste Management Division has not historically permitted such facilities and concurs that there would be limited value added by issuing a second permit for on-site facilities permitted by Air Quality to burn their own nonhazardous wastes. Therefore, the Council elected to modify the language of OAC 252:002-15-56(1)(C) to exclude hospitals, clinics, laboratories or other similar facilities for incineration of infectious or pathological waste generated on-site and also other facilities that either operate under an Air Quality permit or an approved Solid Waste Management Plan.

Comment: OAC 252:002-15-55(2)(C) is unclear as to whether it allows a landfill to increase its permit boundary in increments less than 25% without public participation.

Response: The language of OAC 252:002-15-55(2)(C) has been modified to specifically prohibit expansion of permitted boundaries. Any expansion of a landfill permitted boundary will be handled within a Tier II process for on-site facilities or a Tier III process for off-site facilities.

Comment: There was concern that biomedical waste transfer stations which transfer closed containers of waste should not be permitted within a Tier I process.

Response: Within the normal course of transportation there may be a need for a facility, which may in fact be only a truck or trailer, that receives sealed containers of biomedical waste from smaller collection vehicles. Although this meets the technical definition of a transfer facility, it poses minimum risks and was determined appropriate by the Council as a Tier I permit.

COMMENT SUMMARY AND RESPONSE
RULEMAKING HEARING ON PROPOSED WATER QUALITY TIER RULES

Comment 1.

In looking at 252:002-70(b) and (c), I see a sequential procedure with a maximum period of 60 days for an administrative review plus a technical review period. Later, 252:002-15-75(1) and (3) define the technical review period as 180 days for discharge permits and industrial wastewater construction permits. Collectively, it appears to me that the process could take up to 240 days to complete; however 252:615-3-31(e) (1) requires a submittal of plans at least 120 days prior to ". . . *initiating on-site construction or modification of any new or existing surface impoundment. . .*" Accordingly, a project manager could be four (4) months into construction before a permit is issued. Similar language is found in 252:605-3-43(a). This section recommends construction plans be submitted 120 days "prior to *initiating on-site construction of any new [industrial] wastewater disposal system. . .*" Yet again, 252:655-3-31(f) states, "An application for a construction permit *should be filed with sufficient lead time before the proposed commencement of a construction requiring a permit. Usually, sixty (60) days should be considered sufficient lead time*" (emphasis mine). A review of 252:002-15-75(7) shows a water pollution control permit technical review could take 90 days, for a total review period of 180 days.

I suggest some agreement between the documents would be helpful to project managers applying for permits under the new rule. The timing recommendations and requirements need to reflect the timing as given in either the specific rules or the SUPER DEQ Permitting Proposed Rules. If the timing is only a recommendation as indicated by the nonmandatory language of some of the rules, I would suggest these sections be omitted and let the Proposed Rule set the standard.

Response 1.

The timelines you referenced in 252:002-70(b)&(c) and 252:002-15-75(1)&(3) are time burdens placed on the DEQ for maximum review periods. The timelines referenced in 252:615-3-31(e) (1), 252:605-3-43(a), and 252:655-3-31(f) are time constraints or recommended lead times for the applicant's submittal of an application. The applicant timelines do not expand the total time for an application review but merely require or suggest a certain lead time for submittal of the application by the applicant. The DEQ's time review period begins to run when the applicant submits its application and the two time periods, DEQ's and the applicant's, run concurrently. However, the DEQ does agree there may be some confusion and will provide a cross reference in the program rules to the sections in Uniform Permitting Rules that set out the timelines for the DEQ.

Comment 2.

I noticed in 252:002-15-61 that an individual water well construction certification is considered a Tier I application and subject to the requirements of the act. This does not appear to be an "Issuance or denial" situation as shown on TABLE 15A of the act since 252:625-19-5(a) states the DEQ will only issue a report "that the private individual water well appears to comply with the construction guidelines set forth in the Standards for Individual Water Wells, State of Oklahoma Department of Health, Bulletin #0585, May, 1984." The table and the Tier I procedures imply that an approval is given when actually only an opinion is given via a report.

I suggest omitting this and other similar actions from the Tier I applications found in 252:002-15-61. In my opinion, it appears the DEQ does not actually approve actions or future conduct as implied by the act.

Response 2.

The DEQ agrees that an individual water well construction certification is not subject to DEQ approval and is not subject to the requirements of the Uniform Permitting Act. Therefore, we will recommend the Water Quality Council omit line 49 item (12) from the list of Tier 1 applications at 252:002-15-61.

BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

COPY

HEARING BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
HELD ON OCTOBER 17, 1995
AT TULSA, OKLAHOMA

RECEIVED

OCT 17 1995

AIR QUALITY CONTROL COUNCIL

COUNCIL MEMBERS PRESENT:

Mr. Bill Breisch, Chairman
Mr. Bill Fishback
Ms. Kathryn Hinkle
Mr. David Branecky
Mayor Pierre Taron
Mr. Martin Ike Glass

Also Present:

Mr. Larry Byrum, Protocol Officer
Ms. Myrna Bruce, Secretary of Council
Ms. Kay York, Attorney for DEQ Staff

Reported by:

Dawn Flick, CSR
PRIDE REPORTING SERVICES
2601 N.W. Expressway, Suite 103E
Oklahoma City, OK 73112
(405) 843-6498

ATTACHMENT A

I N D E X

REQUESTS FOR PRODUCTION:

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1129

Tulsa, OK

October 17, 1995

3:40 o'clock p.m.

THE SECRETARY: Mayor Taron?

MAYOR TARON: Here.

THE SECRETARY: Mr. Branecky?

MR BRANECKY: Here.

THE SECRETARY: Ms. Hinkle?

MS. HINKLE: Here.

THE SECRETARY: Mr. Fishback?

MR. FISHBACK: Here.

THE SECRETARY: Mr. Glass is on the phone.

Mr. Breisch?

MR. BREISCH: Here.

THE SECRETARY: And for the record, absent are

Dr. Canter,

Ms. Slagell, and Mr. Albright.

THE CHAIRMAN: Okay. I need a motion for the approval of the minutes of the August 15th meeting.

MR. BRANECKY: I have a question on that. Page 4 under comments. It says under the present system all Title 5 permits to be in Tier 3 and after the adoption of the tier system, Title 5 operating permits to be changed to Tier 3 --

COURT REPORTER: I'm sorry, sir. I cannot hear you.

MR. BRANECKY: Oh, I'm sorry. Under the present system, all of the Title 5 permits will be in Tier 3. And after the adoption of the tier system in Title 5, all permits change to Tier 2. It didn't make sense. Under the present system, we don't have any tiers. I guess that statement -- I don't know. Is that what Dennis said or not?

MR. BYRUM: I really don't -- I really don't recall what we were discussing there either. I'd have to go back and look at it.

Myrna, do you remember?

THE SECRETARY: No, sir, I don't.

MR. BYRUM: We'll take that under advisement.

MR. BRANECKY: Okay.

MR. CHAIRMAN: Go back to the tapes and see what it said exactly.

MR. BRANECKY: Well, with that I move that the minutes be approved.

MAYOR TARON: That's a second.

MR. CHAIRMAN: Second?

MAYOR TARON: Yes, second.

THE CHAIRMAN: Okay. With the one I am taking under advisement, we'll call the roll for the approval

of the minutes.

THE SECRETARY: Mayor Taron?

MAYOR TARON: Aye.

THE SECRETARY: Mr. Branecky?

MR. BRANECKY: Aye.

THE SECRETARY: Ms. Hinkle?

MS. HINKLE: Aye.

THE SECRETARY: Mr. Fishback?

MR. FISHBACK: Aye.

THE SECRETARY: Mr. Breisch?

THE CHAIRMAN: Aye.

Okay. We'll move on to Item 4 on the public hearing. Larry Byrum will act as protocol officer.

Larry.

MR. BYRUM: Ladies and gentlemen: My name is Larry Byrum. I'm the Director of the Air Quality Division. As such, I will act as the protocol officer for this hearing. This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, Title 40 of the Code of Federal Regulations, Part 51, as well as the authority of Title 63 of Oklahoma Statutes Sections 1, 1801 and following.

This hearing was advertised in the Oklahoma Register for purposes of receiving comments pertaining

to the proposed revisions of the Oklahoma Administrative Code 252:010. If you wish to make a statement on this particular issue, please complete the form with the registration table, and you will be called upon at the appropriate time.

At this time I would like to call upon Mrs. Kay York of our legal staff to give the staff position on these proposed changes.

Mrs. York.

MS. YORK: On the tier classifications for Air Quality that is part of the overall permitting program implementation that was authorized by the Oklahoma environmental -- uniform environmental permitting act this past year.

I would like to present the Rule 252:001-15-40 Tier 1 classification. This is on page 9 and 10 of your uniform rules.

Rule 252:002-15-41, air quality applications, Tier 2. And rule 252:002--15-42, air quality applications, Tier 3.

Based on comments that have been received by this department, and on behalf of the council, I would like to propose that the council consider approving and recommending to the Board for adoption Rule 002-15-40, Tier 1 applications, with the following changes.

On line 46, Number 8, which now reads "emergency burn approval." Strike through "emergency" and capitalize the "B" on "burn." As amended, it would read Number 8, "burn approval."

Line 47, Number 9. Two choices of two amendments.

One is to remove Item Number 9, which is asbestos renovation, slash, demolition approval and renumber accordingly thereafter. Or to change the word "approval" to "notification" and leave it as Number 9.

THE CHAIRMAN: Kay, do you want us to take action item for item as you read them? Would that be better?

MS. YORK: Yes. And it would be best if you allow time for public comments before you took action on each rule.

And also for comments from the council.

MR. BYRUM: We have before us the language that Ms. York has proposed at 252:15 -- 252:002-15-41, Item Number 8, changing -- adopting the word "emergency" and capitalizing the word "burn," and then the two options that were for Item Number 9, either the total deletion or the change of the approval to notification.

Is there anyone who wishes to comment on those particular issues? I have an indication that B.J.

Medley, Nadene Barton, and Ron Truelove may wish to speak to these issues. Do any one of the three of you wish to speak to these particular issues -- this particular issue?

Ron.

MR. TRUELOVE: My name is Ron Truelove. I represent the Environmental Federation of Oklahoma. And we support the removal of the word "emergency" to make line 46 read "burn approval." And we support completely deleting line 47, which will be Number 9, asbestos renovation and demolition approval. And then renumbering the remaining list of applications. This would be consistent with current requirements under state rules and federal rules.

MR. BYRUM: Ms. Coleman.

MS. COLEMAN: I'm Nancy Coleman representing Tinker Air Force Base. Based on our previously submitted written comments, we would support the change in line 46 to remove the word "emergency" and the deletion of item 9 and renumbering of the remaining items.

MR. BYRUM: Ms. Medley, you have indicated you may wish to speak to this.

MS. MEDLEY: My name is B.J. Medley with Earth Concerns, and we are accepting of the changes on line 46

and 47.

MR. BYRUM: I don't believe that -- I don't see Ms. Barton present.

MS. MEDLEY: She has left.

MR. BYRUM: Okay. Is there anyone else who wishes to speak to this issue?

(No audible response.)

MR. BYRUM: Mr. Chairman, no one else wishes to speak to this issue.

THE CHAIRMAN: I would like to take the vote on those items now or other items in Tier 1 that you deem necessary.

MR. BRANECKY: Do we need to make a motion since you gave us two options on the item Number 9?

MAYOR TARON: Yes. What is the motion?

THE CHAIRMAN: Well, your motion would be up to you. I would suggest that the motion is as recommended by the audience.

MR. BRANECKY: Okay. So I move that Section 252:002-15-40 be amended by line 46, Item 8, striking the word "emergency" and capping or capitalizing "B" in the word "burn" and striking line 47, Item Number 9, asbestos renovation/demolition approval, and renumbering the subsequent items.

MAYOR TARON: I second that motion.

THE CHAIRMAN: We've got a motion and a second. Any further discussion?

Myrna, will you call the roll on that item.

THE SECRETARY: Mayor Taron?

MAYOR TARON: Yes.

THE SECRETARY: Mr. Branecky?

MR. BRANECKY: Aye.

THE SECRETARY: Ms. Hinkle?

MS. HINKLE: Aye.

THE SECRETARY: Mr. Fishback?

MR. FISHBACK: Aye.

THE SECRETARY: Mr. Glass?

MR. GLASS: Aye.

THE SECRETARY: Mr. Breisch?

THE CHAIRMAN: Aye.

MR. BYRUM: Continuing on, I would again call on Kay.

MS. YORK: On Rule 002-15-41.

Bill, I believe that we should probably take these one at a time. And I will begin with Number 3, on line 10: significant modification of a major facilities construction or operating permit.

Based on comments received by the department and on behalf of the council, the department recommends that you consider the following amendment: On line 10,

after the word "modification" and before the word "of" insert as defined in OAC-252:100-8-8(e)(2). Also that the words "construction or" be marked through so that lines 10 and 11 read "Number 3, significant modification as defined in OAC 252:100-8-8(e)(2) of a major facilities operating permit."

Bill, if you want to have me read all of them, or if you want to act on one at a time?

THE CHAIRMAN: I would like to go through all the Tier 2 changes, if it's all right with the council.

MS. YORK: Okay.

MR. FISHBACK: If that be the case, we have a proposed change in Number 1.

MS. YORK: Yes, sir, we do. I'll save those for the last. Okay?

MR. FISHBACK: Okay.

MS. YORK: Number 5. This is on line 13 and 14 of 15-41. Rather than starting the phrase with the word "extension" add the word "time" before it. So that it reads "time extension." The small "e" on extension of a major facilities construction permit with -- add the word "a," strike through "significant" modification, and add these words: "That would otherwise be subject to public review." I will read that as it is recommended. Number 5 on lines 13, 14 would read: "Time extension of

a major facilities construction permit with a modification that would otherwise be subject to public review."

Based on a recommendation that we have for Tier 3, a corresponding amendment of Tier 2 would be necessary. This would be added on line 18. It would be a new Number 8, and it would read: "A construction permit for a major modification to an existing major facility."

"A construction permit for a major modification to an existing major facility."

Those are the issues, Bill, that do not -- that are not related to the commercial incinerator question. And if there -- if you want me to go on then to the commercial incinerator, I will do my best to reflect what has been suggested.

THE CHAIRMAN: Please do.

MR. YORK: Number 1. Based on comments received from the public and from the council, council has indicated it will consider amending Number 1 without the underlined words, accepting it without the underlined words. "Or commercial incinerator" would be taken out, so that it reads: "Operating permits for a major facility issued after the construction permit which differs from the construction permit in a manner

which subjects the operating permit application to public review." Corresponding change to Number 7: "The major modification of construction for operating permit."

That's not right.

MR. BYRUM: Excuse me?

MS. YORK: That's not right. May I ask you to hold off on Number 7.

If we remove the references to commercial incinerator, then we will need to remove Number 7 totally.

MR. BYRUM: Agreed.

MS. YORK: So the references to incinerators would be, number one, to remove the words "or commercial incinerator" on lines 4 and 5, strike through Number 7 totally -- which would be lines 16 and 17 -- and renumber on line 18 our new section as 7.

MR. BYRUM: Questions for Kay from council?

MR. FISHBACK: Where is the item in line 7 otherwise covered?

If we delete "for the commercial incinerator" on line 17?

MS. YORK: We would remove all of 7, because the modification of a construction or operating permit is otherwise covered for all other facilities. Number 7

was bringing out commercial incinerators and making them subject to Tier 2 for their major modifications, regardless of whether they were minor or major.

MR. FISHBACK: Well, that wasn't my question. Where is it otherwise covered?

MR. YORK: If it's in part 70, it would be covered in the significant modification, in Tier 2. If it is a nonpart of 70, it would be in Tier 1.

MR. DOUGHTY: Item 3, Kay, I believe is where that is covered.

MR. BYRUM: Sure.

MR. FISHBACK: I was looking for identical wording and didn't find it. That's cause we're using "significant" in one case and "major" in another.

MS. YORK: Okay.

MR. FISHBACK: Okay.

MR. BYRUM: That was Dennis Doughty over here on the staff.

Please be sure to identify yourselves for the record.

MS. YORK: So it would be covered in Number 3 under Tier 2.

MS. HINKLE: Could you -- as in Number 5 on Tier 1. Whether it be Kay or someone else, could you -- someone -- restate for me, briefly, two arguments here,

which I think I understand. Not treating incinerators any differently than anything else, but then there was a reason why it was put here to begin with. And so --

MS. BYRUM: Basically -- if I could do that for you, the reason is because commercial incinerators typically are an issue that is highly visible, has a lot of public interest. And we did that to cause them to go through the public scrutiny that we believe the public was -- is asking for in that area. However, I -- and we added that as a -- simply because of experiences we've had with incinerators.

MS. HINKLE: And the reason we're deciding, perhaps, today to leave that is we've decided that some of the thinking is that --

MR. BYRUM: I think that -- I think the major problem was defining all the incinerators that are out there, whether it be the backyard incinerators, whether it be the medical waste incinerator, whether it be a commercial hazardous waste incinerator, or biomedical waste incinerator. All the issues and all the various incinerators, we couldn't cover them with the word "commercial."

MR. FISHBACK: The other aspect, too, I believe, was that it is more important to characterize the source in terms of its emissions than in terms of

its source category. So you don't want to give preferential treatment or the reverse of that, nonpreferential treatment, to one source category and not all.

MR. BYRUM: Other questions for Kay from the council?

Since I don't know -- the way we're doing this, I don't know if you want to talk to each one of these issues. I'm just going to call on you; and if you do, go ahead, and then the rest can raise their hands.

B.J.? No comment.

Ron?

MR. TRUELOVE: Again Ron Truelove, representing the Environmental Federation of Oklahoma. And without going through each one of these individually, we would support all of the changes that were identified. The only other change that we would add to this list of sources under Section 41 is the source that's currently listed as a Tier 3 source, which we haven't addressed yet, but that's listed as 15-42.

That particular source, the construction permit for a new major facility, under current rules would only go through the kind of public review that's outlined in the Tier 2 procedures. And therefore we think it more appropriately fits as an addition to the Tier 2 source

list. And that air quality permitting should not have Tier 3 applications.

Some other media permitting may warrant that Tier 3 approach. But EFO does not believe that air quality permitting should fall under -- any air quality permitting should fall under Tier 3. And all other requirements as they currently are should be fit into Tier 1 and Tier 2, because those two sets of tiers adequately cover everything that's currently required.

And I'll readdress that comment when we get to Tier 3, also. Thank you.

MR. BYRUM: Anyone else?

MR. NICHOLSON: Scott Nicholson with ECCI out of Enid. I'd like to concur with EFO's position on changing the Tier 3 up to Tier 2 and making the other changes that were discussed, dropping the commercial incinerators and making the other changes.

MR. BYRUM: Anyone else?

One more time. Anyone else wish to speak?

Mr. Chairman.

THE CHAIRMAN: We have language on items 1, 3, 5, let's see, 7, which was deleted, and 8, which we have made item 7. We have had a comment from the audience also to consider. I would entertain a motion on all of the ones that we have defined in new language or

deletion. Plus, if you desire to incorporate a change that was also asked for, then you can do so.

MR. BRANECKY: I guess it's my understanding, then, not having the Tier 3 category as additional requirements that currently do not exist for air quality permits. Am I right?

MS. YORK: That's what the legislature intended that to apply to the most complex and complicated applications.

MR. BRANECKY: Even though --

MS. YORK: The legislature has asked the councils and the Board to consider the following determinations, the following criteria, when making these decisions: the significance of potential impact of the type of activity on the environment; the amounts of volume and types of waste proposed to be accepted, stored, treated, disposed, discharged, emitted; the degree of public concern traditionally connected with the type of activity; the federal classification, if any, for such proposed activity, operation, or type of site or facility; and any other relevant factors.

If the legislature, when creating this process, created it with the intention that the Tier 3 process would be reserved for the most complex, the most complicated, and the most difficult permitting issues

that this department faces. Based on the emphasis that the federal government is putting on the Title 5, Part 70 sources, the department believes that this falls in that category and should fall into Tier 3 classification, for new sites that have never been permitted.

For existing sites, you have already talked about amending that to be in Tier 2. But for new sites which the public has not dealt with before, the department is proposing to put those into Tier 3, which (1) gives the public the right to meet with the department to find out where they can have meaningful input in the permitting process, and (2) that gives any member of the public who has environmental interest that may be detrimental -- detrimentally affected by the construction of the site to ask for or participate in an administrative hearing at the administrative level, that's presided over by the -- by an independent administrative law judge.

The advantage to applicants for having this proceeding available at the administrative level is that if the permit is issued and the public file an appeal, the record is limited to the issues that were in the administrative proceeding only. It is not a new trial where everything is opened.

On the other hand, the advantage to the public is that this allows them at less cost and in a more timely manner to litigate the issues that they truly believe need to be taken into consideration that the department did not take into consideration when the decision was made to prepare the proposed permit.

THE CHAIRMAN: I understand completely. And that's a joke, because I don't understand a word you said. Kay, in simple terms, are you saying that the items which we discussed before Ron made his comment are in concert with the legislative action that we're supposed to take?

MS. YORK: Change is before --

THE CHAIRMAN: Okay. How about Ron's comment?

MS. YORK: To leave all air quality permitting out of Tier 3, that is not within the intent of the legislature. And I don't believe it's within the intent of the Board.

MS. HINKLE: Okay. So these changes involving Tier 2 you believe are to follow the intent of the legislation and the Board, but what we just discussed with Tier 3 does not?

MS. YORK: That's right.

MR. FISHBACK: Do I make a motion that we consider them separately?

MR. BYRUM: We have a couple of people that wish to comment maybe before we get there.

B.J., raised your hand first.

MS. MEDLEY: B.J. Madley, Earth Concerns.

I appreciate what Kay had to say, and I think if the corporate people take a note of one of things she said, the advantage to you is that if we are unhappy with the new permit and administrative hearing is held and then we get ruled against and we go on to court, the only thing we can deal with are the items in the administrative hearing. Obviously, that somewhat cramps our style but at least puts you in the administrative position, and that's opening the door in other areas.

But the biggest thing she said is the fact that we can go into an administrative hearing with minimal funds, and the biggest problem we have in this state is none of us environmentalists have any money. And we don't have a big, you know, money pot somewhere where we're able to draw from to do a lot of lawsuits. And so the administrative hearing process is our only potential way to get, you know, an independent -- and I put that in quotes -- person to review both sides and make a decision.

And I think we've seen many people in this state, you know, spend an awful lot money dealing with,

you know, fighting a big company and losing everything. You know, I've got a couple of lawsuits going personally, and I'm in debt for \$25,000 so far. I mean -- and I don't make the kind of money to do that. And I say this not to go cry and moan and help me get my kid through college, but what I mean, it's a tough situation; it's very expensive, and no one pays for this but me. I mean, we don't have a bunch of people and funds to do that. We don't have a bunch of big groups with money.

So it gives the ability to at least have a way. Then if we lose there, then we've got to make a decision if we can get the money. But it gives that one more step. And I think for Oklahoma to make use of this, I think you'll get a better benefit from the public knowing that that's there if they need it.

And whether we'll use it or not, I don't know. But I really think the public will feel better about it and I think it's -- we've just seen too often where we've not had any other place to go except to court, and it's awfully expensive to do that. And I know some of these companies love that because there's times we wanted to sue and we can't because we don't have the ability to.

MS. YORK: May I also bring up something. I

think Dennis Doughty would be in better position to describe this. The Title 5 requires a permit to be appealable.

MR. DOUGHTY: Subject to judicial review is what it says, Kay.

So that -- well, I was going to add this, that under the Clean Air Act, before it was amended recently, all Title 5 permits would have been a Tier 3 review. And strange as it may seem, there was a lot of concurrence by both industry and the public that this was the way that it could best be facilitated because -- well, in the first place, most of your controversy is going to be settled at the public meeting forum. And they bring everything at that forum and settle most issues, except those that we're just at loggerheads about. And then you go to administrative hearing where you in an administrative forum, where it's a lot cheaper and where people like B. J. can come in and have it heard before an ALJ that's used to hearing these sort of things, familiar with the issues.

And then the appeal is on the record. And when you go to district court as opposed to having a whole brand new trial. And having talked to people in Texas and the way they run their program down there, any permit was subject to a hearing. And where they had

their hearings -- where their appeal was on the record, there was very little change or no change by the district courts. Most of the -- most of the determinations at the department level were upheld.

And any of you that's ever been in court on environmental issues may think you know what the result's going to be, but I guarantee you, you really don't know how the Judge is going to see things.

So I just thought I'd add that bit. And so actually as opposed to what the old Clean Air Act was, you only have one instance now where you can have a Tier 3 as opposed to everything under Title 5, previously.

MR. BYRUM: I believe Ms. Perry wanted to speak.

MS. PERRY: Yeah. Debbie Perry from Enterprise Services. What I was going to say is if the true intention of the statute is to address the most environmentally significant courses under Tier 3, it seems like the direction that we had earlier today with the commercial incinerators, although it's very difficult in defining those, those really are the most significant sources that we deal with in the state.

Hazardous waste incinerators, commercial incinerators, and possibly commercial biomedical incinerators seem to me the ones that could possibly be

in Tier 3, much more than necessarily just a Title 5 source of any kind.

MR. BYRUM: Ron, did you -- okay.

MR. TRUELOVE: I want to make sure that I understand this "major" -- kind of like the same line Bill was talking about -- "major" can still be mighty small. The NESHAPs for the chrome platers, for this instance, makes all of them, I believe, subject to the Title 5 permitting. And those can be mighty small facilities.

The state has been dealing with some of the foundry associations. Let me tell you, those are -- those aren't too much bigger than just a few people in some cases. So major facility doesn't mean it's a very complex facility at all. And maybe the balance that you can strike, somehow, is not just all of the Title 5 facilities, cause that can get mighty small; if you realize it.

So maybe some balance above that. The commercial hazardous waste incinerators is obviously, I think, one that might be a controversial -- those are going to be caught under Tier 3 under the hazardous waste tier permitting anyways. I mean, you can assume other factors as I understood Kay to say. But just making it open to all Title 5 facilities is going to be,

I think, too big.

MR. FISHBACK: I would disagree with Debbie's statement that incinerators or commercial incinerators are the most environmentally significant. They may be the most controversial and they may have the highest public visibility, but there are many other major sources that I can think of that have a more significant impact than incinerators. Because as Mr. Doughty said earlier, they're very tightly regulated and the emissions from incinerators are very small.

So I think we have to distinguish between environmentally significant and controversial.

MR. BYRUM: Are there people who wish to speak?

MS. MEDLEY: Are we moved down now to 42? Because I do have comments.

THE CHAIRMAN: No. No.

MS. MEDLEY: Okay. Well, I'm just trying -- I'm just saying I don't think 42 should go into 41. And I'm assuming that's what you're getting ready to vote on. And I would like to comment on 42 once we get there, after you not approve moving 42 to 41.

MR. BYRUM: So noted.

With that, I hear no one else wishing to speak on this particular issue.

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Mr. Chairman.

THE CHAIRMAN: I'll entertain a motion.

MR. FISHBACK: I would make a motion that -- is it subchapter or subsection 41?

MS. YORK: Section 41.

MR. FISHBACK: Section 41. I would make a motion that Section 41 be modified, and I don't know if you want to read all that again -- as we've discussed here, with the exception of moving 42 -- Section 42 statement into 41. In other words, all the other things that we talked about: I make a motion that we adopt those recommendations that you read separately from that. In other words, Section 41 Number 1, Section 41 Number 3, 5.

MS. YORK: Delete 7.

MR. FISHBACK: Delete 7.

MS. YORK: And add in a new 7.

MR. FISHBACK: And add in a new 7 and leave 42 alone for now. In my current motion.

MR. GLASS: Second.

THE CHAIRMAN: Okay. I have a motion and a second. Any further discussion or comments on this? If not, Myrna, will you call the roll?

THE SECRETARY: Mayor Taron?

MAYOR TARON: Aye.

THE SECRETARY: Mr. Branecky?

MR. BRANECKY: Aye.

THE SECRETARY: Ms. Hinkle?

MS. HINKLE: Aye.

THE SECRETARY: Mr. Fishback?

MR. FISHBACK: Aye.

THE SECRETARY: Mr. Glass?

MR. GLASS: Aye.

THE SECRETARY: Mr. Breisch?

THE CHAIRMAN: Aye.

MR. BYRUM: Moving on to Section 252:002-15-42. Kay.

THE CHAIRMAN: 43. Oh, I'm sorry; you're right

MR BYRUM: 42.

MS. YORK: Based on comments received by the public and the council and on behalf of the council, the department recommends that council consider the following amendment: To 252:002-15-42, lines 20 and 21 of this document, to strike through the words "or existing." So that it reads: A construction permit for a new major facility. To strike through the words "or commercial incinerator." So that it reads: A construction permit for a new major facility requires a Tier 3 application. For a new -- did I say new? New

major facility.

MR. BYRUM: Questions for the council?

MS. HINKLE: Would you read that again.

MS. YORK: Yes, ma'am.

MS. HINKLE: The whole sentence.

MS. YORK: The way it would be amended: "A construction permit for a new major facility requires a Tier 3 application." And that is defined as part 70 sources.

MR. BYRUM: Additional questions from the council?

Questions from the audience? Discussion?

MS. MEDLEY: Comments.

MR. BYRUM: B.J.

MS. MEDLEY: B.J. Medley, ECO. I approve leaving this in Tier 3, but I disapprove of taking out the incinerator. I appreciate what Mr. Oxford was trying to do. I understand the problem there; and I think for the benefit of our discussions earlier, I would at least say leave in "or commercial incinerator."

I state this for two reasons. One is: You are correct, the problem on incineration is not strictly the air emissions which really, I think, are higher than we all say they are. Okay. But is the major public concern regards incineration. And I think if I was

1 reading this as a layman -- and I don't consider myself
2 quite a layman -- but if I subsist and had a copy of
3 this and had an incineration situation occurring
4 potentially near me and saw there was nothing in there
5 about that, I might think it was never, you know, not
6 even covered.

7 So I would like to see it in there. I think it
8 is a hot issue when it comes to the public. I mean, I
9 can't tell you all the calls I get. I'm right in the
10 middle of, you know, the blue circle permit thing right
11 now, because people, you know, are preparing for
12 incineration of even nonhazardous waste, much less the
13 potential for biomed or hazardous. So I think we've got
14 to consider those situations again.

15 You now, one of the things I keep preaching to
16 some of the corporate people that I talk to a lot is,
17 you know, the more open we can be and the more
18 advantages we can give the public to at least review,
19 the easier it's going to be to communicate when we go to
20 public meetings and deal with these things. And I think
21 that's such a hot issue that if we're going to put it
22 in, I think we're just better off, and I would feel more
23 comfortable doing that

24 MR. NICHOLSON: Scott Nicholson with ECCI I
25 just want to make the comment one more time. I think

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the definition of major facility in some cases is so small that we're going to detrimentally impact some of our businesses who are trying to meet market demands. Out there in the streets, we have certain segments, certain industry segments, that are growing in response to demand, and the thresholds for these major facilities -- the ten tons per year, for the HAP and 25 combined is not a significant enough threshold to warrant a Tier 3 approach to these facilities.

The wood industry right now in some segments is growing very fast in furniture manufacturing; and they'll cross the 10-ton, 25-ton threshold real quick. And we're going to hurt that segment of Oklahoma industry. We need to consider a higher threshold.

MR. BYRUM: Other comments?

MR. TRUELOVE: Ron Truelove again, with the Environmental Federation of Oklahoma. And I just want to -- without restating all the words -- say that the comment with respect to the Tier 2 list what I suggested moving Tier 3 up to Tier 2. I want that for the record under this Tier 3 discussion. And as an example to what the gentleman just talked about regarding relatively small sources, a dry cleaning operation would be a major facility.

That if mom and pop wanted to build a dry

cleaner, they would be potentially subject to the Tier 3 requirements, which appear to be pretty onerous and definitely are in addition to existing requirements. And I strongly recommend the council weigh all those things very heavily and even consider tabling this particular approval item until potentially a special meeting could be called and would give the council, specific council members, staff members, representatives from the environmental community, representatives from industry a chance to meet and discuss specifically what ought to be in Tier 3.

As Kay read the intent of the legislature, it seemed to me the intent was to consider all of those things, not that necessarily would an application or would a permit have to be forced into a particular category. And I think there are things that potentially may, may fit this particular category; but the all-inclusive term "major facility" can mean such small operations that could really hamper a new company and new industries who are located in Oklahoma. And I would like that stated for the record.

THE CHAIRMAN: Ron, when do you believe your fears would be realized?

MR. TRUELOVE: When do I believe that would be realized?

THE CHAIRMAN: Uh-huh.

MR. TRUELOVE: If you've got -- if you're wanting to locate to a community where you -- I know of a couple instances where people are concerned in an abnormal fashion more in the area of wanting to fight anything regardless of the logic, regardless of science. And it gives the opportunity -- I appreciate what B.J. had to say. And communication is vital, tremendously vital to any of the permit processes. And you have in many cases people who will absorb that good science, understand it, and move forward with working with a company to achieve what's best for the environment as well as the economy.

But I've had personal experience -- and I can't reveal particular people -- but I've had personal experience where good science and logic is thrown out and the particular citizenry were looking to make a buck, basically. And that -- and they use the process to their advantage.

And I don't want to see a process which can abnormally hamper things beyond what should be done.

MR. CHAIRMAN: Okay. Really my question also is asking what time frame? Six months from now, a year from now, or when certain permit applications are submitted? When?

MR. TRUELOVE: When what?

THE CHAIRMAN: When? What time? Six months from now, a year from now? When do you think these things would come about?

MR. TRUELOVE: Oh, it's the construction of new major facilities.

THE CHAIRMAN: Okay. Do you believe --

MR. BYRUM: It would be after Title 5 approval.

THE CHAIRMAN: Sir?

MR. BYRUM: It would be after Title 5 approval.

THE CHAIRMAN: Do you believe then that people that would be affected could come to this council and ask for modification of this rule?

MR. TRUELOVE: Sure.

THE CHAIRMAN: Okay. That's what I would like to see. I would like to get this rule on the books and then let the people come. We'll modify it, if there's reason to. And I think all the council -- we've done it before -- I think all the council agrees to this.

MR. BRANECKY: Well, I think there's sufficient concern from the public that we do need to look at this. If there's -- if we don't have -- we do have a choice, though. We don't have to act on this today.

THE CHAIRMAN: I would like to hear some

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reason that's really a good reason not to have it on the table.

MR. FISHBACK: Well, I mean -- can anybody on the staff or anyone give an estimate of the amount of time, the amount of additional time that a Tier 3 application would take versus a Tier 2?

MS. YORK: The process meeting is done in conjunction with the administrative completeness review. So that does not take any additional time. The putting in application -- turning a draft permit into a proposed permit and putting it out for public review takes 28 additional days for public review.

At the end of that time, if an administrative hearing is not requested, the permit would issue as is. If an administrative hearing is requested, we would go into the administrative hearing procedures. I am -- I manage that office of administrative hearings, and we have had a few administrative hearings in the solid waste area to date.

Their law has required that since 1990. And we have had a few of the administrative hearings.

We have had -- we have had them range all the way from one day to two months, with regard to how fast the attorneys work getting information back and getting it rescheduled before the administrative law judge. The

administrative law judge comes to the department once a month, and we schedule things during, during his time there. We schedule the proceedings and take additional days if we need to.

I've never had a hearing, evidentiary hearing, last more than three hours. Getting to that, where we do allow discovery, a discovery has never been taken advantage of, by the way. If it is, you call for it; but there has never been any discovery that has occurred.

MR. FISHBACK: And the important time frame is not the actual deliberation time but the elapsed time?

MR. YORK: Yes.

MR. FISHBACK: The delay that's incurred by the applicant --

MS. YORK: The attorneys.

MR. FISHBACK: -- getting the source.

MS. YORK: And I -- and when I managed the proceeding themselves, I give deadlines even though through the rules, there are no deadlines. The only deadline that's there is in the statute, and it requires that the first hearing be set within 60 days of having received the request.

I might point out that under the current law, the air quality -- the contested case hearing that is

available to Title 5 permits are limited -- are not limited to new science, but they are subject to those under -- for existing science and modifications as well and renewals. This would not include renewals nor modifications. And that the department has the right to stay issuance of any permit based on contested case proceeding request. And that contested case also is before the department and would go under the same procedure as the administrative hearing.

So in a way, the air quality applicants are actually having less possibility of administrative proceedings than more, under the current air quality law that pertains to renewals and modifications of existing permits, not just to new unpermitted sites.

MR. HYRUM: I think Dennis may have something to say.

MR. DOUGHTY: Just for the sake of clarification based on some of the comments. My impression was that this Tier 3 was to apply only to new constructions where there was a siting issue not a source that was once minor and became a major. Now, if I'm wrong, somebody tell me.

Kay, do you know?

MS. YORK: This is for new nonexisting sites. So if they are a minor facility, and they have to have a

Title 5 permit, they are still an existing site and would fall under Tier 2 with the requirements.

MR. DOUGHTY: So we're just talking new construction.

MS. MARTIN: Kathy Martin, DEQ Customer Assistance Program. I worked on the dry cleaner NESHAP and I would just like to reiterate what Ron Truelove said and probably what Scott Nicholson was bringing up is that NESHAPS bring in a lot of small businesses. In the customer assistance program, we deal with a lot of small businesses that have never been regulated before.

For instance, a dry cleaner is triggered into a NESHAP just because they use perchloroethylene. There is hardly -- there is minimum amount. It's 180 gallons per year. And if you take this times 14 pounds per gallon as the density, you have 2500 pounds per year perc., okay.

Let's assume on a 100 percent volatilization, what you have is you have a major facility because of the NESHAP, with 2500 pounds per year emissions, as compared to a major facility due to just HAPS, which is 10 tons. Okay.

A tremendously different -- there's a wide disparage between 2500 pounds and 10 tons, obviously. So like Ron says, we're going to have a lot of small

facilities with very small emissions of hazardous air pollutants, granted; but they are operating as a major facility. But they are because of the unique definition. Because they're there as a NESHAP.

MS. PERRY: But they're still --

MS. MARTIN: -- because they're there as a NESHAP.

MS. PERRY: -- but they're still considered area sources --

THE COURT REPORTER: I'm sorry, but I can't write --

MS. MARTIN: So I have a solution.

I'm sorry, Debbie. But I think you may add to my solution.

The solution may be that it's a major facility, unless major solely because of a NESHAP would be a Tier 3 application. And that would get rid of all the small businesses.

MR. BYRUM: Debbie.

MS. PERRY: Debbie Perry. I was just going to respond to that. Those sources that are covered in the NESHAP that are not truly major are really not considered major sources. They are area sources, and let's look at the Title 5 permit. And they're also subject for NESHAP rules. But they are not considered a

major source, and they wouldn't necessarily fall under a Tier 3 rule.

MR. MARTIN: Well, that is not clear.

MR. BYRUM: I'd like to add something here. We also have provisions in the Oklahoma Act and the Federal Act for the Small Business Assistance Program, where the small business can go through that program and request a dispensation on any issue through the air quality council. For these businesses that are adversely affected by this particular rule, I think that's probably the best avenue for them to use.

They can petition the council for special exemptions, and those can be granted by the air quality council upon recommendation of the small business assistance program.

Kathy, I helped write the language. I'm sorry.

MS. MARTIN: It's not that I disagree with you, but I think that would be hundreds -- I'm sorry -- hundreds and hundreds of facilities that would be required to come in and get a special variance, when you could just eliminate them from Tier 3, keep them in Tier 2 or Tier 1, where they rightfully belong. By just making one --

MR. BYRUM: I think the council probably has the ability, as does the small business panel, to

recognize that a class of industry is affected and ask for one-time exemption.

MS. MARTIN: Okay. But once again, it would require them to get organized enough to come and ask for that; and I don't believe that's fair, when all of us here recognize that problem.

MS. YORK: May I suggest something? Bill, back to your original question as to what point in time is this going to make a difference. The Title 5 program is pending. Then we have a staggered submittal period over a five-year period of time.

This particular rule applies to applications that would be filed by new applicants for new sites that have never been permitted or not in existence, and they would apply the applications like those that were filed after July 1, 1996.

So the essence of this is that it is not going to take place immediately. But we are under a statutory deadline to make these approval -- approve and recommend to the Board and for the Board to make its adoption.

It would be my suggestion that perhaps some thought be given to modify the definition for major facility. That would eliminate the applicability of this to the small folks that there's still time to do that. That is in the uniform rule, and we can bring

that back to you in December. And the issue can be then focused on the definition of major facility for that purpose. That would have no bearing on Title 3 as it was amended and read to you a few minutes ago.

MR. FISHBACK: Tier 3, not Title 3.

MS. YORK: Tier 3.

MR. FISHBACK: I think Kay has hit the essence of the argument here. The two sides of the issue is, as I see it, are adequate public participation in the process of permitting facilities that affect them. The other aspect of it is sufficiently short time periods for those facilities to get built, and that's the essence of the job here is balancing. Environmental protection with economic development. I mean, those are almost buzz words but that is fact.

And one way to do that, as Kay suggested, leave this requirement in Tier 3 and adjust the definition of "major facility," or provide enough exemptions to it that we don't penalize the small business. I think that definition "major facility" is way too broad to leave this intact. In Section 42. However, as I look at the differences between Tier 2 and Tier 3, I see that both of them offer notice of draft permit; both of them offer public comment period; both of them offer public meetings; both of them require a review of comments by

the DEQ. And so, my feeling here is that interest of the affected public are adequately protected by Tier 2 application for all facilities.

And I really am primarily concerned about the imposition of new requirements which I believe this, does -- Mr. Truelove said earlier -- and my experience would agree with it -- that all of the existing

requirements of the permitting process in Oklahoma fit into either the Tier 1 or 2. And so that if we're permitting some of into a Tier 3, we really are imposing new requirements.

I would not even suggest what I'm about to suggest if I felt the public didn't have an opportunity to adequately participate in the process. I feel like they do. I feel like they also have had. In fact, the public can be a very vocal and very effective in opposition to facilities and always have the opportunity to participate.

So any recommendation and any motion, if we get to that point, is to move the sentence -- well, delete a commercial incinerator, because I don't think any source category deserves special consideration above the other, but delete that term and move what's in Section 42 into Section 41.

THE CHAIRMAN: Section 41.

MR. FISHBACK: Move Section 42, the sentence in Section 42 into Tier 3, into the Section 41 under Tier 2 after deleting the reference to commercial incinerators.

MR. BRANECKY: What is your reaction to that?

MS. YORK: The Department is in agreement with that.

MS. HINKLE: And I have one question, Dennis. As this was printed, we had "or existing." But I heard you say that your understanding of the intention of the Department was not the way it was printed here?

MR. DOUGHTY: That's what I understood.

MS. YORK: There was mistake.

MR. DOUGHTY: I think there was some changes made in the meantime.

MS. HINKLE: So this is a mistake this "or existing"?

MR. DOUGHTY: I think so. I think so. I don't think it was included because siting was an issue that I think entered into this. If you're going to have a brand new anything that's a major next door to you, although siting is not really our thing; it's not our jurisdiction to determine siting. Then -- what should I say? The opinions and emotions run pretty high oftentimes on something like that. And I think the Department felt that certainly a sufficiently large new

nonsited source go through the Tier 3.

MR. BRANECKY: I think -- I guess there's sufficient concern on part of the public and, you know, we've had air quality rules in effect for years, and we lived with them. They seemed to have worked.

This adds new rules, new procedures; and I guess I would have to be hesitant to say: Let's put it there and then we'll change it. I'd rather pull it out and go back to work on it and put it back in if we needed to. Because to me, it's always hard to change something wrong once it's there.

MR. FISHBACK: So your recommendation, David, would be to delete it from 42 and put it nowhere today?

THE CHAIRMAN: Say again, Bill.

MR. BRANECKY: Are we covered if we do that? Does that fall under 41 anywhere?

MS. YORK: No, it doesn't, no.

MR. BYRUM: No. It doesn't.

MR. BRANECKY: I would say to do that and also work on this with the public and come to the same consensus, and if we have to, move that back into Tier 3. I think, there's enough doubt, enough concern, enough controversy that we need to look at that before we leave it in Tier 3.

MR. CHAIRMAN: David, are you saying delete 42?

MR. BRANECKY: Delete 42, and I guess the same thing as Bill moved into 41.

MR. BYRUM: Create an Item 8.

MR. BRANECKY: Or there was some suggestion -- changing 7 to a new or existing.

MR. FISHBACK: Yeah. That covers both of them.

MR. TRUELOVE: It's advice --

MR. FISHBACK: Yeah. Good point. Two items are easier to deal with later.

MR. BRANECKY: So it would be the same as Bill's then. But I think there's enough concern and enough doubt that we need to look at that, and I'd hate to leave something in there that -- there's so much concern, uncertainty.

THE CHAIRMAN: Back on page 9, part 5. What can we do to reference 42 there on line 6?

MR. BRANECKY: Well, I guess you could still have the section. I just don't have anything in it.

MR. FISHBACK: Would you say again where that is, Bill?

MR. BYRUM: It's line 6.

THE CHAIRMAN: Line 6, previous page.

MR. BRANECKY: Can you just have the section and nothing in it?

MR. FISHBACK: Sure.

MR. BRANECKY: And still the reference to section -- it just be empty.

MS. MEDLEY: I'm not signing that you're not calling on me; I'm signing there's people up there discussing this.

MR. BYRUM: I was signaling to you that I will get to you, B.J., in just a second.

B.J. is wishing to address us again.

MS. MEDLEY: B.J. Medley, ECO. I want to discuss, Bill, what you mentioned about the fact that on the permitting process is the citizens involved in Tier 2 is Tier 3 and that's absolutely false.

MR. FISHBACK: That's not what I said.

MS. MEDLEY: You said until you get done with the administrative hearing --

MR. FISHBACK: No. I specifically listed four items that were in common with both processes.

MS. MEDLEY: Well, which most of those are administrative with DEQ. Let me go through these. The filing, of course, the filing has nothing to do with the public, per se, other than eventually they will have opportunity to see that and notice in the paper, which are appropriate. But in regard to the notice of opportunity for process meeting, there is not -- under the -- on Tier 2 there is only on Tier 3. And that's a

meeting on the permitting process held by DEQ before they begin the review of permitting process. And, I'm sorry, I don't remember the gentleman's name next to you, Cathy. But you made a comment in regards to the public is protected because of the fact that, you know, the public comments, you know, the ability to make public comments and the filing and these problems and that things have gone well in air quality so far. And that's not correct.

I don't know how long you've been on board, and I'm not sure how many air quality public meetings you've been to, but all those meetings occur, after the permit is basically approved and then we go -- luckily we are wonderful people. I will say, like Kay, who runs these air meetings for us and does just a beautiful job. But we know when we're going in that permit is basically approved, and we're just there to make the final comments before they sign off.

And so the advantage of Tier 3 is the fact that you have the ability to actually have a meeting before the DEQ reviews and completes review of the permitting process, and I think that is really an important step beyond the administrative hearing down at the bottom in that process. So there are some -- those are some two real major items, besides the public comment period,

which if you notice on the time line here, our permit processes occurs after -- I repeat -- after the draft permit or draft denial is done. And so this gives you one more step, and I think it's important.

I have a real problem with us ignoring Tier 3, by allowing -- and if you want to adjust wording then I certainly accept the fact this has obviously some problem in the wording of that -- putting potentially smaller facilities in there, even though based on the word major, they fit in that major category but aren't really major emitters or whatever. I understand your concern about that.

But let me go back to the fact that the purpose of the law written by the legislative body was to say if you have a major potential source and it wasn't done by pound; it wasn't -- it was saying, you know, you pick -- you pick how you want it. But let's have a Tier 3 for complete review for public benefit, not just environmental degradation but concern by the public, et cetera, that was listed, that Ms. York read to us.

And I'm saying that Tier 3 is there for a reason and there are -- and I can list you right now probably three or four facilities that if I was aware of, I would say: Boy, I sure as hell would want them in Tier 3 not Tier 2. I'd want as much information and

ability to comment before DEQ begins their process of review.

The permit as I would at the very end after they have already reviewed the permit, and then I get to have a public meeting, and I also might very well want and appeal and so I think we have got to be real careful. I appreciate you all's thoughts about we can't come to a decision and it's 5:00 o'clock, and I want to go home just to literally put this aside and say move it up to Tier 2, because it makes life easier for us. I have a real difficult time with that. And I don't think it's going to affect the economics. Kay has already given you the rundown of where she thinks it is going to extend, a potential of, what, 25 days, somewhere in that vicinity, potentially, and then a maximum of 60 days.

I mean, this is the longest hearing she has had in solid waste. And we all know this permit can take forever to be done anyway. So I mean, another 20 days is not going to be a major problem, if that occurs. And she said that's the longest; many have been two or three days. We're not talking an extension of time or major cost to industry to come in and do this, other than the smaller facility, which I accept; and I think there needs to be that discussed, thought out, and done with. But do not eliminate Tier 3 because you guys can't

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decide how to put aside the NESHAP group.

I mean, we're all tired and we want to go home, but I really think that's what we're prepared to do here today, to either delete it totally or move it up to Tier 2, and I do not think that is the road to go.

MR. FISHBACK: Two comments, if I may. I think one thing, that may be neglected in your analysis is that once this permit application is filed with an agency, it is a public document. You can get involved in the process as early as you want.

You don't have to wait till the draft permit is issued by DEQ.

MS. MEDLEY: Bill, I understand, but there are citizens out there who don't know the process like we do, and that's where we run into the problems. We may not know that that permit has been filed, and we may --

MR. FISHBACK: Is there, what, a yearly, a monthly, or weekly permit?

MS. MEDLEY: Bill, how often do you think I t money to have the ability to take a publication such as that?

MR. FISHBACK: It's a freebie now.

MS. MEDLEY: We have people that call us and let you know sometimes when it's going on. But, Bill, you are talking about a 200 -- you are talking about

citizens in the state who don't even know what a permit is, who are the ones that are going to be affected by it, and eventually they will be the ones we will be working with to help in the process of doing this.

MR. FISHBACK: And those are the same ones that they don't even know what a permit is, and they are going to get involved in a public meeting to review it?

MS. MEDLEY: They are certainly going to get involved as soon as they know about it. I can guarantee you I get five calls a week, Bill, from people around this state who go: So and so, you know, the biomed incinerators. I got a call because the lady remembered my name from the state fair this previous September, and she picked up the phone and called me, and we went down and worked with her. And that's how we were able to get the biomed incinerator stopped and the law passed on certificate of need. We wouldn't have done this if she wouldn't remembered to call me, and she didn't know where to go before she called me. And I'm saying every citizen has no idea. You live it; I live it. I mean, I know what department to go to and who to call, but the average person has no concept. And that's why we're here to hopefully help them and tell them who to call and work with them.

We take our time and effort to sit here and make sure that those people who know nothing about the process of the Environmental Quality Board or Act, or any of the agencies that we have to deal with on an environmental level, that we make sure they're protected because they can't come, number one, most of them; and, number two, they don't even know that you exist. They do not know what you do.

MS. YORK: May I make a comment? When the legislature took two years to do this Act, the first year they did it major/minor permits and modifications and decided their two-tier approach wasn't sophisticated enough, so they went to three tiers.

What we have on Tier 3 is pretty much the major permit that they started with. They created the Tier 2 as a middle ground. The Tier 3 process, except for that process meeting up front they can ask the department for the Tier 3 process is already in place and has been for solid waste, hazardous waste, and water quality.

One of the intentions of making this uniform was to also apply it to air quality. It was reserved for the most complex, the most complicated, and if the NESHAPs applications don't fall in that category, then this needs to be modified. But I would really urge you to consider your obligations to the public at large, in

giving people who have the prospect of having a major facility, large facility come in next to them and have an opportunity to have an administrative proceeding at the administrative level, rather than waiting until the permit is issued and then going to court. I really urge council -- you to consider that.

MR. BYRUM: Ms. Hinkle.

MR. HINKLE: Do we have a motion on the floor yet?

MR. BYRUM: No.

MS. HINKIE: I would like to make one. If this is -- then we can still have further discussion, but --

THE CHAIRMAN: Is that proper?

MR. BYRUM: Is there anyone else who wishes to speak to the issue?

Then I turn it to you.

THE CHAIRMAN: Then we can make a motion.

Kathy.

MS. HINKLE: I would move the language here in 42 be as printed with the exception of deleting "or existing."

THE CHAIRMAN: I understand that you're leaving in the language "commercial incinerator."

(A discussion was held off the record.)

MS. YORK: That's a hazardous waste program.

THE CHAIRMAN: Do I hear a second to this motion?

Again, do I hear a second to this motion?

MR. GLASS: I'll second it.

THE CHAIRMAN: Okay. The motion has been made and seconded.

Any further discussion, comments?

MS. PERRY: Debbie Perry. I would like to suggest that if you're going to leave the words "commercial incinerator," that you include -- that you add the words "commercial hazardous waste for biomedical waste incinerator" to specifically those noncontroversial incinerators, and not include all the little small ones that may not be of concern.

MS. HINKLE: Well, I guess I have felt some level of assurance from some of the statements I've heard from Larry and Bill about how these things can be handled, whether it is down the road defining something or treating things as a class with an application. Can it also be dealt with in the -- with commercial incinerators or is this something we really do have to hash out here in the language?

MR. BYRUM: As I said earlier, we included the commercial -- the word "commercial incinerators." There we were looking at those that are very controversial

incinerators. It may not be the best word, that's why that was included.

We know that that's an issue with many citizens of the state. I understand what Bill is saying about singularly looking at a specific class of industry. But if we do indeed look back in our records on a single class of industry, that single class of industry has generated more public input and more public outcry than any other one in this industry. So that's the reason we suggested that.

How do -- how to handle what we've talked about -- these small incinerators and that sort of thing -- I think there is a possibility, as we said earlier, going into the other rules and further defining what we mean here. I think that is a possibility that we can do.

MS. YORK: Or limiting it here.

THE CHAIRMAN: I believe from what I hear that we have to consider the option of continuing this, because I'm not comfortable with doing anything other than what we discussed as far as eliminating incinerators, and what was the other thing? Language of what -- "or existing." I'm not comfortable with doing any more than that, until I understand more about the various incinerators. And plus I am not -- I am not

convinced that there isn't a better way to solve the small facilities coming under this.

So, you know, my feeling is, we pass it with the changes that Kay talked about or we just postpone and continue it, and that is to a special meeting for next December and get hand slapped by DEQ. I mean, I want to tell you how I feel about it.

MR. BRANECKY: I don't feel comfortable with the "major facility" definition, and so I would prefer some postponement of action.

But we've got the motion on --

THE CHAIRMAN: We're still discussing --

MR. FISHBACK: We have already made a motion, seconded, and passed the other changes. Why are we required to recommend this tier classification in total or not at all?

MS. YORK: I would say in total. Because I would hate for the Board to adopt something that you then come back and want to amend.

That makes it very difficult.

MR. CHAIRMAN: Again, I have no problem other than you realize what we are mandated to do. We've had this in our possession for quite sometime. And I believe that we should have had this conversation before. But with that, either we vote on this motion or

you have to withdraw it.

If you're not withdrawing it and there's no more comments, call a roll, Myrna.

MR. BYRUM: One more comment, Ron.

MR. TRUELOVE: I want to respond a little bit to what B.J. was saying about the public sometimes not having all the adequate resources to research the rules. Believe it or not, we have plenty of major sources who don't have all the major resources either.

As it stands, as I understand your is motion to leave in "new major facilities" without -- is that correct? So it would just be all new major facilities. I respect your position that they can always come back and ask for the change in this rule.

But I think David had it probably more adequately. Until we've identified a source category or an area that needs that type of Tier 3 regulation, I'd certainly look for you to consider leaving it aside or putting it in Tier 2 than coming back once one is identified.

Because I guarantee you the small business operators out there don't look at these rules and, say: We can go to the council to change the rule. They see the government rule as a very complex organization and unapproachable through normal procedures. So

approaching it from let's have a rule until somebody says let's change it isn't very practical for a small business owner.

MR. BYRUM: Other comments?

THE CHAIRMAN: If no further comments, call roll.

MR. GLASS: Restate your proposition please.

Mr. Hryn.

MS. HINKLE: Would read a construction permit that new major facility or commercial incinerator requires a Tier 3 application.

MR. CHAIRMAN: Again, that's the motion.

Would you call the roll.

THE SECRETARY: Mayor. Taron?

MAYOR TARON: Aye.

THE SECRETARY: Mr. Branecky?

MR. BRANECKY: No.

THE SECRETARY: Ms. Hinkle?

MS. HINKLE: Aye.

THE SECRETARY: Mr. Fishback?

MR. FISHBACK: No.

THE SECRETARY: Mr. Glass?

MR. GLASS: No.

THE SECRETARY: Mr. Breisch?

THE CHAIRMAN: No.

THE SECRETARY: That motion failed. Do I hear another motion?

MR. FISHBACK: I'll make a motion I was going to make earlier. Delete lines 20 and 21 and the word "new" to our newly created line 7 in section 41 so that that would read: Construction permit for a major modification to the new or existing major facility.

THE CHAIRMAN: Say it again, Bill.

MR. FISHBACK: I beg your pardon. I withdraw that because we decided to do as to separate. I'm sorry, it's better kept separate. Okay. So I withdraw the motion I just made.

Instead of deleting lines 20 and 21, change lines 20 and 21 two step process, okay? Change lines 20 and 21 to read: "A construction permit for the new major facility requires a Tier 3 application." That deletes the words "or existing" and it deletes the word "or commercial incinerator." So once again that read: "A construction permit for the new major facility requires a Tier 3 application." That's step one. Then delete it from Section 42 and put it as Item 8, Section 41.

MR. CHAIRMAN: What?

MR. FISHBACK: Having modified as I said, delete it from Section 42 and insert it as Item 8 in

Section 41.

MS. YORK: May I make a comment. Based on my understanding of what the Title 5 requirements, that would end up reinstating into the statute the contested case hearing language that is there now, rather than that being repealed and it would continue in effect.

MR. CHAIRMAN: What are you saying, Kay?

MS. YORK: I'm saying that if this administrative proceeding is not -- not in the process, then the contested case hearing would continue in the process as it is in the statute now.

MR. DOUGHTY: Was that repealed in Oklahoma? Wasn't that repealed, Kay?

MS. YORK: Yes. Wasn't it required by Title 5 to have some type of administrative proceeding? Isn't that what --

MR. DOUGHTY: No. What it actually required was a public review with the opportunity for judicial review. The administrative hearing was actually the thing that was -- that was decided on to keep the hearings and proceedings within the department rather than having them go to district court.

So I don't know. I don't know if it did, and I don't know if it would make that come back in, but it couldn't last until it's repealed in that July of next

year or something.

MR. BYRUM: I call on Ron.

MR. TRUELOVE: Ron Truelove, EFO again. As a point of clarification: Subchapter 8 to Title 5 provision apply to operative permits after the source has already been constructed and is already operated?

The issue that we're trying to deal with is one of trying to keep construction from being delayed extensively. So if I'm personally having to give up something, I would rather be giving up the debate around the operating permit while I've already started construction and I'm moving my source forward. Then I would have to extend the permitting process while I'm awaiting to start construction.

So if I've got to give up something and it reverts back to what Subchapter 8 says, I'm willing to accept that judicial review, because of the fact that the source is already constructed under the construction permit and then you're in the middle of whatever public process is necessary under Title 5, that's fine; the source is already operating.

So I -- as we keep talking about Title 5 reverting back in; as a point of clarification, that applies to operating permit only. Title 5 is not -- Subchapter 8 are not construction permitted programs.

MR. BRANECKY: I guess I would like maybe Mr. Fishback to consider in his motion -- it seems to me we got a lot of controversy and I hate to -- I mean, despite somebody's opinion, I'm not -- at 5:00 I'm ready to go home. I hate to throw something together here tonight.

I would prefer that we table action on 42, get together and have it -- and try and hash this out and have another special meeting before the November 15 deadline.

I think we would come out with a better product that everybody can live with it. I just don't think we can do that right here tonight.

THE CHAIRMAN: Right. I concur with that. I'm just uncomfortable. I don't like to see members of the Council in disagreement with each other. Not that that makes a big difference; but, we know, I think that what I've seen this council in the past do is agree, work on things, and I just don't see this happening right now.

I think you've got a good idea but --

MR. BYRUM: I would comment that so you -- give to you that if you choose that route, that between the staff and some of the public that's here and some of the industry that's here, we should be able to come up

with some language that would be acceptable to all of the parties that are affected here.

And it's probably an oversight on our part, an oversimplification that the legislature pass that major source be adopted and just went right along our merry way. And with all the things that we've looked at, and you can tell from today's discussion, we probably didn't adequately consider the impact of small sources. And I think that's probably something that could be worked out in a matter of very few days.

The language that's acceptable, I think, to every party that's concerned. And that's the option that the Council should choose to take. We would be more than happy to work on scheduling a date, getting a room, and all those issues are necessary to have a special meeting. But I would hope that we maybe limit that to the issue that we're dealing with here, so we can have a fairly short meeting. We're very busy doing a lot of things at this time.

MR. CHAIRMAN: Okay. Bill, would you -- would you withdraw your motion?

MR. FISHBACK: I would, except the question or the answer to the question was asked earlier was whether or not we had to refer this to the DEQ Board either intact or with excepting --

MR. BRANECKY: The special meeting would be held before that.

MS. YORK: By November 15.

MR. BRANECKY: We have to have it resolved by November 15th.

THE CHAIRMAN: Okay. How do we -- can we work in that timetable? Can you set a meeting, Larry?

(A discussion was held off the record.)

MR. DOUGHTY: Ten days I believe we have to file in the Secretary of State's Office for the special meeting.

THE CHAIRMAN: So today --

MS. MEDLEY: Why? If you don't adjourn, can't you continue?

THE COURT REPORTER: Excuse me -- I cannot --

THE CHAIRMAN: We'll let Larry call on people that want to speak from now on.

MR. BYRUM: I'd asked Dennis about a special meeting. He said we could have ten days. That's something that's doable. I believe another option you have -- and correct me if I'm wrong, Dennis -- is that you can continue this meeting at another time to be announced, that we can get this information out. We do a mass mailout on that. That's an option that you have available to you.

I would like for you to -- if you choose to do this -- in your motion set out what we're going to establish in that meeting, today, so those here know what we're going to be doing. We'll reiterate that perhaps you want to settle this issue and get a record.

We can have the court reporter where you can get a record on the other items that were discussed if you chose to do that. So we'll be working on some of those whatever your options are.

MR. DOUGHTY: In addition, Larry, let me suggest that they continue this meeting. That way we don't have any notice requirements that we've got to redo and republish and everything. This is a continuation of this hearing and this meeting to another time to be determined, the time and place should be determined at this meeting, so --

MR. BYRUM: At the meeting today?

MR. YORK: Yes.

MR. BYRUM: Everybody's got --

THE CHAIRMAN: Just a second. Are you saying that we don't have to define the subject or the agenda of a special meeting? We just continue this one?

MR. DOUGHTY: A special meeting can only be held for that particular special purpose. I'm saying if you continue this meeting to another time, then all of

our public notifications on rule-making hearings and all that sort of thing will still be good.

THE CHAIRMAN: It's not a special meeting; it's a continuation.

And we should establish now.

MR. DOUGHTY: Yes.

MS. YORK: May I also point out that the agenda called for a rule-making hearing on chapter -- Subchapter 6, 7, 8 and 11 and that we really have not gotten to this, because of time considerations, and that you probably should specifically either postpone that to your department meeting or include that in your continuation. That would be up to you.

THE CHAIRMAN: Well, Kay, that's what I asked. If we just continue this one, it takes care if we want to discuss this at that time.

MS. YORK: But if you want to continue this rule-making hearing and this meeting and not get into the other, you can do that too.

THE CHAIRMAN: Oh, I wouldn't want to limit it to not getting into the other, if we have time.

MR. FISHBACK: May I ask a question? Do the discussions of record made today stand if the meeting is continued?

MR. BYRUM: Yes.

MR. FISHBACK: We don't have to revote on all that?

MR. BYRUM: Yes. You've taken action on those items.

MR. FISHBACK: All right. I'll withdraw my motion.

THE CHAIRMAN: Okay. We have a withdrawal of the motion Mr. Fishback made. I would entertain a motion that we continue this hearing at the date that could be agreed upon, suggested it be November 9th.

MR. BYRUM: That's a Sunday, no.

MR. FISHBACK: That will keep it short.

MR. BYRUM: That is a Thursday. Sure a Thursday, a golf day. Kay will be gone the 7th, 8th, and 9th.

THE CHAIRMAN: What's wrong with Monday?

MS. HINKLE: Yeah, Monday the 6th.

MR. BYRUM: There is a conference --

THE CHAIRMAN: Oh, that's right.

MR. BYRUM: -- that some of us are involved here in Tulsa.

MS. YORK: The Board meeting mailing has to be prepared by that Friday, Larry, and so that Thursday would even be a possibility.

MR. BYRUM: You're taking off --

MS. YORK: Clear through the 16th would be a possibility, yes.

MR. CHAIRMAN: How about Monday the 13th?

MR. BYRUM: That's a possibility. That's an agency-wide staff meeting, but I can miss that. We'll pull staff out if we have to.

THE CHAIRMAN: Larry, the 13th is that a consensus? Could I have a consensus where --

I think our best possibility of getting a room is in probably Oklahoma City in the Burgundy or Brown Room. I don't know that. But one thing we can do, we can kick anyone out of our conference room and have it there.

MS. MARTIN: Are you saying the 13th?

That was the date that everybody was in agreement to come to.

MR. CHAIRMAN: The only thing that I have to question you about is availability of a room in Oklahoma City, where it wouldn't be available here.

MR. BYRUM: I don't know the availability of this room on a Monday. Do you, Otis?

OTIS: It's not going to be a good day; I can tell you.

MR. BYRUM: I do know that I control the conference room in our area, and we'll throw somebody

out if we have to.

MR. FISHBACK: There is a one-room outhouse in Stroud, if you want.

MR. BYRUM: Rather large --

MR. BRANECKY: Well, I move, then, that meeting be continued on Monday, November 13th, in Oklahoma City at a location and time to be determined.

MAYOR TARON: Will we receive notice of the time?

MR. BYRUM: You will receive a mailout package on this. I suggest that you -- do you want a briefing, or do you feel that we can have another meeting and start at 1:00 o'clock?

THE CHAIRMAN: In a briefing --

MR. FISHBACK: We're still on the hearing.

THE CHAIRMAN: Let's just continue to start at 9:00 and 9:30 in the morning.

(A discussion was held off the record.)

MR. BYRUM: 9:30 on the 13th. It will be at -- it will be at the 4545 North Lincoln. I cannot tell you the room at this time.

(A discussion was held off the record.)

THE CHAIRMAN: 9:30. Okay. Do I here a second to this?

MR. BRANECKY: Any further discussion on the

hearing anyone. Will you call the roll?

THE SECRETARY: Mayor Taron?

MAYOR TARON: Aye.

THE SECRETARY: Mr. Branecky?

MR. BRANECKY: Aye.

THE SECRETARY: Mr. Fishback?

MR. FISHBACK: Aye.

THE SECRETARY: Mr. Glass?

MR. GLASS: Aye.

THE SECRETARY: Mr. Breisch?

THE CHAIRMAN: Aye.

(Court adjourned.)

.....

I, DAWN C. FLICK, CSR, having been duly appointed as Official Court Reporter herein, do hereby certify that the foregoing pages number from 1 to 70, inclusive, constitute a full, true, and accurate transcript of all the proceedings had in the above matter, all done to the best of my skill and ability.

DATED the 1st day of November, 1995.

Dawn C. Flick

DAWN C. FLICK, CSR

CSR # 11249

BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

COPY

HELD BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
HELD ON NOVEMBER 13, 1995
AT OKLAHOMA CITY, OKLAHOMA

COUNCIL MEMBERS PRESENT:

Mr. Bill Breisch, Chairman
Mr. David Branecky
Ms. Meribeth Slagell
Dr. Canter
Mayor Pierre Taron
Mr. Bill Fishback
Ms. Kathryn Hinkle

Also Present:

Mr. Larry Byrum, Protocol Officer
Ms. Myrna Bruce, Secretary of Council

By: Gayla Chronic, CSR, RPR

REPORTING SERVICES

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ATTACHMENT B

I N D E X

INCIDENTS OF TRIAL:

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PRIDE REPORTING SERVICES

Oklahoma City, OK
 November 11, 1995
 9:30 o'clock a.m.

.....

THE CHAIRMAN: We'll call the meeting into session.

If you remember, this is a continued hearing from our October 17th hearing. We're here to continue hearing on what is published as 252:010 -- I think that that has been renumbered into OAC 252:002-15 through 31 and 42. We're also continuing the hearings on 252:100-11-8-6.

Larry Byrum will continue to act as protocol officer. Larry Byrum, to refresh your recollection: At the last meeting we were discussing Tier III. We had voted on Tier I and Tier II. At the close of the last session, the counsel asked that, I believe, Dave Branecky and Bill Fishback and I think Mr. Glass, I believe, indicated he was interested in meeting with representatives -- or interested parties on what items should be included in Tier III.

That meeting did occur, and I'm going to ask Mr. Branecky to capsule the events of that meeting for us, and we'll discuss that at any length that anyone chooses to do so.

1 MR. BRANECKY: We met last Thursday, Thursday
 2 afternoon. It was Larry and me, and Bill Fishback was
 3 tied in by phone. Scott Nicholson was present, and we
 4 had B.J. Medley and Nadine Barton, Claire Newsom and
 5 Sylvia.

6 MR. BYRUM: Right.

7 MR. BRANECKY: We met for about an hour and a
 8 half, and the purpose was to come up with some language
 9 that would be acceptable, and I think we came to that.
 10 And I don't know if I need to go into details. I guess
 11 the environmental group is concerned about the exclusion
 12 or inclusion of commercial incinerators. They felt they
 13 would like to see that included in Tier III.

14 On the other hand, industry was concerned about
 15 catching all the little mom and pops and having them in
 16 Tier III.

17 I will read you what we came up with on the
 18 compromise language. I guess we can just go from there.

19 What we came up with -- a construction permit
 20 for a new major facility subject to PSD requirements and
 21 any commercial incinerator that emits 100 tons per year
 22 or more of any pollutant requires a Tier III
 3 application.

4 Is that right? So the difference between what
 5 we have here and what was originally in the language for

Tier III was a addition of PSD. What PSD does is, if you're familiar with PSD, if you have a 150-ton threshold, unless you're one of the listed sources which is subject to PSD. So that removes all of the small mom and pop operations from having Tier III, but catches the big ones.

And then B.J. was concerned about the commercial incinerators, so we included that, adding that commercial incinerator to the 100 ton.

I guess that's basically it. Anything else I need, Bill?

Bill had some concerns -- and I guess I can go into that a little bit -- by adding commercial incinerator, we were singling out specific industry groups. And so that was a point of discussion throughout the meeting, part of the meeting.

THE CHAIRMAN: Dave --

MR. BRAHECKY: Maybe I can let Bill explain.

THE CHAIRMAN: First of all, which paragraphs are we on?

MR. BYRUM: Page 10. Okay.

MS. YORK: Dave, I have a real practical problem with the language as you read it, and I am wondering if it would be possible to maybe change some of that language.

MR. BRAHECKY: I think we can word it --

MS. YORK: You had read "or commercial incinerator that emits 100 tons or more per year." The problem is with the permitting in the air quality area is that under this Tier III, this being new facilities that are not built. And so I think what we have to talk about is the potential for -- with a permitted capacity of 100 tons or more.

Because we don't know what it's going to emit. And if you use those kinds of words, then you could be bringing in incinerators that perhaps would not -- would not be in that category.

I think what you need to talk about, since you're talking about new facilities here, you need to talk about potential to emit or are asking for permitted capacity.

MR. FISHBACK: I don't have any problem with that.

The PSD potential to emit clearly includes control equipment. And that needs to be clearly understood here. That is not the potential to emit in the absence of control equipment. That's no potential to emit after considering control equipment.

So we need to maintain the PSD provisions in this.

MR. BRANECKY: Uh-huh.

MR. FISHBACK: But you could stick the word

"will emit" or "will have the potential to emit" of 100 tons per year.

MR. BRANECKY: I think that's the way it's stated in PSD.

MR. BYRUM: I was just going to caution everyone to identify themselves, because the court reporter will have difficulty if we don't.

MR. BRANECKY: So maybe what it can read then is a construction permit for a new major facility subject to PSD requirements and any commercial incinerator that emits or has the potential to emit 100 tons per year.

Do we need to define "potential" to make sure that's PSD potential?

MR. FISHBACK: We may be word smithing here, but lawsuits are won and lost on the basis of interpretation. And I'm not sure that that implies that a commercial incinerator undergoes the same criteria that any other PSD facility does.

It sounds like it's PSD and commercial incinerators as a separate entity. What we really intended was, as you said earlier, in that list of 26 sources that's in 45 C.F.R. (A)(2) point 1. We add one

1 more to it, commercial incinerators, and it's treated
2 the same.

3 MR. BYRUM: The thought occurs to me that we
4 could adopt that tech as defined and like in
5 section (A), I don't believe -- I think it's
6 section (A), it talks about, and then the list,
7 including this list. But it talks about the
8 qualifications.

9 MR. FISHBACK: We're not treating it as a
10 separate. I don't want to read it as a separate source
11 category. Because I think it invites a lot of people to
12 say: Well, why not something else? Why are you
13 singling it out?

14 So if we're going to do it this way, I think
15 it's appropriate that it be considered just like the
16 other 26 source categories.

17 MS. SHEEDY: My name is Joyce Sheedy. I am
18 with the Air Quality Service. I think David and
19 Mr. Fishback and Mr. Branecky both hit upon this, but we
20 need to be careful by using potential to emit, because
21 this is one -- there is potential to emit for Title A
22 and potential to emit. So we need to be careful when we
23 use it to define it.

24 MR. BRANECKY: Do we need to say that is the
25 potential to emit as defined by whatever that site would

be?

MR. FISHBACK: This is PSD. This is not Title A. And that's always a source of confusion too. So the net effect is we're adding one more source category, since 1977, and we're treating them all the same.

MR. BYRUM: I think also discussed during our meeting was a possible definition for the commercial incinerator.

MR. BRANECKY: I'm sorry. I forgot this.

MR. BYRUM: The staff would offer that commercial incinerator means any incinerator which burns waste material for a fee or other valuable consideration. The term includes, but is not limited to, municipal, biomedical, and hazardous waste incinerators.

Would you like for me to read it one more time?

MR. FISHBACK: Yes.

MR. BYRUM: Somebody.

MS. HINKLE: I'm writing as fast as I can.

MR. BYRUM: Commercial incinerator means any incinerator which burns waste material for a fee or other valuable consideration. The term incinerator includes, but is not limited to, municipal, biomedical, and hazardous waste incinerators.

MAYOR TARON: Do we have that in print?

1 somewhere in this?

2 MR. BYRUM: No.

3 MAYOR TARON: May we have it in print?

4 MR. BYRUM: This was done at the last hour. We
5 were actually -- everyone was gone when we were through
6 with our meeting.

7 MR. FISHBACK: If I may, I would like to take
8 one step backwards, and I believe Kay has discussed this
9 with the council before. But the question I have is
10 related to the requirements of the statutes that created
11 the uniform permitting requirements and also the tiering
12 of the permits.

13 I wanted to be clear and I wanted everybody
14 else to be clear on the extent to which this was
15 mandated or requested or suggested. In other words,
16 what is the -- what's the driving force behind this?

17 Could you just summarize that for us. And what
18 does the statute say, and does it say that this is a
19 requirement of these rules or -- because I've seen some
20 language where it says the legislature has asked the
21 councils to consider, and that doesn't sound like a
22 mandate. But could you refresh my recollection on that.

23 MS. YORK: The intent of the legislature was
24 that each permitting area, major permitting area in the
25 department, would have applications that fell in, I, II,

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and III.

MR. FISHBACK: Now, you say intent. Do they actually specify that?

MS. YORK: Does it specify that? No, it does not say that outright and could not, because we have some certifications, like waste water certifications and solid waste landfill, that are Tier I necessarily.

So in our certification permitting program, we do not have any Tier II nor Tier III, nor would it make sense to have.

MR. FISHBACK: So the tiering approach was created not by the legislature but by the DEQ.

MS. YORK: The tiering approach was created by the legislature. The first year they had that they had major permits and left in place the --

MR. FISHBACK: What do the statutes say about the tiering? Does it specify that that's a requirement?

MS. YORK: Yes, sir.

MR. FISHBACK: I wanted to be very clear on that

MS. YORK: Yes, sir.

MR. FISHBACK: Okay. The statute says that the permit shall fall into three tiers.

MS. YORK: Yes, sir.

MR. FISHBACK: And was it left up to the

1 Department as to what were the requirements of the
2 tiers?

3 MS. YORK: No. The legislature gave the
4 factors to be considered, and the Department was charged
5 by the Board to develop their recommendations. And then
6 they were to go through the councils for recommendation.

7 MR. FISHBACK: In general, the concept here is
8 that as you go to a higher tier, you increase the level
9 of public participation.

10 Is that a correct statement?

11 MS. YORK: Yes, sir. The notice and public
12 participation is the purpose of this. It does not
13 change any technical requirements whatsoever, nor does
14 it require any changes in the review procedure that is
15 in place at this time.

16 MR. FISHBACK: Is that a true statement for all
17 sources? I would assume that there were some sources
18 that would be subject to Tier III that would have
19 additional requirements that they wouldn't have had in
20 the past?

21 MS. YORK: Review requirements? No, sir.

22 MR. FISHBACK: By review do you mean public
23 review or?

24 MS. YORK: No. I mean Department review.

25 MR. FISHBACK: Department. Okay, I would agree

with that. The public does become involved or however you want to say it.

MS. YORK: Actually, in air quality, for example, this is a lesser evidentiary hearing requirement than existed before. The evidentiary hearing that was available to the public under the old statute applied to all Title V applications, their modification, and their renewal.

In solid waste and hazardous waste, it pretty well has stayed the same. In water quality, it again is a lesser requirement than what existed under the statutes for FUBS discharge permit.

MR. BRANECKY: Lesser in what way? That fewer requirements are imposed on the applicant? Or how do you mean that it's lesser?

MS. YORK: Fewer applications.

MR. FISHBACK: Fewer applications will be subject to it?

MS. YORK: That's correct.

MR. FISHBACK: Not that once you're in the process it has lesser, fewer, requirements, just fewer people will go through the process.

What do you think is the main advantage -- not of the uniform permitting rules -- because I believe we understand that uniformity and consistency is probably

1 an advantage -- but what do you see as the main
2 advantage for the public of a Tier III versus a Tier II
3 in air quality, specifically?

4 MS. YORK: I think there is an advantage to the
5 public, and I think there's also an advantage to the
6 applicant.

7 The advantage to the public is that for new,
8 never -- just proposed, unbuilt facilities, the people
9 who live -- who will be living around that facility,
10 should it be permitted and constructed, will have an
11 opportunity to have a forum other than a public meeting
12 for their concerns. And to demonstrate and to have --
13 or to have demonstrated to them that this is not going
14 to pose a threat to their quality of life or their
15 health.

16 MR. FISHBACK: Is that something they do not
17 presently have, in your judgment?

18 MS. YORK: Is that something they do not have?

19 MR. FISHBACK: That opportunity, yeah, to have
20 that public forum and get that information? Is that
21 something that they currently do not have?

22 MS. YORK: In air quality they would have a
23 forum under the law as it exists now.

24 For applications for filing a modification of
25 Title V and renewals of Title V. So they are giving up

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some of their -- some of that advantage in that it just relates to new, never-built sites.

The applicant, on the other hand, the advantage to the applicant is that if you have people who live in a surrounding area who are opposed to the facility to the point that they will not only challenge it at the administrative level, they will challenge it at the court level, you have the administrative level, being dealt at the administrative level that the court then limits itself to, and you do not have a trial that starts brand new at the district court level.

MR. FISHBACK: I appreciate that explanation. I guess I'm still -- I'm still puzzled by -- and I believe I understand what you said, but I'm still puzzled by what is achieved by facilities that go through the Tier III process.

MS. YORK: The legislature is giving a due process right to people to have a say and to actually review evidence and to present evidence.

MR. FISHBACK: But they do have that opportunity and that right now? Or not?

MS. YORK: Not now, no. For the Title V program when it goes in, that is something that the federal government has allowed for -- or required for solid -- hazardous waste, air quality, and water quality

all along.

This is a narrower approach.

MR. FISHBACK: If I understand what you're saying, the permits that have been issued by the DEQ and its predecessor agency for a number of years in Oklahoma, the public always had the opportunity to comment on that and have input into the process. But they do not have a right for the new Title V operating permits without implementing this rule; they do have for its subchapter .

MS. YORK: In the interest of uniformity, which you yourself have just said makes a lot of sense and you can understand why we're doing that, the legislature has chosen to put a uniform procedure that applies equally to air, water, hazardous waste, and water. So we have had differing opportunities for each one of those areas.

Now we have a uniform -- a uniform set of rights.

MR. FISHBACK: Do you think this would have been lesser desirable or implemented if there had been no Title V program? Would this have happened anyway?

MS. YORK: Uh-huh. Title V just happens to fall in this point in time. The Title V has to do with the fact that the legislature has chosen to do a uniform permitting process for the agency.

MR. FISHBACK: Again, I'm sorry if I'm repetitive here. But I'm trying to clearly understand the mandate that we've been given.

The advantages that you have mentioned for this -- not the uniform permitting process itself, but the tiering process, the advantages are this record of evidence is created; the public does give up some of the rights that it has, because it applies to only the new and not renewals.

But everything that they are able to do under this program, they are currently able to do, and more, up to this point; and the advantage of this is that it brings the Title 7 operating permits into the same level of public participation as the subchapter 7 permits already have? Is that all true?

MS. YORK: No, that's not true at all.

MR. FISHBACK: Then I misunderstood.

MS. YORK: The Title V is the one that carries the contested case here. The contested case has never been a possibility for air quality permits until the Title V program came in. I see where you're confusing the two.

Number one, the legislature has chosen to do a uniform permit process that applies equally to everybody. That involves giving certain people due

1 process rights with regard to certain applications.

2 Now, the legislature could have been like the
3 state of Texas or the state of Massachusetts, which
4 allows a hearing on everything the Department issues.

5 The state of Texas has a full-time
6 administrative law office that does nothing but hold
7 hearings day after day after day. The state of
8 Massachusetts, I talked with them last week. Three
9 years ago they had over a hundred hearings pending that
10 they couldn't get to.

11 State of Oklahoma has chosen not to do that.
12 The State of Oklahoma has chosen to give that due
13 process right to people with regard to application for
14 the big, complex facilities that are proposed and not
15 built, as far as air and water are concerned. Hazardous
16 waste and solid waste have existing facilities that also
17 are subject to this. But I'm not going to go into those
18 because it's too complicated.

19 But air and water are part of the environmental
20 scheme, and the legislature chose to give due process
21 rights to certain people for certain types of
22 facilities.

23 And they have again the criteria under which
24 the councils -- the Department, the councils and the
25 Board -- are to consider in dividing those up.

MR. FISHBACK: What would a member that wanted to stop the construction of something, what would they have done five years ago?

MS. YORK: What would they have done five years ago?

MR. FISHBACK: What options were available to t. five years ago?

MS. YORK: They would have gone to the Court and asked for an injunction.

MR. FISHBACK: And that was basically their only option?

MR. YORK: I don't recollect their options in air and water.

MR. FISHBACK: And after this becomes effective?

MS. YORK: The court will require they appeal the order of an administrative order. And that will become part of the court proceeding.

MR. FISHBACK: They could still file a temporary injunction after this becomes effective?

MS. YORK: That's true; they could. But the facts will turn on the administrative case, rather than starting over.

MR. FISHBACK: And the hope, I guess, of the proponents of this is that you can resolve it at the

1 administrative level.

2 MS. YORK: Yes, sir.

3 MR. FISHBACK: So that's the new piece.

4 MS. YORK: Yes, sir.

5 MR. FISHBACK: And those remedies for temporary
6 injunctions and lawsuits are still available, but you
7 hope you don't get to that point.

8 MS. YORK: Yes, sir.

9 THE CHAIRMAN: Kay, have the other councils
10 acted on this uniform permitting?

11 MS. YORK: Yes, sir. You are the only council
12 that has not made recommendations at this point.

13 THE CHAIRMAN: If we could move on at this
14 point, I would like to again hear the final reading of
15 the paragraph on dash 15, dash 42; that really is the
16 crux of these.

17 MR. BYRUM: And citation here; I don't have my
18 rules with me.

19 MR. BRANECKY: I can read that, but I don't
20 have the citation.

21 MR. BYRUM: Dennis, do you have your rules with
22 you?

23 MR. DOUGHTY: The only thing I've got is the
24 old council packet.

25 Scott, don't you have it?

MR. BYRUM: If someone has a copy, I would like to borrow it.

THE CHAIRMAN: What are you looking for?

MR. FISHBACK: 5221. What is left is to establish the criteria what goes into tier.

MR. BRANECKY: Tier III. We've already decided I and Tier II. Just Tier III.

THE CHAIRMAN: Where does the paragraph on the commercial -- of the commercial incinerator come in?

Where does say that definition --

MR. FISHBACK: It's got to be part of 42.

THE CHAIRMAN: That has to be added as part of that.

MR. BRANECKY: Added in 42?

MR. FISHBACK: This is not current as of last Thursday's meeting.

MR. BRANECKY: So we would add --

MR. FISHBACK: From a format standpoint, do we want to mix definitions?

MS. YORK: Excuse me. There are definitions to uniform rules, and that's where that rightfully belongs. That can be couched in it as it applies to the tier classifications of air quality. And that does not have to be -- that does not have to be a formal recommendation by you for the definitions, as the words

1 you would want to use.

2 THE CHAIRMAN: That's what I was getting at. I
3 wou... rather get that done right now and go on from
4 here. Because we have got to finish this today and pass
5 it on.

6 MS. YORK: Yes, sir.

7 MR. FISHBACK: From a clarity standpoint -- and
8 I'm not sure people would agree with this. But from a
9 clarity standpoint, I would sure like to see some
10 parenthetical definitions. They don't have to be
11 official, maybe. Maybe the definition could be
12 referenced, as we're about ready to do, to a part of the
13 C.F.R., but where -- because the terms are used so
14 loosely and so interchangeably and with so much
15 confusion. Where we say "major," I would like it to say
16 "as defined in 5221." I would like it to say that
17 right in parenthesis, right in the definition of Tier
18 III, right in section 42.

19 And when it says "potential to emit," I would
20 like it to say "considering the PSD language,
21 considering the effect of control equipment." Because
22 that's the first question that somebody will ask when
23 they see this. It's a whole lot easier to have it in
24 front of you then to have to flip to something else.

25 MR. BRANECKY: You've got a definition of major

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facility, and in clarifying that, you're saying only majors that are subject to PSD. So to me that's pretty clear. I mean --

MR. FISHBACK: Well, it would be except that it's almost as if that's a two-level definition.

We're not saying that it's Title V major and if happens to be PSD major, something else happens. We're saying it only applies to PSD major facilities. Correct?

In other words, you don't go through Title V definition to get to this one; you go -- we're talking just about PSD major.

Now, it would be nice if those had the same tonnage threshold, but they don't.

MS. YORK: You could arrive at that by taking the word major out at Tier III and just say "facility subject to PSD requirements."

MR. FISHBACK: Facility subject to PSD requirements per 40 C.F.R. 5221.

MR. BYRUM: We've got several people that have indicated they wish to speak, and we're going to be calling on them just as soon as the council gets through talking with Kay.

MR. BRANECKY: Do we have a citation?

MR. BYRUM: The closest I can get for you is

1 252:100-7-31, major stationary source.

2 MR. FISHBACK: You are going to do it on the
3 Oklahoma regulations?

4 MR. BYRUM: You're dealing just with Oklahoma
5 rules.

6 MR. BRANECKY: That's where potential is
7 defined.

8 MR. BYRUM: I think that's word for word out of
9 the federal.

10 MR. FISHBACK: Usually it is.

11 MR. BYRUM: And I -- you were speaking to look
12 at only one document; that's why I was suggesting we do
13 it in this particular manner.

14 MR. FISHBACK: If when eliminate the word
15 major, then we can't use the definition of major
16 stationary source from this citation.

17 But we could say major stationary source as
18 defined in and then give this citation. And this is the
19 PSD language. There's 26 sources that are major when
20 they exceed 100 tons a year, and everything else is
21 major when it exceeds 250 tons a year.

22 No. It's any pollutants subject to
23 regulations, but generally those are criteria
24 pollutants. Because you wouldn't have 250 tons of a
25 hazardous air pollutant. That's a separate.

MR. BYRUM: Are there any additional questions for Kay from the council?

Then I would ask: Are there questions from the audience for Kay?

Yes, sir.

MR. OXFORD: This is Rod Oxford.

If you make it a PSD permit, and we go into nonattainment, where does that put the source? Are they exempt from Tier III because it happens to be in a region that is now nonattainment?

MR. BYRUM: I had difficulty hearing part of that.

MR. OXFORD: PSD requirements are applicable to facilities that are in attainment areas. If we're going to have a definition of Tier III, it ought to accommodate facilities that are in nonattainment areas as well.

That's --

MR. FISHBACK: We don't have any now, but that's not a bad thought. We might have.

MR. BYRUM: That's not something specifically we discussed in the meeting that we had the other day.

So . . .

MR. FISHBACK: Let me ask the gentleman that asked that question. Would that -- would your idea be

1 met if you had a parallel definition with an "and" in
2 there that said PSD major -- I guess it would be.

3 MR. OXFORD: I'm looking at subchapter 7 and
4 the definition of major stationary source in
5 subchapter 7. What I think you need to do is take out
6 the reference to PSD and use the definition for 26
7 source category as major, major irrespective of whether
8 they are attainment or nonattainment area.

9 MR. FISHBACK: I think that's where we were
10 headed with that citation. But your point is that in a
11 nonattainment area those thresholds of significance are
12 lower. Is that correct?

13 MR. OXFORD: That wasn't my primary point.

14 MR. FISHBACK: Oh, that's not your primary
15 point.

16 MR. OXFORD: I was just saying if you don't
17 want to embrace PSD -- the only point I was making: If
18 you want to use 100 tons per a particular source
19 category, use 100 tons. But don't make it dependent on
20 how the rest of the area is doing under the federal act.

21 MR. FISHBACK: I don't have any objection to
22 that. What we were after is the thresholds, and PSD had
23 the thresholds in them. But you're saying use the
24 thresholds without using PSD.

25 MR. OXFORD: Right.

MR. FISHBACK: I don't have a problem with that. Do you?

MR. BYRUM: Nadine?

MS. BARTON: As a member of the environmental community and a member of the Tulsa Air Quality Committee, I do concur with that, because we are right on the brink of going over, as you know. We do have to address that. All of our discussions we've never discussed that. So this is a really important issue that he brings up that we should cover in doing this.

MR. FISHBACK: What would you propose the thresholds be in nonattainment areas? The Title V significance thresholds?

MR. OXFORD: For criteria pollutants, there are reduced tonnage levels. But those are for Title V permitting requirements; they don't have anything to do with PSD requirements.

MR. FISHBACK: As an example, in a certain level of nonattainment, your major source threshold becomes 25 tons instead of 100. Are you proposing that Tier III apply to a 50-ton source if it's in a nonattainment area? Is that what you're proposing?

MR. OXFORD: No. I was just proposing that you get out of what appeared to be a ridiculous rule that would say the Tier III applied only in nonattainment

1 areas.

2 MR. BYRUM: I think what --

3 MR. OXFORD: It should apply more so in
4 nonattainment areas than attainment areas is what I'm
5 trying to say. If there's a need for a public hearing
6 on a facility that makes 100 tons of VOCs and the area
7 is nonattainment for ozone, you need the hearing more so
8 in that area than you do in an area that is attainment.

9 MR. BYRUM: I think what his idea is basically
10 is that we do not tie it to PSD.

11 MR. OXFORD: That's right. I wasn't trying to
12 change the tonnage levels.

13 MR. BYRUM: Not change the tonnage.

14 MR. OXFORD: In fact, I think you could pick
15 this definition, add commercial incineration to it, and
16 you would have a workable definition.

17 MR. BYRUM: Let me bring us back just a second.

18 Are there any other questions specifically of
19 Kay?

20 (No response.)

21 MR. BYRUM: Okay. Then I'm going to move on,
22 and I'm sure we are going to discuss just exactly what
23 we're talking about. The only slip that I have from
24 anyone indicating that they wish to speak at this time
25 is from Ron Truelove.

And, Ron, I will call on you at this time.

MR. TRUELOVE: My name is Ron Truelove, and I am with Roberts/Schornick & Associates. And I'm representing the Environmental Federation of Oklahoma today. And, first of all, I would like to express an appreciation for the council for the environmental community and for others to meet and try to work out a reasonable solution.

And, in general, I think EFO supports wholeheartedly the concepts of Tier III permitting applying to the new type of sources that would undergo PSD permitting or nonattainment new source review permitting, which is what we're referring to with this other concept of things that would be major as defined by PSD rules. But because of the designation of PSD in attainment areas and nonattainment, new source review in nonattainment areas should all be captured. And I would like to get that on the record.

Secondly, I can't support what Mr. Fishback has offered as adding commercial incinerators to the list of 26 major sources under the PSD rules, because by doing so, some commercial incinerators would be subjected to new and additional substantive requirements under BACT and under max modeling that they may not have to go through if they were a 105-ton commercial incinerator.

1 They might still go through Tier III public
2 review, but would not undergo PSD, because they are in
3 the 250-ton source category.

4 So I have a real problem with adding that and
5 invoking a new PSD requirement on a new type of source
6 that's not invoked across the country.

7 So I think it's better to treat those as
8 separately designated as opposed to adding them to the
9 source definition in the 26 listed categories. And I
10 think to overcome the problem of the nonattainment new
11 source review versus the PSD, if the definition in
12 Tier III list were crafted such that it would say
13 something like "new major stationary source as defined
14 in," and list the OAC cite in subchapter 7 and "subject
15 to permitting under" and then list the cite for PSD
16 permitting in subchapter 7 and nonattainment new source
17 review, you would accomplish what you intend to
18 accomplish.

19 I also cannot support putting federal citations
20 in the rule, because Oklahoma has completely delegated
21 authority under PSD. When we start bringing federal
22 definitions and federal citations in, we begin to dilute
23 what Oklahoma intended to do with creating completely
24 delegated authority.

25 Thank you.

MR. BYRUM: Questions for Mr. Truelove?

MR. FISHBACK: It's interesting that you take that view, because that's exactly what I was trying to do prior to our discussions last Thursday, and the compromise we've reached is the one that's been presented.

I don't have any -- the whole thrust of this as far as I was concerned was that no source category should be called out specifically. It's discriminatory. The incinerator category was of such concern to people that we agreed to list it separately.

I want to put this on the record, because our conversation last Thursday was not on the record. It is my view that it is very likely that you can have a source category that's not listed in this list with more emissions than an incinerator that is listed. And that's the discriminatory part. But we can't deny the public response to incinerators.

So the compromise that we reached was to add incinerators to the list but give them a threshold. As far as I am concerned, the technically correct way to do this is to base it on the amount of the emissions, period, without regard to any source category. Whatever the emissions are determines what the level of review is.

1 But we have the list of 26, and I agree with
2 Ron: It's better to use the Oklahoma version of it;
3 it's identical to federal version. We have this list of
4 26 that's been around for, what, 18 years now? And
5 we're going to add another -- or we're proposing to add
6 another one to it.

7 I also agree with this discussion it's not
8 necessary to tie it to PSD, because my view is that it
9 needs to be tied to emission threshold. So that's
10 exactly what we would do. Whether attainment area or
11 not, whether new source review or not, whether PSD or
12 not, the thing that puts it in a tier is the amount of
13 emissions.

14 And we -- the compromise we reached was to put
15 incinerators on the list at 100 tons. So I don't have
16 any problems with the suggestions that he made.

17 MR. BYRUM: Madine.

18 MS. BARTON: You know, we worked very hard
19 about this incinerator business here. And I cannot go
20 along with what he says about the incinerators. The
21 public -- the public, which all are represented, and
22 that means major corporations, too -- have the right to
23 have incinerators in there. In the original rules,
24 incinerator was incorporated in here.

25 We are not citing anyone out, and the PSD, it

states municipal incinerators which have the same capacity as commercial incinerators. We all know that the incinerator in Stroud, the medical incinerator, has shut down. There is a company that is looking at that facility right now.

And as Larry stated in a previous meeting, that any company that is coming into this state is going to expect the same type of scrutiny as any other state would have, where incineration is concerned. The environmental community -- and I am getting emotional here, and I usually do not get emotional -- has given up a lot on this one point.

I am not talking about Title V here; we are talking about just this: We have an obligation to citizens and to our future generation of citizens to have this put in here.

It is not too much, I don't think -- and I do not think we're discriminating -- to leave it out as a discrimination against the other companies that are listed.

But the citizens of this state have the right to that third tier under incineration. We did not know what the future brings. And this body is held with a responsibility to be foresighted. You were specifically chosen for this.

1 Please help us and protect us as the citizens.
2 We have given up a lot.

3 MR. BYRUM: Mr. Truelove.

4 MR. TRUELOVE: Ron Truelove with EFO. I would
5 just like to clarify my statement. I think it might
6 have been taken out of context.

7 When I stated that we supported, what I was
8 supporting is what Mr. Branecky had highlighted earlier
9 in the meeting, where commercial incinerators were
10 directly listed in the Tier III at 100 tons.

11 What we don't support is adding it to the PSD
12 list specifically of 26 major source categories, because
13 that's a federal list that all states have adopted and
14 are delegated. I'm not supporting pulling them out of
15 Tier III. I support listing commercial incinerators at
16 100 tons directly in Tier III.

17 MR. BRANECKY: Are you opposed to just pulling
18 the list out without any reference to PSD and using that
19 list as a list and including that?

20 MR. TRUELOVE: That list could be referenced as
21 a definition of new major stationary source in
22 subchapter 7, whatever, to be that list of 26 majors at
23 100 tons and then the remaining definition of 250. That
24 goes in Tier III, and then in addition to that,
25 commercial incinerators at 100 tons as negotiated last

Thursday.

We're not subjecting those commercial incinerators to any provisions of PSD that they otherwise would not have already gone through. We're just subjecting them to Tier III permitting.

MR. BRANECKY: I guess what I think we're trying to do is pull the list out, forget PSD and just use the list.

MR. TRUELOVE: Just use the list.

MR. BRANECKY: And add to that list of 26, commercial incinerators, which has no reference to all the PSDs; it's just a list.

MR. TRUELOVE: If you want to make that list in Tier III --

MR. BRANECKY: Yes, that's what I'm thinking.

MR. TRUELOVE: That's fine.

But don't put it back in the PSD rules.

MR. TRUELOVE: No.

MR. FISHBACK: I agree with that. In fact, the reason we referenced PSD was that the list was already prepared for us. But we can consider this as a list we found on the street. It just happens to be a list we like to use.

MR. BRANECKY: And add incinerators.

MR. FISHBACK: He was not asking to delete --

MS. BARTON: I appreciate that clarity; thank you. Everyone thanks you. God thanks you.

MR. FISHBACK: Everyone but the municipal incinerator operator thanks you.

MR. BRANECKY: The list of what we're going to use, I think we need to see that.

MR. BYRUM: I've been trying to take notes as we went through this of what I basically have that we're trying to get accomplished here is that a major stationary source for the purposes of the Tier rules, specifically Tier III, means the major stationary sources as listed at 252:100-7-31.

I don't know if that capsulizes.

MR. BRANECKY: It doesn't have any reference to PSD.

MR. BYRUM: The page just went out the back door, and I haven't had a chance to look at that.

MR. BRANECKY: I guess the other option would be just to list them.

MR. BYRUM: We can pull that out and take some things out of that.

And then we need to add language to that that would also include commercial incinerators having the potential to emit of 100 tons per year. Is that where we're at on that?

We are going to get copies made of this and move forward.

We have -- what I would like to do, if this is acceptable with everyone, is to defer on that and look at what we passed out a few moments ago, the commercial incinerator definition.

While we're waiting on that language to come back, hopefully we've got enough copies if you look over someone's shoulders, you may be able to see one of those.

Again commercial incinerator means any incinerator which burns waste material for a fee or other valuable consideration. The term incinerator means, but is not limited to, municipal, biomedical, and hazardous waste incinerators. I believe if we put the term commercial incinerator in, we probably need to define what we were talking about.

So what I would like to do is hear from the council any discussion on this particular issue.

MR. FISHBACK: Does this imply then that the location of this commercial incinerator, whether on someone's property who uses it or remote from somebody's property that uses it, does not matter?

In other words, you could operate an incinerator that you built on your own property, put

1 your own waste in it, and you're not paying anybody to
2 do that, so it's not commercial; it's yours. As soon as
3 you bring material in and you charge for it, your
4 incinerator becomes commercial.

5 MR. BYRUM: That would be my reading of it.

6 MR. FISHBACK: So this does not cover --

7 MR. BRANECKY: What if it's cheaper for me to
8 build my own -- rather than send my waste off and have
9 it incinerated, to build my own, and I have a net gain
10 from that, because it's cheaper, saving money. Am I
11 doing that for a valuable consideration?

12 MR. BYRUM: Other discussion? We'll have to
13 look at that.

14 MR. DOUGHTY: My name is Dennis Doughty. I
15 might add this. Let's say that you put in an
16 incinerator and you contracted with the local
17 municipality to burn part of their solid waste for some
18 sort of consideration, sewage or some sort of something
19 that you might get from the city.

20 In other words, you don't have to get money,
21 but you have to get something that is valuable. If you
22 get an easement or a right-of-way, that's valuable
23 consideration.

24 MR. BYRUM: I will get to you in just a second.

25 I think the idea of what we were trying to

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capture there is in your particular situation if you contracted with anyone else, then it would become a commercial incinerator. As long as it's internal to the ownership of the incinerator; I don't think that's the intent that we had in mind. We may need to clarify that.

MR. FISHBACK: So ownership is not the key issue; it's fee for service or valuable consideration.

MR. BYRUM: Right. That's what I think we were looking at.

MR. FISHBACK: So the situation exists where you can have an incinerator on your own property that has higher emissions than a commercial incinerator that's next door. The commercial incinerator goes through Tier III, and the one you own does not.

MR. BYRUM: That's the essence of the discussion we had the other day.

MR. FISHBACK: I just want to make sure everybody is clear on that; that possibility exists.

MR. BYRUM: It doesn't mean it wouldn't be permitted.

MR. FISHBACK: No. It would be permitted; it just wouldn't go through Tier III.

MR. BYRUM: Other discussion from the council? Okay. We'll go to the public. And I think Jim.

1 MR. BARNETT: Jim Barnett. I just had one
2 question on the definition. Maybe Dennis or someone
3 else could straighten me out.

4 I think it could be potentially a little bit
5 troublesome, this valuable consideration included in the
6 definition. Say you've got a company that has an
7 incinerator and they have a neighbor that has a one-time
8 need to get rid of something. And as part of a good
9 neighbor policy, they say: You can go over and
10 incinerate in our deal and we won't charge you anything.

11 The truth is there's good will derived from
12 that action. Under my interpretation of the law, that
13 would be valuable consideration, even though there was
14 no money changed hands, nothing.

15 MR. FISHBACK: It's avoided cost.

16 MR. BARNETT: Do we really want to deter people
17 from being good neighbors?

18 My concern is maybe the definition goes a
19 little far.

20 MR. FISHBACK: There's one other thing. That's
21 a very good point. There's one other thing we need to
22 consider. We're talking about this as being a "new
23 major facility." So if it is not commercial, no money
24 or valuable consideration changes hands in the proposed
25 application, and it's permitted without being Tier III.

Then at some point in time later, if economics change and neighbors grow up around you that need to use your services, and you start charging for them, it's already a built facility. Then what?

I guess it is exempt. You don't go back through Tier III. I mean, I'm asking that question.

MR. BARNETT: So you're saying there is no negative repercussions from being defined as a commercial incinerator if you've already got your incinerator built?

If that's the case, then I don't think it makes any difference.

MR. BYRUM: I don't see any retroactivity.

MR. FISHBACK: Now, bringing in your neighbor's trash could be a modification that would subject you to permitting.

MR. BARNETT: You're saying being defined as a commercial incinerator doesn't have any ill effects on anything else you may be doing as a company, doesn't have any spillover other than just the tier.

MR. BYRUM: We don't see it as having any, because the definition would be tied directly to the tier.

Nadine.

MS. BARTON: It doesn't sound real good for the

public there. I don't know how to remedy that to make everybody happy. I would hate to see that as a loophole for unscrupulous people that would want to do some kind of burning that would not be caught someplace.

MR. FISHBACK: Well, Larry is quite correct, Nadine, that it would not be in secret, so to speak. There would be a permit; there would be conditions that have to be met; and presumably any modifications of that permit to bring in new, different trash would be subject to review.

MS. BARTON: What kind of opportunity would the public have to know about that, if someone decided to do that?

MR. FISHBACK: What we've said is --

MS. BARTON: Would we have notification and any kind of public hearing about it?

MR. BYRUM: Nadine, I can't categorically say that it would fall in Tier II, but it will probably most likely fall in Tier II, if there's any major change. But I don't know that in every instance.

MS. BARTON: How many instances do we have in this state that would apply to that?

Jim, do you know the answer to that question?

MR. BYRUM: I don't know that I can think of any.

MS. BARTON: Do you know of any?

MR. TRUELOVE: I'm Ron.

MS. BARTON: Okay. Ron.

MR. TRUELOVE: No, I don't.

MR. BYRUM: Yes, sir.

MR. OXFORD: Rod Oxford. I think what you just
 ed about, you just revealed that your definition
 would encourage an application for a construction
 permit --

MR. BYRUM: This only applies to operator --

MR. TRUELOVE: -- and to switch over after they
 have obtained the permit to become commercial --
 legally, legitimately.

You've written a definition which would
 encourage that activity. And I don't think you need to
 characterize the applicant as being devious; they would
 just be taking advantage of the definition as written.

Say: We're building an incinerator; we don't
 plan to take in outside waste right now; we may change
 our plans.

I mean, what I guess I'm suggesting: Either
 accept that that loophole is there and that people will
 use it, or change the definition so it doesn't hinge on
 whether this incinerator is out for hire or not.

MR. FISHBACK: This very reason is why I was so

1 insistent in the negotiations up to this point that the
 2 rules should be based on emissions and not source
 3 category; this very reason. Because if it applies
 4 universally to all types of facilities, regardless of
 5 whether it's commercial or not, regardless of whether
 6 it's in your backyard or not, fundamentally to protect
 7 public health, the only thing that counts is emissions,
 8 what comes out of the stack and in what concentration is
 9 received by some individual.

10 And whether it's an incinerator or not,
 11 fundamentally makes absolutely no difference. But it's
 12 a hot button with the public, and so we tried to include
 13 it.

14 But your point is well taken. As soon as you
 15 become specific on source categories, you invite: Well,
 16 I'm not really an incinerator; I'm just a refuse-burning
 17 facility. You invite all kind of funny business with
 18 the definitions.

19 MR. OXFORD: And, further, that's why I think
 20 the public if they found out three years down the line
 21 that an incinerator was burning in their neighborhood
 22 and that this loophole -- the council knew of this
 23 loophole and let it run free. I think the public would
 24 feel it was not being dealt with candidly at the front
 25 end.

I mean, the choice should be: Take incineration out or make it on a tonnage basis so it stands with the others.

MR. FISHBACK: I agree.

MAYOR TARON: Mr. Chairman, will we not have the authority to amend this regulation as is needed? Can we sit here and draft a perfect law to suit everybody at this sitting? I think we might better move along.

THE CHAIRMAN: I think if we can get to a language that's acceptable, I would like to today.

I don't see why we can't call for another review if it goes commercial.

I don't like the loophole; I will say that.

MS. BARTON: I don't like it either.

THE CHAIRMAN: I don't think that loophole ought to exist, because it does invite -- so I think we just call for --

MS. BARTON: The tonnage?

THE CHAIRMAN: Another review, another review if it goes from an industrial source which uses for themselves into a commercial, assuming that it is over the tonnage.

I just don't see why we're arguing about it, because, first of all, we all agree we want something in

1 there for commercial, right? And so let's just put
2 anybody that wants to go from just a source and an
3 industry to commercial, let's have -- let's have it
4 trigger the review again.

5 Now, Larry, staff will have to come up with
6 that, if it's suitable, have to come up with that
7 language. But, you know, you're going into a different
8 use category, and I do think the public needs to be
9 alerted to that.

10 MS. YORK: Let me ask a question. I want to
11 direct it to Mr. Branecky.

12 MR. BRANECKY: Yes.

13 MS. YORK: If it was limited to all
14 incinerators that had the potential or were asking for
15 permitted capacity of 100 tons or more, what effect
16 would that have on your understanding of what you were
17 trying to accomplish here?

18 MR. BRANECKY: Run that past me again.

19 MS. YORK: If you took the word "commercial"
20 out.

21 MR. BRANECKY: Uh-huh.

22 MS. YORK: Would that have any impact on what
23 you were trying to accomplish on this Tier III
24 classification? So that any incinerator that had the
25 potential or was asking for a permitted capacity of 100

tons or more.

MR. BRANECKY: That incinerator would be defined?

MS. YORK: Would not be defined.

MR. BRANECKY: Would not be defined.

MR. FISHBACK: I think I understand your question. Okay. What would happen is that incinerators other than commercial between 100 and 250 would be subject to Tier III.

MR. BRANECKY: Anything over 50 is going to get caught.

MS. YORK: I understand that. I'm just wondering what that does to the concept that you have. Would that have a negative effect on what you're trying to accomplish?

MR. BYRUM: I believe you would include a significantly additional number of private incinerators.

MS. YORK: Remember, we're talking about proposed new; we're not talking about existing.

MR. BYRUM: Joyce, we don't have a lot of permits that come in for private incineration; there are probable a handful of them.

MS. SHEEDY: And they are usually minor.

MR. FISHBACK: Could you give us a feel for that, Joyce? Are we talking about the old -- what's

1 that called, the IT incinerator where Wal-Mart throws
2 their cardboard boxes in it? Is that one kind that you
3 permit?

4 MS. SHEEDY: We have done so in the past. We
5 don't get many of those anymore, if any.

6 Most of these incinerators that I have seen
7 have generally been less than 100 tons per year, even
8 commercial ones. The Stroud incinerator, for instance,
9 wasn't that less than 100 tons?

10 MR. BYRUM: It was right around 100 tons.

11 MS. SHEEDY: So I'm not sure that that would
12 greatly increase the number of incinerators --

13 MR. FISHBACK: How about wood waste
14 incinerators in the pulp and paper industry?

15 MS. SHEEDY: A lot of times those wood waste
16 are used as a boiler.

17 MR. FISHBACK: But it's a permitted source.

18 MS. SHEEDY: Yeah, because they are using wood
19 waste as a fuel in a boiler.

20 MR. BYRUM: I believe Mr. Truelove has a
21 statement.

22 MR. TRUELOVE: Ron Truelove again with EFO. It
23 seems like what we're arguing about is if a commercial
24 or incinerators as a new incinerator gets permitted and
25 it's greater than 100 tons per year potential to emit,

and for some reason puts that in as a Tier II, as opposed to a Tier III, and then later wants to become commercial, it would seem to me that if an operating permit modification or operating permit needs to be issued for this change and the resulting overall change if it were new construction would have caused that commercial incinerator to have gone through Tier III -- in this specific case it should have to -- and maybe we've got Group A that we've already been talking about of the list and the 100 and the commercial incinerators, 250. Maybe a Group B is an operation permit or some modification for a commercial incinerator that would have undergone Tier III requirements and did not because of some condition that existed at construction.

I don't know how to phrase all of that. But the intent is if it should have gone through Tier III, after it's -- that person is requesting a change to the method of operation or a permit change for emission and the resulting change would create the source in a way that it should have undergone Tier III, to satisfy everyone, it seems to me like they should have to go through Tier III.

Is that the kind of intent that --

MS. BARTON: If it's a modification.

MR. TRUELOVE: If you've got to go into a

1 permit change to take this additional waste from off
2 site and get paid for it, then that change ought to go
3 through Tier III if it now causes that incinerator to be
4 a commercial incinerator and it didn't go through Tier
5 III review already.

6 THE CHAIRMAN: Ron, I think we ought to support
7 that. I don't know the language, but there again that's
8 what I was getting at.

9 MR. TRUELOVE: If it's gone through Tier III
10 already and there is a change, then that change should
11 be subjected to whatever review that it would naturally
12 fall under. That source as a new source has gone
13 through Tier III already.

14 But if it hasn't gone through Tier III and as a
15 resulting change ends up causing the source to be a Tier
16 III, then let's put it through Tier III.

17 MR. FISHBACK: But how about all the other
18 sources that are going to go through the same process?
19 They were Tier II, now five years down the road they do
20 something that would have made them Tier III. We get
21 away from the whole intent of Tier III, which is new
22 major facilities.

23 Again, I come back to the same concern about
24 being so specific in taking care of one source category.

25 MR. TRUELOVE: So the other option is: If you

pulled the commercial incinerator out, it would fall under the 250 threshold in general. That's the other option. And I don't think that's supportive necessarily from all of the people in the room.

MR. BRANECKY: I think Kay York's suggestion was to remove commercial and just have it apply to all incinerators.

And that gets to the point of just looking at emissions rather than what type.

MS. HINKLE: I guess I don't understand. Is there a problem with that?

MS. BARTON: It's the tonnage.

MS. HINKLE: The 100 tonnage. It looks to me like that is a good thing to do.

So if there was a new private incinerator going in, that they would be covered. Right?

MR. FISHBACK: Right. And what you're doing is you're moving the threshold for covering them from 250 to 100, by doing that.

MS. BARTON: I will go for that.

MR. BRANECKY: Does the industry have a feeling on that?

MR. NICHOLSON: Scott Nicholson with ECCI. I would rather try to fix the problem, which was to add maybe another -- as Ron suggested, another Tier III

criteria for moving from a Tier II status to commercial incinerator. I think that's where Ron was going with it.

I don't think it's that difficult to fix, quite frankly, without knowing where the other universe is.

MR. FISHBACK: In the year 2010 people are going to look at this and think the only industry in the state of Oklahoma was incinerators.

MR. NICHOLSON: It is a public concern area; I agree.

MR. MARBERGER: Grant Marberger. We have that precedence. If a facility changes by condition to where they become subject to PSD, then in our regulation it's already written that it will be treated as if they had never been constructed and they start the permit application over.

So we have that language already in the regulation that would fit this.

MR. FISHBACK: Grant, are you referring to -- I'm not sure I follow that.

Are you referring to modifications under PSD that apply there, or are you referring to how a modification qualifies for Tier II?

MR. MARBERGER: It has nothing to do with Tier I, II, or III. It's the fact that if a facility wants a

modification to their existing permit which pulls them into the PSD requirements --

MR. FISHBACK: Right.

MR. HARBERGER: Then the regulation reads they will be treated as if they had never been constructed, and you start all over with permit application, even though it's sitting there operating.

That's in our present regulations.

MR. FISHBACK: Okay. Now, what he's referring to -- this might work. What he's referring to, for everybody's information, is if the facility -- I believe what you're referring to -- excuse me; I'm not inside your head here.

What I believe you are referring to is if a facility makes a modification that subjects it to PSD requirements, it goes back through a process as if it had never been permitted in the first place.

MR. HARBERGER: That's right.

MR. FISHBACK: And if that new permit -- and then we would have to be concerned about whether we're talking about new facility or permit.

But for that to be true, it would have to be a PSD major facility in the first place. So the modification would trigger a PSD modification.

MS. SHEEDY: This is Joyce Sheedy. And in

1 order for modification to trigger PSD. It either has to
2 be a PSD site itself, or it has to occur at a PSD major
3 existing facility and be above a significant level.

4 In any event, what we look at in the
5 modification is just the modification permit, or the
6 permit for the modification is what goes back through
7 the PSD, and not the whole plant that was there before.

8 MR. BYRUM: I think what you're talking about
9 is (B).

10 MR. DOUGHTY: This is Dennis Doughty. I was
11 thinking we might be able to add language that says
12 newly constructed or newly authorized to emit, which
13 would take an existing facility and shift it over; or in
14 the case of Stroud where they took an old incinerator,
15 rebuilt it, and used it for entirely different purpose,
16 it wouldn't be reconstructed or new construction, but it
17 would be reauthorized or newly authorized.

18 And I'm not sure you want to say permitted,
19 because there may be some grandfathered sources that
20 will be newly permitted but not newly authorized.

21 MR. FISHBACK: Let me try to summarize the
22 options here. And anybody that thinks I'm off track,
23 please correct me.

24 Option number 1 is the language that we've been
25 given from the definition of commercial incinerator.

We're concerned about, and properly so, about incinerators with larger emissions that don't happen to be commercial.

So option number 2 is to delete the word "commercial." Okay? That means all incinerators -- privately-owned, publicly-owned, privately-owned and taking fee for service -- would be subject to Tier III if they exceeded either 100 or 250; whatever we've decided.

But I think what we're talking about here, since we're talking about that list of 26, which has nothing whatsoever to do with PSD; it's just that list of 26 we're adding another one to it -- at 100 tons. That's option number 2.

So we delete the word "commercial," and maybe that's all that would have to be done for option number 2.

Option number 3 is to try to distinguish or differentiate between commercial incinerators and all other kinds. And then if somebody was to take advantage of the loophole, close that loophole by requiring them to go through a Tier III process for any modifications that would have subjected them to Tier III initially.

Are there any other options? Are those the three that we've been discussing, or is there a fourth

1 one?

2 MR. BYRUM: That's the three that I believe
3 we've been discussing.

4 Everyone seems to be indicating those are the
5 three.

6 THE CHAIRMAN: Isn't the latter -- isn't the
7 third one simpler?

8 MR. FISHBACK: To me, Bill, it illustrates the
9 problem that we have in trying to write rules for
10 specific sources. Once you've identified it, then
11 you've got to write a specific criteria for the specific
12 source.

13 So I have a problem with doing that in the
14 first place, but that's not the issue here. I don't
15 necessarily think it's simpler, because it involves more
16 language and more ifs, ands, ors, and buts. But it is
17 certainly an option.

18 THE CHAIRMAN: But once you get that language
19 in there, the process is simpler.

20 MR. FISHBACK: And some of the attorneys
21 present might spread some light on this. As soon as you
22 do that for a specific source, what kind of
23 inconsistency have you created for other sources to be
24 sued because they made a modification that would have
25 subjected them to Tier III but they're not required to

go through it?

That's my whole problem.

MS. YORK: Our permitting program in the Department has necessarily involved that type of option, and has placed one type here and one type there, historically. There's no way around it.

And we've never had a legal challenge to that. I think that the public and applicants understand that there are certain types of facilities that present sources of concern and that are more complex and have more implications for the environment and public health.

We have never had a problem with that whatsoever. In fact, as long as I've been with the Department, this is the first time I've ever even heard the issue raised.

MR. FISHBACK: And, of course, the challenge would come from a citizens group next to a refinery who did something that they felt should have been subject to Tier III and it wasn't because they weren't specifically brought into it by this rule.

MS. YORK: Any rule this Department has is subject to that type of action.

It's not necessarily limited to the fact that we put one category -- we treat one category this way and one category that way.

1 That's always a possibility, will always
2 continue to be a possibility. It has never occurred in
3 my experience with the Department.

4 It's a matter of fact that we treat some
5 facilities differently because of the major concern
6 associated with their activities.

7 MR. FISHBACK: No. I understand that.
8 Perception is 90 percent of reality in some cases.

9 MS. YORK: I think the court would have to take
10 a look at the complexity and the degree of concern as
11 well.

12 MR. BYRUM: Madine?

13 MS. BARTON: I didn't think I would ever say
14 this, Bill.

15 MR. FISHBACK: What are you going to do, agree
16 with me?

17 MS. BARTON: Well, I would have to go back with
18 what Kay said. Anything that falls under 100 tons or a
19 modified thereof should be put into Tier III.

20 And would that catch everybody, Kay?

21 MR. BRANECKY: Under? Over.

22 MS. BARTON: I mean, 100 tons or over. Would
23 that catch everybody? Biomedical? Hazardous? Anybody
24 that wanted to modify to do that, whether they are
25 public or private? Would that catch everyone, Kay?

MS. YORK: Uh-huh.

MS. BARTON: And that would be simple, right?

MR. FISHBACK: That's option number 2, delete the word commercial so it's all incinerators?

MS. BARTON: No. Not even mention incinerator. Anyone emitting 100 tons or over or modified thereof would be subject to Tier III.

MR. FISHBACK: Now you've brought a bunch of sources from 250 down to 100.

Yeah, that's clean and simple and a lot more stringent.

MS. BARTON: And I worked for 15 minutes thinking up that.

MR. FISHBACK: It's not a bad idea; it's just a matter of where you set that. I mean, philosophically -- I don't agree with you on the level, but philosophically that's wonderful, because it doesn't make any difference what kind of source it is, only what it emits and how much.

MS. BARTON: We're going back to your original premise, right?

MR. FISHBACK: That's right.

MS. BARTON: So I am in agreement. But is there a problem with the tonnage?

MR. FISHBACK: Yes. Because you're subjecting

1 a whole bunch of sources under PSD that would not have
2 done anything until 250. You're now subjecting them to
3 a Tier III rule at 100.

4 MS. BARTON: Well, in (A) here, it says 100
5 tons per year or more. And that's in the PSD. Isn't
6 that what we're referring to?

7 MR. FISHBACK: Yeah. Go on down to (B) --
8 right after Roman 26, go on down to (B).

9 MR. BRANECKY: If you're not on that list, then
10 you're subject to (B), and you don't kick in until 250.

11 MR. FISHBACK: That list is the 100 ton or
12 more, and then everything else is 250 or more.

13 So, yeah, your idea is wonderful for
14 simplification; it's just a matter that now you've got
15 Tier III requirements on sources that aren't even
16 subject to PSD. You've got the 175-ton guy who doesn't
17 have to do PSD but now he has to do Tier III.

18 THE CHAIRMAN: Just a minute. Dave and Bill
19 and any other industry, could you take a moment to
20 educate, maybe other than just me. Let's say that
21 you're giving a permit to private incinerator. What do
22 you need to include in the application to get that
23 permitted if you're an industry and it's part of your
24 process?

25 MR. BRANECKY: It got a new permit?

THE CHAIRMAN: Right. What is in your application to do that?

MR. FISHBACK: Equipment discretion. Emissions profiles.

THE CHAIRMAN: What you're going to burn?

Now, okay, you get a permit. Now, would you think that that permit would be the same if you were going to commercial? You've got an array of emissions that could come out of a commercial that would not have been considered in your original application.

MR. FISHBACK: It could be the same or different.

THE CHAIRMAN: But it could be different, a lot different.

MR. FISHBACK: Sure.

THE CHAIRMAN: And that --

MR. BYRUM: The permit is probably going to have special conditions that limits you to what you have. But I understand what Bill is saying. If you're running an incinerator to burn --

MR. FISHBACK: Wood waste.

MR. BYRUM: Well, wood waste, okay. I don't know of anybody that does that, but we will use that example because it's a fine example.

And you have another company that wants to buy

1 wood waste, but they don't want to build an incinerator;
2 they want to hire you to do it. So the only change is
3 that you're hiring and you're burning more wood waste.
4 And that could be specific for others.

5 What I think you are looking at is those that
6 would be burning wood waste today but tomorrow want to
7 include the hospital medical waste, and that would
8 require a permit change.

9 THE CHAIRMAN: That's my concern, and that's
10 why I like --

11 MR. BYRUM: But Bill says there's some narrow
12 things where maybe it would be an increase in emissions.

13 THE CHAIRMAN: Well, again, that's why I like
14 Ron Truelove's description of where we are on going from
15 private to commercial and going to a tier III if it
16 wasn't called for in the original application.

17 And that's seemingly -- although it might be
18 more complicated to get this wording in, once it's in,
19 it's pretty evident of where we're headed.

20 MS. BARTON: Say it again, that is.

21 MR. BRANECKY: If you had just the original
22 with the second that said modification to the existing
23 permit that would change it from private to
24 commercial -- change it to a commercial incinerator; is
25 that what you're saying?

THE CHAIRMAN: I think Ron described it a little bit different than that. He said that if this application in the forum that you're going to use it in that they're asking to use it in, other than what it was, and that would have been called for a Tier III, then it goes into a Tier III.

That's what he's saying. And that's all I'm saying, that it didn't get that review originally because it didn't need it for one reason or the other, but now it does.

MR. FISHBACK: And then we run into the complication of having to consider whether we're talking about the net increase would trigger this or the new total after the modification. Here sits an 80-ton incinerator that's private. He wants to become 120 commercial, so. . .

THE CHAIRMAN: That's right.

MR. FISHBACK: Is he 40 or is he 120?

MS. BARTON: One hundred twenty.

THE CHAIRMAN: That's right. That's right.

MR. FISHBACK: Well, that one was easy.

THE CHAIRMAN: I think that approach covers just about everything we've talked about, gets definitions out of the way, leave commercial in there, but does it?

1 MS. BARTON: Let's hear it. Let's hear what
2 you said. I'm getting real close to being sold here.

3 THE CHAIRMAN: Ron can repeat it. The staff
4 can repeat it. We've said it two or three times.

5 But, Ron, you had a good --

6 MR. FISHBACK: Can you push the rewind button
7 and just --

8 MR. TRUELOVE: I just tried to disclose intent.
9 I didn't try to draft specific language. You may want
10 to take a five-minute recess.

11 MS. YORK: I'm working on it.

12 MR. BRANECKY: Does item (C) on the handout
13 from the PSD definition of major source start us in the
14 right direction on that?

15 MS. SLAGELL: If we just take out "by itself,"
16 because right now it says it's 40. If we take out "by
17 itself."

18 MR. BYRUM: You don't want to leave, I don't
19 think, the word "physical change," because changing the
20 fuel may not be a physical change.

21 MR. FISHBACK: Yeah. That's usually written
22 physical change or the change in method of operation.

23 MS. SLAGELL: Just take out "by itself."

24 MR. FISHBACK: Well, now if you at (C) --
25 We're looking at (C) under existing OAC regulations.

That's just what I'm talking about. If the change would constitute a major source by itself, my example, the 40-ton increase would not.

MS. HINKLE: We're going to take that out.

MR. FISHBACK: Oh, you're going to wipe that one.

MS. SLAGELL: We're going to take "by itself" out.

THE CHAIRMAN: Tier classification didn't exist when this was written.

MR. FISHBACK: That's true.

MR. BYRUM: Since we've referred back to the handout on major stationary source, I would like to say -- I would like to conduct the discussion on that portion at this time and say that I'm going to limit it to the items under (A) there. Anything down through number 26 and see if we've got any discussion on those particular items before we go to (B), (C).

And it looks like a numbering problem.

MR. BRANECKY: I need to step back. What are we considering now as the proposal? I mean, what's -- are we still --

MR. FISHBACK: Of the three options that I mentioned earlier, we're considering number 3, which is to write a specific rule that includes either commercial

1 or all incinerators. I think we're talking commercial
2 only -- and then it -- no. I think it's all
3 incinerators. And then if it becomes commercial by
4 accepting waste for fee or it makes a change that would
5 have subjected it to Tier III, it goes through Tier III.

6 MR. BRANECKY: Does item 3 consider the list?

7 MR. BYRUM: That's the thing I was trying to
8 define. If we -- we can either discuss -- I don't think
9 item 3 considers the list above.

10 We can either discuss the below, or we can move
11 back, discuss major source and the list and dispose of
12 that.

13 MR. FISHBACK: You know what we really need is
14 an overhead projector and a grease pencil or we need a
15 flip chart. I think that's the only way we are going to
16 get there, because we are not all seeing the same thing
17 at the same time.

18 Could we procure such?

19 THE CHAIRMAN: What do you intend to do with
20 this?

21 MR. FISHBACK: Write on there what we're
22 inquiring so that everybody is looking at the same
23 thing.

24 MR. BYRUM: The answer to your question is,
25 yes, we can procure such. The other question: Do you

really want to?

MR. FISHBACK: It's pretty hard to do it --

(A discussion was held off the record.)

MR. BYRUM: We need to do some kind of action. We're in the middle of the public hearing and have about 50 discussions going on simultaneously. So we need to do this in an open forum.

MR. BRANECKY: I need somebody to throw out --

MR. BYRUM: Let me suggest something that might move us. We've got what appears to me -- Bill has enumerated three options on the commercial incinerator. I think the other thing that we've got to consider is: What do we do with the other 26 categories we've identified?

What the pleasure of the council may be on how to move forward on this. The suggestion has made that we possibly could go through portions of this, look at the particular scenarios, perhaps get some language drafted that can be either seen or passed around. And can that be done during a lunch break, so we can move forward?

I think that we have at least a couple of issues I see, and one of them may be to look at the handout that we passed out under major stationary source down through item number 26, the discussion point. And

1 then perhaps make a decision on which one of the three
2 positions we've enumerated on the commercial incinerator
3 we may want to investigate and go forward with that.

4 So I believe we have a couple of things we can
5 do before we go to lunch that will give us progress
6 during the break.

7 Does anyone have a problem or suggestion with
8 any of that? Perhaps we could then open it up, if you
9 want to move -- did you want to move through the items
10 (A) through item 26 and see if there's any discussion on
11 that, and then look at what the three options that were
12 suggested? Is that something we can do? Or is
13 everybody lost?

14 THE CHAIRMAN: That sounds all right.

15 MR. BYRUM: I am opening it up, then, under the
16 handout that you have under major stationary source on
17 the items that are listed in item (A) through item 26
18 for any discussion that may be pertinent.

19 Members of the council?

20 MR. FISHBACK: I think it's a good list. Let's
21 use it.

22 MS. SLAGELL: Yes.

23 MR. BYRUM: Any discussions from members of the
24 public?

25 MS. BARTON: I am in agreement with Bill.

MR. BYRUM: So we're dispensed with -- my understanding is that we will use the list that has been passed out down through item 26. So we have progress.

Looking at the three options that we have enumerated a little earlier. The one is the definition of commercial incinerator, which was passed, which states: Commercial incineration means any incinerator which burns waste material for a fee or for valuable consideration. The term incinerator includes but is not limited to municipal, biomedical, and hazardous waste incinerators. That's option 1.

Option 2 would be, and you all correct me if I'm wrong on these. Option 2 would be to delete the word commercial and set a tons limit.

Option number 3 would be to send -- generally stating it to send any changes -- if someone were to be permitted as a noncommercial incinerator and they made changes to their permit that would cause them to become a commercial incinerator, that would subject them to Tier III review.

And I think that's a synopsis of what was said.

MS. BARTON: I think we have it if we put 2 and 3 together and make it one deal.

MR. BYRUM: What you're saying is delete commercial, set a tons limit, and then send any changes

through?

MS. HINKLE: Yes.

MS. SLAGELL: Yes.

MS. BARTON: Yes. I think you have it if you combine 2 and 3.

MR. BRANECKY: Can I throw something out maybe, starting point?

Like Nadine said, if we leave 2 and then add another section of that, we could say a construction permit for a new major stationary source as listed below, and, which would include the list, or any new commercial incinerator that emits or has the potential to emit as defined in, whatever, 100 tons per year or more of any pollutant subject to regulations in the Tier III application.

Next sentence: If any existing noncommercial incinerator is to be converted to commercial use, it shall be subject to Tier III permitting process.

MR. FISHBACK: Regardless of its level of emissions?

MR. BRANECKY: Well, we could tie some level to it.

MS. BARTON: The level was already -- he already stated the level because of the changes to go into -- if they -- if they change it from where they are

1 right now to go into the definitions of the tonnage that
2 you just precededly (sic) described, it would
3 automatically throw it into Tier III, if it was or was
4 not a commercial incinerator.

5 He's captured all that was in there, if he says
6 it again.

7 MS. HINKLE: We were thinking about not having
8 commercial, just put incinerator.

9 MS. BARTON: That would capture --

10 MS. HINKLE: There's no switching from one to
11 the other. It's just purely 100 tons. It breaks that
12 barrier.

13 MR. FISHBACK: See, option 2 as we described it
14 before is if you delete the word commercial from that
15 definition and you apply it to any incinerator, then you
16 don't need any further discussion.

17 The question becomes at what level do you set
18 that threshold? Do you set it at 100 or do you set it
19 at 250? And I don't know that there are other options
20 that we would want to consider, because those are
21 established for many years in that other body of
22 regulation that we're not referring to.

23 So if you --

24 MS. HINKLE: We might have it.

25 MR. BRANECKY: To me, it's not like we're

1 arguing over whether it gets a permit or it doesn't get
2 a permit; it's just whether it has one more level of
3 review.

4 I think all generators 100 tons and go with
5 that.

6 MS. BARTON: It sounded good what you said.
7 Could I have him read it again. Could you read it one
8 more time.

9 MR. BRANECKY: Are we just going to drop
10 commercial then?

11 MS. BARTON: Drop the word commercial and read
12 the whole thing and see how it sounds.

13 MR. BRANECKY: Any construction permit for a
14 new major stationary source as listed below -- and we
15 could list incinerator in that list.

16 MR. FISHBACK: Yeah, because it's not a list
17 based on --

18 MR. BRANECKY: Requires a Tier III application,
19 and then has your list.

20 MS. BARTON: And then what was the other part
21 that you added to it? Didn't you add something else
22 about the modification?

23 MR. BRANECKY: Well, if we were going -- that's
24 if we were going to leave commercial in there and you
25 were trying to cover the noncommercial that went

1 commercial.

2 MR. FISHBACK: There's no switching if it's
3 "any incinerator."

4 MS. BARTON: It sounds good to me. Then you've
5 captured everybody, and it's simple. Am I right on
6 that?

7 MR. FISHBACK: I think the intent of Congress
8 when this unnamed regulation was passed in 1977 was to
9 identify these 26 source categories as being the ones
10 with the highest probability of having the greatest
11 impact on the public. And you can look at those and you
12 can see that you would probably agree with that,
13 particularly if you've ever been around coke oven
14 batteries.

I mean, I don't know that we have any coke oven
batteries in Oklahoma, but they sure do in Pennsylvania.
And that concept continued because one of the first
standards, max standards, was for coke oven batteries,
because they put in a lot of cyclic aromatics. It's a
very hazardous situation if it's not properly
controlled.

So what we're really doing by using this list
is saying, yeah, we agree with Congress that these are
worthy of greater scrutiny, and we're lumping in
incinerators with that; and this list, as somebody

1 already pointed out -- and it may have been Madine --
2 already includes municipal incinerators. So we're just
3 saying we're making it all incinerators.

4 MR. BRANECKY: So what you could do on the list
5 is item 14 just instead of municipal incinerators,
6 scratch all of that and leave incinerators.

7 MS. BARTON: That would capture everything.

8 MR. FISHBACK: This is not a list out of some
9 regulation, now; this is our list.

10 MS. BARTON: That sounds good. I would go for
11 that.

12 MS. HINKLE: At 250 tons?

13 MR. FISHBACK: No, no, no.

14 MR. BYRUM: All the language with the exception
15 of.

16 MR. FISHBACK: That 250 is not emissions;
17 that's feed rate. That's coming in the front end.
18 That's not going out the stack.

19 MS. SLAGELL: We're taking everything out,
20 except --

21 MR. BYRUM: The word incinerator.

22 MR. FISHBACK: No. We're just taking out the
23 word municipal, in 14, Roman 14.

24 MR. BYRUM: Can't you leave everything out
25 except incinerator?

MS. HINKLE: Just the word incinerator.

MR. BRANECKY: I would like to hear from the audience.

MR. BYRUM: Let me just say what's being proposed with the idea.

If you have your list. At item 14 they would be deleting the word "municipal," keeping the word incinerators, and deleting the remainder that's there as the proposal.

MR. BRANECKY: And the language for a Tier III would read: "a construction permit for a new major stationary source as listed below requires a Tier III application."

THE CHAIRMAN: I am then the only one that's concerned about the difference between a commercial incinerator and a private incinerator.

MR. FISHBACK: In this it makes no discussion.

THE CHAIRMAN: Not talking about tonnage; I'm talking about what goes through. And you're wiping that out.

MR. FISHBACK: Right.

THE CHAIRMAN: And so that's no concern of anybody's. Right, Madine?

MS. BARTON: No. Are we capturing the guide that wants to increase from --

1 THE CHAIRMAN: Tonnage has nothing to do with
2 this.

3 MR. FISHBACK: No, it does.

4 THE CHAIRMAN: I'm sorry. Tonnage is the only
5 thing that has to do with this. It's not what goes
6 through the incinerator. If everybody is happy with
7 that --

8 MS. BARTON: Well, this is what we gave up.
9 The Title V definitions is the stuff that's coming out
10 of there; isn't that correct?

11 MR. FISHBACK: Well, you just jot it back,
12 because the Title V threshold is 100. So if all
13 incinerators are 100, it's all Title V major sources go
14 through Tier III.

15 MS. BARTON: Well, is that good or bad?

16 THE CHAIRMAN: I'm simply saying in the initial
17 application that gave a permit for incinerators to be
18 used privately -- okay. All of a sudden it goes
19 commercial. What goes through that incinerator now that
20 didn't that was considered in the application. Not
21 speaking tonnage --

22 MR. BRANECKY: That would be a modification.

23 MR. FISHBACK: It would just go through Tier
24 II.

25 THE CHAIRMAN: That just goes through Tier II,

not Tier III.

Is that all right?

MR. FISHBACK: And let's keep in mind. Please correct me if I'm wrong. I think in discussing this that we believe that there's some secret allowable emission that can come out under Tier II that can't come out under Tier III. And that's not the case at all. The emissions limits that are established are going to be exactly the same.

The only thing Tier III does is give more public participation in the process. Correct?

MS. YORK: If it's an existing and what it wants to increase is the emissions to be over 100 tons per year, then it would fall under Tier II, because it's existing. And the people have more notice as to what's going on and what kind of increase there is.

And if it's an existing facility, it falls under Tier II with the opportunity for public comment, notice up front that they filed the application, and an opportunity for a public meeting.

If it's a new facility, it would go under Tier III -- if it's a new, big facility, it would go under Tier III.

That's consistent with the conceptual table that was developed a year ago.

1 MS. BARTON: I have a question, and it's
2 concerning a specific facility, the Stroud facility.
3 The Stroud facility is now shut down.

4 If a company comes in, are they -- is this
5 going to be considered an existing facility, or if it's
6 a new company that's going to be taking it over, is that
7 going to be considered a new permit, a new facility, and
8 fall under these rules? Or would they be exempt under
9 the other rules, or exempt under these rules?

10 MR. BYRUM: There's not an easy answer to that
11 one. It depends on how the facility is shut down, if
12 they maintain the permit.

13 And I don't know the answer to that; I really
14 don't know whether they maintained the permit or not.
15 But if they maintained the permit and it's a transfer of
16 permit --

17 MS. BARTON: Is the permit transferable?

18 MR. BYRUM: Yes.

19 MR. FISHBACK: Change in ownership almost never
20 subjects a facility to requirement for new permit,
21 change in ownership by itself.

22 MS. BARTON: So it would only fall under Tier
23 II; is that correct?

24 MR. BYRUM: That would be a Tier I.

25 MS. BARTON: We have to address that issue.

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folks.

DR. CANTER: But presumably the permit would stay the same in the sense of the requirements of the permit.

MS. YORK: They're talking about the transfer only.

MS. BARTON: But --

MR. BYRUM: If they are doing --

DR. CANTER: If they are going to make changes, that's a different ball game.

MR. BYRUM: Then they would have to be permitted and go through, probably, Tier II; I don't know. It depends on the amount of change.

What you're looking at is an existing facility.

(A discussion was held off the record.)

MR. BYRUM: We're going back on the record.

Welcome back. We are still discussing the three options. I think one of the discussions was to kind of combine 2 and 3. I guess I would throw it open for a discussion to the council again.

MR. FISHBACK: Yeah. Where we finally ended up, if I understand correctly, from the definition that's printed on your handout, you -- Well, we even went a step beyond that. We took the list of 26, go to Roman 14, strike everything in that but incinerator, and

1 we're done. That's where we are.

2 MR. BRANECKY: Right.

3 MR. FISHBACK: Are you happy with that, Nadine?

4 MS. BARTON: I am happy with that. Did that
5 also include a modification?

6 MS. HINKLE: I think we're going to get to
7 that.

8 MS. BARTON: That's our next step?

9 MR. FISHBACK: What we're talking about right
10 now is an initial level of emissions of 100 or more for
11 those 26 categories and 50 or more for anyone else.

12 MR. BRANECKY: What about industry? Any
13 comments from industry? What we're proposing is --

14 MR. FISHBACK: We're proposing to take this
15 list from this other regulation and change item Roman 14
16 to read incinerators, period.

17 MR. NICHOLSON: I think the problem with that
18 proposal is you're still going to have to take even
19 another issue now, and that's the increment issue.

20 MR. BRANECKY: That will be addressed.

21 MR. NICHOLSON: And then I guess in the
22 approach number 3, you just had to fix noncommercial to
23 commercial, in very simplified way, perhaps, but you're
24 trading types of fixes, I think.

25 MR. FISHBACK: Okay. That's the solution on

the table. Did we want --

MR. BYRUM: Other comments from industry? Comments from anyone else? Do you need to have it read to you one more time? Everybody looks blank.

MR. BYRUM: Can we --

DR. CANTER: I thought we were going to get this in writing after lunch.

MR. BYRUM: We can do that. I was just trying --

DR. CANTER: Get the whole thing in writing, and I mean the whole list of 26 and everything else, because I think -- I'm not sure -- it's hard to keep up as to what we've been talking about. To just have it read again -- I mean, I would prefer to see something in writing at this point.

MR. BYRUM: I don't think we're going to vote on it until we do that.

MR. FISHBACK: That's why I thought the overhead would be nice.

DR. CANTER: Why do we need more discussion, I guess?

MR. FISHBACK: We've only solved one piece of it, and that's the initial application piece.

MR. BRANECKY: Let me throw out some language. It's not complete, but it's a start. A construction

1 permit for a new major stationary source as defined
2 below -- or wherever -- requires a Tier III application.

3 And that definition would be this A list, this
4 list of 26; I guess (A) and (B).

5 MR. FISHBACK: Right.

6 MR. BRANECKY: (B) covers everything else
7 that's not on the list.

8 MR. FISHBACK: That's fine with me.

9 And now we need to decide what to do with
10 modification.

11 MR. BRANECKY: Which could be addressed with
12 (C) under that.

13 MS. SLAGELL: With changes.

14 MR. BRANECKY: With some changes. Striking
15 physical, I mean?

16 MS. SLAGELL: And also "by itself."

17 MR. BYRUM: Then my understanding is you would
18 like for the staff to take the language that you have
19 and --

20 MR. BRANECKY: I want to see it all in one --

21 MR. BYRUM: Right. And draft that down through
22 (B) at this time.

23 MS. HINKLE: Maybe (C).

24 MR. BYRUM: Maybe (C). Well, we're going to
25 get there. But I'm just making sure they've got what

we're talking about out there so we can get it prepared for you over the break.

MS. YORK: May I ask a simple question?

MR. BYRUM: Sure.

MS. YORK: Going back to number 14. There would be some modification in those lines?

MR. BRANECKY: Strike everything except incinerator.

THE CHAIRMAN: Incinerator is just one of the categories.

MS. YORK: Just incinerators period.

MR. FISHBACK: Which means all kinds.

MS. YORK: Okay.

MR. FISHBACK: Regardless of location, ownership, usage, fee for service; anything. All incinerators.

MS. YORK: All right.

MR. BYRUM: Okay. The staff will go that far, and we'll work on anything else that you have.

DR. CANTER: Can't you work the (C) in?

MR. BYRUM: We're waiting to get the language from you.

MR. BRANECKY: We could put (C) just as another sentence, what I just read, as any change that would occur to a source not otherwise qualifying as a

1 major source under (A).

2 THE CHAIRMAN: (A) and (B).

3 MR. BRANECKY: (A) and (B) of this definition.

4 MR. FISHBACK: We have to keep in mind that in
5 Tier II we've already defined a significant modification
6 of a major facility under certain conditions as
7 qualifying for Tier II.

8 We've already done that.

9 MS. COLEMAN: If you make the change you just
10 talked about, it will make any existing major PSD source
11 that goes through those modifications subject to Tier
12 III, which we had this discussion at the last council
13 meeting and determined that had should be in fact in
14 Tier II.

15 MR. FISHBACK: Not only should be, but is.

16 MS. COLEMAN: But that's what you voted on last
17 time.

18 MS. YORK: Is it the incinerator you're
19 concerned about with the modification, that if somebody
20 comes through and permits an incinerator for 80 tons and
21 then comes back and wants to increase that by 20 or 30
22 that it would be in Tier II. And you're thinking that
23 perhaps there should be a due process right that accrued
24 since it was not present when it was a new facility?

25 Is that what you're talking about?

MS. COLEMAN: Uh-huh.

MS. YORK: Then you could very easily use words to the effect that any incinerator that's asking for an increase in emissions, that if it were new would have been subject to Tier III permitting process. We have done that in our other programs as well.

MR. TRUELOVE: Ron Truelove again. If you took item (C) and you just said "any change that would occur at an incinerator not otherwise qualifying as a major source under (A) and (B) of this definition, if that change would constitute a major source by itself, or a -- would be a Tier III."

MR. FISHBACK: I think it should say if the net result of that change, not the change, because that gets into that increment question.

MR. TRUELOVE: What it's requiring, Bill, when the change itself being major, meaning the change has to be 100 tons. We were talking about this particular paragraph with respect to that other regulation you've been referring to is a change of 250 tons or a change of 100 tons if you're on the list.

And the source could exist -- if it's one on the list, could exist at 90 tons. You could experience a 90-ton increase and never trigger paragraph (C). You would have to experience 100-ton increase to trigger

paragraph (C).

MR. FISHBACK: I realize that. And that's not the intent of the Council, I don't think.

MR. TRUELOVE: I interpreted that to be.

MR. FISHBACK: And I thought your original statement was that if it would have been subject -- if you went from 90 to 110, then I thought your statement originally was if it would have qualified as Tier III originally, it should now. Rather than having to go from 90 to 100.

MR. TRUELOVE: That was my original statement. But if you invoke (C), that's not the intent of (C).

MR. FISHBACK: I realize it isn't. But remember, this is just a piece of paper we found on the street.

And that's what the council needs to decide. If you want net increases above thresholds to trigger Tier III, or do we want postconstruction emissions after the change to trigger Tier III?

And in my example, do you want something going from 90 to 110, or do you want something going from 90 -- does it have to go to 191 to trigger Tier III?

That's the question we have to answer.

MS. YORK: I think the answer to that is if it were a new facility, whatever emissions they are asking

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for now would determine where it fell. If they were a new facility and it was 91 tons, they would be a Tier II.

Whether or not they are permitted at 40 or 50 wouldn't make any difference. If they're wanting to increase to 90, they would be a Tier II. If they're wanting to increase to 101, they would fall under Tier III for the modification.

They may have been a Tier II, or they may have even been a minor source when they first were permitted. But with the emissions that they are asking for, permitted capacity for the emissions, if it falls under Tier II, they're a Tier II.

If it falls under 100 or more, there are a Tier III, as if they were a new facility.

MR. FISHBACK: This same discrepancy has existed in PSD since 1977 and has really never been addressed.

You can be a 99-ton source if you're on this list; and if you add 99 tons of emissions, you're going to trigger it because you've exceeded 100.

MS. SHEEDY: No.

MS. YORK: If you've added to. If you've added to, you don't trigger it.

But you're over 100. Is that what you're

1 saying?

2 MR. FISHBACK: Yeah, that's the point. You
3 can double the size of your facility without being
4 subject to PSD.

5 MS. YORK: And you're saying with incinerators
6 because of the high degree of public concern.

7 MR. FISHBACK: I'm not saying, but, yes.

8 MR. SYRUM: There are those who are.

9 MS. YORK: Because of the high degree of public
10 concern you think it's beneficial to give that due
11 process right anytime an incinerator would want to kick
12 in as if they were new, they would be a Tier II, even
13 though they are existing.

14 MR. FISHBACK: That's the question for the
15 council's consideration.

16 And you can construe all kinds of scenarios.
17 But you've got the case where someone goes from 99 to
18 101, and now they're Tier III, because it was the same
19 as if they were 101 five years ago when they were first
20 built.

21 Or do you want to require -- that's where the
22 wording came from in this other regulation --
23 significant increase. Do you want them to have a
24 significant increase above a certain level to be subject
25 to Tier III?

1 And this regulation provides for definitions of
2 what is significant. And it varies by pollutant.

3 MS. YORK: I think that probably the most fair
4 way to do it is to say if they had done this when they
5 were new, they would be a Tier III. If they want to do
6 it after they're built, they still would be subject to
7 Tier III. Because you give that due process right on
8 the basis of the emissions level, rather than whether
9 they take in waste for a fee or whether they process
0 their own.

1 MR. FISHBACK: And if the Council takes that
2 approach, we have to consider: Are we doing that only
3 for incinerators.

4 MS. YORK: Yeah, as I understand it, you are.

5 MS. BARTON: That's our major concern is the
6 incinerators.

7 MS. YORK: I don't think that's a problem at
8 all.

9 I'm not concerned about the legal ramifications
0 of singling that out. We single out other things and
1 say they are Tier III for modifications of other things
2 in Tier III in some of the other programs.

3 MR. FISHBACK: So you look at this list and the
4 99-ton sulfur recovery plant gets 99 tons with not
5 Tier III review. The 99-ton incinerators gets to add

1 two tons and goes through Tier III review.

2 Everybody understand that?

3 MS. YORK: I think that's a compromise. I
4 think if the environmental groups had what they want,
5 they would have everything that gets over 100 tons in
6 Tier III. A lot of industries would want, regardless of
7 what they increase, they would want it to stay in Tier
8 II. So I think it's a compromise, Bill.

9 MR. FISHBACK: I just want to make sure
10 everybody is clear on the implications of what we're
11 deciding. It's very useful to talk in terms of
12 examples.

13 That's okay with me.

14 MR. BYRUM: So my understanding is that you
15 would like for the staff to draft (C) to say "any change
16 that would occur at an incinerator" -- go from there
17 somewhere.

18 MS. YORK: Let's use language that has to do
19 that would have subjected it to Tier III permit
20 application requirements as if it were a new facility.

21 That's consistent with what some of the other
22 sections do. And I think that would be the most simple
23 way to approach it.

24 Dr. Canter, did you have an alternative to
25 that?

DR. CANTER: No.

MR. FISHBACK: We've got a bunch of bright --

DR. CANTER: But you have some wording in mind that you could put there.

MR. FISHBACK: We've got a bunch of bright people in this room. Can anybody think of another facility where a facility is built and has the potential to become public, particularly any of these other 26 source categories? Is there an example like that?

I can't think of one. I mean, you don't -- I don't think you do that with other source categories. Do you?

All the rest of these are all privately owned. They don't -- I mean, a refinery, for example, buys crude oil wherever it is the cheapest, but that doesn't make them a commercial refinery as opposed to a private refinery; that just means they're doing business.

THE CHAIRMAN: Just a quick look of these says they are all commercial anyway.

MR. FISHBACK: Yeah, they are not commercial anyway. Well, they are not commercial in the sense of the incinerator being commercial. They are private.

THE CHAIRMAN: But they are selling.

MR. FISHBACK: Operated for profit. But that's a different definition of commercial than we're talking

1 about.

2 MS. YORK: I think it just boils down to what
3 you started out saying in the first place. It doesn't
4 really matter whether it's private or commercial. What
5 matters is the amount of emissions that is going to be
6 put into the air.

7 MR. FISHBACK: I still have a problem singling
8 out one source category, but we'll go with it.

9 How, do you need somebody to stay around, or
10 are you going to appoint somebody on your staff to do
11 this?

12 MR. BYRUM: I may need to talk with Dennis on
13 how we procedurally -- I think we can close the hearing
14 and come back with a recommendation.

15 THE CHAIRMAN: After you come back with this
16 recommendation, where are we going from there on this
17 hearing?

18 MR. BYRUM: Hopefully what we will do is close
19 the hearing. During the interim, we will bring some
20 language back that you can look at; somebody can take
21 that language and make a motion. We can take the motion
22 and vote on it, and we can go on to the next hearing,
23 which will be the next set of rules.

24 THE CHAIRMAN: When you say close the hearing,
25 on this one rule? You want to close it before we go or

just go ahead --

MR. FISHBACK: It's adjourned for continuation.

THE CHAIRMAN: Yeah, it's just a continuation.

MR. FISHBACK: Just like it was a month ago.

You are not closing it.

MS. YORK: Yes, we are. We will need a definite recommendation from you when you have the wording.

MR. FISHBACK: We mean closing it now to go to lunch. We're just going to lunch.

THE CHAIRMAN: I need some direction. Do you want this body to close this hearing or not?

MS. YORK: Continue it for lunch. Take a lunch break and continue it.

MR. BYRUM: We can do either one.

THE CHAIRMAN: We will continue this hearing after lunch.

(A lunch recess was taken.)

THE CHAIRMAN: We will call this hearing back into session.

Larry.

MR. BYRUM: We are continuing what we were working on prior to lunch, and that is to come up with a definition that will allow us to look at stationary sources in the Tier III rules.

1 Before our lunch break we had discussed
2 adopting the major stationary source rule that's on page
3 21 of our current rules, 252:100, down through and
4 including item (B). During -- the council asked that
5 during the lunch break that the staff look at putting
6 together some additional language that we might consider
7 so we have something in writing before us.

8 The staff has accomplished that, thanks to
9 Mr. Doughty for spending his lunch doing that for us.

10 We have those here in front of you. If anyone
11 doesn't have a copy, we have several copies up here. We
12 passed those out a few minutes ago.

13 So I would open that to discussion by the
14 council, these possible solutions as listed here.

15 MR. BRANECKY: On solution 1 of our list. How
16 would the list be included in solution 1, as (A) and
17 (B)? It says as defined below, and I assume we're
18 including the list of 26 --

19 MR. BYRUM: Through (B).

20 MR. DOUGHTY: The list would have to follow
21 that with the word incinerator only included in the
22 list.

23 MR. BRANECKY: Sections (A) and (B), right?

24 MR. BYRUM: Right.

25 MR. BRANECKY: Like I said, they are both

offering the same solutions, just in different ways.

MR. BYRUM: I believe that's correct.

MR. FISHBACK: I like solution 2 better.

MR. BRANECKY: That's more straightforward and simple. With the addition of item (B) from the other list. That needs to be included.

I guess item (B) would be "any other source not on the list in (A) of this definition which emits or has potential to emit 250 tons per year or more of any pollutant."

MR. FISHBACK: Because that section (B) says emits or has potential to emit.

That's an actual or an allowable. I think it would be consistent with the other regulations that we've got on the books. For example, the basis for fee payment; it's actual or allowable. I would like to see it be actual or allowable here. And potential to emit I think has the same meaning as allowable.

In other words, I would like to give a facility their choice. And if you make this an "or," any change in actual or allowable, then whichever is the highest would -- you know, if the change in allowable were to bring it above 100 and the change in actual would not to bring it above 100, then it would still be Tier III.

If you use the word or -- actual "or"

1 allowable.

2 MR. BRANECKY: You're saying allowable instead
3 of potential?

4 MR. FISHBACK: I don't know that there's any
5 difference between those two. I don't think there's
6 much difference.

7 DR. CANTER: Doesn't (A) have which emits or
8 potential to emit. And (B) has the same wording. It
9 seems to me it ought to be the same wording in (C).

10 MR. FISHBACK: Yeah, probably so.

11 MR. BYRUM: So what you're saying is change the
12 wording in item (C) to reflect the same wording "or has
13 potential to emit."

14 DR. CANTER: Any change in emissions.

15 MR. BRANECKY: In actual emissions; is that
16 right?

17 MR. DOUGHTY: Yeah, that probably would get it.
18 I didn't know what the council was thinking when we were
19 talking about emissions, so I put either/or in there.

20 And if you go back to the definition, I think
21 you could probably just scratch both of those out and
22 come to the same place.

23 MR. BYRUM: Any change in emissions?

24 MR. FISHBACK: Any change in emissions or
25 potential to emit. Or any change in a permit condition.

And I -- I didn't think, and we're calling this last three lines definition (C) now?

I didn't think it was quite reflective of our concern. I modified it slightly.

It's not would cause an incinerator to be defined; it's "would have caused" an incinerator to be defined as a major stationary source when originally built -- or when initially built, or however you want to say that.

Or initially permitted, yeah. In other words, we're doing something -- a change down the road subjects it to the same Tier III review as would have had occurred initially or originally, or however you want to say that.

MR. BRANECKY: Read it to me.

MR. FISHBACK: Any change in emissions or potential to emit or any change in a permit condition that would have caused an incinerator to be defined as a major stationary source when originally built -- or permitted may be better, because we're really talking about the permit process and not the construction process.

I will read that one more time. Any change in emissions or potential to emit or any change in a permit condition that would have caused an incinerator to be

1 defined as a major stationary source when originally
2 permitted.

3 The only thing I would add to that is that you
4 need to --

5 (A discussion was held off the record between
6 Mr. Fishback and Ms. Slagell.)

7 MR. FISHBACK: "Would have caused" is past
8 perfect. If it would have been this large when it was
9 originally permitted. The fact that it becomes that
10 large sometime during its lifetime is just the fact.

11 Would have caused when originally permitted.

12 MR. BYRUM: Other discussion by the council?

13 MR. FISHBACK: The thought I was getting to
14 there is: I sure would like to include in here or
15 reference or somehow describe that that potential to
16 emit does take into consideration pollution control
17 equipment.

18 And we could just say that.

19 MS. SHEEDY: This is Joyce Sheedy. Do you just
20 want to limit it to pollution control equipment, or also
21 things like hours of operations, production rates,
22 limitation?

23 MR. FISHBACK: Any limitation that is federally
24 enforceable.

25 And we got away from referring to PSD.

1 MS. SHEEDY: Well, that other regulation.

2 MR. FISHBACK: Because you will guarantee that
3 you will have that discussion. The uncontrolled
4 emissions are 500; the controlled emissions are 80; what
5 is it?

MS. SHEEDY: Since we have more than one
definition of potential to emit, I think it is important
to know.

MR. BYRUM: Why don't you just insert that in
(C), what you mean?

MR. FISHBACK: Fine.

I mean, you always run into this problem of
cross-referencing definitions. It's always clearer if
you put it where you are going to use it, because
everything is repeated. But I think it's short enough
that it would be worthy to repeat it here.

MR. BYRUM: The rationale for that is you made
a specific requirement for one specific thing right here
and it all needs to be contained there.

MR. FISHBACK: Yeah.

MR. BRANECKY: Read that again.

MR. FISHBACK: Okay. We can either do it as
section (D) or as a second sentence on section (C).

MR. BRANECKY: Keep it in (C).

MR. FISHBACK: Keep it in (C)? All right.

The additional sentence would be "potential to
emit in this context means emissions after taking into
account any federally enforceable means of emission
limitation."

MR. BRANECKY: I guess we don't need to leave
that in (C) because we referenced potential to emit in
(A) and (B).

We need to make sure -- we separate it out to
make sure it applied to everything, all the references
to potential to emit.

MR. FISHBACK: All of them; that's true.
Because (A), (B), (C). So maybe that statement that I
just made needs to be back up before (A).

Does the staff have any problem with scattering
a definition in some place another than the definition
section?

I think it's really critical that we do this.

MS. SHEEDY: I think there are some problems.

MR. BYRUM: I think we have a problem with it,
but I think that you're carving out something special
here. I have a problem with it, but for clarity --

MR. FISHBACK: It certainly can't make it more
confusing.

THE CHAIRMAN: Why not read "any change in
emissions or potential to emit with controls in place"?

1 MR. FISHBACK: But it's not only controls.
2 There are other things that would limit the emissions.

3 THE CHAIRMAN: Okay.

4 MR. FISHBACK: That's my initial thought
5 because usually that is how you limit your emissions.
6 But as Joyce pointed out, you can do it with hours of
7 operation or --

8 MR. BYRUM: Even enforceable conditions.

9 Why don't you use enforceable permit conditions
0 rather than the federal. Because we may have --
1 limiting hours can be a state condition.

2 MR. FISHBACK: Well, and there was a major
3 decision by EPA in a lawsuit in the D.C. Circuit
4 recently about just this issue, that state only
5 limitations in permits particularly for synthetic minor
6 Title V sources were sufficient to make them minor. So
7 that's a done deal now.

8 A state permit is a -- doesn't have to be
9 federally enforceable -- has to be enforceable.

10 MR. BRANECKY: Do it again.

11 MR. FISHBACK: Where are we putting this,
12 first? Are we putting it above (A)?

13 DR. CANTER: No. (D).

14 MR. BRANECKY: (D) is fine.

15 Potential to emit.

1 MR. FISHBACK: Let's be specific about that.
2 How about we say potential to emit in -- and
3 what's the proper -- Kay, if you're talking about
4 Section 42, is it subsection or what?

5 Potential to emit in OAC -- well, maybe not put
6 that in there, because you're in the document.
7 Potential to emit in 252:002-15-42 means emissions
8 resulting from the application for consideration of all
9 enforceable limitations.

10 And we took out the word federal.

11 MR. BRANECKY: Enforceable permit limitations?

12 MR. FISHBACK: Fine.

13 So PTE in this Section 42 means emissions
14 resulting from the application of all enforceable
15 limitations.

16 MS. SLAGELL: Permit.

17 MR. FISHBACK: Permit limitations.

18 DR. CANTER: Is that understood? I would try
19 to put in for clarity here, whether I put it in after
20 pollution control equipment and/or any other operational
21 measures.

22 MR. FISHBACK: That was the intent to make it
23 all-inclusive.

24 DR. CANTER: Now we're putting in a definition
25 referring to another definition someplace. I thought

the whole idea was to make this specific.

MR. FISHBACK: Well, we can use that old tactic enforceable limitations including but not limited to and then list a few. That will work.

Potential to emit in this Section 42 means emissions resulting from the application of enforceable permit limitations, including but not limited to.

DR. CANTER: Then you could put the pollution control equipment.

MR. FISHBACK: Hours of operation. Feed stock. Whatever else we wanted to include in our not inclusive list.

And the main thing is pollution control equipment.

Who had -- did you have a 251 with you?

MS. SHEEDY: I've got the state definition.

MR. FISHBACK: Does it have the comparable language to the federal language?

MR. BYRUM: Yes, it's identical.

MS. COLEMAN: It says maximum capacity source to emit under its physical and operational design. The potential to emit means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitations on the capacity of the source to emit a pollutant, including

air pollution control equipment, and restriction on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as a part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

MR. FISHBACK: And that's the same as the federal definition. I don't know that we want all of that in there. If we say enforceable permit limitations, including but not limited to. What do you want to pick from that list? Pollution control equipment? Hours of operation?

A VOICE: Other operations limitations?

MR. FISHBACK: Feed stock? I don't know.

MS. SHEEDY: Production.

MS. COLEMAN: Rather than creating a new definition of potential to emit, why not reference the definition afterwards, because that same definition is the definition rules of our air quality rules.

MR. FISHBACK: The only reason we wouldn't is because it's not right here. Same problem. Yeah.

Well, we can have it both ways. We can reference that and also include this statement. What's the citation on what you just read?

1 MS. COLEMAN: 252:100-1-3.

2 DR. CANTER: Can you read that again? Maybe
3 that's the easiest thing, just to use that definition.

4 MS. COLEMAN: The potential to emit means the
5 maximum capacity of a source to emit a pollutant under
6 its physical and operationa design. Any physical or
7 operational limitations on the capacity of the source to
8 emit a pollutant, including air pollution control
9 equipment, and restriction on hours of operation or on
10 the type or amount of material combusted, stored, or
11 processed shall be treated as a part of its design if
12 the limitation or the effect it would have on emissions
13 is enforceable. Secondary emissions do not count in
14 determining the potential to emit of a source.

15 DR. CANTER: To me that's satisfactory. So if
16 you don't need to even put in the definition here;
17 that's presumed.

18 Or you could say potential to emit as defined
19 in whatever that other section is.

20 MS. BARTON: I have one question.

21 DR. CANTER: That wording seems reasonable to
22 me, consistent here.

23 MS. BARTON: I just want something defined
24 about about the secondary source. What does that
25 pertain to?

1 MR. FISHBACK: Secondary emissions are usually
2 fugitive emissions. Or I think secondary may actually
3 be resulting from the construction process, like dust
4 off the road. It's not processed emission from the main
5 incinerator vent, for example.

6 So they are of much less significance. And I'm
7 not sure that secondary means temporary, but I think it
8 does.

9 MS. BARTON: Does it define it?

10 MS. COLEMAN: It is equally defined in the
11 state rules already, and this is a very precise
12 definition of secondary.

13 MR. FISHBACK: Okay. So now we have said
14 potential to emit in 252:002-15-42 means emissions
15 resulting from an application of all enforceable permit
16 limitations, as defined in 252:100-1-3.

17 MS. SHEEDY: That's okay.

18 MR. FISHBACK: And you give the applicant
19 credit for being able to flip to that reference and
20 check it out, which I don't think is too much of a
21 stretch.

22 MR. BYRUM: Other discussions from the council?
23 Discussion from the audience?

24 MR. NICHOLSON: Just an administrative change
25 to what is now (C), a change in emissions or potential

1 to emit. You have a comma after that "or any change in
2 any permit condition." Shouldn't there be a comma
3 there, "that would cause an incinerator to be permitted
4 as a stationary source"?

5 Otherwise it might seem to imply to all
6 permits.

7 MR. FISHBACK: It's three subject clauses;
8 that's correct.

9 MR. BYRUM: We will insert a comma.

10 MR. NICHOLSON: Okay. Thank you.

11 MR. FISHBACK: If we're at that point, we're
12 home free.

13 MS. BARTON: You will probably shoot me for
14 asking this question, but I just want to make sure that
15 if we go into nonattainment that these rules are still
16 going to be valid and applied and there won't be any
17 problem.

18 MR. FISHBACK: There's no -- because this did
19 not come from PSD, it came from this piece of paper that
20 we found on the street, there's no problem with it being
21 attainment or nonattainment. It applies equally
22 everywhere.

23 MR. BYRUM: Everybody gets washed.

24 Any questions from the audience?

25 DR. CANTER: Can I ask a question on that, to

1 be sure it's clear. If you're in a nonattainment area,
2 the definition of major source varies, depending upon
3 what pollutant you're talking about.

4 MR. FISHBACK: It does under Title 7; it
5 doesn't under PSD.

6 MR. BYRUM: What we've basically done is pull
7 this definition on this piece of paper and we haven't
8 tied it to whether it's attainment or nonattainment. It
9 just applies for this particular purpose.

10 MR. FISHBACK: And the Tier III eligibility of
11 a source, the way we're doing it is independent of
12 whether it's in an attainment or nonattainment area.
13 The PSD eligibility of source continues to be
14 independent of attainment or nonattainment. But the
15 Title 7 eligibility varies.

16 DR. CANTER: Okay.

17 MR. BYRUM: Other questions from the council?

18 From the public?

19 Mr. Chairman. I find no further questions.

20 THE CHAIRMAN: At this point we're to accept
21 these changes and recommend to DEQ Board for acceptance
22 and action.

23 MR. BYRUM: Yes. To capitalize, the council
24 has already voted accepting Tier I and Tier II. So the
25 vote we would be looking at is to accept the changes as

1 we've listed those for Tier III.

2 MS. YORK: Mr. Chairman, may I read the
3 recommendation for the council's information?

4 THE CHAIRMAN: Yeah. We had that already in
5 our packet. Is that the same?

6 MS. YORK: Yes, sir.

7 THE CHAIRMAN: Okay.

8 MS. YORK: On, I guess, November 13, 1995, the
9 members of this council by authority vested in them by
10 the Oklahoma Environment Quality Code, with the correct
11 cite, by roll call vote recommended to the Environmental
12 Quality Board that the rulemaking described in
13 Attachment A of this recommendation be adopted as
14 permanent. This will take effect July 1, 1996, after
15 legislative review.

16 What will be attached are the techs from 40,
17 41, and 42. You have already voted on 40 and 41. So
18 this recommendation would be to recommend 40, 41, and 42
19 as you have amended it.

20 This council has considered the proposed
21 rulemaking and comments about it and determined to the
22 best of its knowledge that all applicable Oklahoma
23 Administrative Act requirements have been followed.

24 This council authorizes the Department to
25 prepare this recommended rulemaking to the Board, making

1 any changes approved by the council, correcting
2 typographical, grammatical, and reference errors and
3 formatting them as required by the Office of
4 Administrative Rules.

5 This is to be done with the understanding that
6 such changes shall neither alter the sense of what this
7 council recommends nor invalidate this recommendation.

8 Respectfully it would be signed by your
9 chairman, and the votes would be recorded as given.

10 THE CHAIRMAN: Kay, was there any other
11 incidentals in this rule that we needed to -- our
12 attention needed to be called to?

13 MS. YORK: No, sir. The changes that you had
14 discussed at the earlier meeting on 40 and 41 are shown
15 on this one-page sheet. And I believe that -- I know
16 these changes represent what you voted on for rules
17 number 40 and 41.

18 The only thing hanging was rule 42, and I
19 believe that you have a measure before you that appears
20 to represent your best effort of that.

21 THE CHAIRMAN: Before we vote on this, is
22 there -- or have a motion made, is there any questions
23 from the council?

24 DR. CANTER: What we're talking about
25 recommending then is what is on this sheet as possible

solution 2, which would have stipulated the entirety -- again, what we've got here is a skeleton with some understanding as to what is going to be changed.

But I'm not -- I thought there was an understanding before lunch that paragraph (B), for example, was going to be included; it's not included here.

So I guess I want to be sure that item (A) in fact is what is on that page which includes the three lines. It includes the 26 items; it includes paragraph (B); it includes paragraph (C) as suggested word changing, and also paragraph (D), which is the potential to emit.

We don't have a complete version of what it is we are going to be voting on here, at all.

MR. BYRUM: I understand that. And I apologize.

DR. CANTER: No, I just --

MR. BYRUM: I would point out to you there is an item (D) on this page that we're looking at. And that, to my understanding, is not included.

What we're doing is striking that and inserting our own (D). So it would be inclusive of the language on the possible solution 2; those items (A) through (B) that are on this page, as on this page, with the

exception that on item 14 the strikeouts of municipal, leaving incinerators, and the rest of the words being stricken, through (B) would be as per -- on this particular page.

Then we would add the language of item (C) that's been drafted here, and the item (D) that's been drafted here.

That's my understanding. That's what the staff would put together.

MR. THOMAS: I'm confused on item (D).

MR. FISHBACK: I may have the closest version. We're clear on (A) and (B).

(C) any change in emissions or potential to emit, or any change in any permit condition, that would have caused an incinerator to be defined as a major stationary source when originally permitted.

(D) potential to emit in 252:002-15-42 means emissions resulting from the application of all enforceable permit limitations as defined in 252:100-1-3.

MR. BYRUM: That's what I would propose that the staff would type up and prepare as what you've --

MR. FISHBACK: And, unfortunately, I just thought of something that we haven't considered.

We all agreed that we wanted to make this

category of incinerator as broad as possible to include municipal and commercial and hazardous waste and biomedical and all the rest of these.

And I think -- anyone correct me if I'm misstating this -- but I think everybody's understanding in that regard, their mental picture of incinerator was a device in which you stick something into a flame, and that something is usually solid material, whether it's cardboard boxes at Wal-Mart or it's old needles at a hospital, or whatever it is; that's what we were thinking. That's what I was thinking.

There is another classification of incinerator which has not been discussed, and it's very common in the oil and gas industry at petroleum refineries and a lot of other places, and that's basically a hydrocarbon incinerator. Usually they are called a flare, but they can also be called an incinerator. And their feed stock is not a solid; it's not needles and boxes of stuff; it's combustible gasses.

And I think the concept we've been dealing with here is entirely different than that.

So I'm not sure that we want to make the incinerator category include all kinds of incinerators, because we're talking about more than a semantic argument here. That's the name. If you have a refinery

1 and you want to combust some gaseous waste, you go to
2 John Sink in Tulsa, and they sell you an incinerator.

3 And without definition here, that incinerator
4 would be subject to Tier III, and I don't think that's
5 our intention.

6 So I'm sorry. I thought of that late in the
7 game, but at least I thought of it.

8 MS. SHEEDY: This is Joyce Sheedy. So when
9 you're using incineration as a control device and not as
10 a method of disposing of something, as a thermal
11 oxidizer is an incinerator.

12 MR. FISHBACK: Yes.

13 MS. SHEEDY: But we don't permit it as an
14 incinerator. What is our definition of incinerator?

15 Would that rule this out?

16 MS. COLEMAN: Nancy Coleman, Tinker Air Force
17 Base. It can, because it includes gaseous combustible
18 waste.

19 MS. SHEEDY: And in some cases maybe gaseous
20 combustible wastes are going through what we call an
21 incinerator and not a control.

22 MR. FISHBACK: You don't want to get in the
23 position of forcing a facility to go through a Tier III
24 review to reduce emissions. And that's what we're
25 talking about. Is it a piece of control equipment, or

is it the primary process function of the facility?

At the Stroud incinerator and at the other ones that I believe are mental image reflected, we're talking about the primary industrial process is incineration, not control of waste gas.

MR. BRANECKY: Isn't the definition it has to be 100 tons as a result of that piece of equipment? Does that piece of equipment cause emissions of 100 tons or more?

MR. FISHBACK: Usually not, because, of course -- of criteria pollutant subject to regulation, usually not, because its purpose is to destroy it.

MR. BRANECKY: So if it doesn't add to any emissions, it wouldn't be --

MR. FISHBACK: But it can in the case of sour gas incineration, where your emissions are SO₂.

DR. CANTER: Wouldn't that be covered in petroleum refineries?

MR. FISHBACK: If it occurred in a petroleum refinery, yes, it would. But there is a lot of cases where that occurs outside of a petroleum refinery.

MS. SHEEDY: Can you just exempt control devices?

MR. FISHBACK: That's what I would propose, yes. We stick with the same general -- and we're

1 talking about them as now. Incinerators except where
2 used as control equipment.

3 MS. BARTON: I don't know about that. It
4 sounds like you're exempting incinerators. If you're
5 worried about refineries, why don't you just single out
6 refineries? If it's for a control process for
7 refineries --

8 MR. FISHBACK: It can be a number of different
9 places.

10 MS. BARTON: Or something.

11 MR. BYRNE: A lot of what we're talking about
12 here is semantics. We call them thermal oxidizers; we
13 call them flares.

14 MS. COLEMAN: If you go with that exemption, I
15 would prefer that you clearly specify utilized as "air
16 pollution control equipment."

17 MS. BARTON: I think that's better.

18 MS. SHEEDY: That's true.

19 MR. FISHBACK: Because basically anything you
20 want to get rid of that you stick in it -- you could
21 argue that a municipal waste incinerator is a pollution
22 control device if you eliminated pollution to a landfill.

23 MS. SLAGELL: You could.

24 MR. FISHBACK: Absolutely.

25 MS. SLAGELL: You could.

MR. FISHBACK: Roman 14 says now incinerators, except where used as air pollution control devices.

Is that what you meant, Nancy?

MS. BARTON: That can't be interpret to let incinerators off the hook?

MR. FISHBACK: Not if the primary -- I mean, you can't say that the installation of a municipal waste incinerator is an air pollution control device, because it creates air pollution.

Now ironically enough, you can have a waste gas incinerator on the end of a municipal incinerator as a control device, to burn off the waste gas that's produced by the primary process function, which is incineration.

So you could have both kinds of incinerators at one location. And that wouldn't be a problem with this definition. The primary process incinerator would be subject to Tier III, and its pollution control device would be part of that Tier III review when it was originally built. And if it was built separately, it would not be.

So that should be fine.

MR. FISHBACK: What else haven't we thought of? This is scary?

MR. BYRUM: The point is you can always come

1 back. We can always come back.

2 MR. FISHBACK: You can, but the process is so
3 lengthy that it's pretty --

4 MR. BYRUM: I understand that.

5 MS. BARTON: We're doing away with 500 permits
6 a year if we lived in Texas.

7 THE CHAIRMAN: That is added to Roman numeral
8 14 in (A).

9 MR. FISHBACK: Roman numeral 14 in (A) now
10 reads: Incinerators except where used as an air
11 pollution control device.

12 (A discussion was held off the record.)

13 MR. FISHBACK: And just to be completely
14 forthright about this: You know, we talked about
15 earlier this morning the idea that somebody would build
16 an incinerator and say: Well, it's not commercial, so I
17 don't have to go through Tier III and, gosh, the day
18 after it was built somebody came to me with this
19 goldmine worth of waste stream and suddenly I'm
20 commercial. That circumvention issue.

21 And, believe me whenever you write a rule,
22 there's always somebody that will figure out how to get
23 around it. and usually the guy that is the most
24 familiar with it will figure out how to get around it.

25 So the thought just occurred to me that you

could have a waste incinerator like we are thinking of, and if somebody wanted to pipe some waste gas to it and also combust it, they might try to classify it as an incinerator used for air pollution control and get around the regulation.

But what I'm counting on here is that the circumvention rules that are already on the books would -- something like that would be blatantly obvious.

But you see what I mean.

MS. BARTON: Joyce, what are you saying over there?

MS. SHEEDY: I don't think you could do it, because we would be looking at it as an incinerator, not just a control device, because it's incinerating other things.

MR. FISHBACK: And I would -- now that I brought up the problem, I would be willing to offer a solution. You could say where used exclusively as an air control device, to get rid of that problem.

See, there's always another permeation.

So I wouldn't have any problem -- wouldn't have any problem doing that. Because, believe me, that argument -- I've done it, you know.

MS. BARTON: Let's put the word exclusive before that. That would just shut them off right there.

MR. FISHBACK: Yeah.

MR. NICHOLSON: I agree.

MR. FISHBACK: Anybody have a problem with that?

MS. SHEEDY: Is that going to be -- okay.

Okay. What about some kind of incinerator where you might be -- not an incinerator but pollution control device where you might be recovering heat from it. Does that mean it's not a pollution control device anymore?

MS. BARTON: No.

A VOICE: Heat recovery. And it's -- not the same thing; I don't think so.

MS. SHEEDY: So obviously don't mix that.

MAYOR TARON: Ready for a motion, Mr. Chairman.

THE CHAIRMAN: Having revised the item 14 under (A), everything else remains as previously read. I'll entertain a motion and that motion is in the form that Kay gave.

MAYOR TARON: Has been presented. Yes. I so move.

THE CHAIRMAN: Do I hear a second?

MR. FISHBACK: I'll second it.

THE CHAIRMAN: The motion has been made and seconded. Please note that Bill Fishback is reading the

1 motion.

2 MR. FISHBACK: My only question is: Where does
3 what we've decided on go in this?

4 MR. BYRUM: It's attached.

5 MR. FISHBACK: It's an attachment.
6 Okay.

7 THE CHAIRMAN: I think we can let the staff
8 handle those details, probably, Bill.

9 MR. FISHBACK: Okay.

10 THE CHAIRMAN: I've got a motion and a second.
11 Any other discussion or questions? If not --

12 MR. BRANECKY: I would like to offer a
13 suggestion that maybe next time -- It's difficult for us
14 to understand fully when we have it peacemeal. And
15 maybe somehow through or computer wizardry we can have a
16 computer here that can draft it as we go and spit out a
17 printed copy where we can look at exactly what we're
18 voting on.

19 I want to be sure what I'm voting on.

20 MR. FISHBACK: I agree, and I know that Larry
21 has expressed that concern.

22 I don't have any problem with -- we can bring
23 that to the council in 15 or 20 minutes if you want to
24 do it.

25 DR. CANTER: My point is not to suggest any

1 kind of subterfuge. It's just a fact that we sit hear
2 and we talk and talk and talk and in everybody's best
3 intention, something gets left out. That's why -- are
4 you saying that we can have this in complete form in 15
5 minutes?

6 MR. FISHBACK: Dennis, you've got this on
7 WordPerfect?

8 MR. DOUGHTY: It's on WordPerfect.

9 MR. FISHBACK: If you want to adjourn for 15 or
10 20 minutes, we'll go fix it.

11 THE CHAIRMAN: No. We've got a motion; we've
12 got a second. Everybody understands.

13 I've asked if there are any more comments, and,
14 Dave, your comment is fine. Maybe we can discuss that
15 after this.

16 If there are no further comments, Myrna will
17 you call the roll.

18 THE SECRETARY: Mr. Branecky.

19 MR. BRANECKY: Ayes.

20 THE SECRETARY: Dr. Canter?

21 DR. CANTER: Aye.

22 THE SECRETARY: Mr. Fishback?

23 MR. FISHBACK: Aye.

24 THE SECRETARY: Ms. Hinkle?

25 MS. HINKLE: Aye.

I, GAYLA CHRONIC, CSR, RPR, having been duly appointed as Official Court Reporter herein, do hereby certify that the foregoing pages number from 2 to 123, inclusive, constitute a full, true, and accurate transcript of all the proceedings had in the above matter, all done to the best of my skill and ability.

DATED the 8th day of December, 1995.

Gayla Chronic
GAYLA CHRONIC, CSR, RPR

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THE SECRETARY: Ms. Slagell?
MS. SLAGELL: Aye.
THE SECRETARY: Mayor Taron?
MAYOR TARON: Aye.
THE SECRETARY: Mr. Breisch?
THE CHAIRMAN: Aye.

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BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

COPY

HEARING BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
HELD ON NOVEMBER 13, 1995
AT OKLAHOMA CITY, OKLAHOMA

COUNCIL MEMBERS PRESENT:
Mr. Bill Breisch, Chairman
Mr. David Branecky
Ms. Meribeth Slagell
Dr. Canter
Mayor Pierre Taron
Mr. Bill Fishback
Ms. Kathryn Hinkle

Also Present:
Mr. Larry Byrum, Protocol Officer
Ms. Myrna Bruce, Secretary of Council

By: Gayla Chronic, CSR, RPR

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ATTACHMENT D

Oklahoma City, OK
November 13, 1995
9:30 o'clock a.m.

.....

MAYOR TARON: Mr. Chairman, if there isn't any problem with this, at our next meeting we have all voted for the motion; the majority side can always make a motion to reconsider, if it's necessary. You're not dead yet, if there's a problem.

THE CHAIRMAN: Well, we might not be dead from one standpoint, but we could be dead from another if we don't get this to DEQ.

Now, that takes care of this particular rule.

Larry, you are still continuing as protocol officer on these other hearings. Can you advise us whether we need to take these up now, or as it was originally advertised, continue them until the December meeting?

MR. BYRUM: I think that's probably at the pleasure of the council. We did have a discussion of these other items at the meeting in Tulsa.

It would be beneficial, I think, possibly to let Kay go briefly through these and get whatever comments we could to move us down the road for the December meeting.

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And we can take those particular comments that we might hear -- and I know there were several that were generated in the Tulsa meeting that I have notes of. If those could be heard in the public forum here today, perhaps the staff could take some action on those and have a clearer picture, at least of what you would be voting on.

I'm not sure we would have all the comments, but it would give us the opportunity to have something in your packet that's closer to what we might want to vote on.

That's again, the option of the council.

THE CHAIRMAN: Do you have these in your packet, 252:100-7-8-11-6?

And we did hear from Kay at our last meeting on the 17th of October. What's your pleasure? Do you want her to review these again today?

I'm not sure after you reviewed these with us, Kay, if we even got to the point of asking any questions of them last October.

MS. YORK: No. And since it's been advertised, I would feel more comfortable with the Administrative Procedures Act requirements that we go ahead and give people who are here an opportunity to ask questions or make comments, as well as council members, of course.

1 THE CHAIRMAN: Larry, will you continue as
2 protocol officer.

3 MR. BYRUM: Ladies and gentlemen: My name is
4 Larry Byrum. I am the Director of the Air Quality
5 Division. As such, I will act as protocol officer for
6 this hearing.

7 This hearing is convened by the Air Quality
8 Council in compliance with the Oklahoma Administrative
9 Procedures Act, Title 40 of the Code of Federal
10 Regulations, Part 51, as well as the authority of Title
11 63 of the Oklahoma Statutes, Sections 1, 1801, et seq.

12 This hearing was advertised in the Oklahoma
13 Register for the purpose of receiving comments
14 pertaining to the proposed revisions of OAC 252:100-7,
15 permits; OAC 252:100-8, operating permits, Part 70; OAC
16 252:100-11, alternative emissions permits; and OAC
17 252:100-6, which is a new section.

18 If you wish to make a statement concerning
19 these rules, please complete the form at the
20 registration table, and I will call upon you at the
21 appropriate time.

22 I would call upon Ms. Kay York to give the
23 staff position on these proposed changes.

24 MS. YORK: As discussed in the previous part of
25 this meeting, these rule changes are made necessary by

the adoption of the Board of uniform permitting rules that apply across the board to the different tiers and the applications filed under them.

Those uniform rules appear in your handout. They begin with -- and I'm not sure that they're colored in what you're looking at. Some of you are looking at what you got today; some of you are looking at what you had in the last session with the -- where we did the briefing in the morning on these rules.

It's chapter 002, subchapter 15. Begins with the table of contents that looks like this; goes through part 1, 3, 5, 7, and 9. These are the uniform rules. All of the changes that have been made -- All of the changes that have been made in the air quality rules have been made in response to avoiding duplication and clarifying and eliminating conflicts with these uniform rules.

Tier I, II, and III processes are described in part 3. The tier classifications which you have just been through for air quality appear in part 5. Those are on a different time schedule. The Board will be looking at part 5, recommendations from each council, and will be reviewing those and considering them for adoption at its November 28th meeting.

Part 7 review procedures and permitting time

lines is existing law, with some updates and clarifications.

Part 9 is consolidated permitting.

Consolidated permitting in this instance says that if an applicant applies for, for example, hazardous waste permit and an air quality permit at the same point in time, then the Department can choose -- it is the discretion of the Department -- to have the public meeting and public comment run concurrently; and if it's a Tier III to have to administrative hearing on both.

Are there any questions about the role of the uniform rules, parts 1, 3, 7, and 9? Okay.

After a team put together these uniform rules, based on the statute; and the statute for the most part is self-explanatory, so you will find a lot of references in here as to what section of the statute controls.

After the team did that, then each division went through their rules and made the changes that they felt were needed to be able to put this uniform permitting program into effect.

In air quality, that meant taking a look at subchapter 7, which dealt with minor source, construction permits, and minor source and major source -- no, minor source operating permits; major

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source construction permits, relocation permits -- and there's something else, and I can't remember what it is.

We looked at subchapter 2. We reorganized everything that had to do with those specific types of permits that were not common to everything else, and we left them in subchapter 7 with amendment.

Subchapter 8 as to Title V operating permit. We made sure that we eliminated all duplications. The ones that requirements of subchapter 8 that were also subject to other permits, we've removed and put someplace else, which I will talk about in a minute.

Subchapter 9 was created to contain cross-references. It was created to contain the provisions that apply to all permits, regardless whether it's a major source, a minor source, a PSD, an incinerator, or relocation.

And subchapter 11 was amended to clarify the role of the council in alternative emissions reductions authorizations and how it fits into the permitting scheme.

I would like to begin with subchapter 11, if I may.

I very quickly will go over this section by section, so that you have a basic understanding of what it is we have done and what we're recommending.

1 Rule 11-4, the name has been changed so that it
2 is not called a permit anymore, but it is called a plan.
3 The idea is that it's a permitted facility that comes in
4 and asks for this. Therefore, they don't need another
5 permit, but they need approval of a plan.

6 Subsection (B) makes clarifications as to what
7 needs to be in the application form, for the
8 authorization.

9 Subchapter (C) -- subsection (C); I'm sorry.
10 Again clarifies that where there is more than one
11 facility involved, additional information is given.

12 Section 11-5. Again takes it from a permit
13 petition to an application for alternative emissions
14 reduction approval. And it makes clear that anything
15 that is approved in this area requires a corresponding
16 revision in the SIP plan.

17 Rule 11-6. Instead of issuance of permit; it
18 is termed authorization procedures. All of the
19 procedures that existed are taken out, are marked
20 through; and in their place on the very last page it
21 makes clear that it requires a SIP approval and that
22 that SIP approval consideration has to be approved by
23 this Council through a hearing on a change to the SIP.

24 It also makes clear that the notice of that
25 hearing before this council needs to be given in a

1 newspaper local to the site with 30 days' notice.

2 Now, I understand that there has been in the
3 history of the council one alternative reduction,
4 emissions reduction, approved that also went through a
5 SIP plan. I have no details about that, but that's
6 what I understand.

7 Whether or not this process or this type of
8 approval comes about ever again, I don't know. But what
9 it does is clarify that rather than the public meeting
0 and the administrative hearing on the Tier III
1 application, that this process is different. This
2 process involves review by the Department and that a
3 hearing on this proposed SIP revision before this
4 council.

5 Are there any questions?

6 DR. CANTER: Can I ask a question. On the very
7 last page.

8 MS. YORK: Yes, sir.

9 DR. CANTER: Item 1, hearing.

0 MS. YORK: Yes, sir.

1 DR. CANTER: The first word after that is
2 permits. I'm assuming that ought to be authorization.
3 You stressed it's not a permit.

4 MS. YORK: Dennis?

5 MR. DOUGHTY: Yeah.

1 MS. YORK: What did you want to do on that?

2 MR. DOUGHTY: I think it's a matter of
3 semantics. If you want to change it to authorization, I
4 don't have any preference one way or the other.

5 MS. YORK: Then it will be authorizations
6 approved pursuant to this subchapter.

7 MAYOR TARON: Authorizations issued pursuant to
8 this subchapter?

9 MS. YORK: Approved pursuant.

10 MR. BYRUM: Other questions from Kay from
11 council?

12 MR. BYRUM: Questions from key from the
13 audience?

14 MS. COLEMAN: Nancy Coleman.

15 Kay, I believe this is a typographical error on
16 page 1(B) and 9(D)

17 MS. YORK: What line is it?

18 MS. COLEMAN: Line 50. It should end a
19 complete sentence, and I think the semicolon and the and
20 needs to be stricken.

21 MS. YORK: Thank you.

22 MR. BYRUM: Other comments or questions for Kay
23 by the audience?

24 MS. BARTON: I would like some clarification.
25 Nadine Barton. Some clarifications on 252:100-1-15,

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general provisions.

Must conform to the following requirements. 1. and emission to reduction is defined and it gives the list of numbers. Must be shown as a result of the control strategies proposed in the application.

Number 2, major sources located in nonattainment areas. In addition to the requirements in 1 of this subsection and the limitations provided in -- that was the number. Must commit to install reasonably available control technology as defined by applicable rules or such other control measures which demonstrate and achieve equivalent reductions.

Then, number 3. The DEQ may require a net emissions reduction below the level required for compliance with any applicable regulation or standard and a corresponding revision to the state implementation plan.

What does that mean, that last part? That the DEQ may require net emissions below the level required for compliance?

MS. YORK: Since number 4 is new language.

MS. BARTON: Yes.

MS. YORK: I believe that number 4 should make clear that an approval for the reduction must be accompanied by a revision to the SIP.

1 Is that your understanding, Dennis?

2 MR. DOUGHTY: Kay, the way that was intended to
3 work is if you have -- if you want to qualify under one
4 of these plans or these permits as they were originally,
5 what you had to do was to make a reduction equal to or
6 more than what it took for you to meet the emissions
7 standards.

8 In other words, if you have a piece of
9 equipment that's not meeting an applicable standard, in
10 order for you to not have to put on \$10,000 worth of
11 equipment on this thing, which probably couldn't be
12 required anyway, they would allow you sort of a public
13 effect, where you would reduce emissions in one part of
14 the facility that you weren't required to.

15 So even the one that was issued, they required
16 a 1.5 to 1 emissions reduction.

17 So in order to qualify, you had to reduce core
18 emissions 1 1/2 times what they would have been if you
19 had been in compliance.

20 Is that clear?

21 Okay. The other thing is that this is the
22 effect of a bubble. And it does not meet EPA
23 requirements for a bubble. So in order for us to make
24 the federal enforceable, to keep them from coming in and
25 enforcing the older rule, the old standard, we have to

submit it as a SIP provision.

MR. BYRUM: Case by case.

MR. DOUGHTY: Case by case, yes.

MS. BARTON: I don't see anywhere where it says that, that this has to be approved on a case-by-case approval for this type of emissions reductions. Is that understood? Is it core?

MR. BYRUM: The core restriction --

MR. DOUGHTY: It's a fact of life if it's a part of our SIP, each individual determination under this rule if it's not submitted as a SIP revision, it becomes federally enforceable. We may tie the state up.

The state might be unable to enforce the old standard. But the EPA could still enforce it, if this permit or application was not submitted as a SIP revision.

Actually what you do, you submit your rule as a SIP revision, and then everything that's enforced under that one is federally enforced.

In this case these people are asking to be excepted by the rule by offsetting their emission. So they are still subject to the old rule unless we take a case-by-case scenario and submit it.

MR. BYRUM: I think that's what line 4 that's totally underlined is trying to say.

1 MS. YORK: Madine.

2 MS. BARTON: Yes.

3 MS. YORK: I understand your confusion on this,
4 because it's not written correctly. If you will allow
5 me to go back and work with that for a while and bring
6 it to the next meeting, I think I can take care of the
7 confusion.

8 DR. CANTER: Kay, on page 2, line 42, I think
9 the word permit should be authorizations.

10 MS. YORK: Thank you, sir.

11 MS. BARTON: I'm looking at this, just looking
12 down here under the limitation that we were just looking
13 at.

14 Particulate matter equal to or greater than 10
15 microns in diameter may be treated for other
16 particulates equal or greater than 10 microns.

17 Can we do that? We trade greater than?

18 MR. BYRUM: The idea there is that PM-10 you
19 can trade for anything. TSP you cannot trade for.

20 MS. BARTON: That's allowed for in EPA -- at
21 the federal level too.

22 MR. BYRUM: EPA does not regulate TSP today.

23 MS. BARTON: Do we want to do that?

24 MR. BYRUM: Yeah. I think --

25 MS. BARTON: Are we going to benefit? Is air

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quality going to benefit with particulate matter?

MR. BYRUM: I think so. I think anytime you want to try to regulate pollutant that is nonregulated pollutant and one that has a greater health risk for one that has a lesser health risk, I think we gain.

MR. DOUGHTY: Larry, if I may.

This is Dennis Doughty. I think the way this was intended -- although it's not real clear from the techs here, I think the way it was originally intended was that if you were -- if you were having a problem meeting an emissions level for TSP, you could control particulate matter in the 10 micron range, and I think that was the way it was intended to -- in other words, it's going to be stringent on the person making this application.

So if they have a process weight problem with TSP, they could control an equivalent or greater amount of TMP which would be a greater benefit; although, it's not it particularly clear from the way it is written.

But in any case, it's going to cost them more in terms of emissions limitations that they would have had under the old standard, whatever that happened to be.

MR. BYRUM: Additional questions for Kay?

MR. DOUGHTY: I believe this is old language

1 that was up for a change, anyway.

2 MS. YORK: Then it's my understanding that I
3 will make the corrections that Dr. Canter and Nancy
4 Coleman so pointed out. And to make it clear: On rule
5 11-5, I will take the subsections of (A) and clarify and
6 rewrite, reform it, so that it does make sense.

7 DR. CANTER: And, Dennis, were you also
8 suggesting that the line 51 on page 2 be written in some
9 fashion? Is that what you were saying?

10 MR. DOUGHTY: I'm saying that I believe this
11 was intended to say if you are -- if you should be
12 controlling TSP that you may control emissions of -- you
13 may control particulate matter of less than 10 microns
14 in lieu of TSP.

15 I think that's what that was intended today.

16 DR. CANTER: Somehow that doesn't come across.

17 MR. DOUGHTY: It's a little difficult.

18 DR. CANTER: It's a difference between capital
19 (A) on line 48 and (B) on 51. Maybe some rewording
20 there.

21 MS. YORK: All right.

22 DR. CANTER: I don't think --

23 MS. YORK: See if we can clarify that.

24 DR. CANTER: I don't think the idea of Pm-10
25 creating in terms of PM-10 requires TSP. If you're

1 saying that you would allow -- let me see if I'm saying
2 that right.

3 You don't want to reduce TSP and let more
4 emissions of PM-10 out, because those are the ones that
5 are a health concern anyway.

6 MR. DOUGHTY: It's the other way around.

7 Normally, in the rest of the subchapters, if
8 there's a problem with understanding what the technical
9 requirements are -- that is not the purpose of this
0 hearing or this rulemaking; that we are concerned with
1 the process requirements only.

2 However, Dr. Canter, I think in a sense we're
3 clarifying the fact that this is a process that always
4 goes through the process, that the technical aspect of
5 that are important, and should probably be clarified.
6 So we will look at (A) and (B) of that rule.

7 MS. YORK: Okay. If I could have you look now
8 at subchapter 6.

9 MR. BRANECKY: Which is on pink.

10 MS. YORK: Subchapter 6 is a new subchapter
11 that is proposed for purposes of cross-reference within
12 the air quality rules and outside them.

13 As required for subchapters, we have purposed
14 definitions. We then on 63 do a cross-reference to
15 uniform permitting process.

1 That language is standard language that is
2 found in every set of rules that the Board is going to
3 be looking at, in January, the cross-references in
4 tiered application requirements and the other permitting
5 processes. Here again, on your sheet we had to renumber
6 this -- the renumbering is not done, but under part 3,
7 which is rule 100-6-30, the 30 is not correct; it should
8 change to 31.

9 Part 3, which includes rules 30, 31, and 32,
10 then says that the Department has the right to have dual
11 permitting construction and operation. That is taken
12 from subchapter 7. There is no change there to what is
13 existing law. It is merely a cross-reference and a
14 clarification.

15 Rule 32 cross references the other
16 authorizations relocation permits. Modifications of
17 permits and modifications of sources becomes, as you can
18 see by the highlighted line on the bottom of the page,
19 line 57, and then it comes from subchapter 7.

20 And the top of page 3 is a cross-reference to
21 the other types of authorization and where the rules
22 regarding them can be found in the air quality.

23 MR. BRANECKY: Do we on item 6, we track
24 asbestos and Tier 1 in subchapter 15.

25 MR. FISHBACK: Correct.

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MS. YORK: That's correct.

But this is a cross-reference to where they can find the rules to relate that to that. This is not tied into this particular thing. It's just a listing of the other things and actions.

Any questions about part 3?

Any comments?

DR. CANTER: Okay.

MS. YORK: Yes, sir.

DR. CANTER: On, I guess it would be line 46 on page 2. This may be answered in some other place, but is there someplace of defining what constitutes a modification? Because I -- it seems to me that's a major issue. You have a permit. What constitutes a modification to the operation?

MS. YORK: Would you make a note of that question and as we go through subchapter 7 and subchapter 8, let's look for that. I believe it's there.

DR. CANTER: Okay.

MS. YORK: But let's look for it as we're going through those.

Any comments?

MR. BYRUM: Kay, do you intend to modify -- perhaps put a see "such and such" there, on that

1 modification?

2 MS. YORK: Okay. I will make a note of that.

3 Thank you.

4 Part 5. Application and application
5 processing. Here again, rule 6-15 is cross referencing,
6 except for three things. Number one, it says that all
7 applications have to be signed by the applicant,
8 regardless of what kind it is.

9 Number two, it says if it is for a construction
10 permit that implies that the applicant is going to be
11 responsible for following the permit terms. That's why
12 there's a minor and major source.

13 And (F) applies to all applicants, regardless
14 of whether it's a major or minor source. It says if you
15 find out anything was incorrect, you have a duty to
16 correct it.

17 Any comments about part 5?

18 Any questions?

19 Okay. Going on into subchapter 7 then.

20 MR. BRANECKY: Is there anything about grain
21 permit? I'm sorry.

22 MS. YORK: That's in subchapter 8.

23 Subchapter 7. 7-1 says that this subchapter
24 sets out the requirements for minor and major source
25 construction permits, part 70 source construction

permits, and for minor sources also the relocation of the operating permits.

That is what the chapter has always covered; that is no change. We've merely spelled it out, whereas it was not that clear in previous language.

7-2(A) was moved to rule 6, and that will be 6-31 and 6-32.

(B) is just the requirement for a permit that's always been there.

(C). Here's where it talks about operating permit modifications, Dr. Canter.

DR. CANTER: Yes.

MS. YORK: (C)(2). It talks about transfer of permit, which is also set up by the statutes. The statute is cross referenced.

And the exceptions are as they existed in previous law, except I believe that after the word -- and these lines are not numbered -- after the word "in effect" in subparagraph (C), there should be a period. At the time of issuance when it was decided by you, I think, in your previous discussion, it did not make sense.

Okay. Part 3 talks about the construction permit requirements for minor and major sources. It takes out the source group requirements. Those are

defined elsewhere. And for group 1 and group 2 under minor sources, that is no longer used; that was obsolete language.

Modeling and sampling points have both been moved into the next section where it talks about the percent of what construction permit applications have to have.

First of all, for all applications, BACT and modeling, and your sampling point, and for Part 70 applications, it cross references the provisions in subchapter 8 that also talk about what kind of information is required.

The reason we've had to do is that, even though subchapter 8 is the operating permit requirements, the feds don't differentiate between construction and operation. So everything that is in subchapter 8 applies to the construction as well. That's why we've had to cross reference.

The review procedure that is in the uniform rules. The Time lines is in the uniform rules. The public review depends on what tier it falls in, and that is in the uniform rules.

Construction permit conditions and provisions gives the Department the right to establish -- at first it said limitations. We have changed it to conditions

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and limitations, because conditions is a word that we're applying uniformly.

Cancellation of authority. That's not changed at all.

Rule 7-17 on relocation permit for minor sources. I believe, if I remember correctly, that in your discussion last time there was some word change here.

I will have that available for you in December. I believe there was some word change in subsection (A). Subsection (B) is no change. It's just a clarification and a consolidation.

Rule 7-18 operating permit for minor sources. There is a new provision there I want to point out to you, in (A)(1). It extends the 60-day operating period to 180 days without a permit, and I understand that is consistent with existing federal law.

MR. FISHBACK: Kay, excuse me.

MS. YORK: Yes, sir.

MR. FISHBACK: I made a note when we last covered section 17. Since this reference to relocation permits for minor sources, how we were handling relocation permits for major sources.

And the note I made to myself is, "See page 15 for the definition of temporary sources under (E)," and

1 what I don't recall is if with agreed that it was
2 covered someplace else adequately, or if we were going
3 to insert a section here for relocation permits for
4 major sources.

5 MS. SHEEDY: We have -- we have not been
6 relocating major sources at this point. Subchapter --
7 Title V has got something on temporary sources, which
8 may or may not be relocation; it's kind of vague.

9 If you've looked at 9, and I'm sure you have,
10 but we had not relocated major sources because of the
11 problems with PSD that might come into play and get
12 missed if you had a major existing PSD source and you
13 brought compressor engines into it.

14 We just have not gone through relocation on
15 that for that reason.

16 So I don't know if it's covered anywhere else,
17 other than in subchapter 8 under temporary permits,
18 which is a little unclear exactly what those are.

19 MS. YORK: My understanding of the discussion
20 was that in the past, major source relocation permits
21 were not available for the reasons in which she has just
22 given, and the staff did not intend to make that
23 recommendation at this time, for the reasons that --

24 MR. FISHBACK: Although some major sources
25 would qualify as temporary and therefore could be

relocated.

MS. SHEEDY: If they fit under temporary -- I find I don't totally understand what EPA was wanting under temporary, Bill.

MR. FISHBACK: You would almost never be relocating a major stationary source. I mean, that happens, but it's so rare that it's not worthy talking about. But there are temporary sources that qualify as major that will need to be relocated.

MS. SHEEDY: I'm looking at that section in subchapter 8. It almost appears that you -- you might read it that when you get your permit, you would have listed all the temporary sites you're going to have it located at, which is my source of confusion.

MR. FISHBACK: Well, if you knew them in advance, you could. But a lot of times you won't.

I think we discussed this at the last council meeting, too; drilling rigs is a good example of a major source.

MS. SHEEDY: If it meant you had to list all of your sites at the time you got your permit, then it would be practically useless.

MR. FISHBACK: That's right.

I guess my question is: Are we saying that major temporary sources are covered someplace else?

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1 They must be. Is that how we left it?

2 MS. YORK: Temporary sources are in subchapter
3 8 for Title V.

4 MR. FISHBACK: Okay. So it was not our
5 intention to put it in here?

6 MS. YORK: No, sir.

7 MR. FISHBACK: Okay.

8 MS. COLEMAN: May I ask a question,
9 Joyce?

10 MS. SHEEDY: Uh-huh.

11 MS. COLEMAN: If you have, for example, a rock
12 cruncher that's subject to triple load that's crushing
13 concrete as a temporary project, it could qualify as a
14 covered source pursuant to part 70, and you have been
15 allowing those to relocate.

16 MS. SHEEDY: Yes, I think -- wait.

17 MS. COLEMAN: Or an asphalt batch plant that's
18 subject to NSPS, it is covered under subchapter 8.

19 MS. SHEEDY: The only ones we have allowed to
20 relocate has been the compressor engines of the main
21 portable sources.

22 So asphalt plants are quite often a major
23 source, as a matter of fact. And rock crushers may well
24 be too. And they do relocate.

25 MS. YORK: So we need to look at 7-17.

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MS. SHEEDY: What I'm talking about is we have not located major.

MR. FISHBACK: I think it's covered by the -- if the major source is also temporary and temporary is defined in subchapter H, as Kay said. Temporary means that it involves at least one location during the term of the permits. So the term of the permit is five years and you have one relocation, you're temporary.

And that would -- I think it's covered, because the only issue on relocation is whether or not you can do it without burdening everybody with repetitive permit applications.

MS. SHEEDY: When you're talking about relocating something, then it's entirely like an asphalt plant. Often a rock crushing plant will move, not always, but usually. That's why we made the difference between that and the compressor station, because you may have some compressors sitting and you may bring in another. And the PSD thing is tricky.

Whereas, an asphalt plant, it's still PSD. If it wasn't PSD, then it's probably not going to be helped by moving it.

MR. FISHBACK: The issue there is whether there's multiple emissions points at a single source or just one emission point.

1 Drilling rigs are a lot like asphalt plants.
2 Drilling rigs move in their entirety. When they leave,
3 there's nothing left. And I think they would be covered
4 under temporary sources.

5 MS. YORK: We'll look into that, Bill.

6 Rule 7-18 goes into the operating permit
7 requirements. There is one new item on that.

8 It's on the second page, the last page. It
9 puts their term at 10 years. That's a new requirement.

10 MR. BYRUM: The genesis of that was the public
11 hearings on the air quality permit. We had numerous
12 public hearings -- We had numerous public hearings and
13 we had numerous comments that were going to subject
14 major sources to having a new permit every five years;
15 that minor sources should be looked at at some
16 frequency.

17 Staff put in 10 years.

18 MR. FISHBACK: Some frequency other than never.

19 MR. BYRUM: Other than never.

20 MR. FISHBACK: Okay.

21 MR. BYRUM: It wasn't clear from the public
22 comment what frequency they wanted. We just felt the
23 work load was such that perhaps a ten-year cycle would
24 be appropriate.

25 MS. BARTON: You may want to review that after

you got settled someplace and have more staff.

DR. CANTER: On that point, where it says it is renewable. I'm assuming renewable suggests some consideration. Is it not just automatic renewable; otherwise, it's a waste of time.

MR. BYRUM: Right. It's not automatic renewable; it would be reviewed. But if there's -- specifically if you look at something that didn't change --

DR. CANTER: The wording "is renewable" seems a little bit too short there or something.

MS. BARTON: I think we were all taking into consideration the fact of a reorganization and lack of people to look at this, right now.

So we may want to revisit that after we are better organized and have better staff to address everything. Ten years is a long time.

MR. FISHBACK: It had been 15 for everything up in Texas until Title V came along.

MS. BARTON: Now what are they doing?

MR. FISHBACK: Five. I don't know about minor source.

MS. YORK: Okay. So to recap subchapter 7, there are some rule numbers that need to be corrected.

On page 2, subparagraph (C). Of paragraph 3 at

1 the top of the page, the wording is to be corrected.

2 "At the time of issuance" is to be taken out.

3 On the next-to-the-last page, rule 7-17, we're
4 going to be looking into relocation permits for major
5 sources and see if anything different needs to be done
6 in that area.

7 Are there any other comments, suggestions
8 questions?

9 MS. YORK: Yes, sir.

10 DR. CANTER: Just one. On page 1?

11 MS. YORK: Yes, sir.

12 DR. CANTER: It's the paragraph that's near the
13 bottom or the line near the bottom of the page where it
14 says net increase emissions.

15 MS. YORK: Yes, sir.

16 DR. CANTER: It seems to me the end of that
17 sentence, and maybe it's defined later in subchapter 8,
18 but that -- it just says a net increase in emissions,
19 and it doesn't say is that a modification or not. Is it
20 one pound per year?

21 So maybe -- and maybe this needs to be tied
22 into something subsequent. Again, it's the issue about
23 the modification.

24 MS. YORK: Yes, sir. I'm with you. I'm not
25 quite sure I understand. The original language read

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exactly: "The director determines appropriate." How it reads: "The DEQ determines appropriate," which is a change we're making throughout.

I'm not sure that I understand what that means.

Scott, did you have any clarification on that? Joyce, do you?

MS. SHEEDY: I would assume our exemption, wherever that is now, where at the moment it's if you're greater than a pound an hour of criteria pollutants then you need a permit.

I believe we change that five ton a year.

MS. YORK: Four tons a year?

MR. BYRUM: Five.

MS. YORK: Five tons a year?

MS. SHEEDY: It also goes than if you're air toxics, if you're greater than the de minimus for the air toxics.

MS. YORK: But that's not being down through this particular rule then.

MS. SHEEDY: No. It's somewhere else in 7. I don't recollect.

MS. YORK: So you're proposing that rulemaking to come later?

MS. SHEEDY: We already have one version of it.

MS. YORK: So perhaps the cross reference to

1 that here would be sufficient.

2 DR. CANTER: Yes. I like the idea of a number.
3 Makes sense to me.

4 MS. YORK: Okay.

5 MR. FISHBACK: The net increase as the DEQ
6 determines appropriate is, right now, the one pound an
7 hour.

8 MS. SHEEDY: Yeah, but we plan to make some
9 changes.

10 MS. YORK: So if we cross reference that
11 section, then as you all change that section --

12 DR. CANTER: Actually, it's on the top of the
13 next page.

14 MS. SHEEDY: Is it?

15 DR. CANTER: Under exceptions.

16 MR. FISHBACK: Yeah, it is.

17 DR. CANTER: Just written in the reverse
18 manner. Written as a exception.

19 MS. YORK: Let's work on this then and see if
20 we can clarify that language.

21 Nancy?

22 MS. COLEMAN: On page of the part 3 under
23 15(A)(2), permit requirement. It is different to exceed
24 a work practices standard, or are you saying the
25 language could be intended to say that if a source

subject to a NESHAP wants to put on more stringent controls than the NESHAP allows, they can exceed the requirements of the NESHAP?

And I don't think that's the intent. I think the "exceeds" is meant to apply to ambient air quality standards or emissions limitations. But work practice and other operational requirements of NSPS and NESHAP, you're going to comply with those.

MS. YORK: Okay, here again --

MS. COLEMAN: It's kind of written in reverse order.

MS. YORK: Here again, this is old language. And if there is a fix for this, what appears to be an inconsistency, Joyce, we could propose it for this.

Do you understand what she is commenting on?

MS. SHEEDY: I think Nancy is saying, when we're talking about work practices, those exceeds the work practices is a violation; it doesn't make sense.

So we need to clarify that you can -- you must at least meet the work practices, but you could probably do better than the work practices without being penalized for it.

MS. YORK: Okay. We will work on that.

Anything else? Any other comments or questions?

1 MR. FISHBACK: Just on chapter 7?

2 MS. YORK: Yes, sir.

3 MR. FISHBACK: Okay.

4 MS. YORK: Then let's move on to chapter 8.
5 I'm going to do a real quick overview of the entire
6 subchapter and then we will come back section by
7 section.

8 All of rule 4 is new, but it's not new
9 requirements or new words; it was taken from two other
10 rules in subsection 8 and put here.

11 The reason is that in all our other subchapters
12 we have the permit requirement up front. We wanted to
13 do the same thing there, rather than where Title V put
14 it, which is close to the back.

15 There also was a discussion in your last
16 meeting about if the application deadlines are staggered
17 according to the rule change that you all made two
18 meetings ago, then what does that mean about the
19 Department having to get in and review it and do the
20 administrative completeness review and when does the
21 clock begin? And we have tried to make clear here that
22 the clock begins -- here and in another section that I
23 will point out, the clock begins when the Department
24 begins its administrative completeness review.

25 It can have an application filed that is not

12/18

due until two years from now and that permit shield will go into effect, but the Department does not actually begin its administrative review until it comes to it with regard to the time line.

We changed from a three-year to a five-year time line, and it's necessary to have those kinds of safeguards.

8-5 are words that you have already approved. There's no change therefrom the rules as you had approved them two meetings ago. The changes start taking place with regard to this rulemaking on paragraph 8, application completeness, which appears on the third page of this document.

Here's the review procedure that now appears in the uniform rules and has been taken out of here. The next part, application content for renewal of an existing permit. That won't, of course, occur for five years or more, I guess. So that is talking about after it's issued what do they have to do to renew it.

Duty to supplement and correct application is marked through. Remember, that we moved that word for word into subchapter 6 and had it apply to all applications, instead of just Title V.

The rest of the rule stays the same, except the very last part of it, number of application copies.

That language is removed because it appears in the uniform rules. It states as three, so that is no change for the air program.

8-6, permit content. There is no change, until page 14. We have used a uniform set of words that we're using across the programs, and that is that instead of coverage under a general permit, we're using the words individual authorizations under a general permit.

If you will remember, those are classified as Tier 1s. The general permit itself is classified as a Tier II.

The only other substantive changes acid rain. Who was it -- Dave, was it you that asked for acid rain?

That appears at the bottom of page 17 and then page 18. We have clarified acid rain provisions, and we have improved the language where we adopt the acid rain provisions from the federal regs as the rules here.

Okay. Rule 8-7. Rule 8-7, a lot of it came out because it is in the uniform rules. Most of the words that you see marked through are related to that. A lot of cross referencing.

On page 23 where it talks about EPA and notification and timetable for issuance, that has been moved to be rule 8, part of 8. Here again the federal rules has this EPA review spread from the beginning to

1 the end of these federal regulations, and we put them
2 together, figured them out, which is no small chore, and
3 put them in one rule by themselves. And we will get to
4 that in a minute.

5 The biggest change i in that rule is that on
6 page -- which I cannot read. It would be 28 -- 27,
7 beginning on page 26. The public process of review and
8 notice requirements comes out, because it is covered by
9 the statutes and by the uniform rules.

0 Uniform -- I'm sorry judicial review. We
1 clarified that it did not apply to those under general
2 permits.

3 And then rule 8-8, which is the last one before
4 you is the section that we went through and tried to
5 figure out what the process was and procedure and timing
6 for EPA review, and for the filing of good objections on
7 a Tier III permit.

8 We feel like we have pretty well followed
9 through on what their requirements were, except on --
0 for two instances. Number 1, they used proposed permit
1 when they talk about what we're going to review.

2 Our statutes used proposed permit to only apply
3 to Tier III applications, and I've already undergone the
4 public review and public comment, and they have been
5 amended to be subject to the administrative hearing

1 opportunity.

2 So we have changed the words in here. EPA has
3 indicated they will have no trouble with that.

4 We have also said that if an objection is filed
5 on a Tier III application on which an administrative
6 hearing is pending, that the hearing will be postponed
7 until the objection has been taken care of.

8 All right. Let's go back. Rule 8-4,
9 requirement for a permit. Cross references. Any
10 comments?

11 Any questions?

12 From the public? Nadine.

13 MS. BARTON: On 8-4 on the one, two, third page
14 over under 8 of 52. 252:100. Go down to --

15 MS. YORK: Where? Rule 8-4.

16 Rule 8-4 is only half a page long.

17 Any comments about 8-4?

18 MS. BARTON: Okay.

19 MS. YORK: 8-5? Council has already approved
20 all of the changes, up to the application acceptability.
21 I said I would point this out to you. This is on the
22 third page, subparagraph 4, application acceptability
23 for purposes of counting days. That says the 60-day
24 application administrative review as set forth in the
25 administrative rules will not begin until the Department

295

begins its review.

This has nothing to do with the permit shield or the time filed.

Okay, Nadine.

DR. CANTER: Can I ask a general question on this? I'm all through here, and maybe just for clarification. Reference made to 60 days. Those are calendar days, correct?

MS. YORK: Right.

DR. CANTER: Those are not work days.

MS. YORK: Those rules exist and can be found in part 7 of the uniform rules that we looked at a while ago.

MS. BARTON: It's after application of completeness? It's on the next page.

MS. YORK: Yes, ma'am.

MS. BARTON: Down where -- mine is just almost unreadable. I can't -- what the number is. But it's confidential information.

MS. YORK: Yes, ma'am.

MS. BARTON: Confidential information. If a source submits information to the DEQ, the source shall also submit a copy of such information directly to the administrator if the DEQ requests the source to do so.

I just -- what is the definition of

1 confidential information?

2 MS. YORK: That is existing law, and I believe
3 it -- Dennis or Scott or Joyce may be able to answer
4 that better than I.

5 MS. SHEEDY: I think Dennis.

6 MS. YORK: Dennis, on the Title V confidential
7 information that may make a claim to when they submit to
8 us. What kind of material does that include?

9 MR. DOUGHTY: Actually it's under the Clean Air
10 Act and Trade Secret Information. If it's a trade
11 secret thing that they have to keep confidential, they
12 can claim that.

13 Also the statutes specify that they cannot keep
14 emissions data a trade secret.

15 So, if they're emitting something in the air,
16 they cannot claim that as a trade secret.

17 MS. YORK: It's authorized by state statute and
18 as I remember the statutes, it's fairly limited as to
19 confidential.

20 MR. DOUGHTY: Yes. It's just trade secret.
21 There's some procedural aspects about how they will
22 treat the material and how they will keep it
23 confidential and so on and so forth.

24 MS. YORK: Other comments? Questions?

25 Nancy.

MS. COLEMAN: On line 49 on page 4, we had discussed at the last meeting changing the word "provides" to "make available."

MS. YORK: Yes, ma'am. You're absolutely right. Can you give me a little more of a clue as to where that is. It's in my notes, but it's not on this page.

MR. BRANECKY: Line 49.

MS. COLEMAN: It's line 49.

MR. BYRUM: Standard application form required information.

MR. FISHBACK: Section 9(D).

MR. BYRUM: And it is the one, two, three, four, fifth line down.

MS. YORK: Makes available. I got it.

Thank you.

Any more comments on 8-5?

8-6, permit content. 8-6 changes go to the changing and the description of what an individual authorization to operate under a general permit is called.

And it also includes the clarifications and the acid rain. And that's all.

MS. BARTON: Under general permits, we have a definition under air for air permits. Because we had a

1 problem on Thursday, there was no definition. General
2 permits did not exist when they were making rules for
3 things that did not exist. Is that the same case with
4 air, or not the same case with air?

5 MS. YORK: The Title V as you see here does
6 authorize general permits in certain situations. The
7 Department, of course, does not have the Title V. So
8 they have never dealt with this at this point.

9 But they will be working with EPA and deciding
10 what types of authorizations can be done through general
11 permit. The general permit is basically where of a lot
12 of the same things --

13 MS. BARTON: Right.

14 MS. YORK: -- that are not big emitters, and
15 they will do a set of rules that apply just to those.
16 And there will be public participation involved.

17 MS. BARTON: So we don't have a problem here in
18 addressing general permits, even though we don't have
19 anything to go by.

20 Do we have to come back and do this?

21 MS. YORK: It's in the rule now. There is no
22 change. But council and Board has already adopted the
23 Title V program which does authorize general permits.

24 Is there anything that needs to be added to
25 that?

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MR. FISHBACK: The authorization exists to issue a general permit. There had been none issued because there had been no Title V permits of any kind. In certain cases source categories have developed general permits that will probably be adopted.

But I don't think the reference to a general permit here is a problem. The specific context of the general permit is still not resolved for most source categories, but some have come along. Some have been worked on for a lot of months in anticipation of being available when Title V is authorized.

MS. YORK: Thank you.

Any other comments?

Okay. Rule 8-7, permit issuance, renewal, reopenings, and revisions.

Of all of the rules in subchapter 8, this one aligns itself most closely with the uniform procedure that's set out in the statutes and explains in more detail any rules.

The things that were struck from this on page 2, agency priorities. In lieu of that, there were the changes that changed it from a three- 3 to five-year program and the time line for application under those.

MR. BRANECKY: On page 21.

MS. YORK: Yes, sir.

1 MR. BRANECKY: On line 50, section (B).

2 MS. YORK: Yes, sir.

3 MR. BRANECKY: The agency, DEQ. Agency is not
4 crossed out.

5 MS. YORK: Thank you. Department of Libraries
6 would return this to us just over that.

7 MR. FISHBACK: Invite them to the next
8 rulemaking thing.

9 MS. YORK: No. You don't want them. We get
10 along just fine, thank you.

11 MR. FISHBACK: Arms's length.

12 MR. BYRUM: At least three arms' length.

13 MS. YORK: Dr. Canter, did have any kind of
14 questions?

15 DR. CANTER: No.

16 MS. YORK: Any comments? Questions?

17 Okay. That brings us to rule 8-8. It is our
18 understanding that the EPA is not planning on reviewing
19 everything in the category. They hold this option open,
20 and Mr. Coleman is visiting with them about the
21 permitting process that we go through and the fact that
22 this adds another step.

23 I don't anticipate any change to what we have
24 put down here. If there is a change, it will come in
25 some type of an agreement with the EPA, and it requires

a rule change, of course. It will be brought to you with recommendations.

This is required part of the Title V program, and I would imagine that we would be leaving it pretty much the same.

Are there any questions or anything that you want clarified? The basic -- the basic idea is that when the application is filed that notice will be given the adjacent state that maybe affected by it.

But when a draft permit is -- an application -- a copy of the application will be sent to EPA if they want them; they request them.

After we review, have public comments, public meeting, and review those comments and have approved a draft permit, that draft permit -- no, am I wrong?

After we review the application, we prepare a draft permit and that is sent to EPA for their review and comment. And also sent to neighboring states for their comments.

The Department then reviews all of those comments; and if the Department feels like the changes that are suggested or requested by the EPA or adjacent states can be made and can be justified, they will do that with notice to the commenting folks.

If it can't be, then they have a way of giving

1 nonacceptance and explaining why.

2 MR. BRANECKY: They are only sent to adjacent
3 states within 50 miles.

4 MS. YORK: Or may be affected.

5 MR. BRANECKY: Adversely affected.

6 MS. YORK: I will look up the words for you.

7 Well, I said I would. I will find them.

8 They are the words that are in your statutes.

9 If EPA feels an objection, or if a citizens
10 group or a member of the public files an objection with
11 EPA, they can stay the issuance of the permit until that
12 objection is worked out, and that basically is the Title
13 V process.

14 MS. BARTON: I just have a point of
15 clarification. Under that section where it -- on page
16 32 up at the top where it says public petition to the
17 administrator. For clarification, is that administrator
18 of the EPA?

19 MS. YORK: Yes, ma'am. It's defined. It is a
20 defined term in the rules.

21 MR. BYRUM: Other questions for Kay by the
22 council?

23 MR. FISHBACK: Yes. I think this is just a
24 clerical omission. Can we look for a moment at
25 subchapter 15, that tier rules in section 41, which is

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Tier II.

MR. BYRUM: Did you have a page?

MR. FISHBACK: It's page 10 in the yellow, but it's also the single handout sheet today.

I was comparing the sheet handed out today to the one identified at the last meeting. And under subsection 41 there, item 7, it says a construction permit form an existing major facility.

And I believe we agreed a construction permit for a major modification to a major facility, because without that, it's in conflict with the tier definition.

MS. YORK: Look at number -- Look at number 3 under 41. Does that help?

MR. FISHBACK: Now, that's consistent. Number 3 is as we modified it at the meeting on October 17th. But we also modified number 7 at the same time.

MS. YORK: To lead a construction permit in the modification if.

MR. FISHBACK: A construction permit from a major modification to an existing major facility.

Do you have that same note?

MS. COLEMAN: Uh-huh.

MR. FISHBACK: Okay.

MR. BYRUM: A construction permit for a major modification to a major facility.

1 MR. FISHBACK: I didn't know if that was just
2 clerical or if there was some further consideration
3 given and it was decided it wasn't necessary.

4 But I think it is necessary, because if you're
5 talking about Tier II being any construction permit at
6 any facility, then you've included things that are
7 already defined as being in Tier II.

8 MS. YORK: I missed that. I remember it
9 totally, and I did not have that in my notes. I
10 remember that.

11 Would you reread it to me.

12 MR. FISHBACK: A construction permit for a
13 major modification to an existing major facility..

14 MS. YORK: We also would have a construction
15 permit for an existing facility as well, right?

16 MR. FISHBACK: Well, the original construction
17 permit for a major facility would be Tier III.

18 MS. YORK: NOT for existing, remember?

19 MR. FISHBACK: For a new one.

20 THE CHAIRMAN: Just a modification.

21 MR. BYRUM: A major facility is either going to
22 be new or existing. So you're not going to have a total
23 construction permit for an existing major facility; it
24 will be a modification.

25 MR. FISHBACK: I think that was the reason we

1 did it that way.

2 I will read it that way. A construction --

3 MS. YORK: Number 4-17.

4 MR. FISHBACK: A construction permit for a
5 major modification to an existing major facility.

6 And Larry's comment is the reason why we did
7 it. You cannot have a construction permit for a major
8 construction; you can only have a construction permit
9 to modify a construction facility.

10 MS. YORK: Joyce, is that acceptable?

11 MS. SHEEDY: I think so.

12 MS. YORK: What that would take, Mr. Chairman,
13 would be a motion and second to that effect to amend the
14 Tier II rule and to include that, that version in the
15 recommendation that they voted on earlier. And it would
16 need to be done by roll call vote.

17 THE CHAIRMAN: That's -- and that is the
18 modification of what we --

19 MS. YORK: I remember it; my notes did not
20 reflect it, and I am the one who typed it up.

21 MR. FISHBACK: We agreed to it.

22 THE CHAIRMAN: I've got that in my notes.

23 MR. BRANECKY: So we need to revote if we voted
24 on it in October?

25 THE CHAIRMAN: We didn't vote that, but that

1 was included in what we voted today.

2 MS. YORK: It probably was what you voted on
3 then.

4 THE CHAIRMAN: We voted Tier I and II.

5 MS. YORK: I am the one that's going to be
6 putting these together, and let me read number 7 and let
7 me see this it reflects what your want.

8 A construction permit for a major modification
9 to an existing major facility.

10 THE CHAIRMAN: That's right.

11 MS. YORK: I remember the discussion.

12 DR. CANTER: That doesn't need a vote.

13 MS. YORK: You don't need a vote, because his
14 was an error that needs to be corrected.

15 MR. FISHBACK: It's a clerical omission.

16 THE CHAIRMAN: Because we voted on that change.

17 MR. FISHBACK: In October.

18 MS. YORK: Yes. Got it.

19 Thank you, Bill.

20 I also notice that the emissions reduction --
21 alternative emissions reduction is not listed as a
22 Tier I, at least that I could see.

23 Does it come under modification or amendment
24 there, Joyce. Is it covered someplace else?

25 MS. SHEEDY: Generally I think the ones that we

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done an alternative emission, it's maybe resulted -- it may have resulted in a modification to an existing permit if it was a permitted facility.

MS. YORK: So it would be covered under this, even though not by specific.

MS. COLEMAN: And it's grandfathered. It won't be covered.

MS. SHEEDY: We won't have grandfathered -- yes, well, never mind.

It may be covered under the grandfathered.

MS. YORK: Well, it's in a permit; it's a plan authorization as a SIP revision.

MR. BYRUM: I think it's probably sufficiently handled when it says it will be handled by a SIP revision.

MS. COLEMAN: This does bring up a point that Tinker Air Force Base raised in their original written comments, in that there are alternative emission limits under two other air quality subchapters, 23 and subchapter 25, that were not included as authorizations anywhere.

And they also are grandfathered facilities. If they are handled as a hearing before the council rather than the permit, is there the effect of a plan and they are not included in the tier rules either.

1 MS. SHEEDY: And they don't require a SIP
2 change, as this one does.

3 MS. YORK: That would be up to you. Obviously
4 we have them, and obviously we have done at least one in
5 the past. They come before this body.

6 So whether or not it's listed as a Tier 1 is
7 not going to change the process at all, because the
8 Department is still going to review the application
9 that's been filed by the applicant.

10 THE CHAIRMAN: Now, all of these rules -- this
11 hearing will be continued, and how long are we open for
12 comments on them?

13 MS. YORK: The comment period can be extended,
14 Mr. Chairman, through the next meeting.

15 MR. FISHBACK: Okay,

16 MS. YORK: Which is December 19th.

17 THE CHAIRMAN: 19th. And at that time the
18 council will again be graced with the responsibility of
19 either making a recommendation on 6, 7, and -- and 11 or
20 continuing the rulemaking hearing to a date that is on
21 or before January the 3rd.

22 THE CHAIRMAN: I imagine we will take action
23 on -- I think we will handle it in December.

24 (A discussion was held off the record.)

25 THE CHAIRMAN: I've been advised to limit the

comment period to some number of days before our next meeting, or the continuation of this hearing.

I think that's wise.

Larry, what would you suggest?

MR. BYRUM: We're meeting the 19th. I would suggest that we have comments probably in by the -- I don't have a calendar. Does anyone know what day the 19th of December.

MS. YORK: In the rulemaking, I would cut it off the Friday before your meeting.

MR. BYRUM: Which is what? The 15th?

MR. BYRUM: That doesn't give us many days to get the comments analyzed for them.

MS. YORK: Of course, we will have the comments that have been made today.

THE CHAIRMAN: Let's cut it off at least the 11th.

MR. BYRUM: That's fine. That will give you all the ability to have a little better product to look at.

MAYOR TARON: When are we going to do this?

THE CHAIRMAN: This is our next meeting, which is a continuation of this public hearing.

MR. BYRUM: Just a continuation of the hearing on the rules that we just recently brought forward,

1 which was, let me find it here, which would be 252-1,
2 7, 8, and 11, and 6, which is what we've just been going
3 through since noon, basically.

4 MR. FISHBACK: And our recommendations to the
5 DEQ Board for the --

6 MR. BYRUM: Tier clarification.

7 MR. FISHBACK: Tier clarification. Is a done
8 deal, even though this meeting is continued.

9 MR. BYRUM: The meeting is not going to be
10 continued, just the hearing.

11 THE CHAIRMAN: Those are going forward. We
12 made the motion.

13 MR. FISHBACK: Okay.

14 MS. YORK: On behalf of Mark Coleman, I would
15 like to thank you all, and you all, too, for
16 participating in and resolving what was a very difficult
17 set of issues, and quite a challenge to undertake.

18 This is new to air quality, and, as opposed to
19 some of the other programs that are in the Department
20 that are used to this type of approach to permitting, I
21 just want to congratulate you and say from the bottom of
22 my heart, thank you very much for all of the true
23 debating and the way in which you all resolved the
24 issue.

25 THE CHAIRMAN: That was made a matter of

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record, I see.

If we can close this hearing, we will so do,
now, Larry.

MR. BYRUM: Okay.

Take that back. We are going to continue this
hearing until our regular meeting on December 19th. But
with that, we can close the comments today.

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I, GAYLA CHRONIC, CSR, RPR, having been
duly appointed as Official Court Reporter herein, do
hereby certify that the foregoing pages number from 2 to
55, inclusive, constitute a full, true, and accurate
transcript of all the proceedings had in the above
matter, all done to the best of my skill and ability.

DATED the 8th day December, 1995.

Gayla Chronic
GAYLA CHRONIC, CSR, RPR

BOARD BRIEFING PAPER
TITLE 252: DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 002. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 15, PARTS 1, 3, 7 & 9.
"UNIFORM PERMITTING PROCEDURES"
PERMANENT RULEMAKING

EXECUTIVE SUMMARY: The Oklahoma Uniform Environmental Permitting Act ("Act"), 27A O.S.Supp. 1995, § 2-14-101 et seq. as last amended in S.B. 247 (1995) establishes the basic permitting processes common to all DEQ permitting programs. These proposed rules implement those uniform procedures in Subchapter 15 of the Department's Rules of Procedures, OAC 252:002 as follows:

Part 1. States the purpose, scope and applicability of Subchapter 15. Contains definitions.

Part 3. Supplements the tiered process requirements of the Act.

Part 7. Amends existing (renumbered) rules to update permitting review procedures and time lines.

Part 9. Specifies types of permissive consolidations available to applicants (e.g., the timing of certain reviews and public participation opportunities for applications pending at the same time for the same site).

This proposed rulemaking follows the previous adoption of Rule 252:002-15-28 ("Permit Decision-making Authority) on September 26, 1995, and Part 5 ("Tier Classifications") on November 28, 1995.

STATUTORY AUTHORITY: 27A O.S.Supp. 1993, § 2-1-101 and 27A O.S.Supp. 1995, § 2-14-201.

COMPARISON WITH FEDERAL REQUIREMENTS. Some DEQ permit applications subject to federal permitting procedures are also subject to additional state requirements. However, no economic impact/environmental benefit statement is required since the state requirements are authorized by state statute.

PUBLIC PARTICIPATION. Notice was published on September 15, 1995, of a public comment period beginning September 15, 1995, and a rulemaking hearing on October 11, 1995. These notices were mailed to each program's mailing lists by September 18, 1995.

COMMENTS: A rulemaking hearing was held October 11, 1995 and was attended by five (5) persons. Written comments were also received. See attached "Responses to Comments".

SUMMARY OF MAJOR AMENDMENTS IN RESPONSE TO COMMENTS RECEIVED: See attached Summary of Comments & Responses.

CORRECTIONS AND AMENDMENTS PROPOSED BY STAFF: None

**RESPONSES TO COMMENTS
PROPOSED UNIFORM PERMITTING RULES
OAC 252:002-15, Parts 1, 3, 7 & 9.**

Rule: OAC 252:002-15-1. "Purpose and scope"

Comment: Subchapter 15 is not clear about what laws apply to applications filed before Permitting Act goes into effect.

Response: The DEQ has amended Rule 15-1 to add a new subsection (c). Beginning on the effective date of 252:002-15, applicants who file applications prior to July 1, 1996, may choose to follow the new process or the law as it existed on their filing date.

Rule: OAC 252:002-15-26. "Permitting process summary" [Table 15A]

Comment: Shouldn't the "No" in Table 15A, Tier II column, under "proposed permit" be a "Yes"? Why review or receive public comments on a Tier II application if the proposed permit is not an outgrowth of public comments?

Response: "No" is correct. The Tier II process does not include the step of preparing a proposed permit. A proposed permit is for use in a possible administrative permit hearing under Tier III and is an outgrowth of public comments on the draft permit.

Rule: None

Comment: What distinguishes a "draft" permit from a "proposed" permit?

Response: After receiving comments on a draft permit and making a final review, the DEQ may change it to correct mistakes and respond to comments. In Tier II, the finalized draft permit is issued as a "final" permit. In Tier III, the finalized draft permit is called a "proposed permit" and is made available for administrative hearing requests.

Rule: OAC 252:002-15-28. "Permit decision-making authority"

Comment: This rule, which was adopted by the Board as a permanent and emergency rule on September 26, 1995, should not go into effect until July 1, 1996. Without the protection of the tiered process requirements which will apply after July 1, 1996, doesn't this create a window of opportunity for the DEQ to issue permits without the Board's approval.

Response: No window of opportunity has been created. Until July 1, 1996, applicants continue to be subject to the permitting processes now required by statute and rules. This designation/delegation rule is NOT intended to circumvent any existing law. The

delegation is of signature power only. The rule does not change any existing permitting requirements or procedures. The purpose of the rule is to shorten current issuance time by allowing the Executive Director to delegate the signing of all but the most complex permits to program administrators and supervisors. The DEQ believes it is in the best interest of the public and the regulated community to put this rule into effect as soon as possible to increase the speed and efficiency by which permits are issued. Any delegation from the Executive Director between now and July 1, 1996, will be done through formal assignment.

Rule: OAC 252:002-15-29(b). "Published notice..."

Comment: The rule allows the DEQ to have a notice republished or a correction notice published if there is a mistake in the original publication. Whose mistake? Who will determine which action is taken? Is this a legal notice? Would notice of correction be in the "Legal Notices"? This should be spelled out in the rules since many normal corrections are lost in other parts of the paper.

Response: This rule merely codifies current procedures. It doesn't matter whose mistake it was. When one has occurred, the DEQ will determine then (as it does now) whether an error can be corrected or if a new notice should be published. To keep the corrections from being "lost", the DEQ has added "legal" in rule 29 to clarify that all correcting notices are to be legal notices.

Rule: OAC 252:002-15-29(b). "Published notice..."

Comment: Ten days is not a realistic turn-around time for getting a proof of publication from some newspapers. We suggest 30 days. [Note: A comment was also received from the Oklahoma Press Association stating that "Ten days may be too short for...some small, understaffed newspapers...." and recommending 20 days.]

Response: Ten (10) days has been changed to 20.

Rule: None

Comment: Environmental groups will not be informed via published notice of permit application filings and actions.

Response: The notice provisions of the Act have been mandated by the Legislature. In addition to published notices, interested persons may review the Oklahoma Energy/Environment Report which regularly publishes information about permit applications filed with the DEQ. Also, making telephone inquiries to the Customer Service Division or specific program of the DEQ is another way to find out what applications have been filed and the status of each.

Rule: OAC 252:002-15-70. "Common review procedures and time

lines"

Comment: Subsection (f), "Failure to respond", gives applicants a maximum of 180 days to respond to identified deficiencies of their applications and then allows time extensions for good cause shown. That is too much time. The public never gets 180 days or extensions to their comment periods for their reviews.

Response: The 180 days applies to the time allowed an applicant to cure deficiencies the DEQ has identified in an application. The 180 days is not a public review period. The 180 days response time with a good cause exception is currently in the rule. The rule is now working well for the DEQ and diligent applicants. No different response time is recommended.

Rule: OAC 252:002-15-70. "Common review procedures and time lines"

Comment: A reader of program rules confronted by a recommendation of when to submit a [water quality discharge] permit application may be confused by the uniform rules which establish other time lines for DEQ personnel to issue the permit. These timing issues could lead to misunderstanding about the time required to submit and receive a permit. A cross-reference in the program rules to the uniform rules that set out the time lines for the DEQ would prevent this possible confusion.

Response: A cross-reference has been added to OAC 252:605.

Rule: OAC 252:002-15-90. "Consolidation of permitting process"

Comment: 1. Applicants should have input on which application review times are coordinated and which meetings and/or hearings are consolidated. 2. The public should have input on consolidation. 3. Consolidating reviews and the meetings and/or hearings on complex applications and draft permits should be weighed carefully against the strain on resources and preparation/response time.

Response: The DEQ recognizes that such strains can burden the process rather than making it more efficient. Consolidation was never intended to be mandatory. To clarify that it is permissive only, DEQ has amended the rule to provide that consolidation will occur only after the DEQ has authorized it with applicant consent.

Rule: None

Comment: Permittees should be entitled to an administrative appeal of any adverse permit decision by the Department.

Response: Permittees are presently entitled to administrative review by the Department of any adverse permit decision. Permit decisions and conditions are based upon applicability of rules. A

permittee who alleges that any DEQ rule interferes with or impairs or threatens to interfere with or impair his/her legal rights may petition the DEQ, formally requesting a declaratory ruling on the applicability of the rule. (See 75 O.S. §304 and 252:002-7-1)

Rule: None

Comment: All permits should be subject to correction for good cause until such time as they are final under both state and federal law, whichever comes last. In this way, staff errors can be corrected without the necessity of further notice and hearing.

Response: The DEQ agrees that permit documents should be reviewed for errors. Accordingly, the DEQ has added new section 252:002-15-77 to clarify that the DEQ may ask an applicant at any time to review a permit document and to authorize corrections. However, the DEQ is not willing to go as far as saying that all corrections can be routinely made without notice or hearing. Hence, 77(b) calls for public notice to be published prior to "significant" corrections and gives options for public comments in writing, verbally and/or as evidence in an reconvened Tier III administrative permit hearing. A "significant" correction means any proposed change which significantly alters a facility's permitted size, capacity or other limits.

Rule: OAC 252:002-15-31(f)(2)(C) "Notice of draft permit/denial -
- Additional notice"

(C) Applicants for a solid waste landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See DuLaney v. OSDH, Okl., 868 P2d 676 (1993).

Comment: We believe DuLaney vs. OSDH determined property owners and mineral interest owners have a right to a hearing before a facility permit is issued. We believe it is the obligation of the Department of Environmental Quality to hold a hearing which affected property owners and mineral owners would attend, not hold one if one is requested. The DuLaney case should apply to all Tier III hazardous waste disposal permits and Tier III underground injection well permits and, instead of saying "Opportunity for Administrative Hearing" should say "Administrative Hearing". Would you please explain what "Opportunity for Administrative Hearing" means in this context and explain why or why not the Dulaney case should not apply to Tier III hazardous waste permits and Tier III underground injection well permits.

Response: The Oklahoma Supreme Court's decision in Dulaney granted due process rights to owners of mineral interests that underlie proposed solid waste landfills and to property owners adjacent to proposed landfills.

Although the Court's reasoning might appear to apply to many types of disposal sites, the actual holding of the case only addressed solid waste landfills. The Oklahoma Supreme Court, uniquely among the several states, created a property right where the Oklahoma statutes had not, at least not at the time the OSDH issued the solid waste permit. Current solid waste statutes do create a due process right, such as the Court in DuLaney recognized. Other state and federal courts say that legislation creates the property rights which are protected by due process.

As to whether a hearing must be held, or just an opportunity for one, the constitutional right to due process is an opportunity to appear before an impartial tribunal to state one's case. Notice of the opportunity is the critical point, as DuLaney itself makes clear.

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Part 3. Supplements the tiered process requirements of the Act.

Part 7. Amends existing (renumbered) rules to update permitting review procedures and time lines.

Part 9. Specifies types of permissive consolidations available to applicants (e.g., the timing of certain reviews and public participation opportunities for applications pending at the same time for the same site).

This proposed rulemaking follows the previous adoption of Rule 252:002-15-28 ("Permit Decision-making Authority) on September 26, 1995, and Part 5 ("Tier Classifications") on November 28, 1995.

STATUTORY AUTHORITY: 27A O.S.Supp. 1993, § 2-1-101 and 27A O.S.Supp. 1995, § 2-14-201.

COMPARISON WITH FEDERAL REQUIREMENTS. Some DEQ permit applications subject to federal permitting procedures are also subject to additional state requirements. However, no economic impact/environmental benefit statement is required since the state requirements are authorized by state statute.

PUBLIC PARTICIPATION. Notice was published on September 15, 1995, of a public comment period beginning September 15, 1995, and a rulemaking hearing on October 11, 1995. These notices were mailed to each program's mailing lists by September 18, 1995.

COMMENTS: A rulemaking hearing was held October 11, 1995 and was attended by five (5) persons. Written comments were also received. See attached "Responses to Comments".

SUMMARY OF MAJOR AMENDMENTS IN RESPONSE TO COMMENTS RECEIVED: See attached Summary of Comments & Responses.

CORRECTIONS AND AMENDMENTS PROPOSED BY STAFF: None

**RESPONSES TO COMMENTS
PROPOSED UNIFORM PERMITTING RULES
OAC 252:002-15, Parts 1, 3, 7 & 9.**

Rule: OAC 252:002-15-1. "Purpose and scope"

Comment: Subchapter 15 is not clear about what laws apply to applications filed before Permitting Act goes into effect.

Response: The DEQ has amended Rule 15-1 to add a new subsection (c). Beginning on the effective date of 252:002-15, applicants who file applications prior to July 1, 1996, may choose to follow the new process or the law as it existed on their filing date.

Rule: OAC 252:002-15-26. "Permitting process summary" [Table 15A]

Comment: Shouldn't the "No" in Table 15A, Tier II column, under "proposed permit" be a "Yes"? Why review or receive public comments on a Tier II application if the proposed permit is not an outgrowth of public comments?

Response: "No" is correct. The Tier II process does not include the step of preparing a proposed permit. A proposed permit is for use in a possible administrative permit hearing under Tier III and is an outgrowth of public comments on the draft permit.

Rule: None

Comment: What distinguishes a "draft" permit from a "proposed" permit?

Response: After receiving comments on a draft permit and making a final review, the DEQ may change it to correct mistakes and respond to comments. In Tier II, the finalized draft permit is issued as a "final" permit. In Tier III, the finalized draft permit is called a "proposed permit" and is made available for administrative hearing requests.

Rule: OAC 252:002-15-28. "Permit decision-making authority"

Comment: This rule, which was adopted by the Board as a permanent and emergency rule on September 26, 1995, should not go into effect until July 1, 1996. Without the protection of the tiered process requirements which will apply after July 1, 1996, doesn't this create a window of opportunity for the DEQ to issue permits without the Board's approval.

Response: No window of opportunity has been created. Until July 1, 1996, applicants continue to be subject to the permitting processes now required by statute and rules. This designation/delegation

rule is NOT intended to circumvent any existing law. The delegation is of signature power only. The rule does not change any existing permitting requirements or procedures. The purpose of the rule is to shorten current issuance time by allowing the Executive Director to delegate the signing of all but the most complex permits to program administrators and supervisors. The DEQ believes it is in the best interest of the public and the regulated community to put this rule into effect as soon as possible to increase the speed and efficiency by which permits are issued. Any delegation from the Executive Director between now and July 1, 1996, will be done through formal assignment.

Rule: OAC 252:002-15-29(b). "Published notice..."

Comment: The rule allows the DEQ to have a notice republished or a correction notice published if there is a mistake in the original publication. Whose mistake? Who will determine which action is taken? Is this a legal notice? Would notice of correction be in the "Legal Notices"? This should be spelled out in the rules since many normal corrections are lost in other parts of the paper.

Response: This rule merely codifies current procedures. It doesn't matter whose mistake it was. When one has occurred, the DEQ will determine then (as it does now) whether an error can be corrected or if a new notice should be published. To keep the corrections from being "lost", the DEQ has added "legal" in rule 29 to clarify that all correcting notices are to be legal notices.

Rule: OAC 252:002-15-29(b). "Published notice..."

Comment: Ten days is not a realistic turn-around time for getting a proof of publication from some newspapers. We suggest 30 days. [Note: A comment was also received from the Oklahoma Press Association stating that "Ten days may be too short for...some small, understaffed newspapers...." and recommending 20 days.]

Response: Ten (10) days has been changed to 20.

Rule: None

Comment: Environmental groups will not be informed via published notice of permit application filings and actions.

Response: The notice provisions of the Act have been mandated by the Legislature. In addition to published notices, interested persons may review the Oklahoma Energy/Environment Report which regularly publishes information about permit applications filed with the DEQ. Also, making telephone inquiries to the Customer Service Division or specific program of the DEQ is another way to find out what applications have been filed and the status of each.

Rule: OAC 252:002-15-70. "Common review procedures and time lines"

Comment: Subsection (f), "Failure to respond", gives applicants a maximum of 180 days to respond to identified deficiencies of their applications and then allows time extensions for good cause shown. That is too much time. The public never gets 180 days or extensions to their comment periods for their reviews.

Response: The 180 days applies to the time allowed an applicant to cure deficiencies the DEQ has identified in an application. The 180 days is not a public review period. The 180 days response time with a good cause exception is currently in the rule. The rule is now working well for the DEQ and diligent applicants. No different response time is recommended.

Rule: OAC 252:002-15-70. "Common review procedures and time lines"

Comment: A reader of program rules confronted by a recommendation of when to submit a [water quality discharge] permit application may be confused by the uniform rules which establish other time lines for DEQ personnel to issue the permit. These timing issues could lead to misunderstanding about the time required to submit and receive a permit. A cross-reference in the program rules to the uniform rules that set out the time lines for the DEQ would prevent this possible confusion.

Response: A cross-reference has been added to OAC 252:605.

Rule: OAC 252:002-15-90. "Consolidation of permitting process"

Comment: 1. Applicants should have input on which application review times are coordinated and which meetings and/or hearings are consolidated. 2. The public should have input on consolidation. 3. Consolidating reviews and the meetings and/or hearings on complex applications and draft permits should be weighed carefully against the strain on resources and preparation/response time.

Response: The DEQ recognizes that such strains can burden the process rather than making it more efficient. Consolidation was never intended to be mandatory. To clarify that it is permissive only, DEQ has amended the rule to provide that consolidation will occur only after the DEQ has authorized it with applicant consent.

Rule: None

Comment: Permittees should be entitled to an administrative appeal of any adverse permit decision by the Department.

Response: Permittees are presently entitled to administrative

review by the Department of any adverse permit decision. Permit decisions and conditions are based upon applicability of rules. A permittee who alleges that any DEQ rule interferes with or impairs or threatens to interfere with or impair his/her legal rights may petition the DEQ, formally requesting a declaratory ruling on the applicability of the rule. (See 75 O.S. §304 and 252:002-7-1)

Rule: None

Comment: All permits should be subject to correction for good cause until such time as they are final under both state and federal law, whichever comes last. In this way, staff errors can be corrected without the necessity of further notice and hearing.

Response: The DEQ agrees that permit documents should be reviewed for errors. Accordingly, the DEQ has added new section 252:002-15-77 to clarify that the DEQ may ask an applicant at any time to review a permit document and to authorize corrections. However, the DEQ is not willing to go as far as saying that all corrections can be routinely made without notice or hearing. Hence, 77(b) calls for public notice to be published prior to "significant" corrections and gives options for public comments in writing, verbally and/or as evidence in an reconvened Tier III administrative permit hearing. A "significant" correction means any proposed change which significantly alters a facility's permitted size, capacity or other limits.

Rule: OAC 252:002-15-31(f) (2) (C) "Notice of draft permit/denial -- Additional notice"

(C) Applicants for a solid waste landfill permit shall provide notice by certified mail, return receipt requested, to owners of mineral interests and to adjacent landowners whose property may be substantially affected by installation of a landfill site. See DuLaney v. OSDH, Okl., 868 P2d 676 (1993).

Comment: We believe DuLaney vs. OSDH determined property owners and mineral interest owners have a right to a hearing before a facility permit is issued. We believe it is the obligation of the Department of Environmental Quality to hold a hearing which affected property owners and mineral owners would attend, not hold one if one is requested. The DuLaney case should apply to all Tier III hazardous waste disposal permits and Tier III underground injection well permits and, instead of saying "Opportunity for Administrative Hearing" should say "Administrative Hearing". Would you please explain what "Opportunity for Administrative Hearing" means in this context and explain why or why not the Dulaney case should not apply to Tier III hazardous waste permits and Tier III underground injection well permits.

Response: The Oklahoma Supreme Court's decision in Dulaney granted due process rights to owners of mineral interests that underlie

proposed solid waste landfills and to property owners adjacent to proposed landfills.

Although the Court's reasoning might appear to apply to many types of disposal sites, the actual holding of the case only addressed solid waste landfills. The Oklahoma Supreme Court, uniquely among the several states, created a property right where the Oklahoma statutes had not, at least not at the time the OSDH issued the solid waste permit. Current solid waste statutes do create a due process right, such as the Court in DuLaney recognized. Other state and federal courts say that legislation creates the property rights which are protected by due process.

As to whether a hearing must be held, or just an opportunity for one, the constitutional right to due process is an opportunity to appear before an impartial tribunal to state one's case. Notice of the opportunity is the critical point, as DuLaney itself makes clear.

EQB Jan. 28, 1997

**TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 15. ENVIRONMENTAL PERMIT PROCESSING TIMES**

EXECUTIVE SUMMARY:

The Department is proposing amendments to the air quality provisions of 252:2-15-40, 41 and 72 to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

US EPA Region VI, Permits Section (received 12/10/99 via email)

COMMENT: The proposed revision to 252:2-15-72(1)(A) is inconsistent with Section 165(c) of the CAA and 40 CFR 51.166(q)(2) of the Federal Regulations that require the reviewing authority to issue or deny a PSD permit within one year (365) days following receipt of a complete permit application.

RESPONSE: Staff agrees with the commenter and revised Section 252:2-15-72(1)(A) to specify that any PSD construction permit would be issued or denied within 365 days following receipt of a complete permit application.

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

1:00 P.M.

TUESDAY, OCTOBER 21, 1997

TULSA CITY-COUNTY HEALTH DEPARTMENT AUDITORIUM

TULSA, OKLAHOMA

PUBLIC HEARING

OAC 252:2-40 and OAC 252:2-41

UNIFORM PERMITTING PROCEDURES (AMENDED)

Reported by: Deanna Szurgot, CSR
1012 Elm
Yukon, Oklahoma 73099

Dick's Transcription Service (405) 525-4111

MEMBERS OF THE COUNCIL:

MR. FISHBACK

MS. SLAGELL

MR. KILPATRICK

MS. MYERS

MR. BRANECKY

MR. BREISCH -- CHAIRMAN

MR. BYRUM -- PROTOCOL OFFICER

MS. MYRNA BRUCE -- SECRETARY

Dick's Transcription Service (405) 525-4111

PUBLIC HEARING:

MR. BYRUM: For the record, ladies and gentlemen, my name is Larry Byrum. I am director of Air Quality Division. As such, I will act as Protocol Officer for this hearing.

This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, Title 40 of the Code of Federal Regulations, Part 51, as well as the authority of Title 27 A of the Oklahoma statutes, Section 2-1-101 and following.

This hearing was advertised in the Oklahoma Register for purposes of receiving comments pertaining to the proposed revisions of the Uniform Permitting Procedures portions of OAC 252, 240, and 241.

At this time, I'd like to call Ms. Barbara Hoffman to present the Staff's position.

MS. HOFFMAN: Members of the Council, ladies and gentlemen, my name is Barbara Hoffman. Staff is proposing format and substantive changes to OAC 252:2-15-40, and 2-15-41, which are Tiers I and II for Air Quality authorizations.

Basically, the format has been changed to try to make it easier to understand. In addition, the most

substantive changes were made at the urging of EPA because of concerns about Title 5 permits not being subject to all the necessary public participation requirements.

For example, Temporary Permits are now a type of Title 5 authorization, so they were moved from Tier I to Tier II, as were acid rain permits. In addition, authorizations under a general permit have always been considered Tier I. But EPA pointed out that all Title 5 compliance schedules must have public review. Thus, while simple authorizations remain in Tier I, authorizations for which a schedule of compliance is required have been added to Tier II.

There's been another addition to Tier II, and that's 2-15-41 A. "When modifications are made to minor sources which cause them to become major facilities." Since major facilities need public participation that was moved to Tier II, or added to Tier II.

And then our final substantive change was in 2-15-40 C 5, which provides for alternative emissions reduction authorizations. And these are authorizations that are authorized under Sub Chapter 11 of our rules. And they've never been included in the uniform permitting tiers before. And since all authorizations are supposed to be classified under the tier format, they were added

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1 MS. HOFFMAN: Right.
2 MR. FISHBACK: Okay. If there's the
3 difficulty, looking just at one piece of it. Okay. All
4 right.
5 So, really there's no way to -- well, let's me ask
6 the question this way. Upon final rule passage, would
7 it be appropriate to look at the entire package?
8 Because I think we are all going to have questions like
9 I did in this case. Well, it looks like something's
10 missing. Well, it's really not missing, it's just not
11 being revised, so it's not in the package today.
12 MR. BYRUM: I think it's more reflective of
13 what we advertised for a hearing.
14 MR. FISHBACK: More reflective of?
15 MR. BYRUM: What we advertised for a hearing.
16 MR. FISHBACK: Okay.
17 MS. HOFFMAN: We can certainly get copies of
18 the procedural rules for each of the members of the
19 Council, if that's what you would like.
20 MR. FISHBACK: Maybe along the lines of what
21 was suggested earlier about references. It would be
22 sufficient for my purposes to just note on here, and I
23 guess, you have to anticipate the question, which may be
24 difficult.
25 (Laughter.)

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1 MR. FISHBACK: If you just note it on here,
2 this refers to Tier I and Tier II. Tier III is not
3 being revised, so it's not here.
4 MS. HOFFMAN: Okay.
5 MR. FISHBACK: That avoids the question. If
6 you are not revising something -- in fact, maybe a
7 complete listing of the rules, and then highlight or
8 bold face just the ones that are being proposed for
9 revision, so you can tell automatically that you
10 shouldn't find it here 'cause it's not on the agenda for
11 revision. 'Cause my perception is that there are holes
12 in this, but there aren't really.
13 MS. HOFFMAN: Okay.
14 MR. BYRUM: Other questions for Ms. Hoffman?
15 (No response.)
16 MR. BYRUM: Questions from the audience?
17 MS. BARTON: I just have a question for
18 Mr. Kilpatrick.
19 Do you want to share what your concern is?
20 MR. KILPATRICK: I don't know what my concern
21 is, except that when this was passed by the DEQ as an
22 emergency rule, some members of industry called me and
23 had some problems. And I don't know whether their
24 problem extended beyond the fact that DEQ passed it, or
25 whether they had some concerns with the words. And I

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1 haven't had a chance to call any of them back and talk
2 to them.
3 If there's no reason to pass it until next meeting,
4 I would just as soon defer and make those changes in
5 here, and make it agree with Sub Chapter 8 to pass it at
6 that time. I think it would still become permanent, and
7 that would just give me a chance to call and find out if
8 they had any other concerns that need to be addressed in
9 the rule.
10 MS. BARTON: I will just share with you, I was
11 at that meeting and raised that question, and it was the
12 procedure that they did it.
13 MR. KILPATRICK: Well, I understand that, but
14 I want to know if there is any further issues with,
15 actually, the wording of it.
16 MS. BARTON: I don't know, David.
17 Did you all address that?
18 MR. BRANECKY: (Shook head.)
19 MR. BYRUM: Other questions for Ms. Hoffman?
20 (No response.)
21 MR. BYRUM: Thank you, Barbara.
22 Anyone wishing to speak on this particular
23 regulation?
24 (No Response.)
25 MR. BYRUM: Mr. Chairman.

1 MR. BREISCH: It appears to me that we might
2 want to consider continuing this item until the next
3 regular meeting on December 16th. If so, do I hear a
4 motion?
5 MR. KILPATRICK: I would so move.
6 MR. BREISCH: A motion.
7 MS. SLAGELL: I second it.
8 MR. BREISCH: A second. Any further
9 discussion or questions?
10 (No response.)
11 MR. BREISCH: Myrna.
12 MS. BRUCE: Mr. Fishback?
13 MR. FISHBACK: Aye.
14 MS. BRUCE: Ms. Slagell?
15 MS. SLAGELL: Aye.
16 MS. BRUCE: Mr. Kilpatrick?
17 MR. KILPATRICK: Aye.
18 MS. BRUCE: Ms. Myers?
19 MS. MYERS: Yes.
20 MS. BRUCE: Mr. Branecky?
21 MR. BRANECKY: Yes.
22 MS. BRUCE: Mr. Breisch?
23 MR. BREISCH: Aye.
24 MR. BREISCH: That concludes the public
25 hearing portion of the meeting. (Conclusion.)

12

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA
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9 * * * * *
10 TRANSCRIPT OF PROCEEDINGS

11 PROPOSED REVISIONS OF OAC 252:100-2-15-40
12 AND OAC 252:100-2-15-41, UNIFORM PERMITTING
13 PROCEDURES

14 HELD ON DECEMBER 16, 1997

15 AT 3:00 P.M.

16 AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
17 IN OKLAHOMA CITY, OKLAHOMA

18 * * * * *

19 REPORTED BY: Christy A. Myers, CSR
20
21
22
23

24 ORIGINAL
25

MYERS REPORTING SERVICE
(405) 721-2882

Christy A. Myers
Certified Shorthand Reporter

1 PROCEEDINGS

2 MR. DYKE: The next item our
3 hearing agenda is Item Number 7. Ladies
4 and gentlemen, my name is David Dyke. I'm
5 Interim Director of the Air Quality
6 Division. As such, I will act as Protocol
7 Officer for this hearing.

8 This hearing is convened by the Air
9 Quality Council in compliance with the
10 Oklahoma Administrative Procedure Act in
11 Title 40 of the Code of Federal
12 Regulations, Part 51, as well as the
13 Authority of Title 27A of the Oklahoma
14 Statutes, Section 2-2-201 and 2-5-101
15 through 2-5-118.

16 The hearing was advertised in the
17 Oklahoma Register for the purposes of
18 receiving comments pertaining to the
19 Proposed Revisions of OAC 252:100-2-15-40
20 and OAC 252:100-2-15-41, Uniform Permitting
21 Procedures.

22 If you wish to make a statement,
23 please complete the form at the
24 registration table, and you will be called
25 upon at the appropriate time.

Christy A. Myers
Certified Shorthand Reporter

1 MEMBERS OF THE COUNCIL
2
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- 4 1. MR. KILPATRICK - MEMBER
5 2. MS. SLAGELL - MEMBER
6 3. MR. FISHBACK - MEMBER
7 4. DR. CANTER - MEMBER
8 5. MS. MYERS - MEMBER
9 6. MR. BRANECKY - MEMBER
10 7. MR. BREISCH - CHAIRMAN
11 8. MR. DYKE - PROTOCOL OFFICER
12 9. MS. BRUCE - SECRETARY
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1 At this time, I will call upon
2 Barbara Hoffman to give the staff's
3 position on the proposed changes.

4 Ms. Hoffman.

5 MS. HOFFMAN: Mr. Chairman,
6 Members of the Council, and ladies and
7 gentlemen, my name is Barbara Hoffman, I'm
8 an attorney with the AQD. Staff is
9 proposing format and substantive changes to
10 OAC 252:2-15-40 and 2-15-41, for Tiers I
11 and II, for Air Quality authorizations.
12 These proposed changes were heard by the
13 Council on October 21st, and the hearing
14 was continued until today. Basically the
15 format has been changed to try to make it
16 easier to understand. In addition,
17 substantive changes were made at the urging
18 of EPA because of the concerns of Title V
19 permits not being subject to all the
20 necessary public participation
21 requirements. For example, temporary
22 permits are now a type of Title V
23 authorization, so they were removed from
24 Tier I to Tier II, as were acid rain
25 permits.

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1. In addition, authorizations under a
2 general permit have all been considered
3 Tier I. But EPA pointed out, that all
4 Title V compliance schedules must have
5 public review. Thus, while simple
6 authorizations remain in Tier I,
7 authorizations for which a schedule of
8 compliance is required have been added to
9 Tier II.

10 There has been another addition to
11 Tier II, and that is 2-15-41 A. Quote,
12 when modifications are made to minor
13 sources which cause them to become major
14 facilities, close quote. Since major
15 facilities require public participation,
16 that language was added to Tier II.

17 Our final substantive change was in
18 2-15-40 C 5, which provides for alternative
19 emissions reduction authorizations. These
20 authorizations are allowed under Subchapter
21 11 of our rules, but they have never been
22 included in the Uniform Permitting Tiers.
23 Since all authorizations are suppose to be
24 classified under the Tier format, we have
25 added them to Tier I. They were added to

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1 DR. CANTER: I was trying to keep
2 up with what you were saying. I may have
3 been reading the wrong place. You
4 mentioned something about minor source
5 permits and I lost track. And it was about
6 a page ago when you were talking. I think
7 I must have been on the wrong page because
8 what you were reading about minor source
9 permits was not what I was looking at. So
10 I must be in the wrong section. I'm sorry.

11 MS. HOFFMAN: I see what you're
12 saying. I did quote that wrong. If you'd
13 go to page 2.

14 DR. CANTER: Okay.

15 MS. HOFFMAN: At the bottom of
16 the page under (a), minor source permit
17 actions.

18 DR. CANTER: Yes.

19 MS. HOFFMAN: That's the new
20 language there. And it says, any minor
21 source seeking a permit for a facility
22 modification that when completed would turn
23 it into a major facility is required to
24 apply under Subsection B, of this Section.
25 And that's under the Tier II authorization.

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1 Tier I because they called for reductions
2 in emissions and also because in order to
3 have this authorization, a SIP provision
4 will be required. All State Implementati
5 Plans, or SIP revisions, must go through
6 public hearing. So even though th
7 authorizations are in Tier I, they
8 receive a public hearing.

9 Finally, in response to a comment
10 made by Mr. Kilpatrick at the October 21a
11 hearing, several citations were changed to
12 make them conform to the proposed revisio
13 to Subchapter 8. Now, those can be chang
14 at any time, either by us or the Secreter
15 of State's Office before they publish the
16 rules. So those citations can be changed
17 back, which I think we'd probably do at
18 this point since the Subchapter 8 revisio
19 have not been adopted at this point.

20 Staff recommends that the Council
21 forward this rule to the Board with the
22 recommendation that it be adopted as a
23 permanent rule.

24 MR. DYKE: Questions from the
25 Council of Ms. Hoffman?

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1 DR. CANTER: Okay. And when you
2 had said earlier didn't match.

3 MS. HOFFMAN: That's right. I'm
4 sorry.

5 DR. CANTER: Well, I was trying
6 to keep up and I couldn't get that one.

7 MR. DYKE: Additional questions
8 from the Council?

9 Questions from the public? I have a
10 notice here that Rick Barrett, of EPA,
11 wishes to make a comment.

12 MR. BARRETT: Good afternoon,
13 again. My name is Rick Barrett with the
14 Environmental Protection Agency, Region 6,
15 Dallas. And we would like to commend the
16 Oklahoma Department of Environmental
17 Quality for their efforts in forming these
18 regulations. However, these Tier Rule
19 changes as we've noted earlier are not
20 approvable by the EPA, if they're submitted
21 as a SIP provision. EPA proposed
22 provisions to monitor public commenting of
23 Part 51 and 70, and also, 71 were included
24 in that proposal of August '95. We
25 anticipate that to go final in the f

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1 '98. At that time the str of Oklahoma as
2 well as all the states in the United States
3 will have to -- in Guam and Puerto Rico,
4 will have to change their SIP's to match
5 that rule. And under that rule there will
6 be some discretion afforded to the State on
7 what will be public noticed and what will
8 not. And the way this rule is written
9 right now, Chapter 2, Subchapters 15-40 and
10 41, especially, of course 40, which is for
11 minor sources predominately, the rule will
12 have to be changed to fit that. So it's
13 not approvable at this time, however, we do
14 have those proposals that we have to go
15 final with in the fall that will clarify
16 that for the State's discretion. So at
17 this time, of course, we can't recommend
18 that to be approved in the present form.

19 Secondly, it's been noted earlier
20 today that there were citation changes made
21 to Chapter 2, Subchapter 15, 40 and 41,
22 which were made in effect to match changes
23 that were made very recently to Subchapter
24 8, which we have not had time to review.
25 And we recommend deferring action on this

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11

1 This rule is part of our state
2 implementation plan that was approved by
3 EPA. The regulation he's referring to has
4 always been in effect, since before this
5 SIP was approved with our current
6 regulation in it. Therefore, EPA, has in
7 the past read their regulation to say that
8 our rule was just fine. We still read
9 their rule that way, that our regulation is
10 just fine. Now, they're proposing to
11 change their rules to make it, from their
12 standpoint, clearer that they now require
13 public participation for some minor source
14 permitting. And that's fine, but that rule
15 hasn't been promulgated to this point and
16 we don't know that it will be.

17 MR. BARRETT: What she said is in
18 fact true regarding the promulgation which
19 we anticipate in the fall of '98. It may
20 also be true that we approved a SIP
21 revision in 1972 from the State of Oklahoma
22 that approved no public notice for minor
23 sources. However, that was in 1992. Clean
24 Air Acts have been amended twice since that
25 time. And if the Tier I Rule was approved

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1 rule til the January 9 meeting when we
2 had to fully evaluate these citation
3 references. Thank you very much.

4 MR. BRELSCH: Well, Rick, what
5 are you saying? That there's not a
6 regulation or rule from EPA that says you
7 can't approve this rule if we pass it. Do
8 you say that there is going to be one?

9 MR. BARRETT: No. Here is what
10 I'm saying. At the current time, the Code
11 of Federal Regulations, Part 51, Subpart I
12 51.1-61, public availability of informatio
13 requires the state or local agency to
14 provide opportunity for a 30 day public
15 comment period for all new sources. That
16 is all new sources, minor and major, and
17 modifications of sources. That's in the
18 Code of Federal Regulations at the current
19 time.

20 MS. HOFFMAN: Could I comment on
21 that?

22 MR. DYKE: Yes.

23 MS. HOFFMAN: Our rules,
24 currently do not provide for public
25 participation in minor source permits.

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Certified shorthand reporter

1 today by the Council for the Environmental
2 Quality Board, was forwarded to the
3 legislature and was sent to us as a SIP
4 revision by the Governor, we would not
5 approve it.

6 DR. CANTER: I'm mixed up on
7 dates. You said 1972. Then you said 1992
8 and then you said it has been amended
9 twice. It hasn't been amended twice since
10 1992.

11 MR. BARRETT: No. 1972 was when
12 the SIP revision for Oklahoma was approved
13 regarding minor source permitting.

14 DR. CANTER: Okay.

15 MR. BARRETT: Since that time,
16 the Clean Air Act has been amended in 1977
17 and was again amended, as you know, in
18 1990. Now, what we're saying is, and we've
19 understood this for quite sometime, and
20 what the Part 70 Program precipitated is
21 public notice for minors to be addressed in
22 all the state permitting programs. So EPA
23 in its endeavor to clarify this, proposed
24 Part 51, Part 70 and Part 71 revisions in
25 August of '95, to clarify that once and for

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1 all and for the states to have certain
2 discretion on some things permitting actions
3 and not discretion on the others. The way
4 the current rule is in Oklahoma, there is
5 no public participation for minors period.
6 So we are hoping again, that this
7 clarification will be finalized in the fall
8 of next year.

9 DR. CANTER: I have two more
10 questions. One is, don't we have some
11 general things about our Tier Permitting
12 Program in this state that do address
13 public participation for Tier I? They may
14 not be here, but do we have something like
15 that?

16 MS. HOFFMAN: Yes. They require
17 a landowner notice but not public.

18 DR. CANTER: Not public, per se.
19 Okay. Second question is, have you two
20 talked about this before? I mean, I get
21 the sense that our staff thought this was
22 acceptable and all of the sudden now, there
23 is an issue raised about, you're
24 interpreting existing conditions one way,
25 and they're saying it's something else.

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Qualified Aboriginal Resource

1 rule.

2 MS. MYERS: And then when it
3 comes up in 1998 if it's promulgated then,
4 we've got to come back and address it
5 again.

6 MS. HOFFMAN: That's right.

7 MS. MYERS: It might not come out
8 until 1999.

9 MR. BREISCH: Yes, but what
10 happens between now and then to our SIP?

11 MR. KILPATRICK: The question is
12 what happens if the scenario that EPA has
13 put forward occurs and the SIP is not
14 approved, so what. Where are we then?

15 MS. HOFFMAN: We have -- plus
16 there's another concern here, and that's
17 the fact that we need to pass this rule for
18 the Title V provisions. In other words,
19 for our Title V Program to continue to be
20 approved, we have to have these changes
21 that we've made to Tier II.

22 As far as what happens if our SIP is
23 disapproved, then we have major problems.
24 I think that this is still an issue that
25 needs to be resolved between the DEQ and

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1 An it seems to me you can't say what will
2 happen in the fall of '98. We've got to
3 take into account here. We have to operate
4 on December 1997 conditions. And you're
5 saying there is a requirement, and you're
6 saying there is not a requirement.
7 you guys talked about it?

8 MS. HOFFMAN: There have been
9 letters that have gone back and forth
10 between EPA and AQD I believe, but there's
11 never been any real discussion of the
12 issue. Our Statutes -- our rules at this
13 point require that minor sources -- or the
14 provide that there is no public
15 participation for minor sources. So we
16 would have to change not just our Tier
17 Rules but other rules and statutes, as
18 well, to make this change that they are
19 requesting.

20 MS. MYERS: Well, I can't see
21 making the change based on something that
22 might happen in 1998. I mean, this is the
23 year we need to address today. What is the
24 staff's recommendation today on this issue?

25 MS. HOFFMAN: That we adopt this

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1 EPA, and it just hasn't been resolved yet
2 But it's something that the two agencies
3 are going to have to work on. Because this
4 is a position that EPA has really only
5 taken recently, in the last couple of
6 years, they have adopted this position.
7 Where before they never read their
8 regulations to mean that. So it could
9 change again.

10 MR. BREISCH: Again, I'm
11 confused that this scenario about fixing
12 Subchapter 8 -- Subchapter 7 to satisfy the
13 SIP requirements by EPA. If we do all of
14 that and we haven't satisfied them on V,
15 where do we stand? The SIP is still not
16 approvable.

17 MS. HOFFMAN: Well, we're
18 dealing with two separate things here.
19 We're dealing with the SIP and we're
20 dealing with Title V. Title V is not part
21 of the SIP.

22 MR. BREISCH: Okay.

23 MS. MYERS: What you're saying,
24 if I understand you correctly, this
25 still part of the Title V clean up t.

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1 need to get done. The SIP a separate
2 issue.
3 MS. HOFFMAN: Correct.
4 MS. MYERS: He's saying that they
5 might not approve our SIP, if we approve
6 this. But we still have to have this to
7 keep our Title V program operating?
8 MS. HOFFMAN: Yes.
9 MS. MYERS: I think we need to go
10 ahead and proceed.
11 MR. DYKE: Any additional
12 comments from the public? Anyone else
13 wishes to be heard? Yes, sir.
14 MR. DAVENPORT: My name is Pat
15 Davenport. Does the gentleman from EPA
16 have the authority to say you will not
17 approve this?
18 MR. BARRETT: That would be my
19 recommendation, let me say it that way.
20 MR. DAVENPORT: Then if we know
21 that they are not going to approve --
22 MR. BARRETT: I have to approve
23 it with upper management, of course.
24 MS. MYERS: But there are points
25 to negotiate, are there not?

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19

1 this time around they're not going to
2 accept it. But we're not actually changing
3 that part of the rule. We've tried to
4 reformat the rule so it's easier to read.
5 And the only changes we've made are to move
6 things to Tier II for Title V purposes. So
7 we're going to get punished for doing that,
8 apparently. But that's what we need to do
9 to keep our Title V approval.
10 MR. DYKE: Anybody else that is
11 willing to speak on this?
12 MR. DOUGHTY: David, let me make
13 just one comment. Dennis Doughty. I think
14 there is some real legal questions here.
15 In the past to my knowledge, EPA has never
16 purported to require any regulation of
17 minor sources with maybe some exception of
18 NSPS perhaps and nonattainment areas. So I
19 think the issue of requiring public comment
20 for minor sources that they normally don't
21 even require SIP for, is one issue that is
22 going to have to be resolved. And then --
23 and I think they're going to have to
24 legally justify this change in stands on
25 the way the rule has been interpreted. And

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1 MR. BARRETT: I'm sorry, I'm
2 sorry. I'm sorry.
3 MR. DAVENPORT: I was just
4 wondering, if we know that you aren't going
5 to approve it, why are we passing something
6 that we know isn't going to be approvable.
7 He asked this question just a moment ago
8 and never got a response. It seems like
9 we're chasing ourselves around in a circles
10 here.
11 MS. MYERS: I think we're talking
12 about two different issues. This is Title
13 V, he's talking about the SIP, State
14 Implementation Plan. That's separate from
15 the Title V issues. This is Title V, to
16 keep our program operating under the
17 jurisdiction of Oklahoma. Is that correct?
18 MS. HOFFMAN: That is correct.
19 MR. BARRETT: Yes.
20 MS. MYERS: I got concurrence
21 from both parties.
22 MS. HOFFMAN: We're not really
23 changing the rule with respect to minor
24 sources. That rule is not really changing
25 here, okay. It's just now they're saying,

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20

1 as I've heard Council Members themselves
2 say, you know, we can't pass something
3 today based on what may happen tomorrow.
4 We've got to look at the situation as it
5 exists today, and there is no guarantee
6 that this change in the interpretation on
7 EPA's part is actually going to bare fruit.
8 MR. DYKE: Anybody else?
9 Discussion of Council?
10 MS. MYERS: I make a motion that
11 we approve the changes and approve it.
12 MR. FISHSACK: I second it.
13 MR. BREISCH: We have a motion
14 and a second to approve this change, this
15 rule. And I guess your motion is to
16 recommend it for approval of the DEQ.
17 MS. HOFFMAN: That would be
18 staff's recommendation, yes.
19 MR. BREISCH: Is that your
20 motion?
21 MR. BARRETT: Can I make another
22 comment before you have a vote here? I
23 would ask that the Council at least
24 postpone this until the January 9th
25 meeting, so that we could discuss this

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1 further.
2 MR. FISHBACK: What would you
3 bring to us at that time?
4 MR. BARRETT: Irrespective of
5 the Tier I scenario with minor source
6 permitting, okay. The citation changes
7 that were made to 2-15-40 and 41, that
8 reference Subchapter 8 for the Part 70
9 program, we have not had time to review
10 those citation changes either -- if just
11 for that reason alone. We would ask the
12 Council to defer this until January 9th so
13 we would at least have time to look at that
14 at EPA in Dallas.
15 MS. NYERS: Let me ask our legal
16 staff, how much referencing does this need?
17 Is this depending on Subchapter 8?
18 MS. HOFFMAN: What we refer to
19 were sections in Subchapter 8. These are
20 not sections that have changed
21 substantively. It's just a number change,
22 it's just a numbering change, okay. And
23 that's all it is. So, the sections that
24 were referred to are the same ones that
25 were referred to at our October 21st

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23

1 asking that. I don't want that to happen.
2 I'm asking are you and EPA going to get
3 together between now and then and discuss
4 this or are we just wasting time?
5 MR. DOUGHTY: Well, I don't know
6 if I can answer that. I mean, we can talk
7 to EPA, but based on past dealings, I'm not
8 sure how convincing I can be to get them to
9 change their stance. We'll certainly talk
10 to them if it's the Council's desire to
11 postpone this. That's not a problem. But,
12 I wish I could tell you what kind of a, you
13 know, change of heart somebody might have
14 at the next Council meeting. The best I
15 think we can guarantee, is we will talk
16 with them.
17 MR. BREISCH: Well, it seems to
18 me to comply with what EPA is saying we
19 would have to hear ramifications on other
20 rules. And so all of the sudden we think
21 we've cleared this up and then we're in
22 another quick change to comply with the
23 other rules. I'd hate to see that happen
24 at your special meeting.
25 MR. KILPATRICK: Even though I

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1 ing. It's just that those sections
2 numbers might have changed in the revision
3 that Joyce made to Subchapter 8. This
4 has not changed at all from what you saw
5 October 21st.

6 MR. KILPATRICK: I apologize
7 asking for the change. I didn't mean to
8 cause so much trouble to change the number
9 to reference the new format instead of the
10 old format. I do have a question for
11 Barbara.

12 What do you think, is it useful at
13 all to defer the -- until the 9th for
14 anything other than these number changes,
15 which I think is totally ridiculous. But
16 to consider the other issues, is there any
17 value in waiting until the 9th to do that?

18 MS. HOFFMAN: I think I'll refer
19 to Dennis on that.

20 MR. DOUGHTY: I'm not sure I know
21 what you're asking. If you're asking, are
22 we going to decide that we want to put
23 minor sources to public review, I don't
24 know if I can answer that.

25 MR. KILPATRICK: No, I'm not

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1 recommended it, by seconding the motion,
2 since EPA has asked that we defer it to the
3 9th, I would be in favor of at least giving
4 them that benefit to wait that additional
5 time. I don't see why it puts us at risk
6 at all to wait until the 9th to approve
7 this. It's still going to go the DEQ at
8 the same meeting. And since they have
9 requested that, I would be in favor of
10 going that route, put it off until then and
11 we just see what happens.

12 MR. FISHBACK: Do we have the
13 same problems with emergency versus
14 permanent rules that we were talking about
15 on Subchapter 17? Is that the same --

16 MS. HOFFMAN: This is a permanent
17 rule only.

18 MR. FISHBACK: Only.

19 MR. HOFFMAN: The emergency rule
20 was passed almost a year ago. And so
21 unless this permanent rule goes to the
22 Board in January, the emergency rule will
23 die in July, so we'll go back to the way
24 it was before.

25 MR. FISHBACK: Okay. So in this

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1 case then, the January 9th meeting, there
2 is no fall back
3 MS. HOFFMAN: Right.
4 MR. FISHBACK: If it's deferred
5 and it's not passed, it's gone.
6 MS. HOFFMAN: Right.
7 MR. DOUGHTY: Let me make one
8 more comment. There's really no
9 requirement that we submit this change as a
10 SIP revision anyway. We don't have to do
11 that. We don't have to get their approval.
12 Matter of fact, I think we have at least
13 one rule that says that -- it's never been
14 submitted as a SIP revision anyway, and
15 it's only enforceable in Oklahoma. And
16 although I haven't studied it, Barbara
17 knows the details on it. If this is not a
18 substantive change, it's not going to
19 matter anyway. What EPA, if they're
20 convinced they're right legally, their
21 option is to call our SIP and say that it's
22 not adequate and then we would have to make
23 these changes anyway.
24 MS. MYERS: Is there any conflict
25 on going ahead and approving this today

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1 with the references that it has to
2 Subchapter 8. Is there any conflict or
3 problem that will be generated by us doing
4 that?
5 MR. DOUGHTY: Barbara.
6 MS. HOFFMAN: I think not. I
7 think that since you've already been
8 looking at the other Subchapters, including
9 Subchapter 8 on January 9th, that if you
10 approve Subchapter 8, then all of these
11 rules including this one, will go the Board
12 at the same time and those references will
13 be perfectly all right. Now, if you
14 decided not to adopt Subchapter 8 revisior
15 on January 9th, I can simply, I believe,
16 just go back in and put the references bac
17 to the way they were, okay, to conform to
18 the existing rules. Now, I think I can do
19 that before the Board meeting and it won't
20 be any problem.
21 DR. CANTER: It sounds to me, t
22 issues that are in debate here are issues
23 that are beyond -- that may not just be
24 limited to Oklahoma and they are beyond
25 these proposed changes. And I for one,

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27

1 would be in favor of going on with this
2 action today, because it sounds like to me
3 these are broader issues. We'll cross that
4 bridge when we get there.
5 MS. MYERS: I'll leave my motion
6 standing.
7 MR. BREISCH: Who seconded that
8 motion?
9 MR. KILPATRICK:-- I seconded that
10 motion.
11 MR. BREISCH: Does it stand?
12 MR. KILPATRICK: If you'll allow
13 me to withdraw it, I'll withdraw it. I'm
14 going to vote, no. I don't care which --
15 MR. BREISCH: You can withdraw
16 it.
17 MR. KILPATRICK: I'd like to
18 withdraw it then.
19 MR. BREISCH: Do I have another
20 second?
21 MR. BRANECKY: I'll second it.
22 MR. BREISCH: Then, we have a
23 motion and a second.
24 MR. FISHBACK: Can you restate
25 the motion?

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1 MR. BREISCH: That we adopt this
2 rule and recommend it to the DEQ for
3 approval on their January 22nd meeting.
4 MR. FISHBACK: As it stands with
5 no changes?
6 MR. BREISCH: Right. That's what
7 the motion is. I've got a motion and a
8 second. Any other questions from the
9 Council?
10 Myrna, call the roll.
11 MS. BRUCE: Mr. Kilpatrick.
12 MR. KILPATRICK: No.
13 MS. BRUCE: Ms. Slagell.
14 MS. SLAGELL: Aye.
15 MS. BRUCE: Mr. Fishback.
16 MR. FISHBACK: Aye.
17 MS. BRUCE: Dr. Canter.
18 DR. CANTER: Aye.
19 MS. BRUCE: Ms. Myers.
20 MS. MYERS: Aye.
21 MS. BRUCE: Mr. Branecky.
22 MR. BRANECKY: Aye.
23 MS. BRUCE: Mr. Breisch.
24 MR. BREISCH: Aye.
25 (PROCEEDINGS CONCLUDED)

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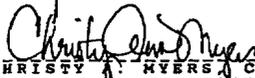
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C E R T I F I C A T E

STATE OF OKLAHOMA
COUNTY OF OKLAHOMA

I, CHRISTY A. MYERS, Certified
Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
proceedings is the truth, the whole truth,
and nothing but the truth; and said
proceedings was taken by me in shorthand
and thereafter transcribed under my
direction; that said proceedings was taken
on the 16th day of December, 1997 at
Oklahoma City, Oklahoma; and that I am
neither attorney for nor relative of any of
said parties, nor otherwise interested in
said proceedings.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
5th day of January, 1998.


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

Christy Myers
Oklahoma Certified Shorthand Reporter
Certificate No. 00310
Exp. Date: December 31, 1998



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DEC 15 1997

Mr. David R. Dyke
Acting Director
Air Quality Division
Oklahoma Department of
Environmental Quality
4545 N. Lincoln Boulevard, Suite 250
Oklahoma City, OK 73105-3483

RE: Comments on Draft Permitting Regulations Revisions: Chapter
100 - Subchapters 5, 7, 8; and Chapter 2 - Subchapters 40, 41.

Dear Mr. Dyke:

Thank you for the opportunity to review and provide the following comments on the proposed changes to the Oklahoma permitting regulations. The proposed rule changes are to the Oklahoma Air Quality annual operating fees, permitting regulations, and tier classifications, as proposed on December 1, 1997. Listed below is a comment from the Air Permits Section:

The following specific comment addresses the integration of Oklahoma Administrative Code (OAC) 252:100 subchapters 7 & 8, new source review (NSR) and Part 70 permitting programs; and 252:2 subchapter 15, tier classifications:

Tier I as proposed does not meet the federal permitting requirements. Tier I does not meet 40 CFR Part 51, Subpart I, §51.161 Public availability of information, which requires the State or local agency to provide opportunity for a 30 day public comment period for all new sources and modifications of sources of air pollutants.

However, 40 CFR Parts 51, 70, and 71 are expected to be amended in the Fall of 1998. Further, the revisions to 40 CFR Parts 51, 70, and 71 will clarify the scope of State discretion in affording public process for minor NSR actions. This proposed revision will require the State to revise their minor NSR program and Part 70 program to address minor NSR public notice.

In keeping with the cooperative partnership shared by the Oklahoma Department of Environmental Quality and Region 6, I really

appreciate the effort made by your staff to work with Region 6. If you have any questions regarding these issues, please contact me at (214) 665-7250 or Richard A. Barrett of my staff at (214) 665-7227.

Sincerely yours,

Jole C. Luehrs
Jole C. Luehrs
Chief
Air Permits Section

**CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBCHAPTER 2. UNIFORM PERMITTING PROCEDURES**

EXECUTIVE SUMMARY: Both substantive and formatting amendments are proposed and designed to aid the Department of Environmental Quality (DEQ) in gaining EPA final approval of its Title V program. The substantive changes have been requested by the U.S. Environmental Protection Agency (EPA) after their review of the DEQ air quality permitting program for Title V. For example, some substantive changes move some Title V permits from Tier I to Tier II: i.e., acid rain permits that stand alone, temporary permits, and general permit authorizations required to have compliance schedules under 252:100-8. Second, a reorganization of the rules' format is also proposed due to general comments received from the EPA and others. Under the new proposed format, Tier I and II classifications are clarified and reorganized by facility size and type of permit for simplification purposes.

STATUTORY AUTHORITY: Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101, 2-5-106, and 2-14-201.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: The Title V-based provisions are consistent with analogous federal Title V requirements. No incorporation by reference is possible since the federal requirements are in the form of state guidance rather than regulations.

ENVIRONMENTAL BENEFIT STATEMENT: These amendments are not more stringent than federal requirements. Therefore, no environmental benefit/ economic impact statement is required.

SUMMARY OF COMMENTS AND RESPONSES:

Comments made at the Public Hearing on October 21, 1997:

Comment: Gary Kilpatrick noted that the citations were based on the current rules and asked that the citations from the proposed new format be used instead.

Response: Staff concurred.

Comment: Bill Fishback asked where the requirements for the various tiers were spelled out and why Tier III was not addressed.

Response: The requirements for the various tiers are included in 252:2-15-26 through 32. Tier III was not included in the proposed revision because no revisions are proposed to Tier III.

Comment: Bill Fishback asked that the Tier Rules in their entirety be included in the Council packets for the continued hearing.

Response: Staff concurred.

Comments made at the Public Hearing on December 16, 1997:

Comment: Rick Barrett of EPA Region 6 indicated that 252:2-15-40 would be unacceptable as a State Implementation Plan (SIP) revision because minor source permits are not subject to public participation requirements.

Response: Permits for minor sources of air emissions have never been subject to public participation requirements in Oklahoma, and the revisions proposed for 252:2-15-40 do not change that. The proposed changes move certain authorizations from Tier I to Tier II, thus making more permits subject to public participation requirements. These changes are required for EPA final approval of the State's Title V permitting program and will be submitted for that purpose, not as a SIP revision.

RULE IMPACT STATEMENT: Attached.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE OAC 252:2-15
ENVIRONMENTAL PERMIT PROCESSING TIMES

[AMENDED]

HELD ON DECEMBER 14, 1999

AT 9:00 A.M.

AT 707 NORTH ROBINSON AVENUE

IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

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3
4 **BOARD MEMBERS**
5 Joel Wilson - Member
6 David Branecky - Member
7 Rick Treeman - Member
8 Leo Fallon - Member
9 Dr. Fred Grosz - Member
10 Bill Breisch - Chairman
11 David Dyke - Protocol Officer
12 Eddie Terrill - Director
13 Myrna Bruce - Secretary
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Page 4

1 proposed revision to 252:2-15-72(1)(A) was
2 inconsistent with Section 165(c) of the
3 Clean Air Act and 40 CFR 51.166(q)(2) of
4 the Federal Regulations that require the
5 reviewing authority to issue or deny a PSD
6 permit within one year or 365 days
7 following receipt of the complete permit
8 application. Staff agrees with the
9 commenter and recommends a change to page
10 three of the proposed rule. Section 252:2-
11 15-72(1)(A), which specifies the time
12 allowed for issuance of a PSD construction
13 permit would be changed from 540 days to
14 365 days.
15 MR. BRANECKY: Why was it set at
16 540?
17 MS. BRADLEY: Before there was a
18 mixing of PSD and Part 70 Sources, you'll
19 notice in some of the struck-out language.
20 And I think because Part 70 was in there,
21 it was an oversight that maybe we shouldn't
22 mix those two time lines together.
23 MR. BRANECKY: Okay.
24 MS. BRADLEY: Although for Part
25 70 sources we now have a time line of 365

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1 **PROCEEDINGS**
2 MR. DYKE: The next item on the
3 agenda is Item Number 6G, OAC 252:2-15,
4 Environmental Permit Processing Times.
5 I'll call on Cheryl Bradley.
6 MS. BRADLEY: Good afternoon, Mr.
7 Chairman, Members of the Council, ladies
8 and gentlemen. Staff is proposing
9 modification to OAC 252:2-15, Environmental
10 Permit Processing Times. Sections 40, 41
11 and 72 would be amended to make them
12 consistent with Chapter 100, Air Pollution
13 Control Regulations by changing references
14 to minor source or sources, and major
15 facility or facilities, and changing those
16 to minor facilities and or minor facility
17 and Part 70 Source or Sources,
18 respectively.
19 Notice for today's hearing was
20 published in the Oklahoma Register on
21 November 15, 1999. This is the first time
22 the Council will consider this amendment.
23 Last Friday, staff received a
24 comment from the Air Permits Section of EPA
25 Region 6. The commenter stated that the

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1 days under the regulations. We could have
2 allowed up to 540 days for issuance of the
3 Part 70 construction permit.
4 Staff suggests that the Council
5 recommend permanent adoption of proposed
6 amendments, including the change in the
7 number of days allowed to issue a PSD
8 Construction permit.
9 MR. DYKE: Additional questions
10 of Ms. Bradley from the Council?
11 MR. TREEMAN: I've got one. You
12 said complete permit. Is that
13 administratively complete or a complete
14 permit under EPA's comments?
15 MS. BRADLEY: I'll defer to
16 Barbara, since she is much more --
17 MR. TREEMAN: Technically
18 complete or administratively complete.
19 MS. BRADLEY: No. It wasn't an
20 issue in the comment. Dawson, would you
21 like to comment on what you do in practice?
22 MR. LASITER: We have always
23 considered that a complete permit, which
24 would be technically completed, as well,
25 something that we could evaluate to take to

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1 public review.
 2 MR. TREEMAN: Thank you.
 3 MS. HOFFMAN: If I can make a
 4 suggestion. Since both the PSD -- if we
 5 make that change, then both PSD sources and
 6 the Part 70 sources construction permits
 7 would both be 365 days. So I would suggest
 8 that we just go ahead and combine them and
 9 say PSD and Part 70 sources, dash, 365
 10 days. That would be A and B would be minor
 11 facilities, 180 days. Do you see what I'm
 12 saying?
 13 MR. DYKE: Additional questions
 14 from the Council?
 15 MR. WILSON: You know, David, in
 16 the past there has been a lot of discussion
 17 and concern about how the word source and
 18 facilities are used in these regulations.
 19 Is this step to make Chapter 2 consistent?
 20 Is that what we're trying to do here?
 21 MS. BRADLEY: Yes, it is. With
 22 the revisions Barbara and Joyce -- she
 23 worked so diligently on, we conformed the
 24 descriptors in Subchapter 7 and 8. And
 25 this is to make Chapter 2 consistent with

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1 those.
 2 MR. WILSON: With those?
 3 MS. BRADLEY: Yes.
 4 MR. WILSON: You could have a
 5 minor source within a major facility, could
 6 you not? And anything we're doing here by
 7 changing this wording does not effect that?
 8 MS. BRADLEY: No. Because it
 9 would ultimately be the determination of
 10 whether the facility was subject to Part 70
 11 regulations and thereby subject to the
 12 requirements of Subchapter 8 would be
 13 clearly listed. It would be a major source
 14 or a listed source of some type, and
 15 subject to Part 70 permit. Because we do
 16 have minor sources that are subject to Part
 17 70 permitting.
 18 MR. WILSON: Right. And you can
 19 have Tier I permitting processes for minor
 20 sources within a major source facility.
 21 Okay. I see heads nodding.
 22 MS. BRADLEY: I don't work -- I
 23 must admit, I don't work with the Tier
 24 Process on a regular basis.
 25 MR. WILSON: Thank you.

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1 MR. DYKE: Is there anyone
 2 wishing to comment on this rule from the
 3 public? Additional questions from the
 4 Council?
 5 MR. BREISCH: I'll entertain a
 6 motion that the changes as noted for 252:2-
 7 15-72, combined A and B.
 8 MR. BRANECKY: So moved, and
 9 changing 540 days in A, to 365. So moved.
 10 MR. FALLON: Second.
 11 MR. BREISCH: I've got a motion
 12 and a second. Any other questions or
 13 comments? Myrna, call the roll.
 14 MS. BRUCE: Mr. Wilson.
 15 MR. WILSON: Yes.
 16 MS. BRUCE: Mr. Branecky.
 17 MR. BRANECKY: Yes.
 18 MS. BRUCE: Mr. Treeman.
 19 MR. TREEMAN: Yes.
 20 MS. BRUCE: Mr. Fallon.
 21 MR. FALLON: Yes.
 22 MS. BRUCE: Dr. Grosz.
 23 DR. GROSZ: Yes.
 24 MS. BRUCE: Mr. Breisch.
 25 MR. BREISCH: Yes.

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1 (PROCEEDINGS CONCLUDED)
 2
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 4
 5
 6 CERTIFICATE
 7 STATE OF OKLAHOMA)
 7) ss:
 8 COUNTY OF OKLAHOMA)
 9 I, CHRISTY A. MYERS, Certified
 10 Shorthand Reporter in and for the State of
 11 Oklahoma, do hereby certify that the above
 12 proceedings is the truth, the whole truth,
 13 and nothing but the truth; that the
 14 foregoing proceedings were taken by me in
 15 shorthand and thereafter transcribed under
 16 my direction; that said proceedings were
 17 taken on the 14th day of December, 1999, at
 18 Oklahoma City, Oklahoma, pursuant to
 19 agreement and the stipulations hereinbefore
 20 set forth; and that I am neither attorney
 21 for nor relative of any of said parties,
 22 nor otherwise interested in said action.
 23 IN WITNESS WHEREOF, I have hereunto
 24 set my hand and official seal on this, the
 25 24th day of January, 2000.

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

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

EXECUTIVE SUMMARY:

The rules in this Chapter were substantially rewritten and reorganized through the DEQ's re-right/de-wrong rules simplification process and can be found in proposed Chapter 4. This chapter is being revoked, subject to the adoption of proposed Chapter 4.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

Since this is a revocation, there are no analogous federal rules.

ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT STATEMENT:

Since this is a revocation, there are no analogous federal rules; therefore, there is no need for an EIEB Statement.

SUMMARY OF COMMENTS AND RESPONSES:

None.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

EXECUTIVE SUMMARY:

The proposed new Chapter 4 is a comprehensive rewrite of Chapter 1 (Procedures of the Environmental Quality Board), Chapter 2 (Procedures of the DEQ) and Chapter 3 (Procedures of the Environmental Quality Councils) existing rules. As part of the re-right/de-wrong process, the format has changed significantly. New subchapters were created. Many rules were simplified and/or broken into several shorter rules for clarity. Statutory citations were updated, and statutory language was deleted.

Duplicative and redundant rules were eliminated. The rulemaking process rules were rewritten in chronological order. The permitting process rules were substantially rewritten to simplify and clarify them. Three separate subchapters dealing with administrative proceedings were combined into one subchapter that addresses all individual proceedings.

The proposed new Chapter 4 rules address general provisions, Board and council meetings and public forums, rulemaking, the environmental permit process, administrative proceedings, complaint processing, environmental education grants and local project funding.

This chapter also includes rules recommended by the Air Quality Council on June 14, 2000, which address hearings before that council. Rule numbers were changed to be consistent with the new proposed Chapter 4. See proposed Subchapter 4, Part 5.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are analogous federal rules for permitting. 40 CFR Part 124 contains federal rules entitled "Procedures for Decisionmaking". Subpart A, "General Program Requirements", contains EPA procedures for issuing RCRA, UIC, PSD and NPDES permits. In those programs for which DEQ has received delegation or authorization from EPA, the DEQ is required by federal law to follow some EPA procedures in addition to those required under state law. In those cases, the EPA procedures have been incorporated by reference by the specific program area either by rule or by program approval.¹ In the current Chapter 2 and the proposed Chapter 4 rules, additional notice requirements are acknowledged for NPDES, RCRA, and UIC permits.²

ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT STATEMENT:

The Environmental Quality Act, 27A O.S. § 1-1-106(A), requires state environmental agencies to determine the economic impact and the environmental benefit of any proposed state rule that is more

¹ 252:205-3-2(a) RCRA; 252:652-1-3(b) UIC; 605-1-5(b) NPDES; SIP Approval, 48 Federal Register 166 (1983) PSD.

² current: 252:2-15-31(f)(2)(A) Applicants for a NPDES, RCRA or UIC permit are subject to applicable additional notice provisions of federal requirements promulgated as rules of the Board. proposed: 252:4-7-13(f)(1) Applicants for a NPDES, RCRA or UIC permit are subject to additional notice provisions of federal requirements adopted by reference as DEQ rules.

stringent than a corresponding federal rule unless the stringency is specifically authorized by state law. This determination is to be made before submitting the state rule to public comment and review.

While EPA and DEQ rules on permitting procedures vary in some respects, it is difficult to say which is more stringent. To the extent the DEQ rules might be deemed more stringent in some ways, the DEQ believes that the highly prescriptive Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 through 401, specifically authorizes the Board to promulgate permitting rules that may be more stringent than corresponding federal rules.

The Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 through 401, mandates uniform permitting provisions for notices and public participation that apply consistently and uniformly to applications for permits issued by the DEQ. It takes into consideration federal rules governing delegated programs and provides that applications subject to the Uniform Environmental Permitting Act "continue to be subject to additional or more comprehensive notice and public participation opportunities in rules of the Board promulgated pursuant to federal requirements for individual state permitting programs". (§ 2-14-104) Further, the Board was given authority to promulgate rules, including a consistent application process, opportunities for public participation, uniformity of notices, procedural application requirements, and the designation of applications as Tier I, II and III (§ 2-14-201[A]). The law mandates that the Board, in determining the Tier classification, consider the federal classification, if any, for a proposed activity, operation or type of site or facility. (§ 2-14-201[B]) The uniform permitting act provides that the rules for each tier shall contain specific uniform requirements for each type of notice required by the law. However, notice and public participation requirements shall not exceed those set forth for each tier unless required otherwise by applicable federal rule adopted by the Board or a holding of the Oklahoma Supreme Court (§ 2-14-201[C]).

While an EIEB Statement is not required, the DEQ notes that, because these rules are procedural and because of the simplification and clarification nature of the rule changes, there is unlikely to be any measurable economic impact or environmental benefit associated with them.

SUMMARY OF COMMENTS AND RESPONSES:

See attached.

Comments from David Branecy

Comment 1: The definition of "Application" in 4-1-2 is contained in quotes and appears to be italicized. I am not sure of the reason for this. In addition the word "DEQ" is contained within brackets. Again I don't understand. Finally, there are three (3) periods (...) between the word "[DEQ]" and "any" in the third line of the definition. Does this mean that some wording was left out?

Response 1: The Administrative Rules on Rulemaking (OAC 655:10-5-12) control the way this definition is formatted. Italics are required because the term "application" is defined by statute. The word "DEQ" is in brackets because we use DEQ in the rules, but not in the statutory language and three dots (...) follow because the quotation is incomplete. Repetitive language was excluded; only the relevant portion was quoted.

27A O.S. § 2-14-103(1) in its entirety, reads as follows:

"Application" means a document or set of documents, filed with the Department of Environmental Quality for the purpose of receiving a permit or the modification, amendment or renewal thereof from the Department. "Application" includes any subsequent additions, revisions or modifications submitted to the Department which supplement, correct or amend a pending application."

Our proposed rule quotes applicable provisions of the law, as follows:

"Application" means "a document or set of documents, filed with the [DEQ], for the purpose of receiving a permit or the modification, amendment or renewal thereof from the [DEQ]... any subsequent additions, revisions or modifications submitted to the [DEQ] which supplement, correct or amend a pending application." [27A O.S. § 2-14-103(1)]

Comment 2: The definitions of both "Off-site" and "On-site" in 4-1-2 contain the abbreviation "UIC". I suggest that in the first occurrence the abbreviation be spelled out to remove any possible confusion as to its meaning.

Response 2: We agree. We will recommend this change.

Comment 3: Section 4-1-3(c) lists the various divisions of the DEQ. However, in other parts of the rule there are references to "DEQ program area", "DEQ regulatory program" and "the program" of the DEQ. While the word "program" is defined as a "regulatory section or division of the DEQ", would it not be simpler and more consistent to just use the word Division throughout? If this is done then the definition of program area can be deleted. References to "program area" are located in 4-9-2(a), 4-9-5(a)(1), 4-9-5(a)(6) and 4-15-2(a)(2).

Response 3: We agree. We will recommend using "Division" in the locations noted.

Comment 4: Why do the address and operating hours of the DEQ listed in 4-1-4(a) have to be codified in regulation?

Response 4: The Administrative Procedures Act, 75 O.S. § 302, and the Administrative Rules on Rulemaking, OAC 655:10-5-7, require all state agencies to adopt organizational and procedural rules. Specifically, 75 O.S. § 302(A)(1) requires each agency to "[p]romulgate as a rule a description of the organization of the agency, stating the general course and method of the operations of the agency and the methods whereby the public may obtain information or make submissions or requests".

Comment 5: Section 4-1-5(a) Availability states, "Records of the Board, Council, and DEQ, not otherwise confidential...". Since there is more than one Council and you are talking about them as a whole, I feel it would be clearer if the text read, "Records of the Board, Advisory Councils, and DEQ...". This also applies to wording found in 4-1-5(e).

Response 5: We agree. We will recommend this change.

Comment 6: Section 4-1-5(c)(2) Commercial Reproduction states "... by a commercial copying service at his own expense". I would suggest to be more correct the text read "...by a commercial copying service at his/her own expense". This same suggestion applies to wording in 4-1-5(c)(3), 4-9-39(b) and 4-9-41(a).

Response 6: We agree. We will recommend this change throughout this chapter.

Comment 7: Section 4-1-6(c) Search Fees lists the fees to be charged by the DEQ. Since (3), (4) and (5) all charge \$5.00 for 30 minutes of labor I suggest it would be simpler if the Section read as follows:

- (1) 0 - 15 minutes, no charge;
- (2) 16 - 30 minutes, \$5.00;
- (3) every subsequent 30 minute increment or portion thereof, \$5.00.

Response 7: The DEQ agrees and will recommend the suggested change.

Comment 8: Section 4-9-5(a) Conditions for not seeking administrative and civil penalties states in part "Except in the case of habitual noncompliance or as otherwise provided in this section, in evaluating an enforcement action for a regulated entity's actual or apparent failure to comply...". I do not understand the need to further describe a failure to comply. I suggest that the words "actual or apparent" be stricken so that the language reads "Except in the case of habitual noncompliance or as

otherwise provided in this section, in evaluating an enforcement action for a regulated entity's failure to comply...".

Response 8: We agree, and will recommend this change.

Comment 9: Section 4-9-5(d) Applicability states that the section will apply only to those enforcement cases arising from violations discovered or brought to the attention of the DEQ after June 2, 1997. What is the significance of this date?

Response 9: June 2, 1997, was the effective date of the "self-reporting" rule which is the precursor to Section 4-9-5. A similar policy statement preceded the rule.

Comment 10: Sections 4-9-34(c) Reference to administrative law judge and 4-9-52 Individual proceedings seem to indicate that the Executive Director or the Air Quality Advisory Council can act as an Administrative Law Judge in individual proceedings. For example 4-9-52 states, "The Council or its designee may perform Administrative Law Judge functions described in Part 3 of this Subchapter". Is this the intent of these sections?

Response 10: Thank you for pointing out this issue. The proposed language seems to conflict with 27A O.S. §2-3-103(2) which provides *inter alia* that ALJs must be attorneys currently licensed to practice law in Oklahoma and shall not be an owner, stockholder, employee or officer of, nor have any other business relationship with, any corporation, partnership, or other business or entity that is subject to regulation by the DEQ.

We propose that Section 4-9-34(c) be deleted. Although the APA permits the agency head personally to hear a case rather than to appoint an ALJ, this will rarely (if ever) be employed.

We would also recommend that Section 4-9-34(a) be amended to include a statutory reference, as follows:

252:4-9-34. Administrative Law Judges and Clerks

(a) Administrative Law Judge. The Executive Director may designate an Administrative Law Judge for any administrative hearing, unless precluded by law in accordance with 27A O.S. 2-3-103. Administrative Law Judges shall not have had prior involvement in the matter other than as an Administrative Law Judge, unless the parties waive this requirement.

However, the Air Quality Advisory Council's membership is mandated by 27A O.S. §2-2-201(H), and members may have a business relationship with an entity that is regulated by the DEQ. Further, 27A O.S. §2-5-107(7) gives the Air Quality Council the authority to conduct individual proceedings itself as well as to appoint an ALJ to do so. Therefore, Section 4-9-52 is correct. When the Council hears an individual proceeding itself, it needs to be able to effectively govern the conduct of the individual proceeding in the same manner as would an ALJ.

Comment 11: Section 4-11-3 Investigation states, "After receipt of a complaint, the DEQ may assign an investigator...". This seems to indicate that it is optional for the DEQ to assign an investigator. If no one is assigned to the complaint how will it be resolved? I would suggest the word "may" be changed to "shall".

Response 11: Not all complaints received by the DEQ will be investigated by DEQ personnel. Approximately ten percent of all complaints received are clearly outside our jurisdiction and are referred to other agencies. There may be an investigator already assigned to the same situation under another complaint or other circumstances which would preclude DEQ from assigning an investigator, e.g., complainant withdrawing complaint, etc.

Comment 12: Section 4-13-11 Final written report states, "Applicants who are awarded environmental education grants under this subchapter shall submit a final written report, outlining accomplishments of the grant objectives and expenditures on or before December 15 following the award." I am assuming that the awards are granted early in the year. If not, and an award is granted December 1, this may not give enough time for the applicant to respond. I suggest that the wording be changed to "Applicants who are awarded environmental education grants under this subchapter shall submit a final written report, outlining accomplishments of the grant objectives and expenditures within 6 months following the award."

Response 12: You are correct in that grant recipients are usually notified of their award in January/February. The final report is due in December of the following school year.

Comment 13: Section 4-13-12 Shared strategies makes reference to an Environmental Quality Education Committee, yet nothing is said of the make-up and purpose of the committee. I suggest that this committee be further described in the rule so that the applicants know with whom they are dealing.

Response 13: Currently there are eleven members on the committee, five from state agencies (including the Office of the Secretary of the Environment). Of the remaining six, one is a member of the Environmental Quality Board; one represents Keep Oklahoma Beautiful; two are teachers; one represents industry and one represents the general public.

Comment 14: I feel Subchapter 13 Environmental Education Grants should contain a section that states the following, "The applicant shall be notified in writing by the DEQ of either rejection or acceptance of a grant". This would provide the applicant with written confirmation of the decision of the DEQ and eliminate any unnecessary confusion.

Response 14: Since the beginning of the program, we have sent all applicants a letter notifying them of acceptance or rejection.

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-3 Air Quality Standards and Increments

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-3 SIP Revision

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 3. AIR QUALITY STANDARDS AND INCREMENTS

252:100-3-4. Significant deterioration increments

(b) The allowable increments are as follows:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I Areas	
Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	<u>54</u>
PM-10, Twenty-four twenty-four hour maximum	<u>108</u>
Sulfur dioxide:	
Annual arithmetic mean	2
Twenty-four hour maximum	5
Three-hour maximum	25
Nitrogen dioxide:	
(effective May 11, 1991) Annual arithmetic mean	2.5
Class II Areas	
Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	<u>1917</u>
PM-10, Twenty-four twenty-four hour maximum	<u>3730</u>
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four hour maximum	91
Three-hour maximum	512
Nitrogen dioxide:	
(effective May 11, 1991) Annual arithmetic mean	25
Class III Areas	
Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	<u>3734</u>
PM-10, Twenty-four twenty-four hour maximum	<u>7560</u>
Sulfur dioxide:	
Annual arithmetic mean	40
Twenty-four hour maximum	182
Three-hour maximum	700
Nitrogen dioxide:	
(effective May 11, 1991) Annual arithmetic mean	50

Oklahoma Register

The Oklahoma Register

Secretary of State
Office of Administrative Rules

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COMMERCE, Oklahoma Department of
CREDIT Union Board, Oklahoma State
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ENERGY Resources Board, Oklahoma
ENVIRONMENTAL Quality, Department of
GOVERNOR
HEALTH, Oklahoma State Department of
MERIT Protection Commission
MINES, Department of
NURSING Home Administrators, Oklahoma State Board of Examiners for
PRIVATE Vocational Schools, Oklahoma Board of
REDLANDS Community College, Board of Regents of
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**TITLE 243. OKLAHOMA ENERGY RESOURCES BOARD
CHAPTER 10. REFUND PROCEDURES**

INTENDED RULEMAKING ACTION: Notice of proposed PERMANENT rulemaking.

Proposed rules: Chapter 10: Refund Procedures [NEW]
Summary: The Oklahoma Energy Resources Board ("OERB") is adopting its Chapter 10: Refund Procedures Rules (the "Rules"). OERB is authorized to administer the Oklahoma Energy Resources Revolving Fund established by Section 288.7 of the Oklahoma Energy Education and Marketing Act (52 O.S., Sections 288.1 through 288.12) (the "Act"), which Fund is funded by assessments authorized by Section 288.8A of the Act. Refunds of such assessments are to be administered by OERB. This Chapter is intended to provide affected parties a means to request the refund and set forth guidelines to be followed by OERB in reviewing requests for refunds.

AUTHORITY: The Rules are authorized by Title 52 Oklahoma Statutes, Section 288.5.7; Oklahoma Energy Resources Board

COMMENT PERIOD: Written comments will be accepted March 15, 1995, through April 15, 1995. Written comments should be sent to Mike Terry, Director, Oklahoma Energy Resources Board, 2601 N.W. Expressway, Suite 107W, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING: A public hearing will be held on April 18, 1995, at 10:00 a.m. in the offices of OERB, 2601 N.W. Expressway, Suite 107W, Oklahoma City, Oklahoma. All interested persons are invited to attend and present their comments.

COPIES OF PROPOSED RULES: Copies of the Rules may be obtained by contacting Mike Terry, Director, at the Oklahoma Energy Resources Board, 2601 N.W. Expressway, Suite 107W, Oklahoma City, Oklahoma 73112, (405) 842-9500.

RULE IMPACT STATEMENT: A rule impact statement will be issued and will be available at the offices of OERB upon approval of OERB.

CONTACT PERSON: Mike Terry, Director, (405) 842-9500.

[Okla. Reg. 95-256; filed February 23, 1995]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.

Proposed Rules: OAC 252:100-3-4, Air Quality Standards and Increments, Significant Deterioration Increments [AMENDED].

Summary: The intent of changes to Subchapter 3 is to reduce the maximum allowable increases (increments) for particulate matter under the requirements for Prevention of Significant Deterioration of air quality. The revised increments are based upon particles with an aerodynamic diameter of less than or equal to 10 micrometers (PM-10) which replace the original increments for PM which were based upon total suspended particulates (TSP).

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-5-106.

COMMENT PERIOD: Written comments will be accepted prior to and during the regularly scheduled meeting of the Oklahoma Air Quality Council. The meeting will be held Tuesday, April 18, 1995, in the Lincoln Boulevard Plaza office complex, Burgundy Room, 4545 N. Lincoln Blvd., Oklahoma City, Oklahoma. Briefing is scheduled for 9:30 AM; meeting and hearing, for 1:00 PM. Oral comments will be accepted during the hearing; written comments on the proposed change may be mailed to Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, OK 73105-3483. Mr. Scott Thomas.
PUBLIC HEARINGS: Tuesday, April 18, 1995, in the Burgundy Room, Lincoln Plaza office complex, 4545 N. Lincoln Blvd., Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division at the above address.

CONTACT PERSON: Mr. Scott Thomas (405) 271-5220.

[Okla. Reg. 95-252; filed February 22, 1995]

OK Reg 3/15/95

1305

**TITLE DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.
PROPOSED RULES: OAC 252:100-3-4 Air Quality Standards and Increments, Significant Deterioration Increments (AMENDED).
SUMMARY: These changes to Subchapter 3 would revise the Air Quality Prevention of Significant Deterioration (PSD) increments for particulate matter for Class I, II, and III areas. The revised increments are expressed in terms of particles with an aerodynamic diameter of less than or equal to 10 micrometers (PM-10) and replace the equivalent, original increments for PM which were based on total suspended particulates (TSP).
AUTHORITY: Environmental Quality Board; 27A O. S. Supp. 1993, §§ 2-5-106; et seq.
COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Division or may, before September 26, 1995, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Tuesday, September 26, 1995, in Elk City, Oklahoma. The location of the meeting may be changed.
PUBLIC HEARINGS: Tuesday, September 26, at 9:30 a.m. in Elk City, Oklahoma.
COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, OK.
RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division at the above address.
CONTACT PERSON: Mr. Randy Ward (405) 271-5220.
ADDITIONAL INFORMATION: These rules were recommended by the Air Quality Council pursuant to the public hearing on April 18, 1995.

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.
PROPOSED RULES: OAC 252:100-8, Operating Permits (part 70) (AMENDED).
SUMMARY: The proposed revisions to Subchapter 8 establish a schedule for the phased submittal of the Part 70 Operating Permit Applications based on the affected facility's Standard Industrial Classification Code. This will allow some facilities a period of up to 36 months after approval of Oklahoma's interim program to submit their permit applications. Previously, all Title V permit applications were required within 12 months of approval.
AUTHORITY: Environmental Quality Board; 27A O. S. Supp. 1993, §§ 2-5-106; et seq.
COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Division or may, before September 26, 1995, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N. E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Tuesday, September 26, 1995, in Elk City, Oklahoma. The location of the meeting may be changed.
PUBLIC HEARINGS: Tuesday, September 26, at 9:30 a.m. in Elk City, Oklahoma.
COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, OK.
RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division at the above address.
CONTACT PERSON: Mr. Scott Thomas (405) 271-5220.
ADDITIONAL INFORMATION: These rules were recommended by the Air Quality Council pursuant to the public hearings on June 20, 1995, and August 15, 1995.

[Okla. Reg. 95-1195; filed August 25, 1995]

[Okla. Reg. 95-1194; filed August 25, 1995]

12 OK Reg 3499, 09/15/95

1995

TITLE 252 DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 3. AIR QUALITY STANDARDS AND INCREMENTS

RULEMAKING ACTION: PERMANENT FINAL ADOPTION.

RULES: OAC 252:100-3-4 Significant deterioration increments [AMENDED]

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-2-101, 2-5-101 et seq.

DATES:

Comment period: September 15, 1995 to September 26, 1995.
Public hearing: September 26, 1995.
Adoption: September 26, 1995
Submitted to Governor: October 6, 1995.
Submitted to House: October 6, 1995.
Submitted Senate: October 6, 1995.
Gubernatorial approval: November 4, 1995.
Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 27, 1996.
Final adoption: March 27, 1996.
Effective: July 1, 1996.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules: 252:100-3-4 Significant deterioration increments [AMENDED].
Gubernatorial approval: November 4, 1995.
Register publication: 13 Ok Reg 859.
Docket number: 96-134.

INCORPORATIONS BY REFERENCE: None.

ANALYSIS: This revision to Subchapter 3 changes Air Quality Prevention of Significant Deterioration (PSD) increments for particulate matter for Class I, II, and III areas. The revised increments will be based upon particles with an aerodynamic diameter of less than or equal to 10 micrometers (PM₁₀) instead of total suspended particulates (TSP). The Air Quality Council recommended the permanent adoption of this revision at their meeting on April 18, 1995.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no differences since this rule adopts the new increments as revised by EPA. The Air Quality Council began receiving comments on this new rule on March 15, 1995.

CONTACT PERSON: Mr. Randall Ward, DEQ Air Quality Division, Suite 250, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd. Oklahoma City, Oklahoma 73105. (405) 271-5220

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 1996.

252:100-3-4. Significant deterioration increments

(a) Significant deterioration, as used in the phrase Prevention of Significant Deterioration (PSD), means an increase in ambient air pollution above a baseline plus a specific increment allowed for one of three classes of areas. See OAC 252:100-7, Part 5.

(b) The allowable increments are as follows:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I Areas	
Particulate matter:	
PM-10, annual arithmetic mean	4
PM-10, twenty-four hour maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
Twenty-four hour maximum	5
Three-hour maximum	25
Nitrogen dioxide:	
(effective May 11, 1991)	
Annual arithmetic mean	2.5
Class II Areas	
Particulate matter:	
PM-10, annual arithmetic mean	17
PM-10, twenty-four hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four hour maximum	91
Three-hour maximum	512
Nitrogen dioxide:	
(effective May 11, 1991)	
Annual arithmetic mean	25
Class III Areas	
Particulate matter:	
PM-10, annual arithmetic mean	34
PM-10, twenty-four hour maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
Twenty-four hour maximum	182
Three-hour maximum	700
Nitrogen dioxide:	
(effective May 11, 1991)	
Annual arithmetic mean	50

[Okla. Reg. 96-536; filed April 25, 1996]

Air Quality Council

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, APRIL 18, 1995
1:00 P.M.

LINCOLN PLAZA OFFICE COMPLEX
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
OKLAHOMA CITY, OKLAHOMA

HEARING/MEETING

- | | | |
|----|---|-----------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Approval of Minutes of February 22, 1995 | Chairman |
| 4. | Public Hearing OAC 252:100-3-4
Air Quality Standards and Increments,
Significant Deterioration Increments {AMENDED}

Discussion by Council/Public | Ward |
| 5. | New Business
Discussion/consideration of subjects/business
arising within the past 24 hours. | Chairman |
| 6. | ADJOURNMENT
Next Regular Meeting - June 20, 1995
Tulsa City County Health Department
4616 East 15th
Tulsa, OK | Chairman |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

AIR QUALITY COUNCIL
APRIL 18, 1995
1:00 p.m.
MINUTES

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

Mary Tillman, Vice-Chairman
Larry Canter
David Branecky
Bill Fishback
Kathryn Hinkle
Meribeth Slagell
Pierre Taron
Mary Tillman

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Ray Bishop
Joyce Sheedy
Randy Ward
Myrna Bruce

Council Members Absent

William B. Breisch, Chairman

Guests Present

(see attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room at the Lincoln Plaza location, and the entrance to the Air Quality Division offices.

Call to Order - Ms. Tillman called the meeting to order and roll was taken: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - absent.

Approval of Minutes - Ms. Tillman entertained a motion to approve the Minutes of the February 22, 1995 Meeting/Hearing. Motion was made to approve the Minutes as presented by Mayor Taron with a second by Ms. Hinkle. Roll call as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; ; Ms. Tillman - aye.

PUBLIC HEARING

OAC 252:100-3-4 AIR QUALITY STANDARDS AND INCREMENTS

As protocol officer, Larry Byrum convened the hearing on OAC 252:100-3 Air Quality Standards and Increments. The hearing was advertised in the Oklahoma Register for the purpose of receiving comments.

Mr. Randall Ward, Supervisor of the Analysis and Planning Unit, presented staff position stating that on August 8, 1994 the Air Quality Division received a letter from Jole C. Luehrs, Chief of the New Source Review Section, Region VI of the Environmental Protection Agency (EPA) which advised that the EPA Prevention of Significant Deterioration (PSD) increments for particulate matter (TSP) had been revised. The new increments were based upon particles with an aerodynamic diameter less than 10 microns (PM10). The new increments are designed to be equivalent to the statutory TSP increments and did not increase the stringency of the standards. The EPA requires states with approved PSD State Implementation Plans (SIPs) to adopt the new increments or face sanctions and federal implementation of that portion of the State's PSD permitting plan. Through consultation and correspondence with the EPA, staff developed a schedule for revision of affected regulations. Staff proposed to revise the language in the rule as indicated in OAC 252:100-3-4.

Mr. Ward pointed out that the packet also included a letter from EPA Region VI approving proposed rule language and addressing other needed changes in regulations. He added that through negotiations with Region VI, action was postponed on those issues until changes are made to OAC 252:100-7 Permits as part of the Title V permit plan revisions. Mr. Ward entered a copy of the EPA comments into the record.

Staff recommended that the Council take action to recommend this rule change to the Environmental Quality Board for adoption as an Emergency and Permanent rule due to the importance that the revised PSD SIP be approved by EPA and that no substantive comments had been received.

Mr. Kilpatrick inquired whether the proposed changes would be submitted to the DEQ Board in conjunction with the plan changes to Subchapter 7. Mr. Byrum advised that the entire package will go forward at the same time in order to alleviate any problems. Most likely these will go to the Board on the next meeting after the June meeting which is September 27.

Mr. Fishback asked if these standards were not intended to be retroactive and affect any sources that had submitted a permit under the old higher limits. Mr. Ward pointed out that there is a grandfathering provision in the *Federal Register* Notice and federal regulations.

With no further discussion, Mr. Kilpatrick moved that the Air

Quality Council approve adoption of the OAC 252:100-3 Air Quality Standards and Increments rule changes as an Emergency and Permanent Rule. The second was made by Mr. Fishback and roll call was as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye.

Ms. Tillman presented a letter drafted by a Council sub-committee consisting of Gary Kilpatrick, Bill Fishback, Meribeth Slagell and Mary Tillman. The letter was drafted to make Governor Keating aware of the Council's position with regards the hiring freeze. The letter respectfully requested that Governor Keating offer an exemption for the personnel to operate the Title V program because the funding is not state appropriated monies. The letter was endorsed by all members present and would be mailed to Mr. Breisch for his signature.

Adjournment - The next regular meeting will be Tuesday, June 20, 1995 at the Tulsa City-County Health Department, 4616 East 15th Street, Tulsa, Oklahoma. Meeting adjourned with a unanimous roll call vote.

 6/20/95

William B. Breisch, Chairman
Air Quality Council



Larry D. Byrum, Director
Air Quality Division

April 5, 1995

MEMORANDUM

TO: AIR QUALITY COUNCIL

FROM: Larry D. Byrum, Director 
AIR QUALITY DIVISION

SUBJECT: REVISIONS TO OAC 252:100-3
AIR QUALITY STANDARDS AND INCREMENTS

Please find enclosed the staff's suggested revisions to Oklahoma Air Pollution Rule OAC 252-100-3. These revisions are in response to an EPA letter dated August 2, 1994 (enclosed).

Also enclosed are copies of the Air Quality Division workplan to implement these revisions and EPA's response to our suggested revisions.

SUBCHAPTER 3. AIR QUALITY STANDARDS AND INCREMENTS

252:100-3-4. Significant deterioration increments.

(a) Significant deterioration, as used in the phrase Prevention of Significant Deterioration (PSD), means an increase in ambient air pollution above a baseline plus a specific increment allowed for one of three classes of areas. See OAC 252:100-7, Part 5.

(b) The allowable increments are as follows:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I Areas	
Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	54
PM-10, Twenty-four twenty-four hour maximum	108
Sulfur dioxide:	
Annual arithmetic mean	2
Twenty-four hour maximum	5
Three-hour maximum	25
Nitrogen dioxide: (effective May 11, 1991)	
Annual arithmetic mean	2.5
Class II Areas	
Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	1917
PM-10, Twenty-four twenty-four hour maximum	3730
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four hour maximum	91
Three-hour maximum	512
Nitrogen dioxide: (effective May 11, 1991)	
Annual arithmetic mean	25
Class III Areas	
Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	3734
PM-10, Twenty-four twenty-four hour maximum	7560
Sulfur dioxide:	
Annual arithmetic mean	40
Twenty-four hour maximum	182
Three-hour maximum	700
Nitrogen dioxide: (effective May 11, 1991)	
Annual arithmetic mean	50

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

APRIL 18, 1995

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 David Pruch	Kerr-McGee Ref. Corp	Wyn, OK P.O. Box 305	No
2 TOOD SMITH	TEXACO	P.O. Box 277 VERMILION, OK 73091	N
3 H. GEORGE PITT	ANR PIPELINE	P.O. Box 3708 ENID, OK 73702	N
4 FREDDY SANCHES	PANHANDLE EASTERN	544 WESTHEIMER HOUSTON, TX 77056	N
5 Troy B. And	ANR Pipeline Co.	P.O. Box 3708 ENID, OK 73702	No
6 Laurie Cooper	OMST	2122 S. Yukon Ave TULSA, OK 74107	No
7 Karen Dibrberg	Kerr-McGee Corp.	PO Box 25861 OKC OK 73125	No
8 L. W. PARDEN	DEQ BOARD	P.O. Box 201 TULSA, OK 74102	No
9 GRANT MARB UICREP		420 TERRACE Norman	N
10 JOLIE LUBBERS	BPA	1445 ROSS AVE DALLAS, TX	NO
11 MERRIT NICEWANDER	RMT/JN	12659 N CENTRAL DALLAS TX 75243	NO
12 RUCHE BUCHHEE	SINCLAIR OIL	P.O. Box 970 TULSA, OK 74101	NO
13 Paul Offord	Holliman Langholz	10 East Third Tulsa, OK	NO
13 Doyle McWhorter	RMT/JN	Norman, OK	NO
14 R. Cmy-May	Trident/Elmer	12009 Sunnyside Hill The Woodlands, TX	
15 R. Klenen	ODEQ		NO
16 Curt Joella	ODEQ		No
17 DICK REID	Dayton Tire	P.O. Box 24011 OK City 73124	No
18 Nelson Breming	QALCO/CO	PO Box 69 Stillwater	NO
19 Nancy Coleman	OC-ALC/EMCS	7701 2nd Street TAFB	No

- 20 Lt Col Keith Klein OC-Arc/JAV 7460 2d STSEW
TINKER AFB OK 73145 no
- 21 Howard Ground PSU PO Box 201 Tulsa OK 74102
- 22 Gerald Butcher WTRC PO Box 429 Ardmore, OK 73005
- 23 HERB NEUMANN DEB TCCAD TULSA 74112
- 24 Carol Smalley DEB 1401 Box 26 Kayes, OK 73947
- 25 MARIE LUMEN ENERCON 3629 NW 70th OKC 73116
- 26 Susie King CONOCO
- 27 Eldie Terrell TCCAD 4616 E 15th Tulsa
- 28 Walter Catrett TCCAD 4616 E 15th St. Tulsa
- 29 JERRY CLEVELAND TCCAD 4616 E 15th ST TULSA
- 30 JACK FRY ODEP "
- 31 Ken Aulove RSA 3700 W Robinson ~~Smith~~ - Norman
- 32 Randy Ward ODEP 4545 N. Lincoln
- 33 Loni ~~Smith~~ " " "
- 34 Bill Moore ODEP
- 35 Gill Luton Fort Howard Corp 4901 Chandler
Muskogee OK 74403
- 36 Norale R. Jackson Enogex P.O. Box 24300 OKC, 73124-0200
- 37 Jack Paul C&B 3850 Helen St Ft Worth TX
- 38 ~~John~~ Sumner DEB 1000 NE 10th St OKC, OK
- 39 Regina Clear ODEP 4545 N Lincoln
- 40 Bob Kinner Fitzgerald P.O. Box 960 Sand Springs OK 74063
- 41 George John ODEP 4545 N Lincoln
- 42 Alan Shallice Exxon P.O. Box 2180 Houston, TX 77252-2180
- 43 ~~James~~ D Shady AFD, ODEP # OKC
- 44 Fred Welch SonAT 14000 RURAL STOKES PLUM, OKC, OK
- 45 ~~James~~ A. Harris Emercon 6575 N Meridian OKC, OK Suite 214
- 46 Danna Wilson ODEP — OKC

RECOMMENDATION
TO THE
ENVIRONMENTAL QUALITY BOARD
FROM THE
AIR QUALITY COUNCIL

The members of this Council, acting pursuant to the authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Supp. 1993, Section 2-2-201, by roll call vote, make formal recommendation to the Environmental Quality Board the rule(s) specified below be adopted as (a) permanent rule(s) and by emergency and that the Board find that adoption of the rule(s) by emergency is warranted by the compelling extraordinary circumstance of the need to preclude possible federal implementation and/or sanction of a portion of the State's Prevention of Significant Deterioration permitting plan.

OAC 252:100-3
AIR QUALITY STANDARDS AND INCREMENTS

Prior to making this recommendation, this Council considered the rules and comments received thereon and determined, to the best of its knowledge, that all requirements of the Oklahoma Administrative Procedures Act applicable to this rulemaking have been followed.

With the understanding that such changes shall not invalidate this recommendation, this Council authorizes the Department staff to make any amendments approved by the Council, appropriate corrections of typographical errors, additions and deletions indicated by strikeout/underline, and formatting as required by the Office of Administrative Rules.

Respectfully,

Mary J. Tillman
Chair or Designee

Signed this 18th day of April, 1995.

VOTING TO APPROVED:

VOTING AGAINST:

ABSTAINING:

ABSENT:

Environmental Quality Board

N

Chapter 100, Air Pollution Control Rules
SUBCHAPTER 3. Air Quality Standards and Increments

EXECUTIVE SUMMARY:

The intent of changes to Subchapter 3 is to revise the Air Quality Prevention of Significant Deterioration (PSD) increments for particulate matter for Class I, II, and III areas. The revised increments are based upon particles with an aerodynamic diameter of less than or equal to 10 micrometers (PM_{10}) which replace the original increments for particulate matter which were based upon total suspended particulates (TSP). Adoption of this revision will result in the PSD increments and the National Ambient Air Quality Standards (NAAQS) for particulate matter being measured by the same indicator, PM_{10} .

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no differences since this rule adopts the new increments as revised by EPA.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because this rule is not more stringent than the corresponding federal rule.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: A letter from EPA addressed concern that proposed revisions did not include changes to other related sections of our rules. This letter also included an approval of the proposed rule language.

Response: The staff has negotiated with EPA to postpone action on changes to the related sections of our rules until such time as changes are made to OAC 252:100-7 Permits, as part of our Title V permit plan revisions.

Comment: A member of the council questioned if these standards were intended to be retroactive and how they would affect sources that had submitted a permit under the old higher limits.

Response: These sources will not be affected and are covered by a grandfathering provision in the federal regulations.

RULE IMPACT STATEMENT

Amendments to the Air Pollution Control Rules
before the Environmental Quality Board September 26, 1995

1. **DESCRIPTION:** This action revises Subchapter 3 and changes the Air Quality Prevention of Significant Deterioration (PSD) increments for particulate matter for Class I, II, and III areas. The revised increments will be based upon particles with an aerodynamic diameter of less than or equal to 10 micrometers (PM₁₀) instead of total suspended particulates (TSP).
2. **CLASSES OF PERSONS AFFECTED:** Sources subject to PSD permitting.
3. **CLASSES OF PERSONS BENEFITTED:** The general public will enjoy improved air quality and better visibility due to continued regulation of PSD areas. Industry and the regulatory agency will benefit from streamlined regulations resulting as a result of simplification of this rule.
4. **ECONOMIC IMPACT:** The State of Oklahoma remains in compliance with EPA requirements. The revisions to the PSD Program must be adopted to avoid sanctions and federal implementation of this portion of the State's PSD permitting plan.
5. **COST:** Agency costs will be negligible since PM₁₀ equipment is already in place. Industry costs will also be negligible since the new increments are essentially equivalent to the old TSP standards.
6. **ARE THERE LESS COSTLY METHODS:** No, this rule revision is required by the Federal Clean Air Act Amendments of 1990.
7. This Rule Impact Statement was prepared on September 8, 1995.

SUBCHAPTER 3. AIR QUALITY STANDARDS AND INCREMENTS

252:100-3-4. Significant deterioration increments.

(a) Significant deterioration, as used in the phrase Prevention of Significant Deterioration (PSD), means an increase in ambient air pollution above a baseline plus a specific increment allowed for one of three classes of areas. See OAC 252:100-7, Part 5.

(b) The allowable increments are as follows:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I Areas	
Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	54
PM-10, Twenty-four twenty-four hour maximum	108
Sulfur dioxide:	
Annual arithmetic mean	2
Twenty-four hour maximum	5
Three-hour maximum	25
Nitrogen dioxide: (effective May 11, 1991)	
Annual arithmetic mean	2.5

Class II Areas

Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	1917
PM-10, Twenty-four twenty-four hour maximum	3730
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four hour maximum	91
Three-hour maximum	512
Nitrogen dioxide: (effective May 11, 1991)	
Annual arithmetic mean	25

Class III Areas

Particulate matter:	
PM-10, Annual geometric annual arithmetic mean	3734
PM-10, Twenty-four twenty-four hour maximum	7560
Sulfur dioxide:	
Annual arithmetic mean	40
Twenty-four hour maximum	182
Three-hour maximum	700
Nitrogen dioxide: (effective May 11, 1991)	
Annual arithmetic mean	50

Additional Comments

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BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

ORIGINAL

* * * * *
HEARING BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
HELD ON APRIL 18, 1995
AT OKLAHOMA CITY, OKLAHOMA
* * * * *

COUNCIL MEMBERS PRESENT:

- Ms. Tillman, Chairman
- Mr. Branecky
- Mayor Taron
- Dr. Canter
- Ms. Slagell
- Mr. Fishback
- Ms. Hinkle
- Ms. Tillman

Also Present:

- Mr. Larry Byrum, Protocol Officer
- Ms. Myrna Bruce, Secretary of Council

Reported by:

Gayla Chronic, CSR, RPR
PRIDE REPORTING SERVICES
2601 N.W. Expressway, Suite 103E
Oklahoma City, OK 73112
(405) 843-6498

I N D E X

INCIDENTS OF TRIAL:

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Motion	3
Second	3
Vote	3
Motion	6
Second	6
Vote	6

Oklahoma City, OK

April 18, 1995

1:00 o'clock p.m.

* * * * *

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5 THE CHAIRMAN: We're going to bring the hearing
6 meeting to order.

7 And we'll begin with the roll call, if Myrna
8 would, please.

9 THE SECRETARY: Mr. Branecky?

10 MR. BRANECKY: Here.

11 THE SECRETARY: Dr. Canter?

12 DR. CANTER: Here.

13 THE SECRETARY: Mr. Fishback?

14 MR. FISHBACK: Here.

15 THE SECRETARY: Ms. Hinkle?

16 MS. HINKLE: Here.

17 THE SECRETARY: Mr. Kilpatrick?

18 MR. KILPATRICK: Here.

19 THE SECRETARY: Ms. Slagell?

20 MS. SLAGELL: Here.

21 THE SECRETARY: Mayor Taron?

22 MAYOR TARON: Here.

23 THE SECRETARY: Ms. Tillman?

24 MS. TILLMAN: Here.

25 Our first item on the agenda is the approval of

1 minutes. I'll ask for a motion.

2 DR. CANTER: I make a motion.

3 THE CHAIRMAN: Second?

4 DR. CANTER: Second.

5 THE CHAIRMAN: I believe you made the motion.

6 MS. HINKLE: Second.

7 (A discussion was held off the record.)

8 THE CHAIRMAN: Okay. We have a motion and a
9 second now.

10 Discussion?

11 (No response.)

12 Myrna, would you call for the vote.

13 THE SECRETARY: Mr. Branecky?

14 MR. BRANECKY: Aye.

15 THE SECRETARY: Dr. Canter?

16 DR. CANTER: Aye.

17 THE SECRETARY: Mr. Fishback?

18 MR. FISHBACK: Aye.

19 THE SECRETARY: Ms. Hinkle?

20 MS. HINKLE: Aye.

21 THE SECRETARY: Mr. Kilpatrick?

22 MR. KILPATRICK: Aye.

23 THE SECRETARY: Ms. Slagell?

24 MS. SLAGELL: Aye.

25 THE SECRETARY: Mayor Taron?

1 MAYOR TARON: Aye.

2 THE SECRETARY: Ms. Tillman?

3 MS. TILLMAN: Aye.

4 (A discussion was held off the record.)

5 MS. TILLMAN: For the public portion of this
6 meeting, Larry Byrum will act as hearing officer.

7 Larry?

8 MR. BYRUM: Ladies and gentlemen, my name is
9 Larry Byrum. I am the Director of the Air Quality
10 Division, and as such I will act as protocol officer for
11 the hearing. This hearing is convened by the Air
12 Quality Council in compliance with the Oklahoma
13 Administrative Procedures Act and Title 40 of the Code
14 of Federal Regulations, part 51, as well as the
15 authority of Title 63 of the Oklahoma Statutes, Sections
16 1, 1801, et seq.

17 This hearing was advertised in the Oklahoma
18 Register for purpose of receiving comments pertaining to
19 proposed revisions of 252:100-3-1, which is the air
20 quality standards and increments. If you wish to make a
21 statement, if you would please complete the form at the
22 registrations table at the back of the room, you will be
23 called upon at the appropriate time to make your
24 comments.

25 At this point I would like the call upon

1 Mr. Randall Ward to give the staff presentation of the
2 proposed rules.

3 Mr. Ward?

4 MR. WARD: Madam chairman, members of the
5 Council, ladies and gentlemen: My name is Randall Ward,
6 representing the staff of the air quality division of
7 the Oklahoma Department of Environmental Quality. I am
8 currently the supervisor of the analysis and planning
9 unit.

10 On August 8, 1994, the air quality division
11 received a letter from Jole Luehrs, Chief of the New
12 Source Review Section, Region 6, of the Environmental
13 Protection Agency. We were notified that the EPA PSD
14 increments for particulate matter ESP had been revised.

15 The new increments are based upon particles
16 with a aerodynamic diameter less than 10 microns, PM-10.
17 The new increments are designed to be equivalent to the
18 statutory TSD increments and do not increase the
19 stringency of the standard.

20 The EPA is requiring states with approved PSD
21 SIPs to adopt the new increments or face sanctions and
22 federal implementation of that portion of the state's
23 PSD permitting plan.

24 Through consultation and correspondence with
25 the EPA, the staff has developed a schedule for revision

1 of our affected regulations. The letter and our
2 schedule are part of the Council packets.

3 Staff is proposing to revise the language in
4 OAC 252:100-3, air quality standards and increments.
5 Revised language is in Section OAC 252:100-3-4,
6 significant deterioration increments and is indicated by
7 striking out and underlining.

8 Copies of the rule are in the Council packet
9 and available to the audience today. Also included in
10 the packet is a letter from Region 6 EPA approving our
11 proposed rule language and addressing other needed
12 changes in our regulations.

13 Through negotiation with Region 6 EPA, we have
14 postponed action on those issues until such time as we
15 make changes to OAC 252:100-7 permits, as part of our
16 Title 5 permit revisions.

17 I will now officially enter a copy of the EPA
18 comments into the record.

19 Because it is important that the SIP be
20 approved as soon as possible and we have received no
21 substantive comments to the rule, the staff recommends
22 that the Council takes action to recommend this rule to
23 the Environmental Quality Board for adoption as an
24 emergency and permanent rule.

25 I and the rest of the staff will now answer any

1 questions.

2 MR. KILPATRICK: Randall, my understanding --
3 correct me if I'm wrong -- this will actually be
4 submitted to DEQ in conjunction with the plan changes to
5 Section 7?

6 MR. WARD: I believe that's right.

7 MR. BYRUM: Basically what will occur is the
8 next board meeting, as you know, is in June. And we
9 will time these to where the whole package goes forward
10 at the same time so it won't be a problem with the
11 overlapping rules.

12 MR. KILPATRICK: Are you saying we will submit
13 it to the Board in June?

14 MR. BYRUM: No. But we will --

15 MR. KILPATRICK: Next meeting after the June
16 meeting.

17 MR. BYRUM: Most likely.

18 MR. FISHBACK: Is it true that these standards
19 are equivalent to the federal standards and no more
20 stringent than the federal standards? Is that correct?

21 MR. WARD: That is covered in the Federal
22 Register notice. They are meant to be. They use the
23 language "roughly equivalent." So they were designed to
24 be consistent to the SIP standards.

25 MR. BYRUM: Other questions of Council?

1 Questions from the audience for Mr. Ward?

2 MR. FISHBACK: One additional question.

3 MR. BYRUM: Yes.

4 MR. FISHBACK: We brought this out in our
5 discussions this morning. These standards were not
6 intended to be retroactive and affect any sources that
7 had submitted a permit under the old higher limits. Is
8 that correct?

9 MR. WARD: Right. And we did find -- in the
10 Federal Register notice, there is a grandfathering
11 provision which covers that.

12 MR. FISHBACK: Very good. Thank you.

13 MR. BYRUM: Other questions for Mr. Ward?

14 (No response.)

15 MR. BYRUM: Thank you. I have no indications
16 that anyone else wishes to address this particular rule.
17 Is there anyone who wishes to address the rule? One
18 more time. Anyone who wishes to address this rule
19 before us?

20 (No response.)

21 Madam Chairman, I find no one else. So the
22 recommendation of the staff was that the Council approve
23 these rules and send them forward to the Environmental
24 Quality Board for their consideration.

25 MR. KILPATRICK: Madam Chairman, I would move

1 that the Air Quality Council approve the rules as
2 proposed by staff and for adoption as emergency and
3 permanent rules.

4 THE CHAIRMAN: I have a motion.

5 MR. FISHBACK: I will second that.

6 THE CHAIRMAN: Discussion?

7 Myrna, would you call the roll?

8 THE SECRETARY: Mr. Branecky?

9 MR. BRANECKY: Aye.

10 THE SECRETARY: Dr. Canter?

11 DR. CANTER: Aye.

12 THE SECRETARY: Mr. Fishback?

13 MR. FISHBACK: Aye.

14 THE SECRETARY: Ms. Hinkle?

15 MS. HINKLE: Aye.

16 THE SECRETARY: Mr. Kilpatrick?

17 MR. KILPATRICK: Aye.

18 THE SECRETARY: Ms. Slagell?

19 MS. SLAGELL: Aye.

20 THE SECRETARY: Mayor Taron?

21 MAYOR TARON: Aye.

22 THE SECRETARY: Ms. Tillman?

23 MS. TILLMAN: Aye.

24 THE CHAIRMAN: This will conclude the public
25 hearing section of this meeting.

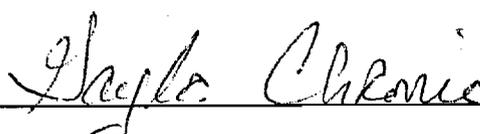
(The hearing was concluded.)

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6 I, GAYLA CHRONIC, CSR, RPR, having been
7 duly appointed as Official Court Reporter herein, do
8 hereby certify that the foregoing pages number from 3 to
9 6, inclusive, constitute a full, true, and accurate
10 transcript of all the proceedings had in the above
11 matter, all done to the best of my skill and ability.

12 DATED the 12th day of May, 1995.

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19 GAYLA CHRONIC, CSR, RPR

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Gayla Chronic Oklahoma Certified Shorthand Reporter Certificate No. 01127

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Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

**OAC 252:100 Appendix E: Primary Ambient Air Quality Standards; and
Appendix F: Secondary Ambient Air Quality Standards**

<u>Tab</u>	<u>Page</u> ¹
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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100 Appendix E SIP Revision

CHAPTER 100: AIR POLLUTION CONTROL

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m ³ (2) 35 ppm	235 ug/m ³ (4) 0.12 ppm		
8-hr. max			10 mg/m ³ (2) 9 ppm			
24-hr. max	365 ug/m ³ (2) 0.14 ppm	150 ug/m ³				
Calendar Qtr.						(5) 1.5 ug/m ³
Annual	80 ug/m ³ (1) 0.030 ppm	(3) 50 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.

(4) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by 40 CFR 50, Appendix H.

(5) Maximum arithmetic mean averaged over a calendar quarter

OAC 252:100 Appendix F SIP Revision

CHAPTER 100: AIR POLLUTION CONTROL

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m ³ (2) 35 ppm	235 ug/m ³ (4) 0.12 ppm		
3-hr. max	1300 ug/m ³ (2) 0.5 ppm					
8-hr. max			10 mg/m ³ (2) 9 ppm			
24-hr. max		150 ug/m ³				
Calendar Qtr.						(5) 1.5 ug/m ³
Annual		(3) 50 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.

(4) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by 40 CFR 50, Appendix H.

(5) Maximum arithmetic mean averaged over a calendar quarter

Oklahoma Register

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1216]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed rules:

252:100. Air Pollution Control

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke. Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Summary:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter (ug/m^3) and a new 24-hr PM-2.5 standard set at $65 \text{ ug}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \text{ ug}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to Subchapter 7 will delete the lower limit of 5 tons per year for

Permit by Rule (PBR) facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Two substantive changes are proposed for

Notices of Rulemaking Intent

Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Room 101, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1216; filed 6-25-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1217]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

Proposed rules:

252:100, Air Pollution Control: Subchapter 47, Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

Summary:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1259]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED].

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

SUMMARY:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to

Subchapter 7 will delete the lower limit of 5 tons per year Permit by Rule (PBR) facilities. This will allow the facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) as national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-write initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix F requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and

Notices of Rulemaking Intent

reformatting. Two substantive changes are proposed for Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

AN IDENTICAL NOTICE WAS PUBLISHED IN THE OKLAHOMA REGISTER ON JULY 15, 1998. AFTER PUBLICATION, THE COUNCIL MEETING LOCATION WAS CHANGED TO 4545 N. LINCOLN BLVD., BURGUNDY ROOM, OKLAHOMA CITY, OKLAHOMA. NO OTHER CHANGES WERE MADE TO THIS NOTICE.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1259; filed 7-9-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1260]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 47. Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

SUMMARY:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

(b) The owner or operator of an existing MSW landfill having a design capacity equal to or greater than 2.5 million cubic meters and 2.5 million megagrams, shall submit an initial NMOC emission rate report to the DEO within 90 days of the effective date of the State Plan. Subsequent NMOC emission rate reports shall be submitted annually thereafter, except as provided for in 40 CFR 60.757(b)(1)(ii) and (b)(3).

(c) The owner or operator of an existing MSW shall comply with the provisions specified in 40 CFR 60.757, except 60.757(a)(1) and (b)(1)(i), which is hereby incorporated by referenced as it appears on August 17, 1998.

252:100-47-13. Recordkeeping requirements

An owner or operator of an existing MSW landfill shall comply with all provisions specified in 40 CFR 60.758, which is hereby incorporated by reference as it exists on August 17, 1998.

252:100-47-14. Specifications for active collection systems

An owner or operator of an existing MSW landfill shall comply with all provisions specified in 40 CFR 60.759, which is hereby incorporated by reference as it exists on August 17, 1998.

[OAR Docket #99-648; filed 4-13-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-647]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1994, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

July 15, 1998 through August 18, 1998

Public hearing:

August 18, 1998; and September 15, 1998

Adoption:

September 15, 1998

Submitted to Governor:

September 24, 1998

Submitted to House:

September 24, 1998

Submitted to Senate:

September 24, 1998

Gubernatorial approval:

November 2, 1998

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 1999.

Final adoption:

March 24, 1999

Effective:

June 1, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standards set at 15 micrograms per cubic meter ug/m3 and a new 24-hr PM-2.5 standard set at 65 ug/m3. EPA is retaining the current annual PM-10 standard of 50 ug/m3 and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr concentration based standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 1999:

1361

1369

Permanent Final Adoptions

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
3-hr. max							
8-hr. max				10 mg/m ³ (2) 9 ppm	0.08 ppm		
24-hr. max	356 µg/m ³ (3) 0.14 ppm	(4) 150 µg/m ³	(5) 65 µg/m ³				
Calendar Qtr							(7) 1.5 µg/m ³
Annual	(8) 80 µg/m ³ (1) 0.036 ppm	(3) 50 µg/m ³	(6) 15 µg/m ³			100 µg/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K

(4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)

(5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)

(6) The standard is attained when the computed 3-hour average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm

(7) The maximum arithmetic mean averaged over a calendar quarter

(8) Based on the 3-hr average of annual arithmetic mean PM2.5 concentrations

1362

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]
 APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ ₍₂₎ 35 ppm			
3-hr. max	1360 µg/m ³ ₍₁₎ 0.5 ppm						
8-hr. max				10 mg/m ³ ₍₂₎ 9 ppm	₍₆₎ 0.08 ppm		
24-hr. max		₍₄₎ 150 µg/m ³	₍₅₎ 65 µg/m ³				
Calendar Qtr							₍₇₎ 1.5 µg/m ³
Annual		₍₃₎ 50 µg/m ³	₍₈₎ 15 µg/m ³			100 µg/m ³ ₍₁₎ 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-hour average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Based on the 3-hr average of annual arithmetic mean PM2.5 concentrations

[OAR Docket #99-647; filed 4-13-99]

Michelle

Notices of Rulemaking Intent

of this intended action and the rule impact statement, if available, will be mailed within three days after publication of this Notice to all persons who have made a timely request for advanced notice of proposed rulemaking proceedings.

[OAR Docket #99-1403; filed 10-29-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

[OAR Docket #99-1397]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 15. Uniform Permitting Procedures
- Part 5. Tier Classifications [AMENDED]
- 252:2-15-40 [AMENDED]
- 252:2-15-41 [AMENDED]
- Part 7. Review Procedures and Permitting Time Lines
- 252:2-15-72 [AMENDED]

SUMMARY:

The Department is proposing amendments to the air quality provisions of 252:2-15, Environmental Permit Processing Times, to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

The DEQ is requesting comments on the proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on December 14, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by December 7, 1999. Oral comments may be made at the December 14, 1999 hearing and at the Environmental Quality Board hearing (date, time and location to be determined).

PUBLIC HEARINGS:

Tuesday, December 14, 1999 - 9:00 a.m. hearing, at the Department of Environmental Quality, Room 101, 70 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board (the date, time and location to be determined).

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100 Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Cheryl Bradley, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1397; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1398]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]
- Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]
- Subchapter 13. Prohibition of Open Burn [AMENDED]
- Appendix E. Primary Ambient Air Quality Standard [REVOKED]
- Appendix E. Primary Ambient Air Quality Standard [NEW]
- Appendix F. Secondary Ambient Air Quality Standard [REVOKED]
- Appendix F. Secondary Ambient Air Quality Standard [NEW]

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Notices of Rulemaking Intent

SUMMARY:

The proposed changes to Subchapter 5 are designed to allow the agency to bill annual operating fees on a flexible schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language also requires an owner or operator of a facility to report excess emissions on their annual emission inventory. Substantive changes include requiring inventories to be submitted one month earlier than presently required, allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment, and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the methods used to calculate the facility's emissions for fee calculation purposes.

The proposed changes to Subchapter 9 include correction of typographical and grammatical errors and deletion of redundant language. Also, the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Substantive changes to the rule include establishing a time limit on excess emissions caused by properly reported malfunction, startup/shutdowns, and maintenance procedures. The burden of proving that excess emissions occurring more than eight hours or 1.5 percent of the process's operation time in a 3-month period are due to excusable malfunctions, startup/shutdowns or maintenance procedures rather than negligent, marginal, or improper operation is on the owner or operator of the process. Language was added to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement, and additional demonstration requirements for malfunctions, maintenance, and startup/shutdowns were added under proposed section 252:100-9-3.2, Demonstration of cause.

The proposed changes to Subchapter 13 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. A few substantive changes were made, such as adding definitions for "domestic refuse" and "land clearing operation," along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were moved to a new section. The rule is proposed to be amended to require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 30 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee. Also, the rule would only allow material from a land clearing operation to be burned in an open-pit incinerator.

The proposed amendments to Appendices E and would restore the primary and secondary ambient quality standards to what they were prior to July 18, 1997. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

The DEQ is requesting comments on all of these proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on December 14, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by December 14, 1999. Oral comments may be made at the December 14, 1999 hearing and at the Environmental Quality Board hearing (date, time and location to be determined).

PUBLIC HEARINGS:

Tuesday, December 14, 1999 - 9:00 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board (the date, time and location to be determined).

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttrif (252:100-5, 252:100-9 and 252:100-13) and Michelle Martinez (Appendices E and F), Department of Environmental Quality, Air Quality Division, P.O. Box

Notices of Rulemaking Intent

1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapters 5, 9, and 13 were brought to public hearing on October 19, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1398; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 615. INDUSTRIAL WASTEWATER SYSTEMS [REVOKED]

[OAR Docket #99-1399]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 615. Industrial Wastewater Systems [REVOKED]

SUMMARY:

This rulemaking action revokes Chapter 615 of Title 252 of the Oklahoma Administrative Code, Industrial Wastewater Systems. The revocation of Chapter 615, Industrial Wastewater Systems is part of the agency's re-right/de-wrong process. This chapter is being replaced by a new chapter, OAC 252:616, Industrial Wastewater Systems.

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-2-201, 2-6-402, and 2-6-501

COMMENT PERIOD:

Written comments may be submitted to the contact person listed below from November 15 through December 7, 1999. Oral and written comments will be accepted by the Water Quality Management Advisory Council at its December 7, 1999, meeting. Also scheduled before the Environmental Quality Board (the date, time and location to be determined).

PUBLIC HEARING:

Before the Water Quality Management Advisory Council at its December 7, 1999, meeting at 1:00 p.m. in the Multi-Purpose room of the Department of Environmental Quality, located at 707 N. Robinson, Oklahoma City, Oklahoma 73101.

Also scheduled before the Environmental Quality Board (the date, time and location to be determined).

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement is available from the contact person.

CONTACT PERSON:

Shellie Chard, Water Quality Division, Department of Environmental Quality, 707 N. Robinson, Oklahoma City, P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677 (phone: (405) 702-8100)

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the contact person three (3) days in advance.

[OAR Docket #99-1399; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 616. INDUSTRIAL WASTEWATER SYSTEMS [NEW]

[OAR Docket #99-1400]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 616. Industrial Wastewater Systems [NEW]

SUMMARY:

This rulemaking action is part of the agency's re-right/de-wrong process. Changes were made to simplify and clarify requirements, remove unenforceable language and add requirements for land application associated with industrial wastewater systems from a separate chapter to provide a consolidated source for industrial wastewater system requirements. Due to the changes, Chapter 615 is being revoked and replaced with Chapter 616.

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-2-201, 2-6-402, and 2-6-501.

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by this rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Written comments may be submitted to the contact person listed below from November 15 through December 7, 1999. Oral and written comments will be accepted by the Water Quality Management Advisory Council at its December 7, 1999, meeting. Also scheduled before the

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Notices of Rulemaking Intent

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

On December 14, 1999, the Air Quality Council recommended the proposed amendments to Subchapters 5 and 13 be recommended for adoption by the Environmental Quality Board at their meeting on February 25, 2000.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1638; filed 12-30-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1639]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

SUMMARY:

The proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards to what they were prior to July 18, 1997. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, Section 2-2-101; and Oklahoma Clean Air Act Section 2-5-101, *et. seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services,

revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

The comment period for the proposed amendments to Appendices E and F was November 15 through December 14, 1999.

PUBLIC HEARINGS:

Previously held before the Air Quality Council on December 14, 1999. However, additional oral comments may be made at the meeting of the Environmental Quality Board, Friday, February 25, 2000 - 9:30 a.m., at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for additional information.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

On December 14, 1999, the Air Quality Council recommended the proposed amendments to Appendices E and F be recommended for adoption by the Environmental Quality Board at their meeting on February 25, 2000.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1639; filed 12-30-99]

TITLE 265. STATE FIRE MARSHAL COMMISSION CHAPTER 25. ADOPTED NATIONAL CODES AND STANDARDS

[OAR Docket #99-1608]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULE:

265:25-1-3. Incorporated National Codes and Standards [AMENDED]

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Permanent Final Adoptions

~~the operation of a domestic household if the following conditions are met: domestic refuse may be burned on the property where the waste is generated.~~

~~(A) the material to be burned must not be the combined waste from a building designed to accommodate more than three such households;~~

~~(B) the burning must be conducted on the property on which the waste is generated; and,~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated.~~

~~(8)(f) Hydrocarbon burning. Open burning of hydrocarbons is allowed for:~~

~~(1) The burning of hydrocarbons which are spilled or lost as a result of pipeline breaks or other accidents involving the transportation of such materials or which are generated as wastes as the result of oil exploration, development, refining, or processing operations if the following conditions are met: The disposal of spilled hydrocarbons or the waste products of oil exploration, development, refining or processing operations which cannot be feasibly recovered or otherwise disposed of in a legal manner. Notice must be given to the DEO prior to such burning.~~

~~(A) the material cannot be practicably recovered or otherwise lawfully disposed of in some other manner;~~

~~(B) the burning must not be conducted within a city or town or in such proximity thereto that the ambient air of such city or town may be affected by the air contaminants being emitted;~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~

~~(D) the burning must be controlled so that a traffic hazard is not created as the result of the air contaminants being emitted.~~

~~(2) The disposal of waste hydrocarbons through a flare. The owner or operator shall be required to use a smokeless flare if a condition of air pollution is determined to exist by the DEO.~~

~~(9)(g) Open-pit incinerator. The burning of any combustible material in an open-pit incinerator which has been properly designed and which is properly operated for the control of smoke and particulate matter. Except for hazardous material, any combustible material or refuse that is allowed to be burned under this Subchapter may be burned in an open-pit incinerator that is properly designed and operated for the control of smoke and particulate matter. The owner or operator of the open-pit incinerator shall not accept any material owned by other persons and shall not transport any material to the property where the~~

~~open-pit incinerator is located in order to burn the material.~~

~~(10) The burning of hydrocarbons, which must be wasted, through the use of smokeless atmospheric flares if after investigation a condition of air pollution exists.~~

~~252:100-13-8. [RESERVED]~~

~~252:100-13-9. General conditions and requirements for allowed open burning~~

~~The open burning of refuse and other combustible material may be conducted as allowed in this Subchapter only if the following conditions and requirements are met:~~

~~(1) No public nuisance is or will be created.~~

~~(2) The burning is controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.~~

~~(3) The burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town.~~

~~(4) The initial burning shall begin only between three hours after sunrise and three hours before sunset and additional fuel shall not be intentionally added to the fire at times outside these limits. This requirement does not apply to the open burning allowed under 252:100-13-7(a), (b), (c), and (d)(1).~~

~~252:100-13-10. Disaster relief~~

~~Notwithstanding the prohibition in 252:100-13-5, the Executive Director of the DEO may allow the open burning of debris resulting from a disaster if the Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.~~

~~252:100-13-11. Responsibility for consequences of open burning~~

~~Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.~~

~~[OAR Docket #00-854; filed 5-4-00]~~

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

~~[OAR Docket #00-859]~~

RULEMAKING ACTION:
PERMANENT final adoption

June 1, 2000

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RULES:

✓ Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

✓ Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

AUTHORITY:

Environmental Quality Board powers and duties; 27A O.S. Supp. 1999, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

November 15, 1999 through December 14, 1999

Public hearing:

December 14, 1999

February 25, 2000

Adoption:

February 25, 2000

Submitted to Governor:

March 3, 2000

Submitted to House:

March 3, 2000

Submitted to Senate:

March 3, 2000

Gubernatorial approval:

April 10, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 28, 2000

Final adoption:

April 28, 2000

Effective:

June 12, 2000

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

Gubernatorial approval:

April 10, 2000

Register publication:

17 Ok Reg 1471

Docket number:

00-814

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards to what they were prior to June 1, 1999. These revisions will allow the state standards to remain consistent with recently reinstated federal standards. New federal air quality standards were overturned by federal court decision. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the

revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2000.

June 1, 2000

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Permanent Final Adoptions

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m ³ (2) 35 ppm	235 ug/m ³ (4) 0.12 ppm		
8-hr. max			10 mg/m ³ (2) 9 ppm			
24-hr. max	365 ug/m ³ (2) 0.14 ppm	150 ug/m ³				
Calendar Qtr.						(5) 1.5 ug/m ³
Annual	80 ug/m ³ (1) 0.030 ppm	(3) 50 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.

(4) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by 40 CFR 50, Appendix H.

(5) Maximum arithmetic mean averaged over a calendar quarter

June 1, 2000

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APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m ³ (2) 35 ppm	235 ug/m ³ (4) 0.12 ppm		
3-hr. max	1300 ug/m ³ (2) 0.5 ppm					
8-hr. max			10 mg/m ³ (2) 8 ppm			
24-hr. max		150 ug/m ³				
Calendar Qtr.						(5) 1.5 ug/m ³
Annual		(3) 50 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.
- (4) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by 40 CFR 50, Appendix H.
- (5) Maximum arithmetic mean averaged over a calendar quarter

[OAR Docket #00-859; filed 5-4-00]

Air Quality Council

BRIEFING AGENDA

Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 9:30 A.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

1. **Call to Order** Chairman
2. **Division Director's Report** Dyke
Informational update of current events and AQD activities

PUBLIC HEARINGS

3. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public
4. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
5. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public
6. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public

7. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
Discussion by Council/Public
8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
Discussion by Council/Public
9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
Discussion by Council/Public
10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
Discussion by Council/Public
11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
Discussion by Council/Public

HEARING/MEETING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 1:00 P.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

- | | | |
|----|---|-----------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Approval of June 16, 1998 Minutes | Chairman |
| 4. | Resolutions – Bill Fishback – Marilyn Andrews | |

PUBLIC HEARINGS

5. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public; possible action by Council
6. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
7. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public; possible action by Council
8. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public; possible action by Council

9. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
 The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
 Discussion by Council/Public; possible action by Council
10. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public; possible action by Council
11. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public; possible action by Council
12. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
 Discussion by Council/Public; possible action by Council
13. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
 Discussion by Council/Public; possible action by Council
14. **New Business** **Chairman**
 Discussion/consideration of subjects/business arising within the past 24 hours
 Possible action by Council
15. **Adjournment** **Chairman**
 Next Regular Meeting **TUESDAY, OCTOBER 20, 1998**
Tulsa City-County Auditorium
5051 South 129th East Tulsa OK

July 24, 1998

MEMORANDUM

TO: Air Quality Council

FROM: David R. Dyke, Interim Director
Air Quality Division

RE: Proposed modifications to 252:100, Appendix E, Primary Ambient Air Quality Standards, and Appendix F, Secondary Ambient Air Quality Standards

On July 17, 1997, the Environmental Protection Agency (EPA) announced new standards for particulate matter (PM) and ozone under the national ambient air quality standards (NAAQS). The Air Quality Division is proposing the following revisions to Appendices E and F to mirror the new federal NAAQS.

The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter (ug/m^3) and a new 24-hr PM-2.5 standard set at $65 \text{ ug}/\text{m}^3$. EPA is retaining the current annual PM-10 standards of $50 \text{ ug}/\text{m}^3$ and changing the form of the PM-10 24-hour standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. EPA believes that the PM-2.5 and the PM-10 standards, combined with the federal regional haze program, will provide protection against the major PM-related welfare effects, including visibility impairment, soiling and materials damage.

The previous 1-hour primary ozone standard is being phased out and replaced with a new 8-hour standard to protect against longer exposure periods. The new 8-hour standard is set at 0.08 ppm. The 3-year average of the annual 4th-highest daily maximum 8-hour ozone concentrations is used to determine compliance with the standard. EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The 0.12 ppm 1-hour standards will not be revoked in a given area until that area has achieved 3 consecutive years of air quality data meeting the 1-hour standard. Oklahoma has demonstrated compliance with the 1-hour standard and EPA has revoked the 1-hour standard for Oklahoma. This is not the case for some metropolitan areas like Dallas, Los Angeles or Houston, where the 1-hour standard remains in effect.

The revised standards were adopted over a year ago. They were controversial when issued, but they have survived a great deal of public debate and legislative scrutiny. Congress didn't veto them and they are now in effect. In order for Oklahoma to maintain an approved State Implementation Plan (SIP), DEQ must incorporate the new revised

standards into our rules. If Oklahoma fails to do so then the State's approved air quality program could be jeopardized.

Enclosed are a copy of the draft revisions to Appendices E and F, the Rule Impact Statement, and EPA fact sheets on the revised standards for your review. The AQD plans to take Appendices E and F to public hearing on August 18, 1998. Staff will suggest the proposed revisions to Appendices E and F be recommended to the Board for permanent approval.

Enclosures: 4

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

Primary Standards	Annual	1 Hour Max.	3 Hour Max.	8 Hour Max.	24 Hour Max.	Calendar Quarter
Sulfur (Sulfur Dioxide)	(1) 80 ug/m ³				(2) 365 ug/m ³ (0.14 ppm)	
PM-10	(3) 50 ug/m ³				150 ug/m ³	
Carbon Monoxide		(2) 40 mg/m ³		(2) 10 mg/m ³		
Photo-chemical Oxidants		(5) 235 ug/m ³ (0.12 ppm)				
Non-methane Hydrocarbons			(2) (4) (6) 160 ug/m ³ (0.24 ppm)			
Nitrogen Oxides (Nitrogen Dioxide)	(1) 100 ug/m ³ (0.05 ppm)					
Lead					1.5 ug/m ³	(7)

- (1) Annual arithmetic mean.
- (2) Not to be exceeded more than once per year.
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by Appendix K Part 50 CFR 40.
- (4) Measured between 6 a.m. and 9 a.m.
- (5) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million is equal to or less than 1, as determined by Appendix H for Part 50 of Chapter I, CFR 40.
- (6) Guide only value to EPA, to be used in planning, not a Federal standard.
- (7) Maximum arithmetic mean averaged over a calendar quarter.

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead	VOCs
1-hr. max				(2) 35 ppm				
3-hr. max								0.24 ppm (2)(8)(9)
8-hr. max				(2) 9 ppm	(6) 0.08 ppm			
24-hr. max	(1) 0.14 ppm	(4) 150 ug/m ³	(5) 65 ug/m ³					
Calendar Qtr.							(7) 1.5 ug/m ³	
Annual	(1) 0.03 ppm	(3) 50 ug/m ³	(5) 15 ug/m ³			(1) 0.053 ppm		

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-year average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Measured between 6 am and 9 am
- (9) EPA guidance value, only to be used in planning, not a federal standard

DRAFT

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

Secondary Standards	Annual	1 Hour Max.	3 Hour Max.	8 Hour Max.	24 Hour Max.	Calendar Quarter
Sulfur Oxides (Sulfur Dioxide)			1300 ug/m ³ (0.5 ppm)			
PM-10	(3) 50 ug/m ³				150 ug/m ³	
Carbon Monoxide		(2) 40 mg/m ³ (35 ppm)		(2) 10 mg/m ³ (9 ppm)		
Photo-chemical Oxidants (Ozone)		(5) 235 ug/m ³ (0.12 ppm)				
Non-methane Hydrocarbons			(2) (4) (6) 160 ug/m ³ (0.24 ppm)			
Nitrogen Oxides (Nitrogen Dioxide)	(1) 100 ug/m ³ (0.05 ppm)					
Lead						(7) 1.5 ug/m ³

- (1) Annual arithmetic mean.
- (2) Not to be exceeded more than once per year.
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by Appendix K Part 50 CFR 40.
- (4) Measured between 6 a.m. and 9 a.m.
- (5) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million is equal to or less than 1, as determined by Appendix H for Part 50 of Chapter I, CFR 40.
- (6) Guide only value to EPA, to be used in planning, not a Federal standard.
- (7) Maximum arithmetic mean averaged over a calendar quarter.

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead	VOCs
1-hr. max				(2) 35 ppm				
3-hr. max	(2) 0.5 ppm							0.24 ppm (2)(8)(9)
8-hr. max				(2) 9 ppm	(6) 0.08 ppm			
24-hr. max		(4) 150 ug/m ³	(5) 65 ug/m ³					
Calendar Qtr.							(7) 1.5 ug/m ³	
Annual		(3) 50 ug/m ³	(5) 15 ug/m ³			(1) 0.053 ppm		

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-year average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Measured between 6 am and 9 am
- (9) EPA guidance value, only to be used in planning, not a federal standard

DRAFT

MINUTES

AIR QUALITY COUNCIL

AUGUST 18, 1998

Burgundy Room

4545 North Lincoln Boulevard

Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman

Sharon Myers

Fred Grosz

Gary Kilpatrick

Joel Wilson

David Branecky

Meribeth Slagell

Staff Present

David Dyke

Dennis Doughty

Scott Thomas

Barbara Hoffman

Ray Bishop

Linn Wainner

Michelle Martinez

Cheryl Bradley

Jeanette Buttram

Becky Mainord

Joyce Sheedy

Eddie Terrill

Myrna Bruce

Guests Present

**see attached list

Council Members Absent

Larry Canter

PUBLIC MEETING

Notice of Public Meeting for August 18, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room and also at the DEQ Tower.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye. Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 16, 1998 Public Meeting/Hearings. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

PUBLIC HEARING

OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley to give staff recommendations on this rule. Ms. Bradley advised that the rule was first considered by the Council on June 16, 1998 at which time the hearing was continued because EPA was in the process of amending the federal standards that are the basis for the draft rule. These amendments became effective August 17, 1998. Ms. Bradley stated that staff had made the revisions consistent with the amended federal regulations and addressed all comments received.

After discussion, Chairman Breisch entertained a motion to recommend adoption of this rule as emergency and permanent to the Environmental Quality Board at its September 15, 1998 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

State 111(d) Plan for Municipal Solid Waste Landfills

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley for staff position regarding this State Plan. Ms. Bradley pointed out the criteria for approval of a state plan and advised that Oklahoma's mechanism to implement this Plan is OAC252:100-47. Ms. Bradley related that although no Council action was necessary, the staff requests to hear comments from the Council members and the public regarding the State Plan.

See attached transcript.

PUBLIC HEARING

OAC 252:100 Air Pollution Control:

Appendix E, Primary Ambient Air Quality Standards [AMENDED]

Appendix F, Secondary Ambient Air Quality Standards [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who stated that the revisions to these appendices would be identical to the revised federal National Ambient Air Quality Standards (NAAQS) for particulate matter and ozone

announced by EPA in the July 18, 1997 *Federal Register*. Ms. Martinez pointed out that according to the Secretary of State's Rules on Rulemaking, an appendix cannot be amended; therefore, staff recommended that Council vote to revoke the old appendices and pass the new appendices as permanent.

After discussion, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality Board as a permanent rule at its September 15, 1998 meeting. Mr. Kilpatrick moved that Council revoke the existing rule and replace them with the new rules as presented. Second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out revisions made to date and advised that staff was recommending that the comment period be left open until August 24 after which staff would revise the rule based upon comments received from Council and public; and would bring again to the Council's October 20 meeting.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Ms. Slagell. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position on this rule. Ms. Buttram advised that the rule was presented to Council's June 16 meeting where changes to simplify and clarify the rule and to fulfill an EPA State Implementation Plan (SIP) requirement concerning Continuous Emission Monitoring (CEM) were proposed. Ms. Buttram advised that comments received have been addressed and incorporated into the current draft rule. Following discussion with new comments, staff

recommended that the hearing be continued on this rule to the October 20 meeting to allow time for further comments.

Mr. Breisch asked for a motion to continue the hearing. Mr. Wilson made the motion and Ms. Slagell made the second. Roll call was as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Becky Mainord who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out the changes made and stated that it was staff's recommendation to continue the hearing until Council's next meeting.

Following discussion, Mr. Breisch entertained a motion to continue this rule. Dr. Grosz made that motion with second made by Mr. Wilson. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that revisions were made to simplify the language according to the Agency's re-write/de-wrong initiative, the addition of a Permit By Rule section, and to add a new Appendix L which would include PM₁₀ emission factors for the Permit By Rule. Ms. Martinez pointed out that comments had been received and considered, and that staff's recommendation was to continue the hearing to the next meeting.

After discussion, Mr. Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Mr. Branecky. Roll call

as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the revisions are part of the Agency's re-write/de-wrong initiative and respond to industry requests to exempt acetone, perchloroethylene, and methylated siloxanes from being considered VOCs. She advised that staff held a workshop on July 7 requesting public input and comments. She said there are numerous changes to be made in language, format and with the three substantive changes, staff recommended that the rule be continued to the next meeting.

Mr. Breisch entertained a motion to continue this rule. Mr. Branecky made motion with second made by Mr. Kilpatrick. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that there were numerous revisions as part of the Agency's re-write/de-wrong initiative and also five substantive changes to be considered; therefore, staff would recommend that the hearing be continued.

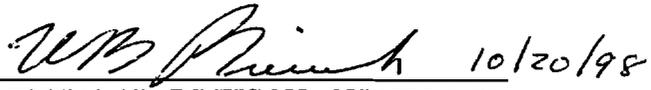
Mr. Breisch entertained a motion to continue this rule to the Council's October 20 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

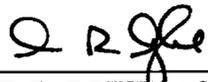
NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being October 20, 1998 at Tulsa City-County Health Department Auditorium, 5051 South 129th East, Tulsa, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.



WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL



DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

AUGUST 18, 1998

SIGN IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Pat Davenport	National Std. 3602 N. Perkins Rd.	Jethro
2. Bonnie McCall	Opden Martin 2122 S Yukon	Tulsa 58
3. Robert Edington	ARMSTRONG ST. HUNTER	405-377-11
4. MICK COLE	DEQ EPA DALLAS	214 665
5. SANDRA DENNIE	EPA DALLAS	214 665 72
6. John Snow	DEQ HARVEY YUKON	
7. Tim Roper	Bartlesville	918-336-3
8. Kathy Pursey	4608 S Garnett, Ste 100	Tulsa 918-6
9. Norey Simms	DEQ	
10. Eric Grier	4608 S. Garnett Tulsa	918-641-0
11. Dave Pruitt	103 SW 4th Lawton OK 73501	580 561 346
12. GRANT MARBURGER	440 TERRACE NORMAN 73069	
13. James Lucas	103 SW 4th Lawton OK 73501	580 581-33
14. Robert Edington Kansas Pipeline	Rt 2 Box 173 Pawnee Okla	9187
15. WILLIAM CLARK	^{SUNCO} P.O. Box 2039 TULSA OK 74107	918-574-
16. Mike Wood	Hot Springs, AR	501-624-85
17. Nancy Coleman	RSA, Norman	405 321 38
18. Bill Gidneck	MOBIL, EDMOND	405-398-868
19. Rick Tatum	OGFA	580-233-5800
20. John Wheeler	Trinity Consultants	(972) 661-8100
21. Steve Landers	Ft. James, Ark	918 683-70
22. Gill Luten	"	"
23. Ruston Givens	"	"
24. Carol Baker	TAFB	736-7246
25. Andrew Livingston	Sinclair Oil Corp PO Box 970 Tulsa OK 74107	418-588-112



NAME/AFFILIATION	ADDRESS	TELEPHO
26. Bill Merrill	DEQ R-11	
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100

Subchapters or Sections Involved – [new, amended or revoked]

Appendix E, Primary Ambient Air Quality Standards [AMENDED]

Appendix F, Secondary Ambient Air Quality Standards [AMENDED]

On AUGUST 20, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

X permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: 8-20-98

Chair or Designee

VOTING TO APPROVE:

Sharon Myers
Fred Grosz
Gary Kilpatrick
Joel Wilson
David Branecky
Meribeth Slagell
William Breisch

VOTING AGAINST:

ABSTAINING:

ABSENT:

Larry Canter

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
* 9:00 A.M.

Tuesday, December 14, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson
Oklahoma City Oklahoma

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. CY 2000 Meeting Schedule -
 - A. Discussion by Council
 - B. Roll call vote

4. Resolution for Meribeth Slagell

5. Approval of Minutes of the October 19, 1999 Regular Meeting

6. Public Rulemaking Hearings

A. OAC 252:100 Appendices E and F [AMENDED]

Appendix E Primary Ambient Air Quality Standards [REVOKED]

Appendix E Primary Ambient Air Quality Standards [NEW]

Appendix F Secondary Ambient Air Quality Standards [REVOKED]

Appendix F Secondary Ambient Air Quality Standards [NEW]

Proposal would restore the primary and secondary ambient air quality standards for ozone and particulate matter to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

1. Presentation – Michelle Martinez
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

B. OAC 252:100- 5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; to require an owner or operator of a facility to report excess emissions on their annual emission inventory; to require inventories to be submitted one month earlier than presently required; to allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and to reduce the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

C. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include establishing a time limit on excess emissions caused by properly reported malfunctions, startup/shutdowns, and maintenance procedures. The burden of proving that excess emissions occurring more than eight hours or 1.5 percent of the process's operation time in a 3-month period are due to excusable malfunctions, startup/shutdowns or maintenance procedures rather than negligent, marginal, or improper operation is on the owner or operator of the process. Language was added to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement; and additional demonstration requirements for malfunctions, maintenance, and startup/shutdowns were added under proposed section 252:100-9-3.2, Demonstration of cause.

1. Presentation – Jeanette Buttram

2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

D. OAC 252:100-13. Prohibition of Open Burning [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add definitions for "domestic refuse" and "land clearing operation" along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were expanded and moved to a new section. Also the rule would only allow material from a land clearing operation to be burned in an open-pit incinerator.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

E. OAC 252:100- 23 Control of Emissions from Cotton Gins [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-23-3(a) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

F. OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-24-3(a)(1) and (2) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

G. OAC 252:2-15 Environmental Permit Processing Times [AMENDED]

The proposal would change the terms used in 252:2-15-40, 41 and 72 to be consistent with those used in 252:100, Air Pollution Control. The terms "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

7. Division Director's Report – Eddie Terrill

8. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

9. Adjournment – Next Regular Meeting

Date and Time: To Be Announced

Place: DEQ Multi-Purpose Room - OKC

* Council decided at its October 19 meeting to begin at 9:00 a.m. due to the number of agenda items.

Lunch Break, if necessary

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 720-4100.

December 1, 1999

MEMORANDUM

TO: Air Quality Council
FROM: Eddie Terrill, Director
Air Quality Division
SUBJECT: NAAQS: Appendices E & F

On July 18, 1997, the EPA announced new national ambient air quality standards (NAAQS) for particulate matter (PM) and ozone. The EPA revised the primary PM standards by adding a new annual PM-2.5 standard set at 15 ug/m³ and a new 24-hr PM-2.5 standard set at 65 ug/m³. EPA retained the annual PM-10 standard of 50 ug/m³ and changed the form of the PM-10 24-hr standard. Also, EPA decided to phase out the previous 1-hr primary ozone standard and replace it with a new 8-hr standard of 0.08 ppm to protect against longer exposure periods. Oklahoma had demonstrated compliance with the 1-hr standard, so EPA revoked the 1-hr standard for the entire state. The secondary standards were also adjusted to make them identical to the new and revised primary standards.

The Environmental Quality Board approved adoption of new Appendices E and F containing the new standards on September 15, 1998. The new standards for ozone and PM became effective on June 1, 1999.

A recent court decision has called the new revised standards into question. In a response to challenges filed by industry and others, a 3-judge panel of the United States Court of Appeals for the District of Columbia issued a split decision on May 14, 1999. The Court held that the Clean Air Act, as applied in setting the new NAAQS for ozone and PM, is unconstitutional because it was an improper delegation of legislative authority to the EPA. Specifically, the Court's decision:

- Remanded but did not vacate the 8-hr ozone standard, holding that it "cannot be enforced."
- Remanded but did not vacate the PM-2.5 standards.
- Remanded and vacated the revised form of the PM-10 standards.

The Court of Appeals recently announced that it will not reconsider the panel's decision.

Appendices E and F will be brought to public hearing on December 14, 1999. Staff will propose that the ozone and particulate matter standards be restored to what they were prior to June 1, 1999. The 8-hr ozone standard would be revoked and the 1-hr standard restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard. Staff will suggest that the proposed Appendices E and F be recommended for permanent adoption by the Board.

Enclosures: 5

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
3-hr. max							
8-hr. max				10 mg/m ³ (2) 9 ppm	(6) 0.08 ppm		
24-hr. max	365 ug/m ³ (2) 0.14 ppm	(4) 150 ug/m ³	(5) 65 ug/m ³				
Calendar Qtr.							(7) 1.5 ug/m ³
Annual	80 ug/m ³ (1) 0.030 ppm	(3) 50 ug/m ³	(8) 15 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-year average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Based on the 3-yr average of annual arithmetic mean PM-2.5 concentrations

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m ³ (2) 35 ppm	235 ug/m ³ (4) 0.12 ppm		
8-hr. max			10 mg/m ³ (2) 9 ppm			
24-hr. max	365 ug/m ³ (2) 0.14 ppm	150 ug/m ³				
Calendar Qtr.						(5) 1.5 ug/m ³
Annual	80 ug/m ³ (1) 0.030 ppm	(3) 50 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.

(4) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by 40 CFR 50, Appendix H.

(5) Maximum arithmetic mean averaged over a calendar quarter

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
3-hr. max	1300 ug/m ³ (2) 0.5 ppm						
8-hr. max				10 mg/m ³ (2) 9 ppm	(6) 0.08 ppm		
24-hr. max		(4) 150 ug/m ³	(5) 65 ug/m ³				
Calendar Qtr.							(7) 1.5 ug/m ³
Annual		(3) 50 ug/m ³	(8) 15 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-year average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Based on the 3-yr average of annual arithmetic mean PM-2.5 concentrations

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m ³ (2) 35 ppm	235 ug/m ³ (4) 0.12 ppm		
3-hr. max	1300 ug/m ³ (2) 0.5 ppm					
8-hr. max			10 mg/m ³ (2) 9 ppm			
24-hr. max		150 ug/m ³				
Calendar Qtr.						(5) 1.5 ug/m ³
Annual		(3) 50 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.

(4) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by 40 CFR 50, Appendix H.

(5) Maximum arithmetic mean averaged over a calendar quarter

MINUTES
AIR QUALITY COUNCIL
DECEMBER 14, 1999
Department of Environmental Quality
MultiPurpose Room - 707 North Robinson, OKC

Council Members Present
William B. Breisch, Chairman
Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz

Staff Present
David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna Mc Waters-Khalousi

Staff Present
Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Myrna Bruce

Council Members Absent
Larry Canter
Sharon Myers
Gary Kilpatrick

Guests Present
**see attached list

Notice of Public Meeting for December 14, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye. Dr. Canter, Ms. Myers, and Mr. Kilpatrick did not attend. Mr. Breisch and Mr. Terrill presented Meribeth Slagell a Resolution from the Council and Certificate of Appreciation from Mr. Coleman and thanked her for her years of dedicated service on the Council. Mr. Breisch introduced new Council member, Rick Treeman, who was appointed by the Governor to replace the position vacated by Mrs. Slagell.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Fallon to approve the Minutes as presented and second was made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

CY 2000 Meeting Schedule - Staff suggested the following Year 2000 meeting dates:
Wednesday, February 16 at Tulsa
Wednesday, April 19 at Lawton
Wednesday, June 14 at Tulsa
Wednesday, August 16 at Ponca City
Wednesday, October 18 at Oklahoma City
Wednesday, December 14 at Oklahoma City

Motion to accept the schedule was made by Mr. Fallon with second by Mr. Branecky with following vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100- Appendices E & F

Appendix E Primary Ambient Air Quality Standards [AMENDED]

Appendix F Secondary Ambient Air Quality Standards [AMENDED]

Ms. Michelle Martinez made the staff presentation stating that the proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards for ozone to what they were prior to June 1, 1999. She advised that the 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored; and that the PM-2.5 standards would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

Ms. Martinez entered into the record a fax received from EPA Region 6 dated December 10, 1999 which stated that updating these appendices was timely and appropriate. Ms. Martinez then asked that Council recommend proposed Appendices E and F to the Environmental Quality Board for permanent adoption.

Following discussion, Mr. Breisch asked for a motion to recommend the rule for adoption. Mr. Branecky made motion to recommend to the Board for permanent/emergency adoption. Second was made by Mr. Fallon. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-5

Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram presented the staff presentation and advised that the proposed changes to Subchapter 5 were designed to allow the agency the ability to bill annual operating fees on a flexible schedule, and that these changes would also allow the fees to be based on the most recent emission data possible. Ms. Buttram pointed out that the proposed rule clarified that an owner or operator of a facility must report quantifiable excess emissions on their annual emission inventory. She stated that substantive changes included the requirement that all inventories be submitted prior to March 1, and the Agency would provide up to a 30-day extension upon request. Council made a recommendation that the language be changed to allow an additional 30-day extension for good cause shown. Also, the rule will allow fee payers five years after payment is made to notify the DEQ that they overpaid and receive

credit for such overpayment. Also, new language was proposed to reduce to six months after inventories are due or submitted, the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the methods used to calculate the facility's emissions for "fee calculation purposes."

Ms. Buttram advised that comments had been received from Central and Southwest Services and she entered them into the record. She stated that it was staff's recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Following comments from Council members and the audience, changes were made in the wording and Mr. Wilson made a motion to forward this rule, with changes, to the Environmental Quality Board for adoption. Second was made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram was called upon to make the staff recommendation for this rule. She stated that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language; and that the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative.

Substantive changes include the addition of new definitions and the addition of a new subsection for certification of the information submitted.

Also, language was added under 100-9-3.3, Demonstration of cause, which states excess emissions caused by malfunction and maintenance, start-up/shutdown, can be exempt from compliance which air emission limitations established in permits, rules, orders of the DEQ if the owner/operator properly complies with the requirements in 252:100-9-3.1 and 252:100-9-3.2, respectively; and meets the demonstrations listed in those subsections. Then additional subsections added to 100-9-3.3 were discussed.

Ms. Buttram advised that comments had been received from EPA Region 6 and from Central and Southwest Services and entered them into the record. She stated that staff suggested that the rule be recommended for adoption by the Environmental Quality Board.

After much discussion with staff, Council, and audience members, Mr. Breisch called for a motion. Mr. Fallon made motion to continue this rule to the next regular meeting. Mr. Branecky made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Ms. Jeanette Buttram was called upon to give the staff recommendation concerning this rule. She stated that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She added that such changes included consolidating the general conditions and requirements for allowed open burning into a new section. She pointed out that a few substantive changes were made such as adding definitions for "domestic refuse" and "landclearing operation" and a section on disaster relief procedures; and that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. Ms. Buttram stated that new language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. She stated that existing language on open-pit incinerators was expanded it would now prohibit accepting any material owned by other persons and from transporting any material to be burned to the property where the open-pit incinerator is located. She advised that it was staffs recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Ms. Buttram entered written comments from Central and Southwest Services into the record. Following questions and discussion by Council, changes were made in the wording after which Mr. Breisch entertained motion to accept the changes made and forward the rule to the Board for adoption as a permanent rule. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

Mr. Dyke called upon Mr. Max Price who advised Council that the proposed changes to 100-23-3 and 100-24-3, would substitute references to 252:100-19-12 for references to Subchapter 27. He added that these revisions were necessary because the substantive requirements of Subchapter 27 would be moved to 100-19-12 and Subchapter 27 would be revoked in June of 2000. He added that the references to Subchapter 27 would become meaningless unless they are replaced by references to 100-19-12. Mr. Price stated that it was staff's recommendation that Council refer these rules to the Environmental Quality Board for emergency adoption effective June 1, 2000.

Mr. Breisch stated that these two rules would be voted on separately and called for a motion on Subchapter 23. Mr. Wilson made the motion to forward to the Board as recommended

by staff. The second made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Mr. Breisch then called for the same motion for Subchapter 24. Mr. Branecky made the motion and Dr. Grosz made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:2-15

Environmental Permit Processing Times [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who stated that the proposed amendments to Sections 40, 41, and 72 would make them consistent with 252:100, Air Pollution Control; and that the references to "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively. She added that changes were also made at the Council meeting to section 2-15-72(1)(A) such that the phrase "and part 70 sources" was added along with changing the number of days from 540 to 365. Ms. Bradley stated that comments had been received from EPA Region 6 and she entered them into the record. Following discussion Ms. Bradley advised that it was staff's recommendation that Council refer this rule to the Board for permanent adoption of the proposed amendments. Mr. Breisch called for a motion. Mr. Branecky made motion to accept the changes as stated and forward the rule to the Board for adoption. Mr. Fallon made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

DIVISION DIRECTOR'S REPORT - Mr. Terrill advised that he and Mr. Dyke would be attending a meeting with Central States Air Resources Board (CenSARA) to discuss, among other things, the status of the Regional Planning Body activities. He stated that he would like to take a few minutes at the next regular meeting for an update on these activities.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 16, 2000 at 9:00 a.m. in the Auditorium at OSU-Tulsa (formerly UCAT).

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting
Attendance Record

DECEMBER 14, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	CSW	ADDRESS	TELEPHONE
1. Howard Ground		PO Box 460164 Dallas TX.	214-777-1711
2. Tom Diggs		U.S. EPA Reg. 1445 Ross Ave Dallas TX	214-665-7214
3. LEE Moody		Trinity DALLAS	972 661 8100
4. John Wheeler	"	"	"
5. Marty Smith		Oke Energy Perm.	(303) 599 3331
6. Mike Peters		McKinney & Steinger	(405) 272-1907
7. ^{Sundco} Bill CLARK		P.O. Box 2039, Tulsa OK	918-594-6368
8. Preston Bolala		Harcross ^{3805 Douglas} Lang Millbrook TX 75123	918 699 5214
9. FRANK CONDON		EQ BOARD	
10. Michelle Stogell		Rt 1/Box 182 Nuffield	405 663 2290
11. BILL FISHBACK		3424 LYAL TER EDMOND	405-348-8683
12. KEN WILLIAMS		320 S. Boston, Tulsa OK	918-594-0519
13. LEE PADEN		ODEQ Board P.O. Box 52072, Tulsa 74152	918-743-7111
14. Laura Armistead		Reliant Energy P.O. Box 21734 Spout, LA 71518	318 429 3706
15. Tom Bauckman		Reliant Energy 189 NW 50th OKC OK 73118	405-556-242
16. DUSTIN GIVENS		Ft. James 4701 Chandler Rd, Muskogee	918/683
17. Steve Lenders	"	"	"
18. Adam Kitz		Mayor's office	
19. VANCE McSPADEN		5115 N. Western OKC	842-6625
20. Kirk Rutter		Boeing-Tulsa 3330 N. Mingo Tulsa	832-3178
21. Carol Barker		7701 Arnold St, Suite 204, TAFB OK 73115	736-5986
22. Bob Kellogg		OKC	405 235-0808
23. Travis Tindle		2500 S. Council, OKC, OK 73128	405-745-4442 ext 23
24. DAVID FARRAND		P.O. Box 3288 Tulsa OK 74101	918-573-4489
25. ERICA Schwenneker		301 NW 43rd Street #215, OKC	73116

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
DECEMBER 14, 1999
SIGN IN SHEET Page Two

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Gary Pink	MK26	918 384 7526
27. Gary Collins	TERRA	918 266 1511
28. Pat Davenport	N-S	405 377 5050
29. Don Prokitt	MARATHON OIL Co	405-720-5532
30. Deanne Hughes	Cardinal Engineering	842-1006
31. Julia Bevers	321 N. Hawley 73101	553-3439
32. Rhonda Jeffers	DEO / ROAT	918 961-7412
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100

Subchapters or Sections Involved – [new, amended or revoked]

Appendices E and F

On December 14, 1999 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

X permanent [take effect after legislative review]

X emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Chair or Designee

Date signed: December 14, 1999

VOTING TO APPROVE:

Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz
Bill Breisch

VOTING AGAINST:

ABSTAINING:

ABSENT:

Larry Canter
Sharon Myers
Gary Kilpatrick

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

DRAFT

A Public Meeting: 9:30 a.m., Tuesday, September 15, 1998
Northwestern Oklahoma State University
Student Center, Ranger Room
709 Oklahoma Boulevard
Alva, Oklahoma

1. Call to Order - Herschel Roberts
2. Roll Call - Lynda Finch
3. Approval of Minutes of the June 9, 1998 Regular Meeting

4. **OAC 252:200 and 205 Hazardous Waste Management Rules:**

This proposal primarily involves the revocation of current chapter 200 and its replacement with new chapter 205. This rewrite of the state hazardous waste management rules is part of the DEQ's effort to simplify and streamline its rules. The rewrite is not intended to change the requirements of the rules, but to make them clearer and more concise. Due to extensive reworking of the language and rearrangement of the text, the DEQ believes it is more understandable and straightforward to revoke Chapter 200 in its entirety and replace it with a new chapter, Chapter 205, than to amend Chapter 200.

Additionally, the federal Land Disposal Restrictions Phase IV rule, published May 26, 1998, would be added to the list of federal hazardous waste rules which the DEQ adopts by reference.

These changes were recommended by the Hazardous Waste Management Advisory Council at their meeting on August 11, 1998.

- A. Presentation – Mary Jo Reinhart, Hazardous Waste Council Vice-Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for emergency adoption

5. **OAC 252:100 Air Pollution Control Rules:**

A new Subchapter 4, New Source Performance Standards, is proposed for the purpose of establishing state standards for certain new or modified facilities in accordance with the authority delegated by the EPA under section 111(c) of the federal Clean Air Act.

The addition of Subchapter 47, Control of Emissions from Existing Municipal Solid Waste Landfills, is proposed to establish state standards for certain defined "existing" municipal solid waste (MSW) landfills. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emissions Guidelines for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW).

The proposed revisions to Appendices E and F mirror the revised federal ambient air quality standards for particulate matter and ozone announced in the July 18, 1997, Federal Register.

The Air Quality Advisory Council recommended the adoption of new Subchapter 4 at their meeting on June 16, 1998, and recommended the adoption of new Subchapter 47 and the revisions to Appendices E and F at their meeting on August 18, 1998.

- A. Presentation - David Branecky, Air Quality Council member
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for ^{permanent adoption and} emergency adoption of 100-4*, permanent adoption and emergency adoption* of 100-47, and permanent adoption of amendments to Appendices E and F
6. Budget Request – Budget requests of the Department of Environmental Quality to the Governor require approval of the Board. The budget request of the DEQ for State Fiscal Year (SFY) 2000 (beginning July 1, 1999) must be submitted to the Office of State Finance by October 1, 1998. The DEQ seeks the approval of the Board for its SFY 2000 budget request.
- A. Presentation – Mark Coleman, Executive Director
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote
7. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)
8. Executive Director's Report
9. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100. TDD number 232-0591.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today would not become effective until May or June of 1999.

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

Primary Standards	Annual	1 Hour Max.	3 Hour Max.	8 Hour Max.	24 Hour Max.	Calendar Quarter
Sulfur (Sulfur Dioxide)	(1) 80 ug/m ³				(2) 365 ug/m ³ (0.14 ppm)	
PM-10	(3) 50 ug/m ³				150 ug/m ³	
Carbon Monoxide		(2) 40 mg/m ³		(2) 10 mg/m ³		
Photo-chemical Oxidants		(5) 235 ug/m ³ (0.12 ppm)				
Non-methane Hydrocarbons			(2) (4) (6) 160 ug/m ³ (0.24 ppm)			
Nitrogen Oxides (Nitrogen Dioxide)	(1) 100 ug/m ³ (0.05 ppm)					
Lead					1.5 ug/m ³	(7)

(1) Annual arithmetic mean.

(2) Not to be exceeded more than once per year.

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by Appendix K Part 50 CFR 40.

(4) Measured between 6 a.m. and 9 a.m.

(5) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million is equal to or less than 1, as determined by Appendix H for Part 50 of Chapter I, CFR 40.

(6) Guide only value to EPA, to be used in planning, not a Federal standard.

(7) Maximum arithmetic mean averaged over a calendar quarter.

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
3-hr. max							
8-hr. max				10 mg/m ³ (2) 9 ppm	(6) 0.08 ppm		
24-hr. max	(3) 65 ug/m ³ (2) 0.14 ppm	(4) 150 ug/m ³	(5) 55 ug/m ³				
Calendar Qtr.							(7) 1.5 ug/m ³
Annual	(1) 30 ug/m ³ (1) 0.030 ppm	(3) 50 ug/m ³	(8) 15 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-year average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Based on the 3-yr average of annual arithmetic mean PM-2.5 concentrations

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

Secondary Standards	Annual	1 Hour Max.	3 Hour Max.	8 Hour Max.	24 Hour Max.	Calendar Quarter
Sulfur Oxides (Sulfur Dioxide)			1300 ug/m ³ (0.5 ppm)			
PM-10	(3) 50 ug/m ³				150 ug/m ³	
Carbon Monoxide		(2) 40 mg/m ³ (35 ppm)		(2) 10 mg/m ³ (9 ppm)		
Photo-chemical Oxidants (Ozone)		(5) 235 ug/m ³ (0.12 ppm)				
Non-methane Hydrocarbons			(2) (4) (6) 160 ug/m ³ (0.24 ppm)			
Nitrogen Oxides (Nitrogen Dioxide)	(1) 100 ug/m ³ (0.05 ppm)					
Lead						(7) 1.5 ug/m ³

(1) Annual arithmetic mean.

(2) Not to be exceeded more than once per year.

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by Appendix K Part 50 CFR 40.

(4) Measured between 6 a.m. and 9 a.m.

(5) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million is equal to or less than 1, as determined by Appendix H for Part 50 of Chapter I, CFR 40.

(6) Guide only value to EPA, to be used in planning, not a Federal standard.

(7) Maximum arithmetic mean averaged over a calendar quarter.

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
3-hr. max	1300 ug/m ³ (1) 0.5 ppm						
8-hr. max				10 mg/m ³ (2) 9 ppm	0.08 ppm (6)		
24-hr. max		(4) 150 ug/m ³	(5) 65 ug/m ³				
Calendar Qtr.							(7) 1.5 ug/m ³
Annual		(3) 50 ug/m ³	(8) 15 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-year average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Based on the 3-yr average of annual arithmetic mean PM-2.5 concentrations

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, February 25, 2000
Department of Environmental Quality
707 North Robinson
Oklahoma City, Oklahoma 73102

NOTE: The business meeting of the Board will be preceded at 8:30 a.m. by a continental breakfast. No business will be conducted, but there will be opportunity for an informal interchange among attendees, particularly on matters of interest raised by individual Board members. Board members and DEQ staff will be present, and the public may attend.

1. Call to Order -- Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 16, 1999 Regular Meeting
4. **Election of Officers**
Election of Chair and Vice-Chair for 2000
5. **Rulemaking -- OAC 252:002 Procedures of the DEQ (Administrative Fees)**
The proposed rule relates to administrative fees. The Oklahoma Open Records Act allows an agency to charge a document copying fee, a fee for certified copies, and a reasonable fee for document searches when the search request is solely for a commercial purpose or clearly would cause an excessive disruption of the agency's essential functions. Fees must be promulgated as rules under the Administrative Procedures Act (1999 Okl.Op.Atty.Gen. 55, August 17, 1999). The proposed rule establishes a photocopy fee of \$0.25 per page, a certified copy fee of \$1.00 per document, and a document search fee of \$5.00 per one-half (1/2) hour (with the first 15 minutes free).
 - A. Presentation-- Jimmy Givens, DEQ General Counsel
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption
6. **Rulemaking -- OAC 252:100 Air Pollution Control**
Four sets of changes are proposed:
 - Subchapter 5: The proposed amendments are designed to allow the agency to bill on a flexible schedule those owners and operators with sources that produce emissions. The changes also allow the fees to be based on the most recent emission data possible. The proposal clarifies that an owner or operator of a facility must report quantifiable excess emissions on the annual emission inventory, which must be submitted prior to March 1 unless an extension is granted. The proposal also establishes time frames for requests for credit based on overpayment and for challenges to the method used to calculate the facility's emissions for fee calculation purposes.
 - Subchapter 13: The proposed amendments simplify and clarify the rule as part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. Some substantive changes were made,

including adding a section on disaster relief procedures; requiring notification to the DEQ or other appropriate official for authorization to burn in some circumstances; requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators; and prohibiting burning of off-site material in open-pit incinerators.

- Subchapters 23 and 24: The changes replace references to Subchapter 27 with references to 252:100-19-12. These changes are necessary because, based on Board action last November, the substantive requirements of Subchapter 27 will be moved to section 252:100-19-12 and Subchapter 27 will be revoked, effective June of 2000.
- Appendices E and F: The proposed amendments restore the primary and secondary ambient air quality standards to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

- A. Presentation— David Branecky, Air Quality Council Member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption of amendments to Subchapters 5 and 13, on emergency adoption* (only) of amendments to Subchapters 23 and 24, and on both permanent and emergency adoptions of amended Appendices E and F

7. Rulemaking— OAC 252:002 Procedures of the DEQ (Air Quality-Related)

The Department is proposing amendments to the air quality provisions of OAC 252:2-15, Environmental Permit Processing Times, to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

- A. Presentation— David Branecky, Air Quality Council Member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

8. Rulemaking— OAC 252:205 Hazardous Waste Management

Two sets of changes are proposed:

- Subchapter 3: The proposed amendment to OAC 252:205-3-1 updates the adoption by reference of federal hazardous waste regulations to July 1, 1999. Proposed revisions to 252:205-3-3 incorporate new or superseding amendments to 40 CFR contained in 64 FR 36465-36490, published July 6, 1999, which add hazardous waste lamps as a universal waste at the federal level. Corresponding changes are made in other sections.
- Subchapters 5 and 9: The proposed revisions to 252:205-5 move language from 252:205-5-5(b) to 252:205-5-3(b)(5). The amendment to 252:205-9-6 provides alternative waste characterization mechanisms for off-site hazardous waste facilities.

- A. Presentation— Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption of amendments to Subchapter 3, and on permanent adoption of amendments to Subchapters 5 and 9

9. Rulemaking -- OAC 252:220 Brownfields

The proposed language is the result of recent legislation. It states the criteria by which the DEQ will verify loan application eligibility of Brownfields sites for loans from the Wastewater Facility Construction Revolving Loan Account and other state funding sources.

- A. Presentation – Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption

10. Rulemaking -- OAC 252:615 and 616 Industrial Wastewater Systems

Chapter 615 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 615 be revoked and a new Chapter 616 created to replace it. Language has been simplified and clarified and rules deemed unenforceable have been removed.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

11. Rulemaking -- OAC 252:630 and 631 Public Water Supply Operation

Chapter 630 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 630 be revoked and a new Chapter 631 created to replace it. Language has been simplified and clarified and unenforceable rules have been removed. The most recent federal requirements for maintaining primacy over the Safe Drinking Water Act program have been included.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

12. Rulemaking -- OAC 252:641 On-Site Sewage Disposal Systems

The proposed rule amendments eliminate the document search fee, combination fee (soil percolation test and final inspection or existing system evaluation report) and residential plat review fees, and reduce the soil percolation/soil profile fee, final inspection fee, existing system evaluation fee and the certified installer final inspection fee.

- A. Presentation – Gary Collins, Director, DEQ Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

13. **Rulemaking -- OAC 252:700 and 710 Waterworks/Wastewater Works Operator Certification**
Chapter 700 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 700 be revoked and a new chapter 710 created to replace it. New subchapters have been created; many rules have been simplified and/or broken into several shorter rules for clarity; and statutory citations have been updated. The rules for landfill operator certification are being revoked as inappropriate to these chapters.
- A. Presentation-- Rick Stebbens, Waterworks and Wastewater Works Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption
14. **Rulemaking -- OAC 252:002 Procedures of the DEQ (Operator Certification-Related)**
The DEQ proposes that Section 252:2-15-49 be revoked as part of the "re-right/de-wrong" rules simplification process. This revocation does not affect the operator certification program or the proposed rules in Chapter 710. The basic Tier I permitting process was designed for environmental permits where notice was given to landowners. The DEQ believes that personal licensure should not have been included in the Tier categories.
- A. Presentation-- Rick Stebbens, Waterworks and Wastewater Works Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption
15. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)
16. Executive Director's Report
17. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from the DEQ Water Quality Division about State Water Quality Standards implementation, the State "303(d)" (impaired waters) list, and related issues.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until on or about June 1st.

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
3-hr. max							
8-hr. max				10 mg/m ³ (2) 9 ppm	(6) 0.08 ppm		
24-hr. max	365 ug/m ³ (2) 0.14 ppm	(4) 150 ug/m ³	(5) 65 ug/m ³				
Calendar Qtr.							(7) 1.5 ug/m ³
Annual	80 ug/m ³ (1) 0.030 ppm	(3) 50 ug/m ³	(8) 15 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-year average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Based on the 3-yr average of annual arithmetic mean PM-2.5 concentrations

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m ³ (2) 35 ppm	235 ug/m ³ (4) 0.12 ppm		
8-hr. max			10 mg/m ³ (2) 9 ppm			
24-hr. max	365 ug/m ³ (2) 0.14 ppm	150 ug/m ³				
Calendar Qtr.						(5) 1.5 ug/m ³
Annual	80 ug/m ³ (1) 0.030 ppm	(3) 50 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.

(4) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by 40 CFR 50, Appendix H.

(5) Maximum arithmetic mean averaged over a calendar quarter

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

	Sulfur Dioxide	PM-10	PM-2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
3-hr. max	1300 ug/m ³ (2) 0.5 ppm						
8-hr. max				10 mg/m ³ (2) 9 ppm	(6) 0.08 ppm		
24-hr. max		(4) 150 ug/m ³	(5) 65 ug/m ³				
Calendar Qtr.							(7) 1.5 ug/m ³
Annual		(3) 50 ug/m ³	(8) 15 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K
- (4) The form of the standard is based on the 99th percentile of the 24-hr PM10 concentration in a year (averaged over 3 years)
- (5) The form of the standard is based on the 98th percentile of the 24-hr PM2.5 concentration in a year (averaged over 3 years)
- (6) The standard is attained when the computed 3-year average of the annual 4th highest daily max 8-hr average does not exceed 0.08 ppm
- (7) The maximum arithmetic mean averaged over a calendar quarter
- (8) Based on the 3-yr average of annual arithmetic mean PM-2.5 concentrations

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max			40 mg/m ³ (2) 35 ppm	235 ug/m ³ (4) 0.12 ppm		
3-hr. max	1300 ug/m ³ (2) 0.5 ppm					
8-hr. max			10 mg/m ³ (2) 9 ppm			
24-hr. max		150 ug/m ³				
Calendar Qtr.						(5) 1.5 ug/m ³
Annual		(3) 50 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.
- (4) The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by 40 CFR 50, Appendix H.
- (5) Maximum arithmetic mean averaged over a calendar quarter

Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
APPENDIX E PRIMARY AMBIENT AIR QUALITY STANDARDS
APPENDIX F SECONDARY AMBIENT AIR QUALITY STANDARDS

EXECUTIVE SUMMARY: The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standards set at 15 micrograms per cubic meter ug/m³ and a new 24-hr PM-2.5 standard set at 65 ug/m³. EPA is retaining the current annual PM-10 standard of 50 ug/m³ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr concentration based standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

COMMENT: A Council member suggested removing VOC's from both Appendices E and F, since the value was only a guide and not a standard.

RESPONSE: Staff agreed and deleted the VOC's.

COMMENT: EPA commented that the primary PM-2.5 annual standard was incorrectly identified. They noted it was not necessary to take the 98th percentile for the three years (averaged) monitored data and that a separate footnote was needed to be provided for the annual PM-2.5 standard.

RESPONSE: Staff agreed and made the correction.

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA

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8 * * * * *
9 TRANSCRIPT OF PROCEEDINGS

10 OAC 252:100, APPENDIX E, PRIMARY AMBIENT
11 AIR QUALITY STANDARDS, AND APPENDIX F,
12 SECONDARY AMBIENT AIR QUALITY STANDARDS
13 HELD ON AUGUST 18, 1998
14 AT 1:00 P.M.
15 AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
16 IN OKLAHOMA CITY, OKLAHOMA
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23
24
25 REPORTED BY: Christy A. Myers, CSR

26
27 MYERS REPORTING SERVICE
28 (405) 721-2662
29
30

1
2 COUNCIL MEMBERS

3 MS. SHARON MYERS, MEMBER
4 DR. FRED GROSZ, MEMBER
5 MR. GARY KILPATRICK, MEMBER
6 MR. JOEL WILSON, MEMBER
7 MR. DAVID BRANECKY, MEMBER
8 MS. MERIBETH SLAGELL, MEMBER
9 MR. BILL BRETSCH, CHAIRMAN
10 MS. MYRNA BRUCH, SECRETARY
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1 PROCEEDINGS

2 MR. DYER: The next item on the
3 Hearing Agenda, Item Number 7. Ladies and
4 gentlemen, this hearing is convened by the
5 Air Quality Council in compliance with the
6 Oklahoma Administrative Procedures Act,
7 Title 40 of the Code of Federal Regulations
8 Part 51, as well as the Authority of Title
9 27A.

10 This hearing was advertised in the
11 Oklahoma Register for the purpose of
12 receiving comments pertaining to the
13 proposed new rule, OAC 252:100, Appendix E,
14 Primary Ambient Air Quality Standards and
15 Appendix F, Secondary Ambient Air Quality
16 Standards. If you wish to make a
17 statement, please complete the form at the
18 registration table and you will be called
19 upon at the appropriate time.

20 At this time, I will call upon Ms.
21 Michelle Martinez to give the staff's
22 position on this proposed rule.

23 MS. MARTINEZ: Members of the
24 Council, ladies and gentlemen, the proposed
25 revisions to Appendices E and F will be
26 identified -- identical to the revised
27 federal national ambient air quality
28 standards or NAAQS for particulate matter
29 and ozone announced by EPA in the July 18,
30 1997 Federal Register.

1 The EPA revised the primary health
2 based PM standards by adding a new annual
3 PM-2.5 standard set at 15 micrograms per
4 cubic meter, and a new 24-hour PM-2.5
5 standard set at 65 micrograms per cubic
6 meter. EPA is retaining the current annual
7 PM-10 standard of 50 micrograms per cubic
8 meter and changing the form of the PM-10
9 24-hour standard.

10 The secondary welfare based
11 standards are also being adjusted to make
12 them identical to the primary standards.

13 The previous 1 hour primary ozone
14 standard is being phased out and replaced
15 with a new 8 hour standard to protect
16 against longer exposure periods. The new 8
17 hour standard is set at 0.08 parts per
18 million. The 3 year average of the annual
19 4th highest daily maximum 8 hour ozone
20 concentration is used to determine
21 compliance with the standard. EPA also
22 replaces the previous secondary ozone
23 standards with a standard identical to the
24 new primary standard.

25 If you will note at the top of the
26 Appendices you will see the words revoked
27 and new. The Secretary of State's Rules on
28 Rulemaking do not allow us to amend an
29 appendix. So, it must be first revoked and
30 then replaced with the new version.

1451

1 After receiving staff comments, we
2 have decided to leave in the micrograms per
3 cubic meter units along with the parts per
4 million units as they were in the original
5 Appendices. This decision was based on the
6 fact that modeling is done in micrograms
7 per cubic meter.

8 After receiving staff comments in
9 the briefing this morning, staff agrees
10 with the request to revoke VOC's on both
11 the Appendices E and F, since these are
12 only guidance values and not standards.

13 Staff will also be revoking the
14 number 8 and number 3 footnotes, which
15 apply only to the VOC's. Also, last
16 Friday, we received comments from the EPA,
17 which I would like to enter into the
18 record. These comments brought to our
19 attention that the primary PM-2.5 annual
20 standard was incorrectly identified. This
21 has been corrected by adding a footnote to
22 both -- to both Appendices E and F. And
23 the new footnote number 8 will read, based
24 on the 3 year average of the annual
25 arithmetic mean, PM-2.5 concentration.

26 This afternoon staff requests that the
27 Council to recommend to the DEQ Board the
28 proposed revisions to Appendices E and F,
29 as a permanent rule.

30 MR. DYKE: Any questions of Ms.

5

1 Martinez from the Council? Comments? Any
2 questions or comments from the audience?
3 Seeing no --

4 MR. KILPATRICK: I have a
5 question.

6 MS. MARTINEZ: Okay.

7 MR. KILPATRICK: Read that new
8 note 8 again. Does it include -- do you
9 have to include the 98th percentile?

10 MS. MARTINEZ: No, not on the
11 annual. That's only for the 24 hour PM-
12 2.5.

13 MR. KILPATRICK: Okay.

14 MS. MARTINEZ: I believe that's
15 where the mistake was made the first time.

16 MR. KILPATRICK: Okay.

17 MR. DYKE: Any additional
18 questions or comments of Ms. Martinez on
19 this matter? Seeing none --

20 MR. CHAIRMAN: Do you recommend
21 just a permanent rule be passed, no
22 emergency?

23 MS. MARTINEZ: Just as a
24 permanent rule only, not as emergency.

25 MR. CHAIRMAN: Okay. I'll
26 entertain a motion to recommend this to the
27 DEQ Board as a permanent rule.

28 MR. KILPATRICK: I'll move that
29 we revoke the existing Appendix E and
30 Appendix F, and replace them with the new

6

1 Appendix E and Appendix F as permanent
2 rules.

3 MR. BRANECKY: With the changes
4 as mentioned?

5 MR. KILPATRICK: With the changes
6 as mentioned.

7 MR. BRANECKY: I'll second that.

8 MR. CHAIRMAN: I've got a motion
9 and a second. Any further discussion or
10 questions? If not, Myrna, call the roll.

11 MS. BRUCE: Ms. Myers?

12 MS. MYERS: Aye.

13 MS. BRUCE: Dr. Gross?

14 DR. GROSS: Aye.

15 MS. BRUCE: Mr. Kilpatrick?

16 MR. KILPATRICK: Aye.

17 MS. BRUCE: Mr. Wilson?

18 MR. WILSON: Aye.

19 MS. BRUCE: Mr. Branecky?

20 MR. BRANECKY: Aye.

21 MS. BRUCE: Ms. Slagell?

22 MS. SLAGELL: Aye.

23 MS. BRUCE: Mr. Breisch?

24 MR. BREISCH: Aye.

25
26 (HEARING CONCLUDED)

7

1 C E R T I F I C A T E

2 STATE OF OKLAHOMA)

3) ss:
4 COUNTY OF OKLAHOMA)

5
6
7 I, CHRISTY A. MYERS, Certified
8 Shorthand Reporter in and for the State of
9 Oklahoma, do hereby certify that the above
10 proceedings is the truth, the whole truth,
11 and nothing but the truth; and said
12 proceedings was taken by me in shorthand
13 and thereafter transcribed under my
14 direction; that said proceedings was taken
15 on the 18th day of August, 1998 at Oklahoma
16 City, Oklahoma; and that I am neither
17 attorney for nor relative of any of said
18 parties, nor otherwise interested in said
19 proceedings.

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand and official seal on this, the
22 18th day of August, 1998.

23
24
25
26
27 CHRISTY A. MYERS, C.S.R.
28 Certificate No. 00310
29

8

CHAPTER 100. AIR POLLUTION CONTROL
APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS
APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS

EXECUTIVE SUMMARY: The proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

COMMENT: Written comments were received from EPA Region 6 supporting the proposed amendments to Appendices E and F.

COMMENT: A comment was made by the Chairman of the Environmental Quality Board, Lee Paden, during the Council meeting in support of the proposed amendments to Appendices E and F.

COMMENT: Hillary Kitz, assistant to Mayor Susan Savage of Tulsa, also commented in support of the amendments.

RESPONSE: Staff Concurs.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE OAC 252:100 *Appendices E & F*

RULES

HELD ON DECEMBER 14, 1999

AT 9:00 A.M.

AT 707 NORTH ROBINSON AVENUE

IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

BOARD MEMBERS

- 1
- 2
- 3
- 4 Joel Wilson - Member
- 5 David Branecky - Member
- 6 Rick Treeman - Member
- 7 Leo Fallon - Member
- 8 Dr. Fred Grosz - Member
- 9 Bill Breisch - Chairman
- 10 David Dyke - Protocol Officer
- 11 Eddie Terrill - Director
- 12 Myrna Bruce - Secretary
- 13
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1 a resolution to Mary Beth.
 2 Ms. Slagell was appointed to the
 3 Oklahoma Air Quality Council in June of
 4 1993 and Ms. Maribeth Slagell was a
 5 dedicated Member to the Air Quality
 6 Council. And Ms. Maribeth Slagell played
 7 an active part to the development of the
 8 rules and regulations that were passed by
 9 the Air Quality Council to promote clean
 10 air in Oklahoma. And during her tenure, as
 11 a Member of the Council, this Body has met
 12 with legislative charter -- met the
 13 legislative charter, to obtain and preserve
 14 the clean air in Oklahoma. Now, be it
 15 resolved, that the Members of the Oklahoma
 16 Air Quality Council recognize and thank Ms.
 17 Maribeth Slagell for her years of service
 18 toward making Oklahoma a better place.
 19 (Whereupon, there was applaud from the
 20 audience for Ms. Slagell.)
 21 MR. BREISCH: That being done,
 22 one more thing before we go to the next
 23 item. We do have a new Member of the
 24 Council, Mr. Rick Treeman. He is a
 25 graduate of Oklahoma State University and

PROCEEDINGS

1
 2 MR. BREISCH: We'll call our
 3 meeting to order. First of all, Myrna,
 4 will you call the roll?
 5 MS. BRUCE: Mr. Wilson.
 6 MR. WILSON: Here.
 7 MS. BRUCE: Mr. Branecky.
 8 MR. BRANECKY: Here.
 9 MS. BRUCE: Mr. Treeman.
 10 MR. TREEMAN: Here.
 11 MS. BRUCE: Mr. Fallon.
 12 MR. FALLON: Here.
 13 MS. BRUCE: Dr. Grosz.
 14 DR. GROSZ: Here.
 15 MS. BRUCE: Mr. Breisch.
 16 MR. BREISCH: Here.
 17 MS. BRUCE: For the record,
 18 absent are Mr. Kilpatrick, Dr. Canter, and
 19 Ms. Myers.
 20 MR. BREISCH: Well, there is
 21 times that everybody, I guess, gets fed up
 22 with our Council and just wants to leave
 23 us. I don't think this is necessarily the
 24 case and we'll miss this one very much.
 25 Maribeth, where are you? I'd like to read

1 has worked in the safety of the
 2 environmental field for almost 20 years,
 3 both as a field consultant and as an
 4 employee of Johnson Enterprise Inc. He
 5 currently serves as Safety and Loss
 6 Prevention and Environmental Manager for
 7 Johnson Enterprises Inc. He resides in
 8 Enid, Oklahoma. I believe his background
 9 and experience in the grain and feed
 10 industry should make him a valued member of
 11 the Council. And of course, not only is he
 12 recognized in that field but he has worked
 13 in other environmental issues. And we
 14 welcome you, Rick, and we look forward to
 15 you helping us here on the Council.
 16 MR. TREEMAN: Thank you.
 17 MR. BREISCH: Now we will go to
 18 the Minutes. I need a motion to approve
 19 the Minutes.
 20 MR. FALLON: So moved.
 21 DR. GROSZ: Second.
 22 MR. BREISCH: I've got a motion
 23 and second. Any corrections, comments?
 24 Myrna, call the roll.
 25 MS. BRUCE: Mr. Wilson.

1 MR. WILSON: Aye.
 2 MS. BRUCE: Mr. Branecky.
 3 MR. BRANECKY: Yes.
 4 MS. BRUCE: Mr. Treeman.
 5 MR. TREEMAN: Aye.
 6 MS. BRUCE: Mr. Fallon.
 7 MR. FALLON: Yes.
 8 MS. BRUCE: Dr. Grosz.
 9 DR. GROSZ: Yes.
 10 MS. BRUCE: Mr. Breisch.
 11 MR. BREISCH: Aye. At the last
 12 meeting we talked a little bit about next
 13 year's meeting schedule and that was to be
 14 brought up again because we want to change
 15 the day of the week.
 16 MR. TERRILL: Yes. What we did
 17 was, starting next year, we're going to
 18 move our meeting date from Tuesday to
 19 Wednesday. And so the dates we have
 20 proposed -- let me talk a little bit about
 21 the dates we've proposed. The consensus
 22 was that we wanted to have some of these
 23 meetings in places other than Oklahoma City
 24 and Tulsa. So what we proposed was to have
 25 a meeting on April the 19th in Lawton, and

1 twice, because they are one of the two big
 2 metropolitan areas in Oklahoma. They do
 3 have some very unique issues. And this
 4 would just be -- if we decide to do that,
 5 it would just be for next year alone and it
 6 would be through the rewrite/dewrong
 7 process. But I'm not objectionable at all
 8 if the Council would prefer to change one
 9 of the out of town meetings, either Lawton
 10 or Ponca City -- although I wouldn't
 11 recommend changing Lawton, because I think
 12 we need to go down there and have a meeting
 13 where we talk about their ozone situation.
 14 We can change one of the Oklahoma City
 15 meetings back to Tulsa or we can leave it
 16 as it is. The only other change that
 17 I do need to make, we've got a meeting
 18 scheduled on Wednesday, June 21st in Tulsa.
 19 We need to move that to the 14th, June the
 20 14th, because we've got an Environmental
 21 Quality Board meeting on the 20th, I
 22 believe it is, and we may want to take some
 23 of our rules to be passed to the Board
 24 meeting then. So we would like to move
 25 that back so we can do that. So it's just

1 then a meeting on August the 16th in Ponca
 2 City. But we're going through this
 3 rewrite/dewrong, which really is -- we're
 4 under the gun. We've got to get it done
 5 before December of 2000 -- yes, December of
 6 2000. So what I did, and this was just me
 7 doing it, so we may want to change one of
 8 these dates, but I've got us meeting the
 9 last two meetings in Oklahoma City as
 10 opposed to going back to Tulsa. So we only
 11 go to Tulsa one time next year. And the
 12 reason I've got us in Oklahoma City the
 13 last two times is because I figure that
 14 towards the end of the year, we're going to
 15 have a lot of rules that we're going to try
 16 to get through this rewrite/dewrong
 17 process, and we may need to make some
 18 changes here in the building to get these
 19 things through. So it's kind of the
 20 pleasure of the Council on what we want to
 21 do here. We may end up having to have some
 22 extra meetings anyway. So if we want to
 23 change one of those meetings from Oklahoma
 24 City back to Tulsa -- because I'm a little
 25 bit concerned that we're not going to Tulsa

1 kind of up to you all what we want to do,
 2 but this is kind of my first cut on when
 3 we're meeting next year.
 4 MR. BREISCH: The June meeting?
 5 MR. TERRILL: Yes. The June
 6 meeting would need to be moved from June
 7 21st to June the 14th. Yes, that's a
 8 Wednesday, as well. All these meeting
 9 dates are on Wednesday.
 10 MR. BREISCH: Eddie, I think
 11 we've got enough issues in Tulsa and
 12 interests in Tulsa to have a couple of
 13 meetings there. And I'm speaking for
 14 myself, being from the area, I think we
 15 ought to have at least two meetings.
 16 MR. TERRILL: We can change the
 17 October 18th meeting to Tulsa. That was
 18 the one that was Tulsa, originally, and
 19 that's not a problem. But the only thing
 20 that I wanted the Council to be aware of is
 21 that we may have to have some extra
 22 meetings in order to get this
 23 rewrite/dewrong thing done. I think we'll
 24 know by the April, and certainly the June
 25 meeting, if we're on schedule or not, and

1 whether or not we're going to have to
2 schedule these things. But that's fine, we
3 can move the October 18th meeting back to
4 Tulsa and that would be just fine with us.

5 MR. BREISCH: Well, I'm not
6 suggesting that necessarily. And although
7 I think it's important to meet in Ponca
8 City, I would opt to change -- either
9 change Ponca City with Tulsa -- maybe not
10 two consecutive meetings, but the next
11 meeting with the Oklahoma City meetings.

12 MR. FALLON: What about moving
13 the February meeting to Tulsa, since we're
14 having this one in Oklahoma City? Normally
15 they've been staggered.

16 MR. TERRILL: That's fine, too.

17 MR. BREISCH: Yes, that's all
18 right.

19 MR. TERRILL: It doesn't make any
20 difference to us. That would be fine.

21 MR. BREISCH: Keep Ponca City on
22 the agenda.

23 MR. FALLON: I certainly would be
24 in favor of it. First of all, I'm in favor
25 of Wednesdays, and I'm in favor of the

1 remote area meetings, Ponca City and
2 Lawton. I probably drive as far as anybody
3 and I certainly have no objection to going
4 to either Ponca City or Tulsa.

5 MR. TERRILL: One thing we do
6 want to -- we were asked to mention was
7 that for the year 2001, that Ada is already
8 on the docket for one of the out of town
9 meetings. They have requested one. They
10 have a real good environmental science
11 program there at the university and we're
12 going to try to do something in conjunction
13 with them in 2001. So we need to keep that
14 in mind, if we want to try to bump anybody,
15 we've already got one of those dates -- one
16 of the two dates for 2001 taken. So we can
17 move the 18th -- we can switch the 18th
18 meeting. Meet in Tulsa on the 16th and
19 that would give us the last two meetings
20 here in Oklahoma City. That would
21 accomplish the same thing.

22 MR. FALLON: It would accomplish
23 the same thing.

24 MR. TERRILL: That's a good
25 suggestion.

1 MR. FALLON: If we take the
2 February meeting in Tulsa -- and they
3 normally have been staggered anyway, that
4 keeps the rotation much the same and still
5 accomplishes your point of having the last
6 two here where the records are.

7 MR. TERRILL: That's a good
8 point. We can do that. What that would
9 mean is, we would meet February the 16th on
10 a Wednesday in Tulsa, April the 19th on a
11 Wednesday in Lawton, June the 14th on a
12 Wednesday in Tulsa, August 16th on a
13 Wednesday in Ponca City, and then October
14 18th and December 20th, both on Wednesday,
15 are here in Oklahoma City.

16 MR. FALLON: Do you have a
17 location in Tulsa as yet? You were
18 seeking a new one?

19 MR. TERRILL: We are trying to
20 work out a deal with the law school. Their
21 new court building -- or their new
22 courtroom is being redone and we would like
23 to do it there and maybe they could host
24 it. We don't have to have those exact
25 locations decided, but that's kind of what

1 we're looking at.

2 MR. FALLON: I have confidence
3 you'll cover it.

4 MR. DYKE: I suggest that we look
5 at that last meeting very closely. That's
6 pretty late in December. I just throw that
7 out because we had a little bit of a
8 problem getting a quorum.

9 MR. FALLON: The 13th would
10 probably be a better date.

11 MR. DYKE: It's available.

12 MR. FALLON: It's ahead of
13 Christmas by more than five days.

14 MR. TERRILL: So we would move
15 our December meeting to December 13th.
16 That would give us 28 days notice in the --
17 for our publication. We've done that in
18 the past. Barbara, do you see a problem
19 with that?

20 MS. HOFFMAN: No, we just don't
21 want to get --

22 MR. TERRILL: Much farther --
23 yes.

24 MS. HOFFMAN: -- too short of
25 time.

1 MR. BREISCH: How it will read
 2 is: Wednesday, February 16th, in Tulsa;
 3 Wednesday, April 19th in Lawton; Wednesday,
 4 June 14th, in Tulsa; Wednesday August 16th,
 5 in Ponca City; Wednesday, October 18th,
 6 Oklahoma City; Wednesday, December 13th,
 7 Oklahoma City. Is that right? I need a
 8 motion.

9 MR. FALLON: I so move.
 10 MR. BRANECKY: Second.
 11 MR. BREISCH: I've got a motion
 12 and a second. Any further discussion?
 13 Myrna, call the roll.

14 MS. BRUCE: Mr. Wilson.
 15 MR. WILSON: Aye.
 16 MS. BRUCE: Mr. Branecky.
 17 MR. BRANECKY: Yes.
 18 MS. BRUCE: Mr. Treeman.
 19 MR. TREEMAN: Yes.
 20 MS. BRUCE: Mr. Fallon.
 21 MR. FALLON: Yes.
 22 MS. BRUCE: Dr. Grosz.
 23 DR. GROSZ: Yes.
 24 MS. BRUCE: Mr. Breisch.
 25 MR. BREISCH: Yes. At this time,

1 called on at the appropriate time.
 2 We will begin by calling on Ms.
 3 Michelle Martinez to address the matter
 4 marked as Agenda Item Number 6A, OAC
 5 252:100, Appendices E and F. Michelle.
 6 MS. MARTINEZ: Members of the
 7 Council, ladies and gentlemen, on July
 8 18th, 1997, the EPA announced new National
 9 Ambient Air Quality Standards (NAAQS) for
 10 particulate matter and ozone. The EPA
 11 revised the primary PM standards by adding
 12 a new annual PM-2.5 standard set at 15
 13 micrograms per cubic meter and a new 24-
 14 hour PM-2.5 standard set at 65 micrograms
 15 per cubic meter. EPA retained the annual
 16 PM-10 standard of 50 micrograms per cubic
 17 meter and changed the form of the PM-10 24-
 18 hour standard.

19 Also, the EPA decided to phase out
 20 the previous 1-hour primary ozone standard
 21 and replace it with a new 8-hour standard
 22 of .08 parts per million, to protect
 23 against longer exposure periods.
 24 Oklahoma had demonstrated compliance
 25 with the 1-hour standard, so EPA revoked

1 we will go into the Public Rulemaking
 2 Hearings. Eddie Terrill will act as our
 3 Protocol Officer.
 4 MR. TERRILL: David is going to
 5 do that.
 6 MR. BREISCH: I'm sorry. David.
 7 MR. DYKE: Good morning. My name
 8 is David Dyke. I'm the Assistant Director
 9 of the Air Quality Division. And as such,
 10 I will act as Protocol Officer for today's
 11 hearings.

12 These hearings will be convened by
 13 the Air Quality Council in compliance with
 14 the Oklahoma Administrative Procedures Act,
 15 in Title 40 of the Code of Federal
 16 Regulations, Part 51, as well as the
 17 Authority of Title 27 of the Oklahoma
 18 Statutes, Section 2-2-201 through 2-5-118.

19 These hearings were advertised in
 20 the Oklahoma Register for the purpose of
 21 receiving comments pertaining to the
 22 proposed OAC Title 252, Chapter 100 Rules
 23 as listed on the Agenda. If you wish to
 24 make a statement, please complete the form
 25 at the registration table. You will be

1 the 1-hour standard for the entire state.
 2 The secondary standards were also adjusted
 3 to make them identical to the new and
 4 revised primary standards.
 5 The Environmental Quality Board
 6 approved adoption of new Appendices E and F
 7 containing the new revised standards on
 8 September 15, 1998. The new revised
 9 standards for ozone and PM became effective
 10 on June 1, 1999.

11 A recent court decision has called
 12 the new revised standards into question.
 13 In response to challenges filed by industry
 14 and others, a three judge panel of the
 15 United States Court of Appeals for the
 16 District of Columbia issued a split
 17 decision on May 14, 1999. The Court held
 18 that the Clean Air Act, as applied in
 19 setting the new NAAQS for ozone and PM, is
 20 unconstitutional because it was an improper
 21 delegation of legislative authority to the
 22 EPA. Specifically, the Court's decision
 23 remanded but did not vacate the 8-hour
 24 ozone standard, holding that it cannot be
 25 enforced; remanded but did not vacate the

1 PM-2.5 standards; remanded and vacated the
2 revised form of the PM-10 standards.

3 The Court of Appeals recently
4 announced that it will not reconsider the
5 panel's decision, and so the EPA has taken
6 the request for the rehearing to the
7 Supreme Court and are still waiting to
8 hear.

9 The proposed amendments to E and F
10 would restore the primary and secondary
11 ambient air quality standards to what they
12 were prior to June 1, 1999. The 8-hour
13 ozone standard of .08 parts per million
14 would be revoked, and the 1-hour standard
15 of .12 parts per million restored. The PM-
16 2.5 standard would be revoked along with
17 the revised form of the PM-10 standard and
18 replaced with the previous form of the PM-
19 10 standard.

20 Although the 8-hour ozone standard
21 and the PM-2.5 standard were remanded and
22 not vacated, the DEQ has determined that it
23 is best to revoke them along with the form
24 of the PM-10 standard because the federal
25 court decision rendered them unenforceable.

1 is that right? Is there any danger for us
2 having this on the books for six months
3 with Oklahoma City and Tulsa being above
4 this standard?

5 MS. MARTINEZ: So you are asking
6 why we're not doing an emergency?

7 MR. BRANECKY: Yes. Is there any
8 benefit to getting it done quickly? What
9 I'm saying, this could be -- until June,
10 we'll be held against this standard. Even
11 though the federal standard has been
12 remanded, this is an Oklahoma rule. So to
13 me, this is in effect. So it's going to be
14 in effect until June 1st. Is there any
15 danger for us, since Oklahoma City and
16 Tulsa are above that .08, of having that on
17 the books until June and not getting it on
18 sooner?

19 MS. MARTINEZ: If we tried to do
20 an emergency -- well, if we did an
21 emergency along with the permanent, it
22 really would only be in effect maybe a
23 month sooner.

24 MR. BRANECKY: Okay.

25 MS. MARTINEZ: So I don't think

1 The only comment received was from
2 the EPA by fax on December 10, 1999, which
3 I would like to enter into the record. The
4 comment stated, quote, "Your diligence in
5 keeping regulations current with regard to
6 the air quality standards is commendable.
7 Updating Appendices E and F is timely and
8 appropriate."

9 Even though this is the first time
10 these amendments have been brought to
11 public hearing, staff suggests that the
12 proposed Appendices E and F be recommended
13 for permanent adoption by the Board.

14 MR. DYKE: Questions from the
15 Council of Ms. Martinez.

16 MR. BRANECKY: I've got a
17 question. Is there any danger, if you ask
18 for a permanent -- be adopted as permanent,
19 it's not effective until June 1, 2000.

20 Since these are -- this is an Oklahoma
21 standard, we're not tied in any way to the
22 federal standards. Even though the federal
23 standards have been remanded, since we're
24 not referencing that federal standard in
25 this rule -- this is in effect in Oklahoma;

1 the time -- I think basically that was our
2 reasoning behind it, was the time was
3 basically going to be the same.

4 MR. BRANECKY: Okay.

5 MR. THOMAS: I'm Scott Thomas of
6 staff and also, these standards will be --
7 EPA has said they are unenforceable, so I
8 don't see any danger. It would be very
9 unlikely in that one month period of time
10 difference, with it being unenforceable.

11 MR. BRANECKY: I guess maybe this
12 is a legal question. If you can answer it
13 -- maybe it's Barbara's question. Since we
14 adopted this as .08 parts per million as
15 the Oklahoma standard, and we in no way
16 referenced the federal standard, they are
17 not tied to each other, are they?

18 MS. HOFFMAN: Right.

19 MR. BRANECKY: So we're standing
20 alone on the .08?

21 MS. HOFFMAN: Right.

22 MR. BRANECKY: So in Oklahoma,
23 the .08 is still in effect until next June?

24 MS. HOFFMAN: That's true.

25 MR. BRANECKY: So is there any

Page 22

1 risk that someone could try and force some
 2 type of action in Tulsa and Oklahoma City
 3 for being above .08 during that time
 4 period?
 5 MS. HOFFMAN: Well, I don't know
 6 what you mean by action. I think that the
 7 two main things that come out of the
 8 ambient air quality standard are permits
 9 issued and designations by EPA. Obviously,
 10 when we issue permits, we have to ensure
 11 that they are going to meet whatever
 12 standards are in effect, so that would
 13 continue to be the case that we would look
 14 at those standards until June 1st until,
 15 you know, if they are changed then.
 16 And with respect to the designation
 17 of the nonattainment area, EPA has
 18 indicated they are going to go ahead with
 19 that anyway. It doesn't matter. It's tied
 20 to their standard, not ours. And so since
 21 they promulgated the 8-hour standard for
 22 ozone, they feel compelled to go ahead and
 23 designate areas next July. But that's not
 24 even tied to our standard.
 25 MR. BREISCH: Barbara, what is

Page 23

1 the exact date difference between having an
 2 emergency versus not?
 3 MS. HOFFMAN: The emergency rule
 4 -- well, both emergency and permanent rules
 5 would go to the February, I believe, Board
 6 meeting. And after the February meeting
 7 then, because that's when Legislature is in
 8 session, the Legislature and -- or not the
 9 -- I'm sorry, forget that for a second.
 10 The Governor would have 45 days, I believe,
 11 to sign it. And I can't remember exactly
 12 what the February date is of the Board
 13 meeting -- I think it's the 25th, though.
 14 And so when we added the 45 days to
 15 February 25th, we came up with some date
 16 late in April. And so the difference
 17 between late April and June 1st, we just
 18 didn't see that there would be much
 19 benefit.
 20 MR. BREISCH: Well, if for any
 21 reason somebody wanted and requested the
 22 Governor to sign it before the 45 days, he
 23 could.
 24 MS. HOFFMAN: Yes. Our hospital
 25 and medical waste incinerator rule, he

Page 24

1 signed very quickly, just a week or two
 2 after the Board passed it. You never know.
 3 MR. BREISCH: Well, I agree with
 4 the fact that David asked that question,
 5 and I feel that we probably want to hurry
 6 it up as much as possible, even though it
 7 just saves a month or so. I don't see that
 8 it costs anybody any more to do that.
 9 MS. HOFFMAN: Okay.
 10 MR. BREISCH: That is if there is
 11 no legal reason.
 12 MS. HOFFMAN: No. There is no
 13 legal reason. It's just that, as you know,
 14 we have been trying to keep our emergency
 15 rules to a minimum because of feedback that
 16 we had gotten from the Governor's Office.
 17 But this is certainly a rule that would
 18 command that type of attention.
 19 MR. BREISCH: Well, I'm just one
 20 vote on the Council, but I would sure
 21 recommend that we speed it up as quick as
 22 we can. I'm very uncomfortable with it as
 23 it is.
 24 MR. DYKE: We have two other
 25 persons wishing to speak on this matter, if

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1 we would like to call them at this time.
 2 If there is not objection, we can call them
 3 at this time. Let's call Mr. Lee Paden.
 4 MR. PADEN: Thank you, Mr. Dyke.
 5 My name is Lee Paden. I'm the Chairman of
 6 the Oklahoma Environmental Quality Board
 7 and an attorney in Tulsa. If I could, Mr.
 8 Dyke and Mr. Chairman, before I talk about
 9 this, I would like to take one minute to
 10 thank the Council for the contribution that
 11 each member of the Council makes to
 12 preserving the environment in Oklahoma.
 13 I think one of the things that
 14 happens with people who agree to volunteer
 15 to serve on councils or boards in this
 16 state is that they are appointed and they
 17 are sort of like the general in the Beale
 18 Bailey comic. They never hear from the
 19 home office after they receive their
 20 appointment. One of the things that I have
 21 noticed in my five years as a member of the
 22 Environmental Quality Board and in my
 23 previous service on the Health Board were
 24 the countless hours -- and Rick, you are
 25 going to find that this is going to be the

1 case. You signed on for some work that you
 2 didn't realize you were going to be doing,
 3 because each of you spends a tremendous
 4 amount of time and effort that is
 5 unrecognized and uncompensated. And the
 6 members of the Board who reap the benefits
 7 of all the work that you guys do in
 8 preparing rules to submit to us, are
 9 eternally grateful for the efforts that you
 10 put in. So on behalf of the Environmental
 11 Quality Board, I wanted to take the
 12 opportunity to tell you that we appreciate
 13 the time that you spend, the efforts that
 14 you put in to preserve and to improve
 15 Oklahoma's environment.

16 Now, if I could, I would like to
 17 spend a minute or two talking about the
 18 rule that the -- the proposed change that's
 19 reported this morning. In my opinion, this
 20 is an extremely important item. I'm
 21 pleased to hear Mr. Branecky and Mr.
 22 Breisch encourage that this be placed into
 23 effect as quickly as possible.

24 We are operating now in really a
 25 situation where we don't have a rule. The

1 federal rule, be it our standard, it has
 2 been declared to be unenforceable. And
 3 consequently, if we try to enforce the
 4 standard that is in place in Oklahoma which
 5 is the 8-hour standard, we would be in real
 6 difficulty. We have a number of permits.
 7 Eddie, I think at one time I counted in the
 8 last two or three months that we had, on
 9 PSD permits, something like 30 that were
 10 pending in this state. Something in that
 11 neighborhood. That may be a little bit
 12 high. Either original permits or changes
 13 to existing permits, around 30. And each
 14 one of those is directly or indirectly
 15 impacted by what standards we have in
 16 place. So I would encourage you to follow
 17 the recommendation of the staff and
 18 favorably consider this.

19 One of the things I did want to
 20 mention is that one of the problems that
 21 we've had in trying to work with the 8-hour
 22 standard versus the 1-hour standard, is the
 23 voluntary programs that exist in Tulsa and
 24 Oklahoma City to try to help keep our air
 25 clean. We have had what I consider to be

1 very, very good success with volunteer
 2 efforts in Tulsa and also in Oklahoma City.
 3 I'm more familiar with the Tulsa programs
 4 because I've worked more closely with
 5 those. But we've done things like free bus
 6 rides. And you think, well, free bus ride,
 7 nobody will take advantage of that. It's
 8 amazing. When we have an ozone situation,
 9 we have an ozone alert call, the bus
 10 ridership will go up 20, 30 percent or
 11 above on days when that event happens to
 12 occur. I think it demonstrates the fact
 13 that people want the air to be clean.
 14 We've done other things. People have
 15 voluntarily agreed to fuel their cars at
 16 hours that are acceptable in the evening
 17 rather than during the day to help reduce
 18 the possibility of additional NOx
 19 emissions. We've done car-pooling.
 20 Lawnmowing has ceased on ozone alert days.
 21 We've had companies who have taken the
 22 initiative and encouraged their employees
 23 to do things like bringing their lunch or
 24 bringing group lunches on days when there
 25 is a possibility of an exceedance of the

1 ozone standards.
 2 And so we need to have a program
 3 that is compatible with the voluntary
 4 program. Unfortunately, when EPA put the
 5 8-hour standard into effect, they didn't do
 6 some of the things that I felt would help
 7 in preparing areas like Tulsa and Oklahoma
 8 City to adapt their volunteer programs to
 9 the new standard. And I would hope that as
 10 EPA continues to work with this problem,
 11 that they will look at issues like how we
 12 adapt voluntary programs to whatever
 13 standard they might adopt in the future.

14 So I would encourage the Council to
 15 adopt the changes that are presented here
 16 today. I would hope that we could do it as
 17 quickly as we can so that Oklahoma has a
 18 standard that we can enforce. I would be
 19 happy to answer questions.

20 MR. DYKE: Questions of Mr. Paden
 21 from the Council? Thank you.

22 MR. PADEN: Thank you, very much.

23 MR. DYKE: I would like to call
 24 on Ms. Hilary Kitz.

25 MS. KITZ: Good morning. Thank

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1 you for the opportunity to speak. Mayor
 2 Savage of Tulsa would have liked to come
 3 today to present these comments, but
 4 unfortunately she had to be in Washington.
 5 She's meeting with Secretary Promo
 6 (phonetic spelling) today and asked me to
 7 come and speak about the revocation of the
 8 8-hour standard on her behalf. These are
 9 her comments and I have copies of them,
 10 which I would be happy to leave for the
 11 record.

12 On behalf of the Tulsa community, I
 13 am pleased to respond to the proposed rule
 14 from EPA to reinstate the 1-hour/8-hour Air
 15 Quality Standard. As a Member of the
 16 National Committee convened by EPA to make
 17 recommendations concerning the
 18 implementation of a new Air Quality
 19 Standard, I am deeply aware of the
 20 controversy surrounding the selection of .8
 21 parts per million over 8-hours, as the
 22 basis for the ozone standard announced in
 23 August of 1997. Tulsa is proud of its
 24 comprehensive program to improve air
 25 quality. Since the passage of the Revised

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1 hour standard, in hopes that the hiatus to
 2 allow for a review of the best possible way
 3 to implement a more rigorous standard will
 4 be enforced. Tulsa appreciates the
 5 respiratory health research which underlies
 6 the idea of an 8-hour standard and agrees
 7 with the EPA that it is a better measure of
 8 air quality. An 8-hour average reduces the
 9 spikes in monitor readings which are
 10 difficult to prevent and to predict.
 11 However, there is general agreement in our
 12 community that a stricter standard should
 13 be phased in gradually.

14 One strategy suggested by Eddie
 15 Terrill, the Division Director for Air
 16 Quality of the Oklahoma Department of
 17 Environmental Quality, includes a Glide
 18 Path Program. Under that plan, an area
 19 begins at .095 parts per million over 8
 20 hours, and works to improve air quality as
 21 the standard becomes stricter, reaching .8
 22 parts per million in about 15 years. As
 23 the standard becomes more stringent,
 24 vehicles are built with more efficient
 25 pollution controls, MACT standards are

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1 Clean Air Act nearly ten years ago, Tulsans
 2 have participated every summer in the Ozone
 3 Alert Program. As Mr. Paden mentioned,
 4 citizens have ridden the city buses at no
 5 cost, car-pooled, and telecommuted to
 6 reduce the pollution produced by cars.
 7 Tulsa is also the site of the nation's
 8 first flexible attainment region agreement,
 9 a partnership with EPA, the state, and
 10 local business and environmental leaders,
 11 which encourages proactive local solutions
 12 to air quality problems in return for
 13 keeping the compliance designation.

14 In the summer of 1997, Tulsa had one
 15 exceedance of the old standard, and seven
 16 of the new 8-hour standard. In 1998, there
 17 were two exceedances of the old standard
 18 and nine of the new standard. This year,
 19 Tulsa exceeded the new standard 20 times
 20 and recorded none, none, no exceedances at
 21 all, of the old standard. Clearly we are
 22 having trouble meeting the 8-hour standard.

23 The committee is pleased that the
 24 EPA has chosen -- the community is pleased
 25 that the EPA has chosen to reinstate the 1-

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1 imposed on industry and citizens gradually
 2 change their behaviors. The standard is
 3 reduced until it reaches the .8 parts per
 4 million for optimum respiratory health.
 5 This removes the abrupt and drastic change
 6 which allows localities no time to plan or
 7 implement prevention strategies to guard
 8 against violations of a significantly more
 9 severe standard. The glide path
 10 acknowledges that effective plans to
 11 mitigate pollution require time for
 12 planning, implementation, and evaluation.

13 Asking citizens to change deeply
 14 ingrained driving habits is challenging
 15 when a suitable alternative is not yet
 16 present. However, having to explain that
 17 the standard Tulsa has reached has now been
 18 removed and replaced by a more severe one,
 19 has been extremely difficult and has made
 20 little sense to our citizens. The net
 21 effect of the new standard has been to
 22 discourage participation in a long standing
 23 voluntary program, because the rules have
 24 changed arbitrarily.

25 As always, Tulsa is ready to be a

1 test site for innovation and research for
 2 new ideas and solutions. Uniquely suited
 3 for initiatives like this, Tulsans
 4 recognize the need to work closely with
 5 local industry and ODEQ to learn more about
 6 the sources of our precursor pollutants,
 7 and to devise effective strategies to
 8 improve air quality. Thank you.
 9 THE REPORTER: Hilary, could you
 10 spell your last name, please?
 11 MS. KITZ: Yes. It's K-I-T-Z.
 12 THE REPORTER: Thank you.
 13 MS. KITZ: And it's Hilary with
 14 one "L".
 15 THE REPORTER: Thank you.
 16 MR. DYKE: Are there any
 17 questions from the Council of Ms. Kitz?
 18 Thank you. Are there any additional
 19 questions from the Council of the staff?
 20 Is there anyone from the public wishing to
 21 comment on this rule or anyone with any
 22 questions? Anything else from the Council?
 23 Mr. Chairman.
 24 MR. BREISCH: We have to have a
 25 motion. A couple of us -- at least myself

1 feels we ought to put the emergency clause
 2 on this, but that's up to you. So I will
 3 entertain a motion to put this just on a
 4 permanent adoption or both permanent and
 5 emergency.
 6 MR. FALLON: Mr. Chairman, does
 7 the lack of having advertised the emergency
 8 clause have an effect on us -- the
 9 acceptability?
 10 MS. HOFFMAN: No, it doesn't. An
 11 emergency rule can be adopted or voted on
 12 by the Council without notice in the
 13 Oklahoma Register.
 14 MR. FALLON: Thank you.
 15 MR. BRANECKY: I will move that
 16 we adopt the proposal from the staff with
 17 the addition of the emergency clause.
 18 MR. FALLON: I'll second that.
 19 MR. BREISCH: I have a motion and
 20 a second. Any further discussion or
 21 questions from the Council? Myrna, call
 22 the roll.
 23 MS. BRUCE: Mr. Wilson.
 24 MR. WILSON: Yes.
 25 MS. BRUCE: Mr. Branecky.

1 MR. BRANECKY: Aye.
 2 MS. BRUCE: Mr. Treeman.
 3 MR. TREEMAN: Yes.
 4 MS. BRUCE: Mr. Fallon.
 5 MR. FALLON: Yes.
 6 MS. BRUCE: Dr. Grosz.
 7 DR. GROSZ: Yes.
 8 MS. BRUCE: Mr. Breisch.
 9 MR. BREISCH: Yes.
 10
 11 (PROCEEDINGS CONCLUDED)
 12
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1 CERTIFICATE
 2 STATE OF OKLAHOMA)) ss:
 3 COUNTY OF OKLAHOMA))
 4 I, CHRISTY A. MYERS, Certified
 5 Shorthand Reporter in and for the State of
 6 Oklahoma, do hereby certify that the above
 7 Proceedings are the truth, the whole truth,
 8 and nothing but the truth; that the
 9 foregoing proceedings were taken by me in
 10 shorthand and thereafter transcribed under
 11 my direction; that said proceedings were
 12 taken on the 14th day of December, 1999, at
 13 Oklahoma City, Oklahoma, pursuant to
 14 agreement and the stipulations hereinbefore
 15 set forth; and that I am neither attorney
 16 for nor relative of any of said parties,
 17 nor otherwise interested in said action.
 18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 24th day of January, 2000.
 21
 22 CHRISTY A. MYERS, C.S.R.
 23 Certificate No. 00310
 24
 25

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-13 Open Burning

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OAC 252:100-13 SIP Revision

CHAPTER 100: AIR POLLUTION CONTROL

SUBCHAPTER 13. ~~PROHIBITION OF OPEN BURNING~~

Section

- 252:100-13-1. Purpose [AMENDED]
- 252:100-13-2. Definitions [AMENDED]
- 252:100-13-3. Scope [REVOKED]
- 252:100-13-4. Effective date [REVOKED]
- 252:100-13-5. Open burning prohibited [AMENDED]
- 252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]
- 252:100-13-7. ~~Permissible~~ Allowed open burning [AMENDED]
- 252:100-13-8. [RESERVED]
- 252:100-13-9. General conditions and requirements for allowed open burning [NEW]
- 252:100-13-10. Disaster relief [NEW]
- 252:100-13-11. Responsibility for consequences of open burning [NEW]

252:100-13-1. Purpose

~~This Subchapter is for the purpose of preventing, abating, and controlling air pollution resulting from air contaminants released in the open burning of refuse and other combustible materials. The purpose of this Subchapter is to control the open burning of refuse and other combustible materials.~~

252:100-13-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Combustible materials" means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

"Domestic refuse" means combustible materials or refuse that normally result from the function of life at a residence, such as kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings. It does not include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances.

"Land clearing operation" means the uprooting, cutting, or clearing of vegetation in preparation for the construction of buildings, the development of residential, commercial, agricultural, or industrial properties, and for the construction and maintenance of right-of-ways. It does not include the clearing of vegetation such as trimmings, fallen limbs, branches, or leaves, or other wastes from routine property maintenance activities.

"Open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"Open-pit incinerator" means a device consisting of a pit (into which the material to be combusted is placed) and nozzles, pipes, and other appurtenances designed and arranged in a manner to deliver additional air and/or auxiliary fuel to, or near, the zone of combustion so that theoretically complete combustion is accomplished or approached.

"Products of combustion" means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials.

"Refuse" means garbage, rubbish, domestic refuse, and all other wastes generated by a trade, business, industry, building operation, or household.

252:100-13-3. Scope [REVOKED]

~~This Subchapter shall apply to all operations involving open burning except those specifically exempted by 252:100-13-7.~~

252:100-13-4. Effective date [REVOKED]

~~The effective date of this Subchapter shall be January 1, 1971.~~

252:100-13-5. Open burning prohibited

~~No person shall cause, suffer, allow, or permit open burning of refuse and other combustible material except as may be allowed in compliance with OAC 252:100-13-7. The open burning of refuse and combustible materials is prohibited unless conducted in strict accordance with the conditions and requirements contained in 252:100-13-7 and 252:100-13-9. Under no circumstances shall the open burning of tires be allowed.~~

252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]

~~No person shall cause, suffer, allow, or permit open burning of combustible material in connection with the salvage of motor vehicles, tires, oil and similar substances, containers, coated or painted wire and metals, and other materials.~~

252:100-13-7. ~~Permissible~~ Allowed open burning

~~The open burning of refuse and other combustible material may be conducted as specified in the paragraphs set forth below if no public nuisance is or will be created and if the burning is not prohibited by, and is conducted in compliance with, other applicable laws and the ordinances, rules, and orders of governmental entities having jurisdiction, including air pollution control ordinances, rules, and orders. The authority to conduct open burning under the provisions of this Section does not exempt or excuse a person from the consequences, damages, or injuries which may result from such conduct nor does it excuse or exempt any person from complying with all applicable laws, ordinances, rules, and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this Section.~~

~~(1) Fires~~ (a) **Fire training.** Open burning is allowed for fires purposely set for the instruction and training of public and industrial fire-fighting personnel, when authorized by the appropriate governmental entity provided that authorization has been requested from the local fire chief at least ten working days prior to any burning or that written authorization has been received prior to such burning. The DEQ may require written verification of the authorization from the local fire chief or fire training officer..

~~(2)~~ (b) **Elimination of hazards.** Fires set for the elimination of a fire hazard which cannot be abated by any other means when authorized by the appropriate governmental entity. Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:

(1) A fire hazard that cannot be abated by any other means.

(2) A dangerous or hazardous material when there is no other practical or lawful method of abatement or disposal if authorization is also received from the DEQ prior to such burning.

~~(3) Fires set for the removal of dangerous or hazardous material where there is no other practical or lawful method of disposal upon approval of the Director of Air Quality Division.~~

~~(4) Camp~~ (c) Recreational and ceremonial fires. Open burning is allowed for camp fires and other fires used solely for recreational purposes, for ceremonial occasions, or for outdoor non-commercial preparation of food.

(5) (d) Land management and land clearing operations. Open burning is allowed for the following land management and land clearing operations.

(1) Fires purposely set to forest, crop or range lands for a specific reason in the management of forests, crops or game, in accordance with practices recommended by the Oklahoma Department of Wildlife Conservation, the Oklahoma State Department of Agriculture, and the United States Forest Service.

~~(6) (2) The burning of trees, brush, grass, and other vegetable matter in the clearing of land, right-of-way maintenance operations, and agricultural crop burning if the following conditions are met: Fires purposely set for land clearing operations if conducted at least 500 feet upwind of any occupied residence other than those located on the property on which the burning is conducted, except that such burning must be conducted in open-pit incinerators in counties or areas that are or have been designated nonattainment.~~

~~(A) prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by air contaminants from the burning;~~

~~(B) the location of the burning must not be adjacent (500 ft. upwind) to an occupied residence other than those located on the property on which the burning is conducted;~~

~~(C) care must be used to minimize the amount of dirt on the material being burned;~~

~~(D) oils, rubber, and other similar materials which produce unreasonable amounts of air contaminants may not be burned;~~

~~(E) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~

~~(F) the burning must be controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.~~

(7) (e) Burning of domestic refuse. Where no collection and disposal service is reasonably available, the burning of refuse and other combustible materials generated in the operation of a domestic household if the following conditions are met: domestic refuse may be burned on the property where the waste is generated.

~~(A) the material to be burned must not be the combined waste from a building designed to accommodate more than three such households;~~

~~(B) the burning must be conducted on the property on which the waste is generated; and,~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated.~~

(8) (f) Hydrocarbon burning. Open burning of hydrocarbons is allowed for:

(1) The burning of hydrocarbons which are spilled or lost as a result of pipeline breaks or other accidents involving the transportation of such materials or which are generated as

wastes as the result of oil exploration, development, refining, or processing operations if the following conditions are met: The disposal of spilled hydrocarbons or the waste products of oil exploration, development, refining or processing operations which cannot be feasibly recovered or otherwise disposed of in a legal manner. Notice must be given to the DEQ prior to such burning.

~~(A) the material cannot be practicably recovered or otherwise lawfully disposed of in some other manner;~~

~~(B) the burning must not be conducted within a city or town or in such proximity thereto that the ambient air of such city or town may be affected by the air contaminants being emitted;~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~

~~(D) the burning must be controlled so that a traffic hazard is not created as the result of the air contaminants being emitted.~~

(2) The disposal of waste hydrocarbons through a flare. The owner or operator shall be required to use a smokeless flare if a condition of air pollution is determined to exist by the DEQ.

~~(9) (g) **Open-pit incinerator.** The burning of any combustible material in an open-pit incinerator which has been properly designed and which is properly operated for the control of smoke and particulate matter. Except for hazardous material, any combustible material or refuse that is allowed to be burned under this Subchapter may be burned in an open-pit incinerator that is properly designed and operated for the control of smoke and particulate matter. The owner or operator of the open-pit incinerator shall not accept any material owned by other persons and shall not transport any material to the property where the open-pit incinerator is located in order to burn the material.~~

~~(10) The burning of hydrocarbons, which must be wasted, through the use of smokeless atmospheric flares if after investigation a condition of air pollution exists.~~

252:100-13-8. [RESERVED]

252:100-13-9. General conditions and requirements for allowed open burning

The open burning of refuse and other combustible material may be conducted as allowed in this Subchapter only if the following conditions and requirements are met:

(1) No public nuisance is or will be created.

(2) The burning is controlled so that a traffic hazard is not created as a result of the air contaminates being emitted.

(3) The burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town.

(4) The initial burning shall begin only between three hours after sunrise and three hours before sunset and additional fuel shall not be intentionally added to the fire at times outside these limits. This requirement does not apply to the open burning allowed under 252:100-13-7 (a), (b), (c), and (d) (1).

252:100-13-10. Disaster relief

Notwithstanding the prohibition in 252:100-13-5, the Executive Director of the DEQ may allow the open burning of debris resulting from a disaster if the Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.

252:100-13-11. Responsibility for consequences of open burning

Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.

Oklahoma Register

Notices of Rulemaking Intent

Comments and Issues, or copies may be obtained from Myrna
by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained
from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez
(252:100-4, 252:100-35), Joyce Sheedy (252:100-41), Cheryl
Bradley (252:100-47). Department of Environmental
Quality, Air Quality Division, P.O. Box 1677, Oklahoma
City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 35 was brought to public hearing on August
24, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need
an accommodation, please notify the Air Quality Division
three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1302; filed 8-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1303]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and
Annual Operating Fees [AMENDED]

Subchapter 9. Excess Emission and Malfunction
Reporting Requirements [AMENDED]

Subchapter 13. Prohibition of Open Burning
[AMENDED]

Subchapter 19. Particulate Matter Emissions from
Fuel-Burning Equipment [AMENDED]

Subchapter 21. Particulate Matter Emissions from
Wood-Waste Burning Equipment [REVOKED]

Subchapter 27. Particulate Matter Emissions from
Industrial and Other Processes and Operations
[REVOKED]

Appendix C. Particulate Matter Emission Limits for
Fuel-Burning Equipment [REVOKED]

Appendix C. Particulate Matter Emission Limits for
Fuel-Burning Equipment [NEW]

Appendix D. Particulate Matter Emission Limits for
Wood-Waste Burning Equipment [REVOKED]

Appendix D. Particulate Matter Emission Limits for
Wood-Waste Fuel-Burning Equipment [NEW]

SUMMARY:

The proposed changes to Subchapter 5 are designed to
allow the agency to bill annual operating fees on a flexible

schedule. The changes should also allow the fees to be
based on the most recent emission data possible. The
proposed rule language also requires an owner or operator
of a facility to report excess emissions on their annual
emission inventory. Substantive changes include requiring
inventories to be submitted one month earlier than
presently required, allowing fee payers five years after
payment is made to notify the DEQ that they overpaid and
to receive credit for such overpayment, and reducing the
period of time to six months in which either the DEQ or the
facility owner or operator can challenge the data or
methods used to calculate the facility's emissions.

The proposed changes to Subchapter 9 include
correction of typographical and grammatical errors and
deletion of redundant language. Also, the rule was
simplified and clarified according to the agency-wide
re-right/de-wrong initiative. Substantive changes to the rule
include narrowing the scope of the rule to minor facilities
only. A new condition was added to explain when excess
emissions from a process are due to a malfunction and when
they are due to negligent, marginal, or unsafe operation.
The new language establishes a rebuttable presumption
that the combined time of all excess emissions from a
process due to a malfunction does not exceed eight hours or
1.5 percent of the process's operation time, whichever is
greater, in a 3 month period. The burden of proving that
excess emissions occurring more often are due to a
malfunction rather than negligent, marginal, or unsafe
operation is on the owner or operator of the process.

The proposed changes to Subchapter 13 will simplify and
clarify the Subchapter as a part of the agency-wide
re-right/de-wrong initiative. Such changes include
consolidating the general conditions and requirements for
allowed open burning into a new section. A few substantive
changes were made such as adding definitions for "domestic
refuse" and "landclearing operation" and a section on
disaster relief procedures. In some instances, the
requirement to notify the DEQ or other appropriate official
for authorization to burn was added. In addition, the
open-pit incinerator requirements were moved to a new
section. The rule is proposed to be amended to require
owners or operators to register with their local DEQ office;
however, if the owner or operator anticipates operating an
open-pit incinerator in the same pit for more than 90 days in
a 365-day period, they would be required to obtain a permit
and pay the required permit fee. Also, hazardous materials
may not be burned in an open-pit incinerator unless prior
written approval has been obtained from both the local fire
chief and the DEQ.

Subchapters 19, 21 and 27 all deal with particulate matter
(PM) emissions. The proposed changes will merge the
requirements of Subchapter 21 and Subchapter 27 into
Subchapter 19. Subchapters 21 and 27 will then be revoked.

Notices of Rulemaking Intent

Subchapter 19 as proposed will be simplified and clarified according to the agency-wide re-right/de-wrong initiative. In addition, a Permit by Rule for particulate matter facilities is being proposed for Subchapter 19. It is also being proposed that both Appendix C and Appendix D be revoked in favor of two new tabular appendices.

The DEQ is requesting comments on all of these proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on October 19, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by October 12, 1999. Oral comments may be made at the October 19, 1999, hearing and at the November 16, 1999, hearing.

PUBLIC HEARINGS:

Tuesday, October 19, 1999 - 9:00 a.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma.

Scheduled before the Environmental Quality Board on Tuesday, November 16, 1999, 9:30 a.m., McAlester, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (252:100-5, 252:100-9 and 252:100-13), Max Price (252:100-19, 252:100-21, 252:100-27 and Appendices C and D). Department of Environmental Quality, Air Quality

Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapters 9, 19, 21, 27, and Appendices C and D were brought to public hearing on August 24, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1303; filed 8-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 510. MUNICIPAL SOLID WASTE LANDFILLS [REVOKED]

[OAR Docket #99-1304]

RULEMAKING ACTION:

Notice of proposed PERMANENT Rulemaking
PROPOSED RULES:

Chapter 510. Municipal Solid Waste Landfills
[REVOKED]

SUMMARY:

Chapter 510 is being revoked subject to the adoption of Chapter 530 as part of the re-right/de-wrong process. Some rules which were in Chapter 510 were deleted. Others were amended and renumbered in Chapter 530. A conversion table is available from the DEQ upon request.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; and the Oklahoma Solid Waste Management Act, 27A O.S. § 2-10-101 *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by this rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Deliver or mail written comments to the contact person from September 15 through October 15, 1999.

PUBLIC HEARINGS:

Before the Solid Waste Management Advisory Council at 9:00 a.m. on October 21, 1999, at the Stillwater Public Library, 1107 S. Duck, Stillwater, Oklahoma, 74074. Before the Environmental Quality Board at 9:30 on November 16, 1999, in McAlester, Oklahoma, at a location to be announced.

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Notices of Rulemaking Intent

of this intended action and the rule impact statement, if available, will be mailed within three days after publication of this Notice to all persons who have made a timely request for advanced notice of proposed rulemaking proceedings.

[OAR Docket #99-1403; filed 10-29-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

[OAR Docket #99-1397]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Uniform Permitting Procedures

Part 5. Tier Classifications [AMENDED]

252:2-15-40 [AMENDED]

252:2-15-41 [AMENDED]

Part 7. Review Procedures and Permitting Time Lines

252:2-15-72 [AMENDED]

SUMMARY:

The Department is proposing amendments to the air quality provisions of 252:2-15, Environmental Permit Processing Times, to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

The DEQ is requesting comments on the proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on December 14, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by December 7, 1999. Oral comments may be made at the December 14, 1999 hearing and at the Environmental Quality Board hearing (date, time and location to be determined).

PUBLIC HEARINGS:

Tuesday, December 14, 1999 - 9:00 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board (date, time and location to be determined).

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 410, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Cheryl Bradley, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1397; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1398]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]

Subchapter 13. Prohibition of Open Burn [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

Notices of Rulemaking Intent

SUMMARY:

The proposed changes to Subchapter 5 are designed to allow the agency to bill annual operating fees on a flexible schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language also requires an owner or operator of a facility to report excess emissions on their annual emission inventory. Substantive changes include requiring inventories to be submitted one month earlier than presently required, allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment, and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the methods used to calculate the facility's emissions for fee calculation purposes.

The proposed changes to Subchapter 9 include correction of typographical and grammatical errors and deletion of redundant language. Also, the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Substantive changes to the rule include establishing a time limit on excess emissions caused by properly reported malfunction, startup/shutdowns, and maintenance procedures. The burden of proving that excess emissions occurring more than eight hours or 1.5 percent of the process's operation time in a 3-month period are due to excusable malfunctions, startup/shutdowns or maintenance procedures rather than negligent, marginal, or improper operation is on the owner or operator of the process. Language was added to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement, and additional demonstration requirements for malfunctions, maintenance, and startup/shutdowns were added under proposed section 252:100-9-3.2, Demonstration of cause.

The proposed changes to Subchapter 13 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. A few substantive changes were made, such as adding definitions for "domestic refuse" and "land clearing operation," along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were moved to a new section. The rule is proposed to be amended to require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 30 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee. Also, the rule would only allow material from a land clearing operation to be burned in an open-pit incinerator.

The proposed amendments to Appendices E and F would restore the primary and secondary ambient quality standards to what they were prior to July 18, 1997. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

The DEQ is requesting comments on all of these proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on December 14, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by December 14, 1999. Oral comments may be made at the December 14, 1999 hearing and at the Environmental Quality Board hearing (date, time and location to be determined).

PUBLIC HEARINGS:

Tuesday, December 14, 1999 - 9:00 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board (the date, time and location to be determined).

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttner (252:100-5, 252:100-9 and 252:100-13) and Michel Martinez (Appendices E and F), Department of Environmental Quality, Air Quality Division, P.O. Box

Notices of Rulemaking Intent

1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapters 5, 9, and 13 were brought to public hearing on October 19, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1398; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 615. INDUSTRIAL WASTEWATER SYSTEMS [REVOKED]

[OAR Docket #99-1399]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Chapter 615. Industrial Wastewater Systems
[REVOKED]

SUMMARY:

This rulemaking action revokes Chapter 615 of Title 252 of the Oklahoma Administrative Code, Industrial Wastewater Systems. The revocation of Chapter 615, Industrial Wastewater Systems is part of the agency's re-right/de-wrong process. This chapter is being replaced by a new chapter, OAC 252:616, Industrial Wastewater Systems.

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-2-201, 2-6-402, and 2-6-501

COMMENT PERIOD:

Written comments may be submitted to the contact person listed below from November 15 through December 7, 1999. Oral and written comments will be accepted by the Water Quality Management Advisory Council at its December 7, 1999, meeting. Also scheduled before the Environmental Quality Board (the date, time and location to be determined).

PUBLIC HEARING:

Before the Water Quality Management Advisory Council at its December 7, 1999, meeting at 1:00 p.m. in the Multi-Purpose room of the Department of Environmental Quality, located at 707 N. Robinson, Oklahoma City, Oklahoma 73101.

Also scheduled before the Environmental Quality Board (the date, time and location to be determined).

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement is available from the contact person.

CONTACT PERSON:

Shellie Chard, Water Quality Division, Department of Environmental Quality, 707 N. Robinson, Oklahoma City; P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677 (phone: (405) 702-8100)

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the contact person three (3) days in advance.

[OAR Docket #99-1399; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 616. INDUSTRIAL WASTEWATER SYSTEMS [NEW]

[OAR Docket #99-1400]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Chapter 616. Industrial Wastewater Systems [NEW]

SUMMARY:

This rulemaking action is part of the agency's re-right/de-wrong process. Changes were made to simplify and clarify requirements, remove unenforceable language and add requirements for land application associated with industrial wastewater systems from a separate chapter to provide a consolidated source for industrial wastewater system requirements. Due to the changes, Chapter 615 is being revoked and replaced with Chapter 616.

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-2-201, 2-6-402, and 2-6-501.

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by this rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Written comments may be submitted to the contact person listed below from November 15 through December 7, 1999. Oral and written comments will be accepted by the Water Quality Management Advisory Council at its December 7, 1999, meeting. Also scheduled before the

Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (252:100-9) and Joyce Sheedy (252:100-33), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 9 was brought to public hearing on June 15, August 24, October 19 and December 14, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1631; filed 12-27-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-1638]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 13. Prohibition of Open Burning [AMENDED]

SUMMARY:

The proposed changes to Subchapter 5 are designed to allow the agency to bill annual operating fees on a flexible schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language clarifies that an owner/operator of a facility must report quantifiable excess emissions on their annual emission inventory. Substantive changes include requiring all inventories to be submitted prior to March 1 and providing up to a 60-day extension upon request and good cause shown. It allows fee payers five years after payment is made to notify the DEQ that they overpaid and receive credit for such overpayment, and reduces to six months after inventories are due or submitted the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the method used to calculate the facility's emissions for fee calculation purposes.

The proposed changes to Subchapter 13 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for

allowed open burning into a new section. A few substantive changes were made, such as adding definitions for "domestic refuse" and "land clearing operation," along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. New language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. Existing language on open-pit incinerators was expanded and now prohibits accepting any material owned by other persons and from transporting any material to the property where the open-pit incinerator is located in order to burn the material.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, Section 2-2-101; and Oklahoma Clean Air Act Section 2-5-101, *et. seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

The comment period for the proposed amendments to Subchapters 5 and 13 were September 15 through October 19, 1999, and November 15 through December 14, 1999.

PUBLIC HEARINGS:

Previously held before the Air Quality Council on October 19 and December 14, 1999. However, additional oral comments may be made at the meeting of the Environmental Quality Board, Friday, February 25, 2000 - 9:30 a.m., at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for additional information.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

Notices of Rulemaking Intent

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

On December 14, 1999, the Air Quality Council recommended the proposed amendments to Subchapters 5 and 13 be recommended for adoption by the Environmental Quality Board at their meeting on February 25, 2000.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1638; filed 12-30-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1639]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

SUMMARY:

The proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards to what they were prior to July 18, 1997. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, Section 2-2-101; and Oklahoma Clean Air Act Section 2-5-101, *et. seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services,

revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

The comment period for the proposed amendments to Appendices E and F was November 15 through December 14, 1999.

PUBLIC HEARINGS:

Previously held before the Air Quality Council on December 14, 1999. However, additional oral comments may be made at the meeting of the Environmental Quality Board, Friday, February 25, 2000 - 9:30 a.m., at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for additional information.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

On December 14, 1999, the Air Quality Council recommended the proposed amendments to Appendices E and F be recommended for adoption by the Environmental Quality Board at their meeting on February 25, 2000.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1639; filed 12-30-99]

TITLE 265. STATE FIRE MARSHAL COMMISSION CHAPTER 25. ADOPTED NATIONAL CODES AND STANDARDS

[OAR Docket #99-1608]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULE:

265:25-1-3. Incorporated National Codes and Standards [AMENDED]

- (C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).
- (2) **Part 70 Sources.**
- (A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).
- (B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).
- (C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.
- (c) **Payment.** For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division.
- (1) Fees are due and payable upon receipt of on the invoice due date(s). Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid after the invoice due date(s). Within five (5) years but not before a grace period of 120 days from the date of billing invoice due date, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. Supp. 1993, §§ 2-5-101 *et seq.*, to an owner or operator of a facility who has failed to pay or has underpaid such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.
- (2) If an owner or operator has failed to submit the required annual emission inventory, the DEQ may issue

an administrative order to recover fees that would have been invoiced had the emission inventory been submitted when due. The DEQ may issue such order within five (5) years from the date of billing and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*

(3) When a fee overpayment has been made as a result of an error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ.

(d) **Basis for annual operating fees.**

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

252:100-5-3. **Confidentiality of proprietary information**

[Refer to 27A O.S. Supp. 1993, § 2-5-105.18.]

[OAR Docket #00-855; filed 5-4-00]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #00-854]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- ✓ Subchapter 13. Prohibition of Open Burning
- 252:100-13-1 [AMENDED]
- 252:100-13-2 [AMENDED]
- 252:100-13-3 [REVOKED]
- 252:100-13-4 [REVOKED]
- 252:100-13-5 [AMENDED]
- 252:100-13-6 [REVOKED]
- 252:100-13-7 [AMENDED]
- 252:100-13-8 [RESERVED]
- 252:100-13-9 [NEW]
- 252:100-13-10 [NEW]
- 252:100-13-11 [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1999, §§ 2-2-101, 2-5-101, *et seq.*

Permanent Final Adoptions

DATES:

Comment period:

September 15, 1999 through October 19, 1999; and November 15, 1999 through December 14, 1999

Public hearing:

October 19, 1999, December 14, 1999 and February 25, 2000

Adoption:

February 25, 2000

Submitted to Governor:

March 3, 2000

Submitted to House:

March 3, 2000

Submitted to Senate:

March 3, 2000

Gubernatorial approval:

April 10, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 28, 2000

Final adoption:

April 28, 2000

Effective:

June 12, 2000

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The changes to Subchapter 13 will simplify and clarify the Subchapter as part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. A few substantive changes were made, such as adding definitions for "domestic refuse" and "land clearing operation," along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. New language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. Existing language on open-pit incinerators was expanded and now prohibits accepting any material owned by other persons and from transporting any material to the property where the open-pit incinerator is located in order to burn the material.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on December 14, 1999.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma 73101-1677. (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2000.

SUBCHAPTER 13. PROHIBITION OF OPEN BURNING

252:100-13-1. Purpose

~~This Subchapter is for the purpose of preventing, abating, and controlling air pollution resulting from air contaminants released in the open burning of refuse and other combustible materials. The purpose of this Subchapter is to control the open burning of refuse and other combustible materials.~~

252:100-13-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Combustible materials" means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

"Domestic refuse" means combustible materials or refuse that normally result from the function of life at a residence, such as kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings. It does not include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances.

"Land clearing operation" means the uprooting, cutting, or clearing of vegetation in preparation for the construction of buildings, the development of residential, commercial, agricultural, or industrial properties, and for the construction and maintenance of right-of-ways. It does not include the clearing of vegetation such as trimmings, fallen limbs, branches, or leaves, or other wastes from routine property maintenance activities.

"Open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"Open-pit incinerator" means a device consisting of a pit (into which the material to be combusted is placed) and nozzles, pipes, and other appurtenances designed and arranged in a manner to deliver additional air and/or auxiliary fuel to, or near, the zone of combustion so that theoretically complete combustion is accomplished or approached.

"Products of combustion" means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials.

"Refuse" means garbage, rubbish, domestic refuse and all other wastes generated by a trade, business, industry, building operation, or household.

252:100-13-3. Scope [REVOKED]

~~This Subchapter shall apply to all operations involving open burning except those specifically exempted by 252:100-13-7.~~

252:100-13-4. Effective date [REVOKED]

The effective date of this Subchapter shall be January 1, 1974.

252:100-13-5. Open burning prohibited

No person shall cause, suffer, allow, or permit open burning of refuse and other combustible material except as may be allowed in compliance with OAC 252:100-13-7. The open burning of refuse and combustible materials is prohibited unless conducted in strict accordance with the conditions and requirements contained in 252:100-13-7 and 252:100-13-9. Under no circumstances shall the open burning of tires be allowed.

252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]

No person shall cause, suffer, allow, or permit open burning of combustible material in connection with the salvage of motor vehicles, tires, oil and similar substances, containers, coated or painted wire and metals, and other materials.

252:100-13-7. Permissible-Allowed open burning

The open burning of refuse and other combustible material may be conducted as specified in the paragraphs set forth below if no public nuisance is or will be created and if the burning is not prohibited by, and is conducted in compliance with, other applicable laws and the ordinances, rules, and orders of governmental entities having jurisdiction, including air pollution control ordinances, rules, and orders. The authority to conduct open burning under the provisions of this Section does not exempt or excuse a person from the consequences, damages, or injuries which may result from such conduct nor does it excuse or exempt any person from complying with all applicable laws, ordinances, rules, and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this Section.

(1) Fires (a) Fire training. Open burning is allowed for fires purposely set for the instruction and training of public and industrial fire-fighting personnel, when authorized by the appropriate governmental entity provided that authorization has been requested from the local fire chief at least ten working days prior to any burning or that written authorization has been received prior to such burning. The DEO may require written verification of the authorization from the local fire chief or fire training officer.

(2)(b) Elimination of hazards. Fires set for the elimination of a fire hazard which cannot be abated by any other means when authorized by the appropriate governmental entity. Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:

(1) A fire hazard that cannot be abated by any other means.

(2) A dangerous or hazardous material when there is no other practical or lawful method of abatement or disposal if authorization is also received from the DEO prior to such burning.

(3) Fires set for the removal of dangerous or hazardous material where there is no other practical or lawful method of disposal upon approval of the Director of Air Quality Division.

(4) Camp (c) Recreational and ceremonial fires. Open burning is allowed for camp fires and other fires used solely for recreational purposes, for ceremonial occasions, or for outdoor non-commercial preparation of food.

(5)(d) Land management and land clearing operations. Open burning is allowed for the following land management and land clearing operations.

(1) Fires purposely set to forest, crop or range lands for a specific reason in the management of forests, crops or game, in accordance with practices recommended by the Oklahoma Department of Wildlife Conservation, the Oklahoma State Department of Agriculture, and the United States Forest Service.

(6)(2) The burning of trees, brush, grass, and other vegetable matter in the clearing of land, right of way maintenance operations, and agricultural crop burning if the following conditions are met: Fires purposely set for land clearing operations if conducted at least 500 feet upwind of any occupied residence other than those located on the property on which the burning is conducted, except that such burning must be conducted in open-pit incinerators in counties or areas that are or have been designated nonattainment.

(A) prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by air contaminants from the burning;

(B) the location of the burning must not be adjacent (500 ft. upwind) to an occupied residence other than those located on the property on which the burning is conducted;

(C) care must be used to minimize the amount of dirt on the material being burned;

(D) oils, rubber, and other similar materials which produce unreasonable amounts of air contaminants may not be burned;

(E) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,

(F) the burning must be controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.

(7)(e) Burning of domestic refuse. Where no collection and disposal service is reasonably available, the burning of refuse and other combustible materials generated in

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the operation of a domestic household if the following conditions are met: domestic refuse may be burned on the property where the waste is generated.

(A) the material to be burned must not be the combined waste be from a building designed to accommodate more than three such households;

(B) the burning must be conducted on the property on which the waste is generated; and,

(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated.

(8)(f) Hydrocarbon burning. Open burning of hydrocarbons is allowed for:

(1) The burning of hydrocarbons which are spilled or lost as a result of pipeline breaks or other accidents involving the transportation of such materials or which are generated as wastes as the result of oil exploration, development, refining, or processing operations if the following conditions are met: The disposal of spilled hydrocarbons or the waste products of oil exploration, development, refining or processing operations which cannot be feasibly recovered or otherwise disposed of in a legal manner. Notice must be given to the DEO prior to such burning.

(A) the material cannot be practicably recovered or otherwise lawfully disposed of in some other manner;

(B) the burning must not be conducted within a city or town or in such proximity thereto that the ambient air of such city or town may be affected by the air contaminants being emitted;

(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,

(D) the burning must be controlled so that a traffic hazard is not created as the result of the air contaminants being emitted.

(2) The disposal of waste hydrocarbons through a flare. The owner or operator shall be required to use a smokeless flare if a condition of air pollution is determined to exist by the DEO.

(9)(g) Open-pit incinerator. The burning of any combustible material in an open-pit incinerator which has been properly designed and which is properly operated for the control of smoke and particulate matter. Except for hazardous material, any combustible material or refuse that is allowed to be burned under this Subchapter may be burned in an open-pit incinerator that is properly designed and operated for the control of smoke and particulate matter. The owner or operator of the open-pit incinerator shall not accept any material owned by other persons and shall not transport any material to the property where the

open-pit incinerator is located in order to burn the material.

(10) The burning of hydrocarbons, which must be wasted, through the use of smokeless atmospheric flares if after investigation a condition of air pollution exists.

252:100-13-8. [RESERVED]

252:100-13-9. General conditions and requirements for allowed open burning

The open burning of refuse and other combustible material may be conducted as allowed in this Subchapter only if the following conditions and requirements are met:

(1) No public nuisance is or will be created.

(2) The burning is controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.

(3) The burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town.

(4) The initial burning shall begin only between three hours after sunrise and three hours before sunset and additional fuel shall not be intentionally added to the fire at times outside these limits. This requirement does not apply to the open burning allowed under 252:100-13-7(a), (b), (c), and (d)(1).

252:100-13-10. Disaster relief

Notwithstanding the prohibition in 252:100-13-5, the Executive Director of the DEO may allow the open burning of debris resulting from a disaster if the Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.

252:100-13-11. Responsibility for consequences of open burning

Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.

[OAR Docket #00-854; filed 5-4-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-859]

RULEMAKING ACTION:
PERMANENT final adoption

Air Quality Council

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING

* 9:00 A.M.

Tuesday, October 19, 1999
Tulsa City-County Auditorium
5051 South 129 Street East Avenue
Tulsa, Oklahoma

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. CY 2000 Meeting Schedule
 - A. Discussion by Council
4. Approval of Minutes of the August 24, 1999 Regular Meeting
5. Public Rulemaking Hearings
 - A. **OAC 252:100-4 New Source Performance Standards**

Proposal would update the incorporations by reference of the federal NSPS from 7-1-97 to 7-1-99. Previously, incorporated NSPS subparts that have been amended by the USEPA since 7-1-97 are: AA, AAa, Da, Db, Eb, and WWW. A new Subpart Ec has been added to the NSPS. Subpart Ce was added to 252:100-4-5 as an exception.

 1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
 - B. **OAC 252:100- 5 Registration, Emission Inventory and Annual Operating Fees**

Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; requires an owner or operator of a facility to report excess emissions on their annual emission inventory; requires inventories to be submitted one month earlier than presently required allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.

 1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
 - C. **OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation. The new language establishes a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5% of the process's operation time, whichever is greater, in a 3-month period. The burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

 1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
 - D. **OAC 252:100-13. Prohibition of Open Burning**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add certain definitions and notification requirements.

 1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

- E. COMBINED**
OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]
OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]
OAC 252:100-27 Particulate Matter Emissions from Industrial and Other Processes and Operation [REVOKED]
Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]
Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]
 Proposal would merge requirements into SC 19 and revoke SC 21 and SC 27. SC 19, as proposed, would simplify the language under the agency-wide re-right/de-wrong initiative. Also a Permit by Rule for particulate matter facilities is being proposed for SC 19. The graphics in Appendices C and D would be replaced by two new tabular appendices.
1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- F. OAC 252:100-35 Control of Emission of Carbon Monoxide [AMENDED]**
 Proposal would simplify and clarify the language under the agency-wide re-right/de-wrong initiative; and narrow the scope to specific sources that are the primary emitters of carbon monoxide. Other changes include addition of definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". Also, Section 35-3 would be revoked because performance testing requirements are already provided for in SC 8 and SC 43.
1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- H. OAC 252:100-41 Sections 15 and 16, Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
 Proposal would simplify and clarify the language under the agency-wide re-right/de-wrong initiative. The proposed changes to section 15 would incorporate by reference the MACT standards for hazardous air pollutants in 40 CFR 63 promulgated by EPA from 7-1-98 through 7-1-99. The proposed changes to section 16 would update to 7-1-99 the NESHAP found in 40 CFR 61.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- I. OAC 252:100-47 Control of Emission from Existing Municipal Solid Waste Landfills [AMENDED]**
 Proposal would amend to update the incorporation by reference of 40 CFR 60.751 through 60.759 to 7-1-99.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
6. Division Director's Report – Eddie Terrill
 7. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.
 8. Adjournment – Next Regular Meeting

Tuesday, December 14, 1999 DEQ Multi-Purpose Room

* Council decided at its August 24 meeting to begin early due to the number of agenda items

Lunch Break, if necessary

October 1, 1999

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Division Director ^{CT}
Air Quality Division

SUBJECT: Modifications to Subchapter 13

Enclosed is a copy of the proposed draft modifications to Subchapter 13, Prohibition of Open Burning. The rule will be brought to public hearing on October 19, 1999. Many of the proposed changes to the rule are intended to simplify and clarify the rule as part of the agency wide re-right/de-wrong initiative and include consolidating the general conditions and requirements for allowed open burning into a new section. A few substantive changes were made, such as adding definitions for "domestic refuse" and "land clearing operation" and a new section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. Information regarding open-pit incinerators was moved into a new section and amended. Owners or operators with an open-pit incinerator would be required to register with the local DEQ office and, if they locate an open-pit incinerator in the same pit for a period exceeding 90 days in a 365-day period, they would be required to obtain a permit from the Division.

Staff will recommend the rule be considered again at the next Air Quality Council meeting on December 14, 1999.

Enclosures: 1

SUBCHAPTER 13. ~~PROHIBITION OF~~ OPEN BURNING

Section

- 252:100-13-1. Purpose
- 252:100-13-2. Definitions
- 252:100-13-3. Scope [REVOKED]
- 252:100-13-4. Effective date [REVOKED]
- 252:100-13-5. Open burning prohibited
- 252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED].
- 252:100-13-7. ~~Permissible~~Allowed open burning
- 252:100-13-8. Open-pit incinerators
- 252:100-13-9. General conditions and requirements for allowed open burning
- 252:100-13-10. Disaster relief
- 252:100-13-11. Responsibility for consequences of open burning

SUBCHAPTER 13. ~~PROHIBITION OF OPEN BURNING~~

252:100-13-1. Purpose

~~This Subchapter is for the purpose of preventing, abating, and controlling air pollution resulting from air contaminants released in the open burning of refuse and other combustible materials. The purpose of this Subchapter is to control the open burning of refuse and other combustible materials.~~

252:100-13-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Combustible materials**" means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

"Domestic refuse" means combustible materials or refuse that normally result from the function of life at a residence, such as kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings. It does not include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances.

"Land clearing operation" means the uprooting, cutting, or clearing of vegetation in preparation for the construction of buildings, the development of residential, commercial, agricultural, or industrial properties, and for the construction and maintenance of right-of-ways. It does not include the clearing of vegetation such as trimmings, fallen limbs, branches, or leaves, or other wastes from routine property maintenance activities.

"Open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"Open-pit incinerator" means a device consisting of a pit (into which the material to be combusted is placed) and nozzles, pipes, and other appurtenances designed and arranged in a manner to deliver additional air and/or auxiliary fuel to, or near, the zone of combustion so that theoretically complete combustion is accomplished or approached.

"Products of combustion" means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials.

"Refuse" means garbage, rubbish, and all other wastes generated by a trade, business, industry, building operation, or household.

252:100-13-3. Scope [REVOKED]

~~This Subchapter shall apply to all operations involving open burning except those specifically exempted by 252:100-13-7.~~

252:100-13-4. Effective date [REVOKED]

~~The effective date of this Subchapter shall be January 1, 1971.~~

252:100-13-5. Open burning prohibited

~~No person shall cause, suffer, allow, or permit open burning of refuse and other combustible material except as may be allowed in compliance with OAC 252:100-13-7. The open burning of refuse and combustible materials is prohibited unless conducted in strict accordance with the conditions and requirements contained in 252:100-13-7, 252:100-13-8 and 252:100-13-9. Under no circumstances shall the open burning of tires be allowed.~~

252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]

~~No person shall cause, suffer, allow, or permit open burning of combustible material in connection with the salvage of motor vehicles, tires, oil and similar substances, containers, coated or painted wire and metals, and other materials.~~

252:100-13-7. ~~Permissible~~Allowed open burning

~~The open burning of refuse and other combustible material may be conducted as specified in the paragraphs set forth below if no public nuisance is or will be created and if the burning is not prohibited by, and is conducted in compliance with, other applicable laws and the ordinances, rules, and orders of governmental entities having jurisdiction, including air pollution control ordinances, rules, and orders. The authority to conduct open burning under the provisions of this Section does not exempt or excuse a person from the consequences, damages, or injuries which may result from such conduct nor does it excuse or exempt any person from complying with all applicable laws, ordinances, rules, and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this Section.~~

~~(1)(a) **Fire training.** Fires Open burning is allowed for fires purposely set for the instruction and training of public and industrial fire-fighting personnel, when authorized by the appropriate governmental entity provided that authorization from the local fire chief has been issued prior to any burning. The DEQ may require written verification of the authorization from the local fire chief or fire training officer.~~

~~(2)(b) **Elimination of hazards.** Fires set for the elimination of a fire hazard which cannot be abated by any other means when authorized by the appropriate governmental entity. Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:~~

~~(1) A fire hazard that cannot be abated by any other means.~~

~~(2) A dangerous or hazardous material when there is no other practical or lawful method of abatement or disposal if authorization is also received from the DEQ prior to such burning.~~

~~(3) Fires set for the removal of dangerous or hazardous material where there is no other practical or lawful method of disposal upon approval of the Director of Air Quality Division.~~

~~(4)(c) **Recreational and ceremonial fires.** Open burning is allowed for ~~Camp~~camp fires and other fires used solely for recreational purposes, ~~for~~ceremonial occasions, or ~~for~~outdoor non-commercial~~

preparation of food.

(5)(d) Land management and land clearing operations. Open burning is allowed for the following land management and land clearing operations.

(1) Fires purposely set to forest, crop or range lands for a specific reason in the management of forests, crops or game, in accordance with practices recommended by the Oklahoma Department of Wildlife Conservation, the Oklahoma State Department of Agriculture, and the United States Forest Service.

~~(6)(2) The burning of trees, brush, grass, and other vegetable matter in the clearing of land, right of way maintenance operations, and agricultural crop burning if the following conditions are met.~~ Fires purposely set for land clearing operations if conducted at least 500 feet upwind of any occupied residence other than those located on the property on which the burning is conducted.

~~(A) prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by air contaminants from the burning;~~

~~(B) the location of the burning must not be adjacent (500 ft. upwind) to an occupied residence other than those located on the property on which the burning is conducted;~~

~~(C) care must be used to minimize the amount of dirt on the material being burned;~~

~~(D) oils, rubber, and other similar materials which produce unreasonable amounts of air contaminants may not be burned;~~

~~(E) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~

~~(F) the burning must be controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.~~

(7)(e) Burning of domestic refuse. Where no collection and disposal service is reasonably available, the burning of refuse and other combustible materials generated in the operation of a domestic household if the following conditions are met: domestic refuse may be burned on the property where the waste is generated.

~~(A) the material to be burned must not be the combined waste from a building designed to accommodate more than three such households;~~

~~(B) the burning must be conducted on the property on which the waste is generated; and,~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated.~~

(8)(f) Hydrocarbon burning. Open burning of hydrocarbons is allowed for:

(1) The burning of hydrocarbons which are spilled or lost as a result of pipeline breaks or other accidents involving the transportation of such materials or which are generated as wastes as the result of oil exploration, development, refining, or processing operations if the following conditions are met: The

disposal of spilled hydrocarbons or the waste products of oil exploration, development, refining or processing operations which cannot be feasibly recovered or otherwise disposed of in a legal manner. Authorization must be obtained from the DEQ prior to such burning.

~~(A) the material cannot be practicably recovered or otherwise lawfully disposed of in some other manner;~~

~~(B) the burning must not be conducted within a city or town or in such proximity thereto that the ambient air of such city or town may be affected by the air contaminants being emitted;~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~

~~(D) the burning must be controlled so that a traffic hazard is not created as the result of the air contaminants being emitted.~~

(2) The disposal of waste hydrocarbons through a flare. The owner or operator shall be required to use a smokeless flare if a condition of air pollution is determined to exist by the DEQ.

~~(9) The burning of any combustible material in an open pit incinerator which has been properly designed and which is properly operated for the control of smoke and particulate matter.~~

~~(10) The burning of hydrocarbons, which must be wasted, through the use of smokeless atmospheric flares if after investigation a condition of air pollution exists.~~

252:100-13-8. Open-pit incinerators

(a) Open burning of combustible material in an open-pit incinerator, without an AOD permit, is allowed if the incinerator is registered and properly designed and operated for the control of smoke and particulate matter.

(b) Hazardous materials may not be burned in an open-pit incinerator unless there is no other practical or lawful method of abatement or disposal and such burning has been approved in writing by both the local fire chief and the DEQ.

(c) Before an open-pit incinerator may begin operation, the owner or operator must register the open-pit incinerator with the local DEQ office. An open-pit incinerator shall not be located in the same pit for a period exceeding 90 days in a 365 day period unless the owner or operator has obtained a permit from the Division.

252:100-13-9. General conditions and requirements for allowed open burning

The open burning of refuse and other combustible material may be conducted as allowed in this Subchapter only if the following conditions and requirements are met:

(1) No public nuisance is or will be created.

(2) The burning is controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.

(3) The burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town.

(4) The initial burning shall begin only between three hours after sunrise and three hours before sunset and additional

fuel shall not be intentionally added to the fire at times outside these limits. This requirement does not apply to the open burning allowed under 252:100-13-7(a), (b), (c), and (d) (1).

252:100-13-10. Disaster relief

Notwithstanding the prohibition in 252:100-13-5, the Executive Director of the DEQ may allow the open burning of debris resulting from a disaster if the Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.

252:100-13-11. Responsibility for consequences of open burning

Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.

MINUTES
AIR QUALITY COUNCIL
OCTOBER 19, 1999
Department of Environmental Quality
Tulsa City-County Health Department

Council Members Present

William B. Breisch, Chairman
David Branecky
Leo Fallon
Gary Kilpatrick
Sharon Myers
Joel Wilson

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Eric Milligan
Mymna Bruce

Council Members Absent

Larry Canter
Fred Grosz
Meribeth Slagell

Guests Present

**see attached list

Notice of Public Meeting for October 19, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors at the Tulsa City-County Health Department.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye. Dr. Canter, and Dr. Grosz did not attend. Mr. Breisch announced that Ms. Slagell had offered her resignation to the Governor.

CY 2000 Meeting Schedule - Council was presented with dates emulating the past years of the third Tuesday in February, April, June, August, October, and December. There was discussion to change the day of week to Wednesday of these months which would accommodate both staff and Council. Council voted to continue this item to the December 14 meeting. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Branecky to approve the Minutes as presented and second was made by Mr. Kilpatrick. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-4

New Source Performance Standards [AMENDED]

Ms. Michelle Martinez made staff presentation advising Council that the proposed amendments to Subchapter 4 would update the incorporations by reference of the federal NSPS from July 1, 1997 to July 1, 1999. She pointed out that previously incorporated NSPS subparts that had been amended by the EPA since July 1, 1997 were: AA, AAa, Da, Db, Eb, and WWW. She advised that a new Subpart Ec had been added to the NSPS and that Subpart Ce was added to 252:100-4-5. She advised that this was the first time for the proposal to be considered, but staff's recommendation would be to request that the rule be sent to the Environmental Quality Board for permanent and emergency adoption. She pointed out that since the amendments update the incorporation by reference of new federal rules, adoption as an emergency would allow the amended rule to take effect earlier than June 1, 2000 and make state rules consistent with federal rules.

Mr. Breisch entertained motion to forward this rule to the Environmental Quality Board for both emergency and permanent adoption. Motion was made by Mr. Kilpatrick and second to the motion was by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-5

Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram made the staff presentation advising that the proposed changes to Subchapter 5 were designed to allow the agency to bill annual operating fees on a flexible schedule, and that the changes should also allow the fees to be based on the most recent emission data possible. Ms. Buttram advised that the proposed rule language would also require an owner or operator of a facility to report excess emissions on their annual emission inventory. Ms. Buttram pointed out that substantive changes included the requirement that inventories were to be submitted one month earlier than presently required which would allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment. That change would also reduce the period of time to six months in which either the DEQ or the facility owner or operator could challenge the data or methods used to calculate the facility's emissions.

Ms. Buttram advised that comments had been received from Fort James and EPA which were included in this proposal and that comments from Weyerhaeuser received the day before would be considered in the next draft of the rule; therefore, staff recommended that the rule be continued to the December meeting.

Comments and questions were discussed from Council members and the audience. Comments were heard from Stephen Landers of Ft. James; Mike Wood, Weyerhaeuser; Howard Ground, Central and Southwest; Bill Fishback; Mid-Continent Oil and Gas; Tom Bauckham, Reliant Energy; Gary Collins, Terra. Following discussion, Mr. Breisch entertained motion to continue

the rule to Council's December 14 meeting per staff recommendation. Motion to continue was made by Ms. Myers with the second made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram gave the staff presentation advising that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language and was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Ms. Buttram pointed out substantive changes to the rule which included narrowing the scope of the rule to minor facilities only. She advised that a new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation advising that the new language would establish a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5 % of the process's operation time, whichever is greater, in a three-month period. Ms. Buttram added that the burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

Ms. Buttram entered into the record comments received from Mid-Continent Oil and Gas Association and from EPA. She further advised that the EPA comments indicated that further changes might need to be made to the rule due to their recent review of Oklahoma's SIP. Ms. Buttram advised that due to these comments, staff recommendation would be to continue this rule to the December meeting to allow staff more time to review the EPA guidance document. Mr. Tom Diggs, EPA, was asked to explain that document in detail and accepted comments regarding same. Additional comments were made by Bill Fishback.

Mr. Breisch entertained motion to continue this rule to the December meeting. Motion was made by Mr. Branecky with the second by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Mr. Dyke again called upon Ms. Jeanette Buttram who advised that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She pointed out that such changes include consolidating the general conditions and requirements for allowed open burning into a new section; and that a few substantive changes were made such as adding definitions for "domestic refuse" and "land clearing operation" and a section on disaster relief procedures. Ms. Buttram continued stating

that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added and that the open-pit incinerator requirements were moved to a new section. She pointed out the proposal would require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 90 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee adding that hazardous materials may not be burned in an open-pit incinerator unless prior written approval has been obtained from both the local fire chief and the DEQ.

Ms. Buttram entered written comments from EPA and a letter from the City of Hobart into the record.

Following questions and discussion by Council, Mr. Breisch entertained motion to continue this rule to the December meeting. Motion was made by Ms. Myers with the second by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARINGS (COMBINED HEARINGS ON SC 19, SC 21, and SC 27)

OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]

OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

OAC 252:100-27 Matter Emissions from Industrial and Other Processes and Operation [REVOKED]

APPENDIX C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]

APPENDIX D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]

APPENDIX C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]

APPENDIX D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]

Mr. Dyke called upon Mr. Max Price to make the staff presentation regarding these combined rules. Mr. Price advised that Subchapters 19, 21, and 27 all deal with particulate matter (PM) emissions and that the proposed changes merged the requirements of Subchapter 21 and Subchapter 27 into Subchapter 19; then Subchapters 21 and 27 would be revoked. Mr. Price pointed out that Subchapter 19 as proposed would be simplified and clarified according to the agency-wide re-right/de-wrong initiative. He advised that a permit by rule for particulate matter facilities is being proposed for Subchapter 19. Mr. Price also advised that the proposal included that Appendix C and Appendix D would be revoked in favor of two new tabular appendices.

Mr. Mike Wood, Weyerhaeuser, commented regarding the definition of "wood fuel". After much discussion, motion was made to by Mr. Wilson to amend Subchapter 19 to include the wording "for any wood derived fuel as approved by the Division"; to revoke subchapters 21 and 27; to revoke both Appendix C and Appendix D in favor of tabular appendices; and to send the rules to the Environmental Quality Board in one package for adoption as a permanent rule. Mr. Kilpatrick seconded that motion. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-35

Control Of Emission Of Carbon Monoxide [AMENDED]

Mr. Dyke called upon Ms. Michelle Martinez to make staff presentation. Ms. Martinez stated that the proposed changes to Subchapter 35 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative; and that the scope of the Subchapter would be narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Ms. Martinez added that other changes included the addition of the definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". She further advised that Section 35-3, Performance Testing, would be revoked because performance testing requirements are already provided for in Subchapters 8 and 43.

Ms. Martinez advised that staff's recommendation was to send the rule to the Environmental Quality Board for adoption as permanent and emergency. Mr. Breisch entertained motion which was made by Mr. Fallon. The second was made by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-41 Sections 15 and 16

Control Of Emission Of Hazardous and Toxic Air Contaminants [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who advised that changes are being proposed for section 15 would incorporate by reference the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR 63 that have been promulgated by the EPA from July 1, 1998, through July 1, 1999. These are subparts HH, SS, TT, UU, WW, YY, CCC, DDD, EEE, GGG, HHH, III, LLL, MMM, NNN, PPP, TTT, and XXX. Ms. Bradley continued that the DEQ is also proposing to update to July 1, 1999 the incorporation by reference in 252:100-41-16 of the National Emission Standards for Hazardous Air Pollutants (NESHAP) found in 40 CFR 61. She added that other minor revisions are proposed to Section 15 and 16 to clarify, simplify and correct these sections as required by statute.

Ms. Bradley advised that staff's recommendation would be to send to the rule to the Environmental Quality Board for adoption as permanent and emergency rule. She advised that since the amendments update the incorporation by reference of new federal rules, adoption as an emergency rule would allow the amended rules to take effect earlier and minimize the lag time in making the state program consistent with the federal program. Mr. Breisch entertained motion which was made by Mr. Kilpatrick. The second was made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-47

Control of Emissions from Existing Municipal Solid Waste Landfills [AMENDED]

Mr. Dyke again called upon Ms. Cheryl Bradley who advised that the modifications to Subchapter 47 would update the incorporation by reference of 40 CFR 60.751 through 60.759 to July 1, 1999. She advised that one comment had been received from the EPA in support of the proposed amendments. She continued that it would be staff's recommendation to send the rule to the Environmental Quality Board for permanent and emergency adoption as adoption as an emergency rule would allow the amended rule to take effect earlier than June 1, 2000 and thereby minimize confusion for regulated landfills. Mr. Breisch entertained motion which was made by Mr. Fallon. The second was made by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes

DIVISION DIRECTOR'S REPORT

Mr. Dyke announced that the Council representative for agriculture, Meribeth Slagell, had turned in her letter of resignation from the Council. Also, Scott Thomas stated that due to a recent remand of the revised ozone, PM-2.5 and PM-10, staff plans on bringing this matter to public hearing at the December Council.

NEW BUSINESS - It was decided that the next meeting would again begin at 9:00 a.m. due to the number of agenda items and would follow the same format.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be December 14, 1999 in the Multipurpose Room of the DEQ in Oklahoma City beginning at 9:00 a.m.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

October 19, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. John Snow	DAVIS	405-640-96
2. Howard Ground	CSW	214-777-1711
3. Tom Diggins	EPA R-6	214-665-7214
4. Terry Thomas	EPA R-6	214-665-716
5. FRANK LONDON	EQ BOARD	
6. Preston Batels	midland	915 522 1102
7. BILL FISHBACK	MOBIL ^{3424 LYNN TPA} _{Edmond, OK 73013}	405-348-8683
8. Bonnie M. Gilbra	2122 S. Yukon Tulsa	918- 275-3920 ⁵⁸⁵⁻³⁹²⁰
9. Melody D. Dummars	OSU	
10. TERRI Waltman	ENERCON	918-665-7693
11. RON SOBBER	RFS CONSULTING	918 663 9350
12. LE ANNE BURNETT	20 N. BROADWAY, OKC	405-239-661
13. ANNE SCHAEFER	TINKER AFB	405. 734. 7071
14. GERI HART	TINKER AFB	405. 734. 7071
15. Merle Fritz	Simclair Oil Corp	918 584 5025
16. Terrell Mitchell	Fort James	918 683 7671x3
17. Perry Friedrich	GRDA - Chateau	918 476-8268
18. Mike Wood	Weyerhaeuser	501-624-8569
19. GILL LUTON	Fort James	918-683-7671 ext 3
20. Steve Landers	"	" " 48
21. Dustin Givens	"	" " 45
22. GARY COLLINS	TERRA	918 266 1511
23. David Murrells	TERRA	918 266 1511
24. BILL CLARKE	Sunoco	918-594-6368
25. Pat Davenport	National Std.	405/377-5050

Stillwater

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Kirk Rutter Boeing	3330 Mingo Tulsa,	(918) 832-3178
27. Jon BEXUS MASTITON	2301 NW Expwy, OKC,	
28. Tom BAUCKHAM Reliant Energy	109 N.W. 50 th OKC	(405) 556-242
29. LEE PADEW ODEQ BOARD	P.O. Box 52072 TULSA	918-743-705
30. Rick Teem OBIA	" " 1307 Enco, OK	73702
31. Dawson Lassetter ODEQ	707 N Robinson OKC	702-4180
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AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
*** 9:00 A.M.**
Tuesday, December 14, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson
Oklahoma City Oklahoma

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. CY 2000 Meeting Schedule
 - A. Discussion by Council
 - B. Roll call vote
4. Resolution for Meribeth Slagell
5. Approval of Minutes of the October 19, 1999 Regular Meeting
6. Public Rulemaking Hearings

A. OAC 252:100 Appendices E and F [AMENDED]

Appendix E Primary Ambient Air Quality Standards [REVOKED]

Appendix E Primary Ambient Air Quality Standards [NEW]

Appendix F Secondary Ambient Air Quality Standards [REVOKED]

Appendix F Secondary Ambient Air Quality Standards [NEW]

Proposal would restore the primary and secondary ambient air quality standards for ozone and particulate matter to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

1. Presentation – Michelle Martinez
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

B. OAC 252:100- 5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; to require an owner or operator of a facility to report excess emissions on their annual emission inventory; to require inventories to be submitted one month earlier than presently required; to allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and to reduce the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

C. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include establishing a time limit on excess emissions caused by properly reported malfunctions, startup/shutdowns, and maintenance procedures. The burden of proving that excess emissions occurring more than eight hours or 1.5 percent of the process's operation time in a 3-month period are due to excusable malfunctions, startup/shutdowns or maintenance procedures rather than negligent, marginal, or improper operation is on the owner or operator of the process. Language was added to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement; and additional demonstration requirements for malfunctions, maintenance, and startup/shutdowns were added under proposed section 252:100-9-3.2, Demonstration of cause.

1. Presentation – Jeanette Buttram

2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

D. OAC 252:100-13. Prohibition of Open Burning [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add definitions for "domestic refuse" and "land clearing operation" along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were expanded and moved to a new section. Also the rule would only allow material from a land clearing operation to be burned in an open-pit incinerator.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

E. OAC 252:100- 23 Control of Emissions from Cotton Gins [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-23-3(a) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

F. OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-24-3(a)(1) and (2) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

G. OAC 252:2-15 Environmental Permit Processing Times [AMENDED]

The proposal would change the terms used in 252:2-15-40, 41 and 72 to be consistent with those used in 252:100, Air Pollution Control. The terms "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

7. Division Director's Report – Eddie Terrill

8. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

9. Adjournment – Next Regular Meeting

Date and Time: To Be Announced
Place: DEQ Multi-Purpose Room - OKC

* Council decided at its October 19 meeting to begin at 9:00 a.m. due to the number of agenda items.

Lunch Break, if necessary

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 720-4100.

November 30, 1999

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director ^{C.A.}
Air Quality Division

SUBJECT: Modifications to Subchapter 13

Enclosed is a copy of the proposed draft modifications to Subchapter 13, Prohibition of Open Burning. The rule was presented at the October 19, 1999, Council meeting and will be brought to public hearing again on December 14, 1999. Changes to the rule since the last council meeting include a new condition for land management and land clearing operations that will require the use of open-pit incinerators in counties or areas that are or have been designated nonattainment. We will also recommend that the proposed section for open-pit incinerators not be included in the final rule. Instead, the existing language on open-pit incinerators was clarified and expanded.

Staff will suggest that the proposed rule as amended be recommended for adoption by the Board as a permanent rule.

Enclosures: 1

SUBCHAPTER 13. ~~PROHIBITION OF~~ OPEN BURNING

Section

- 252:100-13-1. Purpose
- 252:100-13-2. Definitions
- 252:100-13-3. Scope [REVOKED]
- 252:100-13-4. Effective date [REVOKED]
- 252:100-13-5. Open burning prohibited
- 252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]
- 252:100-13-7. ~~Permissible~~Allowed open burning
- 252:100-13-8. Open-pit incinerators [REMOVE]
- 252:100-13-9. General conditions and requirements for allowed open burning
- 252:100-13-10. Disaster relief
- 252:100-13-11. Responsibility for consequences of open burning

SUBCHAPTER 13. ~~PROHIBITION OF OPEN BURNING~~

252:100-13-1. Purpose

~~This Subchapter is for the purpose of preventing, abating, and controlling air pollution resulting from air contaminants released in the open burning of refuse and other combustible materials. The purpose of this Subchapter is to control the open burning of refuse and other combustible materials.~~

252:100-13-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Combustible materials" means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

"Domestic refuse" means combustible materials or refuse that normally result from the function of life at a residence, such as kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings. It does not include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances.

"Land clearing operation" means the uprooting, cutting, or clearing of vegetation in preparation for the construction of buildings, the development of residential, commercial, agricultural, or industrial properties, and for the construction and maintenance of right-of-ways. It does not include the clearing of vegetation such as trimmings, fallen limbs, branches, or leaves, or other wastes from routine property maintenance activities.

"Open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"Open-pit incinerator" means a device consisting of a pit (into which the material to be combusted is placed) and nozzles, pipes, and other appurtenances designed and arranged in a manner to deliver additional air and/or auxiliary fuel to, or near, the zone of combustion so that theoretically complete combustion is accomplished or approached.

"Products of combustion" means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials.

"Refuse" means garbage, rubbish, domestic refuse and all other wastes generated by a trade, business, industry, building operation, or household.

252:100-13-3. Scope [REVOKED]

~~This Subchapter shall apply to all operations involving open burning except those specifically exempted by 252:100-13-7.~~

252:100-13-4. Effective date [REVOKED]

~~The effective date of this Subchapter shall be January 1, 1971.~~

252:100-13-5. Open burning prohibited

~~No person shall cause, suffer, allow, or permit open burning of refuse and other combustible material except as may be allowed in compliance with OAC 252:100-13-7.~~ The open burning of refuse and combustible materials is prohibited unless conducted in strict accordance with the conditions and requirements contained in 252:100-13-7, 252:100-13-8 and 252:100-13-9. Under no circumstances shall the open burning of tires be allowed.

[Agency Note: Staff will propose reference to 252:100-13-8 not be included in the final rule recommended to the Environmental Quality Board if section 100-13-8 is not included in the final rule]

252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]

~~No person shall cause, suffer, allow, or permit open burning of combustible material in connection with the salvage of motor vehicles, tires, oil and similar substances, containers, coated or painted wire and metals, and other materials.~~

252:100-13-7. ~~Permissible~~ Allowed open burning

~~The open burning of refuse and other combustible material, may be conducted as specified in the paragraphs set forth below if no public nuisance is or will be created and if the burning is not prohibited by, and is conducted in compliance with, other applicable laws and the ordinances, rules, and orders of governmental entities having jurisdiction, including air~~

~~pollution control ordinances, rules, and orders. The authority to conduct open burning under the provisions of this Section does not exempt or excuse a person from the consequences, damages, or injuries which may result from such conduct nor does it excuse or exempt any person from complying with all applicable laws, ordinances, rules, and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this Section.~~

~~(1)(a) Fire training. Fires Open burning is allowed for fires purposely set for the instruction and training of public and industrial fire-fighting personnel, when authorized by the appropriate governmental entity provided that authorization from the local fire chief has been issued prior to any burning. The DEQ may require written verification of the authorization from the local fire chief or fire training officer.~~

~~(2)(b) Elimination of hazards. Fires set for the elimination of a fire hazard which cannot be abated by any other means when authorized by the appropriate governmental entity. Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:~~

~~(1) A fire hazard that cannot be abated by any other means.~~

~~(2) A dangerous or hazardous material when there is no other practical or lawful method of abatement or disposal if authorization is also received from the DEQ prior to such burning.~~

~~(3) Fires set for the removal of dangerous or hazardous material where there is no other practical or lawful method of disposal upon approval of the Director of Air Quality Division.~~

~~(4)(c) Recreational and ceremonial fires. Open burning is allowed for Campcamp fires and other fires used solely for recreational purposes, ~~for~~ ceremonial occasions, or ~~for~~ outdoor non-commercial preparation of food.~~

~~(5)(d) Land management and land clearing operations. Open burning is allowed for the following land management and land clearing operations.~~

~~(1) Fires purposely set to forest, crop or range lands for a specific reason in the management of forests, crops or game, in accordance with practices recommended by the Oklahoma Department of Wildlife Conservation, the Oklahoma State Department of Agriculture, and the United States Forest Service.~~

~~(6)(2) The burning of trees, brush, grass, and other vegetable matter in the clearing of land, right of way maintenance operations, and agricultural crop burning if the following conditions are met: Fires purposely set for land clearing operations if conducted at least 500 feet upwind of any occupied residence other than those located on the property on which the burning is conducted, except that such burning must be conducted in open-pit incinerators in counties or areas that are or have been designated nonattainment.~~

- ~~(A) prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by air contaminants from the burning;~~
- ~~(B) the location of the burning must not be adjacent (500 ft. upwind) to an occupied residence other than those located on the property on which the burning is conducted;~~
- ~~(C) care must be used to minimize the amount of dirt on the material being burned;~~
- ~~(D) oils, rubber, and other similar materials which produce unreasonable amounts of air contaminants may not be burned;~~
- ~~(E) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~
- ~~(F) the burning must be controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.~~

~~(7)(e) Burning of domestic refuse. Where no collection and disposal service is reasonably available, the burning of refuse and other combustible materials generated in the operation of a domestic household if the following conditions are met: domestic refuse may be burned on the property where the waste is generated.~~

- ~~(A) the material to be burned must not be the combined waste be from a building designed to accommodate more than three such households;~~
- ~~(B) the burning must be conducted on the property on which the waste is generated; and,~~
- ~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated.~~

~~(8)(f) Hydrocarbon burning. Open burning of hydrocarbons is allowed for:~~

~~(1) The burning of hydrocarbons which are spilled or lost as a result of pipeline breaks or other accidents involving the transportation of such materials or which are generated as wastes as the result of oil exploration, development, refining, or processing operations if the following conditions are met. The disposal of spilled hydrocarbons or the waste products of oil exploration, development, refining or processing operations which cannot be feasibly recovered or otherwise disposed of in a legal manner. Notice must be given to the DEQ prior to such burning.~~

~~(A) the material cannot be practicably recovered or otherwise lawfully disposed of in some other manner;~~

~~(B) the burning must not be conducted within a city or town or in such proximity thereto that the ambient air of such city or town may be affected by the air contaminants being emitted;~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~

~~(D) the burning must be controlled so that a traffic hazard is not created as the result of the air contaminants being emitted.~~

(2) The disposal of waste hydrocarbons through a flare. The owner or operator shall be required to use a smokeless flare if a condition of air pollution is determined to exist by the DEQ.

~~(9)(g) Open-pit incinerator. The burning of any combustible material in an open pit incinerator which has been properly designed and which is properly operated for the control of smoke and particulate matter. Except for hazardous material, any combustible material or refuse that is allowed to be burned under this Subchapter may be burned in an open-pit incinerator that is properly designed and operated for the control of smoke and particulate matter. The owner or operator of the open-pit incinerator shall not accept any material owned by other persons and shall not transport any material to the property where the open-pit incinerator is located in order to burn the material.~~

~~(10) The burning of hydrocarbons, which must be wasted, through the use of smokeless atmospheric flares if after investigation a condition of air pollution exists.~~

252:100-13-8. Open-pit incinerators

(a) Vegetation generated during a land clearing operation may be burned in an open-pit incinerator, without an AOD permit, if the incinerator is registered and properly designed and operated for the control of smoke and particulate matter.

(b) Before an open-pit incinerator may begin operation, the owner or operator must register the open-pit incinerator with the local DEQ office.

(c) An open-pit incinerator shall not be located in the same pit for a period exceeding 30 days in a 365 day period unless the owner or operator has obtained a permit from the Division.

[Agency Note: Staff will propose this new section not be included in the final rule recommended to the Environmental Quality Board]

252:100-13-9. General conditions and requirements for allowed open burning

The open burning of refuse and other combustible material may be conducted as allowed in this Subchapter only if the following conditions and requirements are met:

- (1) No public nuisance is or will be created.
- (2) The burning is controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.
- (3) The burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town.
- (4) The initial burning shall begin only between three hours after sunrise and three hours before sunset and additional fuel shall not be intentionally added to the fire at times outside these limits. This requirement does not apply to the open burning allowed under 252:100-13-7(a), (b), (c), and (d) (1).

252:100-13-10. Disaster relief

Notwithstanding the prohibition in 252:100-13-5, the Executive Director of the DEQ may allow the open burning of debris resulting from a disaster if the Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.

252:100-13-11. Responsibility for consequences of open burning

Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.

MINUTES
AIR QUALITY COUNCIL
DECEMBER 14, 1999
Department of Environmental Quality
MultiPurpose Room - 707 North Robinson, OKC

Council Members Present

William B. Breisch, Chairman
Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Myrna Bruce

Council Members Absent

Larry Canter
Sharon Myers
Gary Kilpatrick

Guests Present

**see attached list

Notice of Public Meeting for December 14, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye. Dr. Canter, Ms. Myers, and Mr. Kilpatrick did not attend. Mr. Breisch and Mr. Terrill presented Meribeth Slagell a Resolution from the Council and Certificate of Appreciation from Mr. Coleman and thanked her for her years of dedicated service on the Council. Mr. Breisch introduced new Council member, Rick Treeman, who was appointed by the Governor to replace the position vacated by Mrs. Slagell.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Fallon to approve the Minutes as presented and second was made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

CY 2000 Meeting Schedule - Staff suggested the following Year 2000 meeting dates:

Wednesday, February 16 at Tulsa
Wednesday, April 19 at Lawton
Wednesday, June 14 at Tulsa
Wednesday, August 16 at Ponca City
Wednesday, October 18 at Oklahoma City
Wednesday, December 14 at Oklahoma City

Motion to accept the schedule was made by Mr. Fallon with second by Mr. Branecky with following vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100- Appendices E & F

Appendix E Primary Ambient Air Quality Standards [AMENDED]

Appendix F Secondary Ambient Air Quality Standards [AMENDED]

Ms. Michelle Martinez made the staff presentation stating that the proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards for ozone to what they were prior to June 1, 1999. She advised that the 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored; and that the PM-2.5 standards would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

Ms. Martinez entered into the record a fax received from EPA Region 6 dated December 10, 1999 which stated that updating these appendices was timely and appropriate. Ms. Martinez then asked that Council recommend proposed Appendices E and F to the Environmental Quality Board for permanent adoption.

Following discussion, Mr. Breisch asked for a motion to recommend the rule for adoption. Mr. Branecky made motion to recommend to the Board for permanent/emergency adoption. Second was made by Mr. Fallon. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-5

Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram presented the staff presentation and advised that the proposed changes to Subchapter 5 were designed to allow the agency the ability to bill annual operating fees on a flexible schedule, and that these changes would also allow the fees to be based on the most recent emission data possible. Ms. Buttram pointed out that the proposed rule clarified that an owner or operator of a facility must report quantifiable excess emissions on their annual emission inventory. She stated that substantive changes included the requirement that all inventories be submitted prior to March 1, and the Agency would provide up to a 30-day extension upon request. Council made a recommendation that the language be changed to allow an additional 30-day extension for good cause shown. Also, the rule will allow fee payers five years after payment is made to notify the DEQ that they overpaid and receive

credit for such overpayment. Also, new language was proposed to reduce to six months after inventories are due or submitted, the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the methods used to calculate the facility's emissions for "fee calculation purposes."

Ms. Buttram advised that comments had been received from Central and Southwest Services and she entered them into the record. She stated that it was staff's recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Following comments from Council members and the audience, changes were made in the wording and Mr. Wilson made a motion to forward this rule, with changes, to the Environmental Quality Board for adoption. Second was made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram was called upon to make the staff recommendation for this rule. She stated that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language; and that the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative.

Substantive changes include the addition of new definitions and the addition of a new subsection for certification of the information submitted.

Also, language was added under 100-9-3.3, Demonstration of cause, which states excess emissions caused by malfunction and maintenance, start-up/shutdown, can be exempt from compliance which air emission limitations established in permits, rules, orders of the DEQ if the owner/operator properly complies with the requirements in 252:100-9-3.1 and 252:100-9-3.2, respectively; and meets the demonstrations listed in those subsections. Then additional subsections added to 100-9-3.3 were discussed.

Ms. Buttram advised that comments had been received from EPA Region 6 and from Central and Southwest Services and entered them into the record. She stated that staff suggested that the rule be recommended for adoption by the Environmental Quality Board.

After much discussion with staff, Council, and audience members, Mr. Breisch called for a motion. Mr. Fallon made motion to continue this rule to the next regular meeting. Mr. Branecky made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Ms. Jeanette Buttram was called upon to give the staff recommendation concerning this rule. She stated that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She added that such changes included consolidating the general conditions and requirements for allowed open burning into a new section. She pointed out that a few substantive changes were made such as adding definitions for "domestic refuse" and "landclearing operation" and a section on disaster relief procedures; and that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. Ms. Buttram stated that new language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. She stated that existing language on open-pit incinerators was expanded it would now prohibit accepting any material owned by other persons and from transporting any material to be burned to the property where the open-pit incinerator is located. She advised that it was staffs recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Ms. Buttram entered written comments from Central and Southwest Services into the record. Following questions and discussion by Council, changes were made in the wording after which Mr. Breisch entertained motion to accept the changes made and forward the rule to the Board for adoption as a permanent rule. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

Mr. Dyke called upon Mr. Max Price who advised Council that the proposed changes to 100-23-3 and 100-24-3, would substitute references to 252:100-19-12 for references to Subchapter 27. He added that these revisions were necessary because the substantive requirements of Subchapter 27 would be moved to 100-19-12 and Subchapter 27 would be revoked in June of 2000. He added that the references to Subchapter 27 would become meaningless unless they are replaced by references to 100-19-12. Mr. Price stated that it was staff's recommendation that Council refer these rules to the Environmental Quality Board for emergency adoption effective June 1, 2000.

Mr. Breisch stated that these two rules would be voted on separately and called for a motion on Subchapter 23. Mr. Wilson made the motion to forward to the Board as recommended

by staff. The second made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Mr. Breisch then called for the same motion for Subchapter 24. Mr. Branecky made the motion and Dr. Grosz made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:2-15

Environmental Permit Processing Times [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who stated that the proposed amendments to Sections 40, 41, and 72 would make them consistent with 252:100, Air Pollution Control; and that the references to "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and Part 70 source(s)", respectively. She added that changes were also made at the Council meeting to section 2-15-72(1)(A) such that the phrase "and part 70 sources" was added along with changing the number of days from 540 to 365. Ms. Bradley stated that comments had been received from EPA Region 6 and she entered them into the record. Following discussion Ms. Bradley advised that it was staff's recommendation that Council refer this rule to the Board for permanent adoption of the proposed amendments. Mr. Breisch called for a motion. Mr. Branecky made motion to accept the changes as stated and forward the rule to the Board for adoption. Mr. Fallon made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

DIVISION DIRECTOR'S REPORT - Mr. Terrill advised that he and Mr. Dyke would be attending a meeting with Central States Air Resources Board (CenSARA) to discuss, among other things, the status of the Regional Planning Body activities. He stated that he would like to take a few minutes at the next regular meeting for an update on these activities.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 16, 2000 at 9:00 a.m. in the Auditorium at OSU-Tulsa (formerly UCAT).

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 14, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	CSW	ADDRESS	TELEPHONE
1. Howard Ground		PO Box 460164 Dallas TX.	214-777-1711
2. Tom Diggs		U.S EPA Reg. 1445 Ross Ave Dallas TX	214-465-7214
3. LEE Moody	Trinity	DALLAS	972 661 8100
4. John Wheeler	"	"	"
5. Marty Smith	Duke Energy	New	(303) 589 3331
6. Mike Peters	McKinney & Steiger		(405) 272-1907
7. ^{Sundee} Bill CLARK		P.O. Box 2039, Tulsa OK	918-594-6368
8. Preston Bailey	Harver Corp.	3815 Douglas Mill Rd TX 74103	918 699 5214
9. FRANK CONDON	EQ BOARD		
10. Wilbur Stager		Rt 1/Box 182 N. Okla	405 663 2290
11. BILL FISHBACK		3424 LYAL TER EDMOND	405-348-8683
12. KEN WILLIAMS		320 S. Boston, Tulsa OK	918-594-0519
13. LEE PADEN	ODEQ Based	P.O. Box 52072, Tulsa 74152	918-743-71
14. Laura Armistead	Reliant Energy	P.O. Box 21734 Spout, LA 71118	318 429 370
15. Tom Bruckman	Reliant Energy	189 NW 50th OKC	OK 73118 405-556-24
16. DUSTIN GIVENS		Ft. James 4701 Chandler Rd, Mustang	918/68
17. Steve Sanders	"	"	"
18. Adam Kitz	Mayor's Office		
19. Vance McSpadden		5115 N. Western OKC	842-6625
20. Kirk Potter	Boeing-Tulsa	3330 N. Mingo Tulsa	832-3178
21. Caryl Barker		7701 Arndal St, Suite 204, TAFB OK 73115	736-5986
22. Bob Kellogg	OKC		405 355-0808
23. Travis Tindle	2500 S. Council, OKC	OKC, OK 73128	405 745-4442 ext 2
24. DAVID FARRAND		P.O. Box 3288 Tulsa OK 74101	918-573-4489
25. ERICA Schwenneker		301 NW 63rd Street #215, OKC	73116

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. <u>Michael Pink</u>	<u>111106</u>	<u>918 584 7526</u>
27. <u>Cary Collins</u>	<u>TERRA</u>	<u>918 266 1511</u>
28. <u>Pat Davenport</u>	<u>N-S</u>	<u>405 377 5050</u>
29. <u>Jon Brock</u>	<u>Marathon Oil Co</u>	<u>405-720-5532</u>
30. <u>Deanne Hughes</u>	<u>Cardenal Engineering</u>	<u>842-1006</u>
31. <u>Julia Bevers</u>	<u>321 N. Hawley 77101</u>	<u>553-3439</u>
32. <u>Charles Jeffers</u>	<u>DEO / ROAT</u>	<u>918 961-7412</u>
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-13

Subchapters or Sections Involved – [new, amended or revoked]

OAC 252:100-13. Prohibition of Open Burning

On December 14, 1999 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

X permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Chair or Designee

Date signed: December 13, 1999

VOTING TO APPROVE:

Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz
Bill Breisch

VOTING AGAINST:

ABSTAINING:

ABSENT:

Larry Canter
Sharon Myers
Gary Kilpatrick

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, February 25, 2000
Department of Environmental Quality
707 North Robinson
Oklahoma City, Oklahoma 73102

NOTE: The business meeting of the Board will be preceded at 8:30 a.m. by a continental breakfast. No business will be conducted, but there will be opportunity for an informal interchange among attendees, particularly on matters of interest raised by individual Board members. Board members and DEQ staff will be present, and the public may attend.

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 16, 1999 Regular Meeting
4. **Election of Officers**
Election of Chair and Vice-Chair for 2000
5. **Rulemaking – OAC 252:002 Procedures of the DEQ (Administrative Fees)**
The proposed rule relates to administrative fees. The Oklahoma Open Records Act allows an agency to charge a document copying fee, a fee for certified copies, and a reasonable fee for document searches when the search request is solely for a commercial purpose or clearly would cause an excessive disruption of the agency's essential functions. Fees must be promulgated as rules under the Administrative Procedures Act (1999 Okl.Op.Atty.Gen. 55, August 17, 1999). The proposed rule establishes a photocopy fee of \$0.25 per page, a certified copy fee of \$1.00 per document, and a document search fee of \$5.00 per one-half (1/2) hour (with the first 15 minutes free).
 - A. Presentation – Jimmy Givens, DEQ General Counsel
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption
6. **Rulemaking – OAC 252:100 Air Pollution Control**
Four sets of changes are proposed:
 - Subchapter 5: The proposed amendments are designed to allow the agency to bill on a flexible schedule those owners and operators with sources that produce emissions. The changes also allow the fees to be based on the most recent emission data possible. The proposal clarifies that an owner or operator of a facility must report quantifiable excess emissions on the annual emission inventory, which must be submitted prior to March 1 unless an extension is granted. The proposal also establishes time frames for requests for credit based on overpayment and for challenges to the method used to calculate the facility's emissions for fee calculation purposes.
 - Subchapter 13: The proposed amendments simplify and clarify the rule as part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. Some substantive changes were made,

including adding a section on disaster relief procedures; requiring notification to the DEQ or other appropriate official for authorization to burn in some circumstances; requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators; and prohibiting burning of off-site material in open-pit incinerators.

- Subchapters 23 and 24: The changes replace references to Subchapter 27 with references to 252:100-19-12. These changes are necessary because, based on Board action last November, the substantive requirements of Subchapter 27 will be moved to section 252:100-19-12 and Subchapter 27 will be revoked, effective June of 2000.
- Appendices E and F: The proposed amendments restore the primary and secondary ambient air quality standards to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.
 - A. Presentation— David Branecky, Air Quality Council Member
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption of amendments to Subchapters 5 and 13, on emergency adoption* (only) of amendments to Subchapters 23 and 24, and on both permanent and emergency adoptions of amended Appendices E and F

7. Rulemaking— OAC 252:002 Procedures of the DEQ (Air Quality-Related)

The Department is proposing amendments to the air quality provisions of OAC 252:2-15, Environmental Permit Processing Times, to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

- A. Presentation— David Branecky, Air Quality Council Member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

8. Rulemaking— OAC 252:205 Hazardous Waste Management

Two sets of changes are proposed:

- Subchapter 3: The proposed amendment to OAC 252:205-3-1 updates the adoption by reference of federal hazardous waste regulations to July 1, 1999. Proposed revisions to 252:205-3-3 incorporate new or superseding amendments to 40 CFR contained in 64 FR 36465-36490, published July 6, 1999, which add hazardous waste lamps as a universal waste at the federal level. Corresponding changes are made in other sections.
- Subchapters 5 and 9: The proposed revisions to 252:205-5 move language from 252:205-5-5(b) to 252:205-5-3(b)(5). The amendment to 252:205-9-6 provides alternative waste characterization mechanisms for off-site hazardous waste facilities.

- A. Presentation— Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption of amendments to Subchapter 3, and on permanent adoption of amendments to Subchapters 5 and 9

9. Rulemaking – OAC 252:220 Brownfields

The proposed language is the result of recent legislation. It states the criteria by which the DEQ will verify loan application eligibility of Brownfields sites for loans from the Wastewater Facility Construction Revolving Loan Account and other state funding sources.

- A. Presentation – Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption

10. Rulemaking – OAC 252:615 and 616 Industrial Wastewater Systems

Chapter 615 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 615 be revoked and a new Chapter 616 created to replace it. Language has been simplified and clarified and rules deemed unenforceable have been removed.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

11. Rulemaking – OAC 252:630 and 631 Public Water Supply Operation

Chapter 630 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 630 be revoked and a new Chapter 631 created to replace it. Language has been simplified and clarified and unenforceable rules have been removed. The most recent federal requirements for maintaining primacy over the Safe Drinking Water Act program have been included.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

12. Rulemaking – OAC 252:641 On-Site Sewage Disposal Systems

The proposed rule amendments eliminate the document search fee, combination fee (soil percolation test and final inspection or existing system evaluation report) and residential plat review fees, and reduce the soil percolation/soil profile fee, final inspection fee, existing system evaluation fee and the certified installer final inspection fee.

- A. Presentation – Gary Collins, Director, DEQ Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

13. **Rulemaking-- OAC 252:700 and 710 Waterworks/Wastewater Works Operator Certification**
Chapter 700 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 700 be revoked and a new chapter 710 created to replace it. New subchapters have been created; many rules have been simplified and/or broken into several shorter rules for clarity; and statutory citations have been updated. The rules for landfill operator certification are being revoked as inappropriate to these chapters.

- A. Presentation-- Rick Stebbens, Waterworks and Wastewater Works Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

14. **Rulemaking-- OAC 252:002 Procedures of the DEQ (Operator Certification-Related)**

The DEQ proposes that Section 252:2-15-49 be revoked as part of the "re-right/de-wrong" rules simplification process. This revocation does not affect the operator certification program or the proposed rules in Chapter 710. The basic Tier I permitting process was designed for environmental permits where notice was given to landowners. The DEQ believes that personal licensure should not have been included in the Tier categories.

- A. Presentation-- Rick Stebbens, Waterworks and Wastewater Works Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

15. **New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)**

16. **Executive Director's Report**

17. **Adjournment**

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from the DEQ Water Quality Division about State Water Quality Standards implementation, the State "303(d)" (impaired waters) list, and related issues.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until on or about June 1st.

SUBCHAPTER 13. ~~PROHIBITION OF OPEN BURNING~~

252:100-13-1. Purpose

~~This Subchapter is for the purpose of preventing, abating, and controlling air pollution resulting from air contaminants released in the open burning of refuse and other combustible materials. The purpose of this Subchapter is to control the open burning of refuse and other combustible materials.~~

252:100-13-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Combustible materials**" means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

"**Domestic refuse**" means combustible materials or refuse that normally result from the function of life at a residence, such as kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings. It does not include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances.

"**Land clearing operation**" means the uprooting, cutting, or clearing of vegetation in preparation for the construction of buildings, the development of residential, commercial, agricultural, or industrial properties, and for the construction and maintenance of right-of-ways. It does not include the clearing of vegetation such as trimmings, fallen limbs, branches, or leaves, or other wastes from routine property maintenance activities.

"**Open burning**" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"**Open-pit incinerator**" means a device consisting of a pit (into which the material to be combusted is placed) and nozzles, pipes, and other appurtenances designed and arranged in a manner to deliver additional air and/or auxiliary fuel to, or near, the zone of combustion so that theoretically complete combustion is accomplished or approached.

"**Products of combustion**" means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials.

"**Refuse**" means garbage, rubbish, domestic refuse and all other wastes generated by a trade, business, industry, building operation, or household.

252:100-13-3. Scope [REVOKED]

~~This Subchapter shall apply to all operations involving open burning except those specifically exempted by 252:100-13-7.~~

252:100-13-4. Effective date [REVOKED]

~~The effective date of this Subchapter shall be January 1, 1971.~~

252:100-13-5. Open burning prohibited

~~No person shall cause, suffer, allow, or permit open burning of~~

~~refuse and other combustible material except as may be allowed in compliance with OAC 252:100-13-7. The open burning of refuse and combustible materials is prohibited unless conducted in strict accordance with the conditions and requirements contained in 252:100-13-7 and 252:100-13-9. Under no circumstances shall the open burning of tires be allowed.~~

252:100-13-6. Salvage operations utilizing open burning prohibited [REVOKED]

~~No person shall cause, suffer, allow, or permit open burning of combustible material in connection with the salvage of motor vehicles, tires, oil and similar substances, containers, coated or painted wire and metals, and other materials.~~

252:100-13-7. ~~Permissible~~ Allowed open burning

~~The open burning of refuse and other combustible material may be conducted as specified in the paragraphs set forth below if no public nuisance is or will be created and if the burning is not prohibited by, and is conducted in compliance with, other applicable laws and the ordinances, rules, and orders of governmental entities having jurisdiction, including air pollution control ordinances, rules, and orders. The authority to conduct open burning under the provisions of this Section does not exempt or excuse a person from the consequences, damages, or injuries which may result from such conduct nor does it excuse or exempt any person from complying with all applicable laws, ordinances, rules, and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this Section.~~

~~(1) Fires (a) **Fire training.** Open burning is allowed for fires purposely set for the instruction and training of public and industrial fire-fighting personnel, when authorized by the appropriate governmental entity provided that authorization has been requested from the local fire chief at least ten working days prior to any burning or that written authorization has been received prior to such burning. The DEQ may require written verification of the authorization from the local fire chief or fire training officer.~~

~~(2) (b) **Elimination of hazards.** Fires set for the elimination of a fire hazard which cannot be abated by any other means when authorized by the appropriate governmental entity. Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:~~

~~(1) A fire hazard that cannot be abated by any other means.~~

~~(2) A dangerous or hazardous material when there is no other practical or lawful method of abatement or disposal if authorization is also received from the DEQ prior to such burning.~~

~~(3) Fires set for the removal of dangerous or hazardous material where there is no other practical or lawful method of disposal upon approval of the Director of Air Quality Division.~~

~~(4) Camp (c) **Recreational and ceremonial fires.** Open burning is allowed for camp fires and other fires used solely for recreational purposes, for ceremonial occasions, or for outdoor non-commercial preparation of food.~~

~~(5)~~ (d) Land management and land clearing operations. Open burning is allowed for the following land management and land clearing operations.

(1) Fires purposely set to forest, crop or range lands for a specific reason in the management of forests, crops or game, in accordance with practices recommended by the Oklahoma Department of Wildlife Conservation, the Oklahoma State Department of Agriculture, and the United States Forest Service.

~~(6)~~ (2) The burning of trees, brush, grass, and other vegetable matter in the clearing of land, right of way maintenance operations, and agricultural crop burning if the following conditions are met: Fires purposely set for land clearing operations if conducted at least 500 feet upwind of any occupied residence other than those located on the property on which the burning is conducted, except that such burning must be conducted in open-pit incinerators in counties or areas that are or have been designated nonattainment.

~~(A) prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by air contaminants from the burning;~~

~~(B) the location of the burning must not be adjacent (500 ft. upwind) to an occupied residence other than those located on the property on which the burning is conducted;~~

~~(C) care must be used to minimize the amount of dirt on the material being burned;~~

~~(D) oils, rubber, and other similar materials which produce unreasonable amounts of air contaminants may not be burned;~~

~~(E) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~

~~(F) the burning must be controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.~~

~~(7)~~ (e) Burning of domestic refuse. Where no collection and disposal service is reasonably available, the burning of refuse and other combustible materials generated in the operation of a domestic household if the following conditions are met: domestic refuse may be burned on the property where the waste is generated.

~~(A) the material to be burned must not be the combined waste be from a building designed to accommodate more than three such households;~~

~~(B) the burning must be conducted on the property on which the waste is generated; and,~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated.~~

~~(8)~~ (f) Hydrocarbon burning. Open burning of hydrocarbons is allowed for:

(1) The burning of hydrocarbons which are spilled or lost as a result of pipeline breaks or other accidents involving the transportation of such materials or which are generated as wastes as the result of oil exploration, development, refining,

er processing operations if the following conditions are met: The disposal of spilled hydrocarbons or the waste products of oil exploration, development, refining or processing operations which cannot be feasibly recovered or otherwise disposed of in a legal manner. Notice must be given to the DEQ prior to such burning.

~~(A) the material cannot be practicably recovered or otherwise lawfully disposed of in some other manner;~~

~~(B) the burning must not be conducted within a city or town or in such proximity thereto that the ambient air of such city or town may be affected by the air contaminants being emitted;~~

~~(C) the initial burning may begin only between three hours after sunrise and three hours before sunset and additional fuel may not be intentionally added to the fire at times outside the limits stated above; and,~~

~~(D) the burning must be controlled so that a traffic hazard is not created as the result of the air contaminants being emitted.~~

(2) The disposal of waste hydrocarbons through a flare. The owner or operator shall be required to use a smokeless flare if a condition of air pollution is determined to exist by the DEQ.

~~(9) (g) Open-pit incinerator. The burning of any combustible material in an open pit incinerator which has been properly designed and which is properly operated for the control of smoke and particulate matter. Except for hazardous material, any combustible material or refuse that is allowed to be burned under this Subchapter may be burned in an open-pit incinerator that is properly designed and operated for the control of smoke and particulate matter. The owner or operator of the open-pit incinerator shall not accept any material owned by other persons and shall not transport any material to the property where the open-pit incinerator is located in order to burn the material.~~

~~(10) The burning of hydrocarbons, which must be wasted, through the use of smokeless atmospheric flares if after investigation a condition of air pollution exists.~~

252:100-13-9. General conditions and requirements for allowed open burning

The open burning of refuse and other combustible material may be conducted as allowed in this Subchapter only if the following conditions and requirements are met:

(1) No public nuisance is or will be created.

(2) The burning is controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.

(3) The burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town.

(4) The initial burning shall begin only between three hours after sunrise and three hours before sunset and additional fuel shall not be intentionally added to the fire at times outside these limits. This requirement does not apply to the open burning allowed under 252:100-13-7(a), (b), (c), and (d)(1).

252:100-13-10. Disaster relief

Notwithstanding the prohibition in 252:100-13-5, the Executive Director of the DEQ may allow the open burning of debris resulting

from a disaster if the Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.

252:100-13-11. Responsibility for consequences of open burning

Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.

Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 13. PROHIBITION OF OPEN BURNING

EXECUTIVE SUMMARY: The proposed amendments to Subchapter 13 will simplify and clarify the rule as part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. A few substantive changes were made, such as adding definitions for "domestic refuse" and "land clearing operation," along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. New language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. Existing language on open-pit incinerators was expanded and now prohibits accepting any material owned by other persons and from transporting any material to the property where the open-pit incinerator is located in order to burn the material.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because no one federal rule corresponds to these rules.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: What is the definition of hazardous materials and shouldn't it be in the rule?

Response: Staff doesn't believe it is necessary to define "hazardous materials" in this rule since authorization must be received from the DEQ prior to such burning of dangerous or hazardous material. Therefore, it can be determined or answered during that time. Staff believes that this flexibility is necessary since the universe of hazardous materials is still growing.

Comment: "Authorization" must be obtained from DEQ prior to such burning. What authorization specifically are we talking about? An ODEQ permit or letter or some form?

Response: "Authorization" means approval by the DEQ. In emergency situations, approval may be verbal. In non-emergency situations, approval may be in writing.

Comment: 252:100-13-7(a) Fire training. We suggest that the phrase "provided that authorization from the local fire chief has been issued prior to any burning" be changed to read "provided that authorization has been requested from the local fire chief."

Response: After discussion during the Council meeting, Council agreed to reword the proposed language to read "provided that

authorization has been requested from the local fire chief at least ten working days prior to any burning or that written authorization has been received prior to such burning."

Comment: The addition of definitions for "Domestic Refuse" and "Land Clearing Operations" strengthens the SIP by clarifying what is included in these situations.

Comment: 252:100-13-8 Open-pit incinerators. The addition of this subsection addresses an area not adequately addressed in the approved SIP and could be seen as strengthening the SIP. However, we question the time limit (90 days) for burning in the same pit. In order for an open pit incinerator (trench burner) to operate with minimum emissions, the pit or trench must have vertical walls that act to deflect the forced air back and forth to the bottom of the pit for a more complete burn of the material with minimum emissions. A trench burner pit that is in use for more than a day or two (depending on the soil type) will lose the integrity of its vertical walls due to normal wear, and pits must be dredged out to maintain optimum depth as ash builds up. Frequently, new pits at the same site must be dug to compensate for this degradation if there is a large land clearing project. If the pit were lined with something to maintain the integrity of the shape, we may be able to consider the 90 day time frame. We recommended you consult with your field investigators with regard to the practicality of this rule change as you have proposed it. The rule does not prohibit bringing in material from off the site to be burned. This circumstance may encourage burning material that might not otherwise be burned. We find this practice to be a weakening of the SIP.

Response: Staff has removed the proposed section, 100-13-8, from the rule and has added language for open-pit incinerators that are properly designed and operated for the control of smoke and particulate matter. Also, language was added which prohibits the owner or operator of the open-pit incinerator from accepting any material owned by other persons and the transport of any material to the property where the open-pit incinerator is located in order to burn the material.

Comment: The addition of section 252:100-13-10, Disaster relief, strengthens the SIP by addressing an area of activity that raises questions whenever a disaster occurs.

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

STATE OF OKLAHOMA

**TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE OAC 252:100-13
PROHIBITION OF OPEN BURNING**

HELD ON OCTOBER 19, 1999

AT 9:00 A.M.

AT THE TULSA CITY-COUNTY HEALTH DEPT.

5051 SOUTH 129TH EAST

IN TULSA, OKLAHOMA

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1
2 MEMBERS OF THE COUNCIL
3
4 1. MR. GARY KILPATRICK - MEMBER
5 2. MR. LEO FALLON - MEMBER
6 3. MR. JOEL WILSON - MEMBER
7 4. MS. SHARON MYERS - MEMBER
8 5. MR. DAVID BRANECKY - MEMBER
9 6. MR. BILL BREISCH - CHAIRMAN
10 7. MS. MYRNA BRUCE - SECRETARY
11 8. MR. DAVID DYKE - PROTOCOL OFFICER
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1 will show two changes not currently in the
2 draft rule that I will be proposing today.
3 And also, copies are on the table.
4 A proposed change not currently in
5 the draft rule is proposed for the
6 definition for refuse. Staff recommends
7 changing the definition to...means garbage,
8 rubbish, "domestic refuse", and all other
9 waste. So adding the word "domestic
10 refuse" to the definition.
11 Section 252:100-13-7, Allowed Open
12 Burning, page 3. Original language
13 addressing the responsibility for
14 consequences of open burning was moved from
15 this section to a new section, 252:100-13-
16 11, page 6. Throughout this section, the
17 requirement to notify the DEQ or other
18 appropriate official for authorization to
19 burn was added.
20 Section 252:100-13-8, Open-Pit
21 Incinerators, page 5. Information
22 describing open-pit incinerators was moved
23 into this new section and amended to
24 require owners or operators to register
25 with their local DEQ office. The proposed

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1 PROCEEDINGS
2 MR. DYKE: The next item on the
3 agenda, Item Number 5D, OAC 252:100-13,
4 Prohibition of Open Burning. I'll call on
5 Ms. Jeanette Buttram.
6 Just a moment.
7 (Whereupon, a short recess was taken
8 after which the following took place)
9 MR. DYKE: If we could, let's go
10 back on the record on Agenda Item 5D, OAC
11 252:100-13. Ms. Buttram.
12 MS. BUTTRAM: Members of the
13 Council, ladies and gentlemen, the
14 following revisions to Subchapter 13,
15 Prohibition of Open Burning, are being
16 proposed for the first time to the Council.
17 Many of the proposed revisions to
18 this subchapter simplify and clarify the
19 rule. However, a few substantive changes
20 were made also.
21 Section 252:100-13-2, Definitions,
22 page 2. Definitions are proposed for
23 "domestic refuse" and "land clearing
24 operation". Also, earlier today I left a
25 sheet of paper by your Council packet which

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1 rule would also require owners or operators
2 to obtain a permit if they locate an open-
3 pit incinerator in the same pit for a
4 period exceeding 90 days in a 365 day
5 period.
6 Recently comment were received from
7 EPA questioning the time limit of 90 days
8 for burning in the same pit. We have
9 discussed this time period among staff and
10 decided on the 90 days. However, we
11 recognize there are different opinions
12 regarding what is appropriate. Therefore,
13 we are asking for input from the Council
14 and the public on this and will incorporate
15 whatever time period Council decides is
16 best.
17 Also, EPA mentioned the rule does
18 not prohibit bringing in material from off
19 the site to be burned and find the
20 potential for this practice to be a
21 weakening of the SIP. Staff agrees and
22 suggests the following change not currently
23 in the draft rule. Again, this is on the
24 extra sheet of paper and will show the
25 draft proposal that I am about to make.

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1 Page 5, Section 100-13-8, the proposed
2 subsection (c) should be changed to a new
3 (d) and a new proposed subsection (c)
4 should be added which states, material
5 generated off site shall not be burned in
6 an open-pit incinerator.
7 Section 252:100-13-9, General
8 Conditions and Requirements For Allowed
9 Open Burning, page 5. The general
10 conditions and requirements for allowed
11 open burning found throughout the rule were
12 consolidated into this new section.
13 Section 252:100-13-10, Disaster
14 Relief, page 6. This new section was added
15 to address disaster relief.
16 Recently a letter from the City of
17 Hobart was received by our Enforcement Unit
18 requesting approval for burning of
19 dilapidated houses. The City Manager
20 requested the letter be considered in our
21 rewrite/dewrong process of Subchapter 13.
22 Allowing the requested burning would be a
23 relaxation of our rule. Staff believes the
24 proposed changes to the rule will help
25 clarify allowed open burning.

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1 The written comments from EPA and
2 the letter from the City of Hobart will be
3 entered into the record.
4 Staff suggests the proposed rule as
5 amended be recommended for adoption by the
6 Board as a permanent rule.
7 MR. DYKE: Questions from the
8 Council?
9 MS. MYERS: Jeanette, on 13-8(d)
10 the open-pit incinerators are not to be
11 located in the same pit for a period of 90
12 days. Are those continuous consecutive
13 days or are those 90 total? days.
14 MS. BUTTRAM: It should be 90
15 consecutive days.
16 MS. MYERS: Under 13-7(c),
17 ceremonial fires. Is that a person that's
18 non-commercial for preparation of food and
19 the (inaudible) and (inaudible) ranges and
20 that kind of thing where they cook-out and
21 whatever as part of their activity, is that
22 not allowed?
23 MS. BUTTRAM: No, it's allowed.
24 MS. MYERS: Okay. It says for
25 non-commercial -- if they're doing it for

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1 money, that would be commercial.
2 MS. BUTTRAM: The beginning --
3 well, if you are including that in the non-
4 commercial preparation of food, it is
5 allowed. But if it is outside of that, it
6 needs to be --
7 MS. MYERS: You're saying they
8 need to have a permit for a group of people
9 that are paying for (inaudible). That's my
10 question.
11 MS. BUTTRAM: I'm saying if it
12 falls under non-commercial preparation of
13 food, then it would be allowed open
14 burning.
15 MS. HOFFMAN: This is Barbara
16 Hoffman. The campfires are allowed. So if
17 they are cooking food over campfires,
18 that's okay. But again, if it's a
19 situation where they have some sort of open
20 burning deal going on for the commercial
21 preparation of food, then that would be
22 prohibited.
23 MS. MYERS: Okay.
24 MR. DYKE: I think what you are
25 describing is allowed. I think what

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1 wouldn't be acceptable would be if they put
2 a sign out on the road and had someone
3 coming in every day.
4 MR. FALLON: Could you clarify
5 252:100-13-2(C), bringing material on-site
6 cannot be burned in an open-pit
7 incinerator.
8 MS. BUTTRAM: 13-2?
9 MR. FALLON: Yes. Under new
10 performance.
11 MS. BUTTRAM: 13-8?
12 MR. FALLON: Dash 8, I'm sorry.
13 MS. BUTTRAM: Your question
14 again, please?
15 MR. FALLON: According to the
16 letter we received from the city manager or
17 mayor of Hobart, they are going to clean-up
18 an older area -- I'm gathering that's what
19 he's saying. And if you were to take down
20 six dilapidated structures on the same
21 block, would that be considered -- if you
22 brought more than one open-pit incinerator,
23 would that be considered on site?
24 MS. BUTTRAM: I'm not really sure
25 that would even fit under being allowed

1 under an open-pit incinerator. So if you
2 dig your pit and you have a block area and
3 then you bring in all the homes that you
4 are trying to tear down from that one block
5 to that open-pit incinerator, then that's
6 bringing material off-site. So that would
7 not be an allowed open-pit incinerator
8 burn.

9 MR. FALLON: Thank you.

10 MR. WILSON: What you are
11 suggesting is that if someone wanting to
12 tear down a house and constructed an open-
13 pit incinerator, they need to do it on the
14 location that the house is sitting; is that
15 correct?

16 MS. BUTTRAM: That's correct.

17 MR. WILSON: So if there is a
18 house next-door that also needs to be torn
19 down, then the pit would have to be dug on
20 that property, as well?

21 MS. BUTTRAM: Well, actually, I
22 think you have to look at the whole rule,
23 too. I'm not sure that -- my
24 interpretation of the rule is that that
25 type of activity isn't an allowed open burn

1 burning. Fire training, elimination of
2 hazards, recreational and ceremonial fires,
3 land management and land clearing
4 operations. Those have definitions that
5 describe what that falls under. Removal of
6 a house does not fall under that. Burning
7 of domestic refuse, hydrocarbon burning,
8 and then a new section of open-pit
9 incinerators. So what the rule states it
10 shows what is allowed, and so if you have
11 an activity that is outside what is
12 allowed, then it would not fall under one
13 of those in that section. We're not making
14 any changes to the rule that -- the rule
15 never allowed it and we're not making any
16 changes that disallow it, because it was
17 never allowed.

18 MR. FALLON: The letter from
19 Hobart indicates it is his belief that your
20 change would allow it. He is believing in
21 error; is that correct?

22 MS. BUTTRAM: That is correct.
23 Apparently, our enforcement unit receives a
24 lot of letters requesting open burning,
25 that they were under the impression that it

1 anyway. And so you have to look at each
2 individual case to determine whether or not
3 it would be allowed for an open-pit
4 incinerator burn. But in the scenario you
5 just alluded to, that's correct. You
6 wouldn't be able to use one open-pit
7 incinerator for five or six different
8 homes.

9 MR. KILPATRICK: I would like to
10 clarify, is this Hobart thing allowed or
11 not allowed?

12 MS. BUTTRAM: It is not allowed.

13 MR. KILPATRICK: What
14 specifically wouldn't be allowed?

15 MS. BUTTRAM: Excuse me?

16 MR. KILPATRICK: Why is it not
17 allowed? You are saying it has nothing to
18 do with whether it's on-site or off-site,
19 you are saying it's not allowed. Point me
20 to the right provision that says it's not
21 allowed.

22 MS. BUTTRAM: Okay. The rule
23 states items that are allowed under open
24 burning. 13-7 goes through a list of
25 things that would be allowed under open

1 was allowed in the past. It was never
2 allowed before or now.

3 MR. FALLON: Okay. Thank you.

4 MR. DYKE: Additional questions
5 for Ms. Buttram at this time? Is there
6 anyone wishing to speak on this rule?
7 Hearing no one, additional comments from
8 the Council?

9 MR. BREISCH: What's the
10 recommendation to the Board?

11 MS. BUTTRAM: A permanent rule.

12 MR. BREISCH: No emergency? I'll
13 entertain a motion --

14 MS. BUTTRAM: Before you make a
15 motion, I would like to bring up in my
16 presentation that I had mentioned the 90
17 days for an open-pit incinerator. So I am
18 assuming then that would be an okay time
19 frame?

20 MS. MYERS: That's an awful lot
21 of open burning.

22 MS. BUTTRAM: Excuse me?

23 MS. MYERS: I said that's an
24 awful lot of open burning.

25 MS. HOFFMAN: EPA has recommended

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1 3 days. So that's why Jeanette is asking -

2 -

3 MS. MYERS: What is the purpose
4 of establishing a 90 day period? That is
5 an awful long time for open burning.

6 MS. BUTTRAM: It depends on who
7 you talk to. I've talked to staff and
8 received 30 days and then I went with 30
9 days, and I was told no, that's not enough
10 time. Then I went with 60 days, was told
11 that's not enough time, then we went to 90
12 days. So we received a variety of time
13 limits, and then we thought 90 days would
14 be a good day to go with. I think 3 days
15 is not enough time, actually, but that's
16 why we went with 90 days thinking that
17 would be a good time limit to try to start
18 with. We do have -- staff has developed an
19 open-pit incinerator air curtain design and
20 operating instructions that was developed
21 because of the recent tornado. Describes
22 how an open-pit incinerator should be
23 designed and the operating instructions
24 that go with it and information like that,
25 but it doesn't have a time frame.

1 MR. KILPATRICK: So you recommend
2 90 days on the basis of the amount of time
3 you thought was needed to cover the
4 majority of projects -- the length of time
5 the majority of the project would take?

6 MS. BUTTRAM: Right.

7 MR. KILPATRICK: EPA seems to be
8 coming from the other -- when looking at
9 the customer, they are looking at the
10 potential aspects of whether or not the
11 open-pit would still be functional at the
12 end of the 90 days.

13 MS. BUTTRAM: Right.

14 MR. KILPATRICK: Did you get any
15 comments from staff on their experience
16 with pits that have been used for up to 90
17 days?

18 MS. BUTTRAM: I did not get any
19 information on ones that were used up to 90
20 days, but I did receive information again
21 that said it could vary.

22 MS. MYERS: Wouldn't we want to
23 put in something that said if you have an
24 open-pit incinerator that there would be a
25 time limit set by DEQ as appropriate for

1 the project at hand rather than giving a
2 blanket 90 days.

3 MS. BUTTRAM: That could work,
4 too. That's why I said we --

5 MS. MYERS: I know on something
6 like that you're not going to have a
7 catastrophic event like the May 3 tornado.

8 MS. BUTTRAM: That's right.

9 MS. MYERS: 90 days is an awful
10 long time for a pit to be burning and
11 sometimes those facilities get a lot of
12 emissions. We had a facility across the
13 road from us, they started doing open
14 burning, of a bunch of trash and debris and
15 we had all kinds of problems because of the
16 cloud -- black smoke.

17 MS. BUTTRAM: Was that an open-
18 pit incinerator or just some type of land-

19 -

20 MS. MYERS: It was open burning.

21 MS. BUTTRAM: Open burning.

22 MS. HOFFMAN: Can I make a
23 comment? One of the reasons that we came
24 up with a time limit, a specific time
25 limit, was so that we could encourage

1 people that knew they wanted to burn longer
2 than that to come in and actually get a
3 permit from us. We don't want unpermitted
4 burning of this type to go on. The air
5 curtain incinerator isn't going to be
6 viable after a certain point in time. So
7 we would like to have a specific time limit
8 so that everybody will be able to look at
9 the rule and know, okay, I should go in and
10 get a permit because I want to burn longer
11 than 90 days or whatever day we end up
12 putting in there. We thought that 90 days
13 would be the maximum amount of time that
14 someone could actually operate one of these
15 open-pit incinerators without the sides
16 caving in and making it useless. But we've
17 heard since then that it's very possible,
18 like you said, there are some that are
19 going to deteriorate a lot sooner than
20 that. So I don't know, I don't know if
21 there is a midpoint here but I'm hoping we
22 can find something that we'll all agree on
23 would be a good amount of time to allow
24 these people to operate, and yet still give
25 us sort of definite time period in the rule

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1 so that people will know whether they need
2 to just register with us or whether they
3 need to actually come in and get a permit.
4 MR. KILPATRICK: I would like to
5 make another comment. I think we proposed
6 adding 90 consecutive days. I don't think
7 we dropped anything else. If I read that
8 right, I don't think that would work.
9 Because then it would say you are allowed
10 to burn as long as it's not in there 90
11 consecutive days. They can burn 89 and
12 stop one day and now they've got an open
13 pit they can run another 89 days.
14 MS. BUTTRAM: And you are
15 correct. I was incorrect earlier by saying
16 it should have been consecutive. And that
17 was part of the argument that we had
18 earlier when we were discussing on whether
19 or not it should be 90 days. The reason we
20 did not put consecutive was for that exact
21 reason. And that's why we want it to be 90
22 days in a 365 day period.
23 MS. MYERS: I think 90 days is an
24 awful long time unless there is some
25 specific reason for it.

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1 MR. BREISCH: Well, I've seen
2 this operation take place in large
3 landfills, but they are not consecutive
4 days. They set the operation up and they
5 might burn for a week and shut it down for
6 a week, and come back and burn some other
7 debris, trees, et cetera. So I don't think
8 the 90 day length in that one location is
9 too bad. 90 consecutive days, I haven't
10 seen it happen.
11 MS. HOFFMAN: It's really not the
12 consecutive-ness of it that counts, it's
13 how many days you are actually in that pit
14 burning.
15 MR. BREISCH: That's right. Or
16 do you mean in that location? Are you
17 talking about a specific location for 90
18 days?
19 MS. HOFFMAN: A specific pit.
20 MR. BREISCH: I don't think
21 that's too long.
22 MR. DYKE: If they operate more
23 than 90 days, they are required to get a
24 permit and this only applies to open-pit
25 incinerators. We're not talking about all

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1 types of open burning, we're talking about
2 this particular open-pit incinerator.
3 MR. BREISCH: David, I need to be
4 more specific on my comment. I'm talking
5 about a location of 90 days. Because the
6 pit can deteriorate, a lot of things can
7 happen. I think at the end of a 90 day
8 period, regardless of how many days during
9 that 90 days it burned, I think either a
10 permit has to be issued or it has to be
11 relocated.
12 MS. BUTTRAM: That is the way the
13 rule is written. They can be at the same
14 location, but they cannot use the same pit
15 for more than 90 days. And if they have to
16 stay at the same location, and they know
17 they are going to have to burn longer than
18 90 days, then they should have to come in
19 and get a permit.
20 MR. KILPATRICK: Now you've got
21 me confused. If you stay at the location
22 for more than 90 days, you have to get a
23 permit?
24 MS. BUTTRAM: No, if you are
25 going to use your open-pit incinerator.

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1 MR. KILPATRICK: If you have to
2 use a central pit for more than 90 days is
3 what you are saying, you have to have a
4 permit?
5 MS. BUTTRAM: You should come in
6 and get a permit, yes.
7 MR. BREISCH: Is that understood
8 by the Council?
9 MR. WILSON: I have one last
10 clarification on this issue with the
11 burning of dilapidated houses. Jeanette,
12 you suggest the regulations explicitly
13 disallow that in open-pit incinerators?
14 MS. BUTTRAM: That has been my
15 own question with homes being burned in an
16 open-pit incinerator. #1
17 MR. WILSON: I don't see anything
18 in the regulations that prohibit you from
19 burning a dilapidated house and putting it
20 into an open-pit incinerator.
21 MS. BUTTRAM: Well, for one
22 thing, if you have to move any hazardous
23 material, anything like that, and you would
24 have to remove the roof -- there is a lot
25 of things that you cannot burn in an open-

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1 pit incinerator as far as with the
2 hazardous materials. I don't see how it
3 would be feasible to dig an open-pit
4 incinerator in one lot to burn a house.

5 MR. WILSON: I don't either. But
6 you are prohibiting that multiple houses
7 being taken to one location to be
8 incinerated?

9 MS. BUTTRAM: Right. We're
10 saying material generated off-site shall
11 not be burned in an open-pit incinerator.
12 We're trying to prevent an open-pit
13 incinerator from being developed, dug in
14 one site, and then someone going off to
15 various other sites and bringing in all
16 their material to be burned in that open-
17 pit incinerator.

18 MR. WILSON: But you do allow
19 them to put pits in multiple places?

20 MS. BUTTRAM: Could you be more
21 specific, please?

22 MR. WILSON: Your regulation
23 would allow a pit to be dug and used as an
24 open-pit incinerator at each location where
25 the waste is generated.

1 rule is to prohibit open burning. It
2 prohibits open burning, because we don't
3 think that's an acceptable practice in this
4 state. And we offer several very limited
5 exceptions to that. And we do not favor
6 open-pit incinerators. That's not
7 something we want to encourage at all. We
8 don't want people to be out there open
9 burning. We want them to --if they've got
10 houses to demolish, we think they would be
11 better off demolishing those houses and
12 taking them to construction demolition
13 dumps. There are lots of ways to dispose
14 of waste without burning it. And we really
15 don't want to encourage people to just burn
16 whatever they have. So that's why we have
17 very limited exceptions here. And we're
18 trying to limit the open-pit incinerator
19 exception even more by requiring that it
20 only be limited to the material that's on
21 the site. We don't want somebody to get
22 into a commercial operation of running an
23 open-pit incinerator.

24 MR. WILSON: You want to make it
25 tough on municipality to burn multiple

1 MS. BUTTRAM: Right.

2 MR. WILSON: As opposed to one
3 pit for burning all the waste?

4 MS. BUTTRAM: Well, if the waste
5 is brought in from off-site, then that's
6 correct, you cannot burn in that open-pit
7 incinerator. One pit for one location.

8 MR. FALLON: This is not a change
9 from what it has been in the past.

10 MS. BUTTRAM: No, the open-pit
11 incinerator part isn't changed. It was in
12 the old rule on page 5. It used to be in
13 the middle, right above where it says 100-
14 13-8, Open-Pit Incinerators, the new
15 section. Above that used to be a number 9
16 that's been struck out, and so we took that
17 information and made a new section and
18 broadened the requirements of an open-pit
19 incinerator.

20 MR. WILSON: Environmentally,
21 what is the difference between burning 10
22 houses in 10 pits as opposed to 10 houses
23 in one pit?

24 MS. BUTTRAM: I don't see any.

25 MS. HOFFMAN: The purpose of this

1 houses?

2 MS. HOFFMAN: Well, if you want
3 to say it that way, that's fine. But I'm
4 not trying to make things tough on
5 municipalities, I just think we have a rule
6 that does not allow them to do that to
7 begin with, and we haven't changed that
8 substantive part.

9 MR. WILSON: I don't see in the
10 rule that we can prohibit them from
11 building an open-pit and operating it
12 according to the open-pit incinerator rules
13 for the burning of a dilapidated house.

14 MS. HOFFMAN: Well, I'm not sure
15 where I see in the rule that it allows the
16 burning of dilapidated houses. As Jeanette
17 pointed out, we allow open burning for fire
18 training, elimination of hazards,
19 recreational and ceremonial fires, land
20 management, land clearing operations --
21 which is, by the way, most of them are used
22 for is for that exception right there,
23 burning of domestic refuse, hydrocarbon
24 burning. Those are the exceptions.

25 MR. WILSON: In your definition,

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1 combustible material means any substance
2 which will readily burn and shall include
3 substances which although generally
4 considered incombustible are or may be
5 included in the mass of material burned or
6 to be burned. And then over here in 13-8,
7 you have open burning of combustible
8 material in an open-pit incinerator without
9 a permit being allowed, and then under
10 these circumstances, it seems to me like
11 any combustible material that would meet
12 that definition of combustible materials is
13 allowed to be burned in an open-pit
14 incinerator.
15 MS. HOFFMAN: Okay. Probably
16 what we need to do then is under 13-5 where
17 it says open burning prohibited, what we
18 probably need to do is to make it clear.
19 We probably need to delete 13-8 -- we
20 probably need to put open-pit incinerators
21 back in 13-7. Because the point of the
22 matter is we have no intention of expanding
23 this rule to allow anything to be burned in
24 an open-pit incinerator.
25 MR. WILSON: And as it's written,

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1 I think it does. The proposed action of
2 the Council is to revisit this in December;
3 is that correct? There are houses out
4 there that need to be burned.
5 MR. KILPATRICK: Is there any
6 reason why we have to pass it today?
7 MS. BUTTRAM: I was just thinking
8 of the Council.
9 MR. KILPATRICK: I think he's
10 right. We need to adjust this wording.
11 MR. DYKE: For clarification, we
12 had originally proposed to carry this over
13 and then we felt that in light of the
14 agenda and things we were already carrying
15 over that we would pursue it today. If the
16 Council wishes, we can sure do that.
17 MS. MYERS: I think with some of
18 the comments that have been made and
19 questions asked, it will be better to carry
20 it over.
21 MR. FALLON: In my original
22 question, which I asked you is the official
23 attitude toward burning dilapidated
24 structures, does it seem under this
25 proposal as it has been in the past, don't

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1 do it.
2 MS. BUTTRAM: That's true.
3 MR. FALLON: But I think what
4 Joel points out is that if you take the
5 definition of a combustible material on one
6 hand, you are theoretically -- well, not
7 encouraging, not condoning, but somebody
8 could make a pretty good argument for it.
9 I think that's what it needs to be.
10 MS. BUTTRAM: So work on the
11 open-pit incinerator section.
12 MR. DYKE: Additional comments
13 and questions from the Council? Anyone
14 else? Identify yourself. *Sobel*
15 MR. SODA: I'm Ron Soda? I had a
16 question for Jeanette if I could just ask
17 her?
18 MR. DYKE: Go ahead.
19 MR. *Sobel* SODA: Back in the rule we
20 talked about hazardous materials -- it
21 doesn't appear to be defined in the rule.
22 Could Jeanette direct me to somewhere else
23 it would be?
24 MS. BUTTRAM: Well, I don't have
25 Subchapter 1 with me, but it may be in

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1 there.
2 MR. *Sobel* SODA: Also, off-site and on-
3 site is lacking a definition in these
4 rules, as well.
5 MS. BUTTRAM: A definition for
6 off-site and on-site?
7 MR. SODA: On-site and off-site
8 for the sake of clarity. If we're going to
9 exclude something, we need to be clear on
10 what's excluded.
11 MS. BUTTRAM: I'll consider that
12 in the next draft.
13 MR. *Sobel* SODA: One other
14 clarification I would like to see is under
15 authorization under Paragraph for
16 hydrocarbon burning. Authorization must be
17 obtained from ODEQ prior to such burning.
18 What authorization specifically are we
19 talking about? Is this an ODEQ permit or
20 letter or some form?
21 MS. BUTTRAM: Right, I see.
22 MR. DYKE: I know in the past
23 it's been by -- I have authorized it by
24 telephone if the conditions were such.
25 MR. *Sobel* SODA: That's great. it's **5419**

1 just a matter of clarification.

2 MR. BREISCH: I'll entertain a
3 motion on this item and ask whether we need
4 to continue it or whatever your desire is.

5 MS. MYERS: I'll make a motion.

6 MR. FALLON: Second.

7 MR. BREISCH: I've got a motion
8 and a second to continue this item to the
9 next regular Council meeting. Any other
10 questions? Myrna, call the roll.

11 MS. BRUCE: Mr. Wilson.

12 MR. WILSON: Yes.

13 MS. BRUCE: Mr. Fallon.

14 MR. FALLON: Yes.

15 MS. BRUCE: Ms. Myers.

16 MS. MYERS: Aye.

17 MS. BRUCE: Mr. Branecky.

18 MR. BRANECKY: Aye.

19 MS. BRUCE: Mr. Kilpatrick.

20 MR. KILPATRICK: Yes.

21 MS. BRUCE: Mr. Breisch.

22 MR. BREISCH: Yes.

23 (End of Proceedings)

24

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

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TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE OAC 252:100-13
PROHIBITION OF OPEN BURNING
HELD ON DECEMBER 14, 1999
AT 9:00 A.M.
AT 707 NORTH ROBINSON AVENUE
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

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2
3 **BOARD MEMBERS**
4 Joel Wilson - Member
5 David Branecky - Member
6 Rick Treeman - Member
7 Leo Fallon - Member
8 Dr. Fred Grosz - Member
9 Bill Breisch - Chairman
10 David Dyke - Protocol Officer
11 Eddie Terrill - Director
12 Myrna Bruce - Secretary
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1 and expanded. The new language allows only
2 those materials that may be burned under
3 Subchapter 13, with the exception of
4 hazardous material, to be burned in an
5 open-pit incinerator. Also, the owner or
6 operator of the open-pit incinerator would
7 be prohibited from accepting any material
8 owned by other persons and from
9 transporting any material to the property
10 where the open-pit incinerator is located
11 in order to burn the material. If these
12 limitations are approved, staff sees no
13 reason to require registration or
14 permitting of open-pit incinerators as was
15 proposed in Section 8.
16 Section 252:100-13-8, Open-Pit
17 Incinerators, page 7. Staff is proposing
18 that this new section presented to the
19 Council at the October Council meeting, not
20 be included in the final rule recommended
21 to the Environmental Quality Board, since
22 its subject will be covered in 252:100-13-
23 7(g). If the Council agrees and deletes
24 this section, the reference to this section
25 in 100-13-5 should also be deleted.

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1 **PROCEEDINGS**
2 **MR. DYKE:** The next item on the
3 agenda, Item 6D, OAC 252:100-13,
4 Prohibition of Open Burning. Once again,
5 I'll call on Ms. Jeanette Buttram.
6 **MS. BUTTRAM:** Mr. Chairman,
7 Members of the Council, ladies and
8 gentlemen, revisions to Subchapter 13,
9 Prohibition of Open Burning, were drafted
10 as part of the rewrite/dewrong process and
11 presented to the Council in October.
12 Additional changes to the draft rule since
13 that time include the following:
14 Section 252:100-13-7(d)(2), Land
15 Management and Land Clearing Operations,
16 page 5. New language was added to require
17 those who clear land in areas that are or
18 have been designated nonattainment to burn
19 their vegetation in open-pit incinerators.
20 This should help to reduce pollution in
21 counties that have the worst air quality.
22 Section 252:100-13-7(g), Open-Pit
23 Incinerators, page 6. Existing language
24 for open-pit incinerators was returned to
25 Section 7, placed in a new subsection (g),

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1 Comments were received yesterday
2 from Central and South West Services and
3 will be entered into the record and also, a
4 representative is here today to address the
5 Council.
6 Staff suggests that the proposed
7 rule as amended be recommended for adoption
8 by the Board as a permanent rule.
9 **MR. DYKE:** Questions of Ms.
10 Buttram from the Council?
11 **MR. BRANECKY:** Jeanette, on page
12 5, number two, you talk about being
13 conducted in open-pit incinerators in
14 counties or areas that are or have been
15 designated nonattainment. Does it need to
16 be -- is that nonattainment for anything,
17 lead or anything? Or is it any specific
18 pollutant for nonattainment.
19 **MS. BUTTRAM:** Any specific -- any
20 of them. That's the way it's written in
21 the rule.
22 **MR. TERRILL:** I can address that
23 because I'm the one that suggested putting
24 that in there that way. What we were
25 really driving at there is, most of the

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1 complaints that we get relative to open
 2 burning in the situations such as land
 3 clearing and what have you are related to
 4 metropolitan areas. And it's not a -- not
 5 everyone does it, but a significant portion
 6 of the developers that develop in the
 7 metropolitan areas already use air curtain
 8 structures anyway. So this was a way to
 9 get at that so we can limit that. Give
 10 that as an option, but limit it in some way
 11 so if you are out in the panhandle or some
 12 like-place where it really doesn't make
 13 that much difference, we can handle it on a
 14 complaint basis at that point, then they
 15 can go ahead and burn without using the
 16 open-pit incinerator. But realistically we
 17 were probably looking only at ozone or
 18 possibly CO, but really ozone formation is
 19 what we were really looking at for
 20 nonattainment.
 21 MR. BRANECKY: Is there any
 22 advantage to being specific as opposed to
 23 open-ended for anything -- any of the
 24 pollutants?
 25 MS. HOFFMAN: Well, we don't

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1 really expect to go nonattainment for lead
 2 or SO2. We do have a couple of instances -
 3 - we do have former ozone nonattainment, we
 4 do have former CO nonattainment, and those
 5 are really the -- I think the pollutants of
 6 concern when you're burning. So we feel
 7 like when we talk about former
 8 nonattainment areas, then we are catching
 9 those. And when we talk about ones in the
 10 future, we really think that -- we don't
 11 see that we're anywhere close to having a
 12 CO problem anywhere else. And really, I
 13 think ozone is -- maybe particulate matter,
 14 and again that's related to burning. So we
 15 think that those are the likely
 16 possibilities and we don't -- and rather
 17 than make the rule longer than it needs to
 18 be by mentioning specific pollutants and
 19 specific circumstances, we thought that
 20 this would cover the situation and not be
 too restrictive.
 21 MR. BRANECKY: Okay.
 22 MR. WILSON: Jeanette, I guess my
 23 mind is on lunch right now. But I think

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1 barbecue. And these people are preparing
 2 their barbecue in smokers, things that are
 3 designed to burn wood or hickory, pecan.
 4 Are these things going to be prohibited by
 5 this rule?
 6 MS. BUTTRAM: I don't see that
 7 they were prohibited before, so no, I don't
 8 see anything that we've entered into the
 9 rule that would do that.
 10 MR. WILSON: That's ceremonial
 11 here? I don't see anything in the rule
 12 that would allow them to continue doing
 13 that myself. But I didn't think that it
 14 was the intent to regulate those sources.
 15 MS. BUTTRAM: So you are saying
 16 there is something in the rule that does?
 17 MR. WILSON: Yes. I think that's
 18 going on there meets the definition of open
 19 burning, and I don't see where that's
 20 allowed.
 21 MR. BRANECKY: Are you saying
 22 these facilities have a pile of wood out
 23 back that's open, not in a smoker. A
 24 smoker is not open burning.
 25 MS. BUTTRAM: Yes, that's

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1 contained.
 2 MR. WILSON: That's contained?
 3 MR. TERRILL: That's how we
 4 interpret it, too, because I don't think
 5 that was ever a thought. That never even
 6 came up in our thought pattern that that
 7 would be prohibited. Obviously, if we got
 8 a complaint against -- it was a commercial
 9 operation and we got a complaint, we might
 10 investigate it, but that wouldn't be
 11 prohibited under this.
 12 MR. WILSON: So something that's
 13 containerized -- contained, even though the
 14 emissions are emitted into the atmosphere,
 15 would be exempted from this rule?
 16 MR. BREISCH: Well, it could give
 17 visible emissions.
 18 MS. BUTTRAM: If we're talking
 19 about -- are you talking about in the
 20 barbecue situation?
 21 MR. BREISCH: Right.
 22 MS. BUTTRAM: Well, there is
 23 nothing in the rule that prohibits it and
 24 we haven't written anything in the rule to

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1 problem.

2 MR. TERRILL: We like to think

3 that we implement these rules with some

4 common sense approach, even if it doesn't

5 specifically think of everything. And if

6 we didn't, I suspect you would have someone

7 here complaining that we were not

8 (inaudible). We have no intention -- I

9 mean, it's fairly straightforward is what

10 we're driving at. I don't think we can

11 ever think of all the possibilities. So if

12 it doesn't make sense to you, we ought to

13 regulate them. I guess we're not. That's

14 just the way we would operate. So I

15 guess ?

16 MR. DYKE: Additional questions?

17 MR. WILSON: Thanks.

18 MR. DYKE: Additional questions

19 from the Council? Mr. Ground, did you wish

20 to speak on this rule?

21 MR. GROUND: I'm Howard Ground,

22 representing Public Service Company of

23 Oklahoma. And at Public Service Company,

24 we do conduct industrial firefighter

25 training, periodically. At some of our

1 facilities, it's every year. And I only

2 get up and mention this because I've dealt

3 with this very routinely.

4 And my comment is on 100-13-7(a).

5 And it gets down to the main area where it

6 says, provided the authorization from the

7 local fire chief has been issued prior to

8 any burning. Then it says, the DEQ may

9 require written verification or

10 authorization from the local fire chief or

11 fire training officer. My experience in

12 the State of Oklahoma is it's almost

13 impossible to get written verification from

14 a fire chief that we can conduct

15 firefighter training, except from the City

16 of Tulsa. Every other facility we have, we

17 make notification and we never receive

18 anything back. And if we're required by

19 the DEQ to have some form of verification

20 or authorization, then I'm just afraid

21 we're going to be in violation, if you ever

22 come out and look for any kind of

23 authorization to conduct our open burning -

24 - or our firefighter training. It's a lot

25 to question, but it's also -- I would

1 rather you make this that we make

2 notification, that we can prove that we've

3 made notification, and not require that we

4 have written proof of the authorization.

5 MR. BRANECKY: Do you think there

6 needs to be some time frame in there that

7 you are suggesting that would allow the

8 fire chief to respond? If we take your

9 suggestion, you could notify one day and

10 burn the next, not giving them a chance to

11 respond back.

12 MR. GROUND: Yeah. And we have

13 internal policies trying to give them

14 enough time, and we also have internal

15 policies that we require the facility to

16 call them that day and say, we sent you a

17 notice, did you receive it? And they

18 usually say, oh, well, it's probably on my

19 desk somewhere, but go ahead with your

20 burn. But I would rather see some type of

21 a pre-notice -- pre-notification given so

22 many days before to make sure that they

23 have adequate time to look at it. These

24 are things we do plan.

25 MR. FALLON: Theoretically, under

1 this, you could drop a letter in the

2 mailbox requesting, and then burn before

3 the letter arrived. And I realize that's

4 a technical point, but could still happen.

5 MR. GROUND: Right.

6 MR. BRANECKY: Would something

7 like that be acceptable? Three days?

8 MR. TERRILL: Correct me if I'm

9 wrong here, but I think our whole purpose

10 was to ensure that the fire chief or fire

11 marshall or whatever got notified. Because

12 we get a lot of complaints from them saying

13 you guys apparently gave them authority to

14 burn and you didn't -- nobody told us

15 anything about it and we made a run and

16 they didn't know. So our purpose here is

17 to make sure that that fire chief or fire

18 marshall, or whoever the responsible person

19 is in these localities is notified well in

20 advance. And whether or not they choose to

21 respond or not, that's up to them. But

22 that's all we're driving at, is to make

23 sure that there is some notification made

24 so that we can't be accused of not letting

25 them know.

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1 MR. FALLON: But there should be
2 a time period, three to five days.
3 MR. BRANECKY: These schools are
4 well planned well in advance, so that
5 shouldn't be a problem, should it?
6 MR. GROUND: No. We would be --
7 yes, that would be very easy to work with.
8 If we just have a notification requirement
9 and not something requiring that we have
10 the authorization -- written authorization.
11 MR. BREISCH: Will you still get
12 authorization?
13 MR. GROUND: We do, but they
14 won't write us -- the City of Tulsa is the
15 only one who will actually write us a
16 permit. The other areas, a lot of them are
17 rural and they are volunteer fire
18 departments, anyway. A lot of them, they
19 depend on the local DEQ office, wherever
20 that is, and they'll tell us, did you
21 notify them and we'll say, yes. And a lot
22 of it, we want to make sure they do know
23 about it in case they see something that
24 they know that they are not supposed to
25 respond. We actually invite them out to

Page 15

1 take fire training with us, if they want to
2 be involved with that.
3 MR. TERRILL: But he's right,
4 they don't -- it's very seldom that they'll
5 get a reply back. They just note it and go
6 on and never do reply back.
7 MR. BRANECKY: How about if we
8 say, provided that authorization has been
9 requested from the local fire chief at
10 least 10 working days prior to the
11 conducting of the training? I think 10
12 would be a reasonable amount, 10 working
13 days.
14 MR. GROUND: I think so.
15 MR. FALLON: I think there should
16 be some specified time, whatever it is.
17 MR. GROUND: That's all I have.
18 MR. DYKE: Thank you. Barbara,
19 did you get that? Is there any additional
20 questions from the Council? Is there
21 anyone else wishing to speak on this rule?
22 I'll turn it over to you.
23 MR. BREISCH: Is there any --
24 MR. TREEMAN: I was going to add
25 one thing possibly to that, has provided

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1 authorization been requested within 10 days
2 or given shorter term. And the reason I
3 say that is our company is running the same
4 type of thing. And a lot of times the
5 training is done by the guy that's doing
6 our fire extinguisher maintenance. I might
7 not have a 10 day notice before he's there.
8 We notify and then get the authorization
9 and we can go ahead and proceed if 10 days
10 hasn't elapsed.
11 MR. BRANECKY: If you get
12 authorization?
13 MR. TREEMAN: If you get
14 authorization.
15 MR. BREISCH: Yes. That negates
16 any waiting period.
17 MR. DYKE: Did you get that,
18 Barbara?
19 MS. HOFFMAN: No.
20 MR. BRANECKY: Provided that
21 authorization has been requested from the
22 local fire chief at least 10 working days
23 prior to conducting the training or --
24 MR. TREEMAN: Well, authorization
25 has been requested or received, I guess you

Page 17

1 could say, within 10 days.
2 MR. BRANECKY: What we're trying
3 to say is if he gets authorization before
4 the 10 days --
5 MR. GROUND: I can do it eight
6 days after notification.
7 MR. FALLON: Just add a comma,
8 and sooner if authorized in writing.
9 MR. BREISCH: You might not need,
10 "in writing".
11 MS. HOFFMAN: David, would you
12 repeat what you wanted, again?
13 MR. BRANECKY: Provided that
14 authorization has been requested from the
15 local fire chief at least 10 working days
16 prior to conducting the training -- help me
17 Rick, I can't remember.
18 MR. TERRILL: Or written
19 authorization that's received prior to
20 burning -- authorization is received prior
21 to burning.
22 MS. BRADLEY: The absence of that
23 -- if authorization has been received, or
24 in absence of that authorization requested
25 within 10 days or something like that.

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1 MR. BREISCH: I think what Eddie
 2 added to it was --
 3 MR. TERRILL: Let's not make this
 4 any more complicated.
 5 MR. DYKE: Okay, let's try it.
 6 MS. HOFFMAN: Okay, how does this
 7 sound? Provided that authorization has
 8 been requested from the local fire chief at
 9 least 10 working days prior to any burning
 10 or that written authorization has been
 11 received prior to such burning.
 12 MR. DYKE: Is that okay?
 13 MR. FALLON: That's good.
 14 MR. BREISCH: With that change,
 15 are we ready to make a motion on this?
 16 I'll entertain a motion.
 17 DR. GROSZ: I'll move that we
 18 accept this change.
 19 MR. FALLON: Second.
 20 MR. BREISCH: I've got a motion
 21 and a second to recommend this to the Board
 22 for permanent adoption. Myrna, call the
 23 roll.
 24 MS. BRUCE: Mr. Wilson.
 25 MR. WILSON: Aye.

1 MS. BRUCE: Mr. Branecky.
 2 MR. BRANECKY: Yes.
 3 MS. BRUCE: Mr. Treeman.
 4 MR. TREEMAN: Yes.
 5 MS. BRUCE: Mr. Fallon.
 6 MR. FALLON: Yes.
 7 MS. BRUCE: Dr. Grosz.
 8 DR. GROSZ: Yes.
 9 MS. BRUCE: Mr. Breisch.
 10 MR. BREISCH: Yes.
 11 (PROCEEDINGS CONCLUDED)
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1
 2 C E R T I F I C A T E
 3 STATE OF OKLAHOMA)
 4 COUNTY OF OKLAHOMA) ss:
 5 I, CHRISTY A. MYERS, Certified
 6 Shorthand Reporter in and for the State of
 7 Oklahoma, do hereby certify that the above
 8 proceedings is the truth, the whole truth,
 9 and nothing but the truth; that the
 10 foregoing proceedings were taken by me in
 11 shorthand and thereafter transcribed under
 12 my direction; that said proceedings were
 13 taken on the 14th day of December, 1999, at
 14 Oklahoma City, Oklahoma, pursuant to
 15 agreement and the stipulations hereinbefore
 16 set forth; and that I am neither attorney
 17 for nor relative of any of said parties,
 18 nor otherwise interested in said action.
 19 IN WITNESS WHEREOF, I have hereunto
 20 set my hand and official seal on this, the
 21 24th day of January, 2000.
 22
 23 CHRISTY A. MYERS, C.S.R.
 24 Certificate No. 00310
 25

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-17 Incinerators; and Appendix A: Allowable Emissions for Incinerators with Capacities of 100 lbs/hr or Greater; and Appendix B: Allowable Emissions for Incinerators with Capacities less than 100 lbs/hr

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OAC 252:100-17 and Appendix A and
Appendix B SIP Revisions

CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 17. INCINERATORS

Section

- 252:100-17-1. Purpose [AMENDED]
- 252:100-17-1.1 Reference to 40 CFR [NEW]
- 252:100-17-1.2 Terminology related to 40 CFR [NEW]
- 252:100-17-2. Applicability [AMENDED]
- 252:100-17-2.1 Exemptions [NEW]
- 252:100-17-2.2 Definitions [NEW]
- 252:100-17-3. Opacity [AMENDED]
- 252:100-17-4. Particulate Matter [AMENDED]
- 252:100-17-5. Incinerator design requirements [AMENDED]
- 252:100-17-5.1 Alternative incinerator design requirements [NEW]
- 252:100-17-6. Allowable emission of particulates [REVOKED]
- 252:100-17-7. Test methods [NEW]

PART 1. GENERAL PROVISIONS

252:100-17-1. Purpose

The purpose of this Subchapter is to ~~deem it unlawful to burn refuse in any incinerator except in a multiple-chambered incinerator or in equipment determined by the Director to be equally effective for the purpose of air pollution control~~ specify design and operating requirements and emission limitations for incinerators and municipal waste combustors (MWC).

252:100-17-1.1. Reference to 40 CFR

When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

252:100-17-1.2. Terminology related to 40 CFR

When these terms are used in rules incorporated by reference, the following definitions shall apply.

- (1) "EPA Administrator" is synonymous with "Executive Director".
- (2) "Affected facility" is synonymous with "large MWC unit"
- (3) "State" is synonymous with "Department of Environmental Quality" or "DEQ".
- (4) "State plan" is a program that the State is responsible for developing and implementing to achieve compliance with the emission guidelines in Subpart Cb of 40 CFR Part 60.

PART 3. INCINERATOR

252:100-17-2. Effective date; applicability-Applicability

This Subchapter shall become operative one year from and after July 21, 1970. It will apply to any and all incinerators utilized within the State of Oklahoma. This Part applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this Part.

252:200-17-2.2. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Capacity" means amount of specified wastes a unit is designed to burn. Capacity may be expressed as pounds per hour or tons per day.

"Primary combustion chamber: means the initial incinerator chamber where waste is charged, ignited and burned.

"Secondary burner" means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.

252:100-17-3. Prohibition on density of emissions-Opacity

(a) **Prohibition.** No person shall cause, suffer, allow, or permit the discharge of smoke from an incinerator of a density darker than number one (1) on the Ringelmann Chart or a visible emission of such an equivalent opacity as to obscure a certified visible emission evaluator's view to a degree greater than number one (1) on the Ringelmann Chart.

(b) **Exemptions.** Subsection 252:100-17-3(a) shall not apply to:

- (1) visible emissions consisting of uncombined water droplets; or,
- (2) smoke, the density of which is not darker than number three (3) of the Ringelmann Chart for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes or more than twenty (20) minutes in any twenty-four (24) hour period.-See 252:100-25-3.

252:100-17-4. Prohibition on pounds per hour of emissions-Particulate matter

No person shall cause or allow to be emitted into the open air from any incinerator equipment, fly ash or other particulate matter in quantities greater than shown in 252:100-17-6. Solid fuels charged will be considered as part of the refuse weight, but No. 1 and No. 2 fuel oil and gaseous fuels and combustion air will not be so considered.-Fly ash or other particulate matter shall not exceed quantities greater than the allowable emission rate. The allowable emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter. Solid fuels charged will be considered part of the refuse weight. No.1 and No. 2 fuel oils (distillate

oils), liquefied petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.

252:100-17-5. Incinerator design requirements

~~Hereafter no person shall operate an incinerator unless~~ An incinerator subject to this Part must have:

- ~~(1) It is provided with an auxiliary burner for the purpose of maintaining~~ A primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.
- ~~(2) It has~~ A secondary burner for use that shall be used when necessary to eliminate smoke.
- ~~(3) It is a type of incinerator design that can be demonstrated to the Director to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.~~
- ~~(4) It complies with generally recognized good practices and all applicable provisions of this Subchapter.~~
- ~~(5) Full and proper use is made of all components and appurtenances thereof.~~

252:100-17-5.1. Alternative incinerator design requirements

The Director may approve an incinerator design that does not meet the design requirements in 252:100-17-5 if the owner of the proposed incinerator demonstrates to the DEQ that the incinerator can comply with all other applicable requirements.

252:100-17-6. Allowable emission of particulates [REVOKED]

- ~~(a) Allowable emissions for incinerators with capacities in excess of 100 lb/hr are set forth in Appendix A of this Chapter.~~
- ~~(b) Allowable emissions for incinerators with capacities less than 100 lbs/hr are set forth in Appendix B of this Chapter.~~

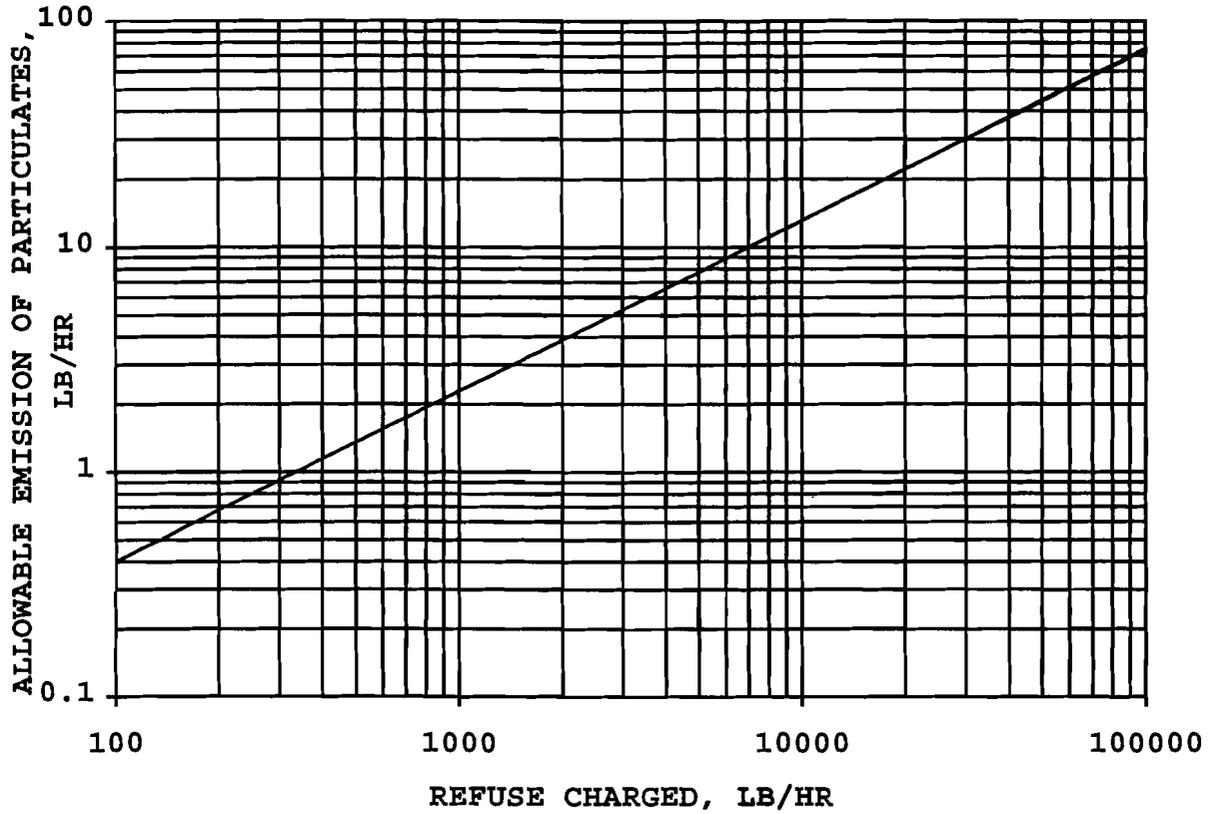
AGENCY NOTE: The provisions of 252:100-17-6 have been incorporated into 252:100-17-4 to clarify and simplify language.

252:100-17-7. Test methods

(a) Opacity. Opacity shall be measured utilizing Method 9 – Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

(b) Particulate matter. Particulate matter shall be measured utilizing the appropriate DEQ-approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

APPENDIX A. [NEW]
ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES IN EXCESS
OF 100 LB/HR



Allowable emission rate may be calculated using the following formula:

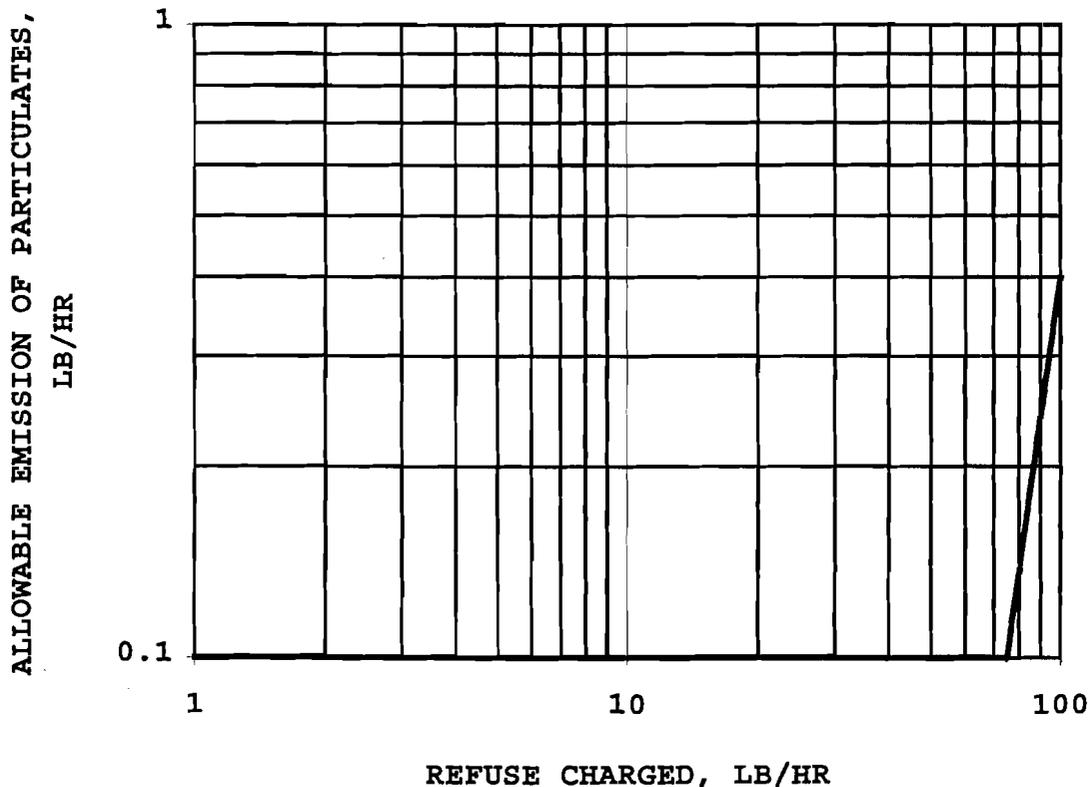
$$Y = 0.01221X^{0.7577}$$

Where:

X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

APPENDIX B. [NEW]
 ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES LESS THAN
 100 LB/HR



Allowable emission rate may be calculated using the following formulae:

Incinerators with capacities greater than 75, but less than or equal to 100 lb/hr

$$Y = 9.213 \times 10^{-11} X^{4.818}$$

Incinerators with capacities of 75 lb/hr or less

$$Y = 0.1$$

Where:

X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

Oklahoma Register

CONTACT PERSON:

Joyce Sheedy, Air Quality Division, Department of Environmental Quality, 4545 N. Lincoln Blvd., Oklahoma City, Oklahoma 705; (405/290-8247)

ADDITIONAL INFORMATION: PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three (3) days in advance at 405/271-1400.

[OAR Docket #96-1197; filed 10-25-96]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #96-1175]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed Rules:

- Subchapter 17. Incinerators [AMENDED]
- Part 3. Municipal Waste Combustors [NEW]
- Subchapter 15. Motor Vehicle Pollution Control Devices [REVOKED]

Summary:

Subchapter 17 is amended by adding a new Part 3 to include municipal waste combustors. This amendment is necessary to meet Federal requirements under Section 111(d) of the Federal Clean Air Act applicable to existing sources. This change would adopt standards published in final EPA guidelines published in the Federal Register at 60 FR, page 65382, Tuesday, December 19, 1995. These federal standards, to be codified at 40 CFR 60, Subpart Cb, would apply to municipal waste combustors that have a plant capacity of >35 Megagrams/day (approximately 39 tons/day). In addition, the existing portions of Subchapter 17 are to be revised and redesignated as Part 1. Proposed revisions include deletion of references to Ringleman standards and substitution of relative opacity. The agency also solicits comments concerning other revisions needed to update and clarify the rule. It is also proposed that Subchapter 15 be revoked in its entirety because it is presently unenforceable by the Department.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101, 2-5-1-1 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on or before close of business Monday, December 9, 1996, to contact person.

PUBLIC HEARINGS:

Tuesday, December 17, 1996 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Brown Room, Oklahoma City, Oklahoma; Environmental Quality Board

meeting (date and location to be determined. See contact person.)

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 15, 1996, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

A rule impact statement has been prepared. The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483, (405)290-8247

ADDITIONAL INFORMATION:

The proposed rulemaking activities for Subchapters 15 and 17 represent a continuation of a hearing held on October 15, 1996, in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance of the meeting at (405)290-8247.

[OAR Docket #96-1175; filed 10-23-96]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 400. RADIATION MANAGEMENT**

[OAR Docket #96-1197A]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT/EMERGENCY Rulemaking

Proposed rules:

- Subchapter 9. Standards for Protection Against Radiation [AMENDED]
- Subchapter 21. Decommissioning and Remediation [NEW]

Summary:

These rules implement the Oklahoma Radiation Management Act, 27A:2-9-101 *et seq.* in part. The proposed amendments reorganize and upgrade Subchapter 9's existing safety requirements for radiation source handling, for exposure limits and the monitoring and reporting thereof, and for the limits for radiation releases into water and air. The Subchapter 9 amendments revoke many existing state standards and replace them by incorporating by reference the most recent federal standards of Part 20, Title 10 of the Code of Federal Regulations (10 C.F.R. 20). A few existing state standards are being retained, clarified and simplified in Subchapter 9. In addition, two existing Subchapter 9 rules are proposed to be amended and moved to a new Subchapter 21 dealing with decommissioning and remediation. The new Subchapter 21

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Notices of Rulemaking Intent

CONTACT PERSON:

Robin Daily-Walls, 405-521-4906

[OAR Docket #96-1381; filed 12-20-96]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 40. GRANTS AND
PROGRAMS-IN-AID**

[OAR Docket #96-1382]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Proposed rules:

Subchapter 52. Advanced Placement Incentives Program

210:40-52-1 through 210:40-52-7 [NEW]

Summary:

The purpose of the Oklahoma Advanced Placement Incentive Program is to improve the course offerings available to high school students throughout the state. These rules will guide the expenditure of funds provided under this program.

AUTHORITY:

State Board of Education; S.B. 800, § 9

COMMENT PERIOD:

All interested persons are invited to submit data, views or arguments, orally or in writing, in support of or in opposition to the new subchapters, to the Office of the State Board of Education, Room 1-18 Oliver Hodge Memorial Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73105-4599, between the hours of 8 a.m. and 4:30 p.m., January 16, 1997, through February 19, 1997.

PUBLIC HEARING:

Hearings begin at 1:00 p.m., Thursday, February 20, 1997, in the Library at Western Heights High School, 8201 Southwest 44th Street, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18 Oliver Hodge Memorial Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the new subchapters has been prepared, as required by law, and is available at the Office of the State Board of Education, Room 1-18 Oliver Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Robin Daily-Walls, 405-521-4906

[OAR Docket #96-1382; filed 12-20-96]

**TITLE 252. DEPARTMENT OF
ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #96-1421]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

Proposed rules:

Subchapter 17

Part 1. General Purpose [AMENDED]

Part 3. Incinerators [AMENDED]

Part 7. Municipal Waste Combustors [NEW]

Subchapter 15. Motor Vehicle Pollution Control Devices [REVOKED]

Summary:

The proposed amendments to Subchapter 17 include the designations of Part 1, General Purpose, and Part 3, Incinerators. Also, the deletion of references to the Ringleman standards, the substitution of relative opacity, along with incorporation of the permit continuum, language simplification and clarification are included. The proposed addition of a new Part 7 was originally considered necessary to meet Federal requirements set forth by EPA in 40 CFR Part 60 which sets the air pollution emission standards for Municipal Waste Combustors that have a plant capacity of >35 Megagrams/day (approximately 39 tons/day). There are at least two facilities in the state that will be affected by this rulemaking. Since the initial proposal of the amendments to Subchapter 17, a Federal court has vacated the Federal Municipal Waste Combustor rules. It is the intent of the Agency to postpone adoption of at least those portions of the rule affected by the litigation. Comments are requested on the propriety and the extent of such an action. It is also proposed that Subchapter 15 be revoked in its entirety in concert with an effort to eliminate unnecessary or unenforceable rules. The substance of the motor vehicle anti-tampering provisions are currently addressed by federal law and Department of Public Safety inspection provisions.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, § 2-2-101; 2-5-101, *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Thursday, January 16, through Wednesday, February 12, 1997, to contact person. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, June 24, 1997 -

9:30 a.m., in Guymon, Oklahoma (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Wednesday, February 19, 1997 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available January 15, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

A rule impact statement has been prepared. The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #96-1421; filed 12-24-96]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 4. CERTIFICATE OF NEED
HEARINGS**

[OAR Docket #96-1406]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Proposed rules:

310:4 [AMENDED]

Summary:

This rule sets out procedures for filing applications and making final decisions on certificate of need proposals for long term care, psychiatric, and chemical dependency treatment facilities. The amendments provide for consideration of written materials instead of oral presentations prior to a decision by the Commissioner on any type of project. Requirements relating to application filing fees and time deadlines are modified. The amendments specify conditions under which the review must be extended to persons with controlling interests, and they set the criterion for history of noncompliance. Application forms are described, and the amendments correct errors of spelling, grammar, format and

construction in the rule text. The proposed changes are prompted by recent amendments to the Long Term Care Certificate of Need Act (63 O.S. Supp. 1996, Section 1-850 et seq.). The changes are intended to make the certificate of need review process conform to statutory provisions and to make the process less complex for all participants.

AUTHORITY:

Oklahoma State Board of Health, 63 O.S. Supp. 1996, Sections 1-104, 1-851.2, and 1-880.4

COMMENT PERIOD:

January 15, 1997 through February 20, 1997. Interested persons may discuss informally the proposed rule with Special Health Services staff; or before February 20, 1997 may submit written comments to Henry F. Hartsell Jr., Director, Certificate of Need Division, Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, February 20, 1997, which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the Certificate of Need Division, Special Health Services, Room 409, Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and may be obtained for review at the Oklahoma State Department of Health Building, Room 409, 1000 NE 10th Street, Oklahoma City, Oklahoma.

CONTACT PERSON:

Henry F. Hartsell Jr., Director, Certificate of Need Division, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299, telephone (405) 271-6868.

[OAR Docket #96-1406; filed 12-23-96]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 215. BEDDING REGULATIONS**

[OAR Docket #96-1407]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Proposed rules:

310:215 [AMENDED]

Summary:

This rule outlines the regulations to manufacture, renovate, and germicidally treat both new and used mattresses and bedding materials. The types of materials to

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Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 17, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for 252:2-15-40 and 41 represent a continuation of a hearing held on October 21, 1997, in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1271; filed 10-24-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #97-1272]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

- 252:100. Air Pollution Control
- Subchapter 5. Registration of Air Contaminant Sources [AMENDED]
- Subchapter 8. Operating Permits (Part 70) [AMENDED]
- Subchapter 17. Incinerators [AMENDED]

SUMMARY:

In Subchapter 5 at 252:100-5-2.2(b)(2), it is proposed to review the annual operating fees for Part 70 sources. The proposed amendments to Subchapter 8 are necessary to incorporate a new permit classification system; move the requirements for construction permits for Part 70 sources and major facilities from Subchapter 7 to Subchapter 8; move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5; and meet the federal requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The proposed amendments include: introduction of general permits for construction of Part 70

sources and major facilities not subject to Part 70 general permits for operating major sources not subject Part 70; addition of the requirements for construction permits for Part 70 sources and construction and operating permits for major facilities not subject to Part 70; revision of the permit application fees; deletion of annual operating fees (which will be moved to Subchapter 5); and amendments to meet the requirements for final approval of the Title V program including the incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§63.40, 63.41, 63.43 and 63.44). The following changes were set forth by EPA in the interim approval of the Oklahoma program published in the Federal Register at 62 FR 4220, Monday, February 5, 1996: (1) Revise Subchapter 8 to Include Transition Schedule; (2) Revise Subchapter 8 definition of "Major Source"; (3) Revise Subchapter 8 Insignificant Activities Provision; (4) Revise Subchapter 8 Permit Content Language; (5) Revise Subchapter 8 Judicial Review Provision; (6) Revise Subchapter 8 Administrative Amendment Provision; and (7) Submission of a SIP Revision for Subchapter 7. It is proposed to amend Subchapter 17 by adding a new Part 5 and a new Appendix K to address Municipal Waste Combustors (MWC). This amendment is necessary to meet federal requirements for State plans under Section 111(d) of the federal Clean Air Act applicable to existing sources. This change would adopt standards published on December 19, 1995, in the Federal register at 40 CFR 60, Subpart Cb and amended on August 25, 1997. These standards apply to MWC units with the capacity to combust more than 250 tons per day of municipal solid waste. In addition, the existing portions of Subchapter 17 are revised and redesignated as Part 1, General Provisions, and Part 3, Incinerators. Proposed revisions include deletion of references to Ringelmann standards and substitution of relative opacity. Revisions were also made to Appendices A and B for reasons of simplification. The Division is requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Monday, November 17, 1997, through Tuesday, December 16, 1997. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Wednesday, December 10, 1997. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, January 27, 1998 - 9:30 a.m. [Location to be determined. See contact person.]

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, December 16, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

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Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 17, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for Subchapters 5 and 8 represent a continuation of hearings held on October 21, 1997, in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1272; filed 10-24-97]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCESS AND PROCEDURES

[OAR Docket #97-1278]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

OAC 317:2-1-2.1 through 317:2-1-2.2 [AMENDED]
(Reference APA WF # 97-13)

SUMMARY:

Grievance Procedures and Process rules are revised to more accurately reflect the intent of the agency's grievance rules. The agency adopted rules on 2-19-97 which provide a wage and salary adjustment to long term care facilities. However, current rules do not specify the process for a facility to appeal an agency decision to recoup monies paid when the monies have not been used for the purpose intended, as allowed by agency rules. Revisions are needed to include the appeal process in the rules. Other revisions are needed to revise the process for non-payment or denial of provider claims. Current rules allow complaints regarding non-payment or denial of claims to be heard by the agency's Reimbursement Appeals Committee. This committee assures that payments are made equitably and within federal and state guidelines. Revised rules delete the requirement for a formal Level I proceeding hearing for complaints regarding claims payments to providers. Federal law does not require the formal hearing. Further

revisions are needed to allow for a process to reschedule a hearing on the basis of good cause. When an individual has duly exercised their rights and a hearing set, current rules do not address situations when the person does not appear for the hearing but later shows the absence was clearly beyond the person's control. Revised rules will allow the Administrative Law Judge to reschedule the hearing when good cause does exist.

AUTHORITY:

Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted through December 8, 1997 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-530-3272.

PUBLIC HEARING:

No public hearing is scheduled at this time but will be scheduled if a written request is submitted to the contact person listed above by 1) at least twenty-five persons, 2) a political subdivision, 3) an agency, or 4) an association having not less than twenty-five members.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Joanne Terlizzi at 405-530-3272.

[OAR Docket #97-1278; filed 10-24-97]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 25. SOONERCARE

[OAR Docket #97-1279]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

Chapter 25. ~~Managed-Care~~ *SoonerCare*
Subchapter 1. ~~Health Plan Competitive Bid~~
~~Requirements~~

OAC 317:25-1-1 through 317:25-1-2 [AMENDED]

Subchapter 3. Health Maintenance Organizations

OAC 317:25-3-2.1 [REVOKED]

OAC 317:25-3-3 [AMENDED]

Subchapter 5. *SoonerCare Plus*

Part 1. General Provisions

minimis" facilities from the requirements of Subchapter 7; revising minor permit application fees; and introducing two new types of construction and operating permits, permit by rule and general permit.

The changes in Subchapter 8 incorporate a new permit classification system, move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5, move the requirements for construction permits for Title V sources from Subchapter 7 to Subchapter 8, make corrections to meet the federal requirements for final approval of the Oklahoma Operating Permit Program under Title V of the Federal Clean Air Act and 40 CFR Part 70, adopt by reference the federal rules governing case-by-case MACT determinations found in 40 CFR §§63.41, 63.43 and 63.44 as they exist on July 1, 1997, and update the adoption of 40 CFR 72 by adopting the provisions published in the Federal Register on October 24, 1997.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on January 9, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

CONTACT PERSON:

For Subchapters 5 and 7: Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th floor, Oklahoma City, Oklahoma 73102. (405) 702-4100.

For Subchapter 8: Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th floor, Oklahoma City, Oklahoma 73102. (405) 702-4100.

DUE TO THE EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT DEPARTMENT OF ENVIRONMENTAL QUALITY, 707 N. ROBINSON, FOURTH FLOOR, OKLAHOMA CITY, OKLAHOMA 73102 AND AT THE OFFICE OF ADMINISTRATIVE RULES, SECRETARY OF STATE, WILL ROGERS BUILDING, 2ND FLOOR NORTH, OKLAHOMA CITY, OKLAHOMA 73105. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., § 255(B):

Subchapters 5, 7, and 8 of the Air Pollution Control rules have been simplified and clarified. To assist in this effort, certain rules were moved from one subchapter to another. For example, requirements to file emission inventory reports were moved from Subchapter 7 to Subchapter 5. The annual operating fees, which are calculated based on the emission inventory reports, were moved from Subchapters 7 and 8 to Subchapter 5. The construction permit requirements and application fee rules for Part 70 sources have been moved from Subchapter 7 to Subchapter 8.

Other revisions to Subchapter 5 involve changing the fees for non-Part 70 sources from a stepped schedule to a flat rate of \$10.00 per ton.

Subchapter 7 was also amended to incorporate the Department's permit continuum. The continuum provides for 1) *de minimis* facilities, which emit less than five tons per year of any regulated pollutant and which are not required to obtain a permit; 2) permit-by-rule facilities, which emit less than 40 tons per year of any regulated pollutant and which belong to an industry group for which a rule has been promulgated; 3) general permit facilities, which emit 40 tons per year or more of any regulated pollutant and which belong to an industry group for which a general permit has been issued; and 4) individual permit facilities, which are not eligible for any of the

previous permit categories and must, therefore, apply for individual permits. In addition, the permit application fees were revised to reflect the new permit categories. The purpose of revising the fees was not to increase them, but to reapportion them according to the new permit categories.

The construction permit rules now in Subchapter 8 contain one new requirement: Federal regulations (40 CFR §§ 63.41, 63.43 and 63.44) concerning case-by-case determinations of maximum achievable control technology ("MACT") standards were incorporated by reference. In promulgating these rules, the State has adopted a program to implement section 112(g) of the Federal Clean Air Act with respect to construction or reconstruction of major sources of hazardous air pollutants. The permit fee rules in Subchapter 8 establish a new fee of \$900.00 for authorizations under general permits. Other new additions to the Part 70 permit rules include definitions for "insignificant activities" and "trivial activities" and additional rules for general permits. The latter rules explain how authorizations are obtained, revised, and renewed. Subchapter 8 rules were also revised to make changes required by the U. S. Environmental Protection Agency in order for Oklahoma to obtain final approval of its Part 70 operating permit program.

The full text of the rule may be obtained from Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th Floor, Oklahoma City, Oklahoma 73102.

[OAR Docket #98-1049; filed 5-22-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-1047]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 252:100-17-1 [AMENDED]
- 252:100-17-1.1 and 252:100-17-1.2 [NEW]
- 252:100-17-2 [AMENDED]
- 252:100-17-2.1 and 252:100-17-2.2 [NEW]
- 252:100-17-3 through 252:100-17-5 [AMENDED]
- 252:100-17-6 [REVOKED] ¹
- 252:100-17-7 [NEW]
- 252:100-17-14 [NEW]
- 252:100-17-14.1 [NEW]
- 252:100-17-15 through 252:100-17-27 [NEW]
- Appendix A [REVOKED AND REENACTED]
- Appendix B [REVOKED AND REENACTED]
- Appendix K [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1994, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

- September 16, 1996, through October 8, 1996
- January 16, 1997, through February 12, 1997
- November 17, 1997, through December 16, 1997
- January 27, 1998
- March 20, 1998

Permanent Final Adoptions

Public hearing:

October 15, 1996, February 19, 1997 and December 16, 1997

Adoption:

March 20, 1998

Submitted to Governor:

March 26, 1998

Submitted to House:

March 26, 1998

Submitted to Senate:

March 26, 1998

Gubernatorial approval:

May 8, 1998

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 21, 1998.

Final adoption:

May 21, 1998

Effective:

June 25, 1998

INCORPORATIONS BY REFERENCE:

Incorporated standards:

40 CFR 60.51b, Definitions

40 CFR 60.53(b) and (c), Standards for municipal waste combustor operating practices

40 CFR 60.55b, Standards for municipal waste combustors fugitive ash emissions

40 CFR 60.58b, Compliance and performance testing

40 CFR 60.59b, Reporting and recordkeeping requirements, except for 60.59b(a), b(5) and d(11)

Incorporating rules:

252:100-17-14.1

252:100-17-20

252:100-17-21

252:100-17-22

252:100-17-25

252:100-17-26

Availability:

The standards are available to the public for examination at the Department of Environmental Quality office at 4545 N. Lincoln, Suite 250, Oklahoma City, Oklahoma.

ANALYSIS:

It is proposed to amend Subchapter 17 by adding a new Part 5 and a new Appendix K to address Municipal Waste Combustors (MWC). This amendment is necessary to meet federal requirements for State plans under Section 111(d) of the Federal Clean Air Act applicable to existing sources. This change would adopt standards published on December 19, 1995, in the Federal Register and amended on August 25, 1997. These standards would apply to MWC units with the capacity to combust more than 250 tons per day of municipal solid waste and for which construction commenced on the unit on or before September 20, 1994. In addition, the existing portions of Subchapter 17 are revised and redesignated as Part 1, General Provisions, and Part 3, Incinerators. Proposed revisions include deletion of references to Ringelmann standards and substitution of relative opacity. Revisions were also made to Appendices A and B for reasons of simplification.

Air Quality Advisory Council recommended these amendments for adoption at their meeting on December 16, 1997.

SUMMARY¹ OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Fourth Floor, Oklahoma City, Oklahoma 73102. (405) 702-4100

EDITOR'S NOTE: ¹ The agency's proposed rules identified this Section as being "[AMENDED AND RENUMBERED TO 252:100-17-4]." However, because a Section cannot be "renumbered" to a Section that already exists, 252:100-17-6 is now identified as being "[REVOKED]" and the agency has added an Agency Note to explain that the provisions of the revoked Section have been incorporated into 252:100-17-4. See Agency Note following Section 252:100-17-6 below.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 25, 1998.

SUBCHAPTER 17. INCINERATORS

PART 1. GENERAL PROVISIONS

252:100-17-1. Purpose

The purpose of this Subchapter is to deem it unlawful to burn refuse in any incinerator except in a multiple-chambered incinerator or in equipment determined by the Director to be equally effective for the purpose of air pollution control. specify design and operating requirements and emission limitations for incinerators and municipal waste combustors (MWC).

252:100-17-1.1. Reference to 40 CFR

When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

252:100-17-1.2. Terminology related to 40 CFR

When these terms are used in rules incorporated by reference, the following definitions shall apply:

- (1) "EPA Administrator" is synonymous with "Executive Director".
- (2) "Affected facility" is synonymous with "large MWC unit".
- (3) "State" is synonymous with "Department of Environmental Quality" or "DEQ".
- (4) "State plan" is a program that the State is responsible for developing and implementing to achieve compliance with the emission guidelines in Subpart Cb of 40 CFR Part 60.

PART 3. INCINERATORS

252:100-17-2. Effective date; applicability

This subchapter shall become operative one year from

and after July 21, 1970. It will apply to any and all incinerators utilized within the State of Oklahoma. This Part became effective on July 21, 1971 and applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this Part.

252:100-17-2.2. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Capacity" means amount of specified wastes a unit is designed to burn. Capacity may be expressed as pounds per hour or tons per day.

"Primary combustion chamber" means the initial incinerator chamber where waste is charged, ignited and burned.

"Secondary burner" means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.

252:100-17-3. Prohibition on density of emissions
Opacity

~~(a) Prohibition. No person shall cause, suffer, allow, or permit the discharge of smoke from an incinerator of a density darker than number one (1) on the Ringelmann Chart or a visible emission of such an equivalent opacity as to obscure a certified visible emission evaluator's view to a degree greater than number one (1) on the Ringelmann Chart.~~

~~(b) Exemptions. Subsection 252:100-17-3(a) shall not apply to:~~

- ~~(1) visible emissions consisting of uncombined water droplets; or,~~
- ~~(2) smoke, the density of which is not darker than number three (3) of the Ringelmann Chart for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes or more than twenty (20) minutes in any twenty-four (24) hour period. See 252:100-25-3.~~

252:100-17-4. Prohibition on pounds per hour of emissions-Particulate matter

~~No person shall cause or allow to be emitted into the open air from any incinerator equipment, fly ash or other particulate matter in quantities greater than shown in 252:100-17-6. Solid fuels charged will be considered as part of the refuse weight, but No. 1 and No. 2 fuel oil and gaseous fuels and combustion air will not be so considered. Fly ash or other particulate matter shall not exceed quantities greater than the allowable emission rate. The allowable~~

emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter. Solid fuels charged will be considered part of the refuse weight. No. 1 and No. 2 fuel oils (distillate oils), liquified petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.

252:100-17-5. Incinerator design requirements

~~Hereafter no person shall operate an incinerator unless an incinerator under this Part must have:~~

- ~~(1) It is provided with an auxiliary burner for the purpose of maintaining a primary burner that maintains a temperature of at least 800° F in the primary combustion chamber.~~
- ~~(2) It has a secondary burner for use that shall be used when necessary to eliminate smoke.~~
- ~~(3) It is a type of incinerator design a design that can be demonstrated to the Director DEQ to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.~~
- ~~(4) It complies with generally recognized good practices and all applicable provisions of this Subchapter.~~
- ~~(5) Full and proper use is made of all components and appurtenances thereof.~~

252:100-17-6. Allowable emission of particulates
[REVOKED]

~~(a) Allowable emissions for incinerators with capacities in excess of 100 lb/hr are set forth in Appendix A of this Chapter.~~

~~(b) Allowable emissions for incinerators with capacities less than 100 lbs/hr are set forth in Appendix B of this Chapter.~~

AGENCY NOTE: The provisions of 252:100-17-6 have been incorporated into 252:100-17-4 to clarify and simplify language.

252:100-17-7. Test methods

(a) Opacity. Opacity shall be measured utilizing Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

(b) Particulate matter. Particulate matter shall be measured utilizing the appropriate DEQ-approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

Permanent Final Adoptions

PART 5. MUNICIPAL WASTE COMBUSTORS

252:100-17-14. Effective date; applicability

This Part is effective as of March 23, 1997 and applies to large MWC units.

252:100-17-14.1. Definitions

The definitions in 40 CFR 60.51b are hereby incorporated by reference as they exist on October 24, 1997.

252:100-17-15. Exemptions

(a) Any MWC unit that is capable of combusting more than 250 tons per day of MSW and is subject to a federally enforceable permit limiting the maximum amount of MSW that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this Part if the owner/operator:

- (1) Notifies the DEO of an exemption claim.
- (2) Provides the DEO with a copy of the federally enforceable permit that limits the firing of MSW to less than or equal to 11 tons per day.
- (3) Keeps records of the amount of MSW fired per day.

(b) A qualifying small power production facility, (as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)), that produces electric energy from homogeneous waste is not subject to this Part if the owner/operator:

- (1) Notifies the DEO of an exemption claim.
- (2) Provides the DEO data documenting that the facility qualifies for this exemption.

(c) A qualifying cogeneration facility, (as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)), that burns homogeneous waste to produce electric energy, steam, or other useful energy used for industrial, commercial, heating, or cooling purposes, is not subject to this Part if the owner/operator:

- (1) Notifies the DEO of an exemption claim.
- (2) Provides the DEO data documenting that the facility qualifies for this exemption.

(d) Any unit combusting a single-item waste stream of tires is not subject to this Part if the owner/operator:

- (1) Notifies the DEO of an exemption claim.
- (2) Provides the DEO with data documenting that the unit qualifies for this exemption.

(e) Any unit required to have a hazardous waste permit is not subject to this Part.

(f) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this Part.

(g) Any cofired combustor that meets the capacity specifications in paragraph (a) of this section is not subject to this Part if the owner/operator:

- (1) Notifies the DEO of an exemption claim.
- (2) Provides the DEO with a copy of the federally enforceable permit.
- (3) Keeps separate records, on a calendar quarter

basis, of the weight of MSW and the weight of all other fuels combusted at the cofired combustor.

(h) Air curtain incinerators that meet the capacity specifications in 252:100-17-23 of this Subchapter and combust a 100 percent yard waste fuel stream are not subject to this Part, except:

- (1) The opacity limit under section 252:100-17-23 of this Subchapter.
- (2) The testing procedures under section 252:100-17-25 of this Subchapter.
- (3) The reporting and recordkeeping provisions under section 252:100-17-26 of this Subchapter.

(i) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit are not subject to this Part if the owner/operator of the unit maintains records of:

- (1) The weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis.
- (2) The weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis.
- (3) The name and address of the purchaser of the feedstocks.

(j) The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this Part.

(k) Cement kilns firing MSW are not subject to this Part.

252:100-17-16. Standards for particulate matter and opacity

(a) Particulate matter. The concentration of particulate matter contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 27 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Opacity. Opacity of gases discharged to the atmosphere from a MWC unit shall not exceed 10 percent (6-minute average).

252:100-17-17. Standards for municipal waste combustor metals

(a) Cadmium. The concentration of cadmium contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.040 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Lead.

(1) By December 19, 2000, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.49 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(2) By August 26, 2002, or three years after EPA approval of the State plan, whichever is first, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.44 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(c) Mercury. The concentration of mercury contained in

the gases discharged to the atmosphere from a MWC unit shall not exceed 0.080 milligrams per dry standard cubic meter or 15 percent of the potential mercury emission concentration (85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

252:100-17-18. Standards for municipal waste combustor acid gases expressed as sulfur dioxide and hydrogen chloride

(a) Sulfur dioxide.

(1) By December 19, 2000, the concentration of sulfur dioxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 31 parts per million by volume (ppmv) or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(2) By August 26, 2002, or three years after EPA approval of the State plan, which ever is first, the concentration of sulfur dioxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 29 ppmv or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(b) Hydrogen chloride.

(1) By December 19, 2000, the concentration of hydrogen chloride contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 31 parts per million by volume (ppmv) or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(2) By August 26, 2002, or three years after EPA approval of the State plan, which ever is first, the concentration of hydrogen chloride contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 29 ppmv or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans

(a) The concentration of organics, expressed as total mass dioxins/furans, contained in the gases discharged to the atmosphere from a MWC unit shall not exceed:

(1) With electrostatic precipitator: 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(2) Without electrostatic precipitator: 30 nanograms

per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(b) Large MWC units that achieve a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter total mass, corrected to 7 percent oxygen, may elect the alternative performance testing schedule for dioxins/furans as specified in 40 CFR 60.58b(g)(5)(iii).

252:100-17-20. Standards for nitrogen oxides

(a) Nitrogen oxides emission limits. The concentration of nitrogen oxides contained in the gases discharged into the atmosphere from a MWC unit shall not exceed the following:

NITROGEN OXIDES LIMITS

Municipal Waste Combustor Technology	Nitrogen oxides emission limit (ppm by volume)^a
Mass burn waterwall	205
Mass burn rotary waterwall	250
Refuse-derived fuel combustor	250
Fluidized bed combustor (by December 19, 2000)	240
Fluidized bed combustor (by August 26, 2002, or three years after EPA approval of the State plan, which ever is first)	180

^a Corrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(b) Nitrogen oxides emissions averaging. The owner or operator of a MWC plant may elect to implement a nitrogen oxides emissions averaging plan for the MWC units that are located at that plant.

(1) The following units cannot be included in the emissions averaging plan:

(A) MWC units subject to Subpart Ea or Eb of 40 CFR Part 60.

(B) Mass burn refractory MWC units and other MWC technologies not listed in paragraph (b)(3) of this section may not be included in the emissions averaging plan.

(2) Prior to implementing the nitrogen oxides emissions averaging plan, the units to be included must be identified in the initial performance test report specified in 40 CFR 60.59b(f) or in the annual report specified in 40 CFR 60.59b(g), as applicable. The units which are included in the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with DEO approval.

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission

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concentration level discharged from the units included in the emissions averaging plan shall be no greater than the levels specified in this section. Emission limits for the nitrogen oxides concentration level for each type of unit are as follows:

NITROGEN OXIDES LIMITS FOR EXISTING DESIGNATED FACILITIES INCLUDED IN AN EMISSIONS AVERAGING PLAN AT A MUNICIPAL WASTE COMBUSTOR PLANT^a

<u>Municipal waste combustor technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)^b</u>
Mass burn waterwall	185
Mass burn rotary waterwall	220
Refuse-derived fuel combustor	230
Fluidized bed combustor	165

^a Mass burn refractory municipal waste combustors and other MWC technologies not listed above may not be included in an emissions averaging plan.

^b Corrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average.

(4) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (b)(3) of this section shall be calculated using the equation in Appendix K of this Chapter. MWC units that are off-line shall not be included in calculating the average daily nitrogen oxides emission level.

(5) For any day a unit included in the emissions averaging plan is off-line, the owner or operator of the MWC plant must demonstrate compliance according to either paragraph (b)(5)(A) or both paragraphs (b)(5)(B) and (b)(5)(C) of this section.

(A) Compliance with the applicable limits specified in (b)(3) of this Part shall be demonstrated using the averaging procedure specified in paragraph (b)(4) of this section. The averaging procedure will include the MWC units in the plan that are on-line.

(B) For each of the units included in the emissions averaging plan, the nitrogen oxides emissions shall be calculated on a daily average basis. The nitrogen oxides emissions level shall be equal to or less than the maximum daily nitrogen oxides emission levels achieved by that unit on any of the days during which the emissions averaging plan was achieved with all units on-line during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b)(5)(C)(ii) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b)(5)(C)(i) of this section.

(i) The average nitrogen oxides emissions shall be calculated for all days during which the emissions averaging plan was implemented and achieved and during which all MWC units were on-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated, on a calendar year basis, according to paragraphs (b)(5)(C)(i)(I) through (b)(5)(C)(i)(III) of this section.

(I) The daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated for each MWC unit included in the emissions averaging plan. The calculation shall be based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h)(5). The flue gas flow rate is determined using the hourly average steam or feedwater flow rate and Table 19-1 of EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 1997.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each unit calculated under paragraph (b)(5)(C)(i)(I) of this section.

(III) On a calendar year basis, the average nitrogen oxides emissions (kilograms per day), shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(i)(II) of this section divided by the number of calendar days for which a daily total was calculated.

(ii) The average nitrogen oxides emissions shall be calculated for all days during which one or more of the MWC units under the emissions averaging plan was off-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated according to paragraphs (b)(5)(C)(ii)(I) through (b)(5)(C)(ii)(III) of this section on a calendar year basis.

(I) For each MWC unit included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h)(5), the flue gas flow rate

determined using Table 19-1 of the EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 1997, and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each MWC unit as calculated under paragraph (b)(5)(C)(ii)(I) of this section.

(III) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis

shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(ii)(II) of this section divided by the number of calendar days for which a daily total was calculated.

252:100-17-21. Standards for municipal waste combustor operating practices

(a) The concentration of carbon monoxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed the following limits for each type of affected equipment:

MUNICIPAL WASTE COMBUSTOR OPERATING LIMITS

Municipal waste combustor technology	Carbon monoxide emissions level (ppm by volume) ^a	Averaging Time ^b (hours)
Mass burn waterwall	100	4
Mass burn refractory	100	4
Mass burn rotary refractory	100	24
Mass burn rotary waterwall	250	24
Modular starved air	50	4
Modular excess air	50	4
Refuse-derived fuel stoker	200	24
Bubbling fluidized bed	100	4
Circulating fluidized bed	100	4
Pulverized coal/refuse-derived fuel mixed fuel-fired combustor	150	4
Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor	200	24

^a Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

^b Averaging times are 4-hour or 24-hour block averages.

(b) An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.53b(b) and (c), which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-22. Standards for municipal waste combustor fugitive ash emissions

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.55b, which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-23. Standards for air curtain incinerators

An owner or operator of an air curtain incinerator with the capacity to burn greater than 250 tons per day of MSW

and for which construction commenced on or before September 20, 1994, and that combusts a fuel feed stream of 100 percent yard waste, shall not cause to be discharged into the atmosphere from that incinerator any gases that exhibit greater than 10 percent opacity (6-minute average). An opacity level of up to 35 percent (6-minute average) is permitted during startup periods within the first 30 minutes of unit operation.

252:100-17-24. Standards for municipal waste combustor operator training and certification

(a) Each chief facility operator and shift supervisor shall obtain and maintain a current provisional operator certification from either the American Society of

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Mechanical Engineers (ASME) [ORO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(b) Each chief facility operator and shift supervisor shall have completed full certification or submitted an application, that has been accepted by the appropriate certification program, for a full certification exam with either the ASME [ORO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(c)

(1) No owner or operator of a MWC unit shall allow the unit to be operated at any time unless one of the following persons is on duty:

(i) A fully certified chief facility operator.

(ii) A provisionally certified chief facility operator who has met the qualification requirements specified in ASME [ORO-1-1994 section 2.2.2] and has made an application for a full certification exam following the ASME [ORO-1-1994 section 4.3.1] application process, according to the schedule specified in paragraph (b) of this section.

(iii) A fully certified shift supervisor.

(iv) A provisionally certified shift supervisor who has met the qualification requirements specified in ASME [ORO-1-1994 section 2.2.2] and has made an application for a full certification exam following the ASME [ORO-1-1994 section 4.3.1] application process, according to the schedule specified in paragraph (b) of this section.

(2) The requirement specified in paragraph (c) of this section shall take effect no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(3) If one of the persons listed in paragraph (c) of this section must leave the unit during their operating shift, a provisionally certified control room operator who is on-site at the MWC may fulfill the requirement in paragraph (c) of this section.

(d) All chief facility operators, shift supervisors, and control room operators at MWC units must complete the EPA or State MWC operator training course no later than the date 6 months after the date of startup of the MWC or by 12 months after the date of State plan approval, whichever is later.

(e) The requirement specified in paragraph (d) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained

full certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(f) The owner or operator may request that the DEO waive the requirement specified in paragraph (d) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(g) The owner or operator of a MWC unit shall develop and update on an annual basis, a site-specific operating manual. The operating manual shall, at a minimum, address the elements of MWC unit operation specified in paragraphs (g)(1) through (g)(11) of this section.

(1) A summary of the applicable standards under this Part.

(2) A description of basic combustion theory applicable to a MWC unit.

(3) Procedures for receiving, handling, and feeding MSW.

(4) MWC unit start-up, shutdown, and malfunction procedures.

(5) Procedures for maintaining proper combustion air supply levels.

(6) Procedures for operating the MWC unit within the standards established under this Part.

(7) Procedures for responding to periodic upset or off-specification conditions.

(8) Procedures for minimizing particulate matter carryover.

(9) Procedures for handling ash.

(10) Procedures for monitoring MWC unit emissions.

(11) Reporting and recordkeeping procedures.

(h) The owner or operator of a MWC unit shall establish a training program to review the operating manual according to the schedule specified in paragraphs (h)(1) and (h)(2) of this section. The training shall be provided to each person who has responsibilities affecting the operation of the unit including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(1) Each person specified in paragraph (h) of this section shall undergo initial training no later than the date specified in paragraph (h)(1)(A), (h)(1)(B), or (h)(1)(C), whichever is later.

(A) The date 6 months after the date of startup of the unit.

(B) The date prior to the day the person assumes responsibilities affecting MWC unit operation.

(C) Twelve months after date of State plan approval.

(2) Annually, following the initial review required by paragraph (h)(1) of this section, each person specified in paragraph (h) of this section shall review the operating manual updates, any operational lessons learned/experiences of the past year, and provide for review of any section which an employee requests.

(i) The operating manual required by paragraph (h) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (h) of this section no later than 6 months after start-up or 12 months after the date of State plan approval. The operating manual and records of training shall be available for inspection by the DEO upon request.

252:100-17-25. Compliance and performance testing

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.58b, which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-26. Reporting and recordkeeping requirements

Except for the provisions of subsection 60.59b(a), b(5), and d(11), 40 CFR 60.59b is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-27. Compliance schedules

(a) All MWC units must close or be in compliance with all requirements contained in this Part within 3 years following approval of the State plan. However, all MWC units for which construction, modification, or reconstruction is commenced after June 26, 1987 shall comply with the emission limit for mercury specified in 252:100-17-17(c) and the emission limit for dioxin/furans specified in 252:100-17-19 within 1 year following issuance of a revised construction or operating permit, if a permit modification is required, or within 1 year following approval of the State plan, whichever is later.

(b) All MWC units choosing to comply with all requirements contained in this Part in more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit if a permit modification is required, or more than 1 year but less than 3 years following approval of the State plan if a permit modification is not required, shall enter into a consent order that includes measurable and enforceable incremental steps of progress toward compliance. These steps are specified below:

- (1) Date for submittal of the final control plan to the DEO.
- (2) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s).
- (3) Date for initiation of installation of the air pollution control device(s).
- (4) Date for completion of installation of the air pollution control device(s).
- (5) Date for final compliance.

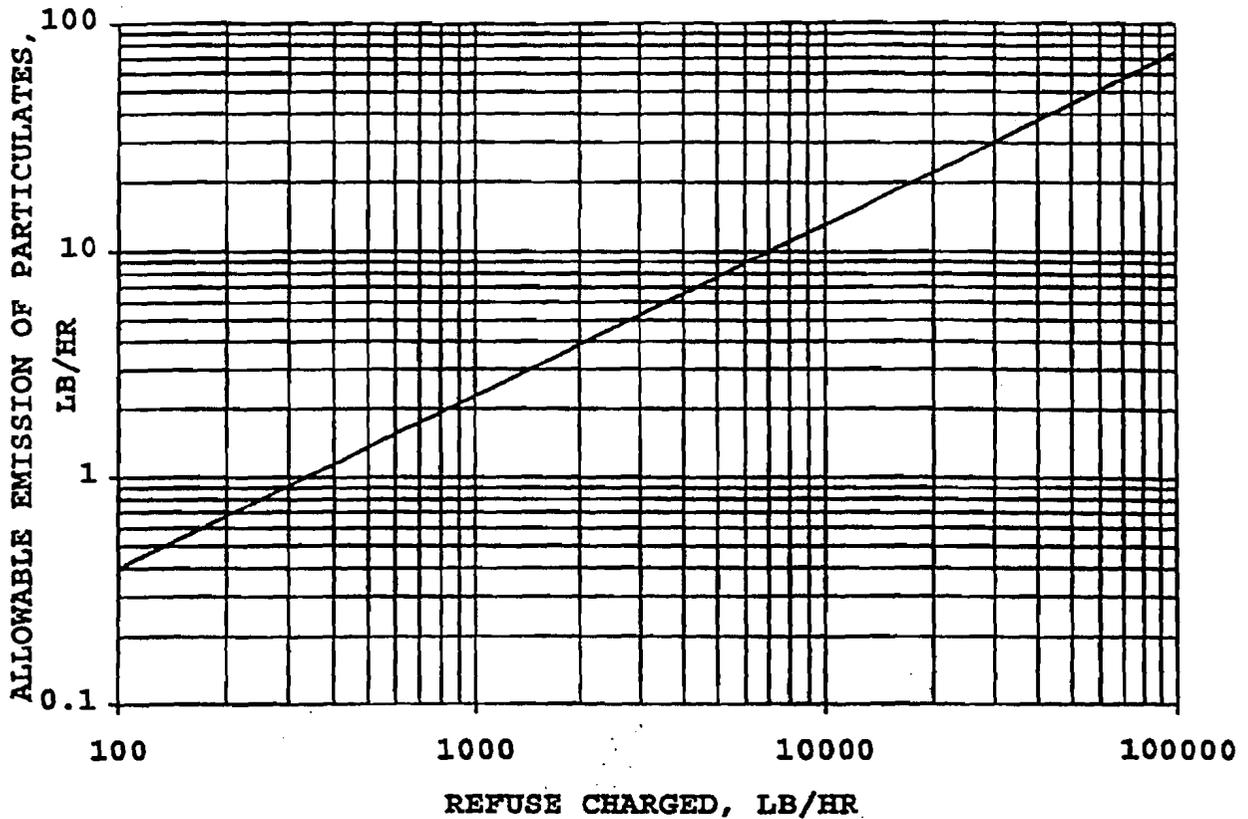
(c) All MWC units with a compliance schedule of more than 1 year after approval of the State plan in accordance with paragraph (b) of this section, shall provide performance test results for dioxin/furan emissions for each unit. However, where the MWC owner/operator can demonstrate that multiple units have the same design, operate with the

same fuel, have the same operating parameters, and are expected to have similar emission levels, the results of dioxin/furan test from one unit may be provided as representative of all such units. The performance test results shall have been conducted during or after 1990. The performance test shall be conducted according to the procedures in 252:100-17-25.

(d) All MWC units intending to close in more than 1 year but less than 3 years after State plan approval shall enter into a consent order to close. The closure order must include the date of plant closure.

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APPENDIX A. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES IN EXCESS OF 100 LB/HR [REVOKED]
APPENDIX A. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES OF 100 LB/HR OR GREATER [REENACTED]



Allowable emission rate may be calculated using the following formula:

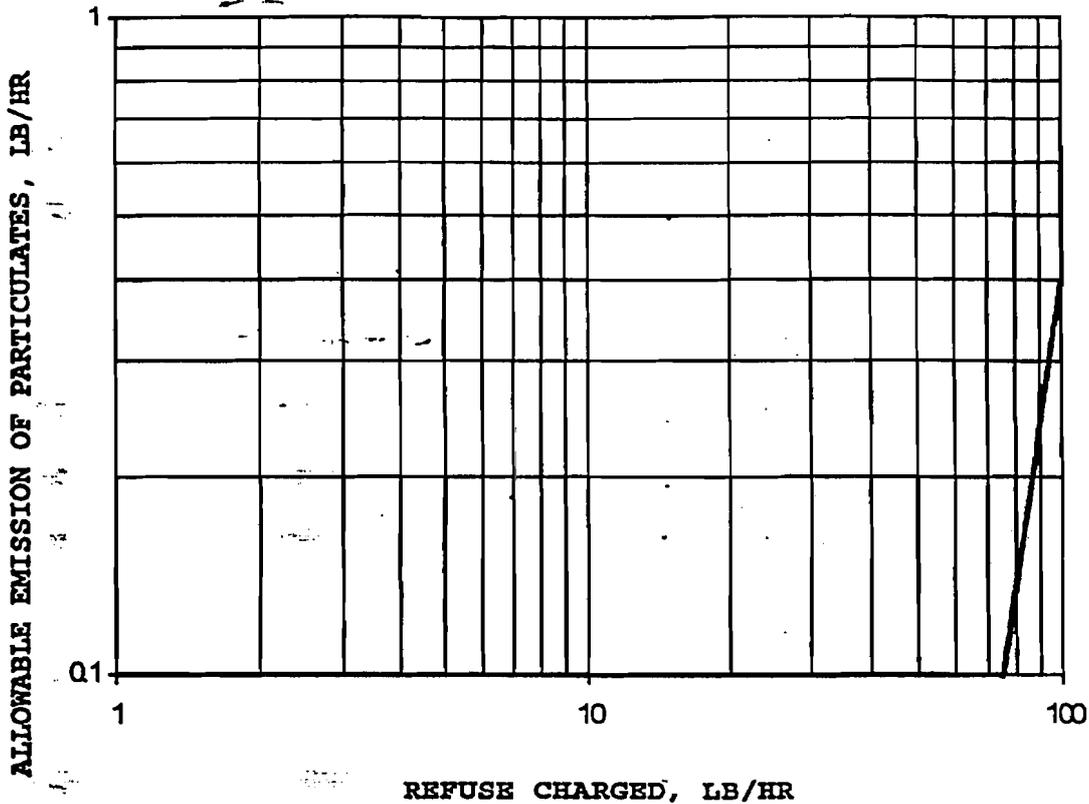
$$Y = 0.01221X^{0.7577}$$

Where:

X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

APPENDIX B. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES LESS THAN 100 LBS/HR [REVOKED]
 APPENDIX B. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES LESS THAN 100 LBS/HR [REENACTED]



Allowable emission rate may be calculated using the following formulae:

Incinerators with capacities greater than 75, but less than or equal to 100 lb/hr

$$Y = 9.213 \times 10^{-11} X^{4.818}$$

Incinerators with capacities of 75 lb/hr or less

$$Y = 0.1$$

Where,

X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

APPENDIX K. AVERAGE DAILY NITROGEN OXIDES EMISSIONS [NEW]

$$NOX_{24-hr} = \frac{\sum_{i=1}^h [(NOX_i) (S_i)]}{\sum_{i=1}^h (S_i)}$$

where:

NOX_{24-hr} = 24-hour daily average nitrogen oxides emission concentration level for the emissions averaging plan (parts per million by volume corrected to 7 percent oxygen).

NOX_i = 24-hour daily average nitrogen oxides emission concentration level for unit i (parts per million by volume, corrected to 7 percent oxygen), calculated according to the procedures in 40 CFR 60.58b(h).

S_i = maximum demonstrated municipal waste combustor unit load for affected facility i (pounds per hour steam or feedwater flow as determined in the most recent dioxin/furan performance test).

h = total number of units being included in the daily emissions average.

[OAR Docket #98-1047; filed 5-22-98]

Notices of Rulemaking Intent

COMMENT PERIOD:

Deliver or mail written comments to the contact person from March 15, 2000, through April 18, 2000. Oral or written comments will be accepted by the Water Quality Management Advisory Council at its April 18, 2000, meeting.

PUBLIC HEARINGS:

Before the Water Quality Management Advisory Council on April 18, 2000, in the multi-purpose Room (1st floor), DEQ Building, 707 N. Robinson, Oklahoma City, Oklahoma 73101. Before the Environmental Quality Board on June 20, 2000, at University Center at Tulsa, 700 N. Greenwood Avenue, Tulsa, Oklahoma.

COPY OF PROPOSED RULE:

The proposed rule may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rule may be requested from the contact person.

CONTACT PERSONS:

Contact David Freede at david.freede@deqmail.state.ok.us (e-mail) or (405) 702-6222 (phone). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #00-343; filed 2-24-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-340]

RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking

PROPOSED RULES:

Subchapter 7. Permits for Minor Facilities [AMENDED]

Subchapter 17. Incinerators [AMENDED]

SUMMARY:

The proposed changes to Subchapter 7 consist of the addition of sections 60.3, 60.4, and 60.5. Proposed section 60.3 references the permit by rule for VOC storage and loading facilities which is located in 100-37-41 and 42, and proposed section 60.4 references the permit by rule for particulate matter facilities, which is located in 100-19-13. The addition of these two sections to Subchapter 7 is not a

substantive change. Section 60.5 is the proposed permit by rule for natural gas compression facilities. This section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule. The Department is proposing amendments to 252:100-17, Part 3, Incinerators. Section 2 of the Part would be amended to remove references to an effective date, and Section 5(3) would be deleted. A new Section 5.1, Alternative incinerator design requirements, would be added to clarify that the Division Director may approve incinerator designs that do not meet the requirements specified in 252:100-17-5.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. Supp. 1999, §§ 2-2-101; and Oklahoma Clean Air Act, §§ 2-5-101, et seq.

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on April 19, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by April 12, 2000. Oral comments may be made at the April 19, 2000 hearing and at the Environmental Quality Board hearing on June 20, 2000, in Tulsa, Oklahoma.

PUBLIC HEARINGS:

Wednesday, April 19, 2000 - 9:00 a.m. hearing, 4500 W. Lee Blvd, Room 301, Lawton Great Plains Technology Center, Lawton, OK.

Scheduled before the Environmental Quality Board at 9:30 a.m. on June 20, 2000 at the University Center at Tulsa, 700 N. Greenwood Ave., Tulsa, OK 74106.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Joyce Sheedy (Subchapter 7), Cheryl Bradley (Subchapter 17). Department of Environmental Quality, Air Quality

the level required for compliance with any applicable regulations or standards.

(e)(b) **Limitation.** The following limitations shall apply to all alternative ~~emission~~ emissions reduction authorizations plans:

- (1) Net emissions reduction trade-offs will not be authorized across established pollutant categories; e.g., sulfur emissions may not be traded for hydrocarbon emissions.
- (2) Net emissions reduction trade-offs of particulate matter will be authorized only ~~on the following basis:~~
 - (A) ~~emissions of particulate matter equal to or greater than 10u (microns) in diameter may be traded for other particulates equal to or greater than 10u (microns) in diameter, or~~
 - (B) ~~emissions of particulate matter less than 10u (microns) in diameter may be reduced in return for a corresponding increase for particulates of equal or greater size. If the trade-off results in a net reduction in particulate matter of equal or smaller average aerodynamic diameter.~~

252:100-11-6. Authorization procedures

(a) **Determination.** Within 30 days after receipt of all information required to accomplish the analysis required in 252:100-11-5, the DEQ will make a determination whether the permit plan should be ~~approved~~ authorized, ~~approved~~ authorized with conditions or ~~disapproved~~ not authorized.

(b) **Petition for recommendation to revise SIP ~~revision~~, public notice and Council hearing.**

(1) Upon a determination to ~~approve~~ authorize but prior to ~~approval~~ authorization, the applicant shall file a petition with the DEQ for a ~~corresponding revision to the State Implementation Plan (SIP) which requests a SIP hearing before the Air Quality Council and includes the following:~~

- (A) ~~name and address of the interested party;~~
- (B) ~~the reason for the party's interest or concern in the issuance of the permit; such reason shall be one or more of the following:~~
 - (i) ~~the level of control technology to be used is inadequate for the facility/source type or its location;~~
 - (ii) ~~the inadequacy of the ambient air modeling technique or its application;~~
 - (iii) ~~the inadequacy of the ambient air monitoring conducted by the petitioner;~~
 - (iv) ~~the invalidity of net emissions reduction trade-offs proposed by the petitioner; or,~~
 - (v) ~~any other specifically identified defect in the petition which would render the proposed control plan inaccurate or invalid; and,~~
- (C) ~~The names and addresses of any persons known by the interested party having either relevant information concerning the substance of the hearing request or having similar interests as those~~

~~represented by the requesting interested party, seeking a hearing and recommendation by the Air Quality Council for a corresponding revision to the SIP.~~

(2) At least 30 days prior to a hearing before the Air Quality Council on the petition, the applicant shall notify the public by prominent advertisement in a newspaper of general circulation in the county in which the source is located:

- (A) that a SIP petition has been filed;
- (B) that the application, petition and the DEQ analysis thereof are available, for 30 calendar days in at least one location in the county where the source is located for public review; and
- (C) of the time, date and place of the hearing before the Air Quality Council and of a 30-day opportunity to submit written comments to the DEQ and/or the opportunity to comment at the hearing.

(3) ~~Sufficiency of notification.~~ The public notice, as specified, will be sufficient to notify all sub-state entities and their representatives of the proposed ~~permit recommendation for SIP revision.~~

(4) At such a hearing before the Air Quality Council, the ~~interested party requesting the public hearing applicant~~ shall bear the burden of proof.

(c) **Major source.** In the case of a major source, as defined by the Federal Clean Air Act, that might impact the air quality of a neighboring State, the comment period for that State is extended to a 60 day period as required by Section 126 of the Federal Clean Air Act, 42 U.S.C. Section 7426.

(d) **Public notice.** ~~Upon approval of the SIP revision, the DEQ shall issue the authorization. Following receipt of the Air Quality Council's recommended revision of the SIP, the DEQ shall issue the plan authorization and the applicant shall publish public notice of that fact in a newspaper of general circulation in the county in which the source is located.~~

[OAR Docket #01-776; filed 4-23-01]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #01-751]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 17. Incinerators
- Part 3. Incinerators
- 252:100-17-2 [AMENDED]
- 252:100-17-5 [AMENDED]
- 252:100-17-5.1 [NEW]

5465

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AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 2000, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

DATES:

Comment period:

March 15, 2000 through April 19, 2000

Public hearing:

April 19, 2000

June 20, 2000

Adoption:

June 20, 2000

Submitted to Governor:

June 29, 2000

Submitted to House:

June 29, 2000

Submitted to Senate:

June 29, 2000

Gubernatorial approval:

July 24, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2001

Final adoption:

March 27, 2001

Effective:

June 1, 2001

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 17. Incinerators

Part 3. Incinerators

252:100-17-2 [AMENDED]

252:100-17-5 [AMENDED]

252:100-17-5.1 [NEW]

Gubernatorial approval:

July 24, 2000

Register publication:

17 Ok Reg 3353

Docket number:

00-2280

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The DEQ is proposing amendments to 252:100-17, Part 3, Incinerators. Section 2 of the Part would be amended to remove references to an effective date, and Section 252:100-5(3) would be deleted. A new Section 252:100-17-5.1, Alternative incinerator design requirements, would be added to authorize the Division Director to approve incinerator designs that do not meet the requirements specified in 252:100-17-5 if those incinerators can meet all other applicable requirements.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2001:

SUBCHAPTER 17. INCINERATORS

PART 3. INCINERATORS

~~252:100-17-2. Effective date; applicability~~ Applicability

~~This Part became effective on July 21, 1971 and applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.~~

252:100-17-5. Incinerator design requirements

An incinerator ~~under subject to~~ this Part must have:

- (1) A primary burner that maintains a temperature of at least 800° F in the primary combustion chamber.
- (2) A secondary burner that shall be used when necessary to eliminate smoke.
- ~~(3) A design that can be demonstrated to the DEQ to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.~~

252:100-17-5.1. Alternative incinerator design requirements

The Director may approve an incinerator design that does not meet the design requirements in 252:100-17-5 if the owner of the proposed incinerator demonstrates to the DEQ that the incinerator can comply with all other applicable requirements.

[OAR Docket #01-751; filed 4-23-01]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #01-747]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 29. Control of Fugitive Dust

252:100-29-2 [AMENDED]

252:100-29-3 [AMENDED]

252:100-29-5 [REVOKED]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 2000, §§ 2-2-101, 2-2-201 and 2-5-101 *et seq.*

DATES:

Comment period:

May 15, 2000, through June 14, 2000

July 17, 2000, through August 16, 2000

5467

Air Quality Council

BRIEFING AGENDA
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL

OCTOBER 15, 1996 9:30 A.M.

TULSA CITY-COUNTY HEALTH DEPARTMENT AUDITORIUM
4616 EAST 15 STREET, TULSA OKLAHOMA

1. Call to Order Chairman

2. Division Director's Report - Informational Director
An update of current events and AQD activities
 - Title V Status
 - OTAG
 - OtherDiscussion by Council/Public

3. BRIEFING ON PUBLIC HEARINGS
 - a. OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES: OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED] Sheedy
Discussion by Council/Public

 - b. OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED] Sheedy
Discussion by Council/Public

 - c. OAC-252:100-17 INCINERATORS, PART 3, MUNICIPAL WASTE COMBUSTORS [NEW] Staff
Discussion by Council/Public

 - d. OAC 252:100-15 MOTOR VEHICLE POLLUTION CONTROL DEVICES [REVOKED] Thomas
Discussion by Council/Public

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 290-8247.

MEETING/HEARING AGENDA
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL

OCTOBER 15, 1996 1:00 P.M.
TULSA CITY-COUNTY HEALTH DEPARTMENT AUDITORIUM
4616 EAST 15 STREET, TULSA OKLAHOMA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of Minutes -- August 13, 1996 Chairman
4. PUBLIC HEARINGS
 - a. OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES: OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED] Sheedy
Discussion by Council/Public
Action by Council
 - b. OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED] Sheedy
Discussion by Council/Public
Action by Council
 - c. OAC-252:100-17 INCINERATORS, PART 3, MUNICIPAL WASTE COMBUSTORS [NEW] Staff
Discussion by Council/Public
Action by Council
 - d. OAC 252:100-15 MOTOR VEHICLE POLLUTION CONTROL DEVICES [REVOKED] Thomas
Discussion by Council/Public
Action by Council
5. New Business Chairman
Discussion/consideration of subjects/business arising within the past 24 hours.
6. Adjournment Chairman
Next Regular Meeting
DECEMBER 17, 1996 (9:30 a.m. and 1:00 p.m.)
Lincoln Plaza Office Park Brown Room
4545 N. Lincoln Blvd., Oklahoma City, OK 73105

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 290-8247.

MEMORANDUM

DATE: October 1, 1996

TO: Air Quality Council

FROM: Larry Byrum, Director *LB*
AIR QUALITY DIVISION

RE: Proposed new Part 3, Municipal Waste Combustors
to Subchapter 17.

Enclosed is the draft of the proposed, new, Part 3, Municipal Waste Combustors, to Subchapter 17, Incinerators, that will be brought to public hearing on October 15, 1996.

The proposed amendment to Subchapter 17 is necessary to meet the federal requirements set forth by the Environmental Protection Agency (EPA) in 40 C.F.R. Part 60, Subpart Cb, Emission Guidelines (EG) for Municipal Waste Combustors (MWC). The EG apply to existing MWC with an aggregate plant combustion capacities of 35 megagrams per day (approximately 39 tons) or greater of municipal solid waste (MSW) and that commenced construction on or before September 20, 1994.

The proposed Subchapter 17, Part 3, MWC, rules were developed under the requirements of the EG and through a cooperative effort between representatives of the public, industry and state and federal government. The proposed Part 3, drafted by Air Quality Division and MWC Workgroup, sets forth rules for MWC which meet all applicable requirements, without being more or less stringent than federal standards.

Enclosed is a copy of 40 C.F.R. 60, Subparts Cb & Eb for your review.

Enclosures: 1

**SUBCHAPTER 17. INCINERATORS
PART 1. GENERAL PROVISIONS**

252:100-17-1. Purpose

The purpose of this Subchapter is to deem it unlawful to burn refuse in any incinerator except in a multiple-chambered incinerator or in equipment determined by the Director to be equally effective for the purpose of air pollution control; and to set forth operating requirements and emission limitations for Municipal Waste Combustors.

252:100-17-2. Effective date; applicability

This Subchapter shall become operative one year from and after July 21, 1970. It will apply to any and all incinerators utilized within the State of Oklahoma.

252:100-17-3. Prohibition on density of emissions

(a) **Prohibition.** No person shall cause, suffer, allow, or permit the discharge of smoke from an incinerator of a density darker than number one (1) on the Ringelmann Chart or a visible emission of such an equivalent opacity as to obscure a certified visible emission evaluator's view to a degree greater than number one (1) on the Ringelmann Chart.

(b) **Exemptions.** Subsection 252:100-17-3(a) shall not apply to:
(1) visible emissions consisting of uncombined water droplets; or,
(2) smoke, the density of which is not darker than number three (3) of the Ringelmann Chart for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes or more than twenty (20) minutes in any twenty-four (24) hour period.

252:100-17-4. Prohibition on pounds per hour of emissions

No person shall cause or allow to be emitted into the open air from any incinerator equipment, fly ash or other particulate matter in quantities greater than shown in 252:100-17-6. Solid fuels charged will be considered as part of the refuse weight, but No. 1 and No. 2 fuel oil and gaseous fuels and combustion air will not be so considered.

252:100-17-5. Incinerator design requirements

Hereafter no person shall operate an incinerator unless:

(1) It is provided with an auxiliary burner for the purpose of maintaining a temperature of at least 800°F in the primary combustion chamber.

(2) It has a secondary burner for use when necessary to eliminate smoke.

(3) It is a type of incinerator design that can be demonstrated to the Director to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.

(4) It complies with generally recognized good practices and all

applicable provisions of this Subchapter.

(5) Full and proper use is made of all components and appurtenances thereof.

252:100-17-6. Allowable emission of particulates

(a) Allowable emissions for incinerators with capacities in excess of 100 lb/hr are set forth in Appendix A of this Chapter.

(b) Allowable emissions for incinerators with capacities less than 100 lbs/hr are set forth in Appendix B of this Chapter.

PART 3. MUNICIPAL WASTE COMBUSTORS [NEW]

252:100-17-15. Applicability [NEW]

(a) Part 3 of this subchapter applies to each municipal waste combustor unit for which construction commenced on or before September 20, 1994, which is located at a municipal waste combustor plant with an aggregate plant combustion capacity greater than 35 megagrams of municipal solid waste per day.

(b) Any waste combustion unit located at a medical, industrial or other type of waste combustor plant that meets the capacity specifications in paragraph (a) of this section and is subject to a federally enforceable permit is not subject to this part. The federally enforceable permit must limit the maximum amount of municipal solid waste combusted at the plant to less than or equal to 10 megagrams per day. To obtain this exemption the owner or operator must:

(1) notify the Department of Environmental Quality (DEQ) of an exemption claim;

(2) provide the DEQ with a copy of the federally enforceable permit that limits the firing of municipal solid waste to less than 10 megagrams per day, and;

(3) keep records of the amount of municipal solid waste fired on a daily basis.

(c) Physical or operational changes made to an existing municipal waste combustor unit primarily for complying with this rule are not considered a modification or reconstruction. Therefore, they do not result in the unit becoming subject to Eb of 40 C.F.R. part 60 [or a State rule implementing subpart Eb of 40 C.F.R. Part 60].

(d) A qualifying small power production facility, (as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), that produces electric energy from homogeneous waste is not subject to this part if the owner/operator of the facility:

(1) notifies the DEQ of an exemption claim, and

(2) provides the DEQ data documenting that the facility qualifies for this exemption.

(e) A qualifying cogeneration facility, (as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), that burns homogeneous waste to produce electric energy, steam, or other useful energy used for industrial, commercial, heating, or cooling purposes, is not subject to this part if the owner or operator of the facility:

(1) notifies the DEQ of an exemption claim, and

- (2) provides the DEQ data documenting that the facility qualifies for this exemption.
- (f) Any unit combusting a single-item waste stream of tires is not subject to this part if the owner or operator of the unit:
- (1) notifies the DEQ of an exemption claim, and
 - (2) provides the DEQ with data, documenting that the unit qualifies for this exemption.
- (g) Any unit required to have a permit under section 3005 of the Solid Waste Disposal Act is not subject to this part.
- (h) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this part.
- (i) Any cofired combustor located at a plant that meets the capacity specifications in paragraph (a) of this section is not subject to this part if the owner or operator:
- (1) notifies the DEQ of an exemption claim;
 - (2) provides the DEQ with a copy of the federally enforceable permit, and;
 - (3) keeps separate records, on a calendar quarter basis, of the weight of municipal solid waste and the weight of all other fuels combusted at the cofired combustor.
- (j) Air curtain incinerators that meet the capacity specifications in paragraph (a) of this section and combust a 100 percent yard waste fuel stream are exempt from all provisions of this part, except:
- (1) the opacity limit under Section 17 of this Subchapter;
 - (2) the testing procedures under Section 26 or this Subchapter, and;
 - (3) the reporting and recordkeeping provisions under Section 27 of this Subchapter.
- (k) Air curtain incinerators that meet the capacity specifications in paragraph (a) of this section and combust municipal solid waste, other than yard waste, are subject to all provisions of this part.
- (l) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit are not subject to this part if the owner or operator of the unit maintains records of:
- (1) the weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis;
 - (2) the weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis, and;
 - (3) the name and address of the purchaser of the feedstocks.
- The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this part.
- (m) Part 3 shall become effective [date to be inserted later].

252:100-17-16. Definitions [NEW]

Terms used but not defined in this part have the meaning given to them in the Oklahoma Clean Air Act and OAC 252:100-1-3 of this

title and subpart A and Eb of 40 C.F.R. part 60.

"Administrator" for the purpose of this rule will mean the 'Executive Director' of the Department of Environmental Quality (DEQ).

"Affected facility" means each municipal waste combustor unit located within a municipal waste combustor plant with an aggregate municipal waste combustor plant capacity greater than 35 megagrams per day of municipal solid waste for which construction commenced on or before September 20, 1994.

"Air Curtain Incinerator" means an incinerator that operates by forcefully projecting air across an open chamber or pit in which burning occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floors.

"Cofired combustor" means a unit combusting municipal solid waste with non-municipal solid waste fuel (e.g., coal, industrial process waste) and subject to a federally enforceable permit which limits the unit to combusting a fuel feed stream that contains 30 percent or less (by weight of total fuel feed stream), of municipal solid waste as measured on a calendar quarter basis.

"Homogeneous waste" means wastes that consist of a single substance such as automotive tires or used oil, but does not include refuse-derived fuel.

"Large municipal waste combustor plant" means a municipal waste combustor plant with a municipal waste combustor aggregate capacity for affected facilities that is greater than 225 megagrams per day of municipal solid waste.

"Municipal waste combustor plant" means one or more municipal waste combustor units at the same location for which construction was commenced on or before September 20, 1994.

"Municipal waste combustor plant capacity" means the aggregate municipal waste combustor unit capacity of all municipal waste combustor units at a municipal waste combustor plant for which construction commenced on or before September 20, 1994.

"Pyrolysis/combustion unit" means a unit that produces gases, liquids or solids through the heating of municipal solid waste. The gases, liquids or solids produced are combusted and emissions are vented to the atmosphere.

"Small municipal waste combustor plant" means a municipal waste combustor plant with a municipal waste combustor capacity for affected facilities that is greater than 35 megagrams per day, but equal to or less than 225 megagrams per day of municipal solid waste.

252:100-17-17. Standards for particulate matter and opacity [NEW]
(a) Emission limits for particulate matter. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain particulate matter in excess of:

(1) Large MWC plants: 27 milligrams per dry standard cubic meter, corrected to 7 percent oxygen;

(2) Small MWC plants: 70 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Emission limits for opacity. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that exhibit greater than 10 percent opacity (6-minute average).

252:100-17-18. Standards for municipal waste combustor metals [NEW]

(a) Emission limits for cadmium. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain cadmium in excess of:

(1) Large MWC plants: 0.040 milligrams per dry standard cubic meter, corrected to 7 percent oxygen;

(2) Small MWC plants: 0.10 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Emission limits for lead. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain lead in excess of:

(1) Large MWC plants: 0.49 milligrams per dry standard cubic meter, corrected to 7 percent oxygen;

(2) Small MWC plants: 1.6 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(c) Emission limits for mercury. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain mercury in excess of 0.080 milligrams per dry standard cubic meter or 15 percent of the potential mercury emission concentration (an 85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

252:100-17-19. Standards for municipal waste combustor acid gases expressed as sulfur dioxide and hydrogen chloride [NEW]

(a) Emission limits for sulfur dioxide. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged to the atmosphere from that affected facility, any gases that contain sulfur dioxide in excess of:

(1) Large MWC plants: 31 parts per million by volume or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(2) Small MWC plants: 80 parts per million by volume or 50 percent of the potential sulfur dioxide emission concentration (50 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

Compliance with this emission limit is based on a 24-hour geometric mean.

(b) Emission limits for hydrogen chloride. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain hydrogen chloride in excess of:

(1) Large MWC plants: 31 parts per million by volume or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent;

(2) Small MWC plants: 250 parts per million by volume or 50 percent of the potential hydrogen chloride emission concentration (50 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

252:100-17-20. Standards for municipal waste combustor organics expressed as total mass dioxins/furans [NEW]

(a) No owner or operator of an affected facility located within a large municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain dioxins/furans in excess of the limits specified in either paragraph (a) (1) or (a) (2) of this section, as applicable.

(1) The emission limit for affected facilities that employ an electrostatic precipitator-based emission control system is 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(2) The emission limit for affected facilities that do not employ an electrostatic precipitator-based emission control system is 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(b) No owner or operator of an affected facility located within a small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain dioxins/furans in excess of 125 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

252:100-17-21. Standards for nitrogen oxides [NEW]

(a) No owner or operator of affected facilities located within a large municipal waste combustor plant shall cause to be discharged into the atmosphere from those affected facilities, any gases that contain nitrogen oxides in excess of the limits specified in this paragraph. Emission limits for the nitrogen oxides concentration level for each type of affected facility are as follows:

Nitrogen Oxides Guidelines

<u>Municipal Waste Combustor Technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)*</u>
<u>Mass burn waterwall</u>	<u>200</u>

<u>Mass burn rotary waterwall</u>	<u>250</u>
<u>Refuse-derived fuel combustor</u>	<u>250</u>
<u>Fluidized bed combustor</u>	<u>240</u>
<u>Mass burn refractory combustor</u>	<u>no limit</u>
<u>Other^b</u>	<u>200</u>

^a Corrected to 7 percent oxygen, dry basis.

^b Excludes mass burn refractory municipal waste combustors.

(b) Nitrogen oxides emissions averaging is allowed as specified in paragraphs (b)(1) through (b)(5) of this section.

(1) An owner or operator of a large municipal waste combustor plant may elect to implement a nitrogen oxides emissions averaging plan for the affected facilities that are located at that plant and that are subject to this part, except as specified in paragraphs (b)(1)(A) and (b)(1)(B) of this section.

(A) Municipal waste combustor units subject to subpart Ea or Eb of 40 C.F.R. part 60 cannot be included in the emissions averaging plan.

(B) Mass burn refractory municipal waste combustor units cannot be included in the emissions averaging plan.

(2) Prior to implementing the nitrogen oxides emissions averaging plan, the affected facilities to be included must be identified in the initial performance test report specified in 40 C.F.R. 60.59b(f) or in the annual report specified in 40 C.F.R. 60.59b(g), as applicable. The affected facilities which comprise the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with state approval.

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level discharged from the affected facilities to be included in the averaging plan must be no greater than the levels specified in this part. Emission limits for the nitrogen oxides concentration level for each type of affected facility are as follows:

Nitrogen Oxides Limits

<u>Municipal waste combustor technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)^a</u>
<u>Mass burn waterwall</u>	<u>180</u>
<u>Mass burn rotary waterwall</u>	<u>220</u>
<u>Refuse-derived fuel combustor</u>	<u>230</u>
<u>Fluidized bed combustor</u>	<u>220</u>
<u>Other^b</u>	<u>180</u>

^a Corrected to 7 percent oxygen, dry basis.

^b Excludes mass burn refractory municipal waste combustors. Mass burn refractory municipal waste combustors may not be included in an emissions averaging plan.

(4) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (b) (3) of this section shall be calculated using the following equation. Affected facilities that are off-line shall not be included in calculating the average daily nitrogen oxides emission level.

$$\text{NOx}_{24\text{-hr}} = \frac{\sum_{i=1}^h (\text{NOx}_i) (S_i)}{\sum_{i=1}^h (S_i)}$$

where:

NOx_{24-hr} = 24-hour daily average nitrogen oxides emission concentration level for the emissions averaging plan (parts per million by volume corrected to 7 percent oxygen).

NOx_{i-hr} = 24-hour daily average nitrogen oxides emission concentration level for affected facility i (parts per million by volume, corrected to 7 percent oxygen), calculated according to the procedures in 40 C.F.R. 60.58b(h).

S_i = maximum demonstrated municipal waste combustor unit load for affected facility i (pounds per hour steam or feedwater flow as determined in the most recent dioxin/furan performance test).

h = total number of affected facilities being included in the daily emissions average.

(5) For any day an affected facility included in the emissions averaging plan is off-line, the owner or operator of the municipal waste combustor plant must demonstrate compliance according to either paragraph (b) (5) (A) or both paragraphs (b) (5) (B) and (b) (5) (C) of this section.

(A) Compliance with the applicable limits specified in (b) (3) of this part shall be demonstrated using the averaging procedure specified in paragraph (b) (4) of this section. The averaging procedure will include the affected facilities in the plan that are on-line.

(B) For each of the affected facilities included in the emissions averaging plan, the nitrogen oxides emissions shall be calculated on a daily basis. The nitrogen oxides emissions level shall be equal to or less than the maximum daily nitrogen oxides emission levels achieved by that affected facility on any of the days during which the emissions averaging plan was achieved with all affected facilities on-line during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per

day) calculated according to paragraph (b) (5) (C) (ii) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b) (5) (C) (i) of this section.

(i) The average nitrogen oxides emissions shall be calculated for all days during which the emissions averaging plan was implemented and achieved and during which all affected facilities were on-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated, on a calendar year basis, according to paragraphs (b) (5) (C) (i) (I) through (b) (5) (C) (i) (III) of this section.

(I) The daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated for each affected facility included in the emissions averaging plan. The calculation shall be based on the hourly nitrogen oxides data required under 40 C.F.R. 60.58b(a) through (m) and specified under 40 C.F.R. 60.58b(h) (5), the flue gas flow rate is determined using table 19-1 of EPA Reference Method 19 [or a State approved method], and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each affected facility calculated under paragraph (b) (5) (C) (i) (I) of this section.

(III) On a calendar year basis, the average nitrogen oxides emissions (kilograms per day), shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b) (5) (C) (i) (II) of this section divided by the number of calendar days for which a daily total was calculated.

(ii) The average nitrogen oxides emissions shall be calculated for all days during which one or more of the affected facilities under the emissions averaging plan was off-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated according to paragraphs (b) (5) (C) (ii) (I) through (b) (5) (C) (ii) (III) of this section on a calendar year basis.

(I) The daily amount of nitrogen oxides emitted (kilograms per day), for each affected facility included in the emissions averaging plan, shall be calculated based on the hourly nitrogen oxides data required under 40 C.F.R. 60.58b(a) through (m) and specified under 40 C.F.R. 60.58b(h) (5), the flue gas flow rate is determined using table 19-1 of EPA Reference Method 19 [or a state approved method], and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each affected facility as calculated

under paragraph (b) (5) (C) (ii) (I) of this section. (III) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b) (5) (C) (ii) (II) of this section divided by the number of calendar days for which a daily total was calculated.

252:100-17-22. Standards for municipal-waste combustor operating practices [NEW]

(a) No owner or operator of an affected facility located within a small or large municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain carbon monoxide in excess of the emission limits specified in this part. Carbon monoxide emission limits for each type of affected facility are as follows:

Municipal Waste Combustor Operating Guidelines

<u>Municipal waste combustor technology</u>	<u>Carbon monoxide emissions level (ppm by volume)*</u>	<u>Averaging Time</u>
<u>Mass burn waterwall</u>	<u>100</u>	<u>4 hour</u>
<u>Mass burn refractory</u>	<u>100</u>	<u>4 hour</u>
<u>Mass burn rotary refractory</u>	<u>100</u>	<u>24 hour</u>
<u>Mass burn rotary waterwall</u>	<u>250</u>	<u>24 hour</u>
<u>Modular starved air</u>	<u>50</u>	<u>4 hour</u>
<u>Modular excess air</u>	<u>50</u>	<u>4 hour</u>
<u>Refuse-derived fuel stoker</u>	<u>200</u>	<u>24 hour</u>
<u>Bubbling fluidized bed</u>	<u>100</u>	<u>4 hour</u>
<u>Circulating fluidized bed</u>	<u>100</u>	<u>4 hour</u>
<u>Pulverized coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>150</u>	<u>4 hour</u>
<u>Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>200</u>	<u>24 hour</u>

*Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

(b) An owner or operator of an existing municipal waste combustor shall comply with all provisions specified in 40 C.F.R. 60.53b(b) and (c).

252:100-17-23. Standards for municipal waste combustor operator training and certification [NEW]

(a) Each chief facility operator and shift supervisor of each affected facility, shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers [ORO-1-1994 (incorporated by reference -- see 40 C.F.R. 60.17 of subpart A of 40 C.F.R. part 60)] or a State certification program by the appropriate date specified in

paragraph (a)(1) or (a)(2) of this section.

(1) For affected facilities located within small municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 18 months after [date of State plan approval], whichever is later.

(2) For affected facilities located within large municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 12 months after [date of State plan approval], whichever is later.

(b) Each chief facility operator and shift supervisor of each affected facility, shall have completed full certification or scheduled a full certification exam with either the American society of Mechanical Engineers [ORO-II1994 (incorporated by reference -- see § 60.17 of subpart A of 40 C.F.R. part 60)] or a State certification program by the appropriate date specified in paragraph (b)(1) or (b)(2) of this section.

(1) For affected facilities located within small municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 18 months after [date of state plan approval], whichever is later.

(2) For affected facilities located within large municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 12 months after [date of State plan approval], whichever is later.

(c) No owner or operator of an affected facility shall allow the facility to be operated at any time unless one of the following persons is on duty at the affected facility: A fully certified chief facility operator, a provisionally certified chief facility operator who is scheduled to take the full certification exam according to the schedule specified in paragraph (b) of this section, a fully certified shift supervisor, or a provisionally certified shift supervisor who is scheduled to take the full certification exam according to the schedule specified in paragraph (b) of this section.

(1) The requirement specified in paragraph (c) of this section shall take effect by the appropriate date specified in paragraph (c)(1)(A) or (c)(1)(B) of this section.

(A) For affected facilities located within small municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 18 months after [date of State plan approval], whichever is later.

(B) For affected facilities located within large municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 12 months after [date of State plan approval], whichever is later.

(2) If one of the persons listed in paragraph (c) of this section must leave the affected facility during their operating shift, a provisionally certified control room operator who is on-site at the affected facility may fulfill the requirement in paragraph (c) of this section.

(d) All chief facility operators, shift supervisors, and control room operators at affected facilities located within a small or

large municipal waste combustor plant must complete the EPA or State municipal waste combustor operator training course no later than the date 6 months after the date of startup of the affected facility or by 12 months after [date of State Plan approvals], whichever is later.

(e) The requirement specified in paragraph (d) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before [date of State plan approval].

(f) The owner or operator may request that the Department of Environmental Quality waive the requirement specified in paragraph (d) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before [date of State plan approval].

(g) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall develop and update on an annual basis, a site-specific operating manual. The operating manual shall, at a minimum, address the elements of municipal waste combustor unit operation specified in paragraphs (g) (1) through (g) (11) of this section.

- (1) A summary of the applicable standards under this part;
- (2) A description of basic combustion theory applicable to a municipal waste combustor unit;
- (3) Procedures for receiving, handling, and feeding municipal solid waste;
- (4) Municipal waste combustor unit start-up, shutdown, and malfunction procedures;
- (5) Procedures for maintaining proper combustion air supply levels;
- (6) Procedures for operating the municipal waste combustor unit within the standards established under this part;
- (7) Procedures for responding to periodic upset or off-specification conditions;
- (8) Procedures for minimizing particulate matter carryover;
- (9) Procedures for handling ash;
- (10) Procedures for monitoring municipal waste combustor unit emissions; and
- (11) Reporting and recordkeeping procedures.

(h) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall establish a training program to review the operating manual according to the schedule specified in paragraphs (h) (1) and (h) (2) of this section. The training shall be provided to each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(1) Each person specified in paragraph (h) of this section shall undergo initial training no later than the date specified in paragraph (h) (1) (A), (h) (1) (B), or (h) (1) (C) whichever is

later.

(A) The date 6 months after the date of startup of the affected facility.

(B) The date prior to the day the person assumes responsibilities affecting municipal waste combustor unit operation; or

(C) Twelve months after [date of State plan approval].

(2) Annually, following the initial review required by paragraph (h)(1) of this section.

(A) The operating manual required by paragraph (h) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (h) of this section no later than 6 months after start-up or 12 months after [date of State plan approval]. The operating manual and records of training shall be available for inspection by the Department of Environmental Quality upon request.

252:100-17-24. Standards for municipal waste combustor fugitive ash emissions [NEW]

An owner or operator of an existing municipal waste combustor shall comply with all provisions specified in 40 C.F.R. 60.55b.

252:100-17-25. Standards for air curtain incinerators [NEW]

An owner or operator of an air curtain incinerator located at a plant which meets the plant capacity specified in paragraph (a) of 252:100-17-15 and that combusts a fuel feed stream of 100 percent yard waste, shall not cause to be discharged into the atmosphere from that incinerator, any gases that exhibit greater than 10 percent opacity (6 minute average). An opacity level of up to 35 percent (6 minute average) is permitted during startup periods within the first 30 minutes of unit operation.

252:100-17-26. Compliance and performance testing [NEW]

(a) An owner or operator of an existing municipal waste combustor shall comply with all provisions specified in 40 C.F.R. 60.58b, except for the provisions specified in 40 C.F.R. 60.58b(g)(5)(iii).

(b) Performance testing and monitoring may be accomplished by using methods other than those specified in 40 C.F.R. 60.58b provided they have prior approval from the Executive Director.

252:100-17-27. Reporting and recordkeeping requirements [NEW]

An owner or operator of an existing municipal waste combustor shall comply with all provisions specified in 40 C.F.R. 60.59b, except the provisions for siting requirements as specified in 40 C.F.R. 60.59b(a), b(5), and d(11).

252:100-17-28. Compliance schedules (under development) [NEW]

(a) All affected facilities must comply with all requirements of this part (except the performance test) or close within 3 years following the date of issuance of a revised construction or

operating permit, if a permit modification is required, or by [date 3 years after approval of the state plan] if a permit modification is not required.

(b) All affected facilities for which construction, modification, or reconstruction commenced after June 26, 1987, that are located within a large municipal waste combustor plant shall comply with the emission limit for mercury and the emission limit for dioxans/furans specified in 252:100-17-20. Compliance shall be obtained within 1 year following issuance of a revised construction or operating permit, if a permit modification is required, or by [date 1 year following approval of state plan], whichever is later.

(c) All affected facilities located within large municipal waste combustor plants that comply with all the requirements of this part (except the performance test) or close in more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit, if a permit modification is required, or after [date 1 year after approval of the State plan] and before [date 3 years after approval of the State plan], shall comply with the requirements in paragraphs (c)(1) through (c)(2) of this section.

(1) If the affected facility will close, the owner or operator of the affected facility shall submit a closure agreement that includes the date of plant closure.

(2) If the affected facility will continue to operate, the owner or operator of the affected facility shall comply with the compliance schedule in paragraphs (c)(2)(A) through (c)(2)(D).

(A) The owner or operator of the affected facility shall submit a final control plan for the affected facility to the DEQ by [state to provide date].

(B) The owner or operator of the affected facility shall award all contracts for emission control systems or process modifications as necessary to comply with the requirements of this part, by [State to provide date].

(C) The owner or operator of the affected facility shall initiate on-site construction or installation of emission control equipment or process change, as necessary to comply with the requirements of this part, by [State to provide date].

(D) The owner or operator of the affected facility shall ensure the completion of on-site construction or installation of emission control equipment or process change, as necessary to comply with the requirements of this part, by [State to provide date].

[The State has the option of including the following additional increments of Progress in the rule with enforceable dates or in the State plan as unenforceable increments of progress.

Date for obtaining services of an architectural and engineering firm regarding the air Pollution control device(s);

Date for obtaining design drawings of the air pollution control

device(s);

Date for submittal of permit modifications, if necessary;

Date for obtaining the major components of the air pollution control device(s);

Date for initiation of site preparation for installation of the air pollution control devices);

Date for initial startup of the air pollution control device(s); and

Date for initial performance test(s) of the air pollution control device(s).

(d) All affected facilities located within large municipal waste combustor plants that comply with all the requirements of this part (except the performance test) in more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit, if a permit modification is required, or after [date 1 year after approval of the State plan] and before [date 3 years after approval of the State plan], shall submit performance test results for dioxin/furan emissions that have been conducted during or after 1990 by [State to provide date]. The performance test shall be conducted in accordance with the provisions specified in 252:100-17-26 (compliance and performance testing).

7/8/15/17

AIR QUALITY COUNCIL
OCTOBER 15, 1996
MINUTES

Auditorium
Tulsa City-County Health Department
4616 East 15 Street
Tulsa Oklahoma

Council Members Present

William B. Breisch, Chairman
Larry Canter, Vice-Chairman
J. William "Bill" Fishback
George Albright
David Branecky

Council Members Absent

Kathryn Hinkle
Meribeth Slagell
Marlin "Ike" Glass

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Scott Thomas
Ray Bishop
Linn Wainner
Joyce Sheedy
Ann Alltizer
Myrna Bruce

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 15, 1996 was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken: Dr. Canter - aye; Mr. Branecky - aye; Mr. Fishback - aye; Mr. Albright - aye; Mr. Breisch - aye. Absent were: Mr. Glass, Ms. Hinkle and Ms. Slagell.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 13, 1996 Public Meeting/Hearing. Motion was made by Mr. Branecky to approve the Minutes and second to the motion was made by Dr. Canter. Roll call as follows: Dr. Canter - aye; Mr. Branecky - aye; Mr. Fishback - aye; Mr. Albright - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES:
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51.

Mr. Byrum called upon Dr. Joyce Sheedy to give staff position on the proposed changes to subchapters 7 and 8. Dr. Sheedy advised the Council that the rule changes brought forward were a continuation from the June 11, 1996 and August 13, 1996 hearings and summarized the changes and comments received since last hearing.

After further discussion, staff suggested that Council recommend to the Environmental Quality Board portions of subchapters 7 and 8 regarding changes allowing for reduction of fees assessed to Title V and minor sources of total suspended particulates in accordance with federal guidance. Mr. Fishback made motion to adopt staff's recommendation based on proposed changes to OAC:272:100-7-4, OAC 252:100-7-18, and OAC 252:100-8-2; and that these go forward to the DEQ Board as emergency and permanent rules. Second was made by Mr. Albright. Roll call as follows: Dr. Canter - aye; Mr. Branecky - aye; Mr. Fishback - aye; Mr. Albright - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-17 INCINERATORS, PART 3, MUNICIPAL WASTE COMBUSTORS
[NEW]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51.

Ms. Ann Alltizer, AQD staff, gave slide presentation and Scott Thomas then gave staff position on the proposed rule. After discussion Mr. Breisch entertained motion to continue this hearing to the next regularly scheduled meeting. Mr. Albright made the motion with second by Mr. Branecky. Roll call was taken as follows: Dr. Canter - aye; Mr. Branecky - aye; Mr. Fishback - aye; Mr. Albright - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-15 MOTOR VEHICLE POLLUTION CONTROL DEVICES [REVOKED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51.

Mr. Scott Thomas gave staff recommendations stating that revocation of this rule is recommended as it is unenforceable and it satisfies efforts being made by the Agency to streamline its rules.

NEW BUSINESS - Ms. Nadine Barton requested a breakdown of the Title V fee structure for the next meeting.

ADJOURNMENT: Mr. Breisch adjourned the meeting and announced that the next regularly scheduled meeting would be held on December 17, 1996, at the Lincoln Plaza Office Complex Brown Room 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The hearing records along with the sign-in sheets are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

LARRY D. BYRUM, DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

DATE OCTOBER 15, 1996

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	JACK PETREIKIS	WASTE MGMT OKLAHOMA	12215 E 61 ST ST BROKEN ARROW OK 74012	No
2	Nancy Coleman	RSA	5700 W Robinson #200 Norman 73064	
3	Rene Koesh	DEF-RBT	Tulsa	
4	FRANK CONDON	EQ BOARD		
5	Glenn Travis	INCOG	Tulsa	
6	Robert Fellington	ARMSTRONG	STILLWATER	NO
7	Row Sobel	RES CONSULTING	TULSA	
8	Clyde Jones	ZCA	Box 579 Bartlesville 74005	NO
9	Rich Treema	OGFA	Box 1307 Edmond, OK 73702	"
10	Bruce Badger	SINCLAIR OIL	P.O. Box 910 Tulsa, OK 74101	
11	JD Lawson	ODTGW		
12	Jeff Pussley	Mintech	1525 North East Ave Tulsa, OK 74116	
13	JOE LUBBERS	USBPA	DALLAS, TX	
14	MICK COTE	USEPA / OPPHS	"	
15	Rich Barnett	USEPA	DALLAS, TX	

- 16 Kathy Purley OMST Tulsa
- 17 Lynn Reed RSA Tulsa
- 18 Mike Neum Baldor Clewmore
- 19 Nadene Barton CASE Tulsa
- 20 Herb Beatter Tulsa
- 21 Curtis Killman Tulsa World
- 22 Tom Dicgs EPA Region 6
- 23 B Chamlin Shady Grove Chapel Tulsa
- 24 ~~Frank F. Wain~~ CHARLES HARDY City of Tulsa Tulsa
- 25 Jack Petrechio Waste Mgmt OK Tulsa
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BJW/LL

MARK S. COLEMAN
Executive Director



FRANK KEATING
Governor

State of Oklahoma
DEPARTMENT OF ENVIRONMENTAL QUALITY

NOTICE

DECEMBER 17, 1996
AIR QUALITY COUNCIL
MEETING CANCELLED
AND
HEARINGS POSTPONED

To Whom It May Concern:

The Air Quality Council meeting scheduled for December 17, 1996 has been cancelled. In addition, the hearings that were continued to December 17, 1996 on proposed amendments to *OAC 252:100-17 INCINERATORS, PART 3 MUNICIPAL WASTE COMBUSTORS* and on the proposed repeal of *OAC 252:100-15 MOTOR VEHICLE POLLUTION CONTROL DEVICES*, have been postponed until the next Air Quality Council meeting.

The next meeting of the Air Quality Council is scheduled to be held on **FEBRUARY 19, 1997** in the Burgundy Room, 4545 N. Lincoln Boulevard, Oklahoma City. Tentative agenda items will include the resumption of the hearings noted above, as well as election of officers for 1997. The official agenda will be issued in late January, 1997. Please accept our apologies for any inconvenience caused by this cancellation/postponement.

Sincerely,

A handwritten signature in cursive script that reads "Larry D. Byrum".

Larry D. Byrum, Director
AIR QUALITY DIVISION

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL
WEDNESDAY, FEBRUARY 19, 1997
1:00 P.M.
LINCOLN PLAZA OFFICE PARK
BURGUNDY ROOM
4545 N. LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA
MEETING/HEARING

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of Minutes Chairman
October 15, 1996

4. 1997 MEETING SCHEDULE
Discussion and approval by Council

5. ELECTION OF OFFICERS CALENDAR YEAR 1997
Nominations and election by Council

6. OAC 252:100-17 INCINERATORS, MUNICIPAL WASTE COMBUSTORS
PART 1 [AMENDED] and PART 3 [NEW]
Discussion by Council/Public; possible action by Council

7. OAC 252:100-15 MOTOR VEHICLE POLLUTION
CONTROL DEVICES [REVOKED]
Discussion by Council/Public; possible action by Council

8. New Business Chairman
Discussion/consideration of subjects/business
arising within the past 24 hours; possible action by Council

9. Adjournment Chairman
Next Regular Meeting
DATE: TO BE ANNOUNCED
PLACE: BURGUNDY ROOM

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

WEDNESDAY, FEBRUARY 19, 1997

9:30 A.M.

LINCOLN PLAZA OFFICE PARK

BURGUNDY ROOM

4545 N. LINCOLN BOULEVARD

OKLAHOMA CITY, OKLAHOMA

BRIEFING

- | | | |
|----|---|----------|
| 1. | Call to Order | Chairman |
| 2. | Division Director's Report - Informational
An update of current events and AQD activities <ul style="list-style-type: none">• Title V Status• Fee Structure• OTAG• Other Discussion by Council/Public | Director |
| 3. | 1997 MEETING SCHEDULE
Discussion and Approval by Council | |
| 4. | ELECTION OF OFFICERS CALENDAR YEAR 1997
Nominations and Election by Council | |
| 5. | OAC 252:100-17 INCINERATORS, MUNICIPAL WASTE COMBUSTORS
PART 1 [AMENDED] and PART 3 [NEW]
Discussion by Council/Public | |
| 6. | OAC 252:100-15 MOTOR VEHICLE POLLUTION
CONTROL DEVICES [REVOKED]
Discussion by Council/Public | |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

2/19/97 AQC

MEMORANDUM

DATE: February 5, 1997

TO: Air Quality Council

FROM: Larry Byrum, Director 
AIR QUALITY DIVISION

RE: Proposed new Part 3, Municipal Waste Combustors, to Subchapter 17.

On December 6, 1996 the U.S. Court of Appeals for the District of Columbia Circuit handed down a decision vacating, in their entirety, the EPA's 1995 standards for municipal waste combustors (MWC) contained in 40 CFR 60, Subpart Cb. An industry group petitioned the Court on the basis that the 1995 standards exceeded the EPA's statutory authority under the Clean Air Act. The standards were based on the aggregate municipal solid waste (MSW) combustion capacity of the plant, rather than on the MSW capacity of each MWC unit. The court found that section 129 of the Act established two size categories of MWC units based on unit, rather than facility, capacity. Thus, the Court vacated, in their entirety, the 1995 standards and agreed with the petitioners that EPA did not have the authority to ignore the categories Congress had established.

In August, the Air Quality Division (AQD) proposed MWC rules based on the 1995 standards. You, as a Council, held a hearing on the proposed rules on October 15, 1996 and decided to continue the hearing until your next regularly scheduled meeting, which will be on February 19, 1997. At that time, it is anticipated, AQD staff will advise the Council on the status of the 1995 standards and **recommend no action be taken, on the proposed State rule revision, until EPA has revised and reissued the federal rules.**

Enclosed is a copy of the Court's December 6, 1996 decision.

Enclosures

5501

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

**SUBCHAPTER 17. INCINERATORS
PART 1. GENERAL PROVISIONS**

252:100-17-1. Purpose

The purpose of this Subchapter is to deem it unlawful to burn refuse in any incinerator except in a multiple-chambered incinerator or in equipment determined by the Director to be equally effective for the purpose of air pollution control; and to set forth operating requirements and emission limitations for Municipal Waste Combustors.

252:100-17-2. Effective date; applicability

This Subchapter shall become operative one year from and after July 21, 1970. It will apply to any and all incinerators utilized within the State of Oklahoma.

252:100-17-3. Prohibition on density of emissions

(a) **Prohibition.** No person shall cause, suffer, allow, or permit the discharge of smoke from an incinerator of a density darker than number one (1) on the Ringelmann Chart or a visible emission of such an equivalent opacity as to obscure a certified visible emission evaluator's view to a degree greater than number one (1) on the Ringelmann Chart.

(b) **Exemptions.** Subsection 252:100-17-3(a) shall not apply to:

- (1) visible emissions consisting of uncombined water droplets; or,
- (2) smoke, the density of which is not darker than number three (3) of the Ringelmann Chart for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes or more than twenty (20) minutes in any twenty-four (24) hour period.

252:100-17-4. Prohibition on pounds per hour of emissions

No person shall cause or allow to be emitted into the open air from any incinerator equipment, fly ash or other particulate matter in quantities greater than shown in 252:100-17-6. Solid fuels charged will be considered as part of the refuse weight, but No. 1 and No. 2 fuel oil and gaseous fuels and combustion air will not be so considered.

252:100-17-5. Incinerator design requirements

Hereafter no person shall operate an incinerator unless:

- (1) It is provided with an auxiliary burner for the purpose of maintaining a temperature of at least 800°F in the primary combustion chamber.
- (2) It has a secondary burner for use when necessary to eliminate smoke.
- (3) It is a type of incinerator design that can be demonstrated to the Director to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the

owner of the proposed incinerator.

(4) It complies with generally recognized good practices and all applicable provisions of this Subchapter.

(5) Full and proper use is made of all components and appurtenances thereof.

252:100-17-6. Allowable emission of particulates

(a) Allowable emissions for incinerators with capacities in excess of 100 lb/hr are set forth in Appendix A of this Chapter.

(b) Allowable emissions for incinerators with capacities less than 100 lbs/hr are set forth in Appendix B of this Chapter.

PART 3. MUNICIPAL WASTE COMBUSTORS [NEW]

252:100-17-15. Applicability [NEW]

(a) Part 3 of this subchapter applies to each municipal waste combustor unit for which construction commenced on or before September 20, 1994, which is located at a municipal waste combustor plant with an aggregate plant combustion capacity greater than 35 megagrams (38.58 tons) of municipal solid waste per day.

(b) Any waste combustion unit located at a medical, industrial or other type of waste combustor plant that meets the capacity specifications in paragraph (a) of this section and is subject to a federally enforceable permit is not subject to this part. The federally enforceable permit must limit the maximum amount of municipal solid waste combusted at the plant to less than or equal to 10 megagrams (11.02 tons) per day. To obtain this exemption the owner or operator must:

(1) notify the Department of Environmental Quality (DEQ) of an exemption claim;

(2) provide the DEQ with a copy of the federally enforceable permit that limits the firing of municipal solid waste to less than 10 megagrams (11.02 tons) per day, and;

(3) keep records of the amount of municipal solid waste fired on a daily basis.

(c) Physical or operational changes made to an existing municipal waste combustor unit primarily for complying with this rule are not considered a modification or reconstruction. Therefore, they do not result in the unit becoming subject to Eb of 40 C.F.R. part 60 [or a State rule implementing subpart Eb of 40 C.F.R. Part 60].

(d) A qualifying small power production facility, (as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), that produces electric energy from homogeneous waste is not subject to this part if the owner/operator of the facility:

(1) notifies the DEQ of an exemption claim, and

(2) provides the DEQ data documenting that the facility qualifies for this exemption.

(e) A qualifying cogeneration facility, (as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), that burns homogeneous waste to produce electric energy, steam, or other useful energy used for industrial, commercial, heating, or cooling purposes, is not subject to this part if the owner or operator of

the facility:

- (1) notifies the DEQ of an exemption claim, and
- (2) provides the DEQ data documenting that the facility qualifies for this exemption.

(f) Any unit combusting a single-item waste stream of tires is not subject to this part if the owner or operator of the unit:

- (1) notifies the DEQ of an exemption claim, and
- (2) provides the DEQ with data documenting that the unit qualifies for this exemption.

(g) Any unit required to have a permit under section 3005 of the Solid Waste Disposal Act is not subject to this part.

(h) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this part.

(i) Any cofired combustor located at a plant that meets the capacity specifications in paragraph (a) of this section is not subject to this part if the owner or operator:

- (1) notifies the DEQ of an exemption claim;
- (2) provides the DEQ with a copy of the federally enforceable permit, and;
- (3) keeps separate records, on a calendar quarter basis, of the weight of municipal solid waste and the weight of all other fuels combusted at the cofired combustor.

(j) Air curtain incinerators that meet the capacity specifications in paragraph (a) of this section and combust a 100 percent yard waste fuel stream are exempt from all provisions of this part, except:

- (1) the opacity limit under Section 17 of this Subchapter;
- (2) the testing procedures under Section 26 or this Subchapter, and;
- (3) the reporting and recordkeeping provisions under Section 27 of this Subchapter.

(k) Air curtain incinerators that meet the capacity specifications in paragraph (a) of this section and combust municipal solid waste, other than yard waste, are subject to all provisions of this part.

(l) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit are not subject to this part if the owner or operator of the unit maintains records of:

- (1) the weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis;
- (2) the weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis, and;
- (3) the name and address of the purchaser of the feedstocks.

The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this part.

(m) Part 3 shall become effective [date to be inserted later].

252:100-17-16. Definitions [NEW]

Terms used but not defined in this part have the meaning given to them in the Oklahoma Clean Air Act and OAC 252:100-1-3 of this title and subpart A and Eb of 40 C.F.R. part 60.

"Administrator" for the purpose of this rule will mean the 'Executive Director' of the Department of Environmental Quality (DEQ).

"Affected facility" means each municipal waste combustor unit located within a municipal waste combustor plant with an aggregate municipal waste combustor plant capacity greater than 35 megagrams per day of municipal solid waste for which construction commenced on or before September 20, 1994.

"Air Curtain Incinerator" means an incinerator that operates by forcefully projecting air across an open chamber or pit in which burning occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floors.

"Cofired combustor" means a unit combusting municipal solid waste with non-municipal solid waste fuel (e.g., coal, industrial process waste) and subject to a federally enforceable permit which limits the unit to combusting a fuel feed stream that contains 30 percent or less (by weight of total fuel feed stream), of municipal solid waste as measured on a calendar quarter basis.

"Homogeneous waste" means wastes that consist of a single substance such as automotive tires or used oil, but does not include refuse-derived fuel.

"Large municipal waste combustor plant" means a municipal waste combustor plant with a municipal waste combustor aggregate capacity for affected facilities that is greater than 225 megagrams (248.02 tons) per day of municipal solid waste.

"Municipal waste combustor plant" means one or more municipal waste combustor units at the same location for which construction was commenced on or before September 20, 1994.

"Municipal waste combustor plant capacity" means the aggregate municipal waste combustor unit capacity of all municipal waste combustor units at a municipal waste combustor plant for which construction commenced on or before September 20, 1994.

"Pyrolysis/combustion unit" means a unit that produces gases, liquids or solids through the heating of municipal solid waste. The gases, liquids or solids produced are combusted and emissions are vented to the atmosphere.

"Small municipal waste combustor plant" means a municipal waste combustor plant with a municipal waste combustor capacity for affected facilities that is greater than 35 megagrams (38.58 tons) per day, but equal to or less than 225 megagrams (248.02 tons) per day of municipal solid waste.

252:100-17-17. Standards for particulate matter and opacity [NEW]
(a) Emission limits for particulate matter. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain particulate matter in excess of:

(1) Large MWC plants: 27 milligrams per dry standard cubic meter, corrected to 7 percent oxygen;

(2) Small MWC plants: 70 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Emission limits for opacity. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that exhibit greater than 10 percent opacity (6-minute average).

252:100-17-18. Standards for municipal waste combustor metals [NEW]

(a) Emission limits for cadmium. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain cadmium in excess of:

(1) Large MWC plants: 0.040 milligrams per dry standard cubic meter, corrected to 7 percent oxygen;

(2) Small MWC plants: 0.10 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Emission limits for lead. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain lead in excess of:

(1) Large MWC plants: 0.49 milligrams per dry standard cubic meter, corrected to 7 percent oxygen;

(2) Small MWC plants: 1.6 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(c) Emission limits for mercury. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain mercury in excess of 0.080 milligrams per dry standard cubic meter or 15 percent of the potential mercury emission concentration (an 85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

252:100-17-19. Standards for municipal waste combustor acid gases expressed as sulfur dioxide and hydrogen chloride [NEW]

(a) Emission limits for sulfur dioxide. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged to the atmosphere from that affected facility, any gases that contain sulfur dioxide in excess of:

(1) Large MWC plants: 31 parts per million by volume or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(2) Small MWC plants: 80 parts per million by volume or 50 percent of the potential sulfur dioxide emission concentration

(50 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour geometric mean.

(b) Emission limits for hydrogen chloride. No owner or operator of an affected facility located within a large or small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain hydrogen chloride in excess of:

(1) Large MWC plants: 31 parts per million by volume or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent;

(2) Small MWC plants: 250 parts per million by volume or 50 percent of the potential hydrogen chloride emission concentration (50 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

252:100-17-20. Standards for municipal waste combustor organics expressed as total mass dioxins/furans [NEW]

(a) No owner or operator of an affected facility located within a large municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility, any gases that contain dioxins/furans in excess of the limits specified in either paragraph (a)(1) or (a)(2) of this section, as applicable.

(1) The emission limit for affected facilities that employ an electrostatic precipitator-based emission control system is 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(2) The emission limit for affected facilities that do not employ an electrostatic precipitator-based emission control system is 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(b) No owner or operator of an affected facility located within a small municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain dioxins/furans in excess of 125 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

252:100-17-21. Standards for nitrogen oxides [NEW]

(a) No owner or operator of affected facilities located within a large municipal waste combustor plant shall cause to be discharged into the atmosphere from those affected facilities, any gases that contain nitrogen oxides in excess of the limits specified in this paragraph. Emission limits for the nitrogen oxides concentration level for each type of affected facility are as follows:

Nitrogen Oxides Guidelines

<u>Municipal Waste Combustor Technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)^a</u>
<u>Mass burn waterwall</u>	<u>200</u>
<u>Mass burn rotary waterwall</u>	<u>250</u>
<u>Refuse-derived fuel combustor</u>	<u>250</u>
<u>Fluidized bed combustor</u>	<u>240</u>
<u>Mass burn refractory combustor</u>	<u>no limit</u>
<u>Other^b</u>	<u>200</u>

^a Corrected to 7 percent oxygen, dry basis.

^b Excludes mass burn refractory municipal waste combustors.

(b) Nitrogen oxides emissions averaging is allowed as specified in paragraphs (b)(1) through (b)(5) of this section.

(1) An owner or operator of a large municipal waste combustor plant may elect to implement a nitrogen oxides emissions averaging plan for the affected facilities that are located at that plant and that are subject to this part, except as specified in paragraphs (b)(1)(A) and (b)(1)(B) of this section.

(A) Municipal waste combustor units subject to subpart Ea or Eb of 40 C.F.R. part 60 cannot be included in the emissions averaging plan.

(B) Mass burn refractory municipal waste combustor units cannot be included in the emissions averaging plan.

(2) Prior to implementing the nitrogen oxides emissions averaging plan, the affected facilities to be included must be identified in the initial performance test report specified in 40 C.F.R. 60.59b(f) or in the annual report specified in 40 C.F.R. 60.59b(g), as applicable. The affected facilities which comprise the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with state approval.

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level discharged from the affected facilities to be included in the averaging plan must be no greater than the levels specified in this part. Emission limits for the nitrogen oxides concentration level for each type of affected facility are as follows:

Nitrogen Oxides Limits

<u>Municipal waste combustor technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)^a</u>
<u>Mass burn waterwall</u>	<u>180</u>
<u>Mass burn rotary waterwall</u>	<u>220</u>
<u>Refuse-derived fuel combustor</u>	<u>230</u>
<u>Fluidized bed combustor</u>	<u>220</u>
<u>Other^b</u>	<u>180</u>

^a Corrected to 7 percent oxygen, dry basis.

^b Excludes mass burn refractory municipal waste combustors.

Mass burn refractory municipal waste combustors may not be included in an emissions averaging plan.

(4) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (b) (3) of this section shall be calculated using the following equation. Affected facilities that are off-line shall not be included in calculating the average daily nitrogen oxides emission level.

$$\text{NOX}_{24\text{-hr}} = \frac{\sum_{i=1}^h (\text{NOX}_i) (S_i)}{\sum_{i=1}^h (S_i)}$$

where:

NOX_{24-hr} = 24-hour daily average nitrogen oxides emission concentration level for the emissions averaging plan (parts per million by volume corrected to 7 percent oxygen).

NOX_{i-hr} = 24-hour daily average nitrogen oxides emission concentration level for affected facility i (parts per million by volume, corrected to 7 percent oxygen), calculated according to the procedures in 40 C.F.R. 60.58b(h).

S_i = maximum demonstrated municipal waste combustor unit load for affected facility i (pounds per hour steam or feedwater flow as determined in the most recent dioxin/furan performance test).

h = total number of affected facilities being included in the daily emissions average.

(5) For any day an affected facility included in the emissions averaging plan is off-line, the owner or operator of the municipal waste combustor plant must demonstrate compliance according to either paragraph (b) (5) (A) or both paragraphs (b) (5) (B) and (b) (5) (C) of this section.

(A) Compliance with the applicable limits specified in (b) (3) of this part shall be demonstrated using the averaging procedure specified in paragraph (b) (4) of this section. The averaging procedure will include the affected

facilities in the plan that are on-line.

(B) For each of the affected facilities included in the emissions averaging plan, the nitrogen oxides emissions shall be calculated on a daily basis. The nitrogen oxides emissions level shall be equal to or less than the maximum daily nitrogen oxides emission levels achieved by that affected facility on any of the days during which the emissions averaging plan was achieved with all affected facilities on-line during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b)(5)(C)(ii) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b)(5)(C)(i) of this section.

(i) The average nitrogen oxides emissions shall be calculated for all days during which the emissions averaging plan was implemented and achieved and during which all affected facilities were on-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated, on a calendar year basis, according to paragraphs (b)(5)(C)(i)(I) through (b)(5)(C)(i)(III) of this section.

(I) The daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated for each affected facility included in the emissions averaging plan. The calculation shall be based on the hourly nitrogen oxides data required under 40 C.F.R. 60.58b(a) through (m) and specified under 40 C.F.R. 60.58b(h)(5), the flue gas flow rate is determined using table 19-1 of EPA Reference Method 19 [or a State approved method], and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each affected facility calculated under paragraph (b)(5)(C)(i)(I) of this section.

(III) On a calendar year basis, the average nitrogen oxides emissions (kilograms per day), shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(i)(II) of this section divided by the number of calendar days for which a daily total was calculated.

(ii) The average nitrogen oxides emissions shall be calculated for all days during which one or more of the affected facilities under the emissions averaging plan was off-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated according to paragraphs (b)(5)(C)(ii)(I) through (b)(5)(C)(ii)(III) of

this section on a calendar year basis.

(I) The daily amount of nitrogen oxides emitted (kilograms per day), for each affected facility included in the emissions averaging plan, shall be calculated based on the hourly nitrogen oxides data required under 40 C.F.R. 60.58b(a) through (m) and specified under 40 C.F.R. 60.58b(h)(5), the flue gas flow rate is determined using table 19-1 of EPA Reference Method 19 [or a state approved method], and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each affected facility as calculated under paragraph (b)(5)(C)(ii)(I) of this section.

(III) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(ii)(II) of this section divided by the number of calendar days for which a daily total was calculated.

252:100-17-22. Standards for municipal-waste combustor operating practices [NEW]

(a) No owner or operator of an affected facility located within a small or large municipal waste combustor plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain carbon monoxide in excess of the emission limits specified in this part. Carbon monoxide emission limits for each type of affected facility are as follows:

Municipal Waste Combustor Operating Guidelines

<u>Municipal waste combustor technology</u>	<u>Carbon monoxide emissions level (ppm by volume)^a</u>	<u>Averaging Time</u>
<u>Mass burn waterwall</u>	<u>100</u>	<u>4 hour</u>
<u>Mass burn refractory</u>	<u>100</u>	<u>4 hour</u>
<u>Mass burn rotary refractory</u>	<u>100</u>	<u>24 hour</u>
<u>Mass burn rotary waterwall</u>	<u>250</u>	<u>24 hour</u>
<u>Modular starved air</u>	<u>50</u>	<u>4 hour</u>
<u>Modular excess air</u>	<u>50</u>	<u>4 hour</u>
<u>Refuse-derived fuel stoker</u>	<u>200</u>	<u>24 hour</u>
<u>Bubbling fluidized bed</u>	<u>100</u>	<u>4 hour</u>
<u>Circulating fluidized bed</u>	<u>100</u>	<u>4 hour</u>
<u>Pulverized coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>150</u>	<u>4 hour</u>
<u>Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>200</u>	<u>24 hour</u>

^aMeasured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

(b) An owner or operator of an existing municipal waste combustor shall comply with all provisions specified in 40 C.F.R. 60.53b(b) and (c).

252:100-17-23. Standards for municipal waste combustor operator training and certification [NEW]

(a) Each chief facility operator and shift supervisor of each affected facility, shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers [ORO-1-1994 (incorporated by reference -- see 40 C.F.R. 60.17 of subpart A of 40 C.F.R. part 60)] or a State certification program by the appropriate date specified in paragraph (a)(1) or (a)(2) of this section.

(1) For affected facilities located within small municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 18 months after [date of State plan approval], whichever is later.

(2) For affected facilities located within large municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 12 months after [date of State plan approval], whichever is later.

(b) Each chief facility operator and shift supervisor of each affected facility, shall have completed full certification or scheduled a full certification exam with either the American Society of Mechanical Engineers [ORO-I1994 (incorporated by reference -- see § 60.17 of subpart A of 40 C.F.R. part 60)] or a State certification program by the appropriate date specified in paragraph (b)(1) or (b)(2) of this section.

(1) For affected facilities located within small municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 18 months after [date of state plan approval], whichever is later.

(2) For affected facilities located within large municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 12 months after [date of State plan approval], whichever is later.

(c) No owner or operator of an affected facility shall allow the facility to be operated at any time unless one of the following persons is on duty at the affected facility: A fully certified chief facility operator, a provisionally certified chief facility operator who is scheduled to take the full certification exam according to the schedule specified in paragraph (b) of this section, a fully certified shift supervisor, or a provisionally certified shift supervisor who is scheduled to take the full certification exam according to the schedule specified in paragraph (b) of this section.

(1) The requirement specified in paragraph (c) of this section shall take effect by the appropriate date specified in paragraph (c)(1)(A) or (c)(1)(B) of this section.

(A) For affected facilities located within small municipal waste combustor plants, no later than the date 6 months

after the startup of an affected facility or 18 months after [date of State plan approval], whichever is later.

(B) For affected facilities located within large municipal waste combustor plants, no later than the date 6 months after the startup of an affected facility or 12 months after [date of State plan approval], whichever is later.

(2) If one of the persons listed in paragraph (c) of this section must leave the affected facility during their operating shift, a provisionally certified control room operator who is on-site at the affected facility may fulfill the requirement in paragraph (c) of this section.

(d) All chief facility operators, shift supervisors, and control room operators at affected facilities located within a small or large municipal waste combustor plant must complete the EPA or State municipal waste combustor operator training course no later than the date 6 months after the date of startup of the affected facility or by 12 months after [date of State Plan approvals], whichever is later.

(e) The requirement specified in paragraph (d) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before [date of State plan approval].

(f) The owner or operator may request that the Department of Environmental Quality waive the requirement specified in paragraph (d) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before [date of State plan approval].

(g) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall develop and update on an annual basis, a site-specific operating manual. The operating manual shall, at a minimum, address the elements of municipal waste combustor unit operation specified in paragraphs (g)(1) through (g)(11) of this section.

(1) A summary of the applicable standards under this part;

(2) A description of basic combustion theory applicable to a municipal waste combustor unit;

(3) Procedures for receiving, handling, and feeding municipal solid waste;

(4) Municipal waste combustor unit start-up, shutdown, and malfunction procedures;

(5) Procedures for maintaining proper combustion air supply levels;

(6) Procedures for operating the municipal waste combustor unit within the standards established under this part;

(7) Procedures for responding to periodic upset or off-specification conditions;

(8) Procedures for minimizing particulate matter carryover;

(9) Procedures for handling ash;

(10) Procedures for monitoring municipal waste combustor unit emissions; and

(11) Reporting and recordkeeping procedures.

(h) The owner or operator of an affected facility located within a small or large municipal waste combustor plant shall establish a training program to review the operating manual according to the schedule specified in paragraphs (h)(1) and (h)(2) of this section. The training shall be provided to each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(1) Each person specified in paragraph (h) of this section shall undergo initial training no later than the date specified in paragraph (h)(1)(A), (h)(1)(B), or (h)(1)(C) whichever is later.

(A) The date 6 months after the date of startup of the affected facility.

(B) The date prior to the day the person assumes responsibilities affecting municipal waste combustor unit operation; or

(C) Twelve months after [date of State plan approval].

(2) Annually, following the initial review required by paragraph (h)(1) of this section.

(A) The operating manual required by paragraph (h) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (h) of this section no later than 6 months after start-up or 12 months after [date of State plan approval]. The operating manual and records of training shall be available for inspection by the Department of Environmental Quality upon request.

252:100-17-24. Standards for municipal waste combustor fugitive ash emissions [NEW]

An owner or operator of an existing municipal waste combustor shall comply with all provisions specified in 40 C.F.R. 60.55b.

252:100-17-25. Standards for air curtain incinerators [NEW]

An owner or operator of an air curtain incinerator located at a plant which meets the plant capacity specified in paragraph (a) of 252:100-17-15 and that combusts a fuel feed stream of 100 percent yard waste, shall not cause to be discharged into the atmosphere from that incinerator, any gases that exhibit greater than 10 percent opacity (6 minute average). An opacity level of up to 35 percent (6 minute average) is permitted during startup periods within the first 30 minutes of unit operation.

252:100-17-26. Compliance and performance testing [NEW]

(a) An owner or operator of an existing municipal waste combustor shall comply with all provisions specified in 40 C.F.R. 60.58b, except for the provisions specified in 40 C.F.R. 60.58b(g)(5)(iii).

(b) Performance testing and monitoring may be accomplished by

using methods other than those specified in 40 C.F.R. 60.58b provided they have prior approval from the Executive Director.

252:100-17-27. Reporting and recordkeeping requirements [NEW]

An owner or operator of an existing municipal waste combustor shall comply with all provisions specified in 40 C.F.R. 60.59b, except the provisions for siting requirements as specified in 40 C.F.R. 60.59b(a), b(5), and d(11).

252:100-17-28. Compliance schedules (under development) [NEW]

(a) All affected facilities must comply with all requirements of this part (except the performance test) or close within 3 years following the date of issuance of a revised construction or operating permit, if a permit modification is required, or by [date 3 years after approval of the state plan] if a permit modification is not required.

(b) All affected facilities for which construction, modification, or reconstruction commenced after June 26, 1987, that are located within a large municipal waste combustor plant shall comply with the emission limit for mercury and the emission limit for dioxans/furans specified in 252:100-17-20. Compliance shall be obtained within 1 year following issuance of a revised construction or operating permit, if a permit modification is required, or by [date 1 year following approval of state plan], whichever is later.

(c) All affected facilities located within large municipal waste combustor plants that comply with all the requirements of this part (except the performance test) or close in more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit, if a permit modification is required, or after [date 1 year after approval of the State plan] and before [date 3 years after approval of the State plan], shall comply with the requirements in paragraphs (c)(1) through (c)(2) of this section.

(1) If the affected facility will close, the owner or operator of the affected facility shall submit a closure agreement that includes the date of plant closure.

(2) If the affected facility will continue to operate, the owner or operator of the affected facility shall comply with the compliance schedule in paragraphs (c)(2)(A) through (c)(2)(D).

(A) The owner or operator of the affected facility shall submit a final control plan for the affected facility to the DEQ by [state to provide date].

(B) The owner or operator of the affected facility shall award all contracts for emission control systems or process modifications as necessary to comply with the requirements of this part, by [State to provide date].

(C) The owner or operator of the affected facility shall initiate on-site construction or installation of emission control equipment or process change, as necessary to comply with the requirements of this part, by [State to provide

date].

(D) The owner or operator of the affected facility shall ensure the completion of on-site construction or installation of emission control equipment or process change, as necessary to comply with the requirements of this part, by [State to provide date].

[The State has the option of including the following additional increments of Progress in the rule with enforceable dates or in the State plan as unenforceable increments of progress.

Date for obtaining services of an architectural and engineering firm regarding the air Pollution control device(s);

Date for obtaining design drawings of the air pollution control device(s);

Date for submittal of permit modifications, if necessary;

Date for obtaining the major components of the air pollution control device(s);

Date for initiation of site preparation for installation of the air pollution control devices);

Date for initial startup of the air pollution control device(s); and

Date for initial performance test(s) of the air pollution control device(s).

(d) All affected facilities located within large municipal waste combustor plants that comply with all the requirements of this part (except the performance test) in more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit, if a permit modification is required, or after [date 1 year after approval of the State plan] and before [date 3 years after approval of the State plan], shall submit performance test results for dioxin/furan emissions that have been conducted during or after 1990 by [State to provide date]. The performance test shall be conducted in accordance with the provisions specified in 252:100-17-26 (compliance and performance testing).

MINUTES
AIR QUALITY COUNCIL
FEBRUARY 19, 1997
BURGUNDY ROOM LINCOLN PLAZA OFFICE PARK
4545 NORTH LINCOLN BOULEVARD, OKLAHOMA CITY OKLAHOMA

Council Members Present
William B. Breisch, Chairman
Larry Canter, Vice-Chairman
Meribeth Slagell
Marlin "Ike" Glass
David Branecky

Staff Present
Larry Byrum
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner
Joyce Sheedy
Myrna Bruce

Council Members Absent
J. William "Bill" Fishback
Kathryn Hinkle
George Albright

Guests Present
**see attached list

PUBLIC MEETING

Notice of Public Meeting for February 19, 1997 was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken: Dr. Canter - aye; Mr. Branecky - aye; Mr. Glass - aye; Ms. Slagell - aye; Mr. Breisch - aye. Absent were: Mr. Fishback, Ms. Hinkle, Mr. Albright.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 15, 1996 Public Meeting/Hearing. Motion was made by Mr. Branecky to approve the Minutes and second to the motion was made by Mr. Glass. Roll call as follows: Dr. Canter - aye; Mr. Branecky - aye; Mr. Glass - aye; Ms. Slagell - aye; Mr. Breisch - aye.

1997 Meeting Schedule - Mr. Breisch pointed out that the meeting schedule had been discussed in the morning briefing session. The proposed dates were: February 19 / OKC; April 15 / OKC; June 17 / Tulsa; August 19 / OKC; October 21 / Tulsa; December 15 / OKC. No additional comments were mentioned. Motion was made by Ms. Slagell to accept the meeting schedule as presented in the packet and second was made by Dr. Canter. Roll was taken as follows: Dr. Canter - aye; Mr. Branecky - aye; Mr. Glass - aye; Ms. Slagell - aye; Mr. Breisch - aye.

Election of Officers CY 97 - Floor was opened for election of

Chairman for CY 97. Nomination was made by Dr. Canter to elect Mr. Breisch as Chairman with second made by Mr. Branecky. Roll call as follows: Dr. Canter - aye; Mr. Branecky - aye; Mr. Glass - aye; Ms. Slagell - aye; Mr. Breisch - abstain.

Mr. Branecky then nominated Dr. Canter as Vice-Chairman with second made by Ms. Slagell. Roll call as follows: Dr. Canter - abstain; Mr. Branecky - aye; Mr. Glass - aye; Ms. Slagell - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-17 INCINERATORS, PART 3, MUNICIPAL WASTE COMBUSTORS [NEW]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51. Mr. Byrum then called upon Dr. Joyce Sheedy to give the staff's position on the proposed changes.

Dr. Sheedy stated that the proposed modification incorporated the EPA guidelines contained in 40 CFR 50, Subpart C(b) for existing municipal waste combustors. However, on December 6, 1996, the U.S. Court of Appeals for the District of Columbia Circuit vacated the EPA's 1995 standards in their entirety. Dr. Sheedy also stated that the modification proposed at the October hearing were a direct result of the requirements of the Federal Clean Air Act and mirrored the standard; and that staff recommends that the modifications be held in abeyance until such time as the issue addressed by the Court is resolved.

Mr. Byrum opened the floor for discussion and Mr. Frank Erwin, City of Tulsa, stated that the City of Tulsa supported the staff's recommendation. Also Mr. Don Shandy, attorney for McKinney, Stringer & Webster, spoke on behalf of Holnam, Inc. stating that he had extensive involvement with the EPA regarding the applicability of the proposed rule and said that Holnam is in agreement with staff's recommendation.

With no further comments from audience or Council, Mr. Breisch asked for motion. Mr. Branecky made the motion to continue the hearing with the second made by Ms. Slagell. Roll call as follows: Dr. Canter - aye; Mr. Branecky - aye; Mr. Glass - aye; Ms. Slagell - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-15 MOTOR VEHICLE POLLUTION CONTROL DEVICES [REVOKED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51. Mr. Byrum call upon Dr. Joyce Sheedy to give staff's recommendations.

Dr. Sheedy stated that since the rule is unenforceable, revocation is recommended to satisfy efforts being made by the Agency to streamline its rules.

Mr. Breisch asked what impact the revocation of this rule would have and what advantage could be seen for keeping it. Mr. Dennis Doughty, staff attorney, advised that the Department of Public Safety has been given legislative authority to enforce this rule, not the DEQ.

Dr. Canter stated that keeping the rule within Air Quality could keep a bridge between the Federal Clean Air Act requirements and the Department of Public Safety. Ms. Slagell remarked that keeping the rule would maintain clarification of Air Quality's commitment to maintaining clean air in Oklahoma. Mr. Branecky added that keeping the rule might continue to prove as a deterrent to tampering.

With no further discussion, Mr. Breisch stated that it appeared that Council might want to leave the rule as status quo and asked for a motion. Ms. Slagell made that motion and Dr. Canter made the second. Roll call as follows: Dr. Canter - aye; Mr. Branecky - aye; Mr. Glass - aye; Ms. Slagell - aye; Mr. Breisch - aye.

NEW BUSINESS - Council brought one new business item to the staff relating to Title V Fees and Revenue. Council requested staff to develop recommendations concerning these matters and obtain related materials prior to their next meeting.

Dr. Canter stated that the Clean Air Act indicates that the Title V permit fee is to be based on a demonstrated reasonable cost for operating the permit program and that the TBA study recommended fee of \$15.19/ton to be adjusted for Consumer Price Index. Dr. Canter stated that this fee amount has been used and that this fee was based on assumptions prior to experience now gained. Dr. Canter related there have been changes in overall program such as feed and grain requirements, synthetic minors, and others that have resulted in a reduced number of Title V sources. He stated the types of information that would be helpful to the Council would be:

- Estimate the number of Title V permits to be processed,
- Comparison of this estimate to TB&A report,
- Amount of personnel expenses attributable to Title V,
- Title V expenses associated to the Tulsa office,
- Amount of budget carried over to FY97,
- Listing of all sources of the Division's revenue,
- Estimates of future Title V fees, and
- Projected staffing needs.

Mr. Branecky added that he felt he should be able to affirm the expenditures: as a Council member, to the permittees paying the fees; and to his company, the largest fee payer in the State.

A sub-committee consisting of Larry Canter, Bill Fishback, and David Branecky was enacted to help staff put the requested information together.

ADJOURNMENT: With no further business, Mr. Breisch adjourned the meeting and announced that the next regularly scheduled meeting would be held on April 15, 1997, 1996, at the Lincoln Plaza Office Complex - Brown Room 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The hearing records along with the sign-in sheets are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

LARRY D. BYRUM, DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

FEBRUARY 19, 1997

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	LEDD SMITH	TEXAS	P.O. Box 277 Vada, OK 73091	
2	Kathryn Worsley	OMST		
3	Archie Paine	OMST		
4	DON SHANDY	McKinney Struger	OKL	yes
5	Vance McSpadden	OxIA. Pet. Mktg. Assoc.	5115 N. Western	NO
6	RALPH IGINELLI	FRINITY CONSULTANTS INC.	DALLAS, TX	NO
7	Frank Erwin	City of Tulsa	2445 S Jackson Tulsa	
8	FRANK CONDAN	EQ BOARD		
9	Gerald Butcher	WFEC	POB 429 Ardmore	NO
10	Ree Jullow	RSA	Norman	NO
11				
12				
13				
14				
15				
16				

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, DECEMBER 16, 1997
9:30 A.M.
LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

BRIEFING AGENDA

1. Call to Order Chairman
2. Division Director's Report - Informational Director
 - An update of current events and AQD activities
 - Upcoming Activities
 - Other
3. PUBLIC HEARING Staff
OAC 252:100-5-2.2(b) (2) PART 70 SOURCES ANNUAL OPERATING FEES [AMENDED]
Discussion by Council/Public
4. PUBLIC HEARING Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public
5. PUBLIC HEARING Staff
OAC 252:100-17 INCINERATORS
Discussion by Council/Public
6. PUBLIC HEARING Staff
OAC 252:2-15-40 and 252:2-15-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public of proposed Council action
7. ACTION ITEM Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public of proposed Council action
8. ACTION ITEM Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public of proposed Council action

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, DECEMBER 16, 1997
1:00 P.M.
LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

MEETING/HEARING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of OCTOBER 21, 1997 Minutes Chairman

4. PUBLIC HEARING Staff
OAC 252:100-5-2.2(b)(2)PART 70 SOURCES ANNUAL OPERATING FEE [AMENDED]
Discussion by Council/Public; possible action by Council

5. PUBLIC HEARING Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public; possible action by Council

6. PUBLIC HEARING Staff
OAC 252:100-17 INCINERATORS [AMENDED]
Discussion by Council/Public; possible action by Council

7. PUBLIC HEARING Staff
OAC 252:2-15-40 and 252:2-15-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public; possible action by Council

8. ACTION ITEM Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997

9. ACTION ITEM Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997

10. NEW BUSINESS Chairman
Discussion/consideration of subjects/business arising within
the past 24 hours; possible action by Council

11. Adjournment Chairman
Next Regular Meeting WEDNESDAY, FEBRUARY 18, 1998
LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM, 4545 N. Lincoln, Oklahoma City

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

MEMORANDUM

DATE: December 1, 1997

TO: Air Quality Council

FROM: David Dyke, Assistant Director
AIR QUALITY DIVISION *DD*

RE: Proposed Revisions to Subchapter 17

PROPOSED REVISIONS TO SUBCHAPTER 17, PARTS 1 & 3

The existing Subchapter 17 has been revised and redesignated as Part 1, General Provisions, and Part 3, Incinerators. Part 1 was added to include general information such as purpose, terminology related to 40 CFR, and definitions, which would apply to all incinerators subject to the Subchapter. Part 3 covers general incinerators not subject to Part 5, Municipal Waste Combustors. The revisions in Part 3 include the replacement of references to the obsolete "Ringelmann chart" with "relative opacity". Revisions were also made to Appendices A and B for reasons of clarification and simplification.

PROPOSED ADDITION OF PART 5 & APPENDIX K TO SUBCHAPTER 17

The proposed addition to Subchapter 17 of Part 5 and new Appendix K are necessary to meet the federal requirements set forth by the Environmental Protection Agency (EPA), at 40 CFR Part 60, Subpart Cb, Emission Guidelines (EG) for Municipal Waste Combustors (MWC). The EG apply to existing MWC units with the capacity to combust more than 250 tons per day of municipal solid waste (MSW) and for which construction commenced on the unit on or before September 20, 1994.

HISTORY OF EG

On December 19, 1995, the EPA promulgated the EG and New Source Performance Standards (NSPS) for Municipal Waste Combustors in the Federal Register. Following the promulgation, an industry group petitioned the U.S. Court of Appeals for the District of Columbia on the basis that the 1995 standards exceeded the EPA's statutory authority under the Clean Air Act (Act). The standards were based on the aggregate combustion capacity of the plant, rather than on the combustion capacity of each MWC unit. The court found that section 129 of the Act established two size categories of MWCs based on

unit, rather than facility, capacity. Thus, on December 6, 1996, the Court vacated, in their entirety, the 1995 standards and agreed with the petitioners that EPA did not have the authority to ignore the categories Congress had established. Subsequently, on March 21, 1997, the court amended its initial opinion leaving in place the NSPS and the EG lines for large MWC units other than cement kilns and on August 25, 1997, a revised final rule was published in the Federal Register.

EG STANDARDS

Existing MWCs that are subject to the EG must meet emission limitations for the following pollutants:

- Metals-cadmium (Cd), lead (Pb) and mercury (Hg)
- Particulate matter (PM)
- Acid gases-expressed as sulfur dioxide (SO₂) and hydrogen chloride (HCl)
- Organic compounds-expressed as dioxins and furans
- Nitrogen oxides (NO_x)
- Carbon monoxide (CO)
- Visible Emissions (opacity)

In addition, the EG require provisional or full ASME or state operator certification of the MWC chief facility operator and shift supervisors within six months after start-up or one year after state plan approval. A certified individual is required to be on-site at all times during operation of the MWC. Site-specific training is also required for all employees involved in the operation of the MWC. Testing and monitoring requirements for emissions, operating parameters and visible emissions are also specified. All MWC are to be in full compliance by December 19, 2000.

STATE 111(d) PLAN

The EG were developed under Section 111(d) and Section 129 of the Act. Section 111(d) requires EPA to establish procedures for submitting State Plans for implementing the EG. Section 129 was added to specifically address solid waste combustion. Subpart Cb differs from other EG adopted in the past because it addresses both Sections 111(d) and 129. Section 129 requirements override the States flexibility to consider the remaining useful life of the source, whereas 111(d) requires State Plans to be 'at least as protective as the guidelines'.

Oklahoma anticipates taking its State 111(d) Plan for MWC to the Air Quality Council meeting on February 18, 1998. This plan will include a minimum of the following:

- A demonstration of the state's legal authority to carry out the Section 111(d)/129 State Plan as submitted

- Identification of enforceable state mechanisms selected by the state for implementing the EG
- An inventory of MWC plants/units in the state affected by the EG, including MWC units that have ceased operation and are not partially or totally dismantled
- An inventory of emissions from MWC units in the state
- Emission limitations for MWC units that are at least as protective as those in the EG
- Compliance schedules, extending no later than December 19, 2000
- Testing, monitoring, recordkeeping and reporting requirements
- A record of public hearing(s) on the State Plan
- Provision for annual state progress reports to EPA on implementation of the State Plan

Oklahoma has only one facility subject to the EG--Ogden Martin Systems of Tulsa, Inc., (OMST). According to the 1995 emission inventory, OMST has three units, with each unit combusting approximately 336 tons per day of MSW and a permit limiting each unit to 375 tons per day. The City of Miami MWC is rated at 36 tons per day of MSW and thus, is not subject to the EG.

This rule was presented to the Council on October 15, 1996 and February 19, 1997. At that time, staff recommendation was that no action be taken on Subchapter 17 until the revised federal rules had been promulgated. If Oklahoma doesn't submit an acceptable State Plan implementing the EG, of which the state rule is an integral part, the EPA will develop, implement and enforce a Federal Plan that is applicable to MWC units in the state.

Enclosed please find a copy of the following:

- Subparts Cb and Eb*, promulgated in the December 19, 1995, Federal Register
- The August 25, 1997, amendments to Subparts Cb and Eb
- A MWC fact sheet
- A draft of the proposed revisions to Subchapter 17, Incinerators

The proposed revisions to Subchapter 17 will be brought to public hearing at the Air Quality Council meeting on December 16, 1997.

Enclosures

*Subpart Eb, containing the NSPS for MWC, is included here because it is referenced several times in Subpart Cb.

CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 17. INCINERATORS

PART 1. GENERAL PROVISIONS

252:100-17-1. Purpose

The purpose of this Subchapter is to deem it unlawful to burn refuse in any incinerator except in a multiple chambered incinerator or in equipment determined by the Director to be equally effective for the purpose of air pollution control set design and operating requirements and emission limitations for incinerators and municipal waste combustors (MWC).

252:100-17-1.1. Reference to 40 CFR

When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

252:100-17-1.2. Terminology related to 40 CFR

When these terms are used in rules incorporated by reference, the following definitions shall apply:

"EPA Administrator" is synonymous with "Executive Director".

"Affected facility" is synonymous with "large MWC unit".

"State" is synonymous with "Department of Environmental Quality" or "DEQ".

"State plan" is a program that the State is responsible for developing and implementing to achieve compliance with the emission guidelines in Subpart Cb of 40 CFR Part 60.

252:100-17-1.3. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Air curtain incinerator" means an incinerator that operates by forcefully projecting air across an open chamber or pit in which burning occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floors.

"Capacity" means amount of specified wastes a unit is designed to burn. Capacity may be expressed as pounds per hour or tons per day.

"Cofired combustor" means a unit combusting municipal solid waste with non-municipal solid waste fuel (e.g., coal, industrial process waste) and subject to a federally enforceable permit which limits the unit to combusting a fuel feed stream that contains 30 percent or less (by weight of total fuel feed stream) of municipal solid waste as measured on a calendar quarter basis.

"Fly Ash" means particulate matter capable of being gasborne or airborne consisting essentially of fused ash and/or burned or unburned material.

"Homogeneous waste" means wastes that consist of a single

substance such as automotive tires or used oil, but does not include refuse-derived fuel.

"Incinerator" means a combustion device specifically designed for the destruction of solid, semi-solid, liquid, or gaseous combustible wastes by high-temperature burning, and from which the solid residues contain little or no combustible material.

"Large municipal waste combustor unit" or "Large MWC unit" or "MWC" means any equipment that has the capacity to combust more than 250 tons per day of solid, liquid or gasified municipal solid waste for which construction commenced on or before September 20, 1994. "Equipment" includes field-erected incinerators, modular incinerators, boilers, furnaces, and pyrolysis/combustion units but does not include internal combustion engines, gas turbines or other combustion devices that combust landfill gases collected by landfill gas collection systems.

"Municipal solid waste" or "Municipal-type solid waste" or "MSW" means household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes but is not limited to railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff). Household, commercial/retail, and institutional wastes include yard waste, refuse-derived fuel and motor vehicle maintenance materials limited to vehicle batteries and tires except as specified in section 17-15 (d) of this Part.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Particulate matter" means any material that exists in a finely divided form as a liquid or solid.

"Primary combustion chamber" means the initial incinerator chamber where waste is charged, ignited and burned.

"Pyrolysis/combustion unit" means a unit that produces gases, liquids or solids through the heating of MSW. The gases, liquids or solids produced are combusted and emissions are vented to the atmosphere.

"Refuse-derived fuel" means a type of MSW produced by processing MSW through shredding and size classification.

"Secondary burner" means a supplemental burner in the secondary

chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.

"Smoke" means small gas or airborne particles resulting from incomplete combustion. Such particles consist of carbon, ash, and other matter present in sufficient quantities to be observable.

"Visible emissions" means any air contaminant, vapor, or gas stream which contains or may contain an air contaminant which is passed into the atmosphere and which is perceptible to the human eye.

"Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that are generated as part of maintenance activities associated with yards or other private or public lands. Yard waste does not include clean wood or construction, renovation, and demolition wastes, which are exempt from the definition of MSW in this section.

PART 3. INCINERATORS

252:100-17-2. Effective date; applicability

This subchapter shall become operative one year from and after July 21, 1970. It will apply to any and all incinerators utilized within the State of Oklahoma. This Part became effective on July 21, 1971 and applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this Part.

252:100-17-3. Prohibition on density of emissions Opacity

(a) Prohibition. No person shall cause, suffer, allow, or permit the discharge of smoke from an incinerator of a density darker than number one (1) on the Ringelmann Chart or a visible emission of such an equivalent opacity as to obscure a certified visible emission evaluator's view to a degree greater than number one (1) on the Ringelmann Chart.

(b) Exemptions. Subsection 252:100-17-3(a) shall not apply to:

- (1) visible emissions consisting of uncombined water droplets, or,
- (2) smoke, the density of which is not darker than number three (3) of the Ringelmann Chart for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes or more than twenty (20) minutes in any twenty four (24) hour period. See 252:100-25-3.

252:100-17-4. Prohibition on pounds per hour of emissions Particulate matter

No person shall cause or allow to be emitted into the open air from any incinerator equipment, fly ash or other particulate matter in quantities greater than shown in 252:100-17-6. Solid fuels charged will be considered as part of the refuse weight, but No. 1

and No. 2 fuel oil and gaseous fuels and combustion air will not be so considered. Fly ash or other particulate matter shall not exceed quantities greater than the allowable emission rate. The allowable emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter. Solid fuels charged will be considered part of the refuse weight. No. 1 and No. 2 fuel oils (distillate oils), liquified petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.

252:100-17-5. Incinerator design requirements

Hereafter no person shall operate an incinerator unless an incinerator under this Part must have:

- (1) It is provided with an auxiliary burner for the purpose of maintaining a primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.
- (2) It has a secondary burner for use that shall be used when necessary to eliminate smoke.
- (3) It is a type of incinerator design a design that can be demonstrated to the Director DEQ to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.
- (4) It complies with generally recognized good practices and all applicable provisions of this Subchapter.
- (5) Full and proper use is made of all components and appurtenances thereof.

252:100-17-6. Allowable emission of particulates [AMENDED AND RENUMBERED TO 252:100-17-4]

- (a) Allowable emissions for incinerators with capacities in excess of 100 lb/hr are set forth in Appendix A of this Chapter.
- (b) Allowable emissions for incinerators with capacities less than 100 lbs/hr are set forth in Appendix B of this Chapter.

252:100-17-7. Test methods

(a) Opacity shall be measured utilizing Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

(b) Particulate matter shall be measured utilizing the appropriate DEQ-approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

PART 5. MUNICIPAL WASTE COMBUSTORS

252:100-17-14. Effective date; applicability

This Part is effective as of March 23, 1997 and applies to large MWC units.

252:100-17-15. Exemptions

(a) Any MWC unit that is capable of combusting more than 250 tons per day of MSW and is subject to a federally enforceable permit limiting the maximum amount of MSW that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this Part if the owner/operator:

- (1) Notifies the DEQ of an exemption claim.
- (2) Provides the DEQ with a copy of the federally enforceable permit that limits the firing of MSW to less than 11 tons per day.
- (3) Keeps records of the amount of MSW fired per day.

(b) A qualifying small power production facility, (as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)), that produces electric energy from homogeneous waste is not subject to this Part if the owner/operator:

- (1) Notifies the DEQ of an exemption claim.
- (2) Provides the DEQ data documenting that the facility qualifies for this exemption.

(c) A qualifying cogeneration facility, (as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)), that burns homogeneous waste to produce electric energy, steam, or other useful energy used for industrial, commercial, heating, or cooling purposes, is not subject to this Part if the owner/operator:

- (1) Notifies the DEQ of an exemption claim.
- (2) Provides the DEQ data documenting that the facility qualifies for this exemption.

(d) Any unit combusting a single-item waste stream of tires is not subject to this Part if the owner/operator:

- (1) Notifies the DEQ of an exemption claim.
- (2) Provides the DEQ with data documenting that the unit qualifies for this exemption.

(e) Any unit required to have a hazardous waste permit is not subject to this Part.

(f) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this Part.

(g) Any cofired combustor that meets the capacity specifications in paragraph (a) of this section is not subject to this Part if the owner/operator:

- (1) Notifies the DEQ of an exemption claim.
- (2) Provides the DEQ with a copy of the federally enforceable permit.
- (3) Keeps separate records, on a calendar quarter basis, of the weight of MSW and the weight of all other fuels combusted at the cofired combustor.

(h) Air curtain incinerators that meet the capacity specifications in 252:100-17-23 of this Subchapter and combust a 100 percent yard waste fuel stream are not subject to this Part, except:

- (1) The opacity limit under section 252:100-17-16 of this Subchapter.
- (2) The testing procedures under section 252:100-17-25 of this

Subchapter.

(3) The reporting and recordkeeping provisions under section 252:100-17-26 of this Subchapter.

(i) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit are not subject to this Part if the owner/operator of the unit maintains records of:

(1) The weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis.

(2) The weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis.

(3) The name and address of the purchaser of the feedstocks.

(j) The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this Part.

(k) Cement kilns firing MSW are not subject to this Part.

252:100-17-16. Standards for particulate matter and opacity

(a) Particulate matter. The concentration of particulate matter contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 27 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Opacity. Opacity of gases discharged to the atmosphere from a MWC unit shall not exceed 10 percent (6-minute average).

252:100-17-17. Standards for municipal waste combustor metals

(a) Cadmium. The concentration of cadmium contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.040 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Lead.

(1) By December 19, 2000, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.49 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(2) By December 19, 2002, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.44 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(c) Mercury. The concentration of mercury contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.080 milligrams per dry standard cubic meter or 15 percent of the potential mercury emission concentration (85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

252:100-17-18. Standards for municipal waste combustor acid gases expressed as sulfur dioxide and hydrogen chloride

(a) Sulfur dioxide.

(1) By December 19, 2000, the concentration of sulfur dioxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 31 parts per million by volume (ppmv) or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(2) By December 19, 2002, the concentration of sulfur dioxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 29 ppmv or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(b) Hydrogen chloride.

(1) By December 19, 2000, the concentration of hydrogen chloride contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 31 parts per million by volume (ppmv) or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(2) By December 19, 2002, the concentration of hydrogen chloride contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 29 ppmv or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans

(a) Dioxins/Furans. The concentration of organics, expressed as total mass dioxins/furans, contained in the gases discharged to the atmosphere from a MWC unit shall not exceed:

(1) With electrostatic precipitator: 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(2) Without electrostatic precipitator: 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

252:100-17-20. Standards for nitrogen oxides

(a) Nitrogen oxides emission limits. The concentration of nitrogen oxides contained in the gases discharged into the atmosphere from a MWC unit shall not exceed the following:

NITROGEN OXIDES LIMITS

Municipal Waste Combustor
Technology

Nitrogen oxides
emission limit

(ppm by volume)^a

<u>Mass burn waterwall</u>	<u>205</u>
<u>Mass burn rotary waterwall</u>	<u>250</u>
<u>Refuse-derived fuel combustor</u>	<u>250</u>
<u>Fluidized bed combustor</u>	
<u>(by December 19, 2000)</u>	<u>240</u>
<u>Fluidized bed combustor</u>	
<u>(by December 19, 2002)</u>	<u>180</u>

^aCorrected to 7 percent oxygen, dry basis.

(b) Nitrogen oxides emissions averaging. The owner or operator of a MWC plant may elect to implement a nitrogen oxides emissions averaging plan for the MWC units that are located at that plant.

(1) The following units cannot be included in the emissions averaging plan:

(A) MWC units subject to Subpart Ea or Eb of 40 CFR Part 60.

(B) Mass burn refractory MWC units and other MWC technologies not listed in paragraph (b)(3) of this section may not be included in the emissions averaging plan.

(2) Prior to implementing the nitrogen oxides emissions averaging plan, the units to be included must be identified in the initial performance test report specified in 40 CFR 60.59b(f) or in the annual report specified in 40 CFR 60.59b(g), as applicable. The units which are included in the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with DEQ approval.

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level discharged from the units included in the emission averaging plan shall be no greater than the levels specified in this section. Emission limits for the nitrogen oxides concentration level for each type of unit are as follows:

NITROGEN OXIDES LIMITS FOR EXISTING DESIGNATED FACILITIES INCLUDED IN AN EMISSIONS AVERAGING PLAN AT A MUNICIPAL WASTE COMBUSTOR PLANT^a

<u>Municipal waste combustor technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)^b</u>
---	---

<u>Mass burn waterwall</u>	<u>185</u>
<u>Mass burn rotary waterwall</u>	<u>220</u>
<u>Refuse-derived fuel combustor</u>	<u>230</u>
<u>Fluidized bed combustor</u>	<u>165</u>

^aMass burn refractory municipal waste combustors and other MWC technologies not listed above may not be included in an emissions averaging plan.

^bCorrected to 7 percent oxygen, dry basis.

(4) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (b) (3) of this section shall be calculated using the equation in Appendix K of this Chapter. MWC units that are off-line shall not be included in calculating the average daily nitrogen oxides emission level.

(5) For any day a unit included in the emissions averaging plan is off-line, the owner or operator of the MWC plant must demonstrate compliance according to either paragraph (b) (5) (A) or both paragraphs (b) (5) (B) and (b) (5) (C) of this section.

(A) Compliance with the applicable limits specified in (b) (3) of this Part shall be demonstrated using the averaging procedure specified in paragraph (b) (4) of this section. The averaging procedure will include the MWC units in the plan that are on-line.

(B) For each of the units included in the emissions averaging plan, the nitrogen oxides emissions shall be calculated on a daily basis. The nitrogen oxides emissions level shall be equal to or less than the maximum daily nitrogen oxides emission levels achieved by that unit on any of the days during which the emissions averaging plan was achieved with all units on-line during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b) (5) (C) (ii) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b) (5) (C) (i) of this section.

(i) The average nitrogen oxides emissions shall be calculated for all days during which the emissions averaging plan was implemented and achieved and during which all MWC units were on-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated, on a calendar year basis, according to paragraphs (b) (5) (C) (i) (I) through (b) (5) (C) (i) (III) of this section.

(I) The daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated for each MWC unit included in the emissions averaging plan. The calculation shall be based on the hourly nitrogen oxides data required under 40 CFR 60.58b(a) through (m) and specified under 40 CFR 60.58b(h) (5). The flue gas flow rate is determined using the hourly average steam or feedwater flow rate and Table 19-1 of EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 1997.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each unit calculated under paragraph (b) (5) (C) (i) (I) of this section.

(III) On a calendar year basis, the average nitrogen oxides emissions (kilograms per day), shall be calculated

as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b) (5) (C) (i) (II) of this section divided by the number of calendar days for which a daily total was calculated.

(ii) The average nitrogen oxides emissions shall be calculated for all days during which one or more of the MWC units under the emissions averaging plan was off-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated according to paragraphs (b) (5) (C) (ii) (I) through (b) (5) (C) (ii) (III) of this section on a calendar year basis.

(I) For each MWC unit included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under 40 CFR 60.58b(a) through (m) and specified under 40 CFR 60.58b(h) (5), the flue gas flow rate determined using Table 19-1 of the EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 1997, and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each MWC unit as calculated under paragraph (b) (5) (C) (ii) (I) of this section.

(III) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b) (5) (C) (ii) (II) of this section divided by the number of calendar days for which a daily total was calculated.

252:100-17-21. Standards for municipal waste combustor operating practices

(a) The concentration of carbon monoxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed the following limits for each type of affected equipment:

MUNICIPAL WASTE COMBUSTOR OPERATING LIMITS

<u>Municipal waste combustor technology</u>	<u>Carbon monoxide emissions level (ppm by volume)^a</u>	<u>Averaging Time^b (hours)</u>
<u>Mass burn waterwall</u>	<u>100</u>	<u>4</u>
<u>Mass burn refractory</u>	<u>100</u>	<u>4</u>
<u>Mass burn rotary refractory</u>	<u>100</u>	<u>24</u>
<u>Mass burn rotary waterwall</u>	<u>250</u>	<u>24</u>
<u>Modular starved air</u>	<u>50</u>	<u>4</u>
<u>Modular excess air</u>	<u>50</u>	<u>4</u>
<u>Refuse-derived fuel stoker</u>	<u>200</u>	<u>24</u>
<u>Bubbling fluidized bed</u>	<u>100</u>	<u>4</u>

<u>Circulating fluidized bed</u>	<u>100</u>	<u>4</u>
<u>Pulverized coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>150</u>	<u>4</u>
<u>Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>200</u>	<u>24</u>

^aMeasured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

^bAveraging times are 4-hour or 24-hour block averages.

(b) An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.53b(b) and (c), which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-22. Standards for municipal waste combustor fugitive ash emissions

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.55b, which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-23. Standards for air curtain incinerators

An owner or operator of an air curtain incinerator that meets the capacity specified in 252:100-17-14 and that combusts a fuel feed stream of 100 percent yard waste, shall not cause to be discharged into the atmosphere from that incinerator any gases that exhibit greater than 10 percent opacity (6-minute average). An opacity level of up to 35 percent (6-minute average) is permitted during startup periods within the first 30 minutes of unit operation.

252:100-17-24. Standards for municipal waste combustor operator training and certification

(a) Each chief facility operator and shift supervisor of each MWC unit shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers [ORO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(b) Each chief facility operator and shift supervisor of each MWC unit shall have completed full certification or scheduled a full certification exam with either the American Society of Mechanical Engineers [ORO-II1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(c) No owner or operator of a MWC unit shall allow the unit to be operated at any time unless one of the following persons is on duty: a fully certified chief facility operator, a provisionally

certified chief facility operator who is scheduled to take the full certification exam according to the schedule specified in paragraph (b) of this section, a fully certified shift supervisor, or a provisionally certified shift supervisor who is scheduled to take the full certification exam according to the schedule specified in paragraph (b) of this section.

(1) The requirement specified in paragraph (c) of this section shall take effect no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(2) If one of the persons listed in paragraph (c) of this section must leave the unit during their operating shift, a provisionally certified control room operator who is on-site at the MWC may fulfill the requirement in paragraph (c) of this section.

(d) All chief facility operators, shift supervisors, and control room operators at MWC units must complete the EPA or State MWC operator training course no later than the date 6 months after the date of startup of the MWC or by 12 months after the date of State plan approval, whichever is later.

(e) The requirement specified in paragraph (d) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(f) The owner or operator may request that the DEQ waive the requirement specified in paragraph (d) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(g) The owner or operator of a MWC unit shall develop and update on an annual basis a site-specific operating manual. The operating manual shall, at a minimum, address the elements of MWC unit operation specified in paragraphs (g)(1) through (g)(11) of this section.

(1) A summary of the applicable standards under this Part.

(2) A description of basic combustion theory applicable to a MWC unit.

(3) Procedures for receiving, handling, and feeding MSW.

(4) MWC unit start-up, shutdown, and malfunction procedures.

(5) Procedures for maintaining proper combustion air supply levels.

(6) Procedures for operating the MWC unit within the standards established under this Part.

(7) Procedures for responding to periodic upset or off-specification conditions.

(8) Procedures for minimizing particulate matter carryover.

(9) Procedures for handling ash.

(10) Procedures for monitoring MWC unit emissions.

(11) Reporting and recordkeeping procedures.

(h) The owner or operator of a MWC unit shall establish a training program to review the operating manual according to the schedule specified in paragraphs (h)(1) and (h)(2) of this section. The training shall be provided to each person who has responsibilities affecting the operation of the unit including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(1) Each person specified in paragraph (h) of this section shall undergo initial training no later than the date specified in paragraph (h)(1)(A), (h)(1)(B), or (h)(1)(C), whichever is later.

(A) The date 6 months after the date of startup of the unit.

(B) The date prior to the day the person assumes responsibilities affecting MWC unit operation.

(C) Twelve months after date of State plan approval.

(2) Annually, following the initial review required by paragraph (h)(1) of this section.

(i) The operating manual required by paragraph (h) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (h) of this section no later than 6 months after start-up or 12 months after the date of State plan approval. The operating manual and records of training shall be available for inspection by the DEQ upon request.

252:100-17-25. Compliance and performance testing

Except for the provisions of subsection 60.58b(g)(5)(iii), 40 CFR 60.58b is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-26. Reporting and recordkeeping requirements

Except for the provisions of subsection 60.59b(a), b(5), and d(11), 40 CFR 60.59b is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-27. Compliance schedules

(a) All MWC units must close or be in compliance with all requirements contained in this Part within 3 years following approval of the State plan. However, all MWC units for which construction, modification, or reconstruction is commenced after June 26, 1987 shall comply with the emission limit for mercury specified in 252:100-17-17(c) and the emission limit for dioxin/furans specified in 252:100-17-19 within 1 year following issuance of a revised construction or operating permit, if a permit modification is required, or within 1 year following approval of the State plan, whichever is later.

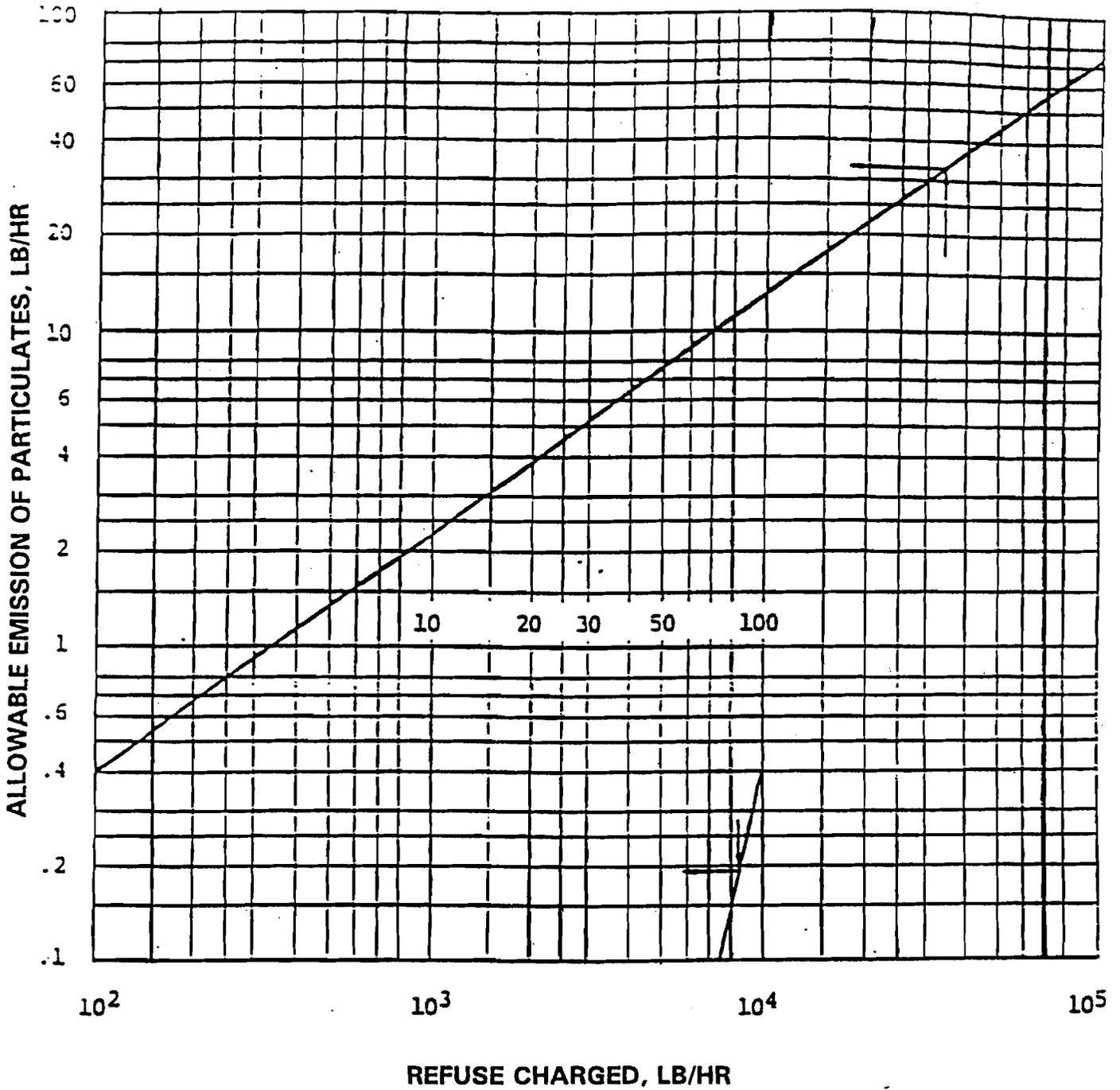
(b) All large MWC units choosing to comply with all requirements contained in this Part in more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit if a permit modification is required, or more than 1 year but less than 3 years following approval of the State plan

if a permit modification is not required, shall enter into a consent agreement that includes measurable and enforceable incremental steps of progress toward compliance. These steps are specified below:

- (1) Date for submittal of the final control plan to the DEO.
 - (2) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s).
 - (3) Date for initiation of installation of the air pollution control device(s).
 - (4) Date for completion of installation of the air pollution control device(s).
 - (5) Date for final compliance.
- (c) All large MWC units with a compliance schedule of more than 1 year after approval of the State plan in accordance with paragraph (b) of this section, shall provide performance test results for dioxin/furan emissions for each unit. The performance test results shall have been conducted during or after 1990. The performance test shall be conducted according to the procedures in 252:100-17-25.
- (d) All large MWC units intending to close in more than 1 year but less than 3 years after State plan approval shall enter into a consent agreement to close. The closure agreement must include the date of plant closure.

[REVOKED]

APPENDIX A. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES IN EXCESS OF 100 LB/HR



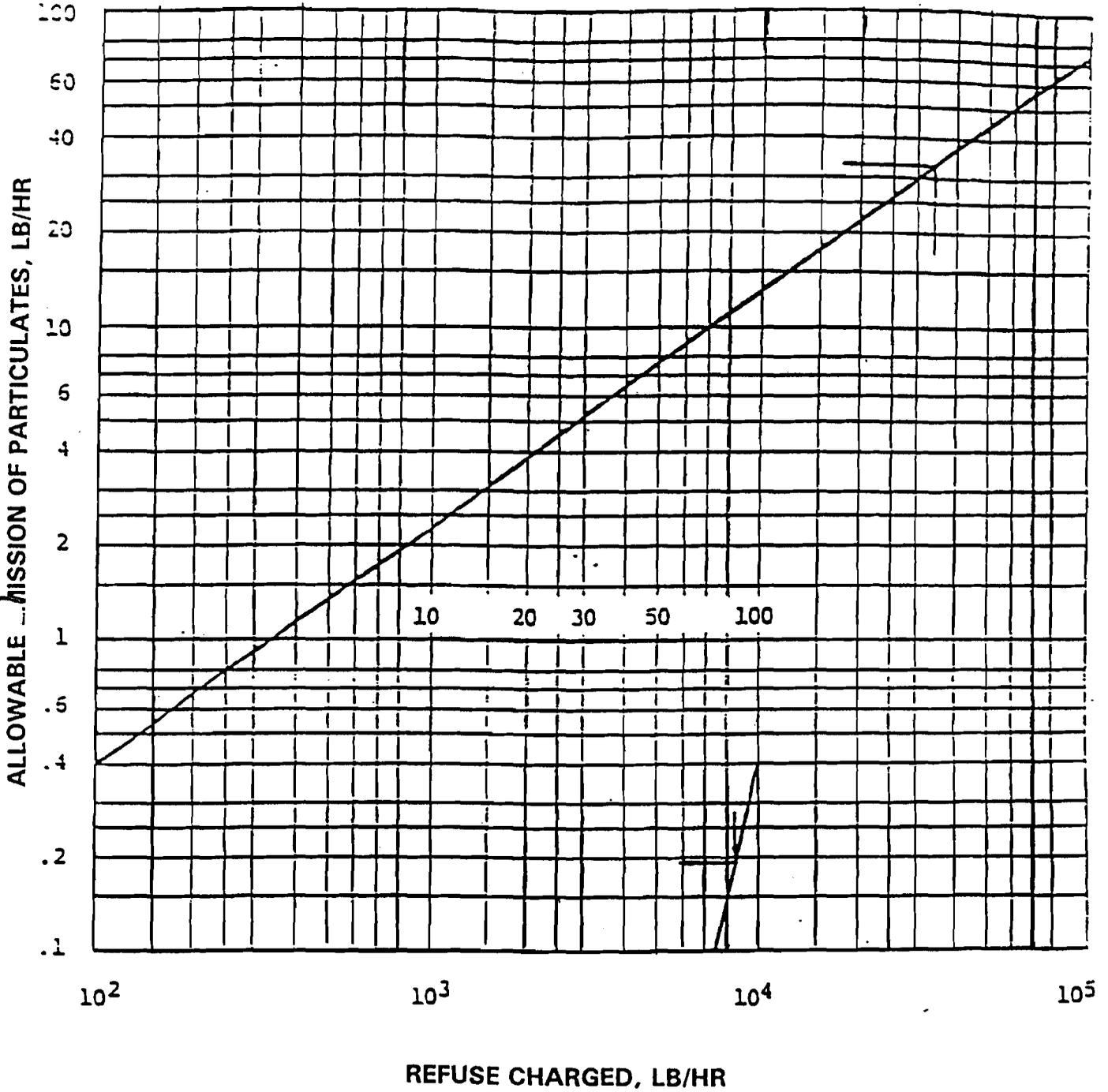
Allowable emission rate may be calculated using the following formula:

$$Y = (0.01221)(x^{+0.7577}); \text{ for values of } x \text{ } 100\text{lbs/hr,}$$

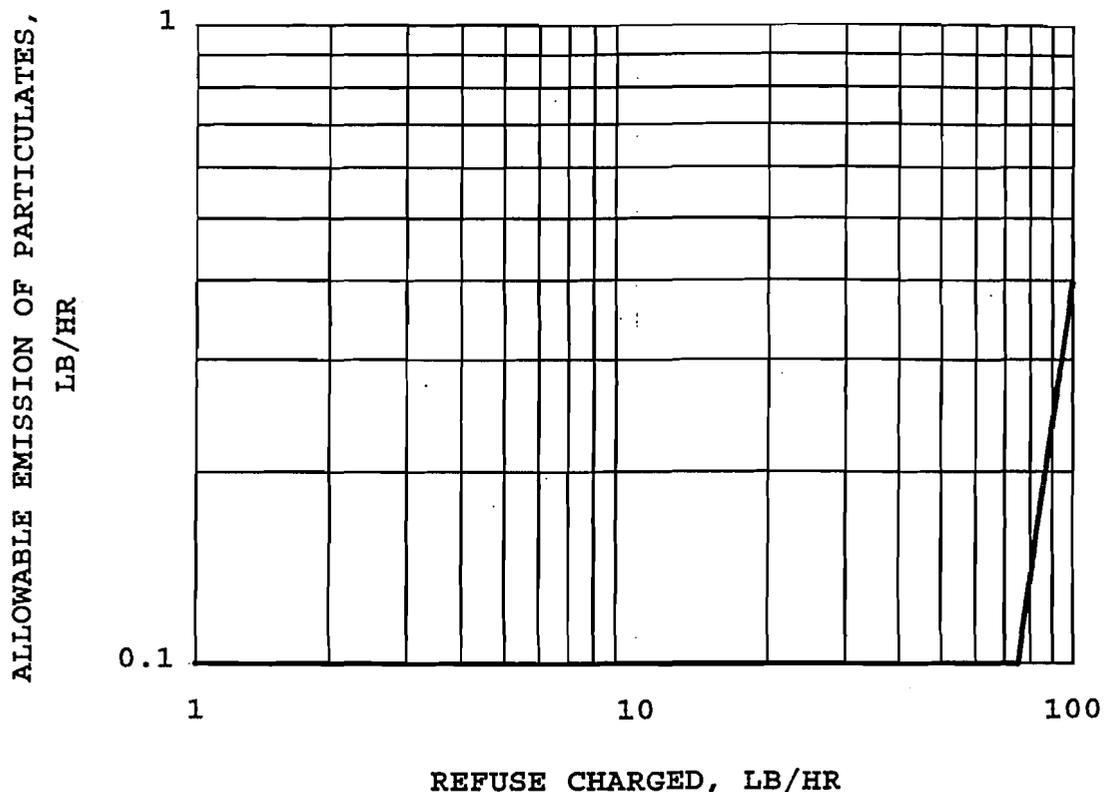
where: x = refuse charged, lb/hr, and
 Y = allowable emission, lb/hr.

[REVOKED]

APPENDIX B. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES LESS THAN 100 LBS/HR



APPENDIX B. [NEW]
 ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES LESS THAN
 100 LB/HR



Allowable emission rate may be calculated using the following formulae:

Incinerators with capacities greater than 75, but less than or equal to 100 lb/hr

$$Y = 9.213 \times 10^{-11} X^{4.818}$$

Incinerators with capacities of 75 lb/hr or less

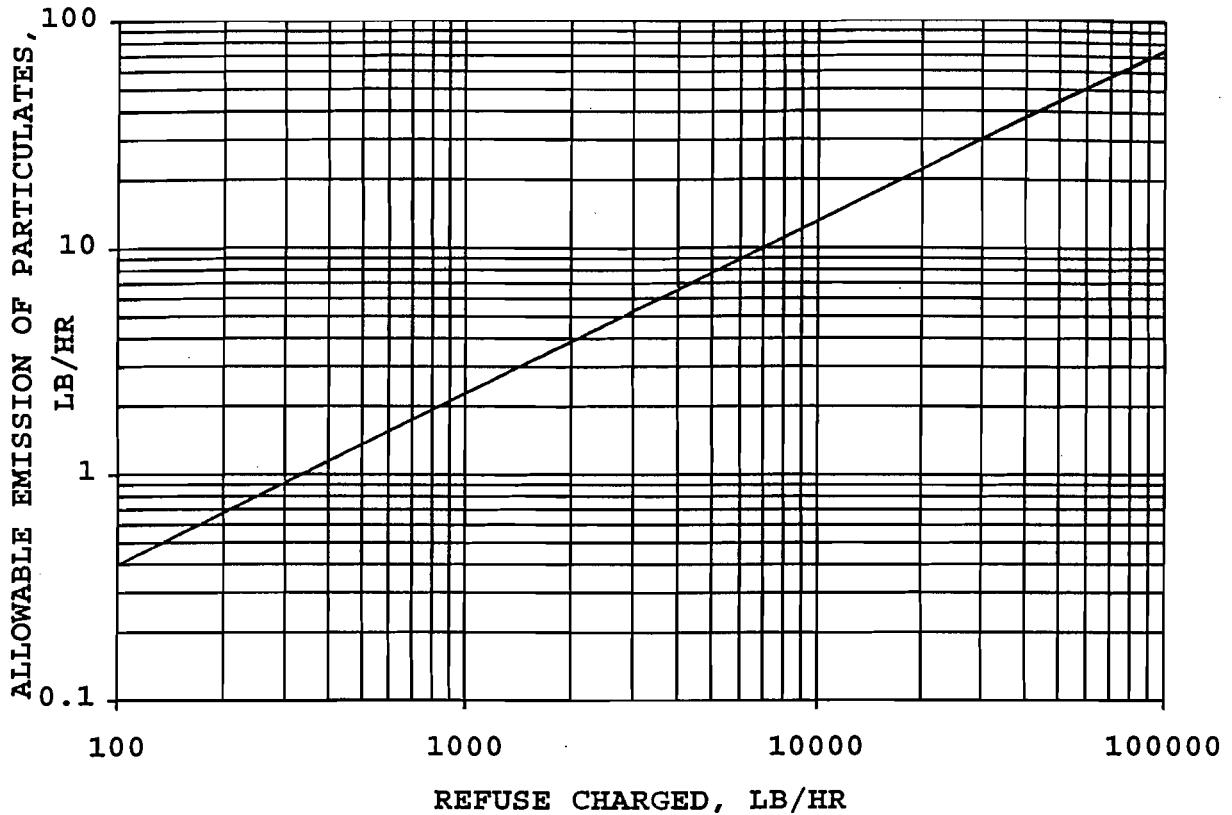
$$Y = 0.1$$

Where:

X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

APPENDIX A. [NEW]
 ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES OF 100
 LB/HR OR GREATER



Allowable emission rate may be calculated using the following formula:

$$Y = 0.01221X^{0.7577}$$

Where:

X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

APPENDIX K. [NEW]
AVERAGE DAILY NITROGEN OXIDES EMISSIONS

$$NOX_{24-hr} = \frac{\sum_{i=1}^h [(NOX_i) (S_i)]}{\sum_{i=1}^h (S_i)}$$

where:

NOX_{24-hr} = 24-hour daily average nitrogen oxides emission concentration level for the emissions averaging plan (parts per million by volume corrected to 7 percent oxygen).

NOX_i = 24-hour daily average nitrogen oxides emission concentration level for unit i (parts per million by volume, corrected to 7 percent oxygen), calculated according to the procedures in 40 CFR 60.58b(h).

S_i = maximum demonstrated municipal waste combustor unit load for affected facility i (pounds per hour steam or feedwater flow as determined in the most recent dioxin/furan performance test).

h = total number of units being included in the daily emissions average.

RECENT RULE REVISIONS MADE IN
RESPONSE TO COMMENTS

PLEASE ADD TO
DECEMBER 16 AGENDA PACKET

CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 17. INCINERATORS

PART 1. GENERAL PROVISIONS

252:100-17-1. Purpose

The purpose of this Subchapter is to deem it unlawful to burn refuse in any incinerator except in a multiple chambered incinerator or in equipment determined by the Director to be equally effective for the purpose of air pollution control. **specify** design and operating requirements and emission limitations for incinerators and municipal waste combustors (MWC).

252:100-17-1.1. Reference to 40 CFR

When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

252:100-17-1.2. Terminology related to 40 CFR

When these terms are used in rules incorporated by reference, the following definitions shall apply:

"EPA Administrator" is synonymous with "Executive Director".

"Affected facility" is synonymous with "large MWC unit".

"State" is synonymous with "Department of Environmental Quality" or "DEQ".

"State plan" is a program that the State is responsible for developing and implementing to achieve compliance with the emission guidelines in Subpart Cb of 40 CFR Part 60.

PART 3. INCINERATORS

252:100-17-2. Effective date; applicability

This subchapter shall become operative one year from and after July 21, 1970. It will apply to any and all incinerators utilized within the State of Oklahoma. This Part became effective on July 21, 1971 and applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this Part.

252:100-17-2.2. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Capacity" means amount of specified wastes a unit is designed to burn. Capacity may be expressed as pounds per hour or tons per

day.

"Primary combustion chamber" means the initial incinerator chamber where waste is charged, ignited and burned.

"Secondary burner" means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.

~~252:100-17-3. Prohibition on density of emissions~~Opacity

~~(a) Prohibition. No person shall cause, suffer, allow, or permit the discharge of smoke from an incinerator of a density darker than number one (1) on the Ringelmann Chart or a visible emission of such an equivalent opacity as to obscure a certified visible emission evaluator's view to a degree greater than number one (1) on the Ringelmann Chart.~~

~~(b) Exemptions. Subsection 252:100-17-3(a) shall not apply to:~~

~~(1) visible emissions consisting of uncombined water droplets, or,~~

~~(2) smoke, the density of which is not darker than number three~~

~~(3) of the Ringelmann Chart for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes or more than twenty (20) minutes in any twenty four (24) hour period. See 252:100-25-3.~~

~~252:100-17-4. Prohibition on pounds per hour of emissions~~Particulate matter

~~No person shall cause or allow to be emitted into the open air from any incinerator equipment, fly ash or other particulate matter in quantities greater than shown in 252:100-17-6. Solid fuels charged will be considered as part of the refuse weight, but No. 1 and No. 2 fuel oil and gaseous fuels and combustion air will not be so considered. Fly ash or other particulate matter shall not exceed quantities greater than the allowable emission rate. The allowable emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter. Solid fuels charged will be considered part of the refuse weight. No. 1 and No. 2 fuel oils (distillate oils), liquified petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.~~

~~252:100-17-5. Incinerator design requirements~~

~~Hereafter no person shall operate an incinerator unless. An incinerator under this Part must have:~~

~~(1) It is provided with an auxiliary burner for the purpose of maintaining a primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.~~

~~(2) It has a secondary burner for use that shall be used when necessary to eliminate smoke.~~

~~(3) It is a type of incinerator design a design that can be demonstrated to the Director DEQ to be effective in accordance~~

with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.

~~(4) It complies with generally recognized good practices and all applicable provisions of this Subchapter.~~

~~(5) Full and proper use is made of all components and appurtenances thereof.~~

252:100-17-6. Allowable emission of particulates [AMENDED AND RENUMBERED TO 252:100-17-4]

~~(a) Allowable emissions for incinerators with capacities in excess of 100 lb/hr are set forth in Appendix A of this Chapter.~~

~~(b) Allowable emissions for incinerators with capacities less than 100 lbs/hr are set forth in Appendix B of this Chapter.~~

252:100-17-7. Test methods

(a) Opacity. Opacity shall be measured utilizing Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

(b) Particulate Matter. Particulate matter shall be measured utilizing the appropriate DEQ-approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

PART 5. MUNICIPAL WASTE COMBUSTORS

252:100-17-14. Effective date; applicability

This Part is effective as of March 23, 1997 and applies to large MWC units.

252:100-17-14.1. Definitions

The definitions in 40 CFR 60.51b are hereby incorporated by reference as they exist on October 24, 1997.

252:100-17-15. Exemptions

(a) Any MWC unit that is capable of combusting more than 250 tons per day of MSW and is subject to a federally enforceable permit limiting the maximum amount of MSW that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this Part if the owner/operator:

(1) Notifies the DEQ of an exemption claim.

(2) Provides the DEQ with a copy of the federally enforceable permit that limits the firing of MSW to less than or equal to 11 tons per day.

(3) Keeps records of the amount of MSW fired per day.

(b) A qualifying small power production facility, (as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)), that produces electric energy from homogeneous waste is not subject to this Part if the owner/operator:

- (1) Notifies the DEQ of an exemption claim.
- (2) Provides the DEQ data documenting that the facility qualifies for this exemption.
- (c) A qualifying cogeneration facility, (as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)), that burns homogeneous waste to produce electric energy, steam, or other useful energy used for industrial, commercial, heating, or cooling purposes, is not subject to this Part if the owner/operator:
 - (1) Notifies the DEQ of an exemption claim.
 - (2) Provides the DEQ data documenting that the facility qualifies for this exemption.
- (d) Any unit combusting a single-item waste stream of tires is not subject to this Part if the owner/operator:
 - (1) Notifies the DEQ of an exemption claim.
 - (2) Provides the DEQ with data documenting that the unit qualifies for this exemption.
- (e) Any unit required to have a hazardous waste permit is not subject to this Part.
- (f) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this Part.
- (g) Any cofired combustor that meets the capacity specifications in paragraph (a) of this section is not subject to this Part if the owner/operator:
 - (1) Notifies the DEQ of an exemption claim.
 - (2) Provides the DEQ with a copy of the federally enforceable permit.
 - (3) Keeps separate records, on a calendar quarter basis, of the weight of MSW and the weight of all other fuels combusted at the cofired combustor.
- (h) Air curtain incinerators that meet the capacity specifications in 252:100-17-23 of this Subchapter and combust a 100 percent yard waste fuel stream are not subject to this Part, except:
 - (1) The opacity limit under section 252:100-17-23 of this Subchapter.
 - (2) The testing procedures under section 252:100-17-25 of this Subchapter.
 - (3) The reporting and recordkeeping provisions under section 252:100-17-26 of this Subchapter.
- (i) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit are not subject to this Part if the owner/operator of the unit maintains records of:
 - (1) The weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis.
 - (2) The weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis.
 - (3) The name and address of the purchaser of the feedstocks.
- (j) The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum

refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this Part.

(k) Cement kilns firing MSW are not subject to this Part.

252:100-17-16. Standards for particulate matter and opacity

(a) Particulate matter. The concentration of particulate matter contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 27 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Opacity. Opacity of gases discharged to the atmosphere from a MWC unit shall not exceed 10 percent (6-minute average).

252:100-17-17. Standards for municipal waste combustor metals

(a) Cadmium. The concentration of cadmium contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.040 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Lead.

(1) By December 19, 2000, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.49 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(2) By **August 26, 2002**, or three years after EPA approval of the State plan, whichever is first, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.44 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(c) Mercury. The concentration of mercury contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.080 milligrams per dry standard cubic meter or 15 percent of the potential mercury emission concentration (85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

252:100-17-18. Standards for municipal waste combustor acid gases expressed as sulfur dioxide and hydrogen chloride

(a) Sulfur dioxide.

(1) By December 19, 2000, the concentration of sulfur dioxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 31 parts per million by volume (ppmv) or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(2) By **August 26, 2002**, or three years after EPA approval of the State plan, which ever is first, the concentration of sulfur dioxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 29 ppmv or 25 percent of the potential sulfur dioxide emission

concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(b) Hydrogen chloride.

(1) By December 19, 2000, the concentration of hydrogen chloride contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 31 parts per million by volume (ppmv) or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(2) By August 26, 2002, or three years after EPA approval of the State plan, which ever is first, the concentration of hydrogen chloride contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 29 ppmv or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans

(a) Dioxins/Furans. The concentration of organics, expressed as total mass dioxins/furans, contained in the gases discharged to the atmosphere from a MWC unit shall not exceed:

(1) With electrostatic precipitator: 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(2) Without electrostatic precipitator: 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

252:100-17-20. Standards for nitrogen oxides

(a) Nitrogen oxides emission limits. The concentration of nitrogen oxides contained in the gases discharged into the atmosphere from a MWC unit shall not exceed the following:

NITROGEN OXIDES LIMITS

<u>Municipal Waste Combustor Technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)^a</u>
<u>Mass burn waterwall</u>	<u>205</u>
<u>Mass burn rotary waterwall</u>	<u>250</u>
<u>Refuse-derived fuel combustor</u>	<u>250</u>
<u>Fluidized bed combustor (by December 19, 2000)</u>	<u>240</u>
<u>Fluidized bed combustor (by August 26, 2002, or three</u>	

years after EPA approval of the State plan, which ever is first) 180

^aCorrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(b) Nitrogen oxides emissions averaging. The owner or operator of a MWC plant may elect to implement a nitrogen oxides emissions averaging plan for the MWC units that are located at that plant.

(1) The following units cannot be included in the emissions averaging plan:

(A) MWC units subject to Subpart Ea or Eb of 40 CFR Part 60.

(B) Mass burn refractory MWC units and other MWC technologies not listed in paragraph (b)(3) of this section may not be included in the emissions averaging plan.

(2) Prior to implementing the nitrogen oxides emissions averaging plan, the units to be included must be identified in the initial performance test report specified in 40 CFR 60.59b(f) or in the annual report specified in 40 CFR 60.59b(g), as applicable. The units which are included in the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with DEQ approval.

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level discharged from the units included in the emission averaging plan shall be no greater than the levels specified in this section. Emission limits for the nitrogen oxides concentration level for each type of unit are as follows:

NITROGEN OXIDES LIMITS FOR EXISTING DESIGNATED FACILITIES INCLUDED IN AN EMISSIONS AVERAGING PLAN AT A MUNICIPAL WASTE COMBUSTOR PLANT^a

<u>Municipal waste combustor technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)^b</u>
---	---

<u>Mass burn waterwall</u>	<u>185</u>
----------------------------	------------

<u>Mass burn rotary waterwall</u>	<u>220</u>
-----------------------------------	------------

<u>Refuse-derived fuel combustor</u>	<u>230</u>
--------------------------------------	------------

<u>Fluidized bed combustor</u>	<u>165</u>
--------------------------------	------------

^aMass burn refractory municipal waste combustors and other MWC technologies not listed above may not be included in an emissions averaging plan.

^bCorrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(4) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (b)(3) of this section shall be calculated using the equation in Appendix K of

this Chapter. MWC units that are off-line shall not be included in calculating the average daily nitrogen oxides emission level.
(5) For any day a unit included in the emissions averaging plan is off-line, the owner or operator of the MWC plant must demonstrate compliance according to either paragraph (b) (5) (A) or both paragraphs (b) (5) (B) and (b) (5) (C) of this section.

(A) Compliance with the applicable limits specified in (b) (3) of this Part shall be demonstrated using the averaging procedure specified in paragraph (b) (4) of this section. The averaging procedure will include the MWC units in the plan that are on-line.

(B) For each of the units included in the emissions averaging plan, the nitrogen oxides emissions shall be calculated on a daily **average** basis. The nitrogen oxides emissions level shall be equal to or less than the maximum daily nitrogen oxides emission levels achieved by that unit on any of the days during which the emissions averaging plan was achieved with all units on-line during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b) (5) (C) (ii) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b) (5) (C) (i) of this section.

(i) The average nitrogen oxides emissions shall be calculated for all days during which the emissions averaging plan was implemented and achieved and during which all MWC units were on-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated, on a calendar year basis, according to paragraphs (b) (5) (C) (i) (I) through (b) (5) (C) (i) (III) of this section.

(I) The daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated for each MWC unit included in the emissions averaging plan. **The calculation shall be based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h) (5).** The flue gas flow rate is determined using the hourly average steam or feedwater flow rate and Table 19-1 of EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 1997.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each unit calculated under paragraph (b) (5) (C) (i) (I) of this section.

(III) On a calendar year basis, the average nitrogen oxides emissions (kilograms per day), shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(i)(II) of this section divided by the number of calendar days for which a daily total was calculated.

(ii) The average nitrogen oxides emissions shall be calculated for all days during which one or more of the MWC units under the emissions averaging plan was off-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated according to paragraphs (b)(5)(C)(ii)(I) through (b)(5)(C)(ii)(III) of this section on a calendar year basis.

(I) For each MWC unit included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under **40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h)(5)**, the flue gas flow rate determined using Table 19-1 of the EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 1997, and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each MWC unit as calculated under paragraph (b)(5)(C)(ii)(I) of this section.

(III) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(ii)(II) of this section divided by the number of calendar days for which a daily total was calculated.

252:100-17-21. Standards for municipal waste combustor operating practices

(a) The concentration of carbon monoxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed the following limits for each type of affected equipment:

MUNICIPAL WASTE COMBUSTOR OPERATING LIMITS

<u>Municipal waste combustor technology</u>	<u>Carbon monoxide emissions level (ppm by volume)^a</u>	<u>Averaging Time^b (hours)</u>
<u>Mass burn waterwall</u>	<u>100</u>	<u>4</u>
<u>Mass burn refractory</u>	<u>100</u>	<u>4</u>
<u>Mass burn rotary refractory</u>	<u>100</u>	<u>24</u>
<u>Mass burn rotary waterwall</u>	<u>250</u>	<u>24</u>
<u>Modular starved air</u>	<u>50</u>	<u>4</u>

<u>Modular excess air</u>	<u>50</u>	<u>4</u>
<u>Refuse-derived fuel stoker</u>	<u>200</u>	<u>24</u>
<u>Bubbling fluidized bed</u>	<u>100</u>	<u>4</u>
<u>Circulating fluidized bed</u>	<u>100</u>	<u>4</u>
<u>Pulverized coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>150</u>	<u>4</u>
<u>Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>200</u>	<u>24</u>

^aMeasured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

^bAveraging times are 4-hour or 24-hour block averages.

(b) An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.53b(b) and (c), which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-22. Standards for municipal waste combustor fugitive ash emissions

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.55b, which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-23. Standards for air curtain incinerators

An owner or operator of an air curtain incinerator with the capacity to burn greater than 250 tons per day of MSW and for which construction commenced on or before September 20, 1994, and that combusts a fuel feed stream of 100 percent yard waste, shall not cause to be discharged into the atmosphere from that incinerator any gases that exhibit greater than 10 percent opacity (6-minute average). An opacity level of up to 35 percent (6-minute average) is permitted during startup periods within the first 30 minutes of unit operation.

252:100-17-24. Standards for municipal waste combustor operator training and certification

(a) Each chief facility operator and shift supervisor shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers (ASME) [ORO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(b) Each chief facility operator and shift supervisor shall have completed full certification or submitted an application, that has been

accepted by the appropriate certification program, for a full certification exam with either the ASME [QRO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(c)(1) No owner or operator of a MWC unit shall allow the unit to be operated at any time unless one of the following persons is on duty:

(i) A fully certified chief facility operator.

(ii) A provisionally certified chief facility operator who has met the qualification requirements specified in ASME [QRO-1-1994 section 2.2.2] and has made an application for a full certification exam following the ASME [QRO-1-1994 section 4.3.1] application process, according to the schedule specified in paragraph (b) of this section.

(iii) A fully certified shift supervisor.

(iv) A provisionally certified shift supervisor who has met the qualification requirements specified in ASME [QRO-1-1994 section 2.2.2] and has made an application for a full certification exam following the ASME [QRO-1-1994 section 4.3.1] application process, according to the schedule specified in paragraph (b) of this section.

(2) The requirement specified in paragraph (c)(1) of this section shall take effect no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(3) If one of the persons listed in paragraph (c)(1) of this section must leave the unit during their operating shift, a

provisionally certified control room operator who is on-site at the MWC may fulfill the requirement in paragraph (c)(1) of this section.

(d) All chief facility operators, shift supervisors, and control room operators at MWC units must complete the EPA or State MWC operator training course no later than the date 6 months after the date of startup of the MWC or by 12 months after the date of State plan approval, whichever is later.

(e) The requirement specified in paragraph (d) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(f) The owner or operator may request that the DEQ waive the requirement specified in paragraph (d) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(g) The owner or operator of a MWC unit shall develop and update on an annual basis, a site-specific operating manual. The operating manual shall, at a minimum, address the elements of MWC unit operation specified in paragraphs (g)(1) through (g)(11) of this section.

(1) A summary of the applicable standards under this Part.

(2) A description of basic combustion theory applicable to a MWC unit.

(3) Procedures for receiving, handling, and feeding MSW.

(4) MWC unit start-up, shutdown, and malfunction procedures.

(5) Procedures for maintaining proper combustion air supply levels.

(6) Procedures for operating the MWC unit within the standards established under this Part.

(7) Procedures for responding to periodic upset or off-specification conditions.

(8) Procedures for minimizing particulate matter carryover.

(9) Procedures for handling ash.

(10) Procedures for monitoring MWC unit emissions.

(11) Reporting and recordkeeping procedures.

(h) The owner or operator of a MWC unit shall establish a training program to review the operating manual according to the schedule specified in paragraphs (h)(1) and (h)(2) of this section. The training shall be provided to each person who has responsibilities affecting the operation of the unit including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(1) Each person specified in paragraph (h) of this section shall undergo initial training no later than the date specified in paragraph (h)(1)(A), (h)(1)(B), or (h)(1)(C), whichever is later.

- (A) The date 6 months after the date of startup of the unit.
- (B) The date prior to the day the person assumes responsibilities affecting MWC unit operation.
- (C) Twelve months after date of State plan approval.

(2) Annually, following the initial review required by paragraph (h)(1) of this section, each person specified in paragraph (h) of this section shall review the operating manual updates, any operational lessons learned/experiences of the past year, and provide for review of any section which an employee requests.

(i) The operating manual required by paragraph (h) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (h) of this section no later than 6 months after start-up or 12 months after the date of State plan approval. The operating manual and records of training shall be available for inspection by the DEQ upon request.

252:100-17-25. Compliance and performance testing

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.58b, which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-26. Reporting and recordkeeping requirements

Except for the provisions of subsection 60.59b(a), b(5), and d(11), 40CFR 60.59b is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-27. Compliance schedules

(a) All MWC units must close or be in compliance with all requirements contained in this Part within 3 years following approval of the State plan. However, all MWC units for which construction, modification, or reconstruction is commenced after June 26, 1987 shall comply with the emission limit for mercury specified in 252:100-17-17(c) and the emission limit for dioxin/furans specified in 252:100-17-19 within 1 year following issuance of a revised construction or operating permit, if a permit modification is required, or within 1 year following approval of the State plan, whichever is later.

(b) All MWC units choosing to comply with all requirements contained in this Part in more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit if a permit modification is required, or more than 1 year but less than 3 years following approval of the State plan if a permit modification is not required, shall enter into a consent order that includes measurable and enforceable incremental

steps of progress toward compliance. These steps are specified below:

- (1) Date for submittal of the final control plan to the DEQ.
- (2) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s).
- (3) Date for initiation of installation of the air pollution control device(s).
- (4) Date for completion of installation of the air pollution control device(s).
- (5) Date for final compliance.

(c) All MWC units with a compliance schedule of more than 1 year after approval of the State plan in accordance with paragraph (b) of this section, shall provide performance test results for dioxin/furan emissions for each unit. However, where the MWC owner or operator can demonstrate that multiple units have the same design, operate with the same fuel, have the same operating parameters, and are expected to have similar emission levels, the results of a dioxin/furan test from one unit may be provided as representative of all such units. The performance test results shall have been conducted during or after 1990. The performance test shall be conducted according to the procedures in 252:100-17-25.

(d) All MWC units intending to close in more than 1 year but less than 3 years after State plan approval shall enter into a consent order to close. The closure order must include the date of plant closure.

MINUTES
AIR QUALITY COUNCIL
December 16, 1997
Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Gary Kilpatrick
J. William "Bill" Fishback
Meribeth Slagell
Larry Canter, Vice-Chairman
Sharon Myers
David Branecky

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner
Larry Trent
Joyce Sheedy
Jeanette Buttram
Michelle Martinez
Cheryl Bradley
Myrna Bruce

Council Members Absent

Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for December 16, 1997 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Andrews was absent during the hearing session.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 21, 1997 Public Meeting/Hearing. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-5-2.2(B)(2) PART 70 SOURCES ANNUAL OPERATING FEE [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A Oklahoma Statutes, Section 2-5-101 through 2-5-118.. Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed changes to the rule.

Ms. Buttram advised that staff's recommendation was that the annual operating fee billed in 1998 for Part 70 sources be adjusted by the Consumer Price Index as specified in the existing rule which would render a 2.2 % increase from \$16.03 to \$16.39 per ton. She also pointed out staff's intention to bring before the Council any proposed adjustments to the fee on an annual basis.

Dr. Canter introduced the committee's report *Title V Fee Committee Findings and Recommendations* dated December 15, 1997 into the record. Members of this committee were Dr. Canter, Mr. Fishback, and Mr. Branecky. The full report is made an official part of these Minutes. Mr. Kilpatrick made motion to accept the committee's report and second was made by Mr. Fishback. With discussion that perhaps Mr. Fishback should not make the second since he was on the committee, Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Ms. Myers made additional motion to leave the fees as stated for 1998 with only the Consumer Price Index increase from \$16.03 to \$16.39. Mr. Fishback made the second. Mr. Doughty, staff attorney, mentioned that Council is recommending no action; therefore, this portion of the rule would not go before the Environmental Quality Board specifically. Roll call was as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke stated that since there was extensive discussion in the briefing session regarding continuation of this subchapter to a later date, Dr. Joyce Sheedy would stand ready to discuss staff proposal for the rule.

Mr. Kilpatrick made motion to continue the hearing to January 9, 1998 at 1:00. Mr. Branecky made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-17 INCINERATORS [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51

and Title 27A Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke called upon Michelle Martinez to give staff position on the proposed changes to the rule. Staff's recommendation was for approval as both emergency and permanent adoption.

Mr. Kilpatrick made motion to continue this hearing until January 9, 1998 at 1:00 p.m. Second was made by Ms. Slagell. During discussion, it was noted that continuing this hearing to February would cause the rule to be adopted by the Board as an emergency rule only, which could possibly put the State Plan at risk. Roll call as follows: Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Fishback – no; Dr. Canter – no; Ms. Myers - no; Mr. Branecky - no; Mr. Breisch - no.

After this discussion, Mr. Branecky made motion that Council accept Subchapter 17 as amended and recommend to the Environmental Quality Board for both emergency and permanent adoption. Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick – no; Ms. Slagell – no; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:2-40 and OAC 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations Part 51, and Title 27A Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke called upon Ms. Barbara Hoffman to give staff recommendations.

Staff requested that the Council recommend the revisions to the Environmental Quality Board for adoption as a permanent rule. After discussion, Ms. Myers made motion to approve the rule as amended and recommend to the Environmental Quality Board for permanent adoption. Mr. Branecky made the second. Roll call as follows: Mr. Kilpatrick – no; Ms. Slagell – aye; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

OLD BUSINESS

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCE [AMENDED]

Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed changes to this rule. After summarizing the changes, Ms. Buttram stated staff's recommendation was that Subchapter 5 be approved by Council and forwarded to the Environmental Quality Board at the same time that Subchapter 8 is approved.

Mr. Branecky moved that Council continue this hearing to January 9, 1998; and Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

**OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]**

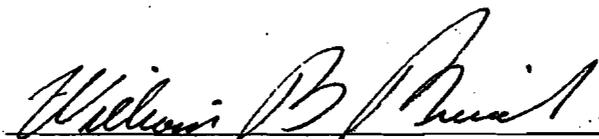
Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed rule. After summarizing the changes, Ms. Buttram stated that staff recommended that Subchapter 7 be approved by Council at the same time that Subchapter 8 is approved.

Mr. Kilpatrick moved that Council continue the hearing on to the January 9, 1998 meeting. Second to the motion was made by Ms. Myers. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

NEW BUSINESS Dr. Canter stated that no one member of the public could claim to represent all of the public, and that he believes Council hearings provide the proper forum to hear comments from the public on proposed rules. While it is sometimes difficult to decide what rule changes requested at hearings by AQD staff or the public are substantive, Dr. Canter said he resented the implication that the public was not given adequate opportunity to comment on Subchapter 17, since it had been presented at two Council meetings.

ADJOURNMENT With no further business, meeting was adjourned and an additional meeting scheduled for January 9, 1998 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.


WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

2/18/98

2/18/98


DAVID DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

DECEMBER 16, 1997

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	Wayne Ebarb	Nov Am Energy	Shreveport, La	
2	Laura Armistead	Nov Am Energy	Shreveport, La	
3	Joe W Hampton	OKla Grain & Feed Assn	Enid, OK	
4	Cheryl Bradley	DEQ - AQD		
5	Nancy Coleman	ICSA	Norman 73072 3700 W Robinson Ste 200 PO BOX 277	
6	TOAA SMITH	TERACO	VERMONT 73071	
7	Frank Erwin	City of Tulsa	2445 S Jackson Av Tulsa 74107	
8	Roger S. Acton	TAFB		
9	Carol Barker	OC-ALC/EMV	Tinker AFB	
10	FRANK CONDON	EQ BOARD		
11	Geri Hart	TAFB		
12	Connie White	TAFB		
13	Pat Davenport	N-S	Shiloh	
14	Kyle Brown	DEQ/CAP		
15	Geoffrey Buehler	WFEC	Andover	
16	Charles M. [unclear]	EPA	Tulsa	

- 17 David GIBBS (DAVID GIBBS) WPCO SAND SPRINGS
- 18 Rick Barnett EPA DALLAS, TX
- 19 Marko Barta CASE
- 20 Adrian Sumner DEQ-FSD OKC
- 21 Shwaleh Young Trinity Dallas
- 22 Jay Ann ConSec OKC
- 23 Robert A. Kelding to NMST/Brady
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title - OAC 252:100-17

INCINERATORS

Subchapters or Sections Involved - [new, amended or revoked]

On December 16, 1997 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

(mark as appropriate)

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Chair or Designee

Date signed: 12/16/97

VOTING TO APPROVE:

William B. Breisch
J. William "Bill" Fishback
Larry Canter
Sharon Myers
David Branecky

VOTING AGAINST:

Gary Kilpatrick
Meribeth Slagell

ABSTAINING:

ABSENT:

Marilyn Andrews

**AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING**

9:00 A.M.

**Wednesday, April 19, 2000
Lawton Great Plains Technology Center
4500 West Lee Blvd., Room 301
Lawton, Oklahoma**

1. Call to Order – David Branecky
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the February 16, 2000 Regular Meeting
4. **PUBLIC RULEMAKING HEARINGS**

A. OAC 252:100-7 PERMITS FOR MINOR FACILITIES [AMENDED] *Continued*

The proposed changes to SC7 consist of the addition of sections 60.3, 60.4, and 60.5. Proposed sections 60.3 and 60.4 reference the existing permits by rule for VOC storage and loading facilities and particulate matter facilities, respectively. Section 60.5 is the proposed permit by rule for natural gas compression facilities. This section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule.

1. Presentation – Dr. Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

B. OAC 252:100-9 EXCESS EMISSION AND MALFUNCTION REPORTING [AMENDED]

The proposed amendments to SC 9 include substantive changes such as adding new and amending existing definitions and requiring that a certification of truth, accuracy and completeness be submitted with any written report. Additional demonstration requirements for malfunctions and startups/shutdowns were added under proposed section 252:100-9-3.3, Demonstration of cause. New language sets forth the Division's interpretation that excess emissions occurring more than 1.5 percent of the time that a process operated in a calendar quarter may be indicative of inadequate design, operation, or maintenance, and the DEQ may initiate further investigation to determine if that is so. Prior notice to the DEQ by facilities of maintenance activities has been proposed to be deleted from the rule.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption *passed*

C. OAC 252:100-11 ALTERNATIVE EMISSIONS REDUCTIONS PERMITS [AMENDED]

The proposed amendments to SC 11 will clarify and simplify the language as a part of the agency-wide re-right/de-wrong initiative. No substantive changes are being made to the Subchapter. This subchapter allows sources an alternative means for reducing the total burden of pollutants released into the atmosphere.

1. Presentation – Michelle Martinez
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption *passed*

D. OAC 252:100-17 INCINERATORS [AMENDED]

The Department is proposing amendments to 252:100-17, Part 3, Incinerators. Section 2 of the Part would be amended to remove references to an effective date, and Section 5(3) would be deleted. A new Section 5.1, Alternative incinerator design requirements, would be added to clarify that the Division Director may approve incinerator designs that do not meet the requirements specified in 252:100-17-5.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

passed

E. OAC 252:100-33 CONTROL OF EMISSION OF NITROGEN OXIDES [AMENDED]

The proposed changes to Subchapter 33 are to primarily simplify and clarify requirements and to remove redundant requirements as part of the agency-wide re-right/de-wrong initiative.

1. Presentation – Dr. Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

5. – Division Director's Report – Eddie Terrill

– proposed O3 designation

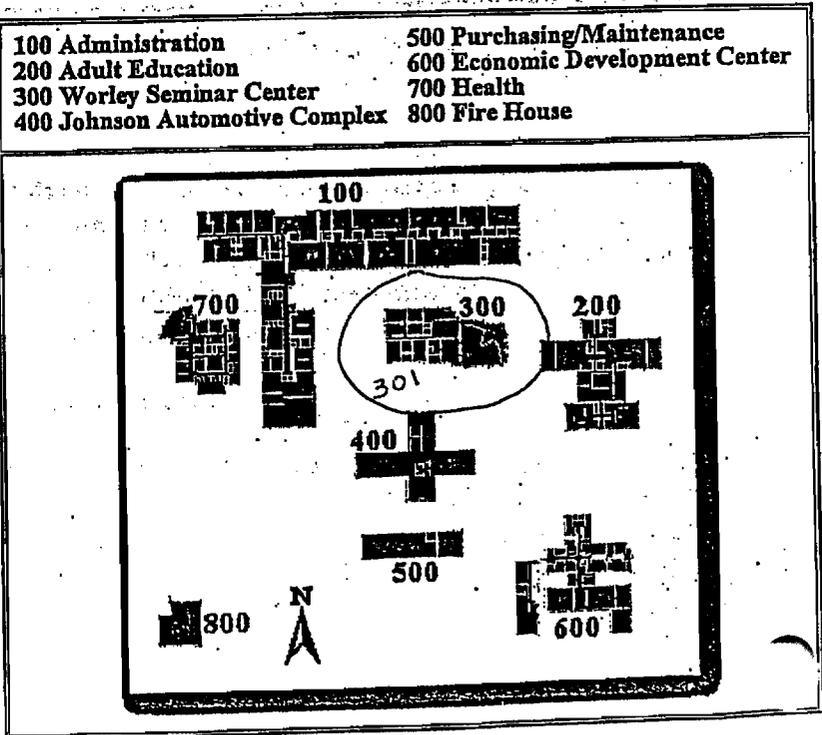
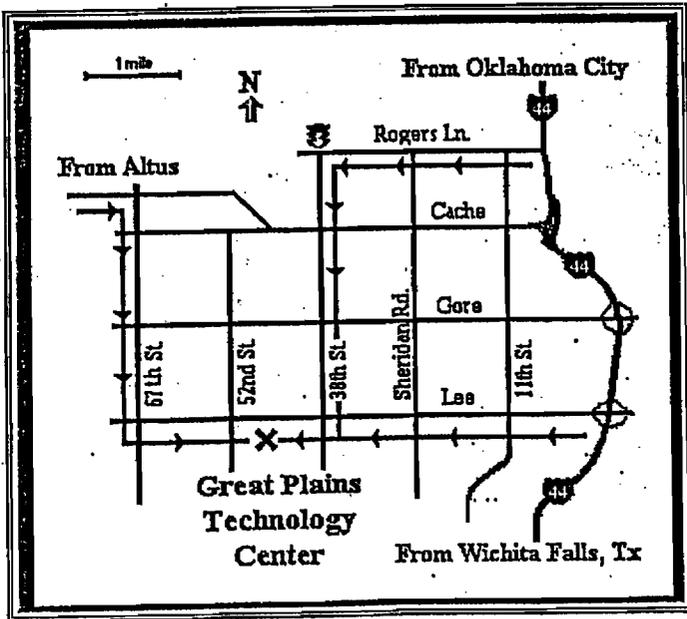
6. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

7. Adjournment – Next Regular Meeting

Date and Time: June 14, 2000 @ 9:00 a.m.
Place: OSU @ Tulsa North Hall Room 150
700 North Greenwood, Tulsa, OK

Lunch Break, if necessary

MAP TO GREAT PLAINS



Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 702-4100.

April 3, 2000

MEMORANDUM

TO: Air Quality Council
FROM: Eddie Terrill, Director
Air Quality Division
Re: Modifications to Subchapter 17

Enclosed is a copy of the proposed amendments to OAC 252:100-17, Part 3, Incinerators. A new Section 5.1 will be added to authorize the Division Director to approve the construction and operation of incinerators that do not meet the design requirements specified in 252:100-17-5 if those incinerators can meet all other applicable requirements. Section 2 of the Part would be amended to remove the reference to an effective date as prescribed by the Administrative Rules of Rulemaking (OAC 655:10:5-18).

At the hearing, staff will suggest that the Council vote to recommend to the Environmental Quality Board adoption of the amendment as a permanent rule.

Enclosures: 2

SUBCHAPTER 17. INCINERATORS
PART 3. INCINERATORS

252:100-17-2. ~~Effective date; applicability~~ Applicability
[AMENDED]
252:100-17-2.1. Exemptions
252:100-17-2.2. Definitions
252:100-17-3. Opacity
252:100-17-4. Particulate matter
252:100-17-5. Incinerator design requirements
252:100-17-5.1 Alternative incinerator design requirements [NEW]
252:100-17-6. Allowable emission of particulates [REVOKED]
252:100-17-7. Test methods

SUBCHAPTER 17. INCINERATORS
PART 3. INCINERATORS

252:100-17-2. ~~Effective date; applicability~~ Applicability

This Part ~~became effective on July 21, 1971 and~~ applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this Part.

252:100-17-2.2. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Capacity" means amount of specified wastes a unit is designed to burn. Capacity may be expressed as pounds per hour or tons per day.

"Primary combustion chamber" means the initial incinerator chamber where waste is charged, ignited and burned.

"Secondary burner" means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.

252:100-17-3. Opacity

See 252:100-25-3.

252:100-17-4. Particulate matter

Fly ash or other particulate matter shall not exceed quantities greater than the allowable emission rate. The allowable emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter. Solid fuels charged will be considered part of the refuse weight. No. 1 and No. 2 fuel oils (distillate oils), liquified petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.

252:100-17-5. Incinerator design requirements

An incinerator ~~under subject to this Part~~ must have:

(1) A primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.

(2) A secondary burner that shall be used when necessary to eliminate smoke.

~~(3) A design that can be demonstrated to the DEQ to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.~~

252:100-17-5.1. Alternative incinerator design requirements

The Director may approve an incinerator design that does not meet the design requirements in 252:100-17-5 if the owner of the proposed incinerator demonstrates to the DEQ that the incinerator can comply with all other applicable requirements.

252:100-17-6. Allowable emission of particulates [REVOKED]

252:100-17-7. Test methods

(a) **Opacity.** Opacity shall be measured utilizing Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

(b) **Particulate matter.** Particulate matter shall be measured utilizing the appropriate DEQ-approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

MINUTES
AIR QUALITY COUNCIL
APRIL 19, 2000
Great Plains Technical Center
Lawton, Oklahoma

Council Members Present

David Branecky, Chairman
Gary Kilpatrick
Leo Fallon
Rick Treeman
Joel Wilson
Sharon Myers
Fred Grosz

Council Members Absent

William B. Breisch
Larry Canter

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Pam Dizikes

Guests Present

**see attached list

Staff Present

Jeanette Buttram
Joyce Sheedy
Michelle Martinez
Cheryl Bradley
Myrna Bruce

Notice of Public Meeting for April 19, 2000 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors to the Great Plains Technical Center and on the entrance doors of the DEQ Central Office in Oklahoma City.

Call to Order - Mr. Branecky, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye. Mr. Breisch and Dr. Canter did not attend.

Approval of Minutes - Mr. Branecky entertained a motion to approve the Minutes of the February 16, 2000 Public Meeting/Hearings. Motion was made by Mr. Fallon to approve the Minutes as presented and second was made by Dr. Grosz. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 through 2-5-101 - 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100- 7

Permits for Minor Facilities

Mr. Terrill advised that it had been agreed to form workgroups for rules that would be modified extensively or that would affect a large group of industrial sources so as to allow input into the process from those effected sources. He added that there seemed to be a misunderstanding regarding how and when workgroups would be formed. Mr. Terrill stated that it was never intended to form these workgroups without first having a formal public hearing. He invited

those who wanted to participate in the workgroup process to contact our office and watch our website for meeting information.

Dr. Joyce Sheedy stated that the proposed changes consist of the addition of sections 60.3 and 60.4, which are not substantive changes. Additionally, section 60.5 is the proposed permit by rule for natural gas compression facilities. This section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule.

Dr. Sheedy advised that comments had been received from Tom Blachley which she entered into the record. She stated that the staff recommended that this rule be continued to the next regular meeting.

Following discussion, Mr. Branecky asked for volunteers from the Council to participate in the workgroup sessions. Mr. Wilson and Mr. Kilpatrick volunteered. Then Mr. Branecky entertained a motion to continue the hearing on this rule to the next regular meeting. Ms. Myers made the motion and the second was made by Mr. Fallon. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram presented the staff recommendation advising that earlier versions of SC 9 were brought before the Council on June 15, August 24, October 19, December 14, 1999 and on February 16, 2000. She stated that there had been several meetings between staff and regulated community which produced the current version. She entered into the record comments received from Michael Graves of Hall, Estill, Hardwick, Gable, Golden & Nelson; Michael Bernard, President of Mid Continent Oil & Gas Association of Oklahoma; Tom Blachley; and from EPA Region VI. After describing proposed changes that had been made in response to the comments received, Ms. Buttram advised that it was staff's recommendation that this rule be forwarded to the Environmental Quality Board for permanent adoption.

Mr. Branecky called for motion for approval as discussed. Mr. Fallon make the motion with Mr. Kilpatrick seconding. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-11

Alternative Emissions Reductions Permits

Ms. Michelle Martinez was called to make the staff presentation for Subchapter 11. Ms. Martinez stated that the proposed changes followed the agency-wide re-right/de-wrong initiative to simplify and clarify the language with no substantive changes proposed. She pointed out the changes and related that comments had been received from EPA and from Mr. Tom Blachley which she entered into the record.

Following discussion, Mr. Branecky called for a motion to approve the rule with the changes as discussed and forward to the Environmental Quality Board for permanent adoption. Ms. Myers made the motion and second was made by Dr. Grosz. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-17

Incinerators

Ms. Cheryl Bradley advised that proposed modifications to Part 3 would allow the Air Quality Division to issue permits for the construction and operation of incinerators that meet all applicable requirements except multiple chamber design; and to remove the references to an effective date per the Administrative Rules on Rulemaking. Ms. Bradley further advised that proposal would clarify that the Division Director may approve incinerator designs that do not meet the requirements specified in Part 5.

Ms. Bradley entered a letter of comment from EPA Region VI into the record and recommended that the rule go forward to the Environmental Quality Board for permanent and emergency adoption.

Following discussion, Mr. Branecky called for a motion to forward the rule to the Board. Mr. Kilpatrick made the motion and Mr. Treeman made the second. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-33

Control of Emission of Nitrogen Oxides

Dr. Joyce Sheedy provided Council with staff recommendations pointing out revisions made since the February meeting. She remarked that written comments had been received from Michael Graves of Hall, Estill, Hardwick, Gable, Golden & Nelson; Tom Blachley; Gary Collins of Terra Nitrogen; and EPA Region VI. She entered these comments into the record. Dr. Sheedy advised that staff's suggestion was for Council to forward this rule to the Environmental Quality Board for permanent adoption.

Mr. Branecky called for a motion to forward this rule to the Environmental Quality Board with the changes suggested with the understanding that the DEQ would address the turbine issue not later than June, 2001 Council meeting. Mr. Fallon made the motion and the second was made by Dr. Grosz. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

DIVISION DIRECTOR'S REPORT - Scott Thomas discussed the TexAQS 2000 air pollution research project stating that the study is being designed to improve understanding of the chemical and physical processes that control air pollutant formation in the greater Houston area and transport along the Gulf Coast of southeastern Texas and perhaps into neighboring states as well. He noted that measurements of gaseous, particulate and hazardous air pollutants will be made this summer throughout the eastern half of Texas and possibly portions of Oklahoma using both ground stations and aircraft. He stated that the Air Quality Division plans to participate in this study by sharing air quality data with the Texas Natural Resource Conservation Commission, and by supporting aircraft sampling activities in our State. Mr. Terrill added that \$50,000 has been set aside for collection of Oklahoma air quality data and remarked that the results of this study could prove to be invaluable in allowing us to better understand how ozone is formed and transported as well as what control strategies may be effective in the future.

Additionally, Mr. Terrill provided a brief summary of EPA's efforts to reinstate the 8-hour ozone standard by filing a petition with the U.S. Supreme Court over the D.C Circuit decision. He stated that while the enforceability of the standard is in question, EPA is going forward with the designation of areas that have not attained compliance with the 8-hour standard. He noted that Oklahoma may not submit to EPA any designations for our state as the final decision has yet to be made.

Ms. Myers presented the financial committee's update stating that she was pleased to report that the DEQ can now provide current financial information for planning activities.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be June 14, 2000 at 9:00 a.m. in Room 150 of the OSU Tulsa Campus located at 700 North Greenwood.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

David Branecky, Chairman
Air Quality Council

J. Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

APRIL 19, 2000

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. FRANK CONDON	EQ BOARD	
2. Mike Peters	101 N. Robinson	405/272-1907
3. John Satterfield / C.H. Greenway	5335 N. GRAND BLVD OKC BIRZ	405/416-818F
4. Garry Coberly ASCOG	DUNCAN	580-252-0595
5. Blaine Smith ASCOG	Po Box 1547 Duncan, 75123	"
6. Stephen Henderson / Enogex	515 Central Park Dr. Suite 1000	8405/530-7447
7. DON WHITNEY TRINITY	124 E. SHERIDAN OKC	278-3292
8. John Wheeler Trinity	124 E. Sheridan OKC	(405) 278-3292
9. Al Kirkes	1901 Lee Lawton	(580) 585 6352
10. Richard Atkins	315 SW 5th Room 107 St. Lawton	353-0535
11. Robert Beigham	Lawton Flamingo	580/581-3375
12. Tom Buckham	Reliant Energy 109 NW 50th OKC	(405) 556-2428
13. Kim Warren	OGE	553 3297
14. Quin Warren	XEROX	374 3809
15. Dennis McMiller	Ogden	523-3925
16. Cecil E. Powell	1111 1/2 W. Canton	580-581-3301
17. R. Wayne Smith	City Council	581-3301
18. Will Anderson	Lawton Public Schools	(580) 357-6900
19. Gula Bevers	OGE	405 553 3439
20.		
21.		
22.		
23.		
24.		
25.		

THE AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION
TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title:
OAC: 252:100-17
INCINERATORS [AMENDED]

On April 19, 2000 _____ the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Sec. 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

 X permanent [take effect after legislative review]
 X emergency [temporary, to take effect upon approval by the Governor because of time]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,

David Branecky
Chair or Designee:

Date Signed: 4/19/00

VOTING TO APPROVE:

Gary Kilpatrick Sharon Myers
Joel Wilson David Branecky
Fred Grosz
Rick Treeman
Leo Fallon

ABSTAINING:

VOTING AGAINST:

None

ABSENT:

William Breisch
Larry Canter

Environmental Quality Board

ENVIRONMENTAL
QUALITY
BOARD

JANUARY 17, 1998
CONTINUED TO
MARCH 20, 1998
OSDH

SUBCHAPTER 17. INCINERATORS

PART 1. GENERAL PROVISIONS

252:100-17-1. Purpose

The purpose of this Subchapter is to deem it unlawful to burn refuse in any incinerator except in a multiple chambered incinerator or in equipment determined by the Director to be equally effective for the purpose of air pollution control specify design and operating requirements and emission limitations for incinerators and municipal waste combustors (MWC).

252:100-17-1.1. Reference to 40 CFR

When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

252:100-17-1.2. Terminology related to 40 CFR

When these terms are used in rules incorporated by reference, the following definitions shall apply:

"EPA Administrator" is synonymous with "Executive Director".

"Affected facility" is synonymous with "large MWC unit".

"State" is synonymous with "Department of Environmental Quality" or "DEQ".

"State plan" is a program that the State is responsible for developing and implementing to achieve compliance with the emission guidelines in Subpart Cb of 40 CFR Part 60.

PART 3. INCINERATORS

252:100-17-2. Effective date; applicability

This subchapter shall become operative one year from and after July 21, 1970. It will apply to any and all incinerators utilized within the State of Oklahoma. This Part became effective on July 21, 1971 and applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this Part.

252:100-17-2.2. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Capacity" means amount of specified wastes a unit is designed to burn. Capacity may be expressed as pounds per hour or tons per day.

"Primary combustion chamber" means the initial incinerator chamber where waste is charged, ignited and burned.

"Secondary burner" means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.

252:100-17-3. ~~Prohibition on density of emissions~~ Opacity
(a) ~~Prohibition.~~ No person shall cause, suffer, allow, or permit the discharge of smoke from an incinerator of a density darker than number one (1) on the Ringelmann Chart or a visible emission of such an equivalent opacity as to obscure a certified visible emission evaluator's view to a degree greater than number one (1) on the Ringelmann Chart.

(b) ~~Exemptions.~~ Subsection 252:100-17-3(a) shall not apply to:
(1) ~~visible emissions consisting of uncombined water droplets, or,~~
(2) ~~smoke, the density of which is not darker than number three~~
(3) ~~of the Ringelmann Chart for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes or more than twenty (20) minutes in any twenty four (24) hour period~~ See 252:100-25-3.

252:100-17-4. ~~Prohibition on pounds per hour of emissions~~ Particulate matter

No person shall cause or allow to be emitted into the open air from any incinerator equipment, fly ash or other particulate matter in quantities greater than shown in 252:100-17-6. Solid fuels charged will be considered as part of the refuse weight, but No. 1 and No. 2 fuel oil and gaseous fuels and combustion air will not be so considered. Fly ash or other particulate matter shall not exceed quantities greater than the allowable emission rate. The allowable emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter. Solid fuels charged will be considered part of the refuse weight. No. 1 and No. 2 fuel oil (distillate oils), liquified petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.

252:100-17-5. Incinerator design requirements

~~Hereafter no person shall operate an incinerator unless~~ An incinerator under this Part must have:

(1) ~~It is provided with an auxiliary burner for the purpose of maintaining~~ A primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.

(2) ~~It has~~ A secondary burner for use that shall be used when necessary to eliminate smoke.

(3) ~~It is a type of incinerator design~~ A design that can be demonstrated to the Director/DEQ to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.

(4) ~~It complies with generally recognized good practices and all applicable provisions of this Subchapter.~~

(5) ~~Full and proper use is made of all components and appurtenances thereof.~~

252:100-17-6. Allowable emission of particulates [AMENDED AND RENUMBERED TO 252:100-17-4]

(a) ~~Allowable emissions for incinerators with capacities in excess of 100 lb/hr are set forth in Appendix A of this Chapter.~~

(b) ~~Allowable emissions for incinerators with capacities less than~~

~~100 lbs/hr are set forth in Appendix B of this Chapter.~~

252:100-17-7. Test methods

(a) Opacity. Opacity shall be measured utilizing Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

(b) Particulate Matter. Particulate matter shall be measured utilizing the appropriate DEO-approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.

PART 5. MUNICIPAL WASTE COMBUSTORS

252:100-17-14. Effective date; applicability

This Part is effective as of March 23, 1997 and applies to large MWC units.

252:100-17-14.1. Definitions

The definitions in 40 CFR 60.51b are hereby incorporated by reference as they exist on October 24, 1997.

252:100-17-15. Exemptions

(a) Any MWC unit that is capable of combusting more than 250 tons per day of MSW and is subject to a federally enforceable permit limiting the maximum amount of MSW that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this Part if the owner/operator:

(1) Notifies the DEO of an exemption claim.

(2) Provides the DEO with a copy of the federally enforceable permit that limits the firing of MSW to less than or equal to 11 tons per day.

(3) Keeps records of the amount of MSW fired per day.

(b) A qualifying small power production facility, (as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)), that produces electric energy from homogeneous waste is not subject to this Part if the owner/operator:

(1) Notifies the DEO of an exemption claim.

(2) Provides the DEO data documenting that the facility qualifies for this exemption.

(c) A qualifying cogeneration facility, (as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)), that burns homogeneous waste to produce electric energy, steam, or other useful energy used for industrial, commercial, heating, or cooling purposes, is not subject to this Part if the owner/operator:

(1) Notifies the DEO of an exemption claim.

(2) Provides the DEO data documenting that the facility qualifies for this exemption.

(d) Any unit combusting a single-item waste stream of tires is not subject to this Part if the owner/operator:

(1) Notifies the DEO of an exemption claim.

(2) Provides the DEO with data documenting that the unit qualifies for this exemption.

(e) Any unit required to have a hazardous waste permit is not

subject to this Part.

(f) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this Part.

(g) Any cofired combustor that meets the capacity specifications in paragraph (a) of this section is not subject to this Part if the owner/operator:

(1) Notifies the DEO of an exemption claim.

(2) Provides the DEO with a copy of the federally enforceable permit.

(3) Keeps separate records, on a calendar quarter basis, of the weight of MSW and the weight of all other fuels combusted at the cofired combustor.

(h) Air curtain incinerators that meet the capacity specifications in 252:100-17-23 of this Subchapter and combust a 100 percent yard waste fuel stream are not subject to this Part, except:

(1) The opacity limit under section 252:100-17-23 of this Subchapter.

(2) The testing procedures under section 252:100-17-25 of this Subchapter.

(3) The reporting and recordkeeping provisions under section 252:100-17-26 of this Subchapter.

(i) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit are not subject to this Part if the owner/operator of the unit maintains records of:

(1) The weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis.

(2) The weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis.

(3) The name and address of the purchaser of the feedstocks.

(j) The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this Part.

(k) Cement kilns firing MSW are not subject to this Part.

252:100-17-16. Standards for particulate matter and opacity

(a) Particulate matter. The concentration of particulate matter contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 27 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Opacity. Opacity of gases discharged to the atmosphere from a MWC unit shall not exceed 10 percent (6-minute average).

252:100-17-17. Standards for municipal waste combustor metals

(a) Cadmium. The concentration of cadmium contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.040 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) Lead.

(1) By December 19, 2000, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.49 milligrams per dry standard cubic meter.

corrected to 7 percent oxygen.

(2) By August 26, 2002, or three years after EPA approval of the State plan, whichever is first, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.44 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(c) Mercury. The concentration of mercury contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 0.080 milligrams per dry standard cubic meter or 15 percent of the potential mercury emission concentration (85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

252:100-17-18. Standards for municipal waste combustor acid gases expressed as sulfur dioxide and hydrogen chloride

(a) Sulfur dioxide.

(1) By December 19, 2000, the concentration of sulfur dioxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 31 parts per million by volume (ppmv) or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(2) By August 26, 2002, or three years after EPA approval of the State plan, whichever is first, the concentration of sulfur dioxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 29 ppmv or 25 percent of the potential sulfur dioxide emission concentration (75 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(b) Hydrogen chloride.

(1) By December 19, 2000, the concentration of hydrogen chloride contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 31 parts per million by volume (ppmv) or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(2) By August 26, 2002, or three years after EPA approval of the State plan, whichever is first, the concentration of hydrogen chloride contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 29 ppmv or 5 percent of the potential hydrogen chloride emission concentration (95 percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans

(a) The concentration of organics, expressed as total mass dioxins/furans, contained in the gases discharged to the atmosphere from a MWC unit shall not exceed:

(1) With electrostatic precipitator: 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent

oxygen.

(2) Without electrostatic precipitator: 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(b) Large MWC units that achieve a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter total mass, corrected to 7 percent oxygen, may elect the alternative performance testing schedule for dioxins/furans as specified in 40 CFR 60.58b(g)(5)(iii).

252:100-17-20. Standards for nitrogen oxides

(a) Nitrogen oxides emission limits. The concentration of nitrogen oxides contained in the gases discharged into the atmosphere from a MWC unit shall not exceed the following:

NITROGEN OXIDES LIMITS

Municipal Waste Combustor
Technology

Nitrogen oxides
emission limit
(ppm by volume)*

Mass burn waterwall

205

Mass burn rotary waterwall

250

Refuse-derived fuel combustor

250

Fluidized bed combustor

(by December 19, 2000)

240

Fluidized bed combustor

(by August 26, 2002, or three
years after EPA approval of the
State plan, which ever is first)

180

*Corrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(b) Nitrogen oxides emissions averaging. The owner or operator of a MWC plant may elect to implement a nitrogen oxides emissions averaging plan for the MWC units that are located at that plant.

(1) The following units cannot be included in the emissions averaging plan:

(A) MWC units subject to Subpart Ea or Eb of 40 CFR Part 60.

(B) Mass burn refractory MWC units and other MWC technologies not listed in paragraph (b)(3) of this section may not be included in the emissions averaging plan.

(2) Prior to implementing the nitrogen oxides emissions averaging plan, the units to be included must be identified in the initial performance test report specified in 40 CFR 60.59b(f) or in the annual report specified in 40 CFR 60.59b(g), as applicable. The units which are included in the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with DEO approval.

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level discharged from the units included in the emission averaging plan shall be no greater than the levels specified in this section. Emission limits for the nitrogen oxides concentration level for each type of unit are as follows:

NITROGEN OXIDES LIMITS FOR EXISTING DESIGNATED FACILITIES
INCLUDED IN AN EMISSIONS AVERAGING PLAN AT A MUNICIPAL WASTE
COMBUSTOR PLANT^a

<u>Municipal waste combustor technology</u>	<u>Nitrogen oxides emission limit (ppm by volume)^b</u>
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<u>Mass burn waterwall</u>	<u>185</u>
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<u>Mass burn rotary waterwall</u>	<u>220</u>
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<u>Refuse-derived fuel combustor</u>	<u>230</u>
--------------------------------------	------------

<u>Fluidized bed combustor</u>	<u>165</u>
--------------------------------	------------

*Mass burn refractory municipal waste combustors and other MWC technologies not listed above may not be included in an emissions averaging plan.

^bCorrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(4) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (b) (3) of this section shall be calculated using the equation in Appendix K of this Chapter. MWC units that are off-line shall not be included in calculating the average daily nitrogen oxides emission level.

(5) For any day a unit included in the emissions averaging plan is off-line, the owner or operator of the MWC plant must demonstrate compliance according to either paragraph (b) (5) (A) or both paragraphs (b) (5) (B) and (b) (5) (C) of this section.

(A) Compliance with the applicable limits specified in (b) (3) of this Part shall be demonstrated using the averaging procedure specified in paragraph (b) (4) of this section. The averaging procedure will include the MWC units in the plan that are on-line.

(B) For each of the units included in the emissions averaging plan, the nitrogen oxides emissions shall be calculated on a daily average basis. The nitrogen oxides emissions level shall be equal to or less than the maximum daily nitrogen oxides emission levels achieved by that unit on any of the days during which the emissions averaging plan was achieved with all units on-line during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b) (5) (C) (ii) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b) (5) (C) (i) of this section.

(i) The average nitrogen oxides emissions shall be calculated for all days during which the emissions averaging plan was implemented and achieved and during which all MWC units were on-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated on a calendar year basis, according to paragraphs (b) (5) (C) (i) (I) through (b) (5) (C) (i) (III) of this section.

(I) The daily amount of nitrogen oxides emitted

(kilograms per day) shall be calculated for each MWC unit included in the emissions averaging plan. The calculation shall be based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h) (5). The flue gas flow rate is determined using the hourly average steam or feedwater flow rate and Table 19-1 of EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 1997.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each unit calculated under paragraph (b) (5) (C) (i) (I) of this section.

(III) On a calendar year basis, the average nitrogen oxides emissions (kilograms per day), shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b) (5) (C) (i) (II) of this section divided by the number of calendar days for which a daily total was calculated.

(ii) The average nitrogen oxides emissions shall be calculated for all days during which one or more of the MWC units under the emissions averaging plan was off-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated according to paragraphs (b) (5) (C) (i) (I) through (b) (5) (C) (ii) (III) of this section on a calendar year basis.

(I) For each MWC unit included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h) (5), the flue gas flow rate determined using Table 19-1 of the EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 1997, and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each MWC unit as calculated under paragraph (b) (5) (C) (ii) (I) of this section.

(III) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b) (5) (C) (ii) (II) of this section divided by the number of calendar days for which a daily total was calculated.

252:100-17-21. Standards for municipal waste combustor operating practices

(a) The concentration of carbon monoxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed the following limits for each type of affected equipment:

MUNICIPAL WASTE COMBUSTOR OPERATING LIMITS

<u>Municipal waste combustor technology</u>	<u>Carbon monoxide emissions level</u>	<u>Averaging Time^b (hours)</u>
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	(ppm by volume) ^a	
<u>Mass burn waterwall</u>	<u>100</u>	<u>4</u>
<u>Mass burn refractory</u>	<u>100</u>	<u>4</u>
<u>Mass burn rotary refractory</u>	<u>100</u>	<u>24</u>
<u>Mass burn rotary waterwall</u>	<u>250</u>	<u>24</u>
<u>Modular starved air</u>	<u>50</u>	<u>4</u>
<u>Modular excess air</u>	<u>50</u>	<u>4</u>
<u>Refuse-derived fuel stoker</u>	<u>200</u>	<u>24</u>
<u>Bubbling fluidized bed</u>	<u>100</u>	<u>4</u>
<u>Circulating fluidized bed</u>	<u>100</u>	<u>4</u>
<u>Pulverized coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>150</u>	<u>4</u>
<u>Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor</u>	<u>200</u>	<u>24</u>

*Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

^bAveraging times are 4-hour or 24-hour block averages.

(b) An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.53b(b) and (c), which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-22. Standards for municipal waste combustor fugitive ash emissions

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.55b, which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-23. Standards for air curtain incinerators

An owner or operator of an air curtain incinerator with the capacity to burn greater than 250 tons per day of MSW and for which construction commenced on or before September 20, 1994, and that combusts a fuel feed stream of 100 percent yard waste, shall not cause to be discharged into the atmosphere from that incinerator any gases that exhibit greater than 10 percent opacity (6-minute average). An opacity level of up to 35 percent (6-minute average) is permitted during startup periods within the first 30 minutes of unit operation.

252:100-17-24. Standards for municipal waste combustor operator training and certification

(a) Each chief facility operator and shift supervisor shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers (ASME) [ORO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(b) Each chief facility operator and shift supervisor shall have completed full certification or submitted an application, that has been accepted by the appropriate certification program, for a full certification exam with either the ASME [ORO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility

Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(c) (1) No owner or operator of a MWC unit shall allow the unit to be operated at any time unless one of the following persons is on duty:

(i) A fully certified chief facility operator.

(ii) A provisionally certified chief facility operator who has met the qualification requirements specified in ASME [ORO-1-1994 section 2.2.2] and has made an application for a full certification exam following the ASME [ORO-1-1994 section 4.3.1] application process, according to the schedule specified in paragraph (b) of this section.

(iii) A fully certified shift supervisor.

(iv) A provisionally certified shift supervisor who has met the qualification requirements specified in ASME [ORO-1-1994 section 2.2.2] and has made an application for a full certification exam following the ASME [ORO-1-1994 section 4.3.1] application process, according to the schedule specified in paragraph (b) of this section.

(2) The requirement specified in paragraph (c) of this section shall take effect no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(3) If one of the persons listed in paragraph (c) of this section must leave the unit during their operating shift, a provisionally certified control room operator who is on-site at the MWC may fulfill the requirement in paragraph (c) of this section.

(d) All chief facility operators, shift supervisors, and control room operators at MWC units must complete the EPA or State MWC operator training course no later than the date 6 months after the date of startup of the MWC or by 12 months after the date of State plan approval, whichever is later.

(e) The requirement specified in paragraph (d) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(f) The owner or operator may request that the DEO waive the requirement specified in paragraph (d) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(g) The owner or operator of a MWC unit shall develop and update on an annual basis, a site-specific operating manual. The operating manual shall, at a minimum, address the elements of MWC unit operation specified in paragraphs (g)(1) through (g)(11) of this section.

(1) A summary of the applicable standards under this Part.

(2) A description of basic combustion theory applicable to a MWC unit.

(3) Procedures for receiving, handling, and feeding MSW.

(4) MWC unit start-up, shutdown, and malfunction procedures.

(5) Procedures for maintaining proper combustion air supply levels.

(6) Procedures for operating the MWC unit within the standards established under this Part.

(7) Procedures for responding to periodic upset or off-specification conditions.

(8) Procedures for minimizing particulate matter carryover.

(9) Procedures for handling ash.

(10) Procedures for monitoring MWC unit emissions.

(11) Reporting and recordkeeping procedures.

(h) The owner or operator of a MWC unit shall establish a training program to review the operating manual according to the schedule specified in paragraphs (h)(1) and (h)(2) of this section. The training shall be provided to each person who has responsibilities affecting the operation of the unit including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(1) Each person specified in paragraph (h) of this section shall undergo initial training no later than the date specified in paragraph (h)(1)(A), (h)(1)(B), or (h)(1)(C), whichever is later.

(A) The date 6 months after the date of startup of the unit.

(B) The date prior to the day the person assumes responsibilities affecting MWC unit operation.

(C) Twelve months after date of State plan approval.

(2) Annually, following the initial review required by paragraph (h)(1) of this section, each person specified in paragraph (h) of this section shall review the operating manual updates, any operational lessons learned/experiences of the past year, and provide for review of any section which an employee requests.

(i) The operating manual required by paragraph (h) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (h) of this section no later than 6 months after start-up or 12 months after the date of State plan approval. The operating manual and records of training shall be available for inspection by the DEO upon request.

252:100-17-25. Compliance and performance testing

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.58b, which is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-26. Reporting and recordkeeping requirements

Except for the provisions of subsection 60.59b(a), b(5), and d(11), 40 CFR 60.59b is hereby incorporated by reference as it exists on October 24, 1997.

252:100-17-27. Compliance schedules

(a) All MWC units must close or be in compliance with all requirements contained in this Part within 3 years following approval of the State plan. However, all MWC units for which construction, modification, or reconstruction is commenced after June 26, 1987 shall comply with the emission limit for mercury

specified in 252:100-17-17(c) and the emission limit for dioxin/furans specified in 252:100-17-19 within 1 year following issuance of a revised construction or operating permit, if a permit modification is required, or within 1 year following approval of the State plan, whichever is later.

(b) All MWC units choosing to comply with all requirements contained in this Part in more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit if a permit modification is required, or more than 1 year but less than 3 years following approval of the State plan if a permit modification is not required, shall enter into a consent order that includes measurable and enforceable incremental steps of progress toward compliance. These steps are specified below:

(1) Date for submittal of the final control plan to the DEO.

(2) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s).

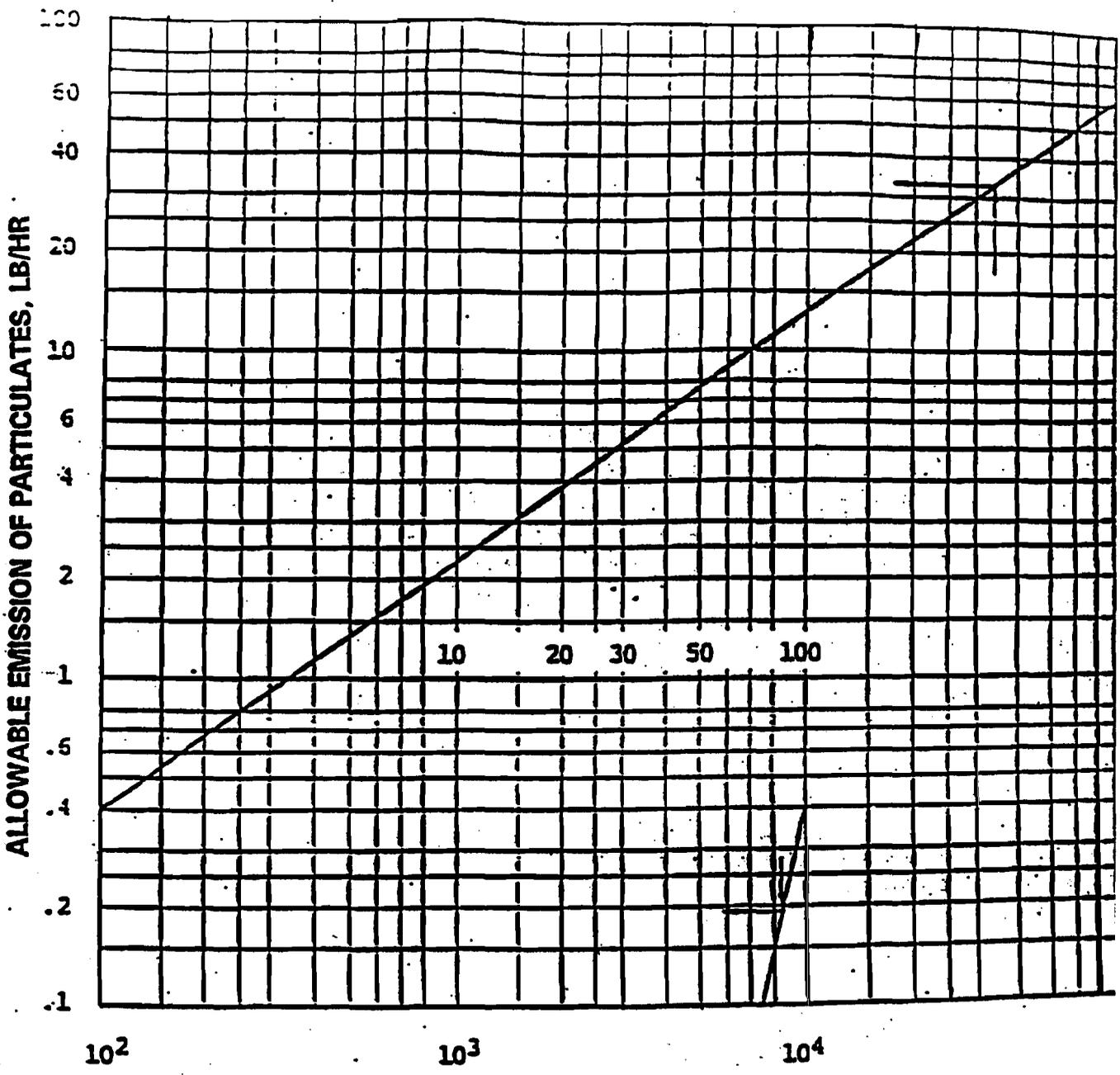
(3) Date for initiation of installation of the air pollution control device(s).

(4) Date for completion of installation of the air pollution control device(s).

(5) Date for final compliance.

(c) All MWC units with a compliance schedule of more than 1 year after approval of the State plan in accordance with paragraph (b) of this section, shall provide performance test results for dioxin/furan emissions for each unit. However, where the MWC owner/operator can demonstrate that multiple units have the same design, operate with the same fuel, have the same operating parameters, and are expected to have similar emission levels, the results of a dioxin/furan test from one unit may be provided as representative of all such units. The performance test results shall have been conducted during or after 1990. The performance test shall be conducted according to the procedures in 252:100-17-25.

(d) All MWC units intending to close in more than 1 year but less than 3 years after State plan approval shall enter into a consent order to close. The closure order must include the date of plant closure.



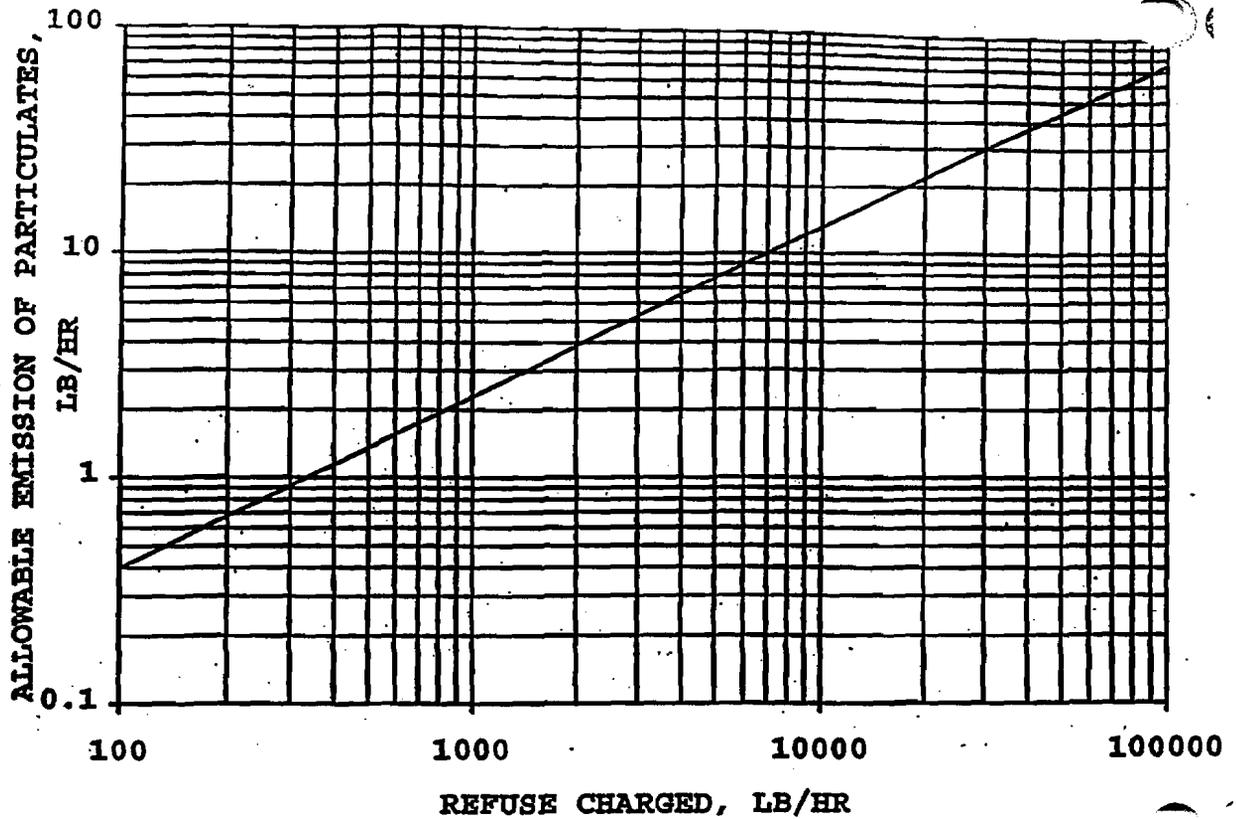
REFUSE CHARGED, LB/HR

Allowable emission rate may be calculated using the following formula:

$Y = (0.01221)(x^{+0.7577})$; for values of x 100lbs/hr,

where: x = refuse charged, lb/hr, and
Y = allowable emission, lb/hr.

APPENDIX A. (NEW)
ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES OF 100
LB/HR OR GREATER



Allowable emission rate may be calculated using the following formula:

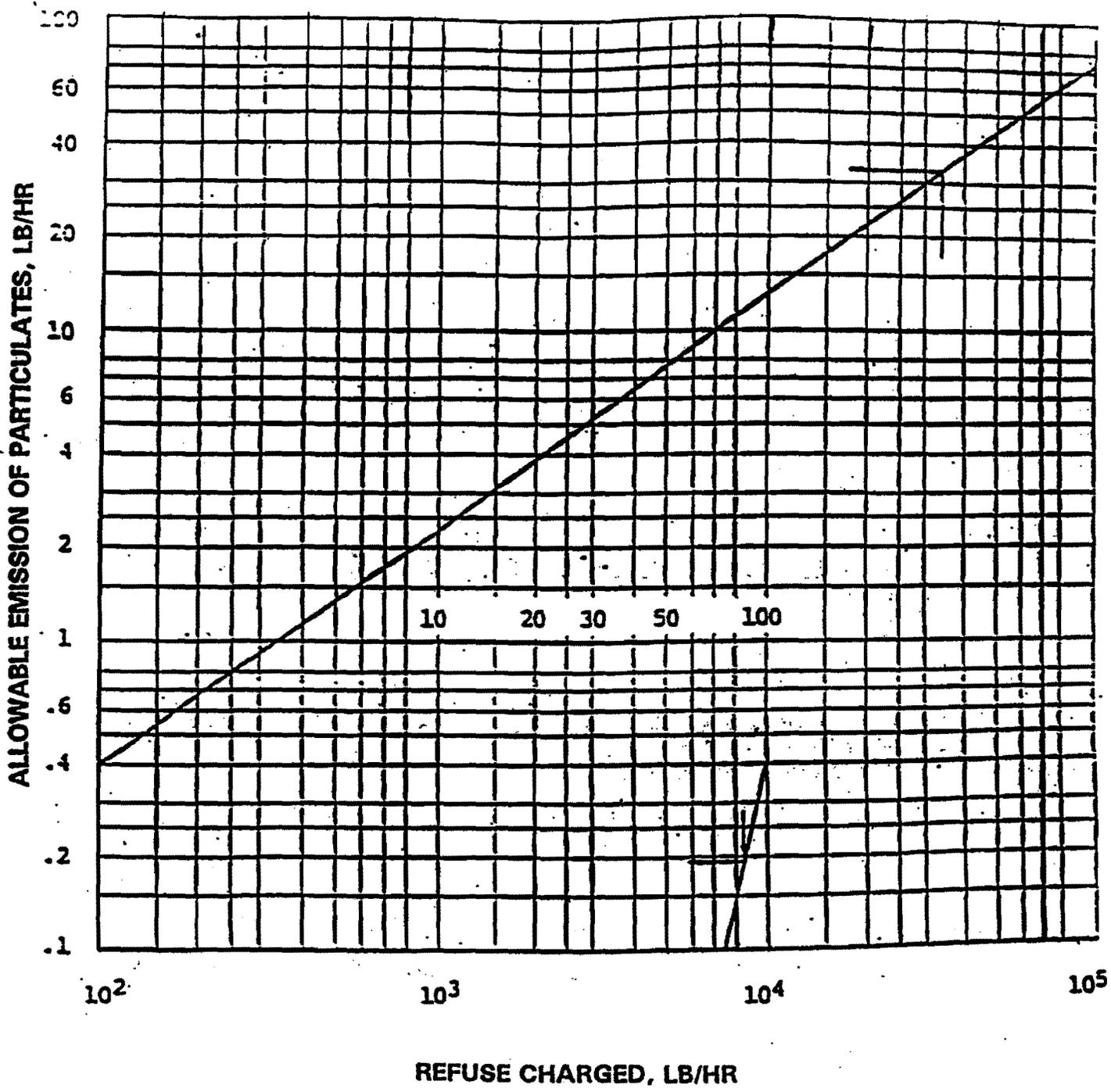
$$Y = 0.01221X^{0.7577}$$

Where:

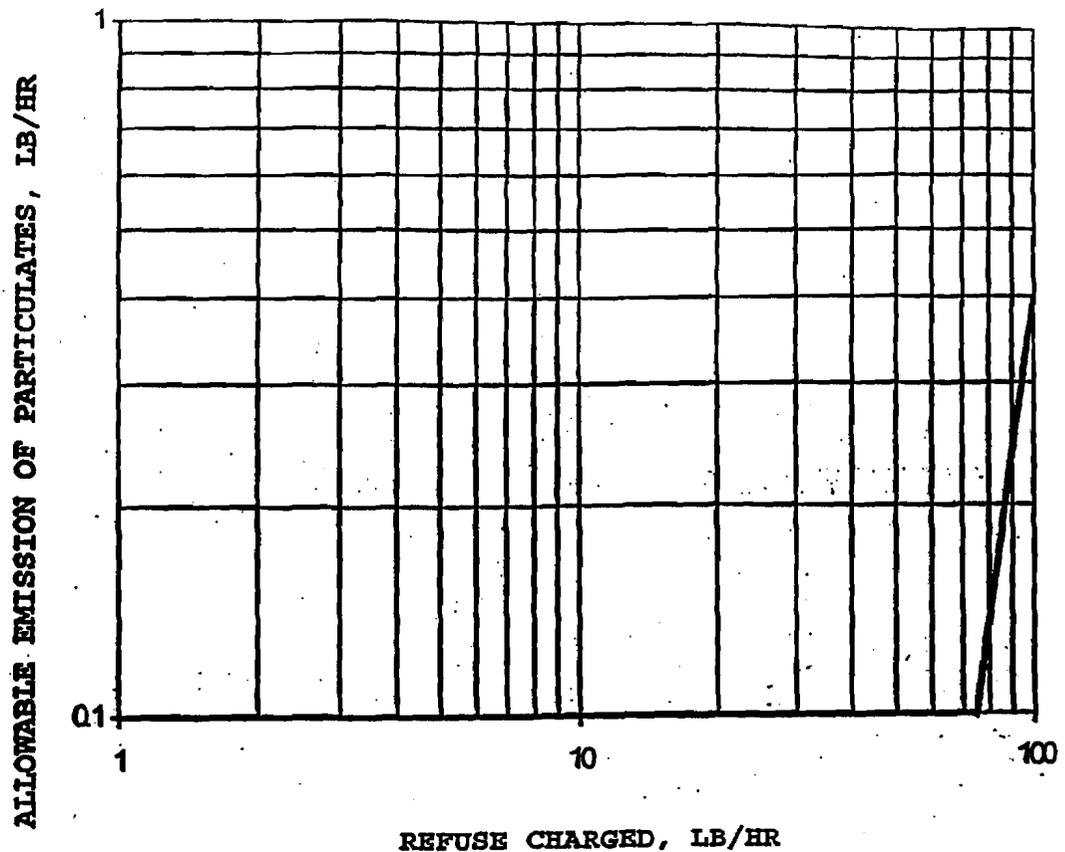
X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

APPENDIX B. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES LESS THAN 100 LBS/HR



APPENDIX B. [NEW]
ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES LESS THAN
100 LB/HR



Allowable emission rate may be calculated using the following formulae:

Incinerators with capacities greater than 75, but less than or equal to 100 lb/hr

$$Y = 9213 \times 10^{-11} X^{4.218}$$

Incinerators with capacities of 75 lb/hr or less

$$Y = 0.1$$

Where,

X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

APPENDIX K. [NEW]
AVERAGE DAILY NITROGEN OXIDES EMISSIONS

$$NOX_{24-hr} = \frac{\sum_{i=1}^h [(NOX_i) (S_i)]}{\sum_{i=1}^h (S_i)}$$

where:

NOX_{24-hr} = 24-hour daily average nitrogen oxides emission concentration level for the emissions averaging plan (parts per million by volume corrected to 7 percent oxygen).

NOX_i = 24-hour daily average nitrogen oxides emission concentration level for unit i (parts per million by volume, corrected to 7 percent oxygen), calculated according to the procedures in 40 CFR 60.58b(h).

S_i = maximum demonstrated municipal waste combustor unit load for affected facility i (pounds per hour steam or feedwater flow as determined in the most recent dioxin/furan performance test).

h = total number of units being included in the daily emissions average.

Myrna Bruce

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, June 20, 2000
Oklahoma State University at Tulsa
700 N Greenwood
Tulsa, Oklahoma 73102

1. Call to Order – Cheryl Cohenour, Vice-Chair

2. Roll Call - Lynda Finch

3. Approval of Minutes of the February 25, 2000 Regular Meeting

4. **Rulemaking – OAC 252:100 Air Pollution Control**

Four sets of changes are proposed:

- Proposed amendments to Subchapter 9 (Excess Emission and Malfunction Reporting Requirements) include changes made as part of the DEQ's "re-right/de-wrong" effort to simplify its rules. The subchapter has been reorganized, typographical and grammatical errors have been corrected, and redundant language has been deleted. Additionally, some substantive changes were made. Among these are amendments relating to: definitions of *malfunction*, *bypass*, *regulated air pollutant*, *technological limitation* and *working day*; report certifications; demonstration requirements for emission limit exemptions; timing of excess emission reports; indicators of possible inadequate design, operation, or maintenance; and notice of maintenance activities.
- Proposed amendments to Subchapter 11 (Alternative Emissions Plans and Authorizations) are intended to clarify and simplify the language as part of the DEQ's "re-right/de-wrong" initiative.
- Proposed amendments to Subchapter 17 (Incinerators) include deletion of an outdated reference to an effective date. Language on design requirements is revised to authorize the Division Director to approve an incinerator design that does not meet the specific temperature and secondary burner requirements if the incinerator can meet all other applicable requirements.
- Proposed amendments to Subchapter 33 (Control of Emission of Nitrogen Oxides) are intended to clarify and simplify the language as part of the DEQ's "re-right/de-wrong" initiative.

A. Presentation – David Branecky, Air Quality Council Chair

B. Questions and discussion by the Board

C. Questions, comments and discussion by the public

D. Discussion by the Board

E. Roll call vote(s) on emergency* and permanent adoption of amendments to Subchapter 17, and on permanent adoption of amendments to Subchapters 9, 11 and 33

5. **Rulemaking -- OAC 252:610 and 611 General Water Quality**

Chapter 610 has been reviewed as part of the DEQ's "re-right/de-wrong" process of simplifying its rules. Language has been simplified and clarified, and rules deemed unenforceable have been removed. Because so many changes were identified, it is proposed that Chapter 610 be revoked and a new Chapter 611 created to replace it.

- A. Presentation— Robert Johnston, Water Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption/revocation
6. **Rulemaking-- OAC 252:620 and 621 Non-Industrial Impoundments and Land Application**
 Chapter 620 has been reviewed as part of the DEQ's "re-right/de-wrong" process of simplifying its rules. Language has been simplified and clarified, and rules deemed unenforceable have been removed. Because so many changes were identified, it is proposed that Chapter 620 be revoked and a new Chapter 621 created to replace it. Also, the requirements for the land application of non-industrial wastewater are moved from Chapter 647 to Chapter 621 because that activity is more closely related to impoundments than to biosolids.
- A. Presentation— Robert Johnston, Water Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption/revocation
7. **Rulemaking-- OAC 252:635 Reservoir Sanitation**
 Chapter 635 has been reviewed as part of the DEQ's "re-right/de-wrong" process of simplifying its rules. The DEQ has determined that all provisions contained in Chapter 635 appear in state statutes or other DEQ rules, so the DEQ is proposing that the chapter be revoked.
- A. Presentation— Robert Johnston, Water Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent revocation
8. **Rulemaking-- OAC 252:641 Individual and Small Public On-Site Sewage Disposal Systems**
 The proposed amendments authorize general permits for on-site sewage disposal systems, except for alternative systems, which will require individual permits subject to the Tier I permitting process. Certification for septic system installers will be a permit-by-rule process. Minor typographical corrections are also made.
- A. Presentation— Robert Johnston, Water Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption
9. **Rulemaking-- OAC 252:002 Procedures of the DEQ**
 This proposed rulemaking removes on-site sewage disposal systems, except for alternative systems, from Tier I permitting requirements. This corresponds to changes concurrently proposed for Chapter 641, Individual and Small Public On-Site Sewage Disposal Systems, to establish permits for on-site sewage disposal systems as general permits.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

10. Rulemaking -- OAC 252:647 and 648 Sludge and Land Application of Wastewater (Chapter 647), Land Application of Biosolids (Chapter 648)

Chapter 647 has been reviewed as part of the DEQ's "re-right/de-wrong" process of simplifying its rules. Proposed changes include the deletion from Chapter 647 of rules for the land application of industrial wastewater and sludge because they were incorporated into Chapter 616 (Industrial Impoundments and Land Application) by Board action in February, and the deletion from Chapter 647 of rules for the land application of non-industrial wastewater because they are proposed for incorporation into Chapter 621 (Non-Industrial Impoundments and Land Application) (see agenda item 6). For the remaining rules on biosolids, Chapter 647 is revoked and replaced by Chapter 648.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption/revocation

11. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)

12. Executive Director's Report (including disclosure of employee financial interests as required by statute, and notification to the Board that no capital budget needs have been identified for State Fiscal Year 2002)

13. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from Judy Duncan, giving an overview of the DEQ's State Environmental Laboratory.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until May or June of 2001.

SUBCHAPTER 17. INCINERATORS
PART 3. INCINERATORS

252:100-17-2. ~~Effective date; applicability~~ Applicability

This Part ~~became effective on July 21, 1971~~ and applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.

252:100-17-5. Incinerator design requirements

An incinerator ~~under subject to~~ this Part must have:

- (1) A primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.
- (2) A secondary burner that shall be used when necessary to eliminate smoke.
- ~~(3) A design that can be demonstrated to the DEQ to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.~~

252:100-17-5.1. Alternative incinerator design requirements

The Director may approve an incinerator design that does not meet the design requirements in 252:100-17-5 if the owner of the proposed incinerator demonstrates to the DEQ that the incinerator can comply with all other applicable requirements.

Additional Comments

TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 17. INCINERATORS

EXECUTIVE SUMMARY:

The Department is proposing amendments to 252:100-17, Part 3, Incinerators. Section 2 of the Part would be amended to remove references to an effective date, and Section 5(3) would be deleted. A new Section 5.1, Alternative incinerator design requirements, would be added to authorize the Division Director to approve incinerator designs that do not meet the requirements specified in 252:100-17-5 if those incinerators can meet all other applicable requirements.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Frank Condon, Environmental Quality Board, commented during the April 19, 2000, Air Quality Council hearing.

Comment 1: "Define Director".

Response: Director, as defined in the Oklahoma Clean Air Act, means Air Quality Division Director.

Comment 2: Does the Director have the authority to approve an alternative incinerator design?

Response: Yes. The amendment does not change who is authorized to sign a permit for the construction or operation of an incinerator.

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 17. INCINERATORS

EXECUTIVE SUMMARY:

The existing Subchapter 17 has been revised and redesignated as Part 1, General Provisions, and Part 3, Incinerators. Appendices A and B were also revised for reasons of clarification and simplification. The proposed addition of Part 5, Municipal Waste Combustors (MWC), and a new appendix K were necessary to meet the federal requirements published in the Federal Register on December 19, 1995 and amended on August 25, 1997. These standards would apply to MWC units with the capacity to combust more than 250 tons per day of municipal solid waste and for which construction commenced on the unit on or before September 20, 1994.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: Replace the word "set" with "specify" under 252:100-17-1.

Response: Agreed.

Comment: Change the definition of "capacity" to be consistent with 40 CFR 60.51b.

. Add "calculated according to the procedures under 40 CFR 60.58b(j)" to definition of "municipal waste combustor unit capacity."

Add "as measured by EPA Reference Method 5" to the definition of "particulate matter."

Revise the definition of "yard waste" to exempt "clean wood".

Add the following definitions to Subchapter 17: batch MWC, bubbling fluidized bed combustor, chief facility operator, circulating fluidized bed combustor, clean wood, dioxin/furan, four hour block average, mass burn refractory MWC, mass burn rotary waterwall MWC, mass burn waterwall MWC, maximum demonstrated MWC unit load, maximum demonstrated particulate matter control device temperature, modular excess air MWC, modular starved air MWC, MWC acid gases, MWC metals, MWC plant, MWC unit load, MWC unit refuse derived fuel stoker, shift supervisor, spreader stoker coal/refuse derived fuel mixed fuel fired combustor, total mass dioxin/furan, 24 hour daily average, untreated lumber, waterwall furnace.

Response: Staff incorporated by reference all the definitions under 40 CFR 60.51b, which include the additional requested language and definitions.

Comment: Add the word "average" to the first sentence of 252:100-17-20(b)(5)(B) so it would read "on a daily average basis."

Response: Staff added "average."

Comment: Under 252:100-17-20(b)(5)(C)(i)(1) and 20(b)(5)(C)(ii)(1), the citation "40 CFR 60.58(a) through (m)" was said to be overly inclusive and it was requested that "60.58b(a) through (m)" be struck from the language and replaced by 60.38b.

Response: Staff agreed the language was overly inclusive and changed "(a) through (m)" to "(h)."

Comment: Request the date under 252:100-17-17(b), 17-18(a) and 17-18(b) be changed to August 26, 2002, to conform to federal requirements.

Response: Staff changed the date.

Comment: Under 252:100-17-24(a) and (b), it was requested that the phrase "of each MWC unit" be deleted.

Response: Staff removed the wording to clarify that multiple unit facilities are not required to have separate chief facility operators and shift supervisors for each unit.

Comment: Add "24 hour daily arithmetic average" to footnotes of the table in 252:100-17-20.

Response: Staff added the footnote.

Comment: In 252:100-17-24(b), replace "scheduled" with the phrase "has made application for".

In 252:100-17-24(c), replace the phrase "who is scheduled to take the full certification exam" with "who has made an application for a full certification exam."

In 252:100-17-24(c), replace "or a provisionally certified shift supervisor who is scheduled to take the full certification exam" with "a fully certified shift supervisor or a provisionally certified shift supervisor who has met the qualifications inand has made an application for a full certification exam...".

Response: Staff made the revision to avoid penalizing those who make timely applications but are not immediately scheduled to take the exam.

Comment: Under 252:100-17-24(c)(2) request that the phrase "...of this section....on an emergency/temporary basis" be added.

Response: Staff did not add the requested wording because no justification was provided and no benefit could be seen.

Comment: Under 252:100-17-24(f) request the Department of

Environmental Quality seek confirmation from the EPA that waiver authority will be granted to the State.

Response: Authority will remain with the EPA until the State plan is approved.

Comment: Add the following language to the end of 252:100-17-24(h)(2): "...each person specified in paragraph (h) of this section shall review the operating manual updates, any operational lessons learned/experiences of the past year, and provide for review of any sections which an employee requests."

Response: Staff added the language to clarify that initial training is not required annually.

Comment: One comment was made as to why air curtain incinerators are subject to testing procedures under the exemptions of Subchapter 17.

Response: The provisions for air curtain incinerators included under 17-15 were incorporated directly from the federal requirements because there is no flexibility under Section 129 of the federal Clean Air Act.

Comment: Request to incorporate language from 40 CFR 60.38b(b) to propose an alternative performance testing schedule for dioxins/furans as specified.

Response: Staff added the language to allow the alternative performance testing schedule for MWC units that achieve a dioxin/furan emission level less than or equal to 15 ng/dscm, corrected to 7% oxygen.

Comment: A representative from the City of Tulsa commented that they agreed on the adoption of the rule and felt it would be in the best interest of the City to have the DEQ implement the regulations as opposed to the EPA implementing a federal plan.

The EPA, Region 6, representative stated that the changes made to Subchapter 17 were basically clarifications and they were satisfied with the rule.

Ogden Martin also made it clear that they were satisfied with the rule and requested it be passed.

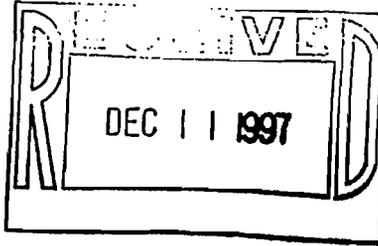
Response: Staff recommended that Subchapter 17 be passed as an emergency/permanent rule.

Comment: It was requested that the rule be carried over until the next Council meeting for further public comment.

Response: A vote of the Council to defer action failed and a second vote was taken which passed Subchapter 17.

OGDEN

December 10, 1997



Ogden Energy Group, Inc
40 Lane Road
Fairfield, NJ 07007-2615
973 882 9000
Fax 973 882 4167

Ms. Michelle Martinez
Air Quality Division
Oklahoma Department of Environmental Quality
4545 N. Lincoln Blvd., Suite 250
Oklahoma City, OK 73105

Re: Comments Concerning Proposed Revisions to OAC 252:100-17.

Dear Ms. Martinez:

As you are aware, Ogden Martin Systems of Tulsa, Inc. (OMST) operates a municipal waste combustor plant subject to the requirements of 40 CFR 60, Subpart Cb. As such, OMST will be substantially affected by the proposed revisions to OAC 252:100-17 as they incorporate the provisions of Subpart Cb into Oklahoma air quality regulations. OMST has appreciated the efforts of the Division staff in their consideration and development of these important revisions. OMST has performed a critical review of the proposed revisions and would offer the attached comments which reflect our understanding of the Division's goals and the requirements of the U.S. Environmental Protection Agency for state plans/rules developed pursuant to Subpart Cb.

OMST appreciates the opportunity to comment on these proposed rules. If you have any questions regarding our comments, please feel free to contact me at (973) 882-7058 or Bonnie McGilbra, OMST, at (918) 583-3925.

Sincerely,

Andrew T. Lehman
Assistant Vice President
Ogden Energy Group

cc: Barbara Hoffman, Esq, ODEQ Environmental Attorney
Bonnie Mc Gilbra, OMST
Joe Conover, OEG

5631

COMMENTS REGARDING PROPOSED REVISIONS TO OAC 252:100-17
Submitted to the
Oklahoma Department of Environmental Quality
Air Quality Division
December 10, 1997

Ogden Martin Systems of Tulsa, Inc. (OMST) appreciates the opportunity to comment on the proposed revisions to OAC 252:100-17 pertaining to municipal waste combustors and incinerators and incorporating the requirements of 40 CFR Part 60, Subpart Cb into the state air quality regulations. These comments were developed based on the draft rule revisions dated December 3, 1997.

1. 252:100-17-1 Please replace the word "set" with "...specify design and operating requirements" to better reflect USEPA's performance standard approach to these regulations.
2. OAC 252:100-17-1.3. Definitions:

a. **Definition of Capacity.** The proposed definition of capacity is inconsistent with the definition of Municipal Waste Combustor (MWC) Unit Capacity contained in 40 CFR 60.51b which refers to calculation methods in 40 CFR 60.58b(j). This calculation method allows the use of maximum design heat input capacity and heating value as the basis for determining capacity for combustors that are designed on heat capacity. The OMST units are heat capacity limited units; therefore, this provision is appropriate for use at the OMST facility. However, the term of Capacity or its plural form is utilized in OAC 252:100-17, Part 3 which is not applicable to the OMST Facility; therefore, OMST recommends addition of a definition of Municipal Waste Combustor Unit Capacity to OAC 252:100-17-1.3. The suggested wording for the definition is as follows:

"Municipal Waste Combustor Unit Capacity" means the maximum charging rate of a municipal waste combustor unit expressed in tons per day of municipal solid waste combusted, calculated according to the procedures under 40 CFR 60.58b(j).

b. **Definition of Particulate Matter.** The proposed definition does not cite the reference method for determining particulate matter. OMST recommends that the phrase "as measured by EPA Reference Method 5" be added to the definition.

c. **Definition of Yard Waste.** The term "clean wood", addressed in both the second and third sentences of the definition, should read: "Yard Waste does not include clean wood or construction, renovation...". The definition also refers to "section" in sentences two and three which should be "subchapter".

d. **Additional Definitions.** There are several technical terms utilized in OAC 252:100-17 which are not defined in the text of the rule. OMST would recommend inclusion of USEPA's definitions for the following terms as presented in 40 CFR 60.31b or 60.51b:

Batch municipal waste combustor
Bubbling fluidized bed combustor

(Comment 252:100-17-1.3 - cont'd)

Chief facility operator
Circulating fluidized bed combustor
Clean wood
Dioxin/Furan
Four hour block average
Mass burn refractory municipal waste combustor
Mass burn rotary waterwall municipal waste combustor
Mass burn waterwall municipal waste combustor
Maximum demonstrated municipal waste combustor unit load
Maximum demonstrated particulate matter control device temperature
Modular excess air municipal waste combustor
Modular starved air municipal waste combustor
Municipal waste combustor acid gases
Municipal waste combustor metals
Municipal waste combustor plant
Municipal waste combustor plant capacity
Municipal waste combustor unit load
Municipal waste combustor unit
Refuse derived fuel stoker
Shift supervisor
Spreader stoker coal/refuse derived fuel mixed fuel fired combustor
Total mass dioxin/furan
Twenty four hour daily average
Untreated lumber
Waterwall furnace

3. 252:100-17-20(b)(5)(B). For consistency with the 40 CFR Subpart Cb regulation, OMST would recommend that the first sentence of (B) be amended as follows:

(B) For each of the units included in the emission averaging plan, the nitrogen oxides emissions shall be calculated on a daily average basis.

4. 252:100-17-20 (b)(5)(C)(i)(I), Second Sentence. The federal rule citation, "40 CFR 60.58(a) through (m)", appears to be overly inclusive; 60.58b is already incorporated by reference at 252:100-17-25 (Compliance and Performance Testing). Nitrogen oxides are addressed in 40 CFR 60.58b(h). OMST would recommend the following language as an alternative:

(I)... The calculation shall be based on the hourly nitrogen oxides data required under 40 CFR ~~60.58b(a) through (m)~~ 60.38b(a) and specified under 40 CFR 60.58b(h)(5).

5. 252:100-17-20(b)(5)(C)(ii)(I). The federal rule citation, "40 CFR 60.58b(a) through (m)", again appears to be overly inclusive. Nitrogen oxides are addressed in 40 CFR 60.58b(h). OMST would suggest the following language as an alternative:

(I) For each large MWC unit included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under ~~40 CFR 60.58b(a) through (m)~~ 40 CFR 60.38b(a) and specified...

6. 252:100-17-17(b), 252:100-17-18(a), and 252:100-17-18(b). The December 19, 2002 date would appear to be inconsistent with the final compliance date of August 26, 2002 contained in 40 CFR 60.39(f). OMST would recommend that clarification be sought regarding the final compliance date and that the most appropriate date be included in the proposed revisions.
7. 252:100-17-24(a) and (b). These provisions appear to require a shift supervisor for each MWC unit within a MWC plant, which is not intended by USEPA nor is it industry practice. OMST utilizes a shift supervisor for each shift for the entire plant. OMST would suggest the following amendments to the proposed language:
 - (a) Each chief facility operator and shift supervisor ~~of each large MWC unit~~ shall obtain ...
 - (b) Each chief facility operator and shift supervisor ~~of each large MWC unit~~ shall have been completed ...
8. 252:100-17-20 Relative to NOx emissions limits, request addition of "24 hour daily arithmetic average" to the footnote ^m "Corrected to 7 percent oxygen, dry basis" to clarify consistency of the NOx averaging time with USEPA regulation.
9. 252:100-17-24 The following requested changes to this section of the regulations are offered to ensure that Oklahoma requirements are consistent with ASME standards and USEPA's certification model.
10. 252:100-17-24(b) Please delete the word "scheduled" and insert the phrase "has made application for" in this section of the regulation.
11. 252:100-17(c) 17-24(c) Please delete the following phrases in this section and substitute the rephrasing as noted:

~~"who is scheduled to take the full certification exam": "... chief facility operator... who has met the qualification requirements specified in ASME QRO-1-1994 sections 2.2.2; and has made an application for a full certification exam following the ASME QRO-1-1994 section 4.3.1 application process".~~

In the second instance, further on in this section, please delete "~~or a provisionally certified shift supervisor who is scheduled to take the full certification exam~~" and replace it with the following phrase "...a fully certified shift supervisor or a provisionally certified chief facility operator who has met the qualification requirements specified in ASME QRO-1-1994 sections 2.2.2; and has made an application for a full certification exam following the ASME QRO-1-1994 section 4.3.1 application process."
12. 252:100-17-24(c)(2) At the end of this section, please add the following note of clarification: "...of this section...on an emergency/temporary basis."
13. 252:100-17-24(f) OMST recommends that ODEQ seek confirmation from USEPA that waiver authority will be granted to the State.
14. 252:100-17-24(h)(2) To clarify that this section of the rule does not require complete employee retraining on the entire manual annually, it is requested that the following language be inserted as follows: "...paragraph (h)(1) of this section...each person

14. (cont'd) specified in paragraph (h)(1) of this section shall review the operating manual updates, any operational lessons learned/experiences of the past year, and provide for review of any sections which an employee requests"
15. 252:100-17-25 Please be advised that the effect of this rule section is under engineering evaluation by OMST, and further comment is reserved.

MEETING/HEARING AGENDA
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL
OCTOBER 15, 1996 1:00 P.M.
TULSA CITY-COUNTY HEALTH DEPARTMENT AUDITORIUM
4616 East 15 Street, Tulsa, Oklahoma

OAC 252:100-17 Incinerators, Part 3, Municipal Waste Combustors (New) Discussion by Council/Public Action by Council.

525 S. Main, Tulsa, OK 74103
(918) 583-5520

BYRUM: Ladies and gentlemen, my name is Larry Byrum. I am director of the Air Quality Division. As such I will act as protocol officer for the hearing. This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, Title 40 of the Code of Federal Regulations, Part 51, as well as the authority of Title 63 of the Oklahoma Statutes Sections 1, 1801 and following. This hearing was advertised in the Oklahoma Gazette for the purposes of receiving comments to OAC 252:100-17 incinerators and municipal waste combustors.

At this time I would like to call upon Mr. Scott Thomas to make the staff presentation. If you have comments on this subject I would advise you that there are forms at the rear of the room that you can fill out, and I will call upon you at the appropriate time.

Mr. Thomas.

MR. THOMAS: My name is Scott Thomas representing the staff of the Air Quality Revision. Before you today in your council packets and available for distribution of the audience it proposed new Part 3, Subchapter 3, entitled "Municipal Waste Combustors" that will be brought to public hearing today. The proposed amendments of Subchapter 17 are necessary to meet the federal requirements set forth by the environmental

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protection agency in 40 C.F.R. Part 60, subpart Cd and emission guidelines Eg for municipal waste combustors.

The guidelines apply to existing municipal waste combustors of aggregate plant combustion capacity of 35 megagrams per day or greater of municipal waste and that prevents construction on or before September 20th, 1994.

We understand that there are two facilities in the state that would be affected by this proposed rule, one here in Tulsa and one here in Miami.

Proposed Subchapter 17, Part 3 rules were developed under the requirements of Eg through a cooperative effort between representatives, public industry, state and federal government.

The proposed Part 3 drafted by the Air Quality Division sets forth rules, the proposed rules for municipal waste combustors which meets all applicable requirements without being more or less stringent than the federal standards, that was the content of the staff on developing these rules and hopefully we have met that charge.

The staff is recommending that this hearing on this proposed rule be continued on to council's next meeting. We would especially solicit comments and input on the stringency of the rules as compared with the federal guidelines, as well as the rules direct and indirect impact on the community of Tulsa, Miami and the facilities. That

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basically concludes my presentation.

MR. BYRUM: Questions for Mr. Thomas from council?

MR. BRANECKY: I have a question. On Page 3, Section J at the middle of the page it talks about air curtain incinerators are exempt from all provisions of this part except for, and it list one, two and three. And over on Page 5 -- no, I mean Page 13, you have got standards for air curtain incinerators. That Section 25 applies to air curtain incinerators. Section 25 is not listed in the three items that supposedly apply to air curtain incinerators in J.

MR. THOMAS: I personally can't answer that question but I would like to refer to the staff and --

MR. BRANECKY: See what I am saying, in Section J? It says everything that they are exempt from all provisions except for one, two and three. And then over on Section 25 it says standard for air curtain incinerators, and 25 is not listed in the three items that apply to air curtain incinerators on Page 3.

MR. THOMAS: It appears there maybe an inconsistency in the rules.

DR. SKEEDY: Yeah, we will check that out definitely.

MS. ALLTISER: I am Ann Alltizer with Air

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1 Quality Division. I believe in Section . those are the
2 exemptions. The only thing that the air curtain
3 incinerators are subject to is, in Section 25, of this
4 entire rule that they are exempt from the things in J.

5 MR. BRANECKY: But J says the air curtain
6 incinerators that meet the capacity specifications in
7 paragraph (a) of this section and combust 100 percent yard
8 waste....fuel stream are exempt from all provisions of this
9 part except for these three. Am I reading that right?
10 They are exempted from everything except for items one, two
11 and three in Section J? But then over in 25 there is
12 another standard for air curtain incinerators. We will
13 have to -- are they exempted from 25 or does 25 apply?

14 MR. FISBACK: I agree completely, David. It
15 looks like to me like J ought to have in item number four
16 under it which refers to Section 25.

17 MR. BRISCH: Are they both applicable to new
18 facilities?

19 DR. SHEEDY: No, this whole rule is applicable
20 to existing facilities only. And, of course, we have no
21 air curtain facility in existence so that's the kind of
22 thing --

23 MR. THOMAS: This is the part of the public
24 hearing process and we can't answer you right now.

25 DR. SHEEDY: We will look into this right now.

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1 MR. BRANECKY: My other question is kind of
2 general in nature. All of your numbers in this subchapter
3 are metric. When you go through and revise all of the
4 other air regulations are we going metric? If not to me
5 will be confusing to have some regulations in English and
6 some in metric.

7 MR. BYRUM: Well, I think as we mentioned
8 earlier staff tried to closely follow the EPA draft rule on
9 this. I believe I am probably stating this correct,
10 correct me if I am wrong, Scott. They state theirs in
11 metric terms. What we will probably do is go back in, as
12 part of the recommendation of the hearing, go in and put in
13 the English units.

14 MR. FISBACK: My recommendation on that point
15 would be if there is a requirement to express it in metric
16 terms that the equivalent English be put in parenthesis
17 right after it.

18 MR. THOMAS: We can do that.

19 MR. FISBACK: Because nobody knows what a
20 gigajoule is. I think that's left over from the Carter
21 administration attempt to metrify everything and it is
22 confusing in a lot of cases.

23 MR. BRISCH: I am glad this is being made
24 part of the record, Bill.

25 MR. FISBACK: So noted.

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1 MR. BYRUM: Other questions for Mr. Thomas
2 from the council?

(No response.)

4 MR. BYRUM: Questions from the audience for
5 Mr. Thomas?

(No response.)

7 MR. BYRUM: Okay, I have three individuals who
8 have notified they wish to speak to the council.

Thank you, Mr. Thomas.

10 MS. PURSLEY: I would like to confer and allow
11 the City of Tulsa to go first if they wish.

MR. BYRUM: Mr. Hardt.

13 MR. HARDT: Thank you. I am Charles Hardt,
14 City of Tulsa. We are in the process of hiring outside
15 legal counsel for advising us on the installation of the
16 air emission requirements, and we would ask that this be
17 continued to your next meeting to give us an opportunity to
18 follow up on a written response.

MR. BYRUM: Any questions for Mr. Hardt?

20 MR. FISBACK: Is your pursuit of outside
21 legal counsel because you think the retrofit emission
22 controls may not need to be added or what is your -- what
23 is your charter to them, what are they going to develop for
24 you?

MR. HARDT: It is a multiscope issue. It's to

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1 evaluate our contract with Ogden-Martin and it is also to
2 give us legal advice on two or three other issues and one
3 of which would be to look at standards and render an
4 opinion on that.

5 MR. BYRUM: Other questions from the council
6 for Mr. Hardt?

THE COUNCIL: No.

MR. BYRUM: Questions from the audience?

THE AUDIENCE: (No response.)

MR. BYRUM: Thank you, sir. Ms. Pursley.

11 MS. PURSLEY: My name is Kathy Pursley and I
12 work for Ogden-Martin Systems here in Tulsa where I am the
13 safety coordinator and environmental manager. Those of you
14 who were here earlier this morning in the briefing
15 understood pretty clearly how I felt and I will just
16 restate that. I felt that it was very important for the
17 Air Quality Council and DEQ here in Oklahoma to be aware of
18 what is most important for the City of Tulsa. And
19 Ogden-Martin is that the rules that developed out of this
20 process are as clearly in line with emission guidelines
21 that the federal EPA has established and not more stringent
22 in order not to put a heavier burden on the City of Tulsa
23 than is already going to exist. And with that urging then
24 to go ahead and take some kind of action as soon or as
25 quickly as you are able to so that we can proceed with the

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1 huge amount of work that is ahead of us in conducting a
 2 retrofit to the facility in order to comply with these
 3 rules. Three years is a very short time span, when we are
 4 looking at beginning in 1977 and having everything rapped
 5 up by December of the year 2000. So I want to urge you to
 6 strongly consider it. I know it is an important issue and
 7 there is a lot of sides to examine, and I can understand
 8 why the City of Tulsa would like us to continue it for
 9 awhile, but I am urging you not to drag on so long that
 10 what we wind up with is a federal implementation plan and
 11 being subject to federal enforcement, and the fines and
 12 penalties and guidelines under which they enforce which are
 13 certainly more substantial in many ways than what we are
 14 subject to in the State of Oklahoma under DEQ
 15 authorization. So that's really all I have to say. Are
 16 there any questions?

17 MR. BYRUM: Questions from the council?

18 MR. BRANECKY: What is the danger of EPA? Are
 19 they at the doorstep getting ready to take over if we don't
 20 pass something today or December or what is the timeframe
 21 if we don't do anything with --

22 MR. DIGGS: What timeframe, this is Tom Diggs
 23 with EPA Agent 6 -- what the timeframe established is that
 24 EPA were put into place a federal implementation plan by
 25 December 1997, and so the State plan has to come forth to

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1 EPA and EPA being taken action on immediate advance of
 2 that date.

3 MR. BREISCH: Tom, that has never happened to
 4 the State of Oklahoma, has it?

5 MR. DIGGS: No, sir.

6 MR. BYRUM: Another question for Ms. Fursley.

7 MS. BARTON: Yes, I have a question. From the
 8 comments you have made it sounds as though you have already
 9 established criteria from going ahead and retrofitting, is
 10 that correct, that decision has already been made?

11 MS. FURSLEY: What we are aware of -- Kathy
 12 Fursley responding to Madine Barton's question -- what we
 13 are aware of is that the magnitude of the issue of retrofit
 14 is too huge and the timeframe too short not to consider all
 15 of those options. And so because of the size of that job
 16 one of my jobs as environmental manager at the facility is
 17 to focus as I want where that's the option that I am
 18 personally working on.

19 Now there maybe other people who work in Ogden
 20 Corporate in New Jersey who are negotiating with the City
 21 of Tulsa and worked with HDR, the City of Tulsa's
 22 consultant to the Tisr Board on a lot of other issues
 23 including finances. But I am strictly looking at the
 24 environmental issues and the engineering issues involved
 25 with the retrofit. And that's my concern, that is such a

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1 huge job. I can't bury my head in the sand and act like it
 2 is not going to happen when it is breathing down our necks
 3 or it won't happen.

4 MS. BARTON: So you are proceeding
 5 Ogden-Martin has proceedings that the City is going to go
 6 ahead and do the retrofit, that is your job, correct?

7 MS. FURSLEY: That's correct, that is -- there
 8 are other people who are considering other tracks, and
 9 closure is one of them. Alternatives in engineering issues
 10 is another one of them. We have got three or four
 11 different plans that we are looking at in terms of the
 12 equipment that maybe involved with the retrofit, all of
 13 that is presented fairly clearly in the HDR report in
 14 outline or, you know, bare bones kind of a sketch.

15 Okay, any other questions?

16 MR. BATE: Yes, I have a question. My name is
 17 Herb Bate and I am a citizen. As I understood your
 18 comments your concern about federal fines and penalties, I
 19 am curious as to who owns that place and who would be
 20 subject to those fines and penalties?

21 MS. FURSLEY: I think the City of Tulsa needs
 22 to address that because any -- I understand it is part of
 23 the contract with the City of Tulsa, and correct me if I am
 24 wrong, guys, any new regulations that were enacted after
 25 the original contract was made for us to operate the

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1 facility were the burden upon the City of Tulsa --

2 MR. BREISCH: Pardon me just a minute.

3 MS. FURSLEY: -- just some kind of a pass
 4 through town, is that correct, or is that part of what we
 5 are examining and disagreeing on?

6 MR. BYRUM: That is part of what we are
 7 disagreeing on.

8 MR. BREISCH: I was going to suggest this
 9 might not be part of what we need to hear as a council and
 10 if you don't mind let's try to stay on this issue.

11 MR. BRANECKY: Well, I guess not hearing what
 12 Tulsa has to say today and my concern about the one
 13 inconsistency we really might have difficulty acting on it
 14 today.

15 MR. BREISCH: I think we have got a lot more
 16 input here.

17 MR. BYRUM: Other questions for Ms. Fursley?

18 MR. BATE: Was my question out of order?

19 MR. BREISCH: No, Herb, it is just something
 20 that I think the counsel doesn't need to know to do our job
 21 at this point.

22 MR. BYRUM: I believe Mr. Fishback may have a
 23 question of Ms. Fursley.

24 MR. FISHBACK: Yes. I would like to know if
 25 there are any particular requirements of the proposed rule

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1 that either the operator or the City of Tulsa feels are
2 more stringent than the federal requirement as presently
3 written.

4 MR. HARDT: I am Charles Hardt. I have just
5 received these and I have not had a chance to make that
6 determination. We would like that opportunity to continue
7 at this time.

8 MR. BRANECKY: Has the City of Tulsa not been
9 involved all along? Or just the person that has been
10 involved is not here.

11 MR. BYNUM: Yeah, I believe the person who has
12 been involved is not here; is that correct?

13 THE AUDIENCE: Yes, I am. Yes, I am here.

14 MR. BYNUM: Okay, you are here.

15 MR. FISHBAC: The date on this draft is
16 September 17th which is nearly a month, but I don't know
17 how it was distributed.

18 MS. PURSLEY: Mr. Fishback, as clearly as I
19 can perceive, and you never know the effect of the
20 regulation that is written until after it's approved,
21 passed and acted on and applied and then you become more
22 aware, the effects of a rule. Sometimes we write things
23 that are applicable in the way we expect them to be, other
24 times we write things that are not. But based on the way
25 the emission guidelines are written those emission

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1 guidelines appear, number for number, quantity for quantity
2 in this rule.

3 MR. FISHBAC: And there was a lot of
4 incorporation by reference also.

5 MS. PURSLEY: Correct. So I do not at this
6 time see anything in this rule that surprises me or
7 appeared differently than what I read out of all of the
8 promulgated, final rule, proposed rule, and all of the
9 documents that support that that I looked at. I don't see
10 anything that surprises me.

11 MR. BRANECKY: I guess my question is why, if
12 the City of Tulsa has been involved all along, why do they
13 need more time to formulate comments? Have they not
14 developed those comments --

15 MR. HARDT: Charles Hardt. As the authority
16 for this item that handles the energy facility operations
17 just recently at their last meeting authorized hiring
18 outside counsel to evaluate the contract and to evaluate
19 the regulations to see how these comply with the City of
20 Tulsa long-term objectives. So with your concerns we would
21 like an additional month to evaluate the issue please.

22 MR. BYNUM: Other questions?

23 (No response.)

24 MR. BYNUM: Mr. Diggs.

25 MR. DIGGS: Thank you. Mr. Chairman, members

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1 of the council, ladies and gentlemen, my name is Tom Diggs.
2 For the court reporter that is D-I-G-G-S. I am the chief
3 of the air plan inspection with EPA Agent 6 in Dallas, and
4 I appreciate the opportunity to come before you this
5 afternoon and provide comments of the public hearing on the
6 proposed changes now to the regulations 17 on the emission
7 limits for municipal waste combustors.

8 With regards to Subchapter 17 we in Region 6 are
9 very pleased by the effort that has been put forth by the
10 Air Quality Service in developing this rule in a very
11 expeditious manner in working with the work route that is
12 established in Oklahoma towards developing the rule, also
13 being involved in having a workshop to get public input and
14 EPA's allowance for participation in that process.

15 In general we are very pleased with the format
16 and the content of the draft rule as written. I do have
17 just one comment to share with you based upon the review of
18 the September 17th version, and this is in Section
19 252:100-17-26. I believe that's on Page 13 of the document
20 entitled "Compliance and Performance Testing." It includes
21 in paragraph B an allowance for alternative performance
22 testing methods with prior executive director approval.
23 And one observation or concern that we have is that
24 alternative performance test appeared by the executive
25 director, that could result in a less stringent test than

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1 the federal requirements. And one of the things that the
2 cleaner act under Section 129, one of the requirements is
3 that the State plan be at least as protective as the
4 guidelines established. So we would suggest that the order
5 of the regulation be revised to require that any request
6 for alternative performance tests be submitted to both the
7 executive director and EPA for the review and approval.
8 And so we would suggest in that section, including the
9 involvement of EPA, I believe that's consistent with the
10 way that the State's test method requirements is for
11 alternative test methods and some other sections of the
12 Oklahoma regulations. So suggests this for consistency
13 purposes and to ensure consistency with the -- at least as
14 protective as the guideline requirements of Section 129 of
15 the clean air act.

16 This comment was passed along in a letter dated
17 October 11th, 1996. I believe that a letter got up to the
18 State on Friday and I believe that counsel has received a
19 copy of that letter addressed both Subchapter 17 as well as
20 one comment on Subchapter 15.

21 There was quite a bit of discussion this morning
22 in regards to the timeframe for adoption of the regulation
23 and submittal of the regulation, and we would certainly
24 encourage action by the counsel to ensure submittal as soon
25 as possible for due date required which is December 1996

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1 but no later than the Spring of 1997, and then to allow
 2 EPA the opportunity to approve this regulation in lieu of
 3 having to put in place a federal implementation plan. And,
 4 again, because this State has acted upon state
 5 implementations in the past we have not had to put in place
 6 federal implementation plans in the past and because of the
 7 expeditious movement that you are moving forth we just
 8 encourage you to continue them on that track with the
 9 strong work being done and to submit the regulation in
 10 advance to us so we can have approval of the Oklahoma
 11 regulation in lieu of the federal regulations.

12 And this completes my comments and I will be glad
 13 to answer any questions from the counsel or from the
 14 public.

15 MR. BYRUM: Questions from the council?

16 MR. BRANECKY: I guess maybe -- I don't know,
 17 I have faith in the executive director to do what is best
 18 for Oklahoma, and I don't know if I necessarily need to
 19 have EPA's approval. Also I don't know if you need to
 20 include EPA in on that or not, that's just my thoughts.

21 MR. FISBACK: I have the same reaction,
 22 David. I thought maybe we could achieve Mr. Diggs'
 23 objective by including wording to the effect that the
 24 approved alternate method should not be less stringent
 25 without actually requiring dual agency approval. But

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1 that's always the concern about the time that it takes, not
 2 that it would be approved or not, but just how quickly it
 3 would be approved. So as long as the executive director
 4 was acting under the overall objective that it be at least
 5 as stringent, is it necessary to actually get sign off by
 6 two different agencies?

7 MR. DIGGS: Well, the concern is if the State
 8 feels it is at least as stringent and then in looking at the
 9 position we feel different, there is a problem at that
 10 point of federal enforcement versus state. We are not
 11 calling for and what we are requesting is to come in as a
 12 provision of via supplemental to EPA the same time as the
 13 State. The opportunity of looking at the justification
 14 that the company has come forward with and making sure at
 15 that point in time there is not any question of the
 16 acceptance by both agencies, so say it doesn't come forth
 17 say a year or two down the road after the acceptance of the
 18 State the EPA will come forth and say that the requirements
 19 in our opinion are not as stringent and then it puts the
 20 company in some jeopardy down the road of -- we look at
 21 that stringency. What we see taking place is on a similar
 22 course of action as alternative test procedures from the
 23 ones who have already been incorporated by reference in the
 24 federal requirements as an alternate test procedure would
 25 come forth, then it would be brought to the State's

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1 attention and EPA's attention at the same time. And that
 2 if there is an agreement at that point in time then when
 3 the compliance testing is done there is not going to be a
 4 disagreement in a later period of time. And in certain
 5 circumstances and I can't think -- in Oklahoma under
 6 certain circumstances there have been situations where a
 7 State has adopted basis from executive director of
 8 position. And then at a later date EPA would come forth
 9 and feel that there was not equivalency. And it does cause
 10 some jeopardy and such of not having everything clarified
 11 in advance of when the compliance tests would take place.

12 MR. FISBACK: I agree with your concern, Tom.
 13 I think the issue is more of timing than anything else.
 14 And also if the EPA region is retained, basically approval
 15 rights, it seems to defeat the idea of a delegated program
 16 too. I mean, you entrusted basically that the executive
 17 direct of DEQ with a lot of discretionary power anyway
 18 under the delegation that's in place, this seems to be
 19 another good example. I think the idea of disagreements
 20 down the road, most facilities would probably have a good
 21 idea what common practice was on alternate testing methods,
 22 and I would think that most of the time, I venture to guess
 23 maybe nine out of ten times, there wouldn't be any question
 24 that the alternate was at least as stringent. And, you
 25 know, if I was advising any company about an alternate

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1 method you would want to make sure that there was some
 2 president for using it anyway, you wouldn't want to be out
 3 in left field doing something that nobody has ever heard
 4 of. So I think this may fall under the so-called 80/20
 5 rule. You know, if it is going to be right most of the
 6 time anyway why subject it to another level of approval and
 7 the concurrent delay in the process? That would be my
 8 feeling. But your concern is exactly correct. You want it
 9 to be at least as stringent but let's rely on Oklahoma to
 10 do that and the company because the company is going to
 11 want to avoid the important issues anyway.

12 MR. DIGGS: What we have certainly seen is
 13 states moving forward to try to avoid these situations, and
 14 in fact it comes in very seldom that alternative compliance
 15 methods are identified that the compliance method is
 16 identified within the Oklahoma regulations and as long as
 17 that regulation is -- that compliance method is carried
 18 forth then there is no question as to the acceptability. I
 19 believe under many of the federal state programs when it
 20 comes to alternative test methods for compliance testing,
 21 whether it be new source performance standards or whether
 22 it be the hazardous pollutant standards, the new standards
 23 that when there were alternate test methods that you are
 24 exposed to state law and EPA law approving an alternative
 25 test method.

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1 And it is very seldom that we see the situation
2 that would come forth with alternative test methods. I
3 know in the past that in order to have a state
4 implementation plan be acceptable that directors'
5 discretion on test methods has been a real problem towards
6 the approvability. And as we have gone through the
7 municipal waste combustor regulation that of the concerns
8 that we have identified out of the entire regulation it is
9 just one of the director's discretion. It may be that the
10 companies would not even be considering an alternative test
11 method, and possibly as the continuation of the hearing
12 takes place, if the companies are not going to take
13 consideration of an alternative test method maybe that
14 provision for alternative test methods need to be included
15 as part of the regulation, and that might be another
16 option.

17 MR. FISBACK: That is the question I was
18 going to ask the lady from the operation, the operating
19 company. Is this as an issue for you as far as you know?

20 MS. PURSLEY: I don't see it as one. There
21 maybe an engineer within the company nationally for whom it
22 would be an issue, but I don't see that as an issue. And
23 my question to Tom would be: Is this going to be a
24 sticking point in approval as we sit for these rules if
25 this isn't changed somehow, the wording?

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1 MR. DIGGS: Probably so. For the case of the
2 state implementation plants as we have dealt with in the
3 past it has been a major sticking point for this type of
4 directors' discretions. So as we look at state
5 implementation plans VOC, the Oklahoma VOC (phonetic)
6 regulations or after 1990 Clean Air Act was required a
7 program called reasonable available control technology or
8 VOC (phonetic) regulation fix up, one of the requirements
9 was that if there was directors' discussion identify that
10 the regulation had to be revised giving -- includes both the
11 state approval and EPA's approval both. It has been very
12 seldom that under the VOC program that an alternative test
13 method has come up to Region 6's attention. I can't think
14 of one where it has come up. But it had come up in some
15 other regions. There had been some direct problems with
16 differences of positions between regions and states, and so
17 the 1990 Clean Air Act was necessary that the state
18 regulations reflect the EPA and state approval both. I
19 feel that is going to carry forth through the 111 B
20 approvals and the municipal waste combustors, one and two.
21 And I would just bring that to the council's attention and
22 the Air Quality Service's attention today.

23 MS. PURSLEY: This is Kathy Pursley responding
24 again. I think the only alternatives that we have ever
25 asked in consideration is acceptance of equivalent data

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1 from equivalent units to save a little bit of money and not
2 test identical units in the same way once it has been
3 established that, yes, they do emit to the same levels. So
4 that in my mind can be possibly the only consideration we
5 would ask for in alternative, and I think that is well
6 addressed under these emission guidelines and testing
7 requirements anyway. Their provisions require it, the
8 frequency and the number of operating compliance tests.

9 MR. FISBACK: What emission control
10 technology are you likely to add on the tail end of the
11 incinerator, scrubbers, bag houses, that type of thing?

12 MS. PURSLEY: Yeah, that's what we are looking
13 at, line injection, or part of the injection, a bag house,
14 you know, deal with increased numbers of particulates and
15 size of particulates from that. And there are several
16 different models of brands out there that can be fabricated
17 so those are all little options that we have to look at.

18 MR. FISBACK: And the test methods for those
19 control devices are well established so it may not be an
20 issue.

21 MR. DIGGS: That is correct.

22 MR. FISBACK: I wouldn't want to see it hold
23 up SIC approval either if it wasn't an issue for -- I mean,
24 we have got one in Oklahoma shutting down. We have got one
25 that may continue to operate. So we have got one source,

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1 and if it is not an issue for one source then why make it
2 an issue on the SIC approval?

3 MR. DIGGS: Yes, sir.

4 MR. BYNUM: Other questions for, Mr. Diggs?

5 MS. BARTON: My name is Madine Barton and I am
6 with Case Citizen's Action for State Environment. My
7 question for you is one for clarification. Because of the
8 deadline rules having to submit a state plan, at the
9 meeting, the workshop meeting that we had, I asked this
10 gentleman from the EPA -- I am sorry your name?

11 MR. COTE: My name is Mick Cote.

12 MS. BARTON: Mick Cote, all right. If there
13 would be a problem, if the City of Tulsa had not made a
14 decision as to which alternative they were going to select
15 as far as the facility is concerned, at that time I would
16 just like for public record for clarification that the
17 response to my question was that as long as they submitted
18 a plan showing that they are considering both alternatives
19 that they would be not in compliance with that date; does
20 that still stand?

21 MR. DIGGS: Yes. By the draft plan coming
22 forth it shows several projects that the State is making to
23 put in place the state regulation. If the State is not
24 making progress having a state regulation what the EPA will
25 have to do, or what the region would have to start on is go

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1 towards duplicating the actions of the sta. putting in
2 place a federal implementation plan and towards that end we
3 would have to hold public hearings as well for federal
4 implementation plan, and having placed such a regulation by
5 December 19, 1997. And so as we see the State moving forth
6 to put in place a state plan and have the draft that is
7 developed uptaking through public hearing today, coming
8 forth at the next council meeting in December for this
9 regulation as well, it shows a strong commitment on their
10 part to put in place a regulation and will be submitted to
11 EPA in time that we can take an action on it.

12 However, if delays come about and the council is
13 not able to take an action on it, the region will have to
14 lay out fine lines and schedules as to what steps we would
15 have to take in order to put in place a federal
16 implementation plan. But from what I hear today I am
17 optimistic that the energy is going to take place that have
18 put in place a municipal combustor regulation for the State
19 of Oklahoma so the EPA can approve a state plan without
20 having to step in and do a federal plan.

21 MR. BYRUM: Other questions for Mr. Diggs?

22 (No response.)

23 MR. BYRUM: Thank you.

24 MR. DIGGS: Thank you very much.

25 MR. BYRUM: That is all of the notices that I

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1 have that a. a wishes to speak. Is there anyone else who
2 wishes to speak to this subject?

3 (No response.)

4 MR. BYRUM: Mr. Chairman.

5 MR. BREISCH: I think we are ready for a
6 motion on this. It appears that we do want to continue the
7 hearing, and if that's the pleasure of the council I would
8 like a motion.

9 MR. ALBRIGET: Motion to continue.

10 DR. CANTER: Second.

11 MR. BREISCH: A motion and a second. Any
12 further discussion?

13 MR. FISBACK: Could we go on record as to
14 what the primary reason for the continuance is, and as the
15 council understands it, what is our objective in approving
16 the continuance if we do so?

17 MR. BYRUM: As far as I know you can put
18 anything you want in the record. Is that what you were
19 asking me?

20 MR. FISBACK: No, I just wanted to make sure
21 that we did record the reason for the continuance. And one
22 of the reasons was the requests for the City of Tulsa to
23 have additional time to evaluate the proposed rule based on
24 their retention of legal counsel, that was one
25 consideration. Are there others?

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1 MR. BREISCH: Well generally, Bill, it is not
2 any more than an understood policy. Once we bring a rule
3 to this body we leave it open for comments for some period
4 of time. And to the best of my knowledge, I will stand
5 corrected, but we have seldom have ever passed a rule on
6 the first hearing. One that is as large and meaningful as
7 this rule, and that is a reason. Plus an absolute need, at
8 least in my opinion, to have input from the City of Tulsa.

9 MR. FISBACK: The thing that concerns me, Mr.
10 Chairman, is that the -- as you, I think, quite properly
11 noted in response to a comment from the audience, the issue
12 of the applicability and content of the rule is separate
13 and properly so from the issue of who pays for the
14 retrofits? That was you point earlier, I believe. And so
15 we really have agreement among the parties, I believe, in
16 response to earlier questions, that the rule contains
17 nothing more stringent than the federal rule, they
18 believe -- this is from the operator of the facility -- and
19 that in general EPA is satisfied with the state rule as it
20 reflects the federal rule requirements. The City of Tulsa
21 however still has concerns to the point where they retain
22 legal council. But if I understood them correctly it's
23 more to pursue who pays than what is in the rule. And if
24 that's not correct -- please correct me if that's not
25 correct.

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1 MR. HARDT: Charles Hardt. I think we
2 certainly would want the opportunity to comment
3 specifically on the language of the rules. However, I have
4 not heard that defined as a real significant issue at this
5 point, but gives the opportunity to have council review it.

6 MR. FISBACK: Because there were members of
7 the City of Tulsa that were involved in developing this
8 draft up to its present state so they have not been a
9 silent partner certainly. So you are quite correct, we do
10 usually hear rules more than once, but in the issue of
11 efficiency if the remaining issue is a legal one about the
12 contract between the city and the operator of the
13 incinerator as you have said that is not this council's
14 business. And so if we have general agreement on what is
15 in the rule, I am not sure I see a reason for postponing a
16 decision.

17 MR. BREISCH: Mr. Hardt.

18 MR. HARDT: Charles Hardt. I would like the
19 City's opportunity to respond on the specific language that
20 is contained in rule, and set aside just the other issue,
21 the contract and who pays. But specifically I do not want
22 the record to show that they are satisfied with the
23 language of the rule and really don't have a desire to
24 comment. I am officially requesting that opportunity to
25 comment concerning the language that has been in the rule

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1 regardless of past involvement that we may have had.
 2 MR. FISHBACK: Yeah, that was my question too,
 3 Mr. Hardt, considering I do believe Mr. Branecky's comment.
 4 If the City of Tulsa has been involved in this process all
 5 along what is that issue for them as pertaining to the
 6 rule?
 7 MR. BRANECKY: It was a staff level
 8 involvement, not involving the Board or legal counsel.
 9 MR. FISHBACK: So you have agreement at the
 10 staff level; you don't have an agreement at the executive
 11 level basically.
 12 MR. HARDT: We don't have any official
 13 agreement at all at the only level that makes any
 14 difference.
 15 MR. FISHBACK: Okay.
 16 MR. BREISCH: Does that answer really your
 17 question? Do you have a problem with that?
 18 MR. FISHBACK: I guess not a significant
 19 enough problem to overturn the motion --
 20 MR. BREISCH: Okay, any other --
 21 MR. FISHBACK: -- or to propose another
 22 motion.
 23 MR. BREISCH: You what?
 24 MR. FISHBACK: I say I don't have another
 25 enough problem with it to propose another motion.

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1 MR. BREISCH: Okay, any further comments or
 2 questions?
 3 MS. BARTON: I would like to applaud the
 4 chairman in the recommendation to give the public an
 5 opportunity to review these rules as you just stated before
 6 lunch, and to have notice publicized in the paper so that
 7 everybody gets to have their comment in and can't say that
 8 they didn't have an opportunity to participate in this.
 9 Being the public representative on that work force that
 10 information was not distributed widely to the population of
 11 the City of Tulsa so that they know what the rule contains
 12 in that. So I concur with the chairman's recommendation
 13 that the public was given every opportunity as it has in
 14 the past and I applaud that decision.
 15 MR. BREISCH: Thank you, Nadine. Any further
 16 comments from the council?
 17 (No response.)
 18 MR. BREISCH: Thank you. Myrna, call for the
 19 roll.
 20 MS. BRUCE: Dr. Canter.
 21 DR. CANTER: I.
 22 MS. BRUCE: Mr. Branecky.
 23 MR. BRANECKY: I.
 24 MS. BRUCE: Mr. Fishback.
 25 MR. FISHBACK: I.

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1 MS. BRUCE: Mr. Albright.
 2 MR. ALBRIGHT: I
 3 MS. BRUCE: Mr. Breisch.
 4 MR. BREISCH: I. We have to regress for just
 5 a minute to the previous portion of our hearing whereby I
 6 wanted to confirm that Mr. Fishback's motion did mean to
 7 recommend this to the DEQ Board for their approval.
 8 MR. FISHBACK: 7 and 8 for emergency --
 9 MR. BYRUM: The 7 and 8 -- and it's a
 10 permanent and it goes to the --
 11 MR. FISHBACK: Yeah, and we didn't include
 12 that language in the motion, is that the problem?
 13 MR. BREISCH: Well, we didn't but I think it
 14 was intended to.
 15 MR. FISHBACK: It was. We can make another
 16 motion if we need to?
 17 MR. BREISCH: I think -- Dennis, is that all
 18 right, the intent is there and he --
 19 MR. DOUGHTY: It was proposed and intended and
 20 understood, I think that is good enough.
 21 Mr. Chairman, I would make one, if I may make a
 22 point here, I understand that council voted to continue the
 23 hearing on the municipal waste incinerator --
 24 MR. BREISCH: Until the next --
 25 MR. DOUGHTY: Until the next meeting and I

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1 would like to just read into the record at this time that
 2 the next regular meeting is scheduled for December 7th
 3 1996, 9:30 a.m. and 1:00 p.m. at the Lincoln Plaza Office
 4 called the Park Brown Room, 4545 North Lincoln Boulevard,
 5 Oklahoma City.
 6 MR. FISHBACK: December 17th?
 7 MR. DOUGHTY: December 17th, correct.
 8 MR. BREISCH: We are ready for the next issue.
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1 STATE OF OKLAHOMA)
2)
3 COUNTY OF TULSA)

4 C E R T I F I C A T E

5 I, KEMA L. HICKS, Certified Shorthand Reporter and
6 Notary Public within and for the State of Oklahoma, DO
7 HEREBY CERTIFY that as such reporter, I reported in machine
8 Shorthand on the 15th day of October, 1996, all the
9 proceedings had upon the above-entitled cause; and that the
10 foregoing pages of typewriting constitute a full, true,
11 correct and complete transcript of all my machine shorthand
12 notes and of all the evidence introduced upon said hearing.

13 WITNESS MY HAND and seal of office this ____ day of
14 _____, 1996.

16
17 KEMA L. HICKS
18 Certified Shorthand Reporter
19 525 S. Main
20 TULSA, OK 74103
21 (918) 583-5520

22 [SEAL]
23
24
25

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(918) 583-5520

STATE OF OKLAHOMA

DEPARTMENT OF ENVIRONMENTAL QUALITY

.....

IN THE MATTER OF THE FIRST MEETING/HEARING

9

TAKEN ON BEHALF OF THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

ON FEBRUARY 19, 1997 AT 1:00 P.M.,

AT LINCOLN PLAZA OFFICE PARK, BURGUNDY ROOM,

OKLAHOMA CITY, OKLAHOMA

.....

REPORTED BY: GENA BELCHER, CSR

1 MR. BREISCH: We'll go head and
 2 call the Meeting/Hearing to order. Roll call.
 3 MS. BRUCE: Dr. Canter.
 4 DR. CANTER: Present.
 5 MS. BRUCE: Mr. Branecky.
 6 MR. BRANECKY: Here.
 7 MS. BRUCE: Mr. Glass.
 8 MR. GLASS: Present.
 9 MS. BRUCE: Ms. Slagell.
 10 MS. SLAGELL: Present.
 11 MS. BRUCE: Mr. Breisch.
 12 MR. BREISCH: Present.
 13 MS. BRUCE: For the record, absent
 14 are Mr. Fishbeck, Mr. Albright, and Ms. Hinkle.
 15 MR. BREISCH: Okay. I need a
 16 motion on the minutes.
 17 MR. BRANECKY: I move that the
 18 minutes be approved.
 19 MR. GLASS: Second.
 20 MR. BREISCH: I got a motion and a
 21 second to the minutes, any discussion, comments?
 22 If not, Myrna call the roll.
 23 MS. BRUCE: Dr. Canter.
 24 DR. CANTER: Approved.
 25 MS. BRUCE: Mr. Branecky.

A P P E A R A N C E S

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Page

COUNCIL MEMBERS PRESENT:

- Mr. Bill Breisch, Chairman
- Dr. Larry Canter
- Mr. David Branecky
- Mr. Ike Glass
- Ms. Meribeth Slagell
- Mr. Larry Byrum, Hearing Officer and Director of Air Quality Division

ALSO PRESENT:

- Ms. Myrna Bruce, Secretary

AIR QUALITY DIVISION STAFF PRESENT:

- Dr. Joyce Sheedy
- Ray Bishop
- Linn Wainner
- Dennis Doughty
- Barbara Hoffman

ATTORNEYS PRESENT:

- Donald K. Shandy
Attorney at Law
BancFirst Building
101 N. Broadway
Oklahoma City, Oklahoma 73102
- Kathy Pursley
Attorney at Law
Ogden & Martin
- Frank Erwin
Tulsa, Oklahoma

1 MR. BRANECKY: I.
 2 MS. BRUCE: Mr. Glass.
 3 MR. GLASS: I.
 4 MS. BRUCE: Ms. Slagell.
 5 MS. SLAGELL: I.
 6 MS. BRUCE: Mr. Breisch.
 7 MR. BREISCH: Yes. Meeting
 8 schedule. We've discussed this a little bit this
 9 morning, any comments on that? Does it meet with
 10 you all's approval? Do we need a motion on this?
 11 (Council indicating in agreement in
 12 discussion among themselves.)
 13 MR. BREISCH: Okay. We got a
 14 motion.
 15 DR. CANTER: Second.
 16 MR. BREISCH: Larry, did you
 17 second?
 18 DR. CANTER: Yes.
 19 MR. BREISCH: If there's no
 20 discussion, Myrna call the roll.
 21 MS. BRUCE: Dr. Canter.
 22 DR. CANTER: I.
 23 MS. BRUCE: Mr. Branecky.
 24 MR. BRANECKY: I.
 25 MS. BRUCE: Mr. Glass.



1 MR. GLASS: I.
 2 MS. BRUCE: Ms. Slagell.
 3 MS. SLAGELL: I.
 4 MS. BRUCE: Mr. Breisch.
 5 MR. BREISCH: I.
 6 MR. BREISCH: Okay. Next, election
 7 of offices. We need to elect a chairman,
 8 vice chairman, and that's it isn't it?
 9 MR. BYRUM: Uh-huh.
 10 DR. CANTER: I would like to place
 11 a nomination for Chairman of the Council,
 12 Mr. Breisch.
 13 MR. BREISCH: Can we do them
 14 separately, or should we do them together,
 15 chairman and vice chairman?
 16 (Council talking over each other.)
 17 MR. DOUGHTY: I would probably do
 18 them separately. If you only had one nomination
 19 it probably won't matter.
 20 MR. BRANECKY: I second that
 21 motion.
 22 MR. BREISCH: The motions been
 23 made, and seconded. Any other nominations, on
 24 the floor? Okay. How do we vote on that, call
 25 roll, or --

1 MR. GLASS: Yes.
 2 MS. BRUCE: Ms. Slagell.
 3 MS. SLAGELL: I.
 4 MS. BRUCE: Mr. Breisch.
 5 MR. BREISCH: Yes. All right.
 6 Item 6, is the continued hearing on Municipal
 7 Waste Combustion. And I'll turn this over to our
 8 Hearing Officer, Mr. Byrum.
 9 MR. BYRUM: Ladies and gentlemen,
 10 my name is Larry Byrum. I'm the director of the
 11 Air Quality Division, as such I will act as the
 12 personal officer for this hearing. This hearing
 13 is convened by the Air Quality Councilmen in
 14 compliance with the Oklahoma Administration
 15 Procedures Act, Title 40 of the code of Federal
 16 Regulations, Part 51, as well as the authority of
 17 Title 27A of the Oklahoma Statutes, Sections
 18 25101 and following.
 19 This hearing was advertised in the
 20 Oklahoma Register for purposes of receiving
 21 comments pertaining to proposed revisions to a
 22 new Part 3, Municipal Waste Combustors to our
 23 Subchapter 17. If you wish to make a statement,
 24 please complete the forms at the registration
 25 table and I will call upon you at the appropriate

1 MR. DOUGHTY: Yes, we would need to
 2 call roll.
 3 MR. BREISCH: Call roll, Myrna.
 4 MS. BRUCE: Dr. Canter.
 5 DR. CANTER: I.
 6 MS. BRUCE: Mr. Branecky.
 7 MR. BRANECKY: I.
 8 MS. BRUCE: Mr. Glass.
 9 MR. GLASS: I.
 10 MS. BRUCE: Ms. Slagell.
 11 MS. SLAGELL: I.
 12 MS. BRUCE: Mr. Breisch.
 13 MR. BREISCH: Sustained. Okay.
 14 Let's elect vice chairman.
 15 MR. BRANECKY: I'll nominate Dr.
 16 Canter as vice chairman.
 17 MR. SLAGELL: I second it.
 18 MR. BREISCH: Nomination been made
 19 and seconded. Any further nominations, or any
 20 further discussion? If not, Myrna call roll.
 21 MS. BRUCE: Dr. Canter.
 22 DR. CANTER: Sustained.
 23 MS. BRUCE: Mr. Branecky.
 24 MR. BRANECKY: I.
 25 MS. BRUCE: Mr. Glass.

1 time. At this time I would like to call on
 2 Dr. Joyce Sheedy to give the staff position on
 3 these proposed changes.
 4 DR. SHEEDY: Mr. Chairman, members
 5 of the Council, Ladies and Gentleman, my name is
 6 Joyce Sheedy, and I work in the Rules and
 7 Planning Unit of the Air Quality Division. In
 8 October 1996, the staff presented a draft
 9 modification to OAC 252:100-17 entitled
 10 "Incinerators".
 11 This proposed modification incorporated
 12 the EPA guidelines contained in 40 CFR 60,
 13 Subpart Cb for existing Municipal Waste
 14 Combustors at plants with an aggregate combustion
 15 capacity of 38.58 tons per day of municipal solid
 16 waste. The hearing for this proposed rule was
 17 continued to the December, 1996 Air Quality
 18 Council Meeting which was canceled. The notice
 19 for the February 1997 council meeting listed the
 20 proposed modification to Subchapter 17.
 21 However, on December 6, 1996 in first
 22 opinion, the U.S. Court of Appeals for the
 23 District of Columbia Circuit vacated the EPA'S
 24 1995 standards for existing municipal waste
 25 combustors contained in 40 CFR 60, Subpart C

1 their entirety and remanded to EPA without
2 reaching the additional challenges raised by
3 petitioners.

4 The Court held that EPA's use of
5 aggregate plant municipal solid waste capacity
6 rather than unit municipal solid waste capacity
7 in the 1995 standards to create categories of
8 municipal waste combustor units for MACT
9 purposes, violates the plain meaning of Section
10 129 of the Clean Air Act and exceeds the EPA's
11 statutory authority.

12 The modification proposed to our
13 Subchapter 17 at the October, 1996 meeting were a
14 direct result of the requirements of the Federal
15 Clean Air Act and mirrored the standards and
16 limits contained in 40 CFR 60 Subpart Cb.

17 Therefore, the staff recommends that the
18 modifications to Subchapter 17 be held in
19 abeyance until such time as the issue addressed
20 by the Court is resolved.

21
22 MR. BYRUM: Questions from the
23 Council for Dr. Sheedy?

24 MR. BREISCH: Do you expect these
25 to be resolved, or in one-way or the other hear

1 just wanted to state that we are in support of
2 the staff's recommendation that deferral of action
3 on this matter at this council level today occur,
4 and for the same reasons that she cited.

5 MR. BYRUM: Thank you. Questions
6 for Mr. Erwin?

7 (Council shakes heads.)

8 MR. BYRUM: Questions from the
9 audience for Mr. Erwin?

10 (Audience shakes heads.)

11 MR. BYRUM: Thank you, sir. Don
12 Shandy.

13 MR. SHANDY: Council members, my
14 name is Don Shandy. I'm an attorney with
15 McKinney, Stringer & Webster, here in Oklahoma
16 City. And I'm here on behalf of Homand Inc.,
17 which is a cement company, the largest cement
18 manufacturer in the United States with 13
19 facilities. And they also have a plant located
20 here in the state in Ada, Oklahoma.

21 Basically without belaboring the point,
22 we have reviewed on behalf of this particular
23 company, the Municipal Waste Combustion Rule over
24 the past year or so, and have had extensive
25 involvement with the Environmental Protection

1 from the Court or EPA concerning the actions to
2 be taken?

3 DR. SHEEDY: I'm sorry,
4 Mr. Breisch.

5 MR. BREISCH: But when do you
6 expect to hear something on this?

7 DR. SHEEDY: Well, I believe that
8 there might be some news by Friday, I think,
9 regarding what the Court is going to do. Now,
10 it's also -- they just acted on the first issue.
11 And if this issue was resolved, then according to
12 their opinion there are other issues that may
13 well be taken into account after that unless
14 they're addressed by EPA at the same time. So it
15 could be sometime before it's all resolved.

16 MR. BYRUM: Other questions from
17 the Council?

18 (No response.)

19 MR. BYRUM: Questions from the
20 audience of Dr. Sheedy?

21 (No response.)

22 MR. BYRUM: Thank you. Frank
23 Erwin.

24 MR. ERWIN: My name is Frank Erwin,
25 I'm with the City of Tulsa. And basically, I

1 Agency regarding applicability of the rule.

2 And one of the fundamental problems that
3 this particular industry sees with the rule that
4 EPA proposes, is that no one really is sure who,
5 and how broad it applies, and who it applies to.
6 So for that reason the Cement Recycling Coalition
7 joined as a party in a litigation in
8 Washington DC. And as has been discussed by
9 Dr. Sheedy previously, the Court in that
10 particular case has decided that the rule didn't
11 meet certain requirements and basically tossed
12 the rule out and remanded it for further action.

13 The issues of concern to CKRC were not
14 addressed in the litigation. And when EPA
15 appealed this case on February the 4th, even
16 though the Court may make a ruling the case will
17 still have to be heard by the Court to address
18 CKRC's issues.

19 For that reason Homand is in agreement
20 with the staff's recommendation that this rule
21 making not go forward, because quite honestly the
22 staff could spend a lot of time adopting and
23 preparing a rule. But the bottom line is the
24 rule could ultimately be tossed out, and it could
25 be a lot of wasted motion. So from a threshold

1 standpoint we would suggest that's reason enough
2 not go forward.

3 Again there's a big question regarding
4 the applicability of the rule, and some of these
5 issues need to be resolved with EPA. And as the
6 rules proposed here in Oklahoma, currently as I
7 understand it, there's only two facilities that
8 it applies to.

9 But Homand is concerned that it could be
10 broader, at least in EPA's mind and in the way
11 the State proceeds it. So those issues need to
12 be worked out. And, again we would encourage the
13 Council to forego any further action in
14 accordance with Ms. Sheedy's recommendation.

15 MR. BYRUM: Questions for
16 Mr. Shandy?

17 DR. CANTER: Yes. Don, the cement
18 kennel, that would potential come into play,
19 because these companies burn municipal waste for
20 energy supply. I don't know what the connection
21 is there.

22 MR. SHANDY: Dr. Canter, the
23 problem is, when you look at the rules -- first
24 of all kennels are enormous pieces of equipment,
25 so from the standpoint of capacities they easily

1 (response.)

2 MR. BREISCH: I believe we've got a
3 couple of alternates here. Number one, to just
4 revoke this hearing and readvertise it, or
5 continue it. Personally my feelings are, it
6 would be easier right now to continue this. And
7 I would entertain a motion to do that, if there's
8 no objection from our Council.

9 MR. DOUGHTY: I think that that
10 would be my recommendation because we could
11 continue indefinitely. I have no reason to
12 believe there's any time limit.

13 DR. CANTER: So if, for example,
14 something might come out as early as Friday of
15 this week, that would -- that might make us want
16 to have a continuance in our April meeting, then
17 this would let us do that. If we discontinue the
18 hearing now, then we can't have a hearing in
19 April because of the time we advertised it,
20 right?

21 MR. BYRUM: With the possible
22 exception of this advertising Friday for a
23 hearing.

24 DR. CANTER: Oh, that's right.

25 MR. BYRUM: Fridays our cutoff

1 meet or exceed the capacity requirements of the
2 rule. So you've got arguable applicability on
3 the capacity side.

4 The next question that you ask yourself
5 then is, what fuel supplies go into the kennel.
6 And to directly address your question, for
7 instance, there is a permit that Ada has right
8 now, they're operating under construction permit.
9 And it appears to me that arguably some of the
10 nonhazardous fuels that they could burn at that
11 facility would arguably fall under municipal
12 waste by definition. So there is some problems
13 related to definitions, and regulation, and how
14 those are interpreted.

15 DR. CANTER: Okay.

16 MR. BYRUM: Other questions for
17 Mr. Shandy in this case?

18 (Council shakes head.)

19 MR. BYRUM: Questions from the
20 audience?

21 (Audience shakes head.)

22 MR. BYRUM: Thank you. I have no
23 indications that anyone else wishes to speak on
24 this issue. Is there anyone else in the audience
25 that wishes to speak? Mr. Chairman.

1 date, after that we could not do that.

2 DR. CANTER: Okay.

3 MR. BRANECKY: Looking for a
4 motion.

5 MR. BREISCH: I'm looking for a
6 motion.

7 MR. BRANECKY: I motion that we
8 continue this hearing.

9 MS. SLAGELL: I second it.

10 MR. BREISCH: I have a motion, and
11 a second to continue the hearing. Any further
12 discussion, questions? If not, Myrna call the
13 roll.

14 MS. BRUCE: Dr. Canter.

15 DR. CANTER: I.

16 MS. BRUCE: Mr. Branecky.

17 MR. BRANECKY: I.

18 MS. BRUCE: Mr. Glass.

19 MR. GLASS: I.

20 MS. BRUCE: Ms. Slagell.

21 MS. SLAGELL: I.

22 MS. BRUCE: Mr. Breisch.

23 MR. BREISCH: Yes.

24 (Meeting/Hearing concluded)

25

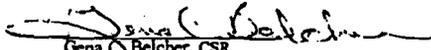
1 CERTIFICATE

2 STATE OF OKLAHOMA } ss:

3 COUNTY OF CLEVELAND)

4
5 I, GENA C. BELCHER, Certified Shorthand
6 Reporter for the State of Oklahoma, certify that
7 the Meeting/Hearing was taken by me in stenotype
8 and thereafter transcribed and is a true and
9 correct transcript of the testimony of the
10 witnesses; that the Meeting/Hearing was taken on
11 the 19th day of February, 1997, at 1:00 P.M., at
12 Lincoln Plaza Office Park, Burgundy Room,
13 Oklahoma City, Oklahoma; that I am not an
14 attorney for or a relative of any party, or
15 otherwise interested in this action.

16 Witness my hand and seal of office on
17 this the 3rd day of March, 1997.

18 
19 Gena C. Belcher, CSR

20 Gena C. Belcher
21 Oklahoma Certified Shorthand Reporter
22 Certificate No. 01391
23 Exp. Date: December 31, 1998
24
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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
PROPOSED REVISIONS OF OAC 252:100-17,
INCINERATORS

HELD ON DECEMBER 16, 1997

AT 2:30 P.M.

AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

ORIGINAL

MYERS REPORTING SERVICE
(405) 721-2882

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MEMBERS OF THE COUNCIL

- 1. MR. KILPATRICK - MEMBER
- 2. MS. SLAGELL - MEMBER
- 3. MR. FISHBACK - MEMBER
- 4. DR. CANTER - MEMBER
- 5. MS. MYERS - MEMBER
- 6. MR. BRANECKY - MEMBER
- 7. MR. BREISCH - CHAIRMAN
- 8. MR. DYKE - PROTOCOL OFFICER
- 9. MS. BRUCE - SECRETARY

PROCEEDINGS

1
2 MR. DYKE: Next item for hearing
3 this afternoon would be Item Number 6 on
4 the agenda. I'm David Dyke. I'm the
5 Interim Director of the Air Quality
6 Division. This hearing is convened by the
7 Air Quality Council in compliance with the
8 Oklahoma Administrative Procedures Act, in
9 Title 40 of the Code of Federal
10 Regulations, Part 51, as well as the
11 Authority of Titles 27A of the Oklahoma
12 Statutes, Sections 2-2-201 and 2-5-101
13 through 2-5-118.

14 The hearing was advertised in the
15 Oklahoma Register for the purpose of
16 receiving comments pertaining to the
17 Proposed Revisions of OAC 252:100-17,
18 Incinerators. If you wish to make a
19 statement, please complete the form at the
20 registration table, and you will be called
21 upon at the appropriate time. I will call
22 upon Michelle Martinez to give the staff's
23 position on the proposed changes at this
24 time. Ms. Martinez.

25 MS. MARTINEZ: Members of the

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Certified Shorthand Reporter

1 Council, ladies and gentlemen, my name is
2 Michelle Martinez and I work for the Air
3 Quality Division of the Rules and Planning
4 Unit. Today I have been asked to provide
5 to you an overview of the proposed
6 revisions to Subchapter 17, incinerators.
7 Due to written comments received from Ogden
8 Martin Systems of Tulsa, revisions have
9 been made to the December 3rd Draft
10 included in your Council packets.

11 The current draft is dated December
12 15th, and all revisions in response to the
13 written comments are indicated in extra
14 large bold type. Before we get into
15 specific revisions, please allow me to give
16 you some background on the rules.

17 The emission guidelines are
18 guidelines for states -- I'm sorry, let me
19 start over. On December 19, 1995 the EPA
20 published emission guidelines, a New Source
21 Performance Standards for municipal waste
22 combustors in the Federal Register at 40
23 CFR 60, Subparts Eb and Cb. The New Source
24 Performance Standards are emission
25 standards for new municipal waste

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1 combustors for which construction commenced
2 after September 20, 1994. The emission
3 guidelines are guidelines for states to
4 establish emission standards for existing
5 municipal waste combustors for which
6 construction commenced on or before
7 September 20, 1994. The guidelines, unlike
8 the New Source Performance Standards, do
9 not establish enforceable emission
10 standards directly, but require in our case
11 that the DEQ adopt rules and a state plan
12 to make these standards enforceable.

13 Following the promulgation, an
14 industry group petitioned the US Court of
15 Appeals on the basis that the 1995
16 Standards exceeded the EPA Statutory
17 Authority under the Clean Air Act. These
18 standards were based on the aggregate
19 combustion capacity of the plant rather on
20 the capacity of each incineration unit.
21 But the Court found that Section 129 of the
22 Act established two size categories under
23 the municipal waste combustors based on
24 unit rather than facility capacity. So in
25 December 6, 1996, the Court vacated in

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1 their entirety, the 1995 Guidelines and
2 Standards.

3 Later, on March 21, 1997, the Court
4 amended it's initial opinions leaving in
5 place the guidelines and standard for large
6 units other than cement kilns. The
7 guidelines for large units apply to
8 existing units with a capacity to combust
9 more than two hundred and fifty (250) tons
10 per day in municipal solid wastes.

11 And finally, on August 25, 1997, the
12 EPA published a revised final rule in the
13 Federal Register. Existing large units
14 that are subject to the guidelines must
15 meet emission limitations for the metals
16 cadmium, lead, mercury, particulate matter,
17 acid gases expressed as sulfur dioxide and
18 hydrogen chloride, dioxins and furans,
19 nitrogen oxides, carbon monoxides, and
20 visible emissions which are referred to as
21 opacity.

22 In addition, the Guidelines
23 contained certification and training
24 requirements for operations personnel, and
25 testing the monitoring requirements for

1 emissions. In order to enforce the
2 standards specified in the guidelines the
3 State must have an enforceable mechanism,
4 which in Oklahoma is the state rule. Staff
5 has drafted a proposed addition of Part 5,
6 municipal waste combustors and a new
7 Appendix K, to meet the federal
8 requirements.

9 The EPA developed the guidelines in
10 accordance with Section 111D and Section
11 129 of the Clean Air Act. Section 111D
12 requires the EPA to establish procedures
13 for submitting state plans for the
14 implementation of guidelines. Section 129
15 was added to specifically address solid
16 waste combustion. Subpart Cb differs from
17 other guidelines adopted in the past
18 because it addresses both Sections 111D and
19 129. Although 60.24F of Subpart B,
20 provides for the State to allow less
21 stringent standards on a case by case
22 basis, Section 129 requires that the state
23 plan be at least as protective as the
24 guidelines which overrides the State's case
25 by case flexibility.

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1 Oklahoma anticipates taking its
2 state, 111D plan for municipal waste
3 combustors to the Air Quality Council
4 meeting on February 18, 1998. If Oklahoma
5 doesn't submit an acceptable state plan
6 implementing the guidelines of which the
7 state rule is an intricate part, the EPA
8 will enforce a federal plan.

9 The proposed Part 5, mirrors the
10 federal guidelines and is no less and no
11 more stringent. Oklahoma's plan will
12 include a minimum of the following: A
13 demonstration of the State's legal
14 authority to be prepared by the DEQ legal
15 staff; an identification of the enforceabl
16 state mechanism which is the state rule;
17 an inventory of municipal waste combustion
18 units and their emissions; a compliance
19 schedule for retrofit foreclosures which
20 will be contained in a consent order; a
21 record of the public hearings on the state
22 plan; and finally a provision for annual
23 state progress reports to EPA.

24 Oklahoma has only one facility
25 subject to the guidelines, Ogden Martin

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1 Systems of Tulsa. According to the 1995
2 emission inventory, Ogden Martin has three
3 units with each unit combusting of
4 approximately three hundred and thirty-six
5 (336) tons per day of municipal solid
6 waste, and a permit limiting each unit to
7 three hundred and seventy-five (375) tons
8 per day. The City of Miami Municipal Waste
9 Combustors rated at thirty-six (36) tons
10 per day of municipal solid waste and, thus,
11 is not subject to the guidelines.

12 In addition to adding Part 5,
13 municipal waste combustors, staff is also
14 recommending revisions to the existing 17.
15 The redesignation and clarification of Part
16 1, general provisions, and Part 3,
17 incinerators, along with a simplification
18 of Appendices A and B was done to meet the
19 agency's rewrite de-wrong initiative. This
20 rule was presented to the Council on
21 October 15, 1996, and February 19, 1997.
22 Today's staff recommends the Council
23 approve these revisions, its proposed
24 revisions, as a permanent/emergency rule.

25 MR. DYKE: Questions of Ms.

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1 Martinez from the Council?

2 MR. BRANECKY: Where did the date
3 -- on page 5, August 22, 2002, where does
4 that come from?

5 MS. MARTINEZ: There are three
6 dates identical on page 5 and page 6. In
7 the December 3rd draft, that was in your
8 Council packet. I believe it had December
9 19, 2002, and it was changed to August 26,
10 2002. And that was a mistake on our part.
11 Basically, the reason of August 26, is when
12 they came out with the revisions, EPA came
13 out with their revisions to the federal
14 rule, they came out with supplemental
15 emission limits, and they have to have five
16 years from the promulgation date of those
17 changes which that -- they came out on the
18 25th of August of 1997.

19 MR. BRANECKY: Thank you.

20 MR. FISHBACK: In your
21 judgement, what is the latest date that
22 Oklahoma could enact these proposed rules
23 without a federal program being implemented
24 in their place? What is your opinion of
25 the latest date that they could be

1 approved?

2 MS. MARTINEZ: Well, the
3 schedule that we're looking at right now,
4 if you were to propose these as an
5 emergency/permanent rule or vote for these
6 to pass as those, we would like to see
7 these go into the January DEQ Board
8 Meeting, be passed by them, go into the
9 legislative session which would allow us to
10 put a permanent rule in the state plan. If
11 all of that happens in line with our
12 schedule, we're hoping that these revisions
13 will be effective sometime in March. So as
14 far as the latest date, Barbara, do you
15 have an answer for that?

16 MR. COTE: And if I could address
17 the hearing. My name is Mick Cote and I'm
18 with the Environmental Protection Agency,
19 in Dallas. I'm the Regional Coordinator
20 for 111D Plans to include the combustor
21 rule. And what I could do for you is
22 outline, to the best of my knowledge what
23 our schedule is for implementation of the
24 federal plan and see what kind of schedule
25 we have. Keep in mind, I have to be able

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1 to approve and publish that approval of a
2 state plan from Oklahoma prior to the
3 effective date of the final federal plan.
4 And as I mentioned during the briefing, and
5 why I'm mentioning it again now, there is a
6 proposed federal plan that's in the Office
7 of Management and Budget right now for the
8 federal combustor rule. That in my
9 estimation would be signed by the
10 Administrator and published probably the
11 end of January, beginning of February,
12 given the holiday season. And we will
13 probably give a 90 day comment period, and
14 then we will publish a subsequent final
15 action that will be effective 30 days after
16 publication.

17 So we're saying, let's say, February
18 1st for a publication of the proposal,
19 March, April, May, we're looking at the end
20 of July, probably, before the federal plan
21 is effective and in place. And what we
22 need to be able to do if you want to have
23 the state plan in place before the federal
24 plan is in place, I would need at least,
25 two months to be able to administratively

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1 and technically approve the package from
2 the State of Oklahoma. I need to have
3 something from the State of Oklahoma by --
4 safely by April.

5 MR. FISHBACK: In the absence of
6 the state approved plan, the federal plan
7 automatically takes the place -- takes
8 over.

9 MR. COTE: Yes.

10 MR. KILPATRICK: Am I correct in
11 stating that there is absolutely no
12 difference whether we approve this today or
13 whether we approve it on January the 9th,
14 since it has to be approved by DEQ and then
15 signed by the Governor to become official.

16 MR. COTE: That's correct.

17 MS. MARTINEZ: That's correct.

18 MR. COTE: I misspoke. I assume
19 he's talking to you.

20 MR. KILPATRICK: Yes.

21 MR. BRANECKY: The only danger I
22 would see, if for some reason we didn't end
23 up with a quorum on the 9th, and then we
24 would have to wait until February to act?
25 January has been known for snow storms and

1 things like that.

2 MR. FISHBACK: Mr. Doughty, can
3 Council Members be polled by telephone if
4 they're not physically present for a
5 council meeting?

6 MR. DOUGHTY: No.

7 MR. FISHBACK: Can't do that?

8 MR. DOUGHTY: No.

9 MR. FISHBACK: Okay.

10 MR. DOUGHTY: That is
11 specifically prohibited under the statute.
12 I might make one more comment. There is
13 also the issue of when the Governor signs
14 these things. I think the Governor has 45
15 days, so you may want to calculate that 45
16 days in there. Because he usually waits 44
17 days before he signs these things.

18 MR. DYKE: Is there any
19 additional questions of the Council of Ms.
20 Martinez?

21 DR. CANTER: I guess I had one
22 question. I'm not quite sure how to phrase
23 this, but of the changes that we were given
24 today, are there any of these that staff
25 would consider to be substantive changes in

1 the Subchapter 17?

2 MS. MARTINEZ: We don't consider
3 them substantive.

4 DR. CANTER: Okay.

5 MS. MYERS: They're more in line
6 with clarifying what the federal rule is
7 and the state rule.

8 MS. MARTINEZ: Intended for the
9 federal rule, that type of thing.

10 MR. BRANECKY: And EPA is happy
11 with these changes; is that true?

12 MR. COTE: I'm sorry.

13 MR. BRANECKY: EPA is satisfied
14 with the changes of Subpart 17, and don't
15 have any problems with the changes?

16 MR. COTE: Yes. EPA is satisfied
17 with the changes that were made. In my
18 opinion, they're clarifications.

19 MR. BRANECKY: Would be the same
20 Ogden Martin?

21 MS. MCGILBRA: Yes.

22 MR. BRANECKY: Same thing with
23 the City of Tulsa?

24 MR. COTE: Yes.

25 MR. DYKE: We've got notices of

1 comments.

2 MR. BRANECKY: Okay.

3 MR. FISHBACK: And as far as all
4 of those parties are concerned, no
5 additional time is needed by you to review
6 these changes. I mean, that's basically
7 saying the same thing, you're satisfied
8 with it as it stands?

9 MR. COTE: As it is written
10 today, I'm satisfied.

11 MR. FISHBACK: So the
12 continuance of this issue to January 9th
13 would be to entertain additional comment
14 from the public.

15 MR. DYKE: Right.

16 Is there any additional questions of
17 Ms. Martinez from the Council?

18 Is there any questions of Ms.
19 Martinez from the audience?

20 MR. MCWHIRTER: My name is Doyle
21 McWhirter. Let me find the section. In
22 17-15, in exemptions, paragraph H, Item
23 Number 2, it says agency exempts facilities
24 that burn yard waste. Item Number 1,
25 related to opacity limitations, and Item

1 Number 2 says the testing procedures under
2 section 252:100-17-25. What would
3 necessitate the testing procedures to be
4 required on air curtain incinerators when I
5 don't believe there is any standards of
6 testing emissions limitation, is there?
7 And also, how would you test it unless it's
8 specifically constructed to where it has a
9 specific stack; which I've never seen one
10 that does. You can't meet the -- the
11 testing requirements that I know of.

12 MS. HOFFMAN: If I could respond
13 to that. I'm Barbara Hoffman, staff
14 attorney. Frankly, we've just copied what
15 was in the EPA Emission Guidelines and that
16 was in the guidelines. So, technically, I
17 can't answer your question. But
18 procedurally, I can tell you that this was
19 in here because it was in the EPA Rules.

20 MR. MCWHIRTER: My comment then
21 would be that we need to know why that
22 we're putting that in to this regulation?
23 Because it makes it difficult for the
24 facility, I think.

25 MR. COTE: If I could carry that

1 one step further. Mick Cote, with the EPA,
2 and she is correct, that that's there
3 because that's in the federal regulation.
4 And I can't answer your question right now.
5 I can tell you what they've done is they
6 have incorporated the federal requirements
7 because there is no flexibility allowed
8 under this section of the Clean Air Act
9 that this authority was given to write this
10 rule. What I can do because this was
11 submitted to the hearing, I can provide a
12 comment at a later date to the state and
13 they can pass it along to you that that's
14 an appropriate answer for your question.
15 Or if this is continued to a later date, I
16 can supply it to the Council.

17 MR. MCWHIRTER: From an
18 application standpoint, it makes it
19 difficult, whenever you've got a -- at
20 least an indication that a test procedure
21 can be employed. Now what you're judging
22 that against, the test against, I don't see
23 this. So you've got an answer but you
24 didn't have a question to it.

25 I am just saying it makes it

1 difficult to apply the regulation whenever
2 you put something in that you can require a
3 testing procedure and you don't have anyone
4 to use it.

5 MR. DYKE: Additional questions
6 of Ms. Martinez.

7 MR. FISHBACK: Excuse me, Doyle,
8 could you give me the citation again? 17-
9 15?

10 MR. MCWHIRTER: Yes, 15,
11 paragraph H, item 2.

12 MR. FISHBACK: Okay.

13 MR. MCWHIRTER: Procedure
14 exempted but you could be required to meet
15 the testing procedures, and under 17-25 --
16 70.25, references the ESP.

17 MR. FISHBACK: I've got it.
18 Thank you.

19 MR. DYKE: Additional questions?

20 MS. BARTON: Nadine Barton with
21 CASE, Citizens Action for a Safe
22 Environment. On page 3 of the draft,
23 252:100-17-7, test methods, opacity.

24 "Opacity shall be measured utilizing
25 Method 9 - Visual Determination of the

1 Opacity of Emissions from Stationary
2 Sources."

3 Can you give me some technical
4 background as to what that means? Does
5 somebody just stand there and say, yeah,
6 they're not emitting, uh-huh. Is that what
7 it does?

8 MR. BRANECKY: That's the
9 accepted method.

10 MR. DYKE: One at a time, please.

11 MS. BARTON: Can somebody please
12 answer for the record for that, please?

13 MR. BRANECKY: They have to be
14 certified by DEQ as a visibility emissions
15 reader. They recertify every six months
16 and they have to pass a test. They just
17 can't go out and read it, they have to be a
18 certified reader.

19 MS. BARTON: Do we have someone
20 that is now doing that, a staff member, who
21 is certified to do that right now?

22 MR. DYKE: Approximately 50
23 percent of the staff is certified.

24 MS. BARTON: Seems like a real
25 good thing. I hope that they have good

1 eyesight.

2 The other thing is the particulate
3 matter. The reference that is made,
4 incorporated by reference here as it
5 existed July 1st. Is that the new EPA
6 particulate matter that we have all been
7 fretting over?

8 MR. COTE: What page are you
9 looking at?

10 MS. BARTON: I'm looking at the
11 same paragraph on page 3, of the draft.
12 252:100-17-7, test methods, (b) where is
13 talks about the particulate matter.

14 "Particulate matter shall be
15 measured utilizing the appropriate DEQ-
16 approved Method 5 found in the Code of the
17 Federal Regulations at 40 CFR Part 60,
18 Appendix A. This method is hereby
19 incorporated by reference as it exists on
20 July 1, 1997."

21 Does that take into consideration
22 the new particulate matter standards that
23 there has been such a controversy over that
24 the EPA has adopted and we're trying to
25 have set aside?

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1 MR. COTE: No. That's not as the
2 existing PM --.

3 MS. BARTON: So the new
4 standards, would we need to incorporate
5 that in these regulations or we're going to
6 wait for congress to sit them aside?

7 DR. CANTER: We're talking about
8 two different things here. You're talking
9 about the ambient Air Quality standards.
10 But what this refers to is a method of
11 measurement.

12 MS. BARTON: All right.

13 DR. CANTER: It's a standard
14 protocol for measurement. It doesn't go
15 into it, you know, the ambient Air Quality
16 Standard, per se. It's the protocol for
17 the measurement.

18 MS. BARTON: Okay.

19 MR. COTE: Yeah. I misspoke
20 there, and he is correct.

21 MS. BARTON: Will we have to look
22 at that or is that two different things, we
23 don't even have to worry about this?
24 Doesn't matter?

25 MR. COTE: No.

1 MS. BARTON: Never will matter.

2 MR. COTE: Depends on the area
3 not on the source. If you have an air
4 quality problem in an area, then, at some
5 point in the future, a particulate matter
6 standard may come into play. But not on a
7 source by source basis just because it's
8 written --

9 MS. BARTON: If we went into
10 nonattainment, would we have to re-look at
11 that?

12 MR. COTE: Perhaps.

13 MR. DYKE: Additional questions
14 of Ms. Martinez? Seeing no more further
15 questions I have notices of oral comment,
16 and I guess we will start with Bonnie
17 McGilbra.

18 MS. MCGILBRA: I'm Bonnie
19 McGilbra from Ogden Martin Systems of
20 Tulsa. And I really hate to tell you this
21 but I have one more comment to add to these
22 regulations. And that is under 252:100-17-
23 19, it's on page 6. We would like to add a
24 paragraph b, and this is taken from 40 CFR
25 60.38b, paragraph b, and it's almost word

1 for word from that paragraph. And what it
2 says is -- what we're proposing is large
3 municipal waste combustor units which
4 achieve a dioxin and furan emission level
5 less than or equal to fifteen (15)
6 nanograms per dry standard cubic meter
7 total mass, corrected to seven (7) percent
8 oxygen may elect the alternative
9 performance testing schedule for dioxins
10 and furans as specified. And they -- it's
11 specified in 40, 60.58G and those
12 regulations are already adopted there.
13 It's just this one paragraph that's not.
14 So we're proposing that that was adopted,
15 also.

16 MS. BARTON: That's it?

17 MS. MCGILBRA: That's it.

18 MR. DYKE: Okay. I have a notice
19 here from Frank Erwin.

20 MR. ERWIN: My name is Frank
21 Erwin, I'm with the City of Tulsa. I'm
22 here representing the City of Tulsa and the
23 Tulsa Authority for the Recovery of Energy
24 which has an agreement with Ogden Martin
25 Systems of Tulsa for municipal waste

1 disposal services at a municipal combustor
2 facility. We've reviewed the proposed
3 rule, and outside of the continuing
4 concern, or a continuing concern about
5 unfunded mandates, we do not oppose
6 adoption of this rule. This position is
7 taken given the understanding that the
8 state rule is to implement the EPA
9 municipal waste combustor regulations and
10 the state rule imposes no requirements for
11 emissions limitations more stringent than
12 the EPA municipal waste combustor
13 regulations.

14 It is believed that it would be in
15 the best interest of the City of Tulsa to
16 have the Oklahoma State Department of
17 Environmental Quality implement the
18 regulations. I do appreciate the
19 assistance and the cooperation that we've
20 had from the DEQ, from the EPA and from the
21 Council in the process we have been through
22 developing these rules. Thank you, very
23 much.

24 MR. DYKE: Nadine?

25 MS. BARTON: My name is a Nadine

1 Barton. I'm with CASE, Citizens Action for
2 a Safe Environment. And I would like to
3 give public comment to Chapter 100,
4 Subchapter 17, incinerators. And I would
5 like to respectfully ask that the Council
6 defer action until the January 9th meeting
7 to give ample time for all interested
8 public citizens to give public comment
9 concerning this very important provision in
10 this Subchapter. I find it amazing and not
11 disrespectful that Ogden Martin is using
12 time extortion to have these
13 recommendations that they're recommending
14 placed before the Council for such rapid
15 action. And it's my understanding, and I
16 will stand corrected, that the Council
17 Members only received these today. I will
18 note for the public record that Ogden, the
19 date of their letter which makes these
20 recommendations for this rule, is dated
21 December the 10th. It was received on
22 December the 11th. That is less than a
23 week from today.

24 As today is the 16th, Monday was the
25 15th, we had two days which were the

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1 weekend, the 14th and 13th, the 12th was
2 last Friday, so the DEQ received this last
3 Thursday. And a comment was made earlier
4 by the Ogden representative that there was
5 a time imperative. If that was the case,
6 then these recommendations should have been
7 made well in advance and the public and the
8 Council be given ample opportunity to look
9 at these very important recommendations so
10 that we can make comment. I, as a citizen,
11 am a slow learner and cannot sit down and
12 go through every recommendation step by
13 step, to make sure that the citizens are
14 well represented.

15 I, thank you, for the opportunity to
16 make this recommendation and I respectfully
17 plea that you do defer action until January
18 the 9th as you have with other recommended
19 rules, as that would still give us time to
20 present whatever the outcome is on these
21 actions at the Board meeting on January the
22 17th. Respectfully, thank you, Nadine
23 Barton.

24 MR. DYKE: Mick, do you have
25 anything else to say on this matter?

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1 MR. COTE: No, sir. Thank you.

2 MR. DYKE: Is there anyone else
3 wishing to speak on this matter?

4 MS. MCGILBRA: Can I comment on
5 her last statement?

6 MR. DYKE: Please.

7 MS. MCGILBRA: I'm Bonnie
8 McGilbra, from Ogden Martin Systems of
9 Tulsa. And the published comment period
10 for those regulations was December 10th and
11 they were faxed to the staff by December
12 10th and then sent to them by December
13 11th. So they were there on time within
14 the -- within reason.

15 MR. DYKE: That's our
16 understanding, too, that is correct.

17 MR. BRANECKY: They were
18 received on the 10th?

19 MS. MCGILBRA: They were
20 received on the 10th.

21 MR. BRANECKY: And the comment
22 period closed on the 10th. Okay.

23 MR. DYKE: Anyone else wishing to
24 speak on this matter?

25 DR. CANTER: Could I -- I would

1 like to have that as part of the record.
2 Mr. Cote, from EPA, has indicated that he
3 has seen these revisions and I'm presuming
4 the ones from today, as well. And I would
5 like for that to be a part of this record
6 as opposed to -- my concern is is that
7 you're indicating that you have seen these
8 and they're approvable by EPA and I guess,
9 I'm a little concerned that we rush to
10 judgement here and then turn around three
11 months from now and EPA has thirty-eight
12 (38) comments on this document. So I would
13 just appreciate if you would state into the
14 record here what you said earlier.

15 MR. COTE: I sure will. I think
16 I've already done it once, but I'll do it
17 again.

18 DR. CANTER: Well, okay. Has he
19 already done that once? I heard you this
20 morning but I didn't hear you this
21 afternoon.

22 MR. COTE: My name is Mick Cote.
23 I'm with the Environmental Protection
24 Agency in Dallas. I'd like to state for
25 the record that the rule, as it's written

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1 now is -- appears approvable to me. I
2 don't foresee any problems based on what
3 I've seen written today and the comments
4 that have been shown to me today.

5 MR. BRANECKY: One suggestion
6 that Ogden Martin made in a formal
7 presentation; is that acceptable? Did you
8 all understand, the DEQ and EPA, understand
9 where Ogden Martin is coming from on that
10 comment?

11 MR. COTE: Mick Cote. I see
12 where they're coming from in the
13 regulation. I'm not prepared to say that I
14 agree with that at this point in time.

15 MR. FISHBACK: I'd like to
16 explore that point a little bit further
17 with the Ogden representative. If I
18 understand you correctly, the standard is
19 sixty (60) nanograms, with an ESP of thirty
20 (30) nanograms without an ESP, and
21 basically you're saying, if you're at
22 fifteen (15) nanograms, well below either
23 of those standards, you want to invoke this
24 option for alternate compliance
25 demonstration which is test one, and

1 assume it's similar to the others; is that
2 correct? If you're fifty (50) percent
3 below the standards, you want some
4 flexibility?

5 MS. MCGILBRA: Yes, that's
6 basically correct, yeah. And that doesn't
7 say that is the way we're going to do it
8 but that's in the EPA regulations and so
9 therefore, we would like to have the state
10 regulations, in case that's the way it
11 comes up that we want to test the plant.

12 DR. CANTER: Are those same
13 levels sixty (60), thirty (30) and fifteen
14 (15), is that all in the CFR?

15 MS. MCGILBRA: Yes.

16 DR. CANTER: If you don't mind,
17 could you indicate what section of CFR
18 that's in? We've got copies here.

19 MS. MCGILBRA: 60.38b, paragraph
20 b. I have a copy here I can show you.

21 DR. CANTER: I think we've got it
22 here.

23 MR. DYKE: Barbara.

24 MS. HOFFMAN: If I could just
25 also state for the record. I'd like to

1 state something, please. I'm Barbara
2 Hoffman, DEQ staff attorney. And Ogden
3 Martin did run this change by us over
4 lunch. And staff has no objection to this
5 change. It is in the EPA rule, and we have
6 no objection to it.

7 MR. FISHBACK: Let's make sure
8 that we recognize that every member of the
9 public has the right to do exactly what
10 they did in this forum. Anybody can bring
11 proposed changes to a rule in this form.
12 That's what this forum is for. I object to
13 the implication that somehow that's not
14 appropriate, because that's exactly what a
15 public hearing is suppose to do. And so
16 I'd like to make sure that we allow the
17 public, no matter which side of the issue
18 they are on, the opportunity to comment in
19 this public hearing, because that's what
20 this is for.

21 MR. DYKE: Anything else on this
22 matter at this time?

23 MR. BREISCH: Okay. The Council
24 can take action at this time.

25 MR. KILPATRICK: I'd like to move

1 that we continue this hearing until January
2 the 9th, at 1:00 P.M., in the Burgundy
3 Room, Oklahoma City.

4 MS. SLAGELL: I'll second it.

5 MR. BREISCH: A motion has been
6 made and seconded that we continue this
7 hearing until the proposed or the, I guess,
8 designated January 9th hearing -- or date.

9 Any further comments from the
10 Council?

11 MR. FISHBACK: As Mr. Branecky
12 said earlier, what is our fall-back
13 position if we do not have a quorum on
14 January 9th?

15 MR. BREISCH: We can go ahead and
16 pass this on an emergency basis at our
17 regular meeting in February. Pass it on to
18 EPA and hope they --

19 MS. MYERS: I just want to make
20 sure that we get it processed quickly and
21 not that the State has the jurisdiction.

22 MR. BREISCH: Well, Sharon, I
23 don't know whether anybody wants to make a
24 comment on this but I think I've been told
25 that the probability -- we're pretty well

1 assured that EPA would take an emergency
2 rule and let us operate under that. And if
3 they care to comment on this, then fine.

4 MR. COTE: Mick Cote, again. And
5 I believe we, in a previous -- I don't
6 think it was an Air Quality Council
7 Meeting, but in previous discussions, this
8 issue has come up, phone conversations as
9 well, and Mr. Dyke, perhaps you can correct
10 me or verify this, that we have accepted
11 emergency rules in rule making in the past.
12 Perhaps --

13 MR. DYKE: Along those lines.

14 MR. COTE: Mobile Source
15 Programs, for instance.

16 MR. DYKE: Yes, you have.

17 MR. COTE: And it's our position
18 at this meeting, at this hearing that we
19 would accept the emergency rule as part of
20 the state plan. So, yes, we do accept it.

21 MR. BREISCH: And that's a fall-
22 back position.

23 Any further comment from the
24 Council?

25 MR. FISHBACK: Does the

1 emergency rule concept satisfy all of the
2 parties represented here? I see some heads
3 shaking. Can you share with us why not?

4 MS. COLEMAN: Nancy Coleman,
5 representing Ogden Martin. We feel that it
6 potentially puts the state plan at risk and
7 that it puts Ogden in a very risky position
8 as to how to proceed because of the
9 significant retrofit that has to take
10 place. They need to be proceeding on a
11 compliance schedule. They have to enter
12 into a compliance agreement with the state
13 in January, that puts in place a compliance
14 schedule and they're uncomfortable doing
15 that under an emergency rule.

16 MR. BRANECKY: I would hope that
17 we would pass this today. I think all of
18 the parties involved are satisfied. In
19 between other discussions, I've had a
20 chance to read through here and I'm ready
21 to -- we can pass it.

22 MR. BREISCH: We've got a motion
23 to continue it right now. So I guess we
24 need to vote on that. If that fails we can
25 make another motion. Any further comment?

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1 MR. FISHBACK: I need to explore
2 the emergency rule concept, again. From a
3 legal standpoint, EPA said it's as
4 acceptable as a permanent rule. From a
5 legal standpoint, Barbara, do you think it
6 creates a risk for Ogden Martin?

7 MS. HOFFMAN: Well, it creates a
8 risk in the sense that if you then fail to
9 pass the permanent rule or the legislature
10 fails to approve it later, the permanent
11 rule, then we have an emergency rule that
12 will die next year and nothing to take its
13 place. And so in that sense, we will then
14 have a federal rule come into play.

15 MR. FISHBACK: So it's not the
16 use of the emergency rule in the interim,
17 it's the possibility that the permanent
18 rule would not be passed at the next
19 legislative session?

20 MS. HOFFMAN: Right.

21 MR. DOUGHTY: I might one
22 comment, also. This is Dennis Doughty.
23 Sometimes, even though you may make the
24 assumption that an emergency rule and a
25 permanent rule is going to be the same,

1 they don't always end up that way. And
2 I've seen it happen where we've passed an
3 emergency rule and then we have a permanent
4 rule that differs significantly from the
5 emergency rule. I'm not saying that would
6 happen here, but that is a possibility.

7 MR. BREISCH: Gary, hearing what
8 you have heard, do you still want to stand
9 with your motion?

10 MR. KILPATRICK: It's been made
11 and seconded. I'll stand on it.

12 MR. BREISCH: Any further
13 comments or questions from the Council?
14 All right. We have a motion and a second
15 to continue this hearing until January 9th
16 at a special meeting.

17 Myrna, call the roll.

18 MS. BRUCE: Mr. Kilpatrick.

19 MR. KILPATRICK: Aye.

20 MS. BRUCE: Ms. Slagell.

21 MS. SLAGELL: Aye.

22 MS. BRUCE: Mr. Fishback.

23 MR. FISHBACK: No.

24 MS. BRUCE: Dr. Canter.

25 DR. CANTER: No.

1 MS. BRUCE: Ms. Myers.

2 MS. MYERS: No.

3 MS. BRUCE: Mr. Branecky.

4 MR. BRANECKY: No.

5 MS. BRUCE: Mr. Breisch.

6 MR. BREISCH: No.

7 Okay. That motion being -- being
8 that that motion failed, do I hear another
9 motion?

10 MR. BRANECKY: I would like to
11 move that we accept the Subchapter 17 as
12 presented to us in the December 15th draft,
13 in addition with the comment that Ogden
14 Martin made this afternoon.

15 MS. MYERS: I'll second it.

16 MR. BREISCH: We've got a motion
17 and a second to adopt this rule as amended.
18 Any questions or comments from the Council?

19 MR. FISHBACK: Dr. Canter, did
20 you find 40 CFR 60.38b?

21 DR. CANTER: Yes, I did.

22 MR. FISHBACK: Where is that?

23 DR. CANTER: Just a minute, I've
24 lost it. Hang on a second.

25 MR. BREISCH: Again, any

1 questions from the Council or comments from
2 the Council?

3 MR. FISHBACK: Your motion, Mr.
4 Branecky, was to amend that section 17-19
5 by adding that letter b as a proposed --

6 MR. BRANECKY: Yes.

7 MR. FISHBACK: Okay. Which is
8 identical to the CFR and then what's the
9 citation, Sharon?

10 MS. MYERS: 60.38b of Part b,
11 under that.

12 MR. BREISCH: All right. Myrna,
13 call the roll.

14 MS. BRUCE: Mr. Kilpatrick.

15 MR. KILPATRICK: No.

16 MS. BRUCE: Ms. Slagell.

17 MS. SLAGELL: No.

18 MS. BRUCE: Mr. Fishback.

19 MR. FISHBACK: Aye.

20 MS. BRUCE: Dr. Canter.

21 DR. CANTER: Aye.

22 MS. BRUCE: Ms. Myers.

23 MS. MYERS: Aye.

24 MS. BRUCE: Mr. Branecky.

25 MR. BRANECKY: Aye.

1 MS. BRUCE: Mr. Breisch.

2 MR. BREISCH: Aye.

3 MS. BARTON: I would like, as a
4 member of the public, to make an additional
5 comment on the vote. My name is Nadine
6 Barton, with CASE, Citizens Action for a
7 Safe Environment. I would like the record
8 to reflect that due to the vote and the
9 seriousness of what the vote reflects, that
10 it appears that Ogden Martin has completed
11 their negotiations with the City of Tulsa
12 to go ahead and retrofit. And I feel that
13 it is sad that the general public does not
14 have an opportunity to look at these rules
15 and to scrutinize them a little bit further
16 than to have them out into the public view.
17 I appreciate the efforts of the Council,
18 and it's not disrespectful, the comments.
19 But I do feel that because of the
20 seriousness of what it means to all of us
21 in Tulsa that the remarks are appropriate.
22 And I find it unfortunate that industry can
23 come down to the wire and -- although I
24 realize that they can do this, just to ask
25 for whatever they want and basically they

1 get it.

2 MR. DYKE: Thank you.

3 (PROCEEDINGS CONCLUDED)

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Christy A. Myers
Certified Shorthand Reporter

C E R T I F I C A T E

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2 STATE OF OKLAHOMA)
3 COUNTY OF OKLAHOMA) ss:

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5 I, CHRISTY A. MYERS, Certified
6 Shorthand Reporter in and for the State of
7 Oklahoma, do hereby certify that the above-
8 proceedings, is the truth, the whole truth,
9 and nothing but the truth, in the
10 proceedings aforesaid; that the foregoing
11 proceedings was taken by me in shorthand
12 and thereafter transcribed under my
13 direction; that said proceedings was taken
14 on the 16th day of December, 1997 at
15 Oklahoma City, Oklahoma; and that I am
16 neither attorney for nor relative of any of
17 said parties, nor otherwise interested in
18 said proceedings.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand and official seal on this, the
21 5th day of January, 1998.

22
23 
CHRISTY A. MYERS, C.S.R.
24 Certificate No. 00310

25
Christy Myers
Oklahoma Certified Shorthand Reporter
Certificate No. 00310
Exp. Date: December 31, 1998

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

~~ORIGINAL~~ COPY

TRANSCRIPT OF PROCEEDINGS ON
RULE HEARING OAC 252:100-17, INCINERATORS
HELD ON APRIL 19, 2000
AT 9:00 A.M.
AT THE GREAT PLAINS TECHNOLOGY CENTER
IN LAWTON, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, C.S.R.

COUNCIL MEMBERS

1
2 David Branecky, Chairman
3 Sharon Myers, Vice-Chair
4 Rick Treeman, Member
5 Joel Wilson, Member
6 Fred Grosz, Member
7 Gary Kilpatrick, Member
8 Leo Fallon, Member
9 Bill Breisch, Member
10 Eddie Terrill, Director
11 David Dyke, Protocol Officer
12 Myrna Bruce, Secretary
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PROCEEDINGS

1
2 MR. DYKE: The next item on the
3 agenda is Item 4D, OAC 252:100-17,
4 Incinerators. I'll call on staff member,
5 Cheryl Bradley.

6 MS. BRADLEY: Good morning Mr.
7 Chairman, Members of the Council, ladies
8 and gentlemen. Staff is proposing
9 modifications to OAC 252:100-17, Part 3,
10 Incinerators. The rule changes will allow
11 the Air Quality Division to issue permits
12 for the construction and operation of
13 incinerators that meet all applicable
14 requirements except multiple chamber
15 design.

16 Section 2 of the part will be
17 amended to remove the references to an
18 effective date as prescribed by the
19 Administrative Rules on Rulemaking, OAC
20 655:10-5-18.

21 OAC 252:100-17-5(3) will be deleted
22 and its provisions modified and moved to a
23 new Section 5.1.

24 The new Section 5.1 will be added to
25 authorize the Division Director to approve

1 the construction and operation of
2 incinerators that do not meet the design
3 requirements specified in 252:100-17-5 if
4 those incinerators can meet all other
5 applicable requirements.

6 Notice for today's hearing was
7 published in the Oklahoma Register on March
8 15th, 2000. This is the first time the
9 Council will consider these amendments.

10 Staff received on April 17th a
11 letter from EPA Region 6, Air Planning
12 Section, deferring responsibility for their
13 agency's comments on the proposed changes
14 to their Permit Section. I would like to
15 enter this letter into the record. No
16 comments have been received, however, from
17 the Permit Section.

18 Staff suggests that the Council
19 recommend the proposed rules to the
20 Environmental Quality Board for emergency
21 and permanent adoption.

22 MR. DYKE: Questions from the
23 Council?

24 MR. WILSON: Why wouldn't we have
25 NESHAPS in the applicability section as

1 well as NSPS? Is there any reason why
2 NESHAPS is omitted from that?

3 MS. BRADLEY: Currently, we have
4 no NESHAPS that apply to incinerators.
5 There are NSPS standards that have been
6 adopted previously, but they are Part 60
7 Standards, not Part 63 Standards. The
8 methodology for promulgating those
9 standards follows the MACT protocol. So
10 the content of the standards is very
11 similar to the NESHAP. However, they are
12 located in another -- under the New Source
13 Performance Standards as opposed to
14 NESHAPS. EPA has indicated they will
15 continue to promulgate standards under the
16 129 Provision of the Clean Air Act
17 Amendments and those standards will also be
18 promulgated as Part 60 Standards.

19 MR. DYKE: Questions from the
20 public of Ms. Bradley?

21 MR. BRANECKY: Identify
22 yourself, Frank.

23 MR. CONDON: Frank Condon,
24 Environmental Quality Board.

25 MS. BRADLEY: Could you repeat

1 your question, Mr. Condon?

2 MR. CONDON: Define Director.

3 MS. BRADLEY: Director is
4 Division Director and within the Oklahoma
5 Clean Air Act, a reference to specific
6 titles to be used in reference to the
7 program and they reference the Executive
8 Director as such Executive Director. But
9 Division Director is referred to only as
10 Director. We have adopted those
11 definitions within our Subchapter 1 of
12 Chapter 100, the Air Pollution Regulations.

13 MR. CONDON: Doesn't director
14 have authority to have an alternate
15 approval under the statutes?

16 MS. BRADLEY: I will defer to our
17 counsel.

18 MS. HOFFMAN: I would think that
19 if this rule grants that authority, then he
20 does. If it doesn't, then you don't.

21 MR. CONDON: In the statutes, I
22 believe, say the Executive Director has the
23 authority to delegate, but I'm going by
24 memory and I'm not an attorney. It's not a
25 regulation, I think it's a statute.

1 MS. BRADLEY: Mr. Condon, I would
2 add this may have a direct relevance -- may
3 not have a completely direct relevance to
4 the question, however, we are attempting to
5 remedy a problem that was created in the
6 recodification of the rule. And with the
7 rules on rulemaking, the individual
8 requirements listed here, we have the three
9 previously, had to be linked with an and
10 statement. Legal counsel researched the
11 hearing records and determined it was the
12 intent of the Council that the -- I guess
13 incinerators all had a design that didn't
14 meet the -- that were not multiple chambers
15 and did not have a secondary burner, could
16 still be considered and approved for
17 operation. The previous rule did not
18 stipulate who had that approval authority,
19 which still doesn't address your direct
20 question but it was the intent of the
21 Council upon passage early on in passing
22 Subchapter 17, that we hope to consider
23 those incinerators.

24 MR. DYKE: Cheryl, Barbara, does
25 this change the protocol of who signs what

1 type of permits under our uniform
2 permitting process at the DEQ? Does this
3 rule modify any of our current processes as
4 to who signs -- who is the final signature
5 on our permits?

6 MS. HOFFMAN: No.

7 MR. DYKE: So that stays in
8 effect as it is today?

9 MS. MYERS: Would they not still
10 have to go through the permitting process?
11 This is an approval for a design.

12 MR. DYKE: It would, yes.

13 MS. MYERS: So that would be a
14 separate issue on the permitting itself,
15 would it not?

16 MR. DYKE: That's my point. The
17 permitting process and the ultimate
18 authority on the permitting process stays
19 the same. So this would not change who
20 signs the permits, I guess on these types
21 of things.

22 MR. WILSON: There has got to be
23 a reason for this thing coming before the
24 Council. What is the purpose of doing this
25 now?

1 MS. BRADLEY: We have some
2 incinerator designs that we would like to
3 approve. Specifically those used in
4 conjunction with oil and gas production
5 sites. Those particular incinerators have
6 a single chamber. We do restrict the type
7 of waste that may be burned in those
8 incinerators, excluding plastics, which can
9 be a source of dioxines and they just work
10 very efficiently and are much better at
11 dealing with or reducing the volume and
12 eliminating the problem with the waste.
13 Oily rags are one of the main problems at
14 these sites, as well as filters, paper
15 filters, and we would like to continue
16 approving these type of -- or would like to
17 be able to approve and issue permits for
18 these facility or for these units.

19 DR. SHEEDY: I would like to
20 support what Cheryl said. One time, I do
21 know that the rule was written in such a
22 way when I was writing revisions in earlier
23 days, that we were allowed to make
24 exceptions for a single chamber of
25 incinerator, if they could demonstrate that

1 they could use the same standards of
2 pollution control as a multiple chamber.
3 That used to be in the rule. I don't know
4 when that disappeared.

5 MS. BRADLEY: I think the changes
6 resulted when we did some streamlining of
7 the rule and in the recodification. Also,
8 the effect of rulemaking and interpretation
9 by the Office of Administrative Rules,
10 although our rule may not have changed, the
11 manner in which it can be interpreted at a
12 later date when we had a fine-line way of
13 linking those individual provisions, may
14 have effected the interpretation of the
15 rule. And I think that could be what has
16 happened here. We didn't add an, "or"
17 statement. The first two conditions would
18 have been linked as an, "and" statement and
19 the third one in the series should have
20 been an, "or" condition.

21 MR. DYKE: We have a comment
22 from the back row.

23 MR. ^{Blachley}~~BLACHLEY~~: I'm Tom Blachley,
24 I work for Reliant Energy. I just want to
25 clarify this. We have incinerators that

1 you described as ash (inaudible) generate a
2 lot of oily rags and so forth, at any point
3 we want to keep those under control and we
4 are permitted for that facility. What I'm
5 hearing is, they are single chamber units,
6 would allow those to be continued, which I
7 personally think is a good idea to fill up
8 our landfills with a lot of oily waste.

9 MR. WILSON: Those, Tom, are not
10 subject to NSPS because there is no NSPS
11 that governs them or --

12 MR. ^{Banckham} ~~BLANCHLEY~~: That's a good
13 question.

14 MS. BRADLEY: Currently, these
15 particular units have not been addressed as
16 an incinerator under EPA's regulations.
17 Also, EPA does not have rules currently for
18 -- they have proposed rules for commercial
19 and industrial incinerators for non-
20 hazardous-type waste, so we don't have an
21 NSPS. And the current proposal does not
22 address these type of incinerators because
23 they were excluded from the state and
24 therefore, would not be included in any
25 standard promulgated. They were put into a

1 separate category.

2 MR. ~~BLACHEY~~^{Bauckham}: Are these
3 incinerators allowed to burn hazardous
4 waste?

5 MS. BRADLEY: No, they are not.
6 The restriction -- the incineration of
7 hazardous waste would be covered under an
8 NSPS and also subject to regulations under
9 our Waste Management Division's rules.

10 MR. DYKE: Is there anyone
11 wishing to speak on this matter? Any other
12 questions of Cheryl? Further discussion by
13 the Council? Mr. Chairman.

14 MR. BRANECKY: Did Mr. Condon's
15 question, did it get resolved?

16 MR. CONDON: The only concern I
17 have is I don't want something to go to the
18 Board and be sent back.

19 MR. KILPATRICK: What concern
20 would the Board have with -- the fact that
21 we say direction^{of}, you think it ought to say
22 Executive Director?

23 MR. CONDON: Right. Executive
24 Director.

25 MS. HOFFMAN: Actually, we've

1 been changing through our re-write/de-wrong
2 in all of our regulations every time it
3 says Executive Director we have changed it
4 to Division Director and this has gone
5 through both our general counsel and our
6 Executive Director before we bring them to
7 the Council. So I think that our general
8 counsel and our Executive Director are in
9 full agreement with the changes of
10 Executive Director to Division Director.

11 MR. BRANECKY: Do we need to say
12 Division Director?

13 MS. HOFFMAN: We may need to say
14 that in there. I had not noticed that we
15 had that in there. We probably should.

16 MR. KILPATRICK: I thought you
17 said that director was defined to be a
18 Division Director.

19 MS. HOFFMAN: Actually, we
20 defined division in subchapter 1, I don't
21 think we defined director.

22 MS. BRADLEY: Did we not
23 reference the Oklahoma Clean Air Act and
24 then the OCAA then was the various offices
25 and entities referenced there?

1 MS. MYERS: To get it clarified,
2 why not say Division Director?

3 MS. BRADLEY: Well, we had gone
4 to using Director throughout the rules and
5 I was trying to be consistent with what was
6 done before. If you feel like we need to
7 change the rules to say Division Director,
8 we can adopt that.

9 MR. TERRILL: Let me add this,
10 before we take this to the Board, we'll
11 clarify your question and we won't bring it
12 to the Board if there's any conflict of the
13 Clean Air Act. I don't think there is, but
14 before we bring it to the Board we'll have
15 you an answer for that. And if there is,
16 we'll bring it back to the Council and fix
17 it before we bring it to the Board.

18 MR. BRANECKY: The definition --
19 I have a copy of the Oklahoma Clean Air
20 Act, and it says Director means the
21 Director of the Air Quality Division.

22 MR. DYKE: Any additional
23 comments from the public?

24 MR. WILSON: David, a comment on
25 the wording of the regulation. Again, Fred

1 pointed out that the design requirements
2 appear to accept only a primary burner when
3 a secondary burner is not needed to
4 eliminate smoke.

5 MS. BRADLEY: Joel, I didn't
6 understand your question.

7 MR. WILSON: The question is,
8 regarding the secondary burner and your
9 reference to these incinerators used in the
10 oil and gas production industry that only
11 have primary burners, and it looks to me
12 like the regulation is written such that
13 the secondary burner is only needed if
14 you've got an opacity problem. And that --
15 you know, a source would not have to apply
16 with some sort of an alternate design
17 approval for that incinerator that doesn't
18 require the secondary burn chamber to
19 control smoke.

20 MS. BRADLEY: In order for an
21 incinerator to have a secondary burner, it
22 has been my experience that they must have
23 multiple chambers. And our rule states an
24 incinerator under this part must have a
25 primary burner, a secondary burner. Now,

1 the secondary burner does not have to be
2 used under it as written, but they must
3 have a secondary burner. So in that case -
4 - and because secondary burners are only
5 found on multiple chamber incinerators,
6 it's not very clear as it's written right
7 now, but we really don't have the authority
8 to approve the -- or we can't authorize a
9 single chamber incinerator as the rules
10 read.

11 MR. WILSON: The single chamber
12 incinerator must be approved by the
13 Division Director?

14 MS. BRADLEY: That's correct.

15 MR. WILSON: Okay.

16 MR. BRANECKY: Any other
17 discussion from the Council? We're not
18 making any other changes, are we? And the
19 staff is asking for adoption as a permanent
20 rule?

21 MS. BRADLEY: Permanent and
22 emergency.

23 MR. BRANECKY: Permanent and
24 emergency. And I don't think we've made
25 any changes from what the staff has

1 proposed. So if there is no other
2 discussion, I will entertain a motion to
3 that effect.

4 MR. KILPATRICK: So moved.

5 MR. TREEMAN: Second.

6 MR. BRANECKY: I have a motion
7 and a second. Any other discussion?

8 Myrna.

9 MS. BRUCE: Mr. Kilpatrick.

10 MR. KILPATRICK: Aye.

11 MS. BRUCE: Mr. Wilson.

12 MR. WILSON: Aye.

13 MS. BRUCE: Dr. Grosz.

14 DR. GROSZ: Aye.

15 MS. BRUCE: Mr. Treeman.

16 MR. TREEMAN: Yes.

17 MS. BRUCE: Mr. Fallon.

18 MR. FALLON: Yes.

19 MS. BRUCE: Ms. Myers.

20 MS. MYERS: Yes.

21 MS. BRUCE: Mr. Branecky.

22 MR. BRANECKY: Aye.

23

24 (PROCEEDINGS CONCLUDED)

25

C E R T I F I C A T E

STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 19th day of April, 2000, at Lawton, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 7th day of May, 2000



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

CHRISTY MYERS
Oklahoma Certified Shorthand Reporter
Certificate No. 00310
Exp. 05 2000

STATE OF OKLAHOMA

DEPARTMENT OF ENVIRONMENTAL QUALITY

.....

IN THE MATTER OF THE FIRST MEETING/HEARING

¶

TAKEN ON BEHALF OF THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

ON FEBRUARY 19, 1997 AT 1:00 P.M.,

AT LINCOLN PLAZA OFFICE PARK, BURGUNDY ROOM,

OKLAHOMA CITY, OKLAHOMA

.....

REPORTED BY: GENA BELCHER, CSR

1 MR. BREISCH: We'll go head and
 2 call the meeting/ hearing to order. Roll call.
 3 MS. BRUCE: Dr. Canter.
 4 DR. CANTER: Present.
 5 MS. BRUCE: Mr. Branecky.
 6 MR. BRANECKY: Here.
 7 MS. BRUCE: Mr. Glass.
 8 MR. GLASS: Present.
 9 MS. BRUCE: Ms. Slagell.
 10 MS. SLAGELL: Present.
 11 MS. BRUCE: Mr. Breisch.
 12 MR. BREISCH: Present.
 13 MS. BRUCE: For the record, absent
 14 are Mr. Fishbeck, Mr. Albright, and Ms. Hinkle.
 15 MR. BREISCH: Okay. I need a
 16 motion on the minutes.
 17 MR. BRANECKY: I move that the
 18 minutes be approved.
 19 MR. GLASS: Second.
 20 MR. BREISCH: I got a motion and a
 21 second to the minutes, any discussion, comments?
 22 If not, Myrna call the roll.
 23 MS. BRUCE: Dr. Canter.
 24 DR. CANTER: Approved.
 25 MS. BRUCE: Mr. Branecky.

A P P E A R A N C E S

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1
 2 COUNCIL MEMBERS PRESENT:
 3 Mr. Bill Breisch, Chairman
 4 Dr. Larry Canter
 5 Mr. David Branecky
 6 Mr. Ike Glass
 7 Ms. Meribeth Slagell
 8 Mr. Larry Byrum, Hearing Officer
 9 and Director of Air Quality Division
 10
 11 ALSO PRESENT:
 12 Ms. Myrna Bruce, Secretary
 13
 14 AIR QUALITY DIVISION STAFF PRESENT:
 15 Dr. Joyce Sheedy
 16 Ray Bishop
 17 Linn Wainner
 18 Dennis Doughty
 19 Barbara Hoffman
 20
 21 ATTORNEYS PRESENT:
 22 Donald K. Shandy
 23 Attorney at Law
 24 BancFirst Building
 25 101 N. Broadway
 Oklahoma City, Oklahoma 73102
 Kathy Pursley
 Attorney at Law
 Ogden & Martin
 Frank Erwin
 Tulsa, Oklahoma

1 MR. BRANECKY: I.
 2 MS. BRUCE: Mr. Glass.
 3 MR. GLASS: I.
 4 MS. BRUCE: Ms. Slagell.
 5 MS. SLAGELL: I.
 6 MS. BRUCE: Mr. Breisch.
 7 MR. BREISCH: Yes. Meeting
 8 schedule. We've discussed this a little bit this
 9 morning, any comments on that? Does it meet with
 10 you all's approval? Do we need a motion on this?
 11 (Council indicating in agreement in
 12 discussion among themselves.)
 13 MR. BREISCH: Okay. We got a
 14 motion.
 15 DR. CANTER: Second.
 16 MR. BREISCH: Larry, did you
 17 second?
 18 DR. CANTER: Yes.
 19 MR. BREISCH: If there's no
 20 discussion, Myrna call the roll.
 21 MS. BRUCE: Dr. Canter.
 22 DR. CANTER: I.
 23 MS. BRUCE: Mr. Branecky.
 24 MR. BRANECKY: I.
 25 MS. BRUCE: Mr. Glass.



1 MR. GLASS: I.
 2 MS. BRUCE: Ms. Slagell.
 3 MS. SLAGELL: I.
 4 MS. BRUCE: Mr. Breisch.
 5 MR. BREISCH: I.
 6 MR. BREISCH: Okay. Next, election
 7 of offices. We need to elect a chairman,
 8 vice chairman, and that's it isn't it?
 9 MR. BYRUM: Uh-huh.
 10 DR. CANTER: I would like to place
 11 a nomination for Chairman of the Council,
 12 Mr. Breisch.
 13 MR. BREISCH: Can we do them
 14 separately, or should we do them together,
 15 chairman and vice chairman?
 16 (Council talking over each other.)
 17 MR. DOUGHTY: I would probably do
 18 them separately. If you only had one nomination
 19 it probably won't matter.
 20 MR. BRANECKY: I second that
 21 motion.
 22 MR. BREISCH: The motions been
 23 made, and seconded. Any other nominations, on
 24 the floor? Okay. How do we vote on that, call
 25 roll, or --

1 MR. GLASS: Yes.
 2 MS. BRUCE: Ms. Slagell.
 3 MS. SLAGELL: I.
 4 MS. BRUCE: Mr. Breisch.
 5 MR. BREISCH: Yes. All right.
 6 Item 6, is the continued hearing on Municipal
 7 Waste Combustion. And I'll turn this over to our
 8 Hearing Officer, Mr. Byrum.
 9 MR. BYRUM: Ladies and gentlemen,
 10 my name is Larry Byrum. I'm the director of the
 11 Air Quality Division, as such I will act as the
 12 personal officer for this hearing. This hearing
 13 is convened by the Air Quality Councilmen in
 14 compliance with the Oklahoma Administration
 15 Procedures Act, Title 40 of the code of Federal
 16 Regulations, Part 51, as well as the authority of
 17 Title 27A of the Oklahoma Statutes, Sections
 18 25101 and following.
 19 This hearing was advertised in the
 20 Oklahoma Register for purposes of receiving
 21 comments pertaining to purposed revisions to a
 22 new Part 3, Municipal Waste Combustors to our
 23 Subchapter 17. If you wish to make a statement,
 24 please complete the forms at the registration
 25 table and I will call upon you at the appropriate

1 MR. DOUGHTY: Yes, we would need to
 2 call roll.
 3 MR. BREISCH: Call roll, Myrna.
 4 MS. BRUCE: Dr. Canter.
 5 DR. CANTER: I.
 6 MS. BRUCE: Mr. Branecky.
 7 MR. BRANECKY: I.
 8 MS. BRUCE: Mr. Glass.
 9 MR. GLASS: I.
 10 MS. BRUCE: Ms. Slagell.
 11 MS. SLAGELL: I.
 12 MS. BRUCE: Mr. Breisch.
 13 MR. BREISCH: Sustained. Okay.
 14 Let's elect vice chairman.
 15 MR. BRANECKY: I'll nominate Dr.
 16 Canter as vice chairman.
 17 MR. SLAGELL: I second it.
 18 MR. BREISCH: Nomination been made
 19 and seconded. Any further nominations, or any
 20 further discussion? If not, Myrna call roll.
 21 MS. BRUCE: Dr. Canter.
 22 DR. CANTER: Sustained.
 23 MS. BRUCE: Mr. Branecky.
 24 MR. BRANECKY: I.
 25 MS. BRUCE: Mr. Glass.

1 time. At this time I would like to call on
 2 Dr. Joyce Sheedy to give the staff position on
 3 these proposed changes.
 4 DR. SHEEDY: Mr. Chairman, members
 5 of the Council, Ladies and Gentleman, my name is
 6 Joyce Sheedy, and I work in the Rules and
 7 Planning Unit of the Air Quality Division. In
 8 October 1996, the staff presented a draft
 9 modification to OAC 252:100-17 entitled
 10 "Incinerators".
 11 This proposed modification incorporated
 12 the EPA guidelines contained in 40 CFR 60,
 13 Subpart Cb for existing Municipal Waste
 14 Combustors at plants with an aggregate combustion
 15 capacity of 38.58 tons per day of municipal solid
 16 waste. The hearing for this proposed rule was
 17 continued to the December, 1996 Air Quality
 18 Council Meeting which was canceled. The notice
 19 for the February 1997 council meeting listed the
 20 proposed modification to Subchapter 17.
 21 However, on December 6, 1996 in first
 22 opinion, the U.S. Court of Appeals for the
 23 District of Columbia Circuit vacated the EPA'S
 24 1995 standards for existing municipal waste
 25 combustors contained in 40 CFR 60, Subpart C, .n

1 their entirety and remanded to EPA without
2 receiving the additional challenges raised by
3 petitioners.

1 just wanted to state that we are in support of
2 the staff recommendation and the timing of action
3 on this matter at this council level today occur,
4 and for the same reasons that she cited.

4 The Court held that EPA's use of
5 aggregate plant municipal solid waste capacity
6 rather than unit municipal solid waste capacity
7 in the 1995 standards to create categories of
8 municipal waste combustor units for MACT
9 purposes, violates the plain meaning of Section
10 129 of the Clean Air Act and exceeds the EPA's
11 statutory authority.

5 MR. BYRUM: Thank you. Questions
6 for Mr. Erwin?

12 The modification proposed to our
13 Subchapter 17 at the October, 1996 meeting were a
14 direct result of the requirements of the Federal
15 Clean Air Act and mirrored the standards and
16 limits contained in 40 CFR 60 Subpart Cb.

7 (Council shakes heads.)

17 Therefore, the staff recommends that the
18 modifications to Subchapter 17 be held in
19 abeyance until such time as the issue addressed
20 by the Court is resolved.

8 MR. BYRUM: Questions from the
9 audience for Mr. Erwin?

22 MR. BYRUM: Questions from the
23 Council for Dr. Sheedy?

10 (Audience shakes heads.)

24 MR. BREISCH: Do you expect these
25 to be resolved, or in one-way or the other hear

11 MR. BYRUM: Thank you, sir. Don
12 Shandy.

13 MR. SHANDY: Council members; my
14 name is Don Shandy. I'm an attorney with
15 McKinney, Stringer & Webster, here in Oklahoma
16 City. And I'm here on behalf of Homand Inc.,
17 which is a cement company, the largest cement
18 manufacturer in the United States with 13
19 facilities. And they also have a plant located
20 here in the state in Ada, Oklahoma.

21 Basically without belaboring the point,
22 we have reviewed on behalf of this particular
23 company, the Municipal Waste Combustion Rule over
24 the past year or so, and have had extensive
25 involvement with the Environmental Protection

1 from the Court or EPA concerning the actions to
2 be taken?

1 Agency regarding applicability of the rule.

3 DR. SHEEDY: I'm sorry,
4 Mr. Breisch.

2 And one of the fundamental problems that
3 this particular industry sees with the rule that
4 EPA proposes, is that no one really is sure who,
5 and how broad it applies, and who it applies to.
6 So for that reason the Cement Recycling Coalition
7 joined as a party in a litigation in
8 Washington DC. And as has been discussed by
9 Dr. Sheedy previously, the Court in that
10 particular case has decided that the rule didn't
11 meet certain requirements and basically tossed
12 the rule out and remanded it for further action.

5 MR. BREISCH: But when do you
6 expect to hear something on this?

13 The issues of concern to CKRC were not
14 addressed in the litigation. And when EPA
15 appealed this case on February the 4th, even
16 though the Court may make a ruling the case will
17 still have to be heard by the Court to address
18 CKRC's issues.

7 DR. SHEEDY: Well, I believe that
8 there might be some news by Friday, I think,
9 regarding what the Court is going to do. Now,
10 it's also -- they just acted on the first issue.
11 And if this issue was resolved, then according to
12 their opinion there are other issues that may
13 well be taken into account after that unless
14 they're addressed by EPA at the same time. So it
15 could be sometime before it's all resolved.

19 For that reason Homand is in agreement
20 with the staff's recommendation that this rule
21 making not go forward, because quite honestly the
22 staff could spend a lot of time adopting and
23 preparing a rule. But the bottom line is the
24 rule could ultimately be tossed out, and it could
25 be a lot of wasted motion. So from a threshold

16 MR. BYRUM: Other questions from
17 the Council?

18 (No response.)

19 MR. BYRUM: Questions from the
20 audience of Dr. Sheedy?

21 (No response.)

22 MR. BYRUM: Thank you. Frank
23 Erwin.

24 MR. ERWIN: My name is Frank Erwin,
25 I'm with the City of Tulsa. And basically, I

1 standpoint we would suggest that's reason enough
2 not go forward.

3 Again there's a big question regarding
4 the applicability of the rule, and some of these
5 issues need to be resolved with EPA. And as the
6 rules proposed here in Oklahoma, currently as I
7 understand it, there's only two facilities that
8 it applies to.

9 But Homand is concerned that it could be
10 broader, at least in EPA's mind and in the way
11 the State proceeds it. So those issues need to
12 be worked out. And, again we would encourage the
13 Council to forego any further action in
14 accordance with Ms. Sheedy's recommendation.

15 MR. BYRUM: Questions for
16 Mr. Shandy?

17 DR. CANTER: Yes. Don, the cement
18 kennel, that would potential come into play,
19 because these companies burn municipal waste for
20 energy supply. I don't know what the connection
21 is there.

22 MR. SHANDY: Dr. Canter, the
23 problem is, when you look at the rules -- first
24 of all kennels are enormous pieces of equipment,
25 so from the standpoint of capacities they easily

1 (No response.)

2 MR. BREISCH: I believe we've got a
3 couple of alternates here. Number one, to just
4 revoke this hearing and readvertise it, or
5 continue it. Personally my feelings are, it
6 would be easier right now to continue this. And
7 I would entertain a motion to do that, if there's
8 no objection from our Council.

9 MR. DOUGHTY: I think that that
10 would be my recommendation because we could
11 continue indefinitely. I have no reason to
12 believe there's any time limit.

13 DR. CANTER: So if, for example,
14 something might come out as early as Friday of
15 this week, that would -- that might make us want
16 to have a continuance in our April meeting, then
17 this would let us do that. If we discontinue the
18 hearing now, then we can't have a hearing in
19 April because of the time we advertised it,
20 right?

21 MR. BYRUM: With the possible
22 exception of this advertising Friday for a
23 hearing.

24 DR. CANTER: Oh, that's right.

25 MR. BYRUM: Fridays our cutoff

1 meet or exceed the capacity requirements of the
2 rule. So you've got arguable applicability on
3 the capacity side.

4 The next question that you ask yourself
5 then is, what fuel supplies go into the kennel.
6 And to directly address your question, for
7 instance, there is a permit that Ada has right
8 now, they're operating under construction permit.
9 And it appears to me that arguably some of the
10 nonhazardous fuels that they could burn at that
11 facility would arguably fall under municipal
12 waste by definition. So there is some problems
13 related to definitions, and regulation, and how
14 those are interpreted.

15 DR. CANTER: Okay.

16 MR. BYRUM: Other questions for
17 Mr. Shandy in this case?

18 (Council shakes head.)

19 MR. BYRUM: Questions from the
20 audience?

21 (Audience shakes head.)

22 MR. BYRUM: Thank you. I have no
23 indications that anyone else wishes to speak on
24 this issue. Is there anyone else in the audience
25 that wishes to speak? Mr. Chairman.

1 date, after that we could not do that.

2 DR. CANTER: Okay.

3 MR. BRANECKY: Looking for a
4 motion.

5 MR. BREISCH: I'm looking for a
6 motion.

7 MR. BRANECKY: I motion that we
8 continue this hearing.

9 MS. SLAGELL: I second it.

10 MR. BREISCH: I have a motion, and
11 a second to continue the hearing. Any further
12 discussion, questions? If not, Myrna call the
13 roll.

14 MS. BRUCE: Dr. Canter.

15 DR. CANTER: I.

16 MS. BRUCE: Mr. Branecky.

17 MR. BRANECKY: I.

18 MS. BRUCE: Mr. Glass.

19 MR. GLASS: I.

20 MS. BRUCE: Ms. Slagell.

21 MS. SLAGELL: I.

22 MS. BRUCE: Mr. Breisch.

23 MR. BREISCH: Yes.

24 (Meeting/Hearing concluded)

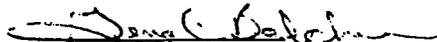
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CERTIFICATE

3 COUNTY OF CLEVELAND)

5 I, GENA C. BELCHER, Certified Shorthand
6 Reporter for the State of Oklahoma, certify that
7 the Meeting/Hearing was taken by me in stenotype
8 and thereafter transcribed and is a true and
9 correct transcript of the testimony of the
10 witnesses; that the Meeting/Hearing was taken on
11 the 19th day of February, 1997, at 1:00 P.M., at
12 Lincoln Plaza Office Park, Burgundy Room,
13 Oklahoma City, Oklahoma; that I am not an
14 attorney for or a relative of any party, or
15 otherwise interested in this action.

16 Witness my hand and seal of office on
17 this the 3rd day of March, 1997.

18 
19 Gena C. Belcher, CSR

20 Gena C. Belcher
21 Oklahoma Certified Shorthand Reporter
22 Certificate no. 00591
23 Exp. Date: December 31, 1998
24
25

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

**OAC 252:100-19 & 27 Control of Emission of Particulate Matter; and
Appendix C: Allowable Rate of Emissions for Indirectly Fired Fuel-Burning Units; and
Appendix D: Allowable Rate of Emissions for Indirectly Fired Wood Fuel-Burning Units**

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-19 and OAC 252:100-27
and
Appendix C and Appendix D
SIP Revisions

CHAPTER 100: AIR POLLUTION CONTROL

SUBCHAPTER 19. CONTROL EMISSIONS OF PARTICULATE MATTER EMISSIONS FROM FUEL-BURNING EQUIPMENT

Section

- 252:100-19-1. Purpose [AMENDED]
- 252:100-19-1.1. Definitions [NEW]
- 252:100-19-2. Emission of particulate matter prohibited [REVOKED]
- 252:100-19-3. Existing equipment [REVOKED]
- 252:100-19-4. New equipment [AMENDED]
- 252:100-19-5. Refuse burning prohibited [REVOKED]
- 252:100-19-6. Allowable emission of particulate matter [REVOKED]
- 252:100-19-7. Particulate matter emission limits [REVOKED]
- 252:100-19-10. Allowable particulate matter emission rates from indirectly fired wood fuel-burning units [NEW]
- 252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units [NEW]
- 252:100-19-12. Allowable particulate matter emission rates from directly fired fuel-burning units and industrial processes [NEW]
- 252:100-19-13. Permit by rule [NEW]

252:100-19-1. Purpose

The purpose of this Subchapter is to control the ~~amount of particulates released into the air by the use of fuel-burning equipment.~~ emission of particulate matter.

252:100-19-1.1. Definitions [NEW]

The following words and terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

“Directly fired” means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.

“Fuel-Burning unit” means any internal combustion engines or gas turbine, or other combustion device used to convert the combustion of fuel into usable energy.

“Fossil fuel” means coal, petroleum, natural gas, or any fuel derived from coal, petroleum, or natural gas.

“Haul road” means a road on private property used to transport material or equipment by motorized vehicles.

“Indirectly fired” means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

“Industrial processes” means any source, activity or equipment, excluding fuel-burning units, which can reasonably be expected to emit particulate matter. The term includes, but is not limited to crushing, milling, screening, mixing and conveying. The term does not include maintenance activities unless maintenance is the primary activity of the facility.

“Particulate matter facility” means a facility from which particulate matter is the predominant emission, excluding fugitive emissions and emissions resulting from control equipment malfunctions.

“Wood fuel” means any fuel which, excluding air and water, is at least 80 percent by weight cellulose, hemicellulose and lignin, and has a heat value of less than 9,500 BTU per pound; or any wood derived fuel as approved by the Division.

252:100-19-2. Emission of particulate matter prohibited [REVOKED]

~~The emission or escape into the open air of particulates resulting from the combustion of fuel in any fuel-burning equipment or from any stack connected thereto in quantities in excess of that indicated in 252:100-19-6 or 252:100-19-7 is hereby prohibited.~~

252:100-19-3. Existing equipment [REVOKED]

~~Any fuel-burning equipment in operation prior to the effective date of this Subchapter shall not emit particulate matter in excess of 0.6 pounds per million B.T.U. heat input provided that all such existing equipment shall comply with 252:100-19-2 within eighteen (18) months from and after July 21, 1970.~~

252:100-19-4. New equipment Allowable particulate matter emission rates from fuel-burning units

~~The— Except as provided in 252:100-19-10, 252:100-19-11 and 252:100-19-12 the emission or escape into the open air of particulate matter resulting from the combustion of fuel in any new or existing fuel-burning equipment in quantities exceeding unit shall not exceed the limits specified in 252:100-19-6 for the size of equipment involved, is prohibited. These limitations shall apply when the fuel-burning equipment is operating at the maximum design heat input rating. The heat input rating of any unit discharging to a single stack shall be the maximum design input rating, including both heat available from burning of fuel and any sensible heat from materials introduced into the combustion zone of a standard temperature of 60°F. For a heat input between any two (2) consecutive heat inputs stated in 252:100-19-6, maximum allowable emissions of particulate matter are shown in 252:100-19-7. When one fuel-burning unit is connected to two or more stacks, the heat input of the equipment shall be the criterion for the maximum allowable total emission from all stacks combined Appendix C.~~

252:100-19-5. Refuse burning prohibited [REVOKED]

~~The burning of refuse in fuel-burning equipment is prohibited except in equipment specifically designed to burn refuse.~~

252:100-19-6. Allowable emission of particulate matter [REVOKED]

~~The emission limits described in 252:100-19-2 and 252:100-19-4 are as follows:~~

Heat Input in Million	Maximum Allowable Emissions
British Thermal Unit	of Particulate Matter in
Per Hour	Pounds Per Million
	British Thermal Units

Up to and including 10	0.60
100	0.35
1,000	0.20
10,000 and above	0.10

252:100-19-7. Particulate matter emission limits [REVOKED]

~~Particulate matter emission limits for fuel-burning equipment are set forth in Appendix C of this Chapter.~~

252:100-19-10. Allowable particulate matter emission rates from indirectly fired wood fuel-burning units [NEW]

The emission of particulate matter resulting from the combustion of wood fuel in any new or existing indirectly fired fuel-burning unit shall not exceed the limits specified in Appendix D.

252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units [NEW]

Any combined wood fuel and fossil fuel fired steam generating unit with a maximum design heat input of more than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit particulate matter in excess of 0.1 pound per million BTUs.

252:100-19-12. Allowable particulate matter emission rates from directly fired fuel-burning units and industrial processes [NEW]

The emission of particulate matter from any new or existing directly fired fuel-burning unit or from any emission point in an industrial process shall not exceed the limits specified in Appendix G.

252:100-19-13. Permit by rule [NEW]

(a) Applicability. Any particulate matter facility may be constructed or operated under this section if:

- (1) it meets the requirements in 252:100-7-60, and
- (2) it is not subject to any New Source Performance Standard (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAP), Maximum Achievable Control Technology (MACT) standard or other Permit by Rule (PBR).

(b) Requirements. In addition to the requirements of 252:100, the owner or operator of a particulate matter facility permitted under this section shall comply with the following requirements.

- (1) All water sprays, bag houses, cyclones, or other particulate matter control equipment shall be properly maintained and operated.
- (2) Haul roads and material piles shall be watered or treated as necessary to minimize emissions of fugitive dust.

CHAPTER 100: AIR POLLUTION CONTROL

SUBCHAPTER 27. PARTICULATE MATTER EMISSIONS FROM INDUSTRIAL AND OTHER PROCESSES AND OPERATIONS

Section

252:100-27-1. Purpose [REVOKED]

252:100-27-2. Process emission limitations [AMENDED AND RENUMBERED]

252:100-27-3. Exception to emission limits [REVOKED]

252:100-27-4. Sampling and testing [REVOKED]

252:100-27-5. Allowable rate of emission [AMENDED AND RENUMBERED]

252:100-27-1. Purpose [REVOKED]

~~The purpose of this Subchapter is to control the emission of particulate matter from any operation, process or activity except fuel-burning equipment or refuse-burning equipment.~~

252:100-27-2. Process emission limitations [AMENDED AND RENUMBERED TO 252:100-19-12]

~~(a) Existing installations. Eighteen (18) months from and after the effective date of this Subchapter all existing installations must comply with the rates of emissions as specified in 252:100-27-5.~~

~~(b) New installations. From and after the effective date of this Subchapter, all new installations must comply with the rates of emission as specified in 252:100-27-5.~~

~~(c) General provision. No person shall cause, let, permit, suffer, or allow the emission from any general operation or general combustion operation of particulate matter from any emission point at a rate in excess of that specified in 252:100-27-5 for the process weight rate allocated to such emission point.~~

252:100-27-3. Exception to emission limits [REVOKED]

~~Emission of particulate matter during periods of cleaning or adjusting process equipment shall not exceed 150 percent of the limits as set forth in the 252:100-27-2 for a period or periods aggregating not more than six (6) minutes in any sixty (60) consecutive minutes. In those operations utilizing control devices which require regular intermittent cleaning, compliance with this Subchapter will be determined on the basis of the average hourly emission.~~

252:100-27-4. Sampling and testing [REVOKED]

~~(a) Testing. A person responsible for the emission of particulates from any source shall, upon written request of the Director, make or have made at his own expense, tests to determine the quantity or quality or both. Alternatively, said person shall be reasonably cooperative with the Director in securing such tests.~~

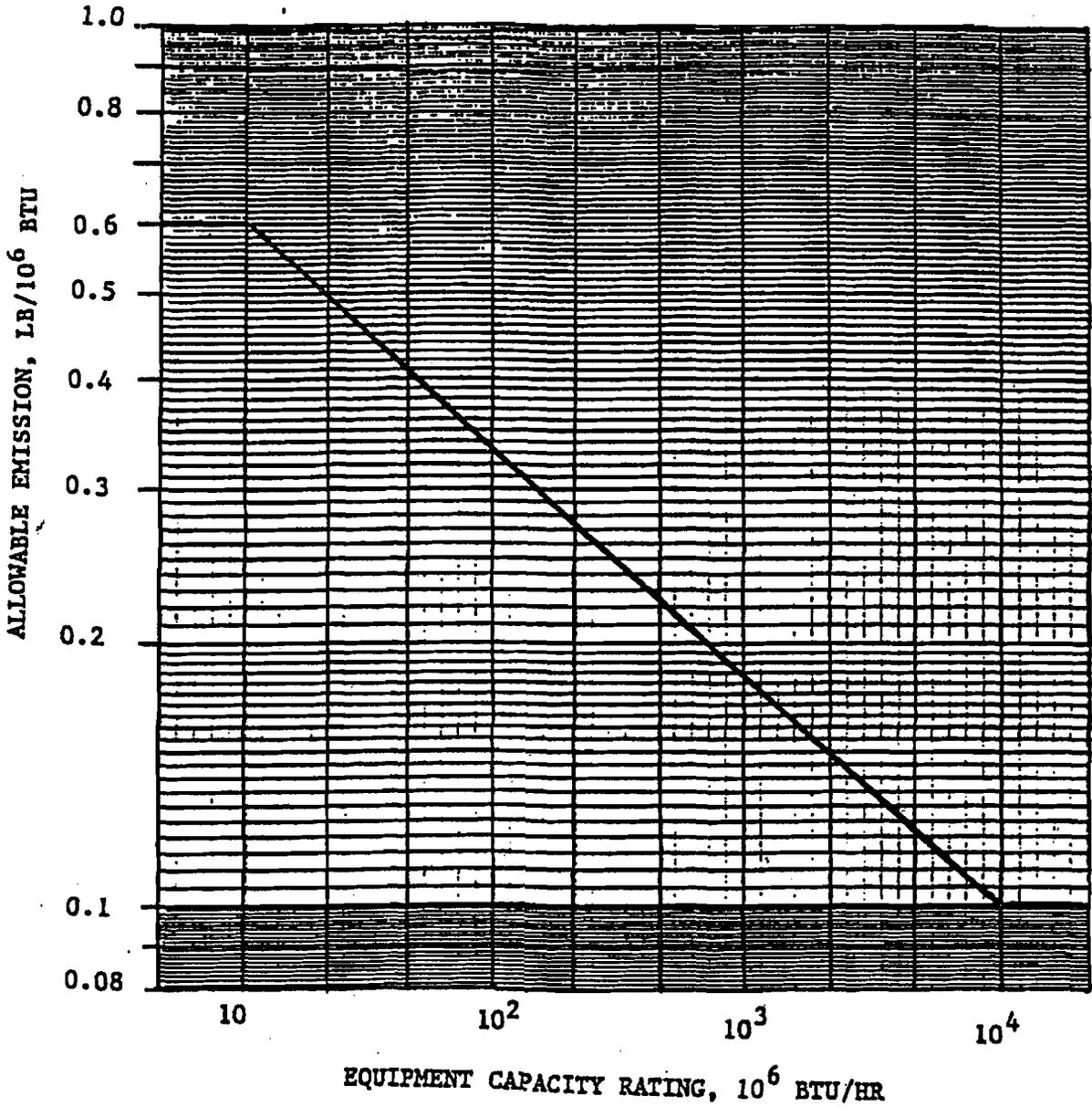
~~(b) **Methods.** Emission tests relating to this Subchapter shall be undertaken by generally recognized standards or methods of measurements. Methods found in the current ASME Test Code for Dust Separating Apparatus, the ASME Power Test Code, the Code for Determining Dust Concentrations in Gas Streams and the Los Angeles County Source Testing Manual may be used, but these may be modified or adjusted by the Director, in cooperation with the operator of the source, to suit specific sampling conditions or needs based upon good judgment and experience. Other methods found to produce reliable results and approved by the Director may be used.~~

~~(c) **Monitoring.** All tests shall be conducted, supervised or approved by a registered professional engineer.~~

252:100-27-5. Allowable rate of emission [AMENDED AND RENUMBERED TO 252:100-19-12]

~~Allowable rate of emissions based on actual process weight rate shall be as tabulated in Appendix G of this Chapter.~~

APPENDIX C. PARTICULATE MATTER EMISSION LIMITS FOR FUEL-BURNING EQUIPMENT [REVOKED]



CHAPTER 100: AIR POLLUTION CONTROL

APPENDIX C. ALLOWABLE RATE OF EMISSIONS FOR FUEL-BURNING UNITS [NEW]

Maximum Heat Input In Million British Thermal Units (MMBTU) Per Hour (X)	Allowable Particulate Matter Emissions In Pounds Per Million British Thermal Units (E)
10 or less	0.60
20	0.51
30	0.46
40	0.43
50	0.41
60	0.39
70	0.38
80	0.37
90	0.36
100	0.35
110	0.34
130	0.33
150	0.32
170	0.31
190	0.30
220	0.29
270	0.28
310	0.27
360	0.26
430	0.25
510	0.24
610	0.23
740	0.22
910	0.21
1,080	0.20
1,290	0.19
1,550	0.18
1,890	0.17
2,330	0.16
2,910	0.15
3,690	0.14
4,760	0.13
6,280	0.12
8,500	0.11
10,000 or more	0.10

Allowable emissions may be calculated by use of the following formulas:

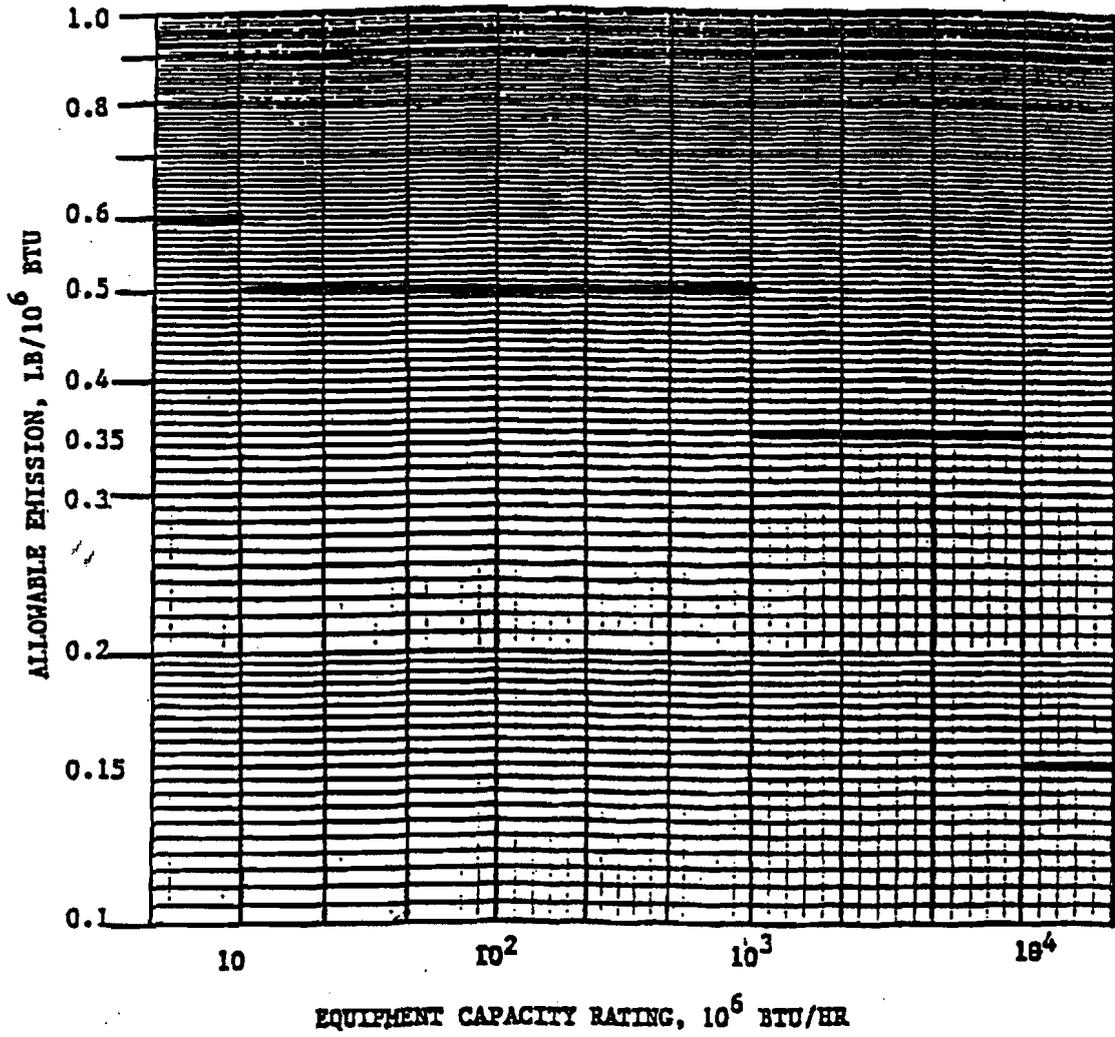
$$E = 1.042808X^{-0.238561} \text{ (for values for X greater than 10 MMBTU but less than 1,000 MMBTU) or}$$

$$E = 1.6X^{-0.30103} \text{ (for values for X greater than or equal to 1,000 MMBTU but less than 10,000 MMBTU).}$$

Where:

E = the particulate matter emission limit in pounds per MMBTU input and
X = the maximum heat input in MMBTU per hour.

APPENDIX D. PARTICULATE MATTER EMISSION LIMITS FOR WOOD-WASTE BURNING
EQUIPMENT [REVOKED]



CHAPTER 100: AIR POLLUTION CONTROL

**APPENDIX D. ALLOWABLE RATE OF EMISSIONS FOR WOOD FUEL
BURNING UNITS [NEW]**

Maximum Heat Input In Million British Thermal Units Per Hour	Allowable Particulate Matter Emissions In Pounds Per Million British Thermal Units
Less than 10	0.60
10 to less than 1,000	0.50
1,000 to less than 10,000	0.35
10,000 or more	0.15

Oklahoma Register

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1259]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]
- Subchapter 19. Particulate Matter Emissions from Fuel-Burning Equipment [AMENDED]
- Subchapter 21. Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]
- Subchapter 27. Particulate Matter Emissions from Industrial and Other Processes and Operations [AMENDED]
- Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]
- Appendix C. Particulate Matter Emissions Limits for Fuel-Burning Equipment [REVOKED]
- Appendix C. Particulate Matter Emissions Limits for Fuel-Burning Equipment [NEW]
- Appendix D. Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]
- Appendix D. Particulate Matter Emission Limits for Wood-Waste Fuel-Burning Equipment [NEW]

SUMMARY:

The proposed changes to Subchapter 9 include correction of typographical and grammatical errors and deletion of redundant language. Also, the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Substantive changes to the rule include narrowing the scope of the rule to minor facilities only. New language is proposed for 252:100-9-4(b) to insure that any excess emissions occurring during maintenance procedures which were not accounted for in the report submitted pursuant to 252:100-9-4(a) will be reported according to the provisions of 252:100-9-5. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation. The new language establishes a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5 percent of the process's operation time, whichever is greater, in a

rolling quarter. The burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

Subchapters 19, 21, and 27 are being revised at the same time because they are interrelated and deal with Particulate Matter (PM) emissions. 252:100-19, Particulate Matter Emissions From Fuel-Burning Equipment, complements Subchapter 27, Particulate Matter Emissions from Industrial and Other Processes, and both are being revised as part of the re-right/de-wrong process. In addition, a Permit by Rule for particulate matter sources is being proposed for Subchapter 27. The proposed changes will also merge the requirements of Subchapter 21, Particulate Matter Emissions from Wood-Waste Burning Equipment, into Subchapter 19 and revoke Subchapter 21. It is also being proposed that both Appendix C, Particulate Matter Emission Limits for Fuel-Burning Equipment, and Appendix D, Particulate Matter Emission Limits for Wood-Waste Burning Equipment, be revoked in favor of two new non-graphical appendices.

The proposed changes to Subchapter 35 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The scope of the Subchapter was narrowed to specific sources that are the primary contributors of carbon monoxide emissions. It is often impossible for small sources to achieve a 93% reduction in carbon monoxide emissions as required by the rule without increasing other emissions. Specific changes include the addition of the definitions "existing source" and "new source," along with the addition of the effective date of the rule. Also, Section 35-3, Performance Testing, was revoked because the Air Quality Division is given the authority to request this testing in the Oklahoma Clean Air Act and performance testing requirements are already provided for in Subchapters 8 and 43.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on August 24, 1999. Oral comments may be made at the August 24, 1999, hearing, and at the September 28, 1999 hearing.

PUBLIC HEARINGS:

5741

Notices of Rulemaking Intent

Tuesday, August 24, 1999 - 9:30 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board on Tuesday, September 28, 1999, 9:30 a.m., Braman, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (252:100-9), Max Price (252:100-19, 252:100-21, 252:100-27, and Appendices C and D), Michelle Martinez (252:100-35), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 9 was heard for the first time at the June 15, 1999, Council meeting.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1259; filed 7-20-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1260]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

Subchapter 17. Incinerators

Part 7. Hospital, Medical and Infectious Waste Incinerators [NEW]

Appendix M. Emission Limits for Hospital, Medical and Infectious Waste Incinerators [NEW]

SUMMARY:

The addition of 252:100-17, Part 7, Hospital, Medical and Infectious Waste Incinerators (HMIWI), is proposed to establish state emission standards and other enforceable requirements for existing HMIWI. Also, a new Appendix M is proposed which contains emission limits for HMIWI. These rules, together with an emission inventory, schedule of compliance, emission data, record of public hearings and legal analysis, will comprise Oklahoma's State 111(d)/129 Plan, which is also available for public inspection and comment. An HMIWI is defined as any device that combusts any amount of medical/infectious waste or hospital waste. Any HMIWI for which construction commenced on or before June 20, 1996, will be subject to the new rule. These proposed rules will be the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for HMIWI (40 CFR 60 Subpart Ce). The new Part 7 incorporates by reference sections of the New Source Performance Standards for HMIWI (40 CFR 60 Subpart Ee). In addition to establishing emission standards for certain regulated pollutants, the new rule will establish requirements for HMIWI operator training and qualifications, waste management plans, and testing and monitoring of pollutants and operating parameters.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments on the proposed rules and State 111(d)/129 Plan will be accepted prior to and at the hearing on August 24, 1999. Oral comments may be made at the August 24, 1999, hearing and at the September 28, 1999, hearing.

PUBLIC HEARINGS:

Tuesday, August 24, 1999 - 9:30 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Also scheduled before the Environmental Quality Board on Tuesday, September 28, 1999, 9:30 a.m., Braman, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

Copies of the rules and the State 111(d)/129 Plan for HMIWI are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Cheryl Bradley, Department of Environmental Quality, Air Quality

Notices of Rulemaking Intent

events and Issues, or copies may be obtained from Myrna
by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained
from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez
(252:100-4, 252:100-35), Joyce Sheedy (252:100-41), Cheryl
Bradley (252:100-47). Department of Environmental
Quality, Air Quality Division, P.O. Box 1677, Oklahoma
City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 35 was brought to public hearing on August
24, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need
an accommodation, please notify the Air Quality Division
three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1302; filed 8-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1303]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and
Annual Operating Fees [AMENDED]

Subchapter 9. Excess Emission and Malfunction
Reporting Requirements [AMENDED]

Subchapter 13. Prohibition of Open Burning
[AMENDED]

Subchapter 19. Particulate Matter Emissions from
Fuel-Burning Equipment [AMENDED]

Subchapter 21. Particulate Matter Emissions from
Wood-Waste Burning Equipment [REVOKED]

Subchapter 27. Particulate Matter Emissions from
Industrial and Other Processes and Operations
[REVOKED]

Appendix C. Particulate Matter Emission Limits for
Fuel-Burning Equipment [REVOKED]

Appendix C. Particulate Matter Emission Limits for
Fuel-Burning Equipment [NEW]

Appendix D. Particulate Matter Emission Limits for
Wood-Waste Burning Equipment [REVOKED]

Appendix D. Particulate Matter Emission Limits for
Wood-Waste Fuel-Burning Equipment [NEW]

SUMMARY:

The proposed changes to Subchapter 5 are designed to
allow the agency to bill annual operating fees on a flexible

schedule. The changes should also allow the fees to be
based on the most recent emission data possible. The
proposed rule language also requires an owner or operator
of a facility to report excess emissions on their annual
emission inventory. Substantive changes include requiring
inventories to be submitted one month earlier than
presently required, allowing fee payers five years after
payment is made to notify the DEQ that they overpaid and
to receive credit for such overpayment, and reducing the
period of time to six months in which either the DEQ or the
facility owner or operator can challenge the data or
methods used to calculate the facility's emissions.

The proposed changes to Subchapter 9 include
correction of typographical and grammatical errors and
deletion of redundant language. Also, the rule was
simplified and clarified according to the agency-wide
re-right/de-wrong initiative. Substantive changes to the rule
include narrowing the scope of the rule to minor facilities
only. A new condition was added to explain when excess
emissions from a process are due to a malfunction and when
they are due to negligent, marginal, or unsafe operation.
The new language establishes a rebuttable presumption
that the combined time of all excess emissions from a
process due to a malfunction does not exceed eight hours or
1.5 percent of the process's operation time, whichever is
greater, in a 3 month period. The burden of proving that
excess emissions occurring more often are due to a
malfunction rather than negligent, marginal, or unsafe
operation is on the owner or operator of the process.

The proposed changes to Subchapter 13 will simplify and
clarify the Subchapter as a part of the agency-wide
re-right/de-wrong initiative. Such changes include
consolidating the general conditions and requirements for
allowed open burning into a new section. A few substantive
changes were made such as adding definitions for "domestic
refuse" and "landclearing operation" and a section on
disaster relief procedures. In some instances, the
requirement to notify the DEQ or other appropriate official
for authorization to burn was added. In addition, the
open-pit incinerator requirements were moved to a new
section. The rule is proposed to be amended to require
owners or operators to register with their local DEQ office;
however, if the owner or operator anticipates operating an
open-pit incinerator in the same pit for more than 90 days in
a 365-day period, they would be required to obtain a permit
and pay the required permit fee. Also, hazardous materials
may not be burned in an open-pit incinerator unless prior
written approval has been obtained from both the local fire
chief and the DEQ.

Subchapters 19, 21 and 27 all deal with particulate matter
(PM) emissions. The proposed changes will merge the
requirements of Subchapter 21 and Subchapter 27 into
Subchapter 19. Subchapters 21 and 27 will then be revoked.

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Subchapter 19 as proposed will be simplified and clarified according to the agency-wide re-right/de-wrong initiative. In addition, a Permit by Rule for particulate matter facilities is being proposed for Subchapter 19. It is also being proposed that both Appendix C and Appendix D be revoked in favor of two new tabular appendices.

The DEQ is requesting comments on all of these proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on October 19, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by October 12, 1999. Oral comments may be made at the October 19, 1999, hearing and at the November 16, 1999, hearing.

PUBLIC HEARINGS:

Tuesday, October 19, 1999 - 9:00 a.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma.

Scheduled before the Environmental Quality Board on Tuesday, November 16, 1999, 9:30 a.m., McAlester, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (252:100-5, 252:100-9 and 252:100-13), Max Price (252:100-19, 252:100-21, 252:100-27 and Appendices C and D). Department of Environmental Quality, Air Quality

Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapters 9, 19, 21, 27, and Appendices C and D were brought to public hearing on August 24, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1303; filed 8-26-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 510. MUNICIPAL SOLID WASTE LANDFILLS [REVOKED]**

[OAR Docket #99-1304]

RULEMAKING ACTION:

Notice of proposed PERMANENT Rulemaking

PROPOSED RULES:

Chapter 510. Municipal Solid Waste Landfills [REVOKED]

SUMMARY:

Chapter 510 is being revoked subject to the adoption of Chapter 530 as part of the re-right/de-wrong process. Some rules which were in Chapter 510 were deleted. Others were amended and renumbered in Chapter 530. A conversion table is available from the DEQ upon request.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; and the Oklahoma Solid Waste Management Act, 27A O.S. § 2-10-101 *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by this rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Deliver or mail written comments to the contact person from September 15 through October 15, 1999.

PUBLIC HEARINGS:

Before the Solid Waste Management Advisory Council at 9:00 a.m. on October 21, 1999, at the Stillwater Public Library, 1107 S. Duck, Stillwater, Oklahoma, 74074. Before the Environmental Quality Board at 9:30 on November 16, 1999, in McAlester, Oklahoma, at a location to be announced.

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-636]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 19. Control of Emission of Particulate Matter Emissions From Fuel Burning Equipment

252:100-19-1 [AMENDED]

252:100-19-1.1 [NEW]

252:100-19-2 [REVOKED]

252:100-19-3 [REVOKED]

252:100-19-4 [AMENDED]

252:100-19-5 [REVOKED]

252:100-19-6 [REVOKED]

252:100-19-7 [REVOKED]

252:100-19-10 [NEW]

252:100-19-11 [NEW]

252:100-19-12 [NEW]

252:100-19-13 [NEW]

Subchapter 21. Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

252:100-21-1 [REVOKED]

252:100-21-2 [REVOKED]

252:100-21-3 [AMENDED AND RENUMBERED TO 252:100-19-11]

252:100-21-4 [REVOKED]

252:100-21-5 [AMENDED AND RENUMBERED TO 252:100-19-10]

Subchapter 27. Particulate Matter Emissions from Industrial and Other Processes and Operations [REVOKED]

252:100-27-1 [REVOKED]

252:100-27-2 [AMENDED AND RENUMBERED TO 252:100-19-12]

252:100-27-3 [REVOKED]

252:100-27-4 [REVOKED]

252:100-27-5 [AMENDED AND RENUMBERED TO 252:100-19-12]

Appendix C. Particulate Matter Emissions from Fuel-Burning Equipment [REVOKED]

Appendix C. Allowable Rate of Emissions from Indirectly Fired Fuel-Burning Units [NEW]

Appendix D. Particulate Matter Emission Limits for Wood-Waste burning Equipment [REVOKED]

Appendix D. Allowable Rate of Emissions for Indirectly Fired Wood Fuel-Burning Units [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

August 2, 1999 - August 24, 1999

September 15, 1999 - October 19, 1999

Public hearing:

August 24, 1999

October 19, 1999

November 16, 1999

Adoption:

November 16, 1999

Submitted to Governor:

November 29, 1999

Submitted to House:

November 29, 1999

Submitted to Senate:

November 29, 1999

Gubernatorial approval:

January 7, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2000

Final adoption:

March 29, 2000

Effective:

June 1, 2000

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATION BY REFERENCE:

None

ANALYSIS:

The changes to Subchapters 19, 21 and 27 simplify and clarify the requirements applicable to stationary sources that emit particulate matter. The title of Subchapter 19 is being amended to "Control of Emission of Particulate Matter" and the requirements of Subchapter 21, Particulate Matter Emissions from Wood-Waste Burning Equipment, and Subchapter 27, Particulate Matter Emissions from Industrial and Other Processes and Operations, are being moved to Subchapter 19. A Permit By Rule for facilities that emit particulate matter as their primary emission is being added to Subchapter 19. Subchapters 21 and 27 are being revoked, and the formats of Appendices C and D are also being changed for easier reading.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no corresponding federal rules

CONTACT PERSON:

Max Price, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma 73101-1677. (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2000.

SUBCHAPTER 19. CONTROL OF EMISSION OF PARTICULATE MATTER EMISSIONS FROM FUEL-BURNING EQUIPMENT

252:100-19-1. Purpose

The purpose of this Subchapter is to control the amount of particulates released into the air by the use of fuel-burning equipment emission of particulate matter.

252:100-19-1.1. Definitions

The following words and terms, when used in this

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Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Directly fired" means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.

"Fuel-Burning unit" means any internal combustion engine or gas turbine, or other combustion device used to convert the combustion of fuel into usable energy.

"Fossil fuel" means coal, petroleum, natural gas, or any fuel derived from coal, petroleum, or natural gas.

"Haul road" means a road on private property used to transport material or equipment by motorized vehicles.

"Indirectly fired" means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

"Industrial process" means any source, activity or equipment, excluding fuel-burning units, which can reasonably be expected to emit particulate matter. The term includes, but is not limited to crushing, milling, screening, mixing and conveying. The term does not include maintenance activities unless maintenance is the primary activity of the facility.

"Particulate matter facility" means a facility from which particulate matter is the predominant emission, excluding fugitive emissions and emissions resulting from control equipment malfunctions.

"Wood fuel" means any fuel which, excluding air and water, is at least 80 percent by weight cellulose, hemicellulose and lignin, and has a heat value of less than 9,500 BTU per pound; or any wood derived fuel as approved by the Division.

252:100-19-2. Emission of particulate matter prohibited [REVOKED]

The emission or escape into the open air of particulates resulting from the combustion of fuel in any fuel-burning equipment or from any stack connected thereto in quantities in excess of that indicated in 252:100-19-6 or 252:100-19-7 is hereby prohibited.

252:100-19-3. Existing equipment [REVOKED]

Any fuel-burning equipment in operation prior to the effective date of this Subchapter shall not emit particulate matter in excess of 0.6 pounds per million B.T.U. heat input provided that all such existing equipment shall comply with 252:100-19-2 within eighteen (18) months from and after July 21, 1970.

252:100-19-4. New equipment Allowable particulate matter emission rates from fuel-burning units

The Except as provided in 252:100-19-10, 252:100-19-11 and 252:100-19-12 the emission or escape into the open air of particulate matter resulting from the combustion of fuel in any new or existing fuel-burning equipment in quantities exceeding unit shall not exceed the limits specified in

252:100-19-6 for the size of equipment involved, prohibited. These limitations shall apply when the fuel-burning equipment is operating at the maximum design heat input rating. The heat input rating of any unit discharging to a single stack shall be the maximum design input rating, including both heat available from burning of fuel and any sensible heat from materials introduced into the combustion zone of a standard temperature of 60°F. For a heat input between any two (2) consecutive heat inputs stated in 252:100-19-6, maximum allowable emissions of particulate matter are shown in 252:100-19-7. When one fuel-burning unit is connected to two or more stacks, the heat input of the equipment shall be the criterion for the maximum allowable total emission from all stacks combined Appendix C.

252:100-19-5. Refuse burning prohibited [REVOKED]

The burning of refuse in fuel-burning equipment is prohibited except in equipment specifically designed to burn refuse.

252:100-19-6. Allowable emission of particulate matter [REVOKED]

The emission limits described in 252:100-19-2 and 252:100-19-4 are as follows:

Heat Input in Million British Thermal Unit Per Hour	Maximum Allowable Emissions of Particulate Matter in Pounds Per Million British Thermal Units
Up to and including	0.60
100	0.35
1,000	0.20
10,000 and above	0.10

252:100-19-7. Particulate matter emission limits [REVOKED]

Particulate matter emission limits for fuel-burning equipment are set forth in Appendix C of this Chapter.

252:100-19-10. Allowable particulate matter emission rates from indirectly fired wood fuel-burning units

The emission of particulate matter resulting from the combustion of wood fuel in any new or existing indirectly fired fuel-burning unit shall not exceed the limits specified in Appendix D.

252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units

Any combined wood fuel and fossil fuel fired steam generating unit with a maximum design heat input of more

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than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit particulate matter in excess of 0.1 pound per million BTUs.

252:100-19-12. Allowable particulate matter emission rates from directly fired fuel-burning units and industrial processes

The emission of particulate matter from any new or existing directly fired fuel-burning unit or from any emission point in an industrial process shall not exceed the limits specified in Appendix G.

252:100-19-13. Permit by rule

(a) Applicability. Any particulate matter facility may be constructed or operated under this section if:

- (1) it meets the requirements in 252:100-7-60, and
- (2) it is not subject to any New Source Performance Standard (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAP), Maximum Achievable Control Technology (MACT) standard or other Permit by Rule (PBR).

(b) Requirements. In addition to the requirements of 252:100, the owner or operator of a particulate matter facility permitted under this section shall comply with the following requirements.

- (1) All water sprays, bag houses, cyclones, or other particulate matter control equipment shall be properly maintained and operated.
- (2) Haul roads and material piles shall be watered or treated as necessary to minimize emissions of fugitive dust.

SUBCHAPTER 21. PARTICULATE MATTER EMISSIONS FROM WOOD-WASTE BURNING EQUIPMENT [REVOKED]

252:100-21-1. Purpose [REVOKED]

The purpose of this Subchapter is to control the amount of particulates released into the air by the use of wood-waste burning equipment.

252:100-21-2. Emission prohibition [REVOKED]

The emission or escape into the open air of particulates resulting from the combustion of wood-waste in any fuel-burning equipment in quantities in excess of that indicated in this Subchapter is hereby prohibited.

252:100-21-3. Limitations [AMENDED AND RENUMBERED TO 252:100-19-11]

(a) Wood-waste fuel-burning equipment. Any wood-waste fuel-burning equipment, operating or constructed to operate, shall not emit particulate matter in excess of that specified in 252:100-21-4 or 252:100-21-5 for the size of equipment involved. These limitations shall apply when the wood-waste burning equipment is operating at the

maximum design heat input rating. The heat input rating of any unit shall be the maximum design input rating, including both heat available from burning of wood-waste fuel and any sensible heat from materials introduced into the combustion zone at a standard temperature of 60°F.

(b) New combined wood-waste and fossil fuel-fired steam generating units. Any new combined wood-waste and fossil fuel-fired steam-generating unit of a designed capacity of more than 250 million BTUs per hour input shall not emit particulate matter in excess of 0.1 pound per million BTUs.

252:100-21-4. Allowable emissions [REVOKED]

The emission limits described in 252:100-21-3 are as follows:

Heat Input in Million British Thermal Unit Per Hour	Maximum Allowable Emissions of Particulate Matter in Pounds Per Million British Thermal Units
Up to and including 100	0.60
100	0.35
1,000	0.20
10,000 and above	0.10

252:100-21-5. Emission limits [AMENDED AND RENUMBERED TO 252:100-19-10]

Particulate matter emission limits for wood-waste burning equipment are set forth in Appendix D of this Chapter.

SUBCHAPTER 27. PARTICULATE MATTER EMISSIONS FROM INDUSTRIAL AND OTHER PROCESSES AND OPERATIONS [REVOKED]

252:100-27-1. Purpose [REVOKED]

The purpose of this Subchapter is to control the emission of particulate matter from any operation, process or activity except fuel-burning equipment or refuse-burning equipment.

252:100-27-2. Process emission limitations [AMENDED AND RENUMBERED TO 252:100-19-12]

(a) Existing installations. Eighteen (18) months from and after the effective date of this Subchapter all existing installations must comply with the rates of emissions as specified in 252:100-27-5.

(b) New installations. From and after the effective date of this Subchapter, all new installations must comply with the rates of emission as specified in 252:100-27-5.

(c) General provision. No person shall cause, let, permit, suffer, or allow the emission from any general operation or general combustion operation of particulate matter from

~~any emission point at a rate in excess of that specified in 252:100-27-5 for the process weight rate allocated to such emission point.~~

**252:100-27-3. Exception to emission limits
[REVOKED]**

~~Emission of particulate matter during periods of cleaning or adjusting process equipment shall not exceed 150 percent of the limits as set forth in the 252:100-27-2 for a period or periods aggregating not more than six (6) minutes in any sixty (60) consecutive minutes. In those operations utilizing control devices which require regular intermittent cleaning, compliance with this Subchapter will be determined on the basis of the average hourly emission.~~

252:100-27-4. Sampling and testing [REVOKED]

~~(a) Testing. A person responsible for the emission of particulates from any source shall, upon written request of the Director, make or have made at his own expense, tests to determine the quantity or quality or both. Alternatively, said person shall be reasonably cooperative with the Director in securing such tests.~~

~~(b) Methods. Emission tests relating to this Subchapter shall be undertaken by generally recognized standards or methods of measurements. Methods found in the current ASME Test Code for Dust Separating Apparatus, the ASME Power Test Code, the Code for Determining Dust Concentrations in Gas Streams and the Los Angeles County Source Testing Manual may be used, but these may be modified or adjusted by the Director, in cooperation with the operator of the source, to suit specific sampling conditions or needs based upon good judgment and experience. Other methods found to produce reliable results and approved by the Director may be used.~~

~~(c) Monitoring. All tests shall be conducted, supervised or approved by a registered professional engineer.~~

**252:100-27-5. Allowable rate of emission [AMENDED
AND RENUMBERED TO
252:100-19-12]**

~~Allowable rate of emissions based on actual process weight rate shall be as tabulated in Appendix G of this Chapter.~~

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APPENDIX C. PARTICULATE MATTER EMISSION LIMITS FOR FUEL-BURNING EQUIPMENT [REVOKED]

APPENDIX C. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED FUEL-BURNING UNITS [NEW]

System	Leakage Limit	Measurement location
Contact therapy tube housing	100 mR/hr	5 cm from surface
0-150 kVp (Manufactured prior to March 1, 1989)	1 R in 1 hr	1 m from source
0-150 kVp (Manufactured on or after March 1, 1989)	100 mR in 1 hr	1 m from source
151-500 kVp	1 R in 1 hr	1 m from source
500-999 kVp	0.1 percent of useful beam or 1 R in 1 hr	1 m from source

APPENDIX D. PARTICULATE MATTER EMISSION LIMITS FOR WOOD-WASTE BURNING
EQUIPMENT [REVOKED]
APPENDIX D. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED WOOD FUEL-BURNING
UNITS [NEW]

Maximum Energy of Electron Beam in MeV	X-ray Absorbed Dose as a Fraction of Maximum Absorbed Dose
1	0.03
15	0.05
35	0.10
50	0.20

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #00-636]

Correction of Publication Error

The Office of Administrative Rules has discovered that two Appendices in the May 1, 2000 issue of the *Register* were published with the wrong contents. Although the Appendices were cited correctly, the wrong graphics were pasted into the Appendices when published in the *Register*. The OAR apologizes for this error and for any inconvenience it may cause.

The revoked and reenacted Chapter 100 Appendices C and D published for the Department of Environmental Quality on pages 1124 and 1125 of the May 1, 2000 issue should read as they now appear on the following two pages:

**APPENDIX C. PARTICULATE MATTER EMISSION LIMITS FOR FUEL-BURNING EQUIPMENT
[REVOKED]**

**APPENDIX C. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED FUEL-BURNING UNITS
[NEW]**

Maximum Heat Input In Million British Thermal Units (MMBTU) Per Hour (X)	Allowable Particulate Matter Emissions In Pounds Per Million British Thermal Units (E)
10 or less	0.60
20	0.51
30	0.46
40	0.43
50	0.41
60	0.39
70	0.38
80	0.37
90	0.36
100	0.35
110	0.34
130	0.33
150	0.32
170	0.31
190	0.30
220	0.29
270	0.28
310	0.27
360	0.26
430	0.25
510	0.24
610	0.23
740	0.22
910	0.21
1,080	0.20
1,290	0.19
1,550	0.18
1,890	0.17
2,330	0.16
2,910	0.15
3,690	0.14
4,760	0.13
6,280	0.12
8,500	0.11
10,000 or more	0.10

Allowable emissions may be calculated by use of the following formulas:

$E = 1.042808X^{0.93354}$ (for values for X greater than 10 MMBTU but less than 1,000 MMBTU) or

$E = 1.6X^{-0.0001}$ (for values for X greater than or equal to 1,000 MMBTU but less than 10,000 MMBTU).

Where:

- E = the particulate matter emission limit in pounds per MMBTU input and
- X = the maximum heat input in MMBTU per hour.

**APPENDIX D. PARTICULATE MATTER EMISSION LIMITS FOR WOOD-WASTE BURNING
EQUIPMENT [REVOKED]**

**APPENDIX D. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED WOOD FUEL-BURNING
UNITS [NEW]**

Maximum Heat Input In Million British Thermal Units Per Hour	Allowable Particulate Million Matter Emissions In Pounds Per Million British Thermal Units
Less than 10	0.60
10 to less than 1,000	0.50
1,000 to less than 10,000	0.35
10,000 or more	0.15

Air Quality Council

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
*** HEARING/MEETING**
*** 9:30 A.M.**
**** Tuesday, August 24, 1999**
Multipurpose Room
707 North Robinson, Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the April 20, 1999 Regular Meeting**
4. **PUBLIC RULEMAKING HEARINGS**

A. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative. Substantive changes include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

B. OAC 252:100-17 Part 7 Hospital, Medical, and Infectious Waste Incinerators Appendix M Emission Limits for HMIWI [NEW]

Proposal would establish state emission standards and other enforceable requirements for existing HMIWI. A new Appendix M contains emissions limits for HMIWI. Continued from June 15, 1999 Air Quality Council meeting.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

C. OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]
Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]
Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and add provisions from Subchapter 21. In addition, the graphic in Appendix C has been replaced by a table.

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

- D. OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]**

Proposal would merge requirements into Subchapter 19 and revoke Subchapter 21. In addition, the graphic in Appendix D has been replaced by a table.

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

- E. OAC 252:100-27 Particulate Matter Emissions from Industrial and Other Processes and Operations [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative; and add a Permit by Rule for particulate matter sources.

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

- F. OAC 252:100-35 Control of Emission of Carbon Monoxide [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative; and narrow the scope to specific sources that are the primary emitters of carbon monoxide.

1. Presentation – Michelle Martinez
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

5. **New Business** (any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda)
6. **Division Director's Report** – Eddie Terrill
7. **Adjournment – Next Regular Meeting**
Tuesday, October 19, 1999
Tulsa City-County Auditorium
5051 South 129 Street East Avenue
Tulsa, OK

*** Council decided at its June 15 meeting to change the format structure for future meetings. HEARINGS WILL BEGIN AT 9:30 WITH NO BRIEFING SESSION IN THE MORNING.**

****An error was made in publication of our Notice in the July 15 *Oklahoma Register*. This error necessitated the rescheduling of the August 17 meeting in order to stay on track in getting rules to the Environmental Board.**

Lunch Break, if necessary

**AMENDED AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
* HEARING/MEETING
* 9:30 A.M.
** Tuesday, August 24, 1999
Multipurpose Room
707 North Robinson, Oklahoma City, OK.**

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the June 15, 1999 Regular Meeting
4. **PUBLIC RULEMAKING HEARINGS**
 - A. **OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative. Substantive changes include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation.

 1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
 - B. **OAC 252:100-17 Part 7 Hospital, Medical, and Infectious Waste Incinerators (HMIWI) Appendix M Emission Limits for HMIWI [NEW]**

Proposal would establish state emission standards and other enforceable requirements for existing HMIWI. A new Appendix M contains emissions limits for HMIWI. Continued from June 15, 1999 Air Quality Council meeting.

 1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent and emergency adoption
 - C. **State 111(d) /129 Plan for Hospital/Medical/Infectious Waste Incinerators (HMIWI)**

The proposed State 111(d) /129 Plan outlines Oklahoma's program to implement the emissions guidelines for hospital/medical/infectious waste incinerators. Federal regulations (40 CFR 60 Subparts B and Ce) require that a public hearing be held to receive comments from the Council and public on the proposed plan.

 1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Council approval is not required.
 - D. **OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED] Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED] Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and add provisions from Subchapter 21. In addition, the graphic in Appendix C would be replaced by a table.

 1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 720-4100.

- E. **OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]**
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]
Proposal would merge requirements into Subchapter 19 and revoke Subchapter 21. In addition, the graphic in Appendix D would be replaced by a table.
1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

- F. **OAC 252:100-27 Particulate Matter Emissions from Industrial and Other Processes and Operations [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative; and add a Permit by Rule for particulate matter sources.
1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

- G. **OAC 252:100-35 Control of Emission of Carbon Monoxide [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative; and narrow the scope to specific sources that are the primary emitters of carbon monoxide.
1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

5. **Division Director's Report – Eddie Terrill**

6. **New Business (any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda)**

7. **Adjournment – Next Regular Meeting**
Tuesday, October 19, 1999
Tulsa City-County Auditorium
5051 South 129 Street East Avenue
Tulsa, OK

* Council decided at its June 15 meeting to change the format structure for future meetings. **HEARINGS WILL BEGIN AT 9:30 WITH NO BRIEFING SESSION IN THE MORNING.**

**An error was made in publication of our Notice in the July 15 *Oklahoma Register*. This error necessitated the rescheduling of the August 17 meeting in order to stay on track in getting rules to the Environmental Board.

Lunch Break, if necessary

August 9, 1999

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director *ET*
Air Quality Division

SUBJECT: Proposed Revisions to 252:100-19, Particulate Matter Emissions from Fuel-Burning Equipment

The changes being proposed for Subchapter 19, Particulate Matter Emissions from Fuel-Burning Equipment, would incorporate the requirements of Subchapter 21, Particulate Matter Emissions from Wood-Waste Burning Equipment. Subchapter 21 would then be revoked. Subchapter 19 is also being modified as part of the re-right/de-wrong process to clarify the language. As part of the re-right/de-wrong process, revocation of the Appendix C graphic, Particulate Matter Emission Limits for Fuel-Burning Equipment, and the Appendix D graphic, Particulate Matter Emission Limits for Wood-Waste Burning Equipment, and adoption of two new tabular appendices are being proposed. These rules and appendices are being addressed at the same time because they all contain standards for particulate matter emissions. We are proposing that the requirements in the two subchapters that address fuel-burning equipment (19 and 21) be consolidated into one subchapter, and we are clarifying that a facility with particulate matter emissions (other than an incinerator subject to SC 17) must meet the standards in either SC 19 or SC 27, but not both.

Staff will be recommending that this Subchapter be held over until the October 19, 1999 Air Quality Council meeting to allow for further comment.

SUBCHAPTER 19. PARTICULATE MATTER EMISSIONS FROM
FUEL-BURNING EQUIPMENT

Section

- 252:100-19-1. Purpose
- 252:100-19-1.1. Definitions
- 252:100-19-2. Emission of particulate matter prohibited [REVOKED]
- 252:100-19-3. Existing equipment [REVOKED]
- 252:100-19-4. ~~New equipment~~ Allowable particulate matter emission rates
- 252:100-19-5. ~~Refuse~~Waste burning prohibited
- 252:100-19-6. Allowable emission of particulate matter [REVOKED]
- 252:100-19-7. Particulate matter emission limits [REVOKED]
- 252:100-19-10. Allowable particulate matter emission rates for wood-waste fuel
- 252:100-19-11. Combined wood-waste fuel and fossil fuel-fired steam generating units

252:100-19-1. Purpose

The purpose of this Subchapter is to control the amount of particulates released into the air by the use of emission of particulate matter from fuel-burning equipment.

252:100-19-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Fuel-burning equipment" means any internal combustion engine or gas turbine, or indirectly fired combustion device used to convert the combustion of fuel or waste into usable energy.

"Fossil fuel" means coal, petroleum, natural gas, or any fuel derived from coal, petroleum, or natural gas.

"Indirectly fired" means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

"Wood-waste fuel" means whole or chipped untreated wood or clean untreated lumber, tree stumps or tree limbs used as fuel in any fuel-burning equipment. This definition

252:100-19-6. Allowable emission of particulate matter [REVOKED]

~~The emission limits described in 252:100-19-2 and 252:100-19-4 are as follows:~~

Heat Input in Million Emissions British Thermal Unit Per Hour	Maximum Allowable of Particulate Matter in Pounds Per Million British Thermal Units
Up to and including 10	0.60
100	0.35
1,000	0.20
10,000 and above	0.10

252:100-19-7. Particulate matter emission limits [REVOKED]

~~Particulate matter emission limits for fuel burning equipment are set forth in Appendix C of this Chapter.~~

252:100-19-10. Allowable particulate matter emission rates for wood-waste fuel

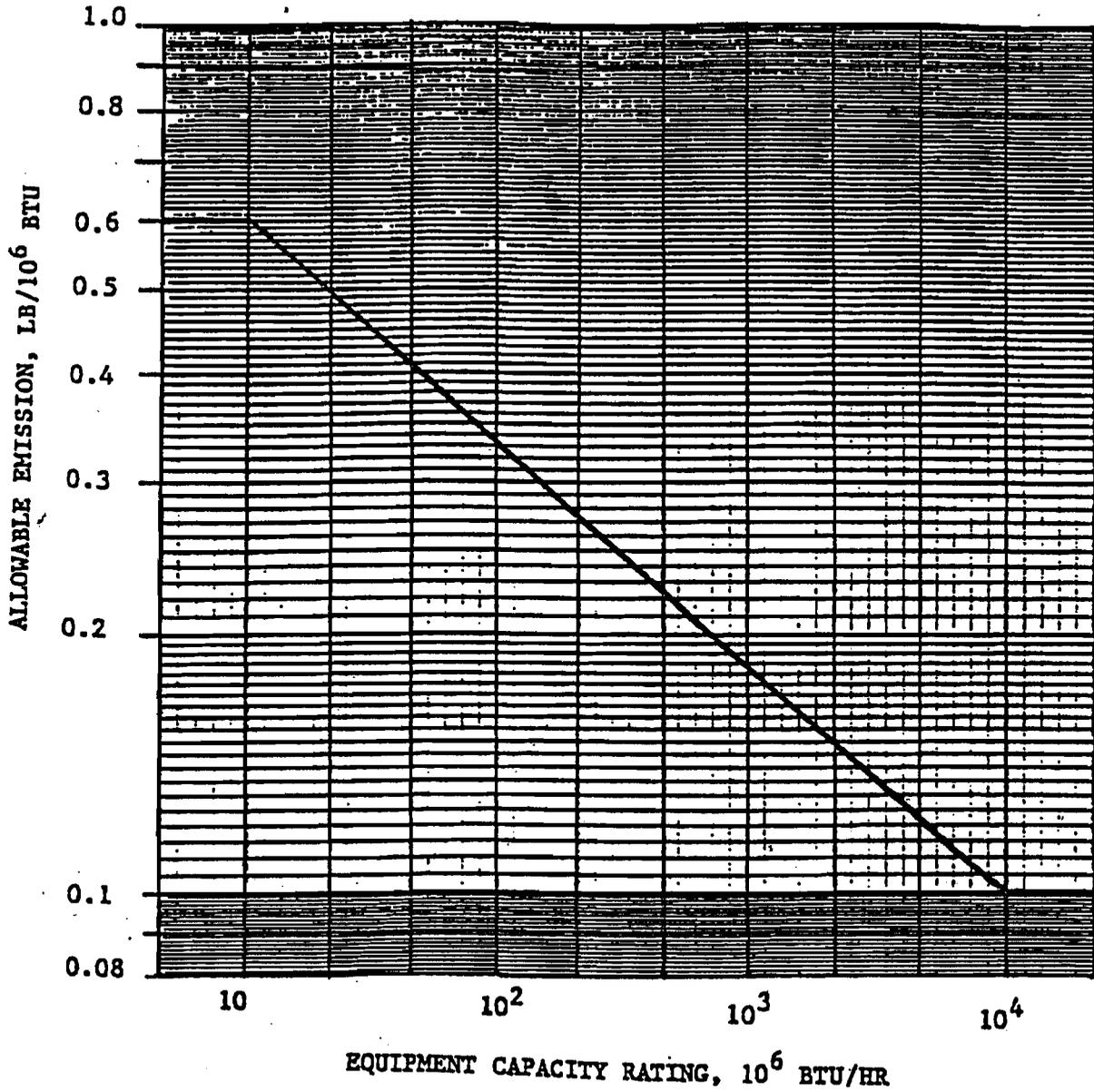
The emission of particulate matter resulting from the combustion of wood-waste fuel in any new or existing fuel-burning unit shall not exceed the limits specified in Appendix D.

252:100-19-11. Combined wood-waste fuel and fossil fuel fired steam generating units

Any combined wood-waste fuel and fossil fuel fired steam generating unit with a maximum design heat input of more than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit particulate matter in excess of 0.1 pound per hour-million BTUs.

(draft 5/25/99)

APPENDIX C. PARTICULATE MATTER EMISSION LIMITS FOR FUEL-BURNING EQUIPMENT [REVOKED]



**APPENDIX C. PARTICULATE MATTER EMISSION LIMITS FOR FUEL-
BURNING EQUIPMENT [NEW]**

Maximum Design Heat Input In Million British Thermal Units Per Hour	Allowable Particulate Matter Emissions in Pounds Per Hour
10 or less	0.60
11 - 20	0.51
21 - 30	0.46
31 - 40	0.43
41 - 50	0.41
51 - 60	0.39
61 - 70	0.38
71 - 80	0.37
81 - 90	0.36
91 - 100	0.35
101 - 110	0.34
111 - 130	0.33
131 - 150	0.32
151 - 170	0.31
171 - 190	0.30
191 - 220	0.29
221 - 260	0.28
271 - 310	0.27
311 - 360	0.26
361 - 430	0.25
431 - 510	0.24
511 - 610	0.23
611 - 740	0.22
741 - 910	0.21
911 - 1,120	0.20
1,121 - 1,400	0.19
1,401 - 1,770	0.18
1,771 - 2,270	0.17
2,271 - 2,950	0.16
2,951 - 3,900	0.15
3,901 - 5,260	0.14
5,261 - 7,270	0.13
7,271 - 9,999	0.12
10,000 or more	0.10

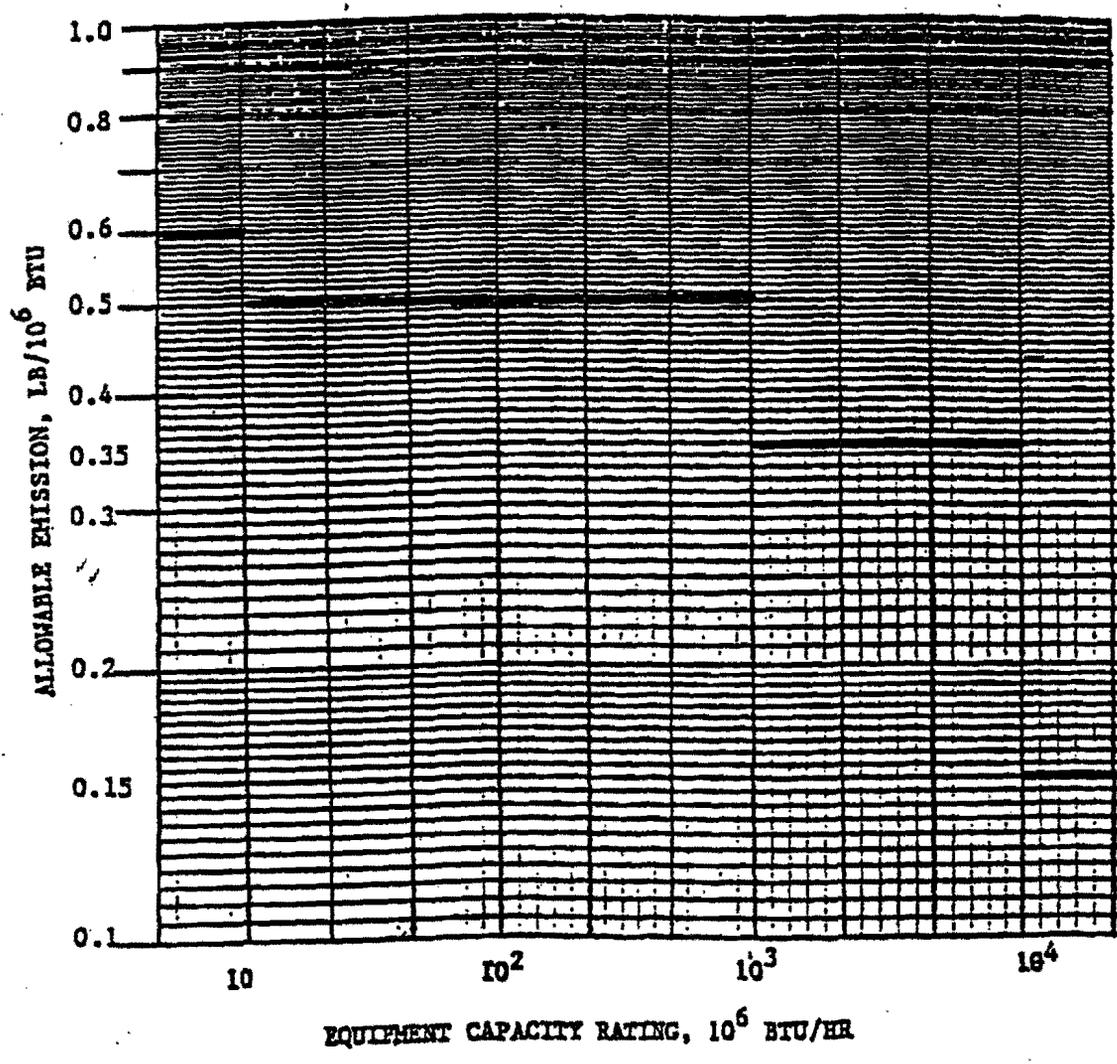
These values were calculated by the formula:

$$E = 1.042808X^{-0.238561}$$

Where:

E = the particulate matter emission limit in pounds per hour and
X = the maximum design heat input in million BTUs per hour.

APPENDIX D. PARTICULATE MATTER EMISSION LIMITS FOR WOOD-WASTE BURNING EQUIPMENT [REVOKED]



APPENDIX D. PARTICULATE MATTER EMISSION LIMITS FOR WOOD-
WASTE FUEL-BURNING EQUIPMENT [NEW]

Maximum Design Heat Input in Million British Thermal Units per Hour	Maximum Allowable Particulate Matter Emissions in Pounds per Hour
Less than 10	0.60
10 to less than 1,000	0.50
1,000 to less than 10,000	0.35
10,000 or more	0.15

August 9, 1999

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director *ET*
Air Quality Division

SUBJECT: Status of Proposed 252:100-27, Particulate Matter Emissions From Industrial And Other Processes And Operations

On April 20, 1999 the Air Quality Council voted to send revised rule 252:100-27, Particulate Matter Emissions From Industrial And Other Processes And Operations, to the Environmental Quality Board for approval. However, several additional pertinent comments were received by staff following the recommendation by the Air Quality Council. Several commentors mistakenly believed that the Permit By Rule (PBR) relieved permitted sources of the responsibility of adhering to all applicable regulations. Legal staff also expressed concern that inclusion of the PBR as a separate subpart would make referencing it difficult in Subchapter 7. For these reasons, it was decided to not forward the proposed rule to the Board and to resubmit it to the Air Quality Council after the needed changes were made.

Subchapter 27 has been rescheduled again for public hearing at the August 24, 1999 Air Quality Council meeting. Staff also plans to offer revisions to Subchapter 19, Particulate Matter Emissions From Fuel-Burning Equipment, at the same meeting because modifications being proposed for Subchapter 19 reference changes proposed in Subchapter 27 and vice versa. Thus, staff believes both rules should be considered by the Council simultaneously. We regret any inconvenience in having to rehear the proposed rule.

Staff will be recommending the Air Quality Council vote to submit the revised Subchapter to the DEQ Board for approval.

SUBCHAPTER 27. PARTICULATE MATTER EMISSIONS FROM
INDUSTRIAL AND OTHER PROCESSES AND OPERATIONS

Section

252:100-27-1. Purpose

252:100-27-1.1 Definitions

252:100-27-2. Process weight rate emission limitations

252:100-27-3. Exception to emission limits

252:100-27-4. ~~Sampling and~~ Emission testing

252:100-27-5. Allowable rate of emission [REVOKED]

252:100-27-10. Permit by rule

252:100-27-1. Purpose

The purpose of this Subchapter is to control the emission of particulate matter from any ~~operation, process or activity except fuel burning equipment or refuse burning equipment~~ that is not regulated in Subchapter 19.

252:100-27-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Clay plant" means any facility used to process ball clay, bentonite or common clay.

"Concrete plant" means any facility used to bulk mix or truck mix aggregate and Portland cement to form concrete for use in construction. Plants engaged in the production of preformed concrete products are not included in this definition.

"Haul road" means a road on private property used to transport material or equipment by motorized vehicles.

"Particulate matter source" means any source of air pollution in which particulate matter is the predominant emission.

252:100-27-2. Process weight rate emission limitations

~~(a) Existing installations. Eighteen (18) months from and after the effective date of this Subchapter all existing installations must comply with the rates of emissions as specified in 252:100-27-5.~~

~~(b) New installations. From and after the effective date of this Subchapter, all new installations must comply with the rates of emission as specified in 252:100-27-5.~~

~~(c) General provision. No person shall cause, let, permit, suffer, or allow the emission of particulate matter in excess of the process weight rate emission limits specified in Appendix G from any general operation or general combustion operation of particulate matter from any emission point located at a rate in excess of that specified in 252:100-27-5 for the process weight rate allocated to such emission point~~ new or existing facility subject to this Subchapter.

252:100-27-3. Exception to emission limits

Emission of particulate matter during periods of cleaning or adjusting process equipment shall not exceed 150 percent of the limits as set forth in the ~~252:100-27-2~~ Appendix G for a period or periods more than six minutes (6) aggregating not more than six (6) minutes in any sixty (60) consecutive minutes. ~~In~~For those operations utilizing control devices ~~which~~that require regular intermittent cleaning, compliance with this Subchapter will be determined on the basis of the average hourly emission.

252:100-27-4. ~~Sampling and~~Emission testing

(a) ~~Testing.~~ A person responsible for the emission of particulates from any source shall, upon written request of by the Division Director, the owner or operator of a facility subject to this Subchapter shall conduct emission testing, make or have made at his the owner or operators own expense, tests to determine the quantity or quality or bethrate of particulate matter emissions per process weight rate. ~~Alternatively, said person shall be reasonably cooperative with the Director in securing such tests.~~

(b) ~~Methods~~Test methods. Emission tests relating to this Subchapter shall be ~~undertaken~~ performed in compliance with ~~by~~ generally recognized standards or methods of measurements. ~~Methods found in the current ASME Test Code for Dust Separating Apparatus, the ASME Power Test Code, the Code for Determining Dust Concentrations in Gas Streams and the Los Angeles County Source Testing Manual may be used, or applicable test methods contained in 40 CFR 60 Appendix A may be used. but these~~These test methods may be modified or adjusted by the Division Director, in cooperation with the owner or operator of the source, to suit specific sampling conditions or needssource-specific conditions. ~~based upon good judgment and experience. Other methods found to produce reliable results and approved by the Director may be used.~~

(c) ~~Monitoring~~Test monitoring. All emission tests shall be conducted, supervised or approved by a registered professional engineer or other personnel acceptable to the Division Director.

252:100-27-5. Allowable rate of emission [REVOKED]

~~Allowable rate of emissions based on actual process weight rate shall be as tabulated in Appendix G of this Chapter.~~

252:100-27-10. Permit by rule

(a) Applicability. Any new or existing particulate matter facility may be constructed or operated under this section if it meets the requirements in 252:100-7-60 and is one of the facilities described below.

(1) Any stand-alone screening operation that does not have associated crushing and/or grinding facilities.

(2) Any fixed sand and gravel plant or fixed crushed stone plant with a capacity of 25 tons (23 megagrams) per hour or less.

(3) Any portable sand and gravel plant or portable crushed stone plant with a capacity of 150 tons (136 megagrams) per hour or less.

(4) Any clay plant with capacity of 10 tons (9 megagrams) per hour or less.

(5) Any concrete plant.

(6) Any other particulate matter source to which no other specific PBR, NSPS, NESHAP or MACT standard applies.

(b) Requirements. In addition to the requirements of 252:100, the owner or operator of a particulate matter facility permitted under this section shall comply with the following requirements.

(1) Installed water sprays, bag houses, cyclones, or other particulate matter control equipment shall be properly maintained and operated.

(2) Haul roads and material piles shall be watered or treated as necessary to minimize emissions of fugitive dust.

(draft 5/50/99)

MINUTES
AIR QUALITY COUNCIL
AUGUST 24, 1999
Department of Environmental Quality
Multi-Purpose Room

Council Members Present

William B. Breisch, Chairman
David Branecky
Leo Fallon
Fred Grosz
Gary Kilpatrick
Sharon Myers
Joel Wilson

Staff Present

Eddie Terrill
David Dyke
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Joyce Sheedy
Myrna Bruce

Council Members Absent

Larry Canter
Meribeth Slagell

Guests Present

**see attached list

Notice of Public Meeting for August 17, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. An error was made in publication of our Notice in the July 15 Oklahoma Register. This error necessitated the rescheduling of the meeting to August 24, 1999 in order to stay on track in getting rules to the Environmental Quality Board.

Agendas were posted at the entrance doors at DEQ.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye. Dr. Canter, and Ms. Slagell did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 15, 1999 Public Meeting/Hearings. Motion was made by Mr. Branecky to approve the Minutes as presented and second was made by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered into the hearing record the Hearing Agenda and the Oklahoma Register Notice.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Mr. Dyke called upon Ms. Jeanette Buttram who advised that this rule had been presented to Council on June 15, 1999. She stated that additional clarification of the rule was suggested due to verbal comments received from the public. Also, section 252:100-9-4 was amended and renumbered to 252:100-9-3.2. Section 252:100-9-5 was amended and renumbered to 252:100-9-3.1; and 252:100-9-6 was amended and renumbered to 252:100-0-3.2.

Written comments were received the day before the Council meeting from Mid-continent Oil and Gas Association of Oklahoma. Due to the time frame, staff did not have adequate time to review the comments in depth but some appeared to be directed towards changes proposed in the draft rule presented to the June Council meeting. After accepting comments and concerns from Council and audience, Ms. Buttram advised that it was staff's suggestion that Council recommend this rule as amended to the Environmental Quality Board as a permanent rule.

Due to discussion and further amendments to be made, Mr. Breisch entertained motion to continue the hearing to Council's October 19 meeting. Ms. Myers made that motion and the second was made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-17, Part 7

Hospital, Medical and Infectious Waste Incinerators Appendix M Emission Limits for HMIWI [NEW]

Mr. Dyke called upon Ms. Cheryl Bradley who stated that the proposed rule had been presented to Council at its April 20 and June 15, 1999 meetings. She advised that staff was proposing an addition of a new Part 7 to the existing SC 17 which would establish state emission standards and other enforceable requirements for existing HMIWI; and a new Appendix M which contains emission limits for HMIWI. Ms. Bradley defined HMIWI as any device that combusts any amount of medical/infectious/hospital waste. She stated that any HMIWI for which construction commenced on or before June 20, 1996, would be subject to the new rule. Ms. Bradley added that these proposed rules would be included in Oklahoma's State 111(d)/129 Plan and would be the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for HMIWI (40 CFR 60 Subpart Ce). She further stated that the new Part 7 incorporates by reference sections of the New Source Performance Standards for HMIWI (40 CFR 60 Subpart Ec). She noted that in addition to establishing emission standards for certain regulated pollutants, the new rule would establish requirements for HMIWI operator training and qualifications, waste management plans, and testing and monitoring of pollutants and operating parameters.

Mr. Wilson made a motion that Council continue the hearing until after lunch in order to incorporate some changes in wording to 252:100-17-48. Mr. Branecky seconded that motion and all members agreed. Following the recess, Ms. Bradley proposed the addition of a new paragraph (c) and (d) in 252:100-17-48, and set forth the proposed language. With no further comments from Council or audience on the proposed language, Ms. Bradley advised that it was staff's suggestion that Council recommend adoption of this rule to the Environmental Quality Board at its September 28, 1999 meeting as both emergency and permanent rule. That motion was made by Mr. Wilson and the second by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

State 111(d) /129 Plan For Hospital/Medical/Infectious Waste Incinerators (HMIWI)

Mr. Dyke called upon Ms. Cheryl Bradley for staff presentation regarding the State Plan. Ms. Bradley advised that although Council approval of the Plan was not required because it is not a rulemaking action in

and of itself, staff wanted to hear comments that the Council or public might have on the proposal. Ms. Bradley advised that the State Plan would be the mechanism to implement the Emission Guidelines for hospital/medical/infectious waste incinerators. She pointed out the necessary steps that were required to develop the State Plan.

Due to the fact that the hearing on Subchapter 17 was continued to after lunch, Council moved to continue the hearing on the Plan also. Mr. Kilpatrick made the motion to continue the hearing until after the hearing on SC 17 and the second was made by Mr. Branecky. All members agreed. After reconvening, Council voted to forward the proposed State Plan to EPA Region 6. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

PUBLIC HEARING (COMBINED HEARINGS ON SC 19 AND SC 21)

OAC 252:100-19

Particulate Matter Emissions From Fuel-Burning Equipment [AMENDED]

Appendix C Particulate Matter Emissions Limits For Fuel Burning Equipment [REVOKED]

Appendix C Particulate Matter Emissions Limits For Fuel Burning Equipment [NEW]

OAC 252:100-21

Particulate Matter Emissions From Wood-Waste Burning Equipment [REVOKED]

Appendix D Particulate Matter Emission Limits For Wood-Waste Burning Equipment [REVOKED]

Appendix D Particulate Matter Emission Limits For Wood-Waste Burning Equipment [NEW]

Mr. Dyke opened the hearing advising that both SC 19 and SC 21 would be heard together as they are related items and called upon Mr. Max Price for the staff presentation. Mr. Price stated that these revisions would satisfy the Agency's re-right/de-wrong initiative and clarify and simplify the language of SC 19 and incorporate the requirements of SC 21. Mr. Price explained that staff would ask that SC 21 be revoked and that the graphical Appendices C and D be revoked in favor of two new tabular appendices. Mr. Price pointed out that comments had been received and that it was staff's recommendation that these proposals be continued until Council's next meeting in October. After further discussion by Council and members of the audience, Mr. Breisch entertained a motion to continue this item to the next regular meeting on October 19. Dr. Grosz made the motion and the second was made by Mr. Branecky. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-27

Particulate Matter Emissions From Industrial And Other Processes And Operations [AMENDED]

Mr. Dyke opened the next item and called upon Mr. Max Price to make staff presentation. Mr. Price advised that SC 27 compliments SC 19 and SC 21 and that these proposed changes would clarify and simplify language according to the Agency's re-right/de-wrong initiative. He reminded that Council had originally voted to send this subchapter to the Environmental Quality Board on April 20, 1999, however, some late comments prompted the withdrawal by the staff to make further refinements. He then pointed out the latest proposed changes.

Due to additional questions and comments from Council and members of the audience regarding the definition of wood-waste fuel, Mr. Breisch called for a motion to continue the hearing to the Council's October 19 meeting. Mr. Fallon made the motion and the second was made by Mr. Kilpatrick. Roll call

was taken as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-35

Control Of Emission Of Carbon Monoxide [AMENDED]

Mr. Dyke opened this item for consideration and called upon Ms. Michelle Martinez to make the staff presentation. Ms. Martinez discussed the proposed revisions stating that they would simplify and clarify the rule as a part of the agency-wide re-right/de-wrong initiative. Ms. Martinez added that the scope of the Subchapter was narrowed to specific sources that are the primary contributors of carbon monoxide emissions. She related that it is often impossible for small sources to achieve a 93% reduction in carbon monoxide emissions as required by the rule without increasing other emissions. She pointed out that specific changes include the addition of the definitions "existing source" and "new source" along with the addition of the effective date of the rule. Ms. Martinez added that Section 35-3, Performance Testing, was revoked because the Air Quality Division has been given the authority to request this testing in the Oklahoma Clean Air Act and performance testing requirements have already been provided for in SC 8 and in SC43. Ms. Martinez advised of comments that had been received stating that staff had not had sufficient time to consider these comments; and suggested that Council continue the hearing to its October meeting to allow further time. Ms. Myers made the motion to continue and Mr. Branecky made the second with roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

NEW BUSINESS - It was decided that the October 19 regular meeting would begin at 9:00 a.m. due to the number of agenda items and would follow the same format of eliminating the briefing session and would start immediately with the hearings on record.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be October 19, 1999 in the Auditorium of the Tulsa City-County Health Department at 9:00 a.m.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

August 24, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
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2. Shauna McWaters-Khabusi	DEQ-ADD	405-702-4100
3. Julia Bevers	OGF	405-557-3439
4. Glenn Taji's	SUNOCO	918 594-6572
5. Bob Kellogg	OKC	405 235-0808
6. BILL FISHBACK	MED-CONTINENT OIL & GAS ASSOCIATION	405-348-8683
7. Tim Warren	CARDINA ENV. OKC	405 842 1066
8. Mike Wood	Hot Springs, AR	501-760-1634
9. Jeff Davenport	National Bld. Stillwater OK	405-377-5050
10. Vance McSpadden	5115 N. Western OKC	405 842-6625
11. Mark Walker	1800 Mid-America Tower 20 N. Broadway, OKC	405-235-7700
12. LeAnne Burnett	11	11
13. Ron Truelove	3700 W. Robinson, Suite 200 Norman, OK	405-321-3895
14. DEBORAH PERRY	ENERCON SERVICES-TUSA	918 665-7693
15. FRANK CONRAD	EQ BOARD	
16. Rich Tetterton	OGFA	580-233-5800
17. LARRY BYRUM	CONSULT	1105-578-2377
18. DUSTIN GIVENS	Ft. James Mustang, OK	918 683-7671
19. Steve Landers	Ft. James	918 683-7671
20. John Snow	YUKON OK	405-640-9610
21. Ken McDonald	Gemini	262-5710
22. PAUL HAMPTON	Suite 225 119 N. Robinson	405-235-5620
23.		
24.		
25.		

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING

* 9:00 A.M.

Tuesday, October 19, 1999
Tulsa City-County Auditorium
5051 South 129 Street East Avenue
Tulsa, Oklahoma

1. Call to Order – Bill Breisch
 2. Roll Call – Myrna Bruce
 3. CY 2000 Meeting Schedule
 4. A. Discussion by Council
 5. Approval of Minutes of the August 24, 1999 Regular Meeting
 5. Public Rulemaking Hearings
- A. OAC 252:100-4 New Source Performance Standards**
Proposal would update the incorporations by reference of the federal NSPS from 7-1-97 to 7-1-99. Previously, incorporated NSPS subparts that have been amended by the USEPA since 7-1-97 are: AA, AAa, Da, Db, Eb, and WWW. A new Subpart Ec has been added to the NSPS. Subpart Ce was added to 252:100-4-5 as an exception.
1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- B. OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees**
Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; requires an owner or operator of a facility to report excess emissions on their annual emission inventory; requires inventories to be submitted one month earlier than presently required allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.
1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- C. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation. The new language establishes a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5% of the process's operation time, whichever is greater, in a 3-month period. The burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.
1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- D. OAC 252:100-13. Prohibition of Open Burning**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add certain definitions and notification requirements.
1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

- E. COMBINED**
 OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]
 OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]
 OAC 252:100-27 Particulate Matter Emissions from Industrial and Other Processes and Operation [REVOKED]
 Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]
 Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]
 Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]
 Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]
 Proposal would merge requirements into SC 19 and revoke SC 21 and SC 27. SC 19, as proposed, would simplify the language under the agency-wide re-right/de-wrong initiative. Also a Permit by Rule for particulate matter facilities is being proposed for SC 19. The graphics in Appendices C and D would be replaced by two new tabular appendices.
1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- F. OAC 252:100-35 Control of Emission of Carbon Monoxide [AMENDED]**
 Proposal would simplify and clarify the language under the agency-wide re-right/de-wrong initiative; and narrow the scope to specific sources that are the primary emitters of carbon monoxide. Other changes include addition of definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". Also, Section 35-3 would be revoked because performance testing requirements are already provided for in SC 8 and SC 43.
1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- H. OAC 252:100-41 Sections 15 and 16, Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
 Proposal would simplify and clarify the language under the agency-wide re-right/de-wrong initiative. The proposed changes to section 15 would incorporate by reference the MACT standards for hazardous air pollutants in 40 CFR 63 promulgated by EPA from 7-1-98 through 7-1-99. The proposed changes to section 16 would update to 7-1-99 the NESHAP found in 40 CFR 61.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- I. OAC 252:100-47 Control of Emission from Existing Municipal Solid Waste Landfills [AMENDED]**
 Proposal would amend to update the incorporation by reference of 40 CFR 60.751 through 60.759 to 7-1-99.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
6. Division Director's Report – Eddie Terrill
 7. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.
 8. Adjournment – Next Regular Meeting
 Tuesday, December 14, 1999 DEQ Multi-Purpose Room

* Council decided at its August 24 meeting to begin early due to the number of agenda items

Lunch Break, if necessary

October 1, 1999

MEMORANDUM

TO: Air Quality Council
FROM: Eddie Terrill, Director
Air Quality Division
SUBJECT: Modifications to Subchapters 19, 21, and 27

Please find enclosed proposed revisions to OAC 252:100-19, Particulate Matter Emissions from Fuel-Burning Equipment; OAC 252:100-21, Particulate Matter Emissions From Wood-Waste Burning Equipment; and OAC 252:100-27, Particulate Matter Emissions From Industrial And Other Processes And Operations.

On August 24, 1999 the staff proposed to the Council that the requirements contained in Subchapters 19 and 21 be merged into a single subchapter (19) and that Appendices C and D be revoked in favor of new non-graphic appendices. The staff also recommended that the changes to subchapter 27 be approved and that the subchapter be sent to the Environmental Quality Board for final approval. Council voted to hold over all these proposals until its October meeting.

Since the last Council meeting, staff continued to revise the three subchapters and recommends the following changes:

1. merge the applicable requirements of Subchapter 27 into Subchapter 19 (the staff will ask that Subchapter 27 be revoked);
2. replace the definition of "wood-waste" with a definition for the term "wood fuel";
3. simplify section 252:100-19-13, Permit by Rule, by deleting some redundant language; and
4. refine Appendix C by the addition of a formula for calculating allowable emissions for BTU values between 1,000 and 10,000 MMBTU/hr.

At the October 19 Air Quality Council meeting, staff will suggest that Council approve revocation of Subchapters 21 and 27 and approve the changes to Subchapter 19, including the addition of the PBR, section 252:100-19-13, for small particulate matter facilities. In addition, staff will request that the Appendices C and D be revoked and replaced with new non-graphic Appendices C and D. Staff will then recommend that the Air Quality Council vote to submit all these revisions to the Environmental Quality Board for approval as a permanent rule.

Enclosures: 7

**SUBCHAPTER 19. CONTROL OF EMISSION OF PARTICULATE MATTER
FROM FUEL-BURNING EQUIPMENT**

Section

252:100-19-1. Purpose

252:100-19-1.1. Definitions

252:100-19-2. Emission of particulate matter prohibited[REVOKED]

252:100-19-3. Existing equipment[REVOKED]

252:100-19-4. ~~New equipment~~ Allowable particulate matter emission rates

252:100-19-5. Refuse burning prohibited[REVOKED]

252:100-19-6. Allowable emission of particulate matter[REVOKED]

252:100-19-7. Particulate matter emission limits[REVOKED]

252:100-19-10. Allowable particulate matter emission rates from indirectly fired wood fuel-burning units

252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units

252:100-19-12. Allowable particulate matter emission rates from directly fired fuel-burning units and industrial processes

252:100-19-13. Permit by rule

252:100-19-1. Purpose

The purpose of this Subchapter is to control the amount of particulates released into the air by the use of fuel-burning equipment. emission of particulate matter.

252:100-19-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Directly fired" means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.

"Fuel-burning unit" means any internal combustion engine or gas turbine, or other combustion device used to convert the combustion of fuel into usable energy.

"Fossil fuel" means coal, petroleum, natural gas, or any fuel derived from coal, petroleum, or natural gas.

"Haul road" means a road on private property used to transport material or equipment by motorized vehicles.

"Indirectly fired" means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

"Industrial process" means any source, activity or equipment, excluding fuel-burning units, which can

reasonably be expected to emit particulate matter. The term includes, but is not limited to crushing, milling, screening, mixing and conveying. The term does not include maintenance activities unless maintenance is the primary activity of the facility.

"Particulate matter facility" means a facility from which particulate matter is the predominant emission, excluding fugitive emissions and emissions resulting from control equipment malfunctions.

"Wood fuel" means any fuel which, excluding air and water, is at least 95 percent by weight cellulose, hemicellulose and lignin, and has a heat value of less than 10,000 BTU per pound.

252:100-19-2. Emission of particulate matter prohibited[REVOKED]

~~The emission or escape into the open air of particulates resulting from the combustion of fuel in any fuel-burning equipment or from any stack connected thereto in quantities in excess of that indicated in 252:100-19-6 or 252:100-19-7 is hereby prohibited.~~

252:100-19-3. Existing equipment[REVOKED]

~~Any fuel-burning equipment in operation prior to the effective date of this Subchapter shall not emit particulate matter in excess of 0.6 pounds per million B.T.U. heat input provided that all such existing equipment shall comply with 252:100-19-2 within eighteen (18) months from and after July 21, 1970.~~

252:100-19-4. New equipmentAllowable particulate matter emission rates from fuel-burning units

Except as provided in 252:100-19-10, 252:100-19-11 and 252:100-19-12 ~~The~~ the emission or escape into the open air of particulate matter resulting from the combustion of fuel in any new or existing fuel-burning unitequipment in quantities exceeding ~~shall not exceed the limits specified in 252:100-19-6 for the size of equipment involved, is prohibited~~ Appendix C. able to that fuel burning unit. ~~These limitations shall apply when the fuel burning equipment is operating at the maximum design heat input rating. The heat input rating of any unit discharging to a single stack shall be the maximum design input rating, including both heat available from burning of fuel and any sensible heat from materials introduced into the combustion zone of a standard temperature of 60 F. For a heat input between any two (2) consecutive heat inputs stated in 252:100-19-6, maximum allowable emissions of particulate matter are shown in 252:100-19-6. When one fuel-burning unit is connected to~~

~~two or more stack equipment shall be the criterion for the maximum allowable total emission from all stacks combined.~~

252:100-19-5. Refuse burning prohibited[REVOKED]

~~The burning of refuse in fuel burning equipment is prohibited except in equipment specifically designed to burn refuse.~~

252:100-19-6. Allowable emission of particulate matter[REVOKED]

~~The emission limits described in 252:100-19-2 and 252:100-19-4 are as follows:~~

Heat Input in Million Emissions British Thermal Unit Per Hour	Maximum Allowable of Particulate Matter in Pounds Per Million British Thermal Units
Up to and including 10	0.60
100	0.35
1,000	0.20
10,000 and above	0.10

252:100-19-7. Particulate matter emission limits[REVOKED]

~~Particulate matter emission limits for fuel burning equipment are set forth in Appendix C of this Chapter.~~

252:100-19-10. Allowable particulate matter emission rates from indirectly fired wood fuel-burning units

The emission of particulate matter resulting from the combustion of wood fuel in any new or existing indirectly fired fuel-burning unit shall not exceed the limits specified in Appendix D.

252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units

Any combined wood fuel and fossil fuel fired steam generating unit with a maximum design heat input of more than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit particulate matter in excess of 0.1 pound per million BTUs.

252:100-19-12. Allowable particulate matter emission rates from directly fired fuel-burning units and industrial processes

(a) Allowable particulate matter emission rates. The emission of particulate matter from any new or existing

directly fired fuel-burning unit or from any emission point in an industrial process shall not exceed the limits specified in Appendix G.

(b) Exception to the allowable particulate matter emission rates for industrial processes. Emission of particulate matter from an emission point during periods of cleaning or adjusting industrial process equipment shall not exceed 150 percent of the limits as set forth in Appendix G for more than six (6) minutes in any sixty (60) consecutive minutes. For those operations utilizing control devices that require regular intermittent cleaning, compliance with this Section will be determined on the basis of the average hourly emission.

252:100-19-13. Permit by rule

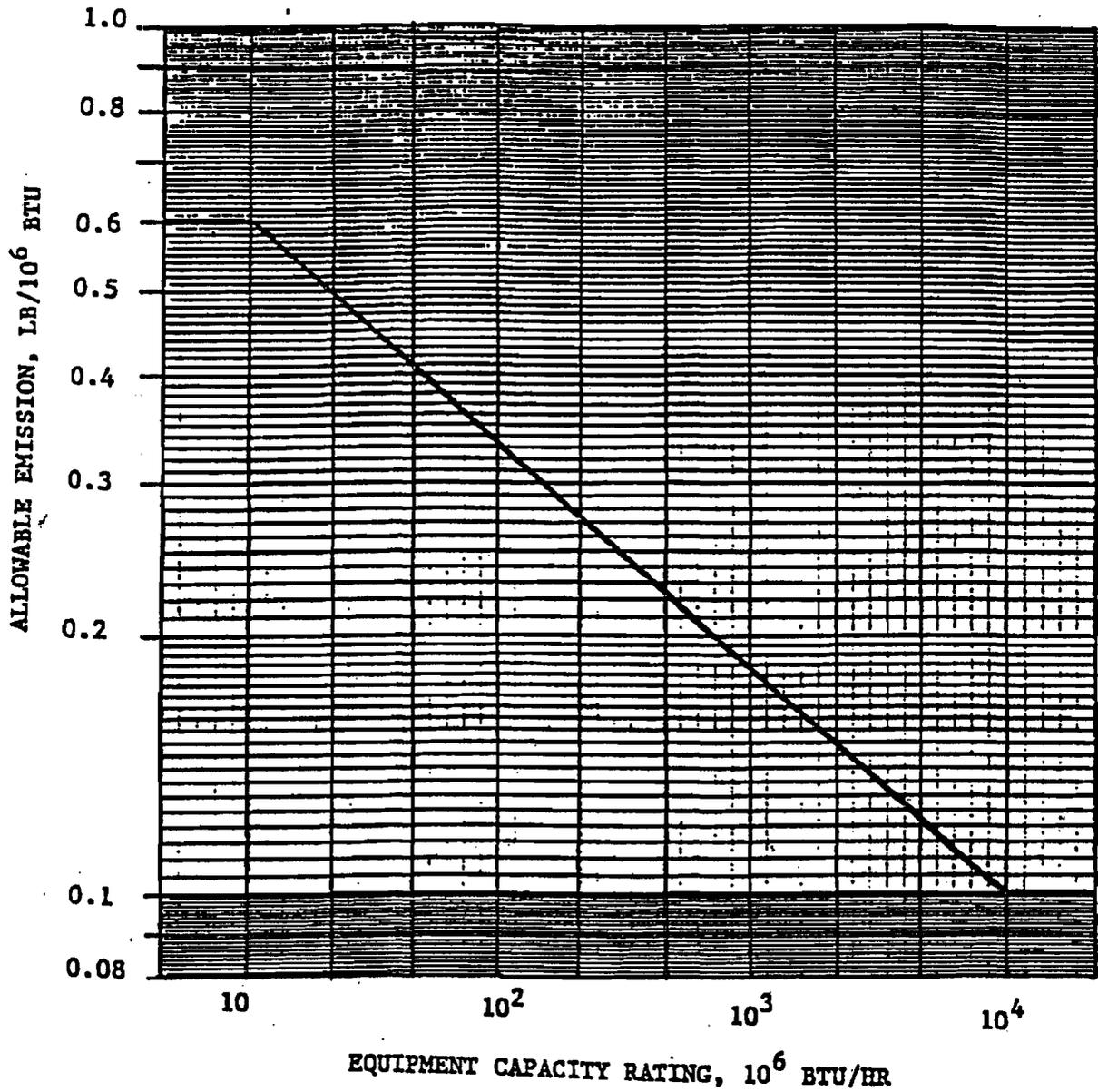
(a) Applicability. Any particulate matter facility may be constructed or operated under this section if:

- (1) it meets the requirements in 252:100-7-60, and
- (2) it is not subject to any New Source Performance Standard (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAP), Maximum Achievable Control Technology (MACT) standard or other Permit by Rule (PBR).

(b) Requirements. In addition to the requirements of 252:100, the owner or operator of a particulate matter facility permitted under this section shall comply with the following requirements.

- (1) All water sprays, bag houses, cyclones, or other particulate matter control equipment shall be properly maintained and operated.
- (2) Haul roads and material piles shall be watered or treated as necessary to minimize emissions of fugitive dust.

APPENDIX C. PARTICULATE MATTER EMISSION LIMITS FOR FUEL-BURNING EQUIPMENT [REVOKED]



APPENDIX C. ALLOWABLE RATE OF EMISSIONS [NEW]

Maximum Heat Input In Million British Thermal Units (MMBTU) Per Hour (X)	Allowable Particulate Matter Emissions In Pounds Per Million British Thermal Units (E)
10 or less	0.60
20	0.51
30	0.46
40	0.43
50	0.41
60	0.39
70	0.38
80	0.37
90	0.36
100	0.35
110	0.34
130	0.33
150	0.32
170	0.31
190	0.30
220	0.29
270	0.28
310	0.27
360	0.26
430	0.25
510	0.24
610	0.23
740	0.22
910	0.21
1,080	0.20
1,290	0.19
1,550	0.18
1,890	0.17
2,330	0.16
2,910	0.15
3,690	0.14
4,760	0.13
6,280	0.12
8,500	0.11
10,000 or more	0.10

Allowable emissions may be calculated by use of the following formulas:

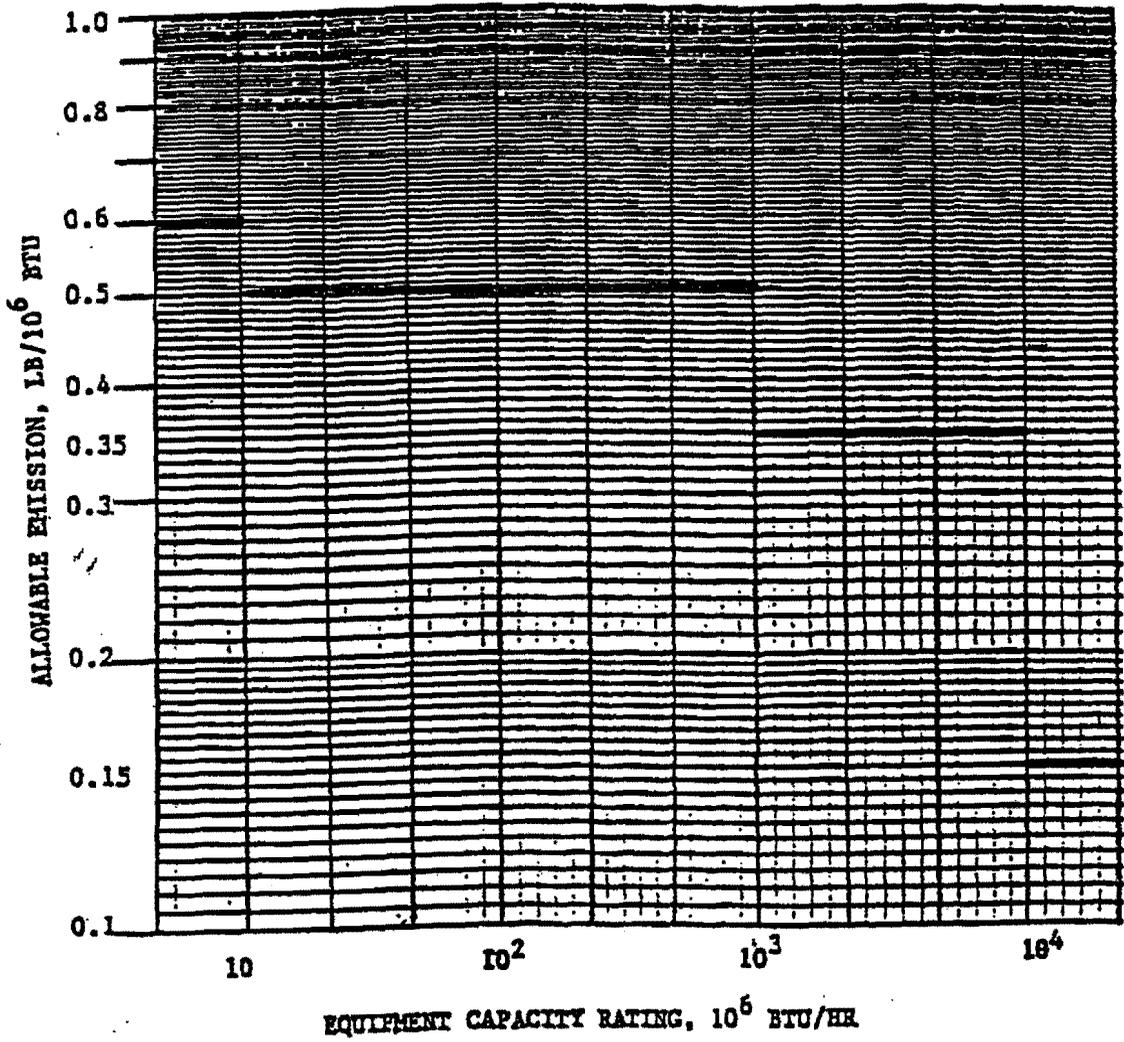
$$E = 1.042808X^{-0.238561} \text{ (for values for X greater than 10 MMBTU but less than 1,000 MMBTU) or}$$

$$E = 1.6X^{-0.30103} \text{ (for values for X greater than or equal to 1,000 MMBTU but less than 10,000 MMBTU).}$$

Where:

E = the particulate matter emission limit in pounds per MMBTU input and
X = the maximum heat input in MMBTU per hour.

APPENDIX D. PARTICULATE MATTER EMISSION LIMITS FOR WOOD-WASTE BURNING
EQUIPMENT [REVOKED]



APPENDIX D. ALLOWABLE RATE OF EMISSIONS[NEW]

Maximum Heat Input In
Million British Thermal
Units Per Hour

Allowable Particulate
Matter Emissions In Pounds Per
Million British Thermal Units

Less than 10	0.60
10 to less than 1,000	0.50
1,000 to less than 10,000	0.35
10,000 or more	0.15

**SUBCHAPTER 27. PARTICULATE MATTER EMISSIONS FROM
INDUSTRIAL AND OTHER PROCESSES AND OPERATIONS [REVOKED]**

Section

- 252:100-27-1. Purpose
- 252:100-27-2. Process emission limitations
- 252:100-27-3. Exception to emission limits
- 252:100-27-4. Sampling and testing
- 252:100-27-5. Allowable rate of emission

252:100-27-1. Purpose [REVOKED]

~~The purpose of this Subchapter is to control the emission of particulate matter from any operation, process or activity except fuel burning equipment or refuse burning equipment.~~

252:100-27-2. Process emission limitations [REVOKED]

~~(a) Existing installations. Eighteen (18) months from and after the effective date of this Subchapter all existing installations must comply with the rates of emissions as specified in 252:100-27-5.~~

~~(b) New installations. From and after the effective date of this Subchapter, all new installations must comply with the rates of emission as specified in 252:100-27-5.~~

~~(c) General provision. No person shall cause, let, permit, suffer, or allow the emission from any general operation or general combustion operation of particulate matter from any emission point at a rate in excess of that specified in 252:100-27-5 for the process weight rate allocated to such emission point.~~

252:100-27-3. Exception to emission limits [REVOKED]

~~Emission of particulate matter during periods of cleaning or adjusting process equipment shall not exceed 150 percent of the limits as set forth in the 252:100-27-2 for a period or periods aggregating not more than six (6) minutes in any sixty (60) consecutive minutes. In those operations utilizing control devices which require regular intermittent cleaning, compliance with this Subchapter will be determined on the basis of the average hourly emission.~~

252:100-27-4. Sampling and testing [REVOKED]

~~(a) Testing. A person responsible for the emission of particulates from any source shall, upon written request of the Director, make or have made at his own expense, tests to determine the quantity or quality or both. Alternatively, said person shall be reasonably cooperative with the Director in securing such tests.~~

~~(b) **Methods.** Emission tests relating to this Subchapter shall be undertaken by generally recognized standards or methods of measurements. Methods found in the current ASME Test Code for Dust Separating Apparatus, the ASME Power Test Code, the Code for Determining Dust Concentrations in Gas Streams and the Los Angeles County Source Testing Manual may be used, but these may be modified or adjusted by the Director, in cooperation with the operator of the source, to suit specific sampling conditions or needs based upon good judgment and experience. Other methods found to produce reliable results and approved by the Director may be used.~~

~~(c) **Monitoring.** All tests shall be conducted, supervised or approved by a registered professional engineer.~~

252:100-27-5. Allowable rate of emission [REVOKED]

~~Allowable rate of emissions based on actual process weight rate shall be as tabulated in Appendix C of this Chapter.~~

MINUTES
AIR QUALITY COUNCIL
OCTOBER 19, 1999
Department of Environmental Quality
Tulsa City-County Health Department

Council Members Present

William B. Breisch, Chairman
David Branecky
Leo Fallon
Gary Kilpatrick
Sharon Myers
Joel Wilson

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Eric Milligan
Myma Bruce

Council Members Absent

Larry Canter
Fred Grosz
Meribeth Slagell

Guests Present

**see attached list

Notice of Public Meeting for October 19, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors at the Tulsa City-County Health Department.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye. Dr. Canter, and Dr. Grosz did not attend. Mr. Breisch announced that Ms. Slagell had offered her resignation to the Governor.

CY 2000 Meeting Schedule - Council was presented with dates emulating the past years of the third Tuesday in February, April, June, August, October, and December. There was discussion to change the day of week to Wednesday of these months which would accommodate both staff and Council. Council voted to continue this item to the December 14 meeting. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Branecky to approve the Minutes as presented and second was made by Mr. Kilpatrick. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-4

New Source Performance Standards [AMENDED]

Ms. Michelle Martinez made staff presentation advising Council that the proposed amendments to Subchapter 4 would update the incorporations by reference of the federal NSPS from July 1, 1997 to July 1, 1999. She pointed out that previously incorporated NSPS subparts that had been amended by the EPA since July 1, 1997 were: AA, AAa, Da, Db, Eb, and WWW. She advised that a new Subpart Ec had been added to the NSPS and that Subpart Ce was added to 252:100-4-5. She advised that this was the first time for the proposal to be considered, but staff's recommendation would be to request that the rule be sent to the Environmental Quality Board for permanent and emergency adoption. She pointed out that since the amendments update the incorporation by reference of new federal rules, adoption as an emergency would allow the amended rule to take effect earlier than June 1, 2000 and make state rules consistent with federal rules.

Mr. Breisch entertained motion to forward this rule to the Environmental Quality Board for both emergency and permanent adoption. Motion was made by Mr. Kilpatrick and second to the motion was by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-5

Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram made the staff presentation advising that the proposed changes to Subchapter 5 were designed to allow the agency to bill annual operating fees on a flexible schedule, and that the changes should also allow the fees to be based on the most recent emission data possible. Ms. Buttram advised that the proposed rule language would also require an owner or operator of a facility to report excess emissions on their annual emission inventory. Ms. Buttram pointed out that substantive changes included the requirement that inventories were to be submitted one month earlier than presently required which would allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment. That change would also reduce the period of time to six months in which either the DEQ or the facility owner or operator could challenge the data or methods used to calculate the facility's emissions.

Ms. Buttram advised that comments had been received from Fort James and EPA which were included in this proposal and that comments from Weyerhaeuser received the day before would be considered in the next draft of the rule; therefore, staff recommended that the rule be continued to the December meeting.

Comments and questions were discussed from Council members and the audience. Comments were heard from Stephen Landers of Ft. James; Mike Wood, Weyerhaeuser; Howard Ground, Central and Southwest; Bill Fishback; Mid-Continent Oil and Gas; Tom Bauckham, Reliant Energy; Gary Collins, Terra. Following discussion, Mr. Breisch entertained motion to continue

the rule to Council's December 14 meeting per staff recommendation. Motion to continue was made by Ms. Myers with the second made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram gave the staff presentation advising that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language and was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Ms. Buttram pointed out substantive changes to the rule which included narrowing the scope of the rule to minor facilities only. She advised that a new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation advising that the new language would establish a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5 % of the process's operation time, whichever is greater, in a three-month period. Ms. Buttram added that the burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

Ms. Buttram entered into the record comments received from Mid-Continent Oil and Gas Association and from EPA. She further advised that the EPA comments indicated that further changes might need to be made to the rule due to their recent review of Oklahoma's SIP. Ms. Buttram advised that due to these comments, staff recommendation would be to continue this rule to the December meeting to allow staff more time to review the EPA guidance document. Mr. Tom Diggs, EPA, was asked to explain that document in detail and accepted comments regarding same. Additional comments were made by Bill Fishback.

Mr. Breisch entertained motion to continue this rule to the December meeting. Motion was made by Mr. Branecky with the second by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Mr. Dyke again called upon Ms. Jeanette Buttram who advised that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She pointed out that such changes include consolidating the general conditions and requirements for allowed open burning into a new section; and that a few substantive changes were made such as adding definitions for "domestic refuse" and "land clearing operation" and a section on disaster relief procedures. Ms. Buttram continued stating

that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added and that the open-pit incinerator requirements were moved to a new section. She pointed out the proposal would require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 90 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee adding that hazardous materials may not be burned in an open-pit incinerator unless prior written approval has been obtained from both the local fire chief and the DEQ.

Ms. Buttram entered written comments from EPA and a letter from the City of Hobart into the record.

Following questions and discussion by Council, Mr. Breisch entertained motion to continue this rule to the December meeting. Motion was made by Ms. Myers with the second by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARINGS (COMBINED HEARINGS ON SC 19, SC 21, and SC 27)

OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]

OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

OAC 252:100-27 Matter Emissions from Industrial and Other Processes and Operation [REVOKED]

APPENDIX C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]

APPENDIX D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]

APPENDIX C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]

APPENDIX D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]

Mr. Dyke called upon Mr. Max Price to make the staff presentation regarding these combined rules. Mr. Price advised that Subchapters 19, 21, and 27 all deal with particulate matter (PM) emissions and that the proposed changes merged the requirements of Subchapter 21 and Subchapter 27 into Subchapter 19; then Subchapters 21 and 27 would be revoked. Mr. Price pointed out that Subchapter 19 as proposed would be simplified and clarified according to the agency-wide re-right/de-wrong initiative. He advised that a permit by rule for particulate matter facilities is being proposed for Subchapter 19. Mr. Price also advised that the proposal included that Appendix C and Appendix D would be revoked in favor of two new tabular appendices.

Mr. Mike Wood, Weyerhaeuser, commented regarding the definition of "wood fuel". After much discussion, motion was made to by Mr. Wilson to amend Subchapter 19 to include the wording "for any wood derived fuel as approved by the Division"; to revoke subchapters 21 and 27; to revoke both Appendix C and Appendix D in favor of tabular appendices; and to send the rules to the Environmental Quality Board in one package for adoption as a permanent rule. Mr. Kilpatrick seconded that motion. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-35

Control Of Emission Of Carbon Monoxide [AMENDED]

Mr. Dyke called upon Ms. Michelle Martinez to make staff presentation. Ms. Martinez stated that the proposed changes to Subchapter 35 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative; and that the scope of the Subchapter would be narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Ms. Martinez added that other changes included the addition of the definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". She further advised that Section 35-3, Performance Testing, would be revoked because performance testing requirements are already provided for in Subchapters 8 and 43.

Ms. Martinez advised that staff's recommendation was to send the rule to the Environmental Quality Board for adoption as permanent and emergency. Mr. Breisch entertained motion which was made by Mr. Fallon. The second was made by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-41 Sections 15 and 16

Control Of Emission Of Hazardous and Toxic Air Contaminants [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who advised that changes are being proposed for section 15 would incorporate by reference the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR 63 that have been promulgated by the EPA from July 1, 1998, through July 1, 1999. These are subparts HH, SS, TT, UU, WW, YY, CCC, DDD, EEE, GGG, HHH, III, LLL, MMM, NNN, PPP, TTT, and XXX. Ms. Bradley continued that the DEQ is also proposing to update to July 1, 1999 the incorporation by reference in 252:100-41-16 of the National Emission Standards for Hazardous Air Pollutants (NESHAP) found in 40 CFR 61. She added that other minor revisions are proposed to Section 15 and 16 to clarify, simplify and correct these sections as required by statute.

Ms. Bradley advised that staff's recommendation would be to send to the rule to the Environmental Quality Board for adoption as permanent and emergency rule. She advised that since the amendments update the incorporation by reference of new federal rules, adoption as an emergency rule would allow the amended rules to take effect earlier and minimize the lag time in making the state program consistent with the federal program. Mr. Breisch entertained motion which was made by Mr. Kilpatrick. The second was made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-47

Control of Emissions from Existing Municipal Solid Waste Landfills [AMENDED]

Mr. Dyke again called upon Ms. Cheryl Bradley who advised that the modifications to Subchapter 47 would update the incorporation by reference of 40 CFR 60.751 through 60.759 to July 1, 1999. She advised that one comment had been received from the EPA in support of the proposed amendments. She continued that it would be staff's recommendation to send the rule to the Environmental Quality Board for permanent and emergency adoption as adoption as an emergency rule would allow the amended rule to take effect earlier than June 1, 2000 and thereby minimize confusion for regulated landfills. Mr. Breisch entertained motion which was made by Mr. Fallon. The second was made by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes

DIVISION DIRECTOR'S REPORT

Mr. Dyke announced that the Council representative for agriculture, Meribeth Slagell, had turned in her letter of resignation from the Council. Also, Scott Thomas stated that due to a recent remand of the revised ozone, PM-2.5 and PM-10, staff plans on bringing this matter to public hearing at the December Council.

NEW BUSINESS - It was decided that the next meeting would again begin at 9:00 a.m. due to the number of agenda items and would follow the same format.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be December 14, 1999 in the Multipurpose Room of the DEQ in Oklahoma City beginning at 9:00 a.m.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

October 19, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. John Snow	DAVIS	405-640-961
2. Howard Ground	CSW	214-777-1711
3. Tom Diggins	EPA R-6	214-665-7214
4. Terry Thomas	EPA R-6	214-665-7166
5. FRANK LONDON	EQ BOARD	
6. Preston Botula	midland	915 522 1102
7. BILL FISHBACK	MOBIL 3424 CRITIC TER. EDMOND, OK 73013	405-348-8683
8. Bonnie M. Gilbra	2122 S. Yukon Tulsa	918- 277-0 ⁵⁸³⁻⁸⁹²⁵
9. Melody D. Nummond	OSU	
10. TERRI WALTMAN	ENERCON	918-665-7693
11. ROAL SOBER	RFS CONSULTING	918 663 9350
12. LEANNE BURNETT	20 N. BROADWAY, OKC	405-239-6610
13. ANNE SCHAEFER	TINKER AFB	405. 734. 7071
14. GERT HART	TINKER AFB	405. 734. 7071
15. Merle Fritz	Sinclair Oil Corp	918 584 5025
16. Terrell Mitchell	Fort James	918 683 7671 x32
17. Perry Friedrich	GRDA - Chouteau	918 476-8268
18. Mike Wood	Weyerhaeuser	501-624-8569
19. GILL LUTON	Fort James	918-683-7671 ext 35
20. Steve Louder	"	" " 458
21. Dustin Givens	"	" " 45
22. GARY COLLINS	TERRA	918 266 1511
23. David Minelli	TERRA	918 266 1511
24. BILL CLARKE	SUNOCO	918-594-6368
25. Pat Davenport	National Std.	405/377-5050

Stillwater

5809

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
October 19, 1999
SIGN IN SHEET Page Two

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Kirk Rutter Boeing	3330 Mingo Tulsa,	(918) 832-3178
27. Jon BERSUS MARCHIONA CO	2301 NW EXPWAY, OKC,	7
28. Tom BAUCKHAM Reliant Energy	109 N.W. 50 th OKC	(405) 556-2421
29. LEE PADEW ODEQ BOARD	P.O. Box 52072 TULSA	918-743-7057
30. Rick Tice OSHA	" " 1307 Eric	OK 73702
31. Dawson Lasseter ODEQ	707 N Robinson OKC	702-4180
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-19 OAC 252:100-21 OAC 252:100-27
Appendix C and Appendix D

Subchapters or Sections Involved – [new, amended or revoked]

COMBINED

OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]

OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

OAC 252:100-27 Particulate Matter Emissions from Industrial and Other Processes and Operation [REVOKED]

Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]

Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]

Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]

Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]

On October 19, 1999 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

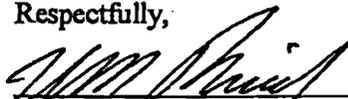
X permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Chair or Designee

Date signed: October 19, 1999

VOTING TO APPROVE:

Joel Wilson
Leo Fallon
Sharon Myers
David Branecky
Gary Kilpatrick
William Breisch

VOTING AGAINST:

ABSTAINING:

ABSENT:

Larry Canter
Fred Grosz

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, November 16, ~~1998~~ 1999
Southeast Oklahoma Expo Complex
4500 West Highway 270
McAlester, Oklahoma

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the September 28, 1999 Regular Meeting
4. **Rulemaking-- OAC 252:100 Air Pollution Control:**

Several sets of changes are proposed:

- Subchapter 4 (New Source Performance Standards) is amended to update the incorporation by reference of the federal NSPS to July 1, 1999.
- Subchapters 19, 21 and 27 all deal with particulate matter (PM) emissions. The changes merge the requirements of Subchapter 21 and Subchapter 27 into Subchapter 19. Subchapters 21 and 27 will be revoked. Subchapter 19 as proposed is simplified and clarified according to the agency-wide "re-right/de-wrong" initiative. Also, a Permit by Rule for particulate matter facilities is being proposed for Subchapter 19. Both Appendix C and Appendix D are revoked in favor of two new tabular appendices.
- The changes to Subchapter 35 (Control of Emission of Carbon Monoxide) simplify and clarify the subchapter as a part of the agency-wide "re-right/de-wrong" initiative. The scope of the subchapter is narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Other changes include definitional revisions and the revocation of redundant performance testing requirements.
- The revisions to Subchapter 41 (Control of Emission of Hazardous and Toxic Air Contaminants) update the adoption by reference of federal rules to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1998 and July 1, 1999. The revisions also update the adoption by reference of the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) to July 1, 1999, with certain exceptions. Minor revisions are proposed to Sections 15 and 16 to clarify, simplify and correct those sections as required by statute.
- Subchapter 47 (Control of Emission from Existing Municipal Solid Waste Landfills) is amended to update the incorporation by reference of 40 CFR 60.751 through 60.759 to July 1, 1999.

- A. Presentation – David Branecky, Vice Chair, Air Quality Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption of all proposed amendments and on emergency adoption of amendments to Subchapters 4, 35, 41 and 47

5. **Rulemaking – OAC 252:400 and 410 Radiation Management:**

This rulemaking proposal is part of the DEQ's "re-right/de-wrong" simplification and clarification of its existing rules. The changes are extensive enough that the DEQ believes it is simpler and more straightforward to revoke existing Chapter 400 and replace it with a new Chapter 410 than to amend Chapter 400. The rulemaking also supports Oklahoma's application to the Nuclear Regulatory Commission (NRC) for "State Agreement" status to shift regulation of source, byproduct and special nuclear material from the NRC to the DEQ. Additionally, the proposed rules include National Emission Standards for Hazardous Air Pollutants (NESHAP) for radionuclides.

- A. Presentation – Dr. David Gooden, Chair, Radiation Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

6. **Rulemaking -- OAC 252:002 Procedures of the Department of Environmental Quality:**

This rulemaking proposal supports Oklahoma's application to the Nuclear Regulatory Commission (NRC) for State Agreement status. It adds State Agreement licenses to DEQ tier classifications for radiation management permit applications and reflects changes corresponding to those made in connection with the DEQ's review and revision of Chapters 400/410, Radiation Management (see Item 7 above).

- A. Presentation-- Dr. David Gooden, Chair, Radiation Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

7. **Consideration of the Environmental Quality Report:**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an "Oklahoma Environmental Quality Report" and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1st of each year. Despite the statutory title, the statutorily designated purpose of this report is to outline the DEQ's two-year needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- A. Presentation-- Steve Thompson, DEQ Deputy Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on approval

- 8. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)
- 9. Executive Director's Report, including response to request from the Board at their last meeting for additional DEQ budget information
- 10. Discussion of and vote on 2000 Environmental Quality Board regular meeting dates
- 11. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from the DEQ Water Quality Division about State Water Quality Standards implementation, the State "303(d)" (impaired waters) list, and related issues.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until May or June of 2000.

SUBCHAPTER 19. CONTROL OF EMISSION OF PARTICULATE MATTER
EMISSIONS FROM FUEL-BURNING EQUIPMENT

252:100-19-1. Purpose

The purpose of this Subchapter is to control the amount of particulates released into the air by the use of fuel burning equipment emission of particulate matter.

252:100-19-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Directly fired" means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.

"Fuel-Burning unit" means any internal combustion engine or gas turbine, or other combustion device used to convert the combustion of fuel into usable energy.

"Fossil fuel" means coal, petroleum, natural gas, or any fuel derived from coal, petroleum, or natural gas.

"Haul road" means a road on private property used to transport material or equipment by motorized vehicles.

"Indirectly fired" means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

"Industrial process" means any source, activity or equipment, excluding fuel-burning units, which can reasonably be expected to emit particulate matter. The term includes, but is not limited to crushing, milling, screening, mixing and conveying. The term does not include maintenance activities unless maintenance is the primary activity of the facility.

"Particulate matter facility" means a facility from which particulate matter is the predominant emission, excluding fugitive emissions and emissions resulting from control equipment malfunctions.

"Wood fuel" means any fuel which, excluding air and water, is at least 80 percent by weight cellulose, hemicellulose and lignin, and has a heat value of less than 9,500 BTU per pound; or any wood derived fuel as approved by the Division.

252:100-19-2. Emission of particulate matter prohibited [REVOKED]

The emission or escape into the open air of particulates resulting from the combustion of fuel in any fuel burning equipment or from any stack connected thereto in quantities in excess of that indicated in 252:100-19-6 or 252:100-19-7 is hereby prohibited.

252:100-19-3. Existing equipment [REVOKED]

Any fuel burning equipment in operation prior to the effective date of this Subchapter shall not emit particulate matter in excess of 0.6 pounds per million B.T.U. heat input provided that all such existing equipment shall comply with 252:100-19-2 within eighteen (18) months from and after July 21, 1970.

252:100-19-4. New equipment Allowable particulate matter emission rates from fuel-burning units

~~The Except as provided in 252:100-19-10, 252:100-19-11 and 252:100-19-12 the emission or escape into the open air of particulate matter resulting from the combustion of fuel in any new or existing fuel-burning equipment in quantities exceeding unit shall not exceed the limits specified in 252:100-19-6 for the size of equipment involved, is prohibited. These limitations shall apply when the fuel burning equipment is operating at the maximum design heat input rating. The heat input rating of any unit discharging to a single stack shall be the maximum design input rating, including both heat available from burning of fuel and any sensible heat from materials introduced into the combustion zone of a standard temperature of 60°F. For a heat input between any two (2) consecutive heat inputs stated in 252:100-19-6, maximum allowable emissions of particulate matter are shown in 252:100-19-7. When one fuel burning unit is connected to two or more stacks, the heat input of the equipment shall be the criterion for the maximum allowable total emission from all stacks combined Appendix C.~~

252:100-19-5. Refuse burning prohibited [REVOKED]

~~The burning of refuse in fuel burning equipment is prohibited except in equipment specifically designed to burn refuse.~~

252:100-19-6. Allowable emission of particulate matter [REVOKED]

~~The emission limits described in 252:100-19-2 and 252:100-19-4 are as follows:~~

Heat Input in Million	Maximum Allowable Emissions
British Thermal Unit	of Particulate Matter in
Per Hour	Pounds Per Million
	British Thermal Units

Up to and including 10	0.60
100	0.35
1,000	0.20
10,000 and above	0.10

252:100-19-7. Particulate matter emission limits [REVOKED]

~~Particulate matter emission limits for fuel burning equipment are set forth in Appendix C of this Chapter.~~

252:100-19-10. Allowable particulate matter emission rates from indirectly fired wood fuel-burning units

The emission of particulate matter resulting from the combustion of wood fuel in any new or existing indirectly fired fuel-burning unit shall not exceed the limits specified in Appendix D.

252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units

Any combined wood fuel and fossil fuel fired steam generating unit with a maximum design heat input of more than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit particulate matter in excess of 0.1 pound per million BTUs.

252:100-19-12. Allowable particulate matter emission rates from directly fired fuel-burning units and industrial processes

The emission of particulate matter from any new or existing directly fired fuel-burning unit or from any emission point in an industrial process shall not exceed the limits specified in Appendix G.

252:100-19-13. Permit by rule

(a) Applicability. Any particulate matter facility may be constructed or operated under this section if:

- (1) it meets the requirements in 252:100-7-60, and
- (2) it is not subject to any New Source Performance Standard (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAP), Maximum Achievable Control Technology (MACT) standard or other Permit by Rule (PBR).

(b) Requirements. In addition to the requirements of 252:100, the owner or operator of a particulate matter facility permitted under this section shall comply with the following requirements.

- (1) All water sprays, bag houses, cyclones, or other particulate matter control equipment shall be properly maintained and operated.
- (2) Haul roads and material piles shall be watered or treated as necessary to minimize emissions of fugitive dust.

SUBCHAPTER 21. PARTICULATE MATTER EMISSIONS FROM WOOD-WASTE BURNING EQUIPMENT [REVOKED]

~~252:100-21-1. Purpose [REVOKED]~~

~~The purpose of this Subchapter is to control the amount of particulates released into the air by the use of wood waste burning equipment.~~

~~252:100-21-2. Emission prohibition [REVOKED]~~

~~The emission or escape into the open air of particulates resulting from the combustion of wood waste in any fuel burning equipment in quantities in excess of that indicated in this Subchapter is hereby prohibited.~~

~~252:100-21-3. Limitations [AMENDED AND RENUMBERED TO 252:100-19-11]~~

~~(a) Wood waste fuel burning equipment. Any wood waste fuel-burning equipment, operating or constructed to operate, shall not emit particulate matter in excess of that specified in 252:100-21-4 or 252:100-21-5 for the size of equipment involved. These limitations shall apply when the wood waste burning equipment is operating at the maximum design heat input rating. The heat input rating of any unit shall be the maximum design input rating, including both heat available from burning of wood waste fuel and any sensible heat from materials introduced into the combustion zone at a standard temperature of 60°F.~~

~~(b) New combined wood waste and fossil fuel fired steam generating units. Any new combined wood waste and fossil fuel-fired steam generating unit of a designed capacity of more than 250 million BTUs per hour input shall not emit particulate matter in~~

~~excess of 0.1 pound per million BTUs.~~

252:100-21-4. Allowable emissions [REVOKED]

~~The emission limits described in 252:100 21 3 are as follows:~~

Heat Input in Million British Thermal Units (BTU) Per Hour	Maximum Allowable Emission of Particulate Matter in Pounds Per Million British Thermal Units (BTU)
---	---

Less than 10	0.60
10 to less than 1,000	0.50
1,000 to less than 10,000	0.35
10,000 or more	0.15

252:100-21-5. Emission limits [AMENDED AND RENUMBERED TO 252:100-19-10]

~~Particulate matter emission limits for wood waste burning equipment are set forth in Appendix D of this Chapter.~~

SUBCHAPTER 27. PARTICULATE MATTER EMISSIONS FROM INDUSTRIAL AND OTHER PROCESSES AND OPERATIONS [REVOKED].

252:100-27-1. Purpose [REVOKED]

~~The purpose of this Subchapter is to control the emission of particulate matter from any operation, process or activity except fuel burning equipment or refuse burning equipment.~~

252:100-27-2. Process emission limitations [AMENDED AND RENUMBERED TO 252:100-19-12]

~~(a) Existing installations. Eighteen (18) months from and after the effective date of this Subchapter all existing installations must comply with the rates of emissions as specified in 252:100 27 5.~~

~~(b) New installations. From and after the effective date of this Subchapter, all new installations must comply with the rates of emission as specified in 252:100 27 5.~~

~~(c) General provision. No person shall cause, let, permit, suffer, or allow the emission from any general operation or general combustion operation of particulate matter from any emission point at a rate in excess of that specified in 252:100 27 5 for the process weight rate allocated to such emission point.~~

252:100-27-3. Exception to emission limits [REVOKED]

~~Emission of particulate matter during periods of cleaning or adjusting process equipment shall not exceed 150 percent of the limits as set forth in the 252:100 27 2 for a period or periods aggregating not more than six (6) minutes in any sixty (60) consecutive minutes. In those operations utilizing control devices which require regular intermittent cleaning, compliance with this Subchapter will be determined on the basis of the average hourly emission.~~

252:100-27-4. Sampling and testing [REVOKED]

~~(a) Testing. A person responsible for the emission of~~

~~particulates from any source shall, upon written request of the Director, make or have made at his own expense, tests to determine the quantity or quality or both. Alternatively, said person shall be reasonably cooperative with the Director in securing such tests.~~

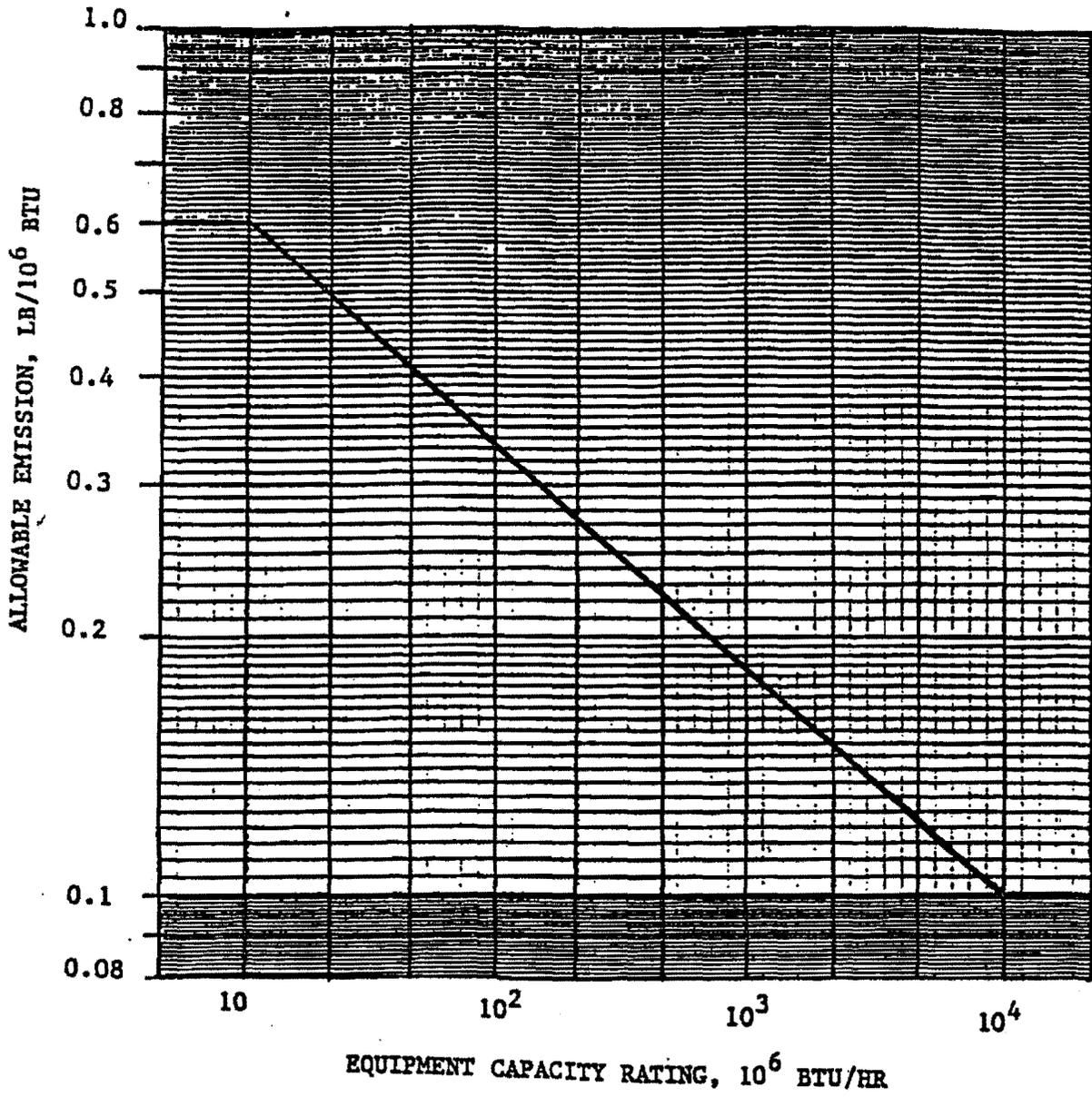
~~(b) Methods. Emission tests relating to this Subchapter shall be undertaken by generally recognized standards or methods of measurements. Methods found in the current ASME Test Code for Dust Separating Apparatus, the ASME Power Test Code, the Code for Determining Dust Concentrations in Gas Streams and the Los Angeles County Source Testing Manual may be used, but these may be modified or adjusted by the Director, in cooperation with the operator of the source, to suit specific sampling conditions or needs based upon good judgment and experience. Other methods found to produce reliable results and approved by the Director may be used.~~

~~(c) Monitoring. All tests shall be conducted, supervised or approved by a registered professional engineer.~~

252:100-27-5. Allowable rate of emission [AMENDED AND RENUMBERED TO 252:100-19-12]

~~Allowable rate of emissions based on actual process weight rate shall be as tabulated in Appendix C of this Chapter.~~

APPENDIX C. PARTICULATE MATTER EMISSION LIMITS FOR FUEL-BURNING EQUIPMENT [REVOKED]



APPENDIX C. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED
FUEL-BURNING UNITS [NEW]

Maximum Heat Input In Million British Thermal Units (MMBTU) Per Hour (X)	Allowable Particulate Matter Emissions In Pounds Per Million British Thermal Units (E)
10 or less	0.60
20	0.51
30	0.46
40	0.43
50	0.41
60	0.39
70	0.38
80	0.37
90	0.36
100	0.35
110	0.34
130	0.33
150	0.32
170	0.31
190	0.30
220	0.29
270	0.28
310	0.27
360	0.26
430	0.25
510	0.24
610	0.23
740	0.22
910	0.21
1,080	0.20
1,290	0.19
1,550	0.18
1,890	0.17
2,330	0.16
2,910	0.15
3,690	0.14
4,760	0.13
6,280	0.12
8,500	0.11
10,000 or more	0.10

Allowable emissions may be calculated by use of the following formulas:

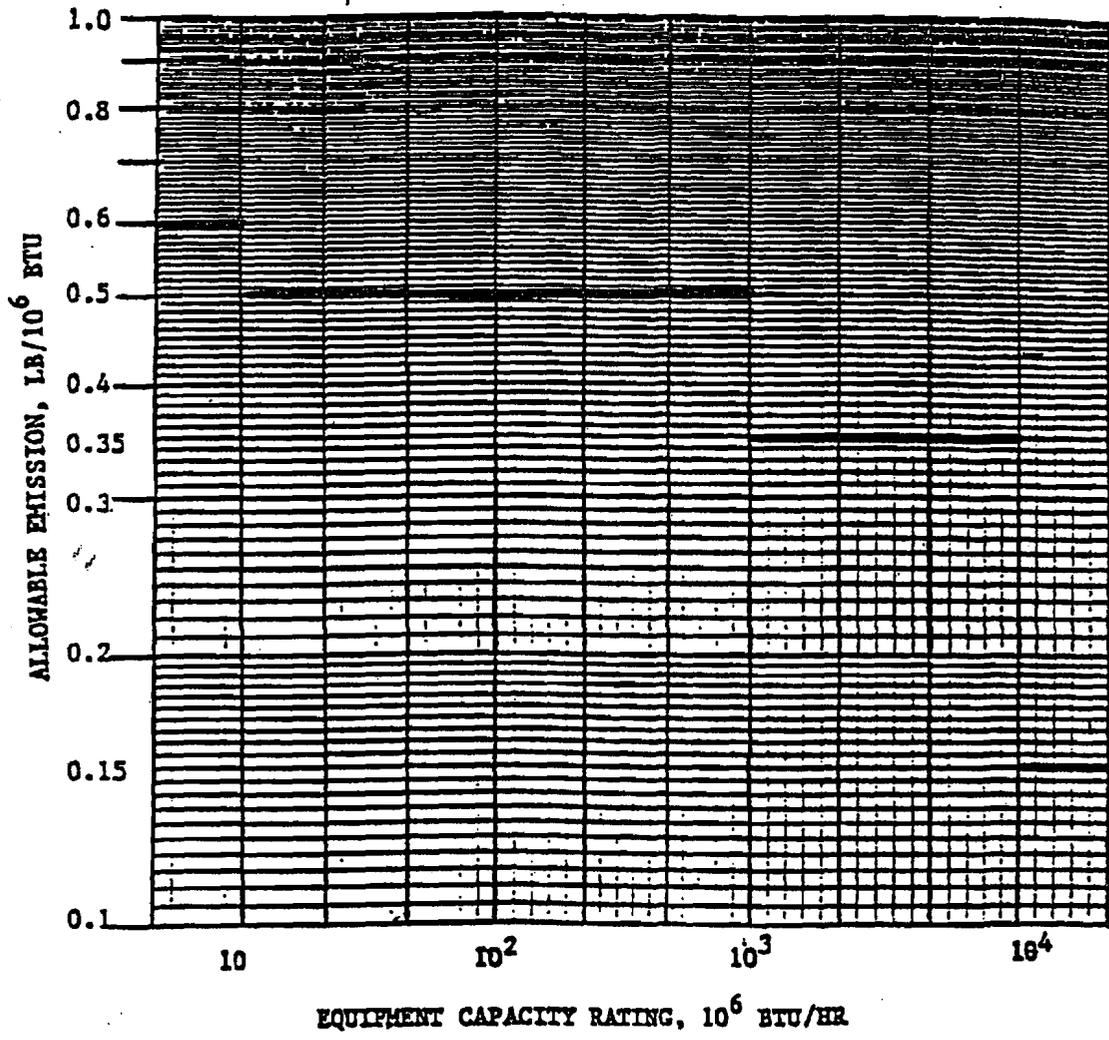
$E = 1.042808X^{-0.238561}$ (for values for X greater than 10 MMBTU but less than 1,000 MMBTU) or

$E = 1.6X^{-0.30103}$ (for values for X greater than or equal to 1,000 MMBTU but less than 10,000 MMBTU).

Where:

E = the particulate matter emission limit in pounds per MMBTU
input and
X = the maximum heat input in MMBTU per hour.

APPENDIX D. PARTICULATE MATTER EMISSION LIMITS FOR WOOD-WASTE BURNING
EQUIPMENT [REVOKED]



APPENDIX D. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED
WOOD FUEL-BURNING UNITS [NEW]

Maximum Heat Input In Million British Thermal Units Per Hour	Allowable Particulate Million Matter Emissions In Pounds Per Million British Thermal Units
Less than 10	0.60
10 to less than 1,000	0.50
1,000 to less than 10,000	0.35
10,000 or more	0.15

Additional Comments

**TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

**SUBCHAPTER 19. PARTICULATE MATTER EMISSION FROM FUEL-BURNING
EQUIPMENT**

**SUBCHAPTER 21. PARTICULATE MATTER EMISSIONS FROM WOOD-WASTE
BURNING EQUIPMENT**

**SUBCHAPTER 27. PARTICULATE MATTER EMISSIONS FROM INDUSTRIAL
AND OTHER PROCESSES AND OPERATIONS**

APPENDICES C AND D

EXECUTIVE SUMMARY:

The purpose of the changes to these rules is to simplify and clarify them in accordance with the agency-wide re-right/de-wrong process. The title of Subchapter 19 is being amended to, "Control of Emission of Particulate Matter" and the requirements of Subchapter 21, Particulate Matter Emissions from Wood-Waste Burning Equipment, and Subchapter 27, Particulate Matter Emissions from Industrial and Other Processes and Operations, are being moved to Subchapter 19. A Permit By Rule for facilities that emit particulate matter as their primary emission is being added to Subchapter 19. Subchapters 21 and 27 are being revoked, and Appendix C and D are also to be revoked in favor of new non-graphic appendices.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Attached.

SUMMARY OF COMMENTS AND RESPONSES

Please note that some of the following comments were received prior to the proposal to merge the requirements of Subchapter 27 with Subchapter 19. Because of this, the commentators references to Subchapter 27 have been addressed as if they concern Subchapter 19.

Comment 1:

Why is the definition of "fuel-burning equipment [unit]" in Subchapter 19 different that in 252:100-1-3?

Response 1:

The definition in 252:100-1-3 includes directly and indirectly fired fuel-burning equipment. Directly fired fuel-burning equipment typically can not meet the particulate emission limits of Appendix C because the material being processed becomes entrained in the exhaust stream from the heat source. Such sources have been handled under Appendix G. The change in the definition in Subchapter 19 was necessary to eliminate this confusion.

Comment 2:

The definition of "fuel-burning unit" needs to specify stationary sources because it can be interpreted to refer to mobile sources.

Response 2:

Staff disagrees because, with the exception of Subchapter 15, Motor Vehicle Pollution Control Devices, all our regulations are applicable to stationary sources only. The federal government has preempted the states from regulating the emissions of new motor vehicles under Section 209 of the federal Clean Air Act.

Comment 3:

The definition of "particulate matter source" is inconsistent with the term, "particulate matter facility" in the Permit by Rule section.

Response 3:

The term was changed in the definition section, 252:100-19-1.1, from "particulate matter source" to "particulate matter facility".

Comment 4:

The emission limits in Appendix C should be labeled "pounds per million BTU" instead of "pounds per hour".

Response 4:

The label was changed to "pounds per million BTU".

Comment 5:

A definition of "wood fuel" is unnecessary because the owners/operators of wood burning boilers know what "wood fuel" is.

Response 5:

The definition of "wood fuel" is necessary because any term used

in a regulation that specifies an emission standard must be clearly understood by regulated entities, the regulatory agency, and the public.

Comment 6:

For a waste-to-energy facility, which rule would apply; Subchapter 17 or Subchapter 19?

Response 6:

Subchapter 19 would apply because a waste-to-energy facility meets the definition of a "fuel-burning unit" in Subchapter 19, and Subchapter 17 would apply unless the facility qualified for one of the exemptions listed in that subchapter. If the particulate matter standards in both subchapters apply, the facility would be required to meet the more stringent of the two.

Comment 7:

The Permit By Rule requirement that all control equipment must be properly maintained and operated is not adequate to assure compliance and should specify specific operation and maintenance procedures.

Response 7:

Inclusion of specific operational and maintenance procedures for control equipment in the rule is impossible because of the wide range of covered sources. However, facilities wishing to be covered under the PBR must specify operational and maintenance procedures on their registration form, so these requirements are enforceable under the PBR.

SUMMARY OF VERBAL COMMENTS AND RESPONSES:

Comment 8:

Abrasive blasting for maintenance purposes is an applicable process under subchapter 19 and thus can not be considered "trivial" for Title V permitting purposes.

Response 8:

Staff agreed and defined "Industrial processes" to exclude processes used for maintenance only.

Comment 9:

There is no need for a definition of "wood fuel" in the regulation because the owners/operators of wood fueled boilers know what wood fuel is and the proposed definition would exclude many types of wood waste currently in use.

Response 9:

Staff disagreed. The definition of "wood fuel" was changed to include other types of wood fuel, such as pine bark. The commentor agreed with the changes, was agreeable to the commentator.

Comment 10:

The revocation of Subchapter 27 removes all emission standards

for industrial processes.

Response 10:

No, Section 252:100-19-12 includes directly fired fuel-burning units and industrial processes.

RESPONSE TO WRITTEN COMMENTS FROM THE PUBLIC AND INDUSTRY
SUBCHAPTER 19
SUBCHAPTER 27
APPENDIX C

Below is a summation of written comments along with staff responses regarding the proposed revisions to Subchapters 19 and 27, and Appendix C. This includes only those comments received prior to the mail-out of the Air Quality Council packets for the October 20, 1999, meeting.

McKinney & Stringer Letter (For Terra Nitrogen) dated August 18, 1999, and signed by Mr. Michael Peters

1. **COMMENT:** Why is the proposed definition of "fuel-burning equipment" in Subchapter 19 different from that in 252:100-1-3? The term "indirectly fired combustion device" is not defined in Subchapter 19.

RESPONSE: The definition in 252:100-1-3 includes directly and indirectly fired fuel-burning equipment. Directly fired equipment can't generally meet the particulate emission standards under Subchapter 19 because the material being processed becomes entrained in the exhaust stream from the heat source. Such sources have been handled as a matter of policy under Subchapter 27. The change to the definition in Subchapter 19 was designed to eliminate this confusion.

The term "indirectly fired combustion device" is indeed not defined in Section 100-19-1.1, but the term "indirectly fired" is defined. The staff also believes that the term "combustion device" is self-evident and need not be defined. An example of an indirectly fired combustion device would be a boiler as opposed to a "directly fired" aggregate drying kiln.

2. **COMMENT:** The definition of a "Particulate matter source" is inconsistent with the use of the term "Particulate matter facility" in the Permit By Rule section of Subchapter 27.

RESPONSE: Staff agrees and will propose to change the terminology in 252:100-1.1 from "Particulate matter source" to "Particulate matter facility".

3. **COMMENT:** The emission limits in Appendix C should be labeled "pounds per million BTU" instead of "pounds per hour".

RESPONSE: Staff agrees and will propose such a change.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE STATE OAC
252:100-19 PARTICULATE MATTER EMISSIONS
FROM FUEL BURNING EQUIPMENT APPENDIX C
PARTICULATE MATTER EMISSIONS [AMENDED]
LIMITS FOR FUEL BURNING EQUIPMENT [REVOKED]
APPENDIX C PARTICULATE MATTER EMISSIONS
LIMITS FOR FUEL BURNING EQUIPMENT [NEW]
OAC 252:100-21 PARTICULATE MATTER EMISSIONS
FROM WOOD-WASTE BURNING EQUIPMENT [REVOKED]
APPENDIX D PARTICULATE MATTER EMISSION
LIMITS FOR WOOD-WASTE BURNING
EQUIPMENT [REVOKED]
APPENDIX D PARTICULATE MATTER EMISSION
LIMIT FOR WOOD-WASTE BURNING
EQUIPMENT [NEW]
HELD ON AUGUST 24, 1999 AT 9:30 A.M.
AT 707 NORTH ROBINSON
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

1 MEMBERS OF THE COUNCIL
 2
 3
 4 DR. FRED GROSZ - MEMBER
 5 MR. GARY KILPATRICK - MEMBER
 6 MR. LEO FALLON - MEMBER
 7 MR. JOEL WILSON - MEMBER
 8 MS. SHARON MYERS - MEMBER
 9 MR. DAVID BRANECKY - MEMBER
 10 MR. DAVID DYKE - PROTOCOL OFFICER
 11 MR. BILL BREISCH - CHAIRMAN
 12 MS. MYRNA BRUCE - SECRETARY
 13 MR. EDDIE TERRILL - DIRECTOR
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1 Equipment, complement Subchapter 27,
 2 particulate matter emissions for industrial
 3 and other processes and operations, and
 4 regulate PM emissions resulting from the
 5 burning of fuel in fuel-burning equipment.
 6 They are being revised as part of the
 7 rewrite/dewrong process. These proposed
 8 changes will clarify and simplify the
 9 language of Subchapter 19 and incorporate
 10 the requirements of Subchapter 21. We will
 11 then ask that Subchapter 21 be revoked. We
 12 are also recommending that the graphical
 13 appendices C and D be revoked in favor of
 14 new tabular appendices.

15 A new definition section, 19-1.1, on
 16 page 1, is being proposed to clarify the
 17 terms used in the subchapter. Two
 18 definitions are of particular importance.
 19 The term "fuel-burning equipment" was
 20 redefined for the purposes of this
 21 subchapter to eliminate confusion
 22 concerning direct and indirectly fired
 23 fuel-burning equipment. Directly fired
 24 equipment generally can't meet the
 25 standards specified under Subchapter 19

1 PROCEEDINGS
 2 MR. DYKE: The next hearing will
 3 be on Items D and E on the hearing agenda.
 4 We'll take those items together. It will
 5 be OAC 252:100-19, Particulate Matter
 6 Emissions from Fuel-Burning Equipment,
 7 Appendix C, OAC 252:100-21, Particulate
 8 Matter Emissions from Wood-Waste Burning
 9 Equipment, Appendix D. I call on Max Price
 10 from the staff for the presentation.
 11 MR. PRICE: Good morning. Mr.
 12 Chairman, Members of the Council, and
 13 ladies and gentlemen, my name is Max Price,
 14 I am with the Rules group of the Air
 15 Quality Division.
 16 First off, I have to make a little
 17 correction here and I apologize. On
 18 Subchapter 19, I neglected to put the page
 19 numbers on it. It is only three pages, so
 20 I don't think it's too much of a problem.
 21 I hope not.
 22 Subchapter 19, Particulate Matter
 23 Emissions Limits for Fuel-Burning Equipment
 24 and Subchapter 21, Particulate Matter
 25 Emissions from Wood-Waste Burning

1 because the particulate matter from the
 2 material being processed is generally
 3 entrained in the exhaust gas stream. Of
 4 course, we generally use Subchapter 27 to
 5 permit or to regulate these types of
 6 facilities.

7 We propose to revoke Section 19-2,
 8 Emission of Particulate Matter Prohibited,
 9 on page 2, because the section refers to
 10 Sections 19-6 and 19-7, both of which are
 11 also being proposed to be revoked.

12 Section 19-3, Existing Equipment, on
 13 page 2, is being proposed to be revoked
 14 because the section refers to Section 19-2,
 15 which is also being revoked. This is a bit
 16 complicated, so let me explain what's going
 17 on here. This Section 19-3 states, in
 18 effect, that fuel-burning equipment which
 19 existed prior to the effective date of this
 20 subchapter, which is July 21, 1970, must
 21 comply with a .6 pound per million BTU
 22 emission limit. Okay. This same section
 23 also states that these very same facilities
 24 must come into compliance with Section 19-2
 25 within eighteen months. Section 19-2

Page 6

1 states that particulate emissions from
 2 combustion of fuel shall not exceed the
 3 standards specified in Section 19-6 or
 4 Section 19-7. Section 19-6 is a table of
 5 emission limits which are, for all intents
 6 and purposes, identical to those found in
 7 Appendix C referenced by Section 19-7.
 8 It's kind of a bouncing, following
 9 regulation type of thing. So we propose to
 10 eliminate all of that and go directly to
 11 Appendix C.
 12 We are requesting that Section 19-4,
 13 on page 2, New Equipment, be re-titled to
 14 "Allowable Particulate Matter Emission
 15 Rates" and that the section be reworded to
 16 indicate that new and existing fuel-burning
 17 equipment are subject to these new PM
 18 standards in Appendix C.
 19 We are proposing to revoke Section
 20 19-6, Allowable Emissions of Particulate
 21 Matter and Section 19-7, Particulate Matter
 22 Emission Limits on page 3, because both
 23 have been made redundant by the new wording
 24 in Section 19-4.
 25 252:100-19-10, Allowable Particulate

Page 7

1 Matter Emission Rates for Wood-Waste Fuel
 2 and 252:100-19-11, Combined Wood-Waste Fuel
 3 and Fossil Fuel Fired Steam Generating
 4 Units, on page 3, are the two new sections
 5 being proposed that incorporate the
 6 requirements in Subchapter 21. No changes
 7 were being made to the standards specified
 8 in Subchapter 21.
 9 You probably noticed that the new
 10 Appendix D appears in the section of the
 11 Council packet concerning Subchapter 19,
 12 and the current Appendix D appears in the
 13 section describing Subchapter 21. This
 14 conflicts somewhat with the agenda and we
 15 apologize for the confusion. Since the
 16 contents of 21 are being incorporated into
 17 19, this is why the Appendix D is appearing
 18 in 19 because it is being referenced
 19 therein that subchapter.
 20 We've had several comments, verbal
 21 and otherwise, that have come in pretty
 22 quickly and I want to run through those
 23 pretty quickly on this.
 24 Number 1, we recommended that the
 25 definition -- I'm just going to respond to

Page 8

1 the comments. We recommend that the
 2 definition of "wood-waste fuel" in Section
 3 19-1.1, on page 1, be changed by the
 4 substitution of the word "utility" in the
 5 place of "telephone". Telephone poles will
 6 now be utility poles.
 7 The second one, we also recommended
 8 the term "hour-million" be replaced by the
 9 word "million" in Section 19-11, that's on
 10 page 3. That was a typo that should have
 11 been corrected.
 12 We recommended that the labels in
 13 proposed Appendix D be changed. We're
 14 recommending that the word "design" be
 15 removed from the label in the first column
 16 and that the term "Million British Thermal
 17 Units" be substituted for the word "hour"
 18 in the second. They were mislabeled.
 19 These units are pounds per million BTU not
 20 per hour.
 21 MS. MYERS: Pounds per MMBTU?
 22 MR. PRICE: MMBTU, yes, ma'am.
 23 We're also recommending the same changes
 24 for Appendix C and we're recommending that
 25 the term "Million British Thermal Units" be

Page 9

1 substituted for the word "hour" in the
 2 definition of variable "E" in the text of
 3 that Appendix.
 4 MS. MYERS: That's MMBTU?
 5 MR. PRICE: Yes, ma'am.
 6 MS. MYERS: I mean into the label
 7 process?
 8 MR. PRICE: Yes, right. A
 9 million BTU into it.
 10 MS. MYERS: Okay.
 11 MR. PRICE: Finally, in response
 12 to verbal comments, we are proposing that
 13 Subsection 19-5, Refuse Burning Prohibited,
 14 page 2, be deleted and that all references
 15 to "waste" and "refuse", with the exception
 16 of "wood-waste", be stricken from the
 17 subchapter. We believe these terms are
 18 unnecessary because the subchapter only
 19 concerns particulate emissions from
 20 combustion of fuel. The actual nature of
 21 the fuel is not relevant except in the case
 22 of wood-waste fuel which has a slightly
 23 different standard. Concerns about waste
 24 derived fuels, homogenous waste fuels and
 25 hazardous waste fuels are addressed by

Page 10

1 other rules and it isn't necessary to
2 include them. It confuses the issue.
3 We received written comments on
4 August 16th from representatives of Terra
5 Nitrogen. Most of their concerns we have
6 already addressed in our presentation,
7 however, one minor comment remains to be
8 addressed. Terra has pointed out that the
9 term "indirectly fired combustion device"
10 is not defined. We would like to point out
11 the term "indirectly fired" is indeed
12 defined in Section 19-1.1, page 1, and we
13 believe that the term "combustion device"
14 is self-evident and really doesn't need to
15 be defined.
16 We also received comments from EPA
17 on August 20, and we're going to try to
18 reply to these comments now. EPA would
19 like the phrase "particulate emissions
20 limits" in this subchapter are not intended
21 to replace any limit established under the
22 federal program. But in Section 19-4, on
23 page 2, staff doesn't think this is
24 necessary because EPA didn't supply us with
25 a reason why we should do this, and we

Page 11

1 can't think of a good reason why we ought
2 to, either. First guess, no, I don't think
3 it ought to be. All right. Because of
4 these suggested changes and to allow time
5 for further consideration and comment, the
6 staff requests that action on these
7 proposals be continued until the next Air
8 Quality Council Meeting.
9 MR. DYKE: Questions of Mr. Price
10 from the Council?
11 MR. BRANECKY: Yeah, I had a
12 question on your -- this is probably more
13 of a syntax type question.
14 MR. PRICE: Sure.
15 MR. BRANECKY: You've got 19-2
16 and 19-3 as being revoked. Is that
17 language -- is that still going to be the
18 new regs, those titles?
19 MR. PRICE: The sections
20 themselves?
21 MR. BRANECKY: Yes. You've got
22 the titles, they're not crossed out.
23 MR. PRICE: No, sir, they'll be
24 gone, too, as well.
25 MR. BRANECKY: Will they be

Page 12

1 there?
2 MR. PRICE: No, they'll be gone.
3 MR. BRANECKY: Why are they
4 staying there?
5 MS. BUTTRAM: Because according
6 to the rules on rulemaking and also for the
7 future record, you can go back and you can
8 see which sections -- you can't use a
9 section over so you just say revoked and
10 the title will remain in the table of
11 contents.
12 MR. BRANECKY: You can't renumber
13 and use two over again?
14 MS. BUTTRAM: Right.
15 MR. BRANECKY: The question then,
16 on page 3 it jumps from 7 to 10, are there
17 not an 8 and 9 at one time?
18 MR. PRICE: No, sir. I did that
19 to allow in case there was a new section,
20 people want to put those in there and I
21 won't have to renumber anything.
22 MR. BRANECKY: Okay.
23 MR. DYKE: Any other questions
24 from the Council? Are there any questions
25 or comments from the audience?

Page 13

1 MR. WOOD: Mike Wood with
2 Weyerhaeuser Company. I have, I guess, one
3 concern about adding the definition for
4 wood-waste fuel. There is a significant
5 debate now at the federal level over that
6 definition, with respect to the development
7 of MACT rules for industrial combustion
8 units. And it seems premature to put a
9 definition in the state regs now that may
10 conflict with a federal definition at some
11 later point. I'm not sure it's important
12 to the rule. I guess I have a question
13 about the need for a definition for wood-
14 waste. Another question I have is
15 replacing the word refuse with the word
16 waste. Refuse is a defined term in the
17 regulations where waste is not.
18 MR. PRICE: To address your last
19 question first, we're proposing to take
20 both of those terms completely out of this
21 rule. It simply deals with particulate
22 emissions.
23 MR. WOOD: I would certainly -- I
24 would endorse that.
25 MR. PRICE: As for wood-waste, we

Page 14

1 use that terminology in the rule and I
 2 would think that we need some type of
 3 definition that would incorporate what we
 4 mean by that. Like creosote soaked fence
 5 post, that could be considered wood-waste.
 6 MR. WOOD: Sure, but the creosote
 7 is a fossil fuel, as well. So I don't --
 8 that particular point, I wouldn't see the
 9 problem of doing that. And that's part of
 10 the issue there, there certainly are some
 11 contaminants in wood -- we don't even like
 12 to refer to them as wood-waste fire, we
 13 just say there are wood-fired, because
 14 those residuals have a value and they are
 15 marketed. There are -- this definition
 16 excludes a lot of waste, for example, that
 17 we burn in our boiler at Wright City.
 18 MR. PRICE: What material do you
 19 use, for example?
 20 MR. WOOD: One of our best fuels
 21 there, wood derived fuel, is the trim from
 22 making plywood. There is glue in there
 23 that's burned along with the wood. But
 24 it's -- you know, formaldehyde glue, which
 25 is one of those compounds that are in the

Page 15

1 glue that's also present in the wood,
 2 anyway.
 3 MR. PRICE: Sure.
 4 MR. WOOD: We just changed the
 5 concentrations a little bit. So that would
 6 be excluded in this definition and there
 7 might be other things from other types of
 8 wood processing facilities that would cause
 9 concerns. Something else that we burn
 10 would be bark that's knocked off the logs
 11 during the handling on a log yard. We
 12 refer to those as yard waste. I'm not sure
 13 if that fits in this definition or not, I
 14 don't know if it's included or not. And I
 15 don't know it makes a difference whether
 16 it's in there or not. But my concern is
 17 that there will be different definitions at
 18 some later point in the not too distant
 19 future in the Federal MACT Regulations that
 20 would be different than a precedent that
 21 was set here in the state.
 22 MR. PRICE: Sure. I can see your
 23 point there. Barbara, do you want to help
 24 me out here?
 25 MR. TERRILL: I think we can take

Page 16

1 these under advisement, the comments, since
 2 we're going to continue it anyway. We'll
 3 have an opportunity to look at this and
 4 revise it some and then get you a different
 5 version.
 6 MS. MYERS: Mike, you would go
 7 with something like a wood derived fuel
 8 rather than a wood waste fuel that would be
 9 more comprehensive, that would take in
 10 other products as well, if it was wood
 11 derived?
 12 MR. WOOD: That would be my
 13 preference, yes.
 14 MS. MYERS: Okay.
 15 MR. WOOD: We already have a
 16 regulation for wood-waste. I mean, the
 17 term wood-waste is already used in the
 18 regulation.
 19 MR. PRICE: Right, correct.
 20 MR. WOOD: If we wanted to go to
 21 wood derived fuels, that would be
 22 preferable. I could offer some -- an
 23 expanded definition if it's going to be
 24 continued. I would be happy to do that.
 25 MR. PRICE: We would appreciate

Page 17

1 that.
 2 MR. WOOD: Okay. Thank you.
 3 MR. DYKE: Thank you. Any
 4 additional questions or comments from the
 5 Council? Is there anyone else who has any
 6 comments on these two items?
 7 MR. BREISCH: If there are no
 8 other comments or questions, I'll entertain
 9 a motion that this item be continued to our
 10 next regular meeting on October 19th.
 11 DR. GROSZ: So moved.
 12 MR. BRANECKY: Second.
 13 MR. BREISCH: I've got a motion
 14 and a second. Any other comments or
 15 questions? If not, Myrna, call the roll.
 16 MS. BRUCE: Mr. Wilson.
 17 MR. WILSON: Aye.
 18 MS. BRUCE: Ms. Myers.
 19 MS. MYERS: Yes.
 20 MS. BRUCE: Mr. Branecky.
 21 MR. BRANECKY: Aye.
 22 MS. BRUCE: Mr. Fallon.
 23 MR. FALLON: Aye.
 24 MS. BRUCE: Mr. Kilpatrick.
 25 MR. KILPATRICK: Aye.

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1 MS. BRUCE: Dr. Grosz.
2 DR. GROSZ: Aye.
3 MS. BRUCE: Mr. Breisch.
4 MR. BREISCH: Aye.
5 Not knowing whether the Hearing
6 Officer calls for recess or the Chairman,
7 I'm going to call for recess until after
8 lunch.

9
10 (END OF PROCEEDINGS)
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Page 19

1 CERTIFICATE

2 STATE OF OKLAHOMA)
3) ss:
4 COUNTY OF OKLAHOMA)

5 I, CHRISTY A. MYERS, Certified
6 Shorthand Reporter in and for the State of
7 Oklahoma, do hereby certify that the above
8 proceedings are the truth, the whole truth,
9 and nothing but the truth, in the
10 proceedings aforesaid; that the foregoing
11 proceeding was taken by me in shorthand and
12 thereafter transcribed under my direction;
13 that said proceedings was taken on the 24th
14 day of August, 1999, at Oklahoma City,
15 Oklahoma; and that I am neither attorney
16 for nor relative of any of said parties,
17 nor otherwise interested in said
18 proceedings.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand and official seal on this, the
21 1st day of September, 1999.

22
23 CHRISTY A. MYERS, C.S.R.
24 Certificate No. 00310
25

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

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TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE COMBINED
OAC 252:100-19 PARTICULATE MATTER EMISSIONS
FROM FUEL-BURNING EQUIPMENT [AMENDED]
OAC 252:100-21 PARTICULATE MATTER EMISSIONS
FROM WOOD-WASTE BURNING EQUIPMENT [REVOKED]
OAC 252:100-27 PARTICULATE MATTER EMISSIONS
FROM INDUSTRIAL AND OTHER PROCESSES AND
OPERATION [REVOKED]

HELD ON OCTOBER 19, 1999

AT 9:00 A.M.,

AT 5051 SOUTH 129 STREET EAST AVENUE

IN TULSA, OKLAHOMA

* * * * *

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5841

MEMBERS OF THE COUNCIL

- 1. MR. GARY KILPATRICK - MEMBER
- 2. MR. LEO FALLON - MEMBER
- 3. MR. JOEL WILSON - MEMBER
- 4. MS. SHARON MYERS - MEMBER
- 5. MR. DAVID BRANECKY - MEMBER
- 6. MR. BILL BREISCH - CHAIRMAN
- 7. MS. MYRNA BRUCE - SECRETARY
- 8. MR. DAVID DYKE - PROTOCOL OFFICER

clarification will address the problem raised by Ms. Perry with respect to the subchapter's effect on Title V trivial activities.

The second was to eliminate the proposed definition for "wood-waste" and substitute a more general definition for "wood fuel" based on chemical composition and heat value. This change should have addressed the concerns expressed by Mr. Wood of Weyerhaeuser at the August meeting.

But as we'll see later, it didn't.

The staff also took the opportunity to make three additional changes to the subchapter as it was proposed at the August hearing.

First, the staff eliminated some redundant language in the Permit by Rule section, 252:100-19-13, on page 4, to improve readability.

Second, the staff is proposing to incorporate the applicable requirements of Subchapter 27, Particulate Matter Emissions From Industrial and Other Processes and Operations, into Subchapter 19 and then

PROCEEDINGS

MR. DYKE: We will begin this afternoon with Item Number 5E on the agenda, OAC 252:100-19, 21, 27, Appendix C, D, New, and C, D, Revoked. I'll call on Max Price.

MR. WILSON: Is there any way for us to turn up the sound system in here? Do you have it maxed-out?

MR. DYKE: I'm not using a sound system. I think that this is working.

Speak right into the microphone. Go ahead.

MR. PRICE: Members of the Council and ladies and gentlemen, on August 24th the Air Quality Council voted to hold Subchapters 19 and 27 over until this meeting to allow time for the staff to make the changes suggested at the August hearing.

The staff is proposing two additional changes to the definition section, 252:100-19-1, on page 1. The first of these is the addition of a definition for "industrial process" to clarify the meaning of the term. We believe this

revoke Subchapter 27.

The new section, 252:100-19-12, Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Processes, on page 3, contains the applicable requirements of Subchapter 27. The new section will also make

directly fired fuel-burning units subject to the emission limits specified under Appendix G. This change will create a single subchapter for particulate matter emissions instead of the current three.

Finally, at the urging of engineering staff, the proposed Appendix C was modified by; one, eliminating of heat input ranges in favor of distinct heat input values; two, the addition of a formula for calculating acceptable emission rates from 1,000 to 10,000 MMBTU per hour; and three, rewording the text to indicate that the formulas may be used to calculate the acceptable emission rates.

We received written comments on our proposed changes to this rule from EPA on October 15, and Ogden Martin Systems of

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1 Tulsa on October 14, and Weyerhaeuser
2 Corporation on October 19, which we haven't
3 had a chance to incorporate them but
4 they'll be put into the record. I'm going
5 to go ahead and summarize these comments
6 right now for the Council.

7 The EPA Air, Pesticides and Toxic's
8 Division seemed to be satisfied with the
9 wording of Subchapter 19. EPA's Air Permit
10 Section expressed the same concerns they
11 brought up at the August meeting concerning
12 the enforceability of Section 252:100-19-3,
13 on page 4. This is the operation and
14 maintenance of control equipment.

15 EPA wants us to revise the
16 registration form to include specific
17 operational and maintenance procedures to
18 be followed by owners/operators seeking
19 coverage under this Permit by Rule. Staff
20 has agreed to do this and we're in the
21 process of preparing those forms now.

22 Ogden Martin of Tulsa submitted
23 three comments. They commented that the
24 definition of "fuel-burning equipment" in
25 Subchapter 19 should specify "stationary

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1 its waste energy, it's fuel burning
2 equipment. That's the definition of it.
3 So that might cause some controversy. I
4 hope not.

5 Weyerhaeuser believes, at least in
6 their gist of their comments. I can
7 summarize it as there is no definition
8 necessary for wood fuel in this subchapter.
9 They think that the people who operate
10 boilers that are wood fired and this kind
11 of thing, know innately what we mean by
12 wood fuel and the definition isn't
13 necessary.

14 Staff disagrees with this because we
15 believe that any term used in the
16 regulation, especially one that designates
17 a standard, needs to be defined if it's not
18 universally understood in our regulation.
19 We came up with that definition by using
20 some data, I'm going to go ahead and read
21 it into the record.

22 The heat value of wood from the
23 sources we have ranges from 8,560 to 9,130
24 or 9,500 BTU per pound if it's pine bark.
25 The cellulose content of wood ranges from

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1 sources" because the rule could be applied
2 to mobile sources like automobiles, and
3 they pointed out that the units in Appendix
4 C were mislabeled. It was pretty obvious
5 to us that they had an older copy of the
6 rule. The units in Appendix C have already
7 been corrected and there is no definition
8 for "fuel-burning equipment" now. "Fuel-
9 burning unit" has been substituted for
10 that.

11 As for their concern about
12 Subchapter 19 being applied to mobile
13 sources, the only thing I can say is with
14 the exception of Subchapter 15, that's the
15 only thing that we regulate, so we don't
16 think that it's necessary to change the
17 definition to accommodate that.

18 Ogden Martin's last comment had to
19 do with whether or not a waste to energy
20 facility would be covered under Subchapter
21 17 or Subchapter 19. As is currently
22 configured, at least with the PM emissions,
23 Subchapter 19 would be the controlling
24 subchapter because it deals with fuel
25 burning equipment. If you mix steam and

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1 40 to 50 percent for an average of 45
2 percent. This is by weight. Hemicellulose
3 20 to 35 percent, or 27.5 percent as an
4 average. Lignin 15-35 percent or 25
5 percent for an average. And this is pretty
6 typical of most -- it's a wide range
7 different species of wood, of course, as it
8 ranges. So the range that they are dealing
9 with for a mixture of all different types
10 of species ranges from 75 to 120 percent of
11 these three particular compounds, and for
12 an average of 97.5 percent of total
13 constitute of the material.

14 Based on this data and our phone
15 conversation we've had with Weyerhaeuser,
16 we believe that this definition was
17 acceptable and would fly. But they, as I
18 said, were unhappy with it. So in the
19 spirit of compromise what I propose to do
20 is to change the percentages in the BTU
21 values on that definition. We would like
22 to put it as the same as pine bark, which
23 is the lowest cellulose, hemicellulose and
24 lignin material they use, and the highest
25 BTU because of all the resins. So what we

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1 want to do is change the definition instead
2 of 95 percent constitute of these three
3 compounds, change it to 80 percent and then
4 lower the BTU value to 9,500 BTUs per
5 pound. We kind of hope that this will
6 satisfy and give them enough to work with
7 in wood waste and forest material.

8 MR. DYKE: Max, please repeat
9 those figures.

10 MR. PRICE: Sure, which ones?

11 MR. DYKE: The percent of the
12 BTU.

13 MR. PRICE: It will change from
14 95 percent to 80 percent cellulose,
15 hemicellulose and lignin, and lower the BTU
16 value from the currently proposed 10,000
17 BTUs per pound to 9,500 BTUs per pound,
18 which is basically, as I said, what pine
19 bark is made of. This the characteristics
20 of that and has the highest BTU and lowest
21 percentage of these elements. I got off my
22 notes and I don't know where I am. Okay.
23 Yes, one more change to recommend.

24 Finally, in a conference we had this
25 morning, we are also going to recommend one

1 In summary, what we are asking for
2 is -- the staff is requesting that the Air
3 Quality Council recommend to the Board,
4 one, that Subchapter 21 and 27 and
5 Appendices C and D be revoked.

6 Two, the proposed Subchapter 19 as
7 we revised it, Appendix C, the new Appendix
8 C and the new Appendix D be adopted as a
9 permanent rule.

10 MR. DYKE: I have notice here
11 that Mike Wood from Weyerhaeuser wishes to
12 speak. Does the Council wish to hear from
13 him before we ask questions, or do we want
14 to go on?

15 MR. WILSON: I don't have any
16 copies or -- or any copy of Weyerhaeuser's
17 comment.

18 MR. PRICE: Well, it arrived as
19 we were going out the door, sir.

20 Literally, it was the last thing I picked
21 up on the way out the door to come to this
22 meeting. So we haven't had a chance to
23 give any comments. We'll put it in the
24 record and if you would like, I'll send you
25 a copy.

1 more change to the rule. We are
2 recommending to the Council that the strike
3 paragraph 19-9(b), exception to the
4 allowable particulate matter emission rates
5 on industrial processes, that's on page 4.
6 And that they remove the line from
7 paragraph (a), allow particulate matter
8 emission rates, and that's paragraph 19-
9 9(a).

10 And the reason for this is that
11 during these discussions this morning we
12 found out that this is part of the standard
13 and is brought over without much
14 forethought as to what it really said. And
15 it turns out that the technique that we're
16 using would be used to determine the extra
17 -- this part of the standard is basically a
18 technique where you go out and measure the
19 opacity and then you estimate the
20 particulate measurements from that
21 measurement. And of course we all heard
22 this morning that that is scientifically
23 insupportable. So to simplify the rule and
24 make it really a lot easier to read, we
25 prefer to take that out.

1 MR. WILSON; We have a
2 representative from Weyerhaeuser that wants
3 to speak?

4 MR. DYKE: Yes. I thought it
5 would be a good idea to go ahead and let
6 him speak and then we could ask questions
7 of all, if that is acceptable.

8 MR. WOOD: Mike Wood with
9 Weyerhaeuser Company. Thank you, Council,
10 for allowing us this opportunity to
11 comment. And I apologize for the lateness
12 of our comments. They were sent at the
13 last minute yesterday.

14 This definition for wood fuel really
15 is, in my mind, doesn't add much to this
16 particular rule and really don't think it's
17 necessary. And with the changes -- well,
18 let me back up. Wood is an incredibly
19 variable material and its composition
20 varies greatly within a species and then
21 among species even more, and then among
22 different classes of wood, whether it's
23 hard woods or soft woods, the composition
24 varies tremendously.

25 The way this definition was last

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1 proposed with the 95 percent composition
2 based on a water-free basis or a dry basis,
3 it would exclude, according to my reference
4 materials, most of the woods that are
5 commercially available. And if we had left
6 the rule that way, what it would mean was
7 we were subject to a less stringent
8 standard. Wood burning fuels in boilers
9 over 250 million BTU per hour heat input
10 are subject to a more stringent particulate
11 matter standard. For our facilities it
12 didn't make much difference, because there
13 are other limitations that are applicable
14 either by permit or by New Source
15 Performance Standards. But just for the
16 sake of accuracy, we would like to see an
17 accurate definition for wood fuel if there
18 is to be one.

19 And using 80 percent and the lower
20 BTU per pound value, the BTU per pound
21 value doesn't give much heartburn. But the
22 80 percent -- the only reference I had for
23 bark was for pine bark. There is very
24 little research on the cellulose,
25 hemicellulose and lignin content of bark.

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1 I don't know if 80 percent is acceptable or
2 not. It may very well be. And the numbers
3 I used -- I took averages like you did to
4 put the numbers in my comments and I don't
5 -- which means some of the values were
6 lower than 80 percent. But I don't recall
7 what they were, so I'm not certain where
8 that would fall. To be truthful to
9 Weyerhaeuser, right now it doesn't make any
10 difference where the definition is, our
11 permits will regulate our particulate
12 emissions. So I don't know how the Council
13 would like to address that. We would still
14 prefer that no definition be offered.
15 Thank you.

16 MR. WILSON: I have a question
17 for Mr. Woods.

18 MR. WOOD: Sure.

19 MR. WILSON: If I understand this
20 right, you are not too happy with the
21 definition of wood fuel in this regulation?
22 MR. WOOD: That's correct.

23 MR. WILSON: Are you the only
24 entity in this state that is regulated by
25 this regulation?

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1 MR. WOOD: I don't know. I don't
2 know if anyone else is using wood as a fuel
3 or not.

4 MS. MYERS: Let's say what if the
5 cement plant starts burning broken pallets
6 and other wood waste. How is that going to
7 impact this?

8 MR. WOOD: Again, I don't know
9 how you are limited now, but you would be
10 subject to a different emission standard
11 rather than if you are greater than 250
12 million BTU per hour heat input. Rather
13 than be limited by Appendix C, you would be
14 limited by 252:100-19-11.

15 MR. WILSON: You are recommending
16 that the definition for wood fuel be
17 stricken by the regulations?

18 MR. WOOD: That's right. I guess
19 another issue I would have just as an issue
20 would any type of limitation in a
21 definition, there should be a method
22 specified for determining percent
23 composition. And I don't know that there
24 are -- there are plenty of published
25 methods. I don't know if there are very

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1 many standardized methods for measuring
2 these components.

3 MR. WILSON: Now, that definition
4 was newly added to this regulation.

5 MR. WOOD: Right.

6 MR. WILSON: What is the state's
7 reasoning for including that in the
8 definition?

9 MR. PRICE: There are several
10 reasons, one I've already stated. I think
11 it's bad practice to have a term that's
12 used to set a standard that isn't defined
13 in the regulation. But there are other
14 reasons as well. When we combined these
15 different particulate matter rules, it soon
16 became obvious that we were actually #1
17 dealing with particulate matter emissions
18 based on the kind of fuel that a facility
19 was using. Appendix C conditions includes
20 everything that isn't wood as a different
21 fuel. And so we need a definition for
22 fossil fuel and wood fuel. And we have
23 fossil fuel defined. We need a definition
24 for wood fuel so people will know what we
25 are talking about. If you don't have a

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1 definition then frankly, you can call
2 anything wood fuel. And this is one of the
3 things we were trying to get around.
4 Originally it was wood waste. If you look,
5 there is no really good definition for
6 that, it's what's left over after forestry
7 operations. That can be anything. So we
8 thought that the chemical composition of
9 BTU value would prevent -- I've lost the
10 word I'm searching for, but limited to
11 forestry waste and other things as well.
12 Because there might be somebody out here
13 that wants to run a boiler on his farm or
14 he has a boiler out here in the woods, he's
15 got 50 acres and he wants to use trees,
16 fine, that's no problem, as long as he has
17 a different standard that he has to meet.
18 That's why we did it.

19 MR. WOOD: I might point out
20 there is no definition for coal or
21 petroleum or natural gas or any of the
22 things that are considered fossil fuels.

23 MR. WILSON: You can probably
24 have an appreciation for the need to create
25 some definition there.

1 to debate that definition pretty hard. But
2 yeah, I think that's -- you know, trying to
3 define wood precisely is just going to be
4 difficult.

5 MR. WILSON: Is there any portion
6 of your operation that could be impacted by
7 this definition adversely? Or could it
8 potentially be adversely impacted?

9 MR. WOOD: I'm not absolutely
10 certain. I don't believe there is. I
11 don't think so.

12 MR. WILSON: Where did the
13 restriction here for wood come from?

14 MR. PRICE: I got this
15 information from Mark Standard Handbook for
16 Mechanical Engineers, the Eighth Edition.

17 MR. WILSON: Can you offer up any
18 language for this definition that you would
19 like to see, that would create less
20 heartburn but still keep the definition of
21 wood fuel? For example, wood waste derived
22 from wood products or something of that
23 sort? The reason why I'm saying this is I
24 haven't had a chance to read your comments.
25 And although they were sent in late, I want

1 MR. WOOD: There may be a need.
2 In my opinion, it's intuitively obvious
3 what is wood and it's a derivative of a
4 tree. And I think trying to be so specific
5 with the composition is going to create
6 enforcement problems.

7 MR. WILSON: If you burn wood
8 that's covered with soil -- creosote, I
9 think that's the right term.

10 MR. WOOD: EPA doesn't bother to
11 define wood in the New Source Performance
12 Standards for wood-fired boilers. There
13 will be definitions for wood waste in the
14 MACT standards for boilers that are
15 currently being developed. Or at least
16 that's my understanding that there will be.
17 And it will try to not so much define wood
18 as define the things that are not wood,
19 such as treatment chemicals or glues or
20 other things that might be associated with
21 wood in burning wood waste.

22 MR. WILSON: You would support
23 the definition more in line with the
24 definition of wood waste in the NESHAP.

25 MR. WOOD: I would probably want

1 to give some credibility to them before we
2 pass this thing on.

3 MR. KILPATRICK: Is there
4 anything in this rule where it says you
5 can't burn wood that's been say, coated
6 with creosote? Is that not a --

7 MR. PRICE: Are you asking me,
8 sir?

9 MR. KILPATRICK: Yes.

10 MR. PRICE: No, sir. There is
11 nothing in this rule that covers that.
12 This rule only deals with particulate
13 emissions and any toxic emissions and
14 things like that are handled by different
15 rules anyway.

16 MR. KILPATRICK: So creosote
17 covered wood would be, as long as it met
18 the technical definition, say the 80
19 percent?

20 MR. PRICE: Right.

21 MR. KILPATRICK: And 9,500 BTUs?

22 MR. PRICE: Yes, sir.

23 MR. KILPATRICK: Then it
24 qualifies for -- so it's the 9,500 that
25 might knock out the creosote.

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1 MR. PRICE: Right. The reason
2 it's put in is to make sure -- say he's got
3 a whole bunch of old tires and wants to get
4 rid of them and he -- (inaudible) he can't
5 do that because the mix would bring the BTU
6 up too high.
7 MR. WILSON: What about more
8 reasonable types of fuels like cardboard or
9 particle board?
10 MR. PRICE: There shouldn't be
11 any problem with that.
12 MR. WOOD: I don't recall seeing
13 anything in here that would limit -- if you
14 burn those other things mixed with wood,
15 you would just have a more lenient
16 particulate standard. As I interpret the
17 rule, if you burn things -- if your wood
18 doesn't meet the definition of wood and you
19 had other materials in there, you would
20 simply have a more lenient particular
21 standard.
22 MR. PRICE: Wood fuel -- there is
23 actually two different sections here that
24 we're dealing with and I don't have my rule
25 with me, of course. Can I borrow that?

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1 Thank you, very much.
2 The section that you are talking
3 about is 19-11, Allowable Particulate
4 Matter Emissions Rates From Combined Wood
5 Fuel and Fossil Fuel Fired Steam Generating
6 Units; is that correct?
7 MR. WOOD: Right.
8 MR. PRICE: That has a 0.1 pound
9 emission standard, and that's the same as
10 it was in 21. But we also have a wood --
11 Appendix D also refers to the equipment
12 that burns wood.
13 MR. WOOD: Right.
14 MR. PRICE: And it's more
15 generous than Appendix C.
16 MR. WOOD: The indirectly fired.
17 MR. PRICE: Right, indirectly
18 fired wood fuel burning units. That's 19-
19 10 and that refers to Appendix D which is
20 more generous than Appendix C.
21 MR. KILPATRICK: Are you saying
22 that if I had wood coated with creosote and
23 say it's over 9,500 BTUs, so that throws it
24 out as not a wood fuel.
25 MR. PRICE: It's not a wood fuel

Page 1

1 anymore.
2 MR. KILPATRICK: Are you saying
3 that it falls under 19-11?
4 MR. PRICE: No, sir. It would
5 fall under Appendix C. It would kick out
6 of all wood, it's not wood fuel anymore,
7 and then Appendix C limits would apply to
8 it.
9 MR. KILPATRICK: Which paragraph
10 sends us to Appendix C?
11 MR. PRICE: Okay. 19-4, sir, on
12 page 2, Allowable Particulate Emission
13 Rates From Fuel-Burning Units, and that's
14 the catch-all. If it's not wood fuel or
15 combined wood fuel and fossil fuel burning
16 unit, then it automatically falls under
17 Appendix C.
18 MR. WILSON: I just got a copy of
19 the comments from Mike Wood. Mike, you
20 state that this definition would exclude
21 much of the material currently considered
22 wood fuel by owners and operators of wood
23 fire boilers in Oklahoma. So this
24 definition does impact?
25 MR. WOOD: At the 95 percent, it

Page 2.

1 excludes those from that definition. It
2 doesn't exclude anybody from burning it.
3 You can still burn it, it's still wood.
4 MS. MYERS: Does it need to be
5 defined as wood derived wood instead of
6 wood derived fuel? Wouldn't a wood derived
7 fuel include other portions and parts?
8 MR. KILPATRICK: I think what
9 will happen is if they were burning
10 something, it turned out to be less than 80
11 percent, if somebody went off and did a
12 test on particular fuel and we all agreed
13 on the test, as you pointed out there is no
14 test method specified here, you would then
15 fall back to Appendix C.
16 MR. PRICE: That's exactly right.
17 MR. KILPATRICK: Which would mean
18 that you have a much higher standard. So
19 you would have thought you were burning
20 wood, but because it was 79 percent instead
21 of 80, it would have a much higher
22 particulate source.
23 MR. PRICE: Right. That's
24 correct.
25 MR. WOOD: I don't think it would

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1 be tighter?
2 MR. PRICE: C is much tighter a
3 standard than D.
4 MR. KILPATRICK: It starts out
5 the same, but as soon as from there it
6 starts deviating. It gets tighter when you
7 get over 10,000 million BTUs. So it
8 appears to me what you are trying to do in
9 the definition of wood fuel is add some
10 specificity to it. But what you are trying
11 to say is it is supposed to be something
12 derived from wood, why don't we set the
13 percent, 5 or 10 percent lower than
14 whatever the lowest number in the table is?
15 MR. PRICE: You lost me on that
16 one, sir, I'm sorry. Are you talking about
17 the composition?
18 MR. KILPATRICK: Uh-huh.
19 MR. PRICE: The lowest number --
20 that would be agreeable as long as we kept
21 the BTU value down to 9,500.
22 MR. KILPATRICK: The intent is
23 just to make sure that people burn wood.
24 MR. PRICE: Right, exactly. And
25 the lowest number that my calculations show

1 for those three elements combined is 75
2 percent.
3 MR. KILPATRICK: The other
4 approach is why don't we just stick with
5 the other route and say anything derived
6 from wood, and then have the maximum BTU
7 requirement, which added something to it,
8 like creosote or something else.
9 MR. PRICE: That works as long as
10 we're not talking about any alcohols or
11 anything, but BTU value should work for
12 that, too. When you say derived, I'm going
13 to have to think of a fermentation process
14 for cellulose.
15 MR. KILPATRICK: What was the
16 pine bark? Was it 80 percent in the table?
17 MR. PRICE: 80 percent, yes, sir.
18 MR. KILPATRICK: And you took
19 that number right there?
20 MR. PRICE: Yes, sir. That's
21 from Weyerhaeuser data that they sent. And
22 pine bark happened to be listed in my
23 remarks as 9,500 BTU per pound, because of
24 the high resin content. I remember the
25 discussion. It had such a high resin

1 content.
2 MR. WILSON: Now, your concern,
3 Mike, is that this is going to be somehow
4 limiting or could be limiting in the
5 future?
6 MR. WOOD: Right. I'm concerned
7 for the precedent that might be set for
8 future rulemaking.
9 MR. WILSON: Why don't we just
10 add the words, or any wood derived fuel as
11 approved by the director or the Division?
12 MR. PRICE: To the definition?
13 MR. WILSON: Under wood fuel.
14 And what this would do is allow any future
15 disputes to be settled with the Air Quality
16 Division as opposed to trying to understand
17 what the definition means.
18 MS. HOFFMAN: Well, it's always a
19 good idea, in my opinion, to put some sort
20 of a limit in the rule so that everybody
21 knows what they are shooting at. But you
22 can also do that and then give the director
23 the discretion if it turns out there was
24 some situation that really would benefit or
25 really needs to be within that standard.

1 So perhaps you could do it that way, and
2 come up with something that we all think is
3 a pretty good definition of wood fuel but
4 then provide the director, discretion to
5 deviate from that if necessary.
6 MR. WILSON: The way that I see
7 this is that neither the DEQ wants to limit
8 necessarily and the industry doesn't want
9 to be limited necessarily. So really both
10 interested parties agree we just need to
11 come up with the language that would
12 facilitate that. And I would recommend
13 that it be put in the words of, for any
14 wood derived fuel as approved by the Air
15 Quality Division or the Division, I think
16 that's how it's being addressed.
17 MR. BRANECKY: Changing the 95 to
18 80, wouldn't you come up with 9,500?
19 MR. WILSON: And recommend that
20 the 95 be changed to 80 percent and the
21 10,000 BTU be changed to 9,500 BTU.
22 MS. MYERS: I'll make a --
23 MR. WOOD: Can I hear it read the
24 way it's going to read?
25 MR. WILSON: The new definition

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1 would be wood fuel, means any fuel which
2 excluding air and water is at least 80
3 percent or less cellulose, hemicellulose
4 and lignin, and has a heat value of less
5 than 9,500 BTUs per pound, or any fuel --
6 excuse me -- or any wood derived fuel as
7 approved by the Division.
8 MR. WOOD: Yes. We could live
9 with that.
10 MR. WILSON: Barbara?
11 MR. PRICE: That's fine with us,
12 too. That sounds good.
13 MR. DYKE: Division, Division
14 Director?
15 MR. PRICE: Is that the proper
16 wording, Division?
17 MS. HOFFMAN: Yes.
18 MR. DYKE: Bill.
19 MR. FISHBACK: I have a question,
20 I think, for Max. Just a clarification
21 related to the revocation of Subchapter 27
22 and its replacement with Subchapter 19.
23 Subchapter 27 included particulate
24 emissions from all industrial processes
25 including fuel burning equipment and things

1 MR. FISHBACK: It doesn't appear
2 that they are.
3 MR. PRICE: They are.
4 MR. FISHBACK: Okay. That's my
5 question. How are they covered?
6 MR. PRICE: In the definition
7 section where we define industrial process.
8 Industrial process includes any -- here we
9 go, industrial process means any source,
10 activity or equipment excluding fuel
11 burning equipment units, which can be
12 reasonably expected to emit particulate
13 matter. The term excludes but is not
14 limited -- includes but is not limited to
15 crushing, milling, screening, mixing or
16 conveying. The term does not include
17 maintenance activities, unless maintenance
18 is the primary activity of the facility.
19 That takes in your rock crushers and all
20 that stuff.
21 MR. FISHBACK: That's in the
22 definition, but where does the rule refer
23 to that definition and impose some kind of
24 limitation? Because all the limitations
25 are based on fuel firing regs.

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1 like cement kilns and rock crushers and
2 things like that. So if I understand this
3 proposal correctly, Subchapter 27 is going
4 to be revoked in its entirety and replaced
5 with Subchapter 19. And Subchapter 19
6 relates just to fuel burning equipment, not
7 the whole range of particulate emission
8 equipment, with the exception of this last
9 section in Subchapter 19, 19-13, which is
10 Permit by Rule.
11 So my question is, if we revoke
12 Subchapter 27, which basically was this
13 process weight table from antiquity, I mean
14 it was there forever, and replace it with
15 Subchapter 19, are the other particulate
16 emission sources from equipment other than
17 fuel burning all going to be covered -- in
18 effect, do they all have their own Permit
19 by Rule? I know that some do, but my
20 question is, do all of them?
21 MR. PRICE: If I understand your
22 question correctly, you are saying that the
23 sources covered under Subchapter 27 that
24 were originally the process regulated
25 sources are not covered under 19?

1 MR. PRICE: ^{Allowable} particulate
2 matter emission rates from directly fired
3 fuel burning units and industrial
4 processes. Allowable particulate matter
5 emission rates, and it refers to Appendix
6 G, which is the same appendix that 27 just
7 referred to.
8 MR. FISHBACK: Okay. So that
9 same -- all right, that's the thing I
10 missed.
11 MR. PRICE: That's the same
12 thing.
13 MR. FISHBACK: So Appendix G in
14 Subchapter 19 replaces Appendix C in
15 Subchapter 27?
16 MR. PRICE: No. Appendix C,
17 Appendix ~~B~~, Appendix D are all part of 19
18 now. We revoked Appendix C and D, but we
19 left Appendix G alone, we didn't even mess
20 with it. It's okay. It's still the same
21 Appendix G it's always been.
22 MR. FISHBACK: Okay, I've got it.
23 Good. Thank you.
24 MR. KILPATRICK: Max, I have one
25 more question.

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1 MR. PRICE: Yes, sir?
 2 MR. KILPATRICK: You were
 3 discussing, I think, taking out one
 4 sentence in 252:100-19-9?
 5 MR. PRICE: No, sir. I made a
 6 mistake on that. I'm glad you brought that
 7 up, it slipped my mind completely. I made
 8 a boo-boo. I picked the wrong one. It's
 9 12.
 10 MR. KILPATRICK: Which one was
 11 coming out?
 12 MR. PRICE: On 252:100-19-12(b),
 13 Paragraph B was -- we were going to revoke
 14 that because it was --
 15 MR. KILPATRICK: You are revoking
 16 the exception part?
 17 MR. PRICE: Yes. We're revoking
 18 the exception. Then on Paragraph A we're
 19 going to remove the (a) allowable
 20 particulate matter emission rates, take
 21 that sentence out, so that the paragraph
 22 remains directly under the heading.
 23 MR. DYKE: Okay. As a point of
 24 clarification, we need to do three things
 25 on this rule. We need to revoke Subchapter

1 MR. BREISCH: I have a motion and
 2 a second. The motion that I am a little
 3 bit afraid to repeat. I'm sure the court
 4 reporter has it. Any other comments?
 5 MR. WILSON: These are not three
 6 votes; is that correct? We are going to
 7 take one vote?
 8 MR. DYKE: Yes.
 9 MR. BREISCH: Myrna, call the
 10 roll.
 11 MS. BRUCE: Mr. Wilson.
 12 MR. WILSON: Aye.
 13 MS. BRUCE: Mr. Fallon.
 14 MR. FALLON: Aye.
 15 MS. BRUCE: Ms. Myers.
 16 MS. MYERS: Yes.
 17 MS. BRUCE: Mr. Branecky.
 18 MR. BRANECKY: Aye.
 19 MS. BRUCE: Mr. Kilpatrick.
 20 MR. KILPATRICK: Aye.
 21 MS. BRUCE: Mr. Breisch.
 22 MR. BREISCH: Yes.

(End of Proceedings)

1 21 and 27, Appendix C and D, we need to
 2 amend Subchapter 19 and then we need to add
 3 new Appendix -- approved new Appendix C and
 4 D?
 5 MR. PRICE: That's correct.
 6 MR. DYKE: And recommend that it
 7 all go to the Board in one package as a
 8 permanent.
 9 MR. PRICE: That would be all the
 10 changes made at this meeting, sir. Yes,
 11 sir.
 12 MR. BREISCH: Are we through with
 13 comments?
 14 MR. DYKE: Any other comments?
 15 Thank you.
 16 MR. WILSON: I would like to make
 17 a motion that we revoke Chapter 21 and 27
 18 and amend Subchapter 19 and adopt new
 19 Sections C and D along with the word
 20 changes.
 21 MR. BREISCH: As a permanent
 22 rule?
 23 MR. WILSON: As a permanent rule.
 24 I make that motion.
 25 MR. KILPATRICK: I'll second.

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CERTIFICATE
 STATE OF OKLAHOMA)
) ss:
 COUNTY OF OKLAHOMA)

1 I, CHRISTY A. MYERS, Certified
2 Shorthand Reporter in and for the State of
3 Oklahoma, do hereby certify that the above
4 proceedings are the truth, the whole truth,
5 and nothing but the truth, in the
6 proceedings aforesaid; that the foregoing
7 proceeding was taken by me in shorthand and
8 thereafter transcribed under my direction;
9 that said proceedings was taken on the 19th
10 day of October, 1999, at Oklahoma City,
11 Oklahoma; and that I am neither attorney
12 for nor relative of any of said parties,
13 nor otherwise interested in said
14 proceedings.

15 IN WITNESS WHEREOF, I have hereunto
16 set my hand and official seal on this, the
17 1st day of November, 1999.

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

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-23 Control of Emissions From Cotton Gins

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OAC 252:100-23 SIP Revision

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

252:100-23-1. Purpose

The purpose of this Subchapter is to control emissions from cotton gins, ~~in order to prevent the Oklahoma air quality standards from being exceeded and ensure that degradation of the present level of air quality in Oklahoma does not occur.~~

252:100-23-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Cotton gin**" means any facility ~~or plant which~~ that removes seed, lint, and trash from raw cotton and bales of lint cotton for further processing. Each equipment exhaust, including the trash and burr hopper, located at a cotton gin shall be considered ~~as being~~ an individual process emission source.

~~"Cotton gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.~~

"**Existing gin**" means a gin which was in existence and ~~has~~ had submitted a ~~current emission inventory~~ inventories to the ~~Air Quality Program Division~~ for the most recent two ginning seasons and ~~is~~ was in possession of a valid annual renewable fee receipt ~~preceding the effective date of this rule~~ prior to May 1, 1993. All other gins shall be considered "new".

"**Gin site**" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.

"**High efficiency cyclone**" means any cyclone type collector of the 2D-2D or 1D-3D configuration. ~~These designations referring~~ refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90 percent collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 x D (95 percent collection efficiency for TSP).

"**High pressure exhausts**" means the exhaust cotton handling air systems located at a cotton gin which are not defined as "low pressure exhausts".

"**Low pressure exhausts**" means the exhaust air systems at a cotton gin which ~~handles~~ handle air from the cotton lint handling system and battery condenser.

252:100-23-3. ~~General provisions; applicability~~ Applicability, general requirements

~~(a) (a) Applicability. The Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of OAC 252:100-25, 252:100-27, and 252:100-29.~~

(b) General requirements.

~~(b) (1) Permits required. In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of OAC 252:100-7.~~

~~(c) (2) Air toxics emissions. The requirements of this Subchapter are in addition to any which may be required under OAC 252:100-41.~~

~~(d)(3) Recordkeeping.~~ The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation ~~and air.~~ Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by the ~~Air Quality Program DEQ personnel or its representative~~ during normal business hours.

~~(e)(4) Test methods.~~

~~(1)(A)~~ Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A and. Testing shall be performed by an individual possessing current certification a Certified Visible Emissions Evaluator.

~~(2)(B)~~ Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

~~(f) Effective date.~~ This Subchapter shall become effective May 1, 1993.

~~252:100-23-4. Smoke, visible emissions, and particulates~~ Visible emissions (opacity) and particulates

~~(a) Visible emissions limit.~~

~~(1) Emissions (a) Opacity limit.~~ No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof ~~a shade or density exhibiting greater than twenty (20) percent 20% equivalent opacity.~~ This requirement shall not apply to ~~smoke or visible emissions exhibiting greater than 20% opacity~~ emitted during short-term occurrences, ~~the shade or density of which is not greater than sixty (60) percent opacity for an period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24-hour period, which consist of not more than one six-minute period in any consecutive 60 minutes, not ot exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.~~

~~(2)(b) Alternative emissions opacity limit.~~ The ~~twenty (20) percent 20%~~ opacity limit as required under 252:100-23-4(a) may be increased for particulates only provided that the ~~owner/operator owner or operator~~ demonstrates to the satisfaction of the ~~Oklahoma~~ Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.

~~(b)(c) PM-10 emissions limit.~~ No cotton gin shall ~~impact the ambient air quality in such a manner as to violate~~ be operated so as to cause or contribute to a violation of the ~~primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24-hour average or any other ambient air standard quality standards or any other ambient air quality standard established by OAC in 252:100-3.~~

~~252:100-23-5. Emission control equipment~~

~~(a) Low pressure exhausts.~~ For ~~emissions emission~~ control from low pressure exhausts, the use of screens with a mesh size of 70 by 70 or finer (U.S. Sieve), or the use of perforated condenser drums with holes not exceeding 0.045 inches in diameter or equipment of equivalent design efficiency as determined by the Executive Director shall be required.

~~(b) High pressure exhausts.~~ For emission control from high pressure exhausts, the use of 2D-2D cyclones shall be required for existing gins. Existing gins shall install and use

1D-3D cyclone collectors or equivalent when the capital cost of repair or replacement of the existing 2D-2D cyclone exceeds ~~fifty (50) percent~~ 50% of the capital cost of a new 1D-3D cyclone. New or modified cotton gins shall utilize a 1D-3D cyclone collector or equipment of equivalent collection efficiency upon commencement of operation.

(c) ~~Fugitive emissions~~ **Burr hoppers.** For emission control of fugitive emissions from burr hoppers during dumping, the use of total enclosure burr hoppers at existing gin sites located within the corporate city limits of any city or within 300 feet of two or more occupied establishments ~~is required~~ must be totally enclosed. All new gin sites shall install and use a total enclosure on the burr hopper.

252:100-23-6. Fugitive dust controls

(a) For control of fugitive dust, no person shall ~~cause or permit~~ allow the handling, transporting, or disposition of any substance or material ~~which that~~ is likely to be scattered by the air or wind, or is susceptible to being airborne, or windborne, or to and ~~no person shall operate or maintain or cause to be operated or maintained,~~ any gin ~~premises~~ site, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any material or substance likely to be scattered by the wind or air, ~~or susceptible to being windborne or airborne~~ that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.

(b) No person shall ~~cause or permit~~ allow the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

252:100-23-7. Permit by rule

(a) **Applicability.** Any new or existing facility may be constructed or operated under this section if it meets the requirements of 252:100-7-60 (a), (b), (c) and has the Standard Industrial Classification (SIC) code 0724 Cotton Ginning.

(b) **Requirements.**

- (1) In addition to the requirements in 252:100-7-60 (a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter.
- (2) Maximum production rate of a facility subject to this section shall be 36,000 bales per year.

Oklahoma Register

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1216]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed rules:

252:100. Air Pollution Control

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke. Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Summary:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to Subchapter 7 will delete the lower limit of 5 tons per year for

Permit by Rule (PBR) facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Two substantive changes are proposed for

Notices of Rulemaking Intent

Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Room 101, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1216; filed 6-25-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1217]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

Proposed rules:

252:100, Air Pollution Control: Subchapter 47, Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

Summary:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled

Notices of Rulemaking Inte

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CO.

[OAR Docket #98-1259]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 7. Permits for Minor Sources
[AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins
[AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators
[AMENDED]

Subchapter 25. Smoke, Visible Emissions and Particulates
[AMENDED]

Subchapter 37. Control of Emissions of Organic Materials
[AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas
[AMENDED]

Appendix E. Primary Ambient Air Quality Standards
[AMENDED]

Appendix F. Secondary Ambient Air Quality Standards
[AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

SUMMARY:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to

delete the lower limit of 5 tons per year (PBR) facilities. This will allow facilities with less than 5 tons per year emissions, which currently must meet NSPS standards for hazardous air pollutants, to obtain a PBR instead of having to obtain a permit. A new Part 9 is proposed that contains the amendments necessary for a facility to qualify for a PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/delete initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permit process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain individual air quality permits. Also, a new Appendix I is proposed which contains PM-10 emission factors for PM grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix I requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and

Notices of Rulemaking Intent

reformatting. Two substantive changes are proposed for Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

AN IDENTICAL NOTICE WAS PUBLISHED IN THE OKLAHOMA REGISTER ON JULY 15, 1998. AFTER PUBLICATION, THE COUNCIL MEETING LOCATION WAS CHANGED TO 4545 N. LINCOLN BLVD., BURGUNDY ROOM, OKLAHOMA CITY, OKLAHOMA. NO OTHER CHANGES WERE MADE TO THIS NOTICE.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1259; filed 7-9-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1260]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 47. Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

SUMMARY:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1358]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 8. Permits for Part 70 Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

SUMMARY:

In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a

PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no PBR has been written, the opportunity to apply for coverage under an applicable general permit. The Department also proposes to delete the definition for "Volatile Organic Solvents (VOS)," because the proposed changes to Subchapters 37 and 39 would exclude that term from the rules.

The Department is considering increases in the permit application fees in both Subchapters 7 and 8.

The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to both subchapters follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow such exceedances during one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. Other

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Notices of Rulemaking Intent

proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Three substantive changes are proposed for each Subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; a request dated April 21, 1997, from the Halogenated Solvents Industry Alliance, requesting that perchloroethylene be excluded from the definition of VOC; a request from Dow Corning that methylated siloxanes be excluded from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, that methyl acetate be excluded from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c). In addition, the Department is requesting comments on 252:100-39-47, Control of VOS Emissions from Aerospace Industries Coatings Operations. Options include (1) retain the present (ARACT) rule and enforce the emissions reduction plan specified therein; (2) repeal the present rule and promulgate new rules regulating specialty coatings; or (3) retain the present plan, promulgate new rules for specialty coatings, and allow the facility to choose which of the two they prefer. These options recognize that the new NESHAP for the aerospace industry controls VOC emissions except for specialty coatings. The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40

CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Tuesday, September 15, 1998, through Tuesday, October 20, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, October 13, 1998

Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 10, 1998 - 9:30 a.m. in Poteau (Location to be determined. See contact person)

PUBLIC HEARINGS:

Tuesday, October 20, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (Subchapters 5 and 8), Michelle Martinez (Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37, 39 and 41). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 7, 23, 24, 25, 37 and 39 that were the subject of a public hearing on August 18, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1358; filed 8-26-98]

Permanent Final Adop' ns

SUBCHAPTER 4. NEW SOURCE PERFORMANCE STANDARDS

252:100-4-1. Purpose

The purpose of this Subchapter is to establish state standards for certain new or modified facilities in accordance with the authority delegated by the EPA under Section 111(b) of the federal Clean Air Act.

252:100-4-2. [RESERVED]

252:100-4-3. Reference to 40 CFR

(a) Inclusion of CFR citations and definitions. When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

(b) Inconsistencies or duplications. In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference in OAC 252:100-4-5 and the regulations in this Chapter, the provisions incorporated by reference shall prevail, except where the regulations in this Chapter are more stringent.

(c) Terminology related to 40 CFR. For purposes of interfacing with 40 CFR, the following terms apply:

- (1) "Administrator" is synonymous with Executive Director.
- (2) "EPA" is synonymous with Department of Environmental Quality (DEQ).

252:100-4-4. [RESERVED]

252:100-4-5. Incorporation by reference

40 CFR Part 60 is hereby incorporated by reference, as it exists on July 1, 1997, except for the following:

- (1) Sections 60. 4, 60.9, 60.10 and 60.16 of Subpart A. General Provisions.
- (2) Subpart B. Adoption and Submittal of State Plans for Designated Facilities.
- (3) Subpart C. Emission Guidelines and Compliance Times.
- (4) Subpart Ca. Emissions Guidelines and Compliance Times for Municipal Waste Combustors.
- (5) Subpart Cb. Emissions Guidelines and Compliance Times for Municipal Waste Combustors That Are Constructed on or Before September 20, 1994.
- (6) Subpart Cc. Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.
- (7) Subpart Cd. Emissions Guidelines and Compliance Times for Sulfuric Acid Production Units.
- (8) Subpart AAA. Standards of Performance for New Residential Wood Heaters.
- (9) Appendix G. Provisions for an Alternative Method of Demonstrating Compliance with 40 CFR 60.43 for

the Newton Power Station of Central Illinois Public Service.

[OAR Docket #99-646; filed 4-13-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-649]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 23. Control of Emissions from Cotton Gins
252:100-23-1 through 252:100-23-6 [AMENDED]
252:100-23-7 [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1997, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

July 15, 1998 through August 18, 1998; and September 15, 1998 through October 20, 1998

Public hearing:

August 18, 1998; October 20, 1998; and November 10, 1998

Adoption:

November 10, 1998

Submitted to Governor:

November 18, 1998

Submitted to House:

November 18, 1998

Submitted to Senate:

November 18, 1998

Gubernatorial approval:

December 15, 1998

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 1999

Final adoption:

March 24, 1999

Effective:

June 1, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed revisions to Oklahoma Administrative Code 252:100-23, Control of Emissions from Cotton Gins, will simplify the language under the agency-wide re-right/de-wrong initiative. It is also proposed to add a new Permit by Rule section to the subchapter that will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins to obtain an individual air quality permit. Additional changes to the subchapter follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow exceedances of not more than one

six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Becky Mainord, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 1999.

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

252:100-23-1. Purpose

The purpose of this Subchapter is to control emissions from cotton gins ~~in order to prevent the Oklahoma air quality standards from being exceeded and ensure that degradation of the present level of air quality in Oklahoma does not occur.~~

252:100-23-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cotton gin" means any facility ~~or plant which~~ that removes seed, lint, and trash from raw cotton and bales of lint cotton for further processing. Each equipment exhaust, including the trash and burr hopper, located at a cotton gin shall be considered as being an individual process emission source.

"Cotton gin site" means ~~the land upon which a cotton gin is located and all contiguous land having common ownership or use.~~

"Existing gin" means a gin which was in existence and ~~has had~~ submitted a current emission ~~inventory~~ inventories to the ~~Air Quality Program~~ Division for the most recent two ginning seasons and ~~is~~ was in possession of a valid annual renewable fee receipt ~~preceding the effective date of this rule~~ prior to May 1, 1993. All other gins shall be considered "new".

"Gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. ~~These designations referring~~ refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90 percent collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 x D (95 percent collection efficiency for TSP).

"High pressure exhausts" means the exhaust cotton handling air systems located at a cotton gin which are not defined as "low pressure exhausts".

"Low pressure exhausts" means the exhaust air ~~system~~ handle at a cotton gin which ~~handles~~ handle air from the cotton lint handling system and battery condenser.

252:100-23-3. General provisions; applicability Applicability, general requirements

(a) **Applicability.** ~~The~~ Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, or existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of OAC 252:100-25, 252:100-27, and 252:100-29.

(b) **General requirements.**

(b)(1) **Permits required.** In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of OAC 252:100-7.

(b)(2) **Air toxics emissions.** The requirements of this Subchapter are in addition to any which may be required under OAC 252:100-41.

(b)(3) **Recordkeeping.** The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation ~~and air.~~ A emission control equipment replacement/repair cost shall also be recorded. These records shall be maintained for a period of two years and shall be available for inspection by ~~the Air Quality Program~~ DEQ personnel or its representative during normal business hours.

(b)(4) **Test methods.**

(1)(A) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A and, Testing shall be performed by an individual possessing current certification as a Certified Visible Emissions Evaluator.

(2)(B) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

(f) **Effective date.** This Subchapter shall become effective May 1, 1993.

252:100-23-4. Smoke, visible emissions, and particulates Visible emissions (opacity) and particulates

(a) **Visible emissions limit.**

(1) **Emissions (a) Opacity limit.** No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof ~~a shade or density exhibiting greater than twenty (20) percent equivalent~~ 20% opacity. This requirement shall not apply to smoke or visible ~~or exhibiting greater than 20% opacity emitted during short-term occurrences, the shade or density of which is not~~

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~~greater than sixty (60) percent opacity for an period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24-hour period which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.~~

~~(2)(b) Alternative emissions opacity limit. The twenty (20) percent 20% opacity limit as required under 252:100-23-4(a) may be increased for particulates only provided that the owner/operator owner or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.~~

~~(b)(c) PM-10 emissions limit. No cotton gin shall impact the ambient air quality in such a manner as to violate be operated so as to cause or contribute to a violation of the primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24-hour average or any other ambient air standard quality standards or any other ambient air quality standard established by OAC in 252:100-3.~~

252:100-23-5. Emission control equipment

(a) ~~Low pressure exhausts. For emission emission control from low pressure exhausts, the use of screens with a mesh size of 70 by 70 or finer (U.S. Sieve), or the use of perforated condenser drums with holes not exceeding 0.045 inches in diameter or equipment of equivalent design efficiency as determined by the Executive Director shall be required.~~

(b) ~~High pressure exhausts. For emission control from high pressure exhausts, the use of 2D-2D cyclones shall be required for existing gins. Existing gins shall install and use 1D-3D cyclone collectors or equivalent when the capital cost of repair or replacement of the existing 2D-2D cyclone exceeds fifty (50) percent 50% of the capital cost of a new 1D-3D cyclone. New or modified cotton gins shall utilize a 1D-3D cyclone collector or equipment of equivalent collection efficiency upon commencement of operation.~~

(c) ~~Fugitive emissions Burr hoppers. For emission control of fugitive emissions from burr hoppers during dumping, the use of total enclosure burr hoppers at existing gin sites located within the corporate city limits of any city or within 300 feet of two or more occupied establishments is required must be totally enclosed. All new gin sites shall install and use a total enclosure on the burr hopper.~~

252:100-23-6. Fugitive dust controls

(a) ~~For control of fugitive dust, no person shall cause or permit allow the handling, transporting, or disposition of any substance or material which that is likely to be scattered by the air or wind, or is susceptible to being airborne, or windborne, or to and no person shall operate or maintain or cause to be operated or maintained, any gin premisesite, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any~~

~~material or substance likely to be scattered by the wind or air, or susceptible to being windborne or airborne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.~~
(b) ~~No person shall cause or permit allow the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.~~

252:100-23-7. Permit by rule

(a) ~~Applicability. Any new or existing facility may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 0724 Cotton Ginning.~~

(b) ~~Requirements.~~

~~(1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter.~~

~~(2) Maximum production rate of a facility subject to this section shall be 36,000 bales per year.~~

[OAR Docket #99-649; filed 4-13-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-652]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 24. Control of Emissions from Grain Elevators

252:100-24-1 through 252:100-24-6 [AMENDED]

252:100-24-7 [NEW]

Appendix L. PM-10 Emission Factors from Permit by Rule for Grain Elevators [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

July 15, 1998 through August 18, 1998; and September 15, 1998 through October 20, 1998

Public hearing:

August 18, 1998; October 20, 1998; and November 10, 1998

Adoption:

November 10, 1998

Submitted to Governor:

November 18, 1998

Submitted to House:

November 18, 1998

Submitted to Senate:

November 18, 1998

Gubernatorial approval:

December 15, 1998

Emergency Adoptions

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-813]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 23. Control of Emissions from Cotton Gins

252:100-23-3. Applicability, General Requirements
[AMENDED]

Subchapter 24. Particulate Matter Emissions from Grain, Feed or Seed Operations

252:100-24-3. Applicability, General Requirements
[AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1999, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Adoption:

February 25, 2000

Approved by Governor:

April 10, 2000

Effective:

June 1, 2000

Expiration:

Effective through July 14, 2001, unless superseded by another rule or disapproved by the legislature

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

FINDING OF EMERGENCY:

The Environmental Quality Board finds that a compelling public interest necessitates the seeking of emergency certification of the rules and regulations adopted today. Sections 252:100-23-3 and 252:100-24-3 exempt affected facilities from the provisions of Subchapter 27. Subchapter 27 will be revoked and its substantive provisions moved to 252:100-19-12, effective June 1, 2000. These changes exempt affected facilities from the specific provisions of 252:100-19-12; otherwise, they would become subject to these provisions by default on June 1, 2000.

ANALYSIS:

The proposed changes replace references to Subchapter 27 in sections 252:100-23-3 and 252:100-24-3 with references to 252:100-19-12.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Max Price, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JUNE 1, 2000.

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

252:100-23-3. Applicability, general requirements

(a) **Applicability.** Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of 252:100-25, ~~252:100-27~~ ~~252:100-19-12~~, and 252:100-29.

(b) General requirements.

(1) **Permits required.** In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of OAG-252:100-7.

(2) **Air toxics emissions.** The requirements of this Subchapter are in addition to any which may be required under 252:100-41.

(3) **Recordkeeping.** The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation. Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by DEQ personnel during normal business hours.

(4) Test methods.

(A) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A. Testing shall be performed by a Certified Visible Emissions Evaluator.

(B) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED OPERATIONS

252:100-24-3. Applicability, general requirements

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed facilities in the State of Oklahoma.

(1) Facilities in compliance with 252:100-25, ~~252:100-27~~ ~~252:100-19-12~~, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of 252:100-25 (visible emissions), ~~252:100-27~~ ~~252:100-19-12~~ (process weight), and 252:100-29 (fugitive dust).

(b) General requirements.

(1) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed facility shall comply with the permitting requirements of 252:100-7 or 252:100-8.

Air Quality Council

HEARING/MEETING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 1:00 P.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

- | | | |
|----|---|-----------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Approval of June 16, 1998 Minutes | Chairman |
| 4. | Resolutions – Bill Fishback – Marilyn Andrews | |

PUBLIC HEARINGS

5. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public; possible action by Council
6. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
7. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public; possible action by Council
8. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public; possible action by Council

9. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
 The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
 Discussion by Council/Public; possible action by Council
10. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public; possible action by Council
11. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public; possible action by Council
12. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
 Discussion by Council/Public; possible action by Council
13. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
 Discussion by Council/Public; possible action by Council
14. **New Business** **Chairman**
 Discussion/consideration of subjects/business arising within the past 24 hours
 Possible action by Council
15. **Adjournment** **Chairman**
 Next Regular Meeting **TUESDAY, OCTOBER 20, 1998**
 Tulsa City-County Auditorium
 5051 South 129th East Tulsa OK

July 27, 1998

MEMORANDUM

TO: Air Quality Council

FROM: David Dyke, Interim Division Director
Air Quality Division *RD*

SUBJECT: Proposed modifications to Subchapter 23, Control of Emissions from Cotton Gins

Enclosed is a copy of the proposed draft modifications to Subchapter 23, Control of Emissions from Cotton Gins. The proposed amendments to Subchapter 23 will simplify the language under the agency-wide re-write/de-wrong initiative. Additionally, the Department proposes to add a new Permit by Rule (PBR) section.

The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins to obtain an individual air quality permit. Facilities that qualify for coverage under the PBR will simply register with AQD and certify their compliance with the rule. In order to qualify, a cotton gin:

- Must emit less than 40 tons per year of each regulated pollutant;
- Cannot be subject to Part 70 permitting; and
- Cannot be operated in conjunction with another facility that is subject to air quality permitting.

The proposed Subchapter 23, Control of Emissions from Cotton Gins, will be brought to public hearing on August 18, 1998. Staff will recommend the rule be considered again at the next Air Quality Council meeting on October 20, 1998.

Enclosure: 1

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

Section

- 252:100-23-1. Purpose
- 252:100-23-2. Definitions
- 252:100-23-3. ~~General provisions; applicability~~ Applicability,
general requirements
- 252:100-23-4. ~~Smoke, visible emissions, and particulates~~ Visible
emissions (opacity) limit
- 252:100-23-5. Emission control equipment
- 252:100-23-6. Fugitive dust controls
- 252:100-23-7. Permit by rule

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252:100-23-1. Purpose

The purpose of this Subchapter is to control emissions from cotton gins. ~~in order to prevent the Oklahoma air quality standards from being exceeded and ensure that degradation of the present level of air quality in Oklahoma does not occur.~~

252:100-23-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cotton gin" means any facility ~~or plant which~~ that removes seed, lint, and trash from raw cotton and bales of lint cotton for further processing. Each equipment exhaust, including the trash and burr hopper, located at a cotton gin shall be considered as ~~being an individual process emission source.~~

~~"Cotton gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.~~

"Existing gin" means a gin which was in existence and ~~has had~~ had submitted a current emission ~~inventory~~ inventories to the Air Quality Program Division for the most recent two ginning seasons and ~~is was~~ was in possession of a valid annual renewable fee receipt ~~preceeding the effective date of this rule prior to May 1, 1993.~~ All other gins shall be considered "new".

"Gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration, These designations referring ~~refer~~ to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90 percent collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 x D (95 percent collection efficiency for TSP).

"High pressure exhausts" means the exhaust cotton handling air systems located at a cotton gin which are not defined as "low pressure exhausts".

"Low pressure exhausts" means the exhaust air systems at a cotton gin which ~~handles~~ handle air from the cotton lint handling system and battery condenser.

252:100-23-3. ~~General provisions;~~ Applicability, general requirements

(a) Applicability. ~~The Effective May 1, 1993, the~~ provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of OAC 252:100-25, 252:100-27, and 252:100-29.

(b) General requirements.

~~(b)(1)~~ Permits required. In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of OAC 252:100-7.

~~(e)(2)~~ Air toxics emissions. The requirements of this Subchapter are in addition to any which may be required under OAC 252:100-41.

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~~(d)~~ (3) **Recordkeeping.** The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation, and ~~air~~ Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by ~~the Air Quality Program~~ DEQ personnel ~~or its representative~~ during normal business hours.

~~(e)~~ (4) **Test methods.**

~~(1)~~ (A) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A. ~~and Testing shall be performed by an individual possessing current certification.~~ a Certified Visible Emissions Evaluator.

~~(2)~~ (B) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

~~(f) Effective date. This Subchapter shall become effective May 1, 1993.~~

252:100-23-4. ~~Smoke, visible emissions, and particulates~~ Visible emissions (opacity) limit

(a) ~~Visible emissions Opacity limit.~~

(1) **Emissions limit.** No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof a ~~shade or density exhibiting greater than twenty (20) percent~~ 20% equivalent opacity. This requirement shall not apply to ~~smoke or visible emissions exhibiting greater than 20% opacity emitted during short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for an period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24 hour period.~~ which may consist of one six-minute period in any consecutive 60 minutes not to exceed three such periods in any consecutive 24 hours during which the average opacity of emissions may not exceed 60%.

(2) **Alternative emissions limit.** The ~~twenty (20) percent~~ 20% opacity limit as required under 252:100-23-4(a)(1) may be increased for particulates only provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the ~~Oklahoma~~ Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.

(b) **PM-10 emissions limit.** No cotton gin shall ~~impact the ambient air quality in such a manner as to violate~~ be operated so as to cause or contribute to the violation of the primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24-hour average or any other ambient air standard established by ~~OAC~~ in 252:100-3.

252:100-23-5. **Emission control equipment**

(a) **Low pressure exhausts.** For ~~emission~~ emission control from low pressure exhausts, the use of screens with a mesh size of 70 by

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70 or finer (U.S. Sieve), or the use of perforated condenser drums with holes not exceeding 0.045 inches in diameter or equipment of equivalent design efficiency as determined by the Executive Director shall be required.

(b) **High pressure exhausts.** For emission control from high pressure exhausts, the use of 2D-2D cyclones shall be required for existing gins. Existing gins shall install and use 1D-3D cyclone collectors or equivalent when the capital cost of repair or replacement of the existing 2D-2D cyclone exceeds ~~fifty (50) percent~~ 50% of the capital cost of a new 1D-3D cyclone. New or modified cotton gins shall utilize a 1D-3D cyclone collector or equipment of equivalent collection efficiency upon commencement of operation.

(c) ~~Fugitive emissions.~~ **Burr hoppers.** For emission control ~~of fugitive emissions from burr hoppers during dumping, the use of total enclosure~~ burr hoppers at existing gin sites located within the corporate city limits of any city or within 300 feet of two or more occupied establishments ~~is required~~ must be totally enclosed. All new gin sites shall install and use a total enclosure on the burr hopper.

252:100-23-6. Fugitive dust controls

(a) For control of fugitive dust, no person shall ~~cause or permit~~ allow the handling, transporting, or disposition of any substance or material ~~which that~~ is likely to be scattered by the air or wind, ~~or is susceptible to being airborne, or windborne, or~~ and no person shall operate or maintain ~~or cause to be operated or maintained,~~ any gin ~~premise~~ site, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any material or substance likely to be scattered by the wind or air, ~~or susceptible to being windborne or airborne~~ that would be classified as air pollution without taking reasonable precautions ~~or measures~~ to minimize atmospheric pollution.

(b) No person shall ~~cause or permit~~ allow the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

252:100-23-7. Permit by Rule

(a) Applicability. Any new or existing facility may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 072 Crop Services.

(b) Requirements.

(1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter.

(2) Maximum production rate of a facility subject to this section shall be 36,000 bales per year.

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MINUTES

AIR QUALITY COUNCIL

AUGUST 18, 1998

Burgundy Room
4545 North Lincoln Boulevard
Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Sharon Myers
Fred Grosz
Gary Kilpatrick
Joel Wilson
David Branecky
Meribeth Slagell

Staff Present

David Dyke
Dennis Doughty
Scott Thomas
Barbara Hoffman
Ray Bishop
Linn Wainner
Michelle Martinez
Cheryl Bradley
Jeanette Buttram
Becky Mainord
Joyce Sheedy
Eddie Terrill
Myrna Bruce

Council Members Absent

Larry Canter

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for August 18, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room and also at the DEQ Tower.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye. Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 16, 1998 Public Meeting/Hearings. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley to give staff recommendations on this rule. Ms. Bradley advised that the rule was first considered by the Council on June 16, 1998 at which time the hearing was continued because EPA was in the process of amending the federal standards that are the basis for the draft rule. These amendments became effective August 17, 1998. Ms. Bradley stated that staff had made the revisions consistent with the amended federal regulations and addressed all comments received.

After discussion, Chairman Breisch entertained a motion to recommend adoption of this rule as emergency and permanent to the Environmental Quality Board at its September 15, 1998 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

State 111(d) Plan for Municipal Solid Waste Landfills

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley for staff position regarding this State Plan. Ms. Bradley pointed out the criteria for approval of a state plan and advised that Oklahoma's mechanism to implement this Plan is OAC252:100-47. Ms. Bradley related that although no Council action was necessary, the staff requests to hear comments from the Council members and the public regarding the State Plan.

See attached transcript.

PUBLIC HEARING

OAC 252:100 Air Pollution Control:

Appendix E, Primary Ambient Air Quality Standards [AMENDED]

Appendix F, Secondary Ambient Air Quality Standards [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who stated that the revisions to these appendices would be identical to the revised federal National Ambient Air Quality Standards (NAAQS) for particulate matter and ozone

announced by EPA in the July 18, 1997 *Federal Register*. Ms. Martinez pointed out that according to the Secretary of State's Rules on Rulemaking, an appendix cannot be amended; therefore, staff recommended that Council vote to revoke the old appendices and pass the new appendices as permanent.

After discussion, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality Board as a permanent rule at its September 15, 1998 meeting. Mr. Kilpatrick moved that Council revoke the existing rule and replace them with the new rules as presented. Second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out revisions made to date and advised that staff was recommending that the comment period be left open until August 24 after which staff would revise the rule based upon comments received from Council and public; and would bring again to the Council's October 20 meeting.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Ms. Slagell. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position on this rule. Ms. Buttram advised that the rule was presented to Council's June 16 meeting where changes to simplify and clarify the rule and to fulfill an EPA State Implementation Plan (SIP) requirement concerning Continuous Emission Monitoring (CEM) were proposed. Ms. Buttram advised that comments received have been addressed and incorporated into the current draft rule. Following discussion with new comments, staff

recommended that the hearing be continued on this rule to the October 20 meeting to allow time for further comments.

Mr. Breisch asked for a motion to continue the hearing. Mr. Wilson made the motion and Ms. Slagell made the second. Roll call was as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Becky Mainord who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out the changes made and stated that it was staff's recommendation to continue the hearing until Council's next meeting.

Following discussion, Mr. Breisch entertained a motion to continue this rule. Dr. Grosz made that motion with second made by Mr. Wilson. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that revisions were made to simplify the language according to the Agency's re-write/de-wrong initiative, the addition of a Permit By Rule section, and to add a new Appendix L which would include PM₁₀ emission factors for the Permit By Rule. Ms. Martinez pointed out that comments had been received and considered, and that staff's recommendation was to continue the hearing to the next meeting.

After discussion, Mr. Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Mr. Branecky. Roll call

as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the revisions are part of the Agency's re-write/de-wrong initiative and respond to industry requests to exempt acetone, perchloroethylene, and methylated siloxanes from being considered VOCs. She advised that staff held a workshop on July 7 requesting public input and comments. She said there are numerous changes to be made in language, format and with the three substantive changes, staff recommended that the rule be continued to the next meeting.

Mr. Breisch entertained a motion to continue this rule. Mr. Branecky made motion with second made by Mr. Kilpatrick. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that there were numerous revisions as part of the Agency's re-write/de-wrong initiative and also five substantive changes to be considered; therefore, staff would recommend that the hearing be continued.

Mr. Breisch entertained a motion to continue this rule to the Council's October 20 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

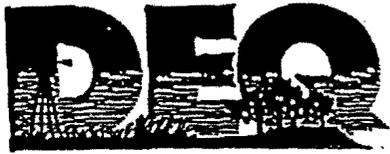
NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being October 20, 1998 at Tulsa City-County Health Department Auditorium, 5051 South 129th East, Tulsa, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

**WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL**

**DAVID R. DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION**



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

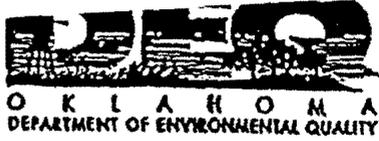
Public Hearing and Meeting

Attendance Record

AUGUST 18, 1998

SIGN IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Pat Davenport	National Std. 3602 N. Parkin Rd.	Jetta
2. Bonnie McNeill	Opden Martin 2122 S Yukon	Tulsa 580-581-346
3. Robert Eddington	ARMSTRONG ST. HWY 158A	405-377-1111
4. MUCK COLE	DEQ EPA DALLAS	214 665 72
5. SANDRA DENNIE	EPA DALLAS	214 665 72
6. John Snow	5000 - HANOVER	Vikon
7. Flint Ruler	Battlesville	918-336-3
8. Kathy Purcell	4608 S Garrett, Ste 100	Tulsa 918-2
9. Norey Simms	DEQ	
10. Greg Grier	4601 S. Garrett Tulsa	918-641-0
11. Dave Truitt	103 SW 4th Lawton Ok 73501	580 581 346
12. GRANT MARGURDEN	440 TERRACE NORMAN	73069
13. Bruce Lucas	103 SW 4th Lawton OK 73501	580-581-3
14. William Clark Kansas Pipeline	Rt 2 Box 173 Pawnee OK	918
15. WILLIAM CLARK	P.O. Box 2039 TULSA OK 74107	918-594-
16. Mike Wood	Hot Springs, AR	501-624-8
17. Nancy Coleman	RSA, Norman	405 321 3
18. Bill Gilbreck	MOBILE, EDMOND	405-348-866
19. KICK TATEMAN	OGFA	580-233-5800
20. John Wheeler	Trinity Consultants	(972) 661-8100
21. Steve Landers	Ft. James, MexK	978 683-7
22. Gill Luten	"	"
23. Ruston Givens	"	"
24. Carol Baker	TAFB	736-7246
25. Andrew Livingston	Sinclair Oil Corp PO Box 970 Tulsa OK 74107	418-588-1



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

NAME/AFFILIATION	ADDRESS	TELEPH
26. Bill [unclear]	DEQ 11-15	
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**BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL**

Tuesday October 20, 1998 9:30 A.M.
Tulsa City-County Health Department Auditorium
5051 South 129 East -- Tulsa, Oklahoma

1. **Call to Order -- Bill Breisch**

2. **Division Director's Report**
Informational update of current events and AQD activities
 - A. Discussion by Council / Public

3. **CY99 Meeting Schedule**
 - A. Discussion by Council

4. **OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.
 - A. Presentation -- Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public

5. **OAC 272:100-7 Permits [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation -- Jeanette Buttram
 - B. Questions and discussion by Council / Public

6. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]**
Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation -- Jeanette Buttram
 - B. Questions and discussion by Council / Public

7. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Becky Mainord
 - B. Questions and discussion by Council / Public

8. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public

9. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

10. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

11. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

October 6, 1998

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Division Director ^{E.T.}
Air Quality Division

SUBJECT: Proposed modifications to Subchapter 23, Control of Emissions from Cotton Gins

Enclosed is a copy of the proposed draft modifications to Subchapter 23, Control of Emissions from Cotton Gins. The proposed amendments to Subchapter 23 will simplify the language under the agency-wide re-write/de-wrong initiative. Also proposed are changes to the subchapter that follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Additionally, the Department proposes to add a new Permit by Rule (PBR) section. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins to obtain an individual air quality permit. Facilities that qualify for coverage under the PBR will simply register with AQD and certify their compliance with the rule. In order to qualify, a cotton gin:

- Must emit less than 40 tons per year of each regulated pollutant;
- Cannot be subject to Part 70 permitting; and
- Cannot be operated in conjunction with another facility that is subject to air quality permitting.

The proposed Subchapter 23, Control of Emissions from Cotton Gins, will be brought to public hearing on October 20, 1998. Staff will recommend the rule be approved and sent to the Environmental Quality Board meeting on November 10, 1998.

Enclosures: 2

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

Section

252:100-23-1. Purpose

252:100-23-2. Definitions

252:100-23-3. ~~General provisions; applicability~~ Applicability, general requirements

252:100-23-4. ~~Smoke, visible emissions, and particulates~~ Visible emissions (opacity) limit

252:100-23-5. Emission control equipment

252:100-23-6. Fugitive dust controls

252:100-23-7. Permit by rule

252:100-23-1. Purpose

The purpose of this Subchapter is to control emissions from cotton gins. ~~in order to prevent the Oklahoma air quality standards from being exceeded and ensure that degradation of the present level of air quality in Oklahoma does not occur.~~

252:100-23-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cotton gin" means any facility ~~or plant which~~that removes seed, lint, and trash from raw cotton and bales of lint cotton for further processing. Each equipment exhaust, including the trash and burr hopper, located at a cotton gin shall be considered ~~as being~~ an individual process emission source.

~~"Cotton gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.~~

"Existing gin" means a gin which was in existence and ~~has had~~ had submitted a current emission ~~inventory~~ inventories to the Air Quality Program Division for the most recent two ginning seasons and ~~is was~~ in possession of a valid annual renewable fee receipt ~~preceding the effective date of this rule.~~ prior to May 1, 1993. All other gins shall be considered "new".

"Gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration⁷. ~~These designations referring~~ refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90 percent collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 x D (95 percent collection efficiency for TSP).

"High pressure exhausts" means the exhaust cotton handling air systems located at a cotton gin which are not defined as "low pressure exhausts".

"Low pressure exhausts" means the exhaust air systems at a cotton gin which ~~handles~~ handle air from the cotton lint handling system and battery condenser.

252:100-23-3. ~~General provisions;~~ applicability, general requirements

(a) Applicability. ~~The~~ Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of OAC 252:100-25, 252:100-27, and 252:100-29.

(b) General requirements.

~~(b)~~ (1) Permits required. In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of OAC 252:100-7.

~~(c)~~ (2) Air toxics emissions. The requirements of this

Subchapter are in addition to any which may be required under OAC 252:100-41.

~~(d)~~ (3) Recordkeeping. The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation, and ~~air~~ Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by ~~the Air Quality Program~~ DEQ personnel or its representative during normal business hours.

~~(e)~~ (4) Test methods.

~~(1)~~ (A) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A. and Testing shall be performed by an individual possessing current certification, a Certified Visible Emissions Evaluator.

~~(2)~~ (B) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

~~(f)~~ Effective date. ~~This Subchapter shall become effective May 1, 1993.~~

252:100-23-4. Smoke, visible emissions, and particulates Visible emissions (opacity) and particulates

~~(a)~~ Visible emissions limit.

~~(1)~~ Emissions (a) Opacity limit. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof ~~a shade or density exhibiting greater than twenty (20) percent~~ 20% equivalent opacity. This requirement shall not apply to ~~smoke or visible emissions exhibiting greater than 20% opacity~~ emitted during short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for an period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24 hour period, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.

~~(2)~~ (b) Alternative emissions opacity limit. The ~~twenty (20) percent~~ 20% opacity limit as required under 252:100-23-4(a)(1) may be increased for particulates only provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.

~~(b)~~ (c) PM-10 emissions limit. No cotton gin shall ~~impact the ambient air quality in such a manner as to violate~~ be operated so as to cause or contribute to a violation of the primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24 hour average or any other ambient air standard quality standards or any other

ambient air quality standard established by OAC in 252:100-3.

252:100-23-5. Emission control equipment

(a) **Low pressure exhausts.** For ~~emissions~~emission control from low pressure exhausts, the use of screens with a mesh size of 70 by 70 or finer (U.S. Sieve), or the use of perforated condenser drums with holes not exceeding 0.045 inches in diameter or equipment of equivalent design efficiency as determined by the Executive Director shall be required.

(b) **High pressure exhausts.** For emission control from high pressure exhausts, the use of 2D-2D cyclones shall be required for existing gins. Existing gins shall install and use 1D-3D cyclone collectors or equivalent when the capital cost of repair or replacement of the existing 2D-2D cyclone exceeds ~~fifty (50) percent~~ 50% of the capital cost of a new 1D-3D cyclone. New or modified cotton gins shall utilize a 1D-3D cyclone collector or equipment of equivalent collection efficiency upon commencement of operation.

(c) ~~Fugitive emissions.~~ **Burr hoppers.** For emission control ~~of fugitive emissions from burr hoppers~~ during dumping, ~~the use of total enclosure burr hoppers~~ at existing gin sites located within the corporate city limits of any city or within 300 feet of two or more occupied establishments ~~is required~~ must be totally enclosed. All new gin sites shall install and use a total enclosure on the burr hopper.

252:100-23-6. Fugitive dust controls

(a) For control of fugitive dust, no person shall ~~cause or permit~~ allow the handling, transporting, or disposition of any substance or material ~~which~~ that is likely to be scattered by the air or wind, ~~or is susceptible to being airborne, or windborne, or~~ and no person shall operate or maintain ~~or cause to be operated or maintained,~~ any gin ~~premise~~ site, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any material or substance likely to be scattered by the wind or air, ~~or susceptible to being windborne or airborne~~ that would be classified as air pollution without taking reasonable precautions ~~or measures~~ to minimize atmospheric pollution.

(b) No person shall ~~cause or permit~~ allow the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

252:100-23-7. Permit by Rule

(a) **Applicability.** Any new or existing facility may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 0724 Cotton Ginning.

(b) **Requirements.**

(1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this

Subchapter.

(2) Maximum production rate of a facility subject to this section shall be 36,000 bales per year. This production rate, using 1996 revised emission factors in AP-42 Section 9.7 Cotton Gins, should result in less than 40 tons per year of PM-10 emissions.

MINUTES

AIR QUALITY COUNCIL

OCTOBER 20, 1998

Tulsa City-County Health Department Auditorium
5051 South 129th Street East
Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce

Council Members Absent

Larry Canter
Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 20, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye. Mr. Kilpatrick, Ms. Slagell and Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 18, 1998 Public Meeting/Hearings. Motion was made by Mr. Wilson to approve the Minutes as presented and second to the motion was made by Dr. Grosz. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

1999 Meeting Schedule - Mr. Dyke presented Council with proposed scheduled for 1999 meetings with the suggestion that the December 21 date mentioned in the packet memo be changed to December 14. Ms. Myers made motion to accept the schedule as proposed: Wednesday, February 17, Tuesday, April 20, Tuesday, August 17, and Tuesday, December 14 at OKC, DEQ Multi-Purpose Room; with Tuesday, June 15 and October 19 at Tulsa, TCCHD Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out proposed revisions would modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits stating that actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of “de minimis facility.” Also, she stated that proposed revision would delete the lower limit of five tons per year for PBR facilities allowing those facilities with less than five tons per year emissions which are subject to NSPS or NESHAP to apply for a PBR instead of having to obtain an individual permit. Ms. Buttram advised that staff proposed that a new Part 9 be added that would outline the requirements necessary for a facility to qualify for a PBR. A third point she brought out was the proposed revision to delete the lower limit for general permits allowing facilities that may have less than 40 tons per year of emissions, but for which no PBR had been written, the opportunity to apply for coverage under an applicable general permit. Lastly, she added that the Department proposed to amend 252-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council’s October 20, 1998 meeting. Ms. Myers made that motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff’s position on this rule. Ms. Buttram pointed out that the proposed amendments would fulfill an EPA requirement concerning Continuous Emissions Monitoring proposing to incorporate by reference the Federal opacity monitoring requirements for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators as specified in 40 CFR 51, Appendix P. She noted that the Department proposed to exempt from Appendix P requirements for those sources already subject to a new source performance standard and for sources scheduled for retirement within five years after the

amended rule takes effect. Ms. Buttram added that the amended rule would also provide criteria for approval of alternative monitoring requirements with additional changes that would clarify how the opacity standard is determined.

Mr. Breisch asked for a motion to recommend the rule as proposed to the Environmental Quality Board for permanent adoption. Mr. Wilson made the motion with David Branecky making the second. Roll call was as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out that the proposed revisions add a new Permit by Rule section that would streamline the permitting process by creating a mechanism that eliminates the necessity for some cotton gins to obtain an individual air quality permit. Ms. Martinez added that additional changes would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Following discussion, Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Ms. Myers made the motion with second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who advised that the proposed revisions would simplify the language under the agency-wide re-right/de-wrong initiative and would add a new Permit by Rule section to streamline the permitting process by creating a mechanism that would eliminate the necessity for some grain elevators to obtain an individual air quality permit. Ms. Martinez added that a new Appendix L proposed would contain PM-10 emission factors for PBR grain elevators. Additional changes follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the

opacity standard allowing exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Mr. Breisch entertained a motion to recommend the rule to the Environmental Quality Board for permanent adoption at its November 10 meeting. Mr. Wilson made that motion with second made by Ms. Myers. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She then pointed out four substantive changes that were proposed for Subchapter 37 as well as Subchapter 39:

- 1) to change the definition of “volatile organic compounds (VOC)” per Council’s direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;
- 2) to remove of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a);
- 3) a change regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences; and
- 4) to add a new Part 9, Permit by Rule for Volatile Organic Liquid Storage and Loading Facilities.

Mr. Breisch entertained a motion to continue this rule to Council’s December meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She stated that one substantive change affects both Subchapters 39 and 37

which is to change the definition of "volatile organic compounds" per Council's direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;

In Subchapter 39, Dr. Sheedy pointed out the need for correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2) which would be a substantive change along with the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c).

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's December 15 meeting. Mr. Branecky made that motion with the second made by Mr. Wilson. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the proposed revisions would update the adoption by reference of 40 CFR Part 63 to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. She pointed out that the new standards are Subpart S – NESHAP for Pulp and Paper Production and Subpart LL – NESHAP for Aluminum Production Plants. The proposed revisions will also update the adoption by reference of the NESHAP as found in 40 CFR Part 61 (with the exception of Subparts B, H, I, K, Q, R, T, and W. and Appendices D and E which address radionuclides) to July 1, 1998. Dr. Sheedy advised the Council that these modifications were necessary to obtain EPA's delegation of authority to implement the federal hazardous air pollutant program in Oklahoma.

Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Mr. Wilson made that motion with the second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

**OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees
[AMENDED]**

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Shawna McWaters-Khalousi for staff recommendation. Ms. Khalousi advised that the Department is proposing to amend 252:100-5-2.2 to increase annual operating fees assessed to minor facilities; amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits; and amend 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. Ms. Khalousi stated that if was staff's recommendation that this rule be continued to Council's December 15 meeting.

Mr. Breisch entertained motion to continue these rules to the December meeting. Ms. Myers made the motion and second was made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes.

NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being December 15, 1998 at Lincoln Plaza Office Complex Burgundy Room, 4545 North Lincoln, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

OCTOBER 20, 1998

SIGN-IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Bonnie McGilbra	2122 S. VUKAN Tulsa	583-392
2. John Snow HANOVER	1600 W VAN DAMEN	405-640-961
3. Carlos J. Nazario	Tinker AFB	405-734-70
4. Connie White	Tinker AFB	W "
5. Rhonda Jeffries	ODEQ ROAT	(918) 488 889
6. HERB NEUMANN	"	"
7. Nadene Barton	CASE	481-0474
8. FRANK GANDON	EQ BOARD	
9. Carol Barker	Tinker AFB	736-7246
10. Perry Friedrich	GRDA Chauveau	476-8268
11. SANDRA RENNIE	EPA REGION 6	(214) 665-7367
12. Terry Thomas	" "	214-665-7160
13. Stanley M. Spruiell	" "	(214) 665-7212
14. Anne Schaefer	Tinker AFB	405.734.7071
15. Rose Williams	Tinker AFB	405.734.3002
16. Bruce Russell	DEQ	918 488 8895
17. BILL CLARK	Sun Co. Inc.	918-594-63
18. JACK FLY	TULSA	918-489-9895
19. Deann Hughes	Cardinal Engineering	405-842-104
20. Dustin Givens	Fort James	918 683-767
21. Steve Landers	" " "	" " "
22. GERALD BUTCHER	W/FEC	405-247-434
23. Howard Ground	CSW	241-777-1711
24. Deborah Perry	Emercon	918-665-769
25. Joel Nelson	Boeing P.O. Box 582808 Tulsa, OK 74158	918-832-3215



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Rick Trema	Box 1307 Enid, OK 73702	580-293-580
27. Kim Warram	6545 So Meridian Ste 214	405 722 7
28. Ron Sobber	10830 E 45th St ^{OKC} Tulsa	918 663 98
29. Edgington	4115 N. Perkins Rd Stillwater	405-377-129
30. B. W. Kelly	1408 S. Denver Tulsa 74119	918-582-
31. Don Pugh	American Airlines PO Box 582809, MD 508 Tulsa 74158	918-
32. Cathy Oshan	Mintech/Perma Fin 4608 S Garnett Tulsa 74116	64-
33. David Emery	12 AZ Phillips Building - Bartlesville OK 74006	
34. Cheryl Bradley	DEQ A&D	
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-23

Subchapters or Sections Involved – [new, amended or revoked]

Control of Emissions from Cotton Gins [AMENDED]

On OCTOBER 20, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: 10-20-98

Chair or Designee

VOTING TO APPROVE:

William B. Breisch
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

VOTING AGAINST:

ABSTAINING:

ABSENT:

Larry Canter
Gary Kilpatrick
Meribeth Slagell

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
*** 9:00 A.M.**
Tuesday, December 14, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson
Oklahoma City Oklahoma

1. **Call to Order – Bill Breisch**
2. **Roll Call – Myrna Bruce**

3. **CY 2000 Meeting Schedule**
 - A. **Discussion by Council**
 - B. **Roll call vote**

4. **Resolution for Meribeth Slagell**

5. **Approval of Minutes of the October 19, 1999 Regular Meeting**

6. **Public Rulemaking Hearings**

A. OAC 252:100 Appendices E and F [AMENDED]

Appendix E Primary Ambient Air Quality Standards [REVOKED]

Appendix E Primary Ambient Air Quality Standards [NEW]

Appendix F Secondary Ambient Air Quality Standards [REVOKED]

Appendix F Secondary Ambient Air Quality Standards [NEW]

Proposal would restore the primary and secondary ambient air quality standards for ozone and particulate matter to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

1. **Presentation – Michelle Martinez**
2. **Questions and discussion by Council / Public**
3. **Possible action by Council**
4. **Roll call vote(s) for permanent adoption**

B. OAC 252:100- 5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; to require an owner or operator of a facility to report excess emissions on their annual emission inventory; to require inventories to be submitted one month earlier than presently required; to allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and to reduce the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.

1. **Presentation – Jeanette Buttram**
2. **Questions and discussion by Council / Public**
3. **Possible action by Council**
4. **Roll call vote(s) for permanent adoption**

C. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include establishing a time limit on excess emissions caused by properly reported malfunctions, startup/shutdowns, and maintenance procedures. The burden of proving that excess emissions occurring more than eight hours or 1.5 percent of the process's operation time in a 3-month period are due to excusable malfunctions, startup/shutdowns or maintenance procedures rather than negligent, marginal, or improper operation is on the owner or operator of the process. Language was added to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement; and additional demonstration requirements for malfunctions, maintenance, and startup/shutdowns were added under proposed section 252:100-9-3.2, Demonstration of cause.

1. **Presentation – Jeanette Buttram**

2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

D. OAC 252:100-13. Prohibition of Open Burning [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add definitions for "domestic refuse" and "land clearing operation" along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were expanded and moved to a new section. Also the rule would only allow material from a land clearing operation to be burned in an open-pit incinerator.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

E. OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-23-3(a) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

F. OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-24-3(a)(1) and (2) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

G. OAC 252:2-15 Environmental Permit Processing Times [AMENDED]

The proposal would change the terms used in 252:2-15-40, 41 and 72 to be consistent with those used in 252:100, Air Pollution Control. The terms "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

7. Division Director's Report – Eddie Terrill

8. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

9. Adjournment – Next Regular Meeting

Date and Time: To Be Announced

Place: DEQ Multi-Purpose Room - OKC

* Council decided at its October 19 meeting to begin at 9:00 a.m. due to the number of agenda items.

Lunch Break, if necessary

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 720-4100.

November 30, 1999

MEMORANDUM

To: Air Quality Council

FROM: Eddie Terrill, Director *CT.*
Air Quality Division

SUBJECT: Proposed modifications to 252:100-23-3 "Control of Emissions from Cotton Gins" and 252:100-24-3 "Particulate Matter Emissions from Grain, Feed or Seed Operations"

Enclosed are copies of the proposed changes to 252:100-23-3 and 252:100-24-3, which will substitute references to 252:100-19-12 for references to Subchapter 27. These revisions are necessary because the substantive requirements of Subchapter 27 will be moved to 252:100-19-12 and Subchapter 27 will be revoked in June of 2000 (recommended by the Council on October 19, 1999 and adopted by the Environmental Quality Board on November 16, 1999). Thus, the references to Subchapter 27 will become meaningless unless they are replaced by references to 252:100-19-12. Staff will recommend that the Air Quality Council vote to submit these revisions to the Environmental Quality Board for approval as an emergency rule effective June 1, 2000. Also enclosed is the Rule Impact Statement.

Enclosures: 3

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

252:100-23-3. Applicability, general requirements

(a) **Applicability.** Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of 252:100-25, ~~252:100-27~~252:100-19-12, and 252:100-29.

(b) **General requirements.**

(1) **Permits required.** In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of ~~OAC~~252:100-7.

(2) **Air toxics emissions.** The requirements of this Subchapter are in addition to any which may be required under 252:100-41.

(3) **Recordkeeping.** The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation. Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by DEQ personnel during normal business hours.

(4) **Test methods.**

(A) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A. Testing shall be performed by a Certified Visible Emissions Evaluator.

(B) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

MINUTES
AIR QUALITY COUNCIL
DECEMBER 14, 1999
Department of Environmental Quality
MultiPurpose Room - 707 North Robinson, OKC

Council Members Present

William B. Breisch, Chairman
Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Myrna Bruce

Council Members Absent

Larry Canter
Sharon Myers
Gary Kilpatrick

Guests Present

**see attached list

Notice of Public Meeting for December 14, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye. Dr. Canter, Ms. Myers, and Mr. Kilpatrick did not attend. Mr. Breisch and Mr. Terrill presented Meribeth Slagell a Resolution from the Council and Certificate of Appreciation from Mr. Coleman and thanked her for her years of dedicated service on the Council. Mr. Breisch introduced new Council member, Rick Treeman, who was appointed by the Governor to replace the position vacated by Mrs. Slagell.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Fallon to approve the Minutes as presented and second was made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

CY 2000 Meeting Schedule - Staff suggested the following Year 2000 meeting dates:

- Wednesday, February 16 at Tulsa
- Wednesday, April 19 at Lawton
- Wednesday, June 14 at Tulsa
- Wednesday, August 16 at Ponca City
- Wednesday, October 18 at Oklahoma City
- Wednesday, December 14 at Oklahoma City

Motion to accept the schedule was made by Mr. Fallon with second by Mr. Branecky with following vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100- Appendices E & F

Appendix E Primary Ambient Air Quality Standards [AMENDED]

Appendix F Secondary Ambient Air Quality Standards [AMENDED]

Ms. Michelle Martinez made the staff presentation stating that the proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards for ozone to what they were prior to June 1, 1999. She advised that the 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored; and that the PM-2.5 standards would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

Ms. Martinez entered into the record a fax received from EPA Region 6 dated December 10, 1999 which stated that updating these appendices was timely and appropriate. Ms. Martinez then asked that Council recommend proposed Appendices E and F to the Environmental Quality Board for permanent adoption.

Following discussion, Mr. Breisch asked for a motion to recommend the rule for adoption. Mr. Branecky made motion to recommend to the Board for permanent/emergency adoption. Second was made by Mr. Fallon. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-5

Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram presented the staff presentation and advised that the proposed changes to Subchapter 5 were designed to allow the agency the ability to bill annual operating fees on a flexible schedule, and that these changes would also allow the fees to be based on the most recent emission data possible. Ms. Buttram pointed out that the proposed rule clarified that an owner or operator of a facility must report quantifiable excess emissions on their annual emission inventory. She stated that substantive changes included the requirement that all inventories be submitted prior to March 1, and the Agency would provide up to a 30-day extension upon request. Council made a recommendation that the language be changed to allow an additional 30-day extension for good cause shown. Also, the rule will allow fee payers five years after payment is made to notify the DEQ that they overpaid and receive

credit for such overpayment. Also, new language was proposed to reduce to six months after inventories are due or submitted, the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the methods used to calculate the facility's emissions for "fee calculation purposes."

Ms. Buttram advised that comments had been received from Central and Southwest Services and she entered them into the record. She stated that it was staff's recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Following comments from Council members and the audience, changes were made in the wording and Mr. Wilson made a motion to forward this rule, with changes, to the Environmental Quality Board for adoption. Second was made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram was called upon to make the staff recommendation for this rule. She stated that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language; and that the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative.

Substantive changes include the addition of new definitions and the addition of a new subsection for certification of the information submitted.

Also, language was added under 100-9-3.3, Demonstration of cause, which states excess emissions caused by malfunction and maintenance, start-up/shutdown, can be exempt from compliance which air emission limitations established in permits, rules, orders of the DEQ if the owner/operator properly complies with the requirements in 252:100-9-3.1 and 252:100-9-3.2, respectively; and meets the demonstrations listed in those subsections. Then additional subsections added to 100-9-3.3 were discussed.

Ms. Buttram advised that comments had been received from EPA Region 6 and from Central and Southwest Services and entered them into the record. She stated that staff suggested that the rule be recommended for adoption by the Environmental Quality Board.

After much discussion with staff, Council, and audience members, Mr. Breisch called for a motion. Mr. Fallon made motion to continue this rule to the next regular meeting. Mr. Branecky made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Ms. Jeanette Buttram was called upon to give the staff recommendation concerning this rule. She stated that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She added that such changes included consolidating the general conditions and requirements for allowed open burning into a new section. She pointed out that a few substantive changes were made such as adding definitions for "domestic refuse" and "landclearing operation" and a section on disaster relief procedures; and that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. Ms. Buttram stated that new language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. She stated that existing language on open-pit incinerators was expanded it would now prohibit accepting any material owned by other persons and from transporting any material to be burned to the property where the open-pit incinerator is located. She advised that it was staffs recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Ms. Buttram entered written comments from Central and Southwest Services into the record. Following questions and discussion by Council, changes were made in the wording after which Mr. Breisch entertained motion to accept the changes made and forward the rule to the Board for adoption as a permanent rule. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

Mr. Dyke called upon Mr. Max Price who advised Council that the proposed changes to 100-23-3 and 100-24-3, would substitute references to 252:100-19-12 for references to Subchapter 27. He added that these revisions were necessary because the substantive requirements of Subchapter 27 would be moved to 100-19-12 and Subchapter 27 would be revoked in June of 2000. He added that the references to Subchapter 27 would become meaningless unless they are replaced by references to 100-19-12. Mr. Price stated that it was staff's recommendation that Council refer these rules to the Environmental Quality Board for emergency adoption effective June 1, 2000.

Mr. Breisch stated that these two rules would be voted on separately and called for a motion on Subchapter 23. Mr. Wilson made the motion to forward to the Board as recommended

by staff. The second made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Mr. Breisch then called for the same motion for Subchapter 24. Mr. Branecky made the motion and Dr. Grosz made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:2-15

Environmental Permit Processing Times [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who stated that the proposed amendments to Sections 40, 41, and 72 would make them consistent with 252:100, Air Pollution Control; and that the references to "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and Part 70 source(s)", respectively. She added that changes were also made at the Council meeting to section 2-15-72(1)(A) such that the phrase "and part 70 sources" was added along with changing the number of days from 540 to 365. Ms. Bradley stated that comments had been received from EPA Region 6 and she entered them into the record. Following discussion Ms. Bradley advised that it was staff's recommendation that Council refer this rule to the Board for permanent adoption of the proposed amendments. Mr. Breisch called for a motion. Mr. Branecky made motion to accept the changes as stated and forward the rule to the Board for adoption. Mr. Fallon made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

DIVISION DIRECTOR'S REPORT - Mr. Terrill advised that he and Mr. Dyke would be attending a meeting with Central States Air Resources Board (CenSARA) to discuss, among other things, the status of the Regional Planning Body activities. He stated that he would like to take a few minutes at the next regular meeting for an update on these activities.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 16, 2000 at 9:00 a.m. in the Auditorium at OSU-Tulsa (formerly UCAT).

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 14, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	CSW	ADDRESS	TELEPHONE
1. Howard Ground	PO Box	660164 Dallas TX.	214-777-1711
2. Tom Diggs	U.S. EPA Reg 4	1445 Ross Ave Dallas TX	214-645-7214
3. LEE Moody	Trinity	DALLAS	972 6618100
4. John Wheeler	"	"	"
5. Marty Smith	Duke Energy	News -	(303) 599 3331
6. Mike Peters	McKinney & Stringer		(405) 272-1907
7. ^{SUNOCO} BILLY CLARK	P.O. Box 2039	Tulsa OK	918-594-6368
8. Preston Baitala	Hanover Corp.	3805 Douglas Midland TX 79703	915 699 5214
9. FRANK CONDON	EQ BOARD		
10. Michael Stogel	At 1/201/82	Norfolk	405 663 2290
11. BILL FISHBACK	3424	LYAL TER EDMOND	405-348-8683
12. KEN WILLIAMS	320 S. Boston,	Tulsa OK	918-594-0519
13. LEE PADEN	ODEQ Board	P.O. Box 52072, Tulsa 74152	918-743-71
14. Laura Armistead	Reliant Energy	PO Box 21734 Spout, LA 71516	318 429 370
15. Tom Buckman	Reliant Energy	189 NW 50th OKC	OK 73118 405-556-24
16. DUSTIN GIVENS	Ft. James	4701 Rhandbr Rd, Muskogee	918/68
17. Steve Sanders	"	"	"
18. Alan Kitz	Mayor's Office		
19. Vance McSpadden	5115 N. Western	OKC	842-6625
20. Kirk Potter	Boeing-Tulsa	3330 N. Mineo Tulsa	832-3178
21. Carol Barker	7701 Arnold St., Suite 204,	TAE Box 7315	736-5986
22. Bob Kellogg	OKC		405 235-0808
23. Travis Tindell	2500 S. Council,	OKC, OK 73128	405-745-4442 ext
24. DAVID FARRAND	P.O. Box 3288	Tulsa OK 74101	918-573-4489
25. ERICA Schwenneker	301 NW 43rd	Street #215, OKC	73116

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
DECEMBER 14, 1999
SIGN IN SHEET Page Two

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Gary Pinc	111106	918 584 7526
27. Gary Collins	TERRA	918 266 1511
28. Pat Davenport	N-S	405 377 5050
29. Jon Barrett	MARATHON OIL Co	405-720-5532
30. Deanne Hughes	Cardinal Engineering	842-1006
31. Julia Bevers	321 N. Hawey 77101	553-3439
32. Charles Jeffri	D&O / POAT	918 461-7412
33.		
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-23

Subchapters or Sections Involved – [new, amended or revoked]

OAC 252:100-23 – Control of Emissions from Cotton Gins

On December 14, 1999 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Chair or Designee

Date signed: December 14, 1999

VOTING TO APPROVE:

Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz
Bill Breisch
ABSTAINING:

VOTING AGAINST:

ABSENT:

Larry Canter
Sharon Myers
Gary Kilpatrick

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, November 10, 1998
Kerr Country Mansion and Conference Center
1507 South McKenna
Poteau, Oklahoma

1. Call to Order - Herschel Roberts
2. Roll Call - Lynda Finch
3. Approval of Minutes of the September 15, 1998 Regular Meeting
4. **OAC 252:002 Procedures of the Department of Environmental Quality:**

Subchapter 17 of OAC 252:002 deals with the processing of citizen complaints received by the DEQ. The proposed amendment to Section 17-2 expands the definition of "enforcement action" to include a referral by a DEQ division to the Oklahoma Attorney General's Office, a district attorney's office, a state or federal law enforcement agency, or the DEQ's Environmental Crimes Investigation Team for investigation of possibly criminal environmental violations. Because criminal referral processes and criminal investigations typically are relatively involved and lengthy, this amendment is proposed to allow the DEQ to pursue possible criminal enforcement actions while still meeting agency complaint procedures and timelines.

Because this is an amendment to the procedural rules of the DEQ, it is not within the jurisdiction of an advisory council. Thus, the opportunity for public comment on this agenda item constitutes the rulemaking hearing on the proposal.

- A. Presentation – Jimmy Givens, DEQ General Counsel
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

5. **OAC 252:100 Air Pollution Control:**

Three sets of changes are proposed:

- The proposed revisions to Subchapters 23 (Cotton Gins) and 24 (Grain Elevators) simplify the language under the DEQ's "re-right/de-wrong" rules simplification initiative. It is also proposed to add a new Permit by Rule section to both subchapters. The Permit by Rule will streamline the permitting process by creating a mechanism that will eliminate the need for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains Particulate Matter (PM)-10 emission factors for Permit by Rule grain elevators. Additional changes to both subchapters track proposed amendments of Subchapter 25 concerning opacity.

- In addition to “re-right/de-wrong” simplification changes, the proposed revisions to Subchapter 25 (Smoke, Visible Emissions and Particulates) incorporate by reference the federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries, subject to certain exceptions. Additional changes include exempting sources subject to opacity standards promulgated under the Federal Clean Air Act from the state opacity standard, and clarifying how the opacity standard will be determined at sources that have Continuous Opacity Monitors and those that do not.
- The proposed revisions to Subchapter 41 (Control of Emission of Hazardous and Toxic Air Contaminants) update the adoption by reference of federal rules to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. The new standards relate to pulp and paper production and to aluminum production plants. The proposed revisions also update the adoption by reference of the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) to July 1, 1998, with certain exceptions.

These changes were recommended by the Air Quality Council at their meeting on October 20, 1998.

- A. Presentation - David Branecky, Air Quality Council member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) for permanent adoption

6. Consideration of the Environmental Quality Report:

The Oklahoma Environmental Quality Code requires the DEQ to prepare an Environmental Quality Report and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1st of each year. Contrary to the statutory title, the purpose of this report for a fairly small targeted audience is to outline the DEQ’s two-year needs for providing environmental services within its jurisdiction, and to reflect any new federal mandates and recommended statutory changes. The Environmental Quality Board is to review, amend and approve the report.

- A. Presentation – Mark Coleman, DEQ Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote

- 7. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)
- 8. Executive Director's Report
- 9. Vote on 1999 Environmental Quality Board meeting dates
- 10. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

Section

- 252:100-23-1. Purpose
- 252:100-23-2. Definitions
- 252:100-23-3. ~~General provisions; applicability~~Applicability, general requirements
- 252:100-23-4. ~~Smoke, visible emissions, and particulates~~Visible emissions (opacity) limit
- 252:100-23-5. Emission control equipment
- 252:100-23-6. Fugitive dust controls
- 252:100-23-7. Permit by rule

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

252:100-23-1. Purpose

The purpose of this Subchapter is to control emissions from cotton gins ~~in order to prevent the Oklahoma air quality standards from being exceeded and ensure that degradation of the present level of air quality in Oklahoma does not occur.~~

252:100-23-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cotton gin" means any facility ~~or plant which~~ that removes seed, lint, and trash from raw cotton and bales of lint cotton for further processing. Each equipment exhaust, including the trash and burr hopper, located at a cotton gin shall be considered as being an individual process emission source.

~~"Cotton gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.~~

"Existing gin" means a gin which was in existence and ~~has had~~ has had submitted a current emission ~~inventory~~ inventories to the Air Quality Program Division for the most recent two ginning seasons and ~~is was~~ is in possession of a valid annual renewable fee receipt ~~preceding the effective date of this rule~~ prior to May 1, 1993. All other gins shall be considered "new".

"Gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. ~~These designations referring~~ refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90 percent collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 x D (95 percent collection efficiency for TSP).

"High pressure exhausts" means the exhaust cotton handling air systems located at a cotton gin which are not defined as "low pressure exhausts".

"Low pressure exhausts" means the exhaust air systems at a cotton gin which ~~handles~~ handle air from the cotton lint handling system and battery condenser.

252:100-23-3. ~~General provisions; applicability~~ Applicability, general requirements

(a) Applicability. ~~The~~ Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of ~~OAC~~ 252:100-25, 252:100-27, and 252:100-29.

(b) General requirements.

~~(b)(1)~~ (1) Permits required. In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply

with the permitting requirements of OAC 252:100-7.

~~(e)(2)~~ Air toxics emissions. The requirements of this Subchapter are in addition to any which may be required under OAC 252:100-41.

~~(d)(3)~~ Recordkeeping. The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation ~~and air.~~ Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by ~~the Air Quality Program~~ DEQ personnel ~~or its representative~~ during normal business hours.

~~(e)(4)~~ Test methods.

~~(1)(A)~~ Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A ~~and.~~ Testing shall be performed by an individual possessing current certification as a Certified Visible Emissions Evaluator.

~~(2)(B)~~ Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

~~(f)~~ Effective date. ~~This Subchapter shall become effective May 1, 1993.~~

252:100-23-4. ~~Smoke, visible emissions, and particulates~~ Visible emissions (opacity) and particulates

~~(a)~~ Visible emissions limit.

~~(1)~~ Emissions (a) Opacity limit. No person shall cause, suffer, allow or permit ~~the~~ discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof ~~a shade or density exhibiting greater than twenty (20) percent equivalent~~ 20% opacity. This requirement shall not apply to ~~smoke or visible emissions exhibiting greater than 20% opacity~~ emitted during short-term occurrences, ~~the shade or density of which is not greater than sixty (60) percent opacity for an period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24 hour period.~~ which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.

~~(2)(b)~~ Alternative emissions opacity limit. The ~~twenty (20) percent~~ 20% opacity limit as required under 252:100-23-4(a)(1) may be increased for particulates only provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the ~~Oklahoma~~ Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.

~~(b)(c)~~ PM-10 emissions limit. No cotton gin shall ~~impact the ambient air quality in such a manner as to violate~~ be operated so as to cause or contribute to a violation of the primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24 hour average or any other ambient air standard quality standards or any other

ambient air quality standard established by OAC in 252:100-3.

252:100-23-5. Emission control equipment

(a) **Low pressure exhausts.** For ~~emissions~~emission control from low pressure exhausts, the use of screens with a mesh size of 70 by 70 or finer (U.S. Sieve), or the use of perforated condenser drums with holes not exceeding 0.045 inches in diameter or equipment of equivalent design efficiency as determined by the Executive Director shall be required.

(b) **High pressure exhausts.** For emission control from high pressure exhausts, the use of 2D-2D cyclones shall be required for existing gins. Existing gins shall install and use 1D-3D cyclone collectors or equivalent when the capital cost of repair or replacement of the existing 2D-2D cyclone exceeds ~~fifty (50) percent~~50% of the capital cost of a new 1D-3D cyclone. New or modified cotton gins shall utilize a 1D-3D cyclone collector or equipment of equivalent collection efficiency upon commencement of operation.

(c) ~~Fugitive emissions~~Burr hoppers. For emission control ~~of fugitive emissions from burr hoppers~~ during dumping, ~~the use of total enclosure burr hoppers~~ at existing gin sites located within the corporate city limits of any city or within 300 feet of two or more occupied establishments ~~is required~~must be totally enclosed. All new gin sites shall install and use a total enclosure on the burr hopper.

252:100-23-6. Fugitive dust controls

(a) For control of fugitive dust, no person shall ~~cause or permit~~allow the handling, transporting, or disposition of any substance or material ~~which~~that is likely to be scattered by the air or wind, ~~or is susceptible to being airborne, or windborne, or~~ ~~and no person shall~~ operate or maintain ~~or cause to be operated or maintained,~~ any gin ~~premises~~site, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any material or substance likely to be scattered by the wind or air, ~~or susceptible to being windborne or airborne~~ that would be classified as air pollution without taking reasonable precautions ~~or measures~~ to minimize atmospheric pollution.

(b) No person shall ~~cause or permit~~allow the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

252:100-23-7. Permit by Rule

(a) Applicability. Any new or existing facility may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 0724 Cotton Ginning.

(b) Requirements.

(1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this

Subchapter.

(2) Maximum production rate of a facility subject to this section shall be 36,000 bales per year.

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, February 25, 2000
Department of Environmental Quality
707 North Robinson
Oklahoma City, Oklahoma 73102

NOTE: The business meeting of the Board will be preceded at 8:30 a.m. by a continental breakfast. No business will be conducted, but there will be opportunity for an informal interchange among attendees, particularly on matters of interest raised by individual Board members. Board members and DEQ staff will be present, and the public may attend.

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 16, 1999 Regular Meeting
4. **Election of Officers**
Election of Chair and Vice-Chair for 2000
5. **Rulemaking – OAC 252:002 Procedures of the DEQ (Administrative Fees)**
The proposed rule relates to administrative fees. The Oklahoma Open Records Act allows an agency to charge a document copying fee, a fee for certified copies, and a reasonable fee for document searches when the search request is solely for a commercial purpose or clearly would cause an excessive disruption of the agency's essential functions. Fees must be promulgated as rules under the Administrative Procedures Act (1999 Okl.Op.Atty.Gen. 55, August 17, 1999). The proposed rule establishes a photocopy fee of \$0.25 per page, a certified copy fee of \$1.00 per document, and a document search fee of \$5.00 per one-half (1/2) hour (with the first 15 minutes free).
 - A. Presentation – Jimmy Givens, DEQ General Counsel
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption
6. **Rulemaking – OAC 252:100 Air Pollution Control**
Four sets of changes are proposed:
 - Subchapter 5: The proposed amendments are designed to allow the agency to bill on a flexible schedule those owners and operators with sources that produce emissions. The changes also allow the fees to be based on the most recent emission data possible. The proposal clarifies that an owner or operator of a facility must report quantifiable excess emissions on the annual emission inventory, which must be submitted prior to March 1 unless an extension is granted. The proposal also establishes time frames for requests for credit based on overpayment and for challenges to the method used to calculate the facility's emissions for fee calculation purposes.
 - Subchapter 13: The proposed amendments simplify and clarify the rule as part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. Some substantive changes were made,

including adding a section on disaster relief procedures; requiring notification to the DEQ or other appropriate official for authorization to burn in some circumstances; requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators; and prohibiting burning of off-site material in open-pit incinerators.

- Subchapters 23 and 24: The changes replace references to Subchapter 27 with references to 252:100-19-12. These changes are necessary because, based on Board action last November, the substantive requirements of Subchapter 27 will be moved to section 252:100-19-12 and Subchapter 27 will be revoked, effective June of 2000.
- Appendices E and F: The proposed amendments restore the primary and secondary ambient air quality standards to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

- A. Presentation-- David Branecky, Air Quality Council Member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption of amendments to Subchapters 5 and 13, on emergency adoption* (only) of amendments to Subchapters 23 and 24, and on both permanent and emergency adoptions of amended Appendices E and F

7. Rulemaking-- OAC 252:002 Procedures of the DEQ (Air Quality-Related)

The Department is proposing amendments to the air quality provisions of OAC 252:2-15, Environmental Permit Processing Times, to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

- A. Presentation-- David Branecky, Air Quality Council Member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

8. Rulemaking-- OAC 252:205 Hazardous Waste Management

Two sets of changes are proposed:

- Subchapter 3: The proposed amendment to OAC 252:205-3-1 updates the adoption by reference of federal hazardous waste regulations to July 1, 1999. Proposed revisions to 252:205-3-3 incorporate new or superseding amendments to 40 CFR contained in 64 FR 36465-36490, published July 6, 1999, which add hazardous waste lamps as a universal waste at the federal level. Corresponding changes are made in other sections.
- Subchapters 5 and 9: The proposed revisions to 252:205-5 move language from 252:205-5-5(b) to 252:205-5-3(b)(5). The amendment to 252:205-9-6 provides alternative waste characterization mechanisms for off-site hazardous waste facilities.

- A. Presentation-- Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption of amendments to Subchapter 3, and on permanent adoption of amendments to Subchapters 5 and 9

9. Rulemaking— OAC 252:220 Brownfields

The proposed language is the result of recent legislation. It states the criteria by which the DEQ will verify loan application eligibility of Brownfields sites for loans from the Wastewater Facility Construction Revolving Loan Account and other state funding sources.

- A. Presentation— Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption

10. Rulemaking— OAC 252:615 and 616 Industrial Wastewater Systems

Chapter 615 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 615 be revoked and a new Chapter 616 created to replace it. Language has been simplified and clarified and rules deemed unenforceable have been removed.

- A. Presentation— Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

11. Rulemaking— OAC 252:630 and 631 Public Water Supply Operation

Chapter 630 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 630 be revoked and a new Chapter 631 created to replace it. Language has been simplified and clarified and unenforceable rules have been removed. The most recent federal requirements for maintaining primacy over the Safe Drinking Water Act program have been included.

- A. Presentation— Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

12. Rulemaking— OAC 252:641 On-Site Sewage Disposal Systems

The proposed rule amendments eliminate the document search fee, combination fee (soil percolation test and final inspection or existing system evaluation report) and residential plat review fees, and reduce the soil percolation/soil profile fee, final inspection fee, existing system evaluation fee and the certified installer final inspection fee.

- A. Presentation – Gary Collins, Director, DEQ Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

13. **Rulemaking-- OAC 252:700 and 710 Waterworks/Wastewater Works Operator Certification**
Chapter 700 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 700 be revoked and a new chapter 710 created to replace it. New subchapters have been created; many rules have been simplified and/or broken into several shorter rules for clarity; and statutory citations have been updated. The rules for landfill operator certification are being revoked as inappropriate to these chapters.

- A. Presentation-- Rick Stebbens, Waterworks and Wastewater Works Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

14. **Rulemaking-- OAC 252:002 Procedures of the DEQ (Operator Certification-Related)**
The DEQ proposes that Section 252:2-15-49 be revoked as part of the "re-right/de-wrong" rules simplification process. This revocation does not affect the operator certification program or the proposed rules in Chapter 710. The basic Tier I permitting process was designed for environmental permits where notice was given to landowners. The DEQ believes that personal licensure should not have been included in the Tier categories.

- A. Presentation-- Rick Stebbens, Waterworks and Wastewater Works Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

15. **New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)**

16. **Executive Director's Report**

17. **Adjournment**

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from the DEQ Water Quality Division about State Water Quality Standards implementation, the State "303(d)" (impaired waters) list, and related issues.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until on or about June 1st.

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

252:100-23-3. Applicability, general requirements

(a) **Applicability.** Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of 252:100-25, ~~252:100-27~~ 252:100-19-12, and 252:100-29.

(b) **General requirements.**

(1) **Permits required.** In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of ~~OAC~~-252:100-7.

(2) **Air toxics emissions.** The requirements of this Subchapter are in addition to any which may be required under 252:100-41.

(3) **Recordkeeping.** The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation. Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by DEQ personnel during normal business hours.

(4) **Test methods.**

(A) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A. Testing shall be performed by a Certified Visible Emissions Evaluator.

(B) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

252:100-24-3. Applicability, general requirements

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed facilities in the State of Oklahoma.

(1) Facilities in compliance with 252:100-25, ~~252:100-27~~ 252:100-19-12, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of 252:100-25 (visible emissions), ~~252:100-27~~ 252:100-19-12 (process weight), and 252:100-29 (fugitive dust).

(b) **General requirements.**

(1) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed facility shall comply with the permitting requirements of 252:100-7 or 252:100-8.

(2) **Air toxics emissions.** Grain, feed, or seed facilities that emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(3) **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting commodity receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the DEQ during normal business hours.

(4) **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by a Certified Visible Emission Evaluator.

(5) **Determination of emissions.** Emissions from grain, feed, or seed facilities shall be determined by the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or any other reasonably accurate method approved in advance by the DEQ.

Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

EXECUTIVE SUMMARY: The proposed revisions to Oklahoma Administrative Code 252:100-23, Control of Emissions from Cotton Gins, will simplify the language under the agency-wide re-right/de-wrong initiative. It is also proposed to add a new Permit by Rule section to the subchapter that will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins to obtain an individual air quality permit. Additional changes to the subchapter follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: During the first comment period, EPA suggested the AP-42 Section 9.7, Cotton Ginning, be referenced in the rule to demonstrate how the maximum production rate was derived.

Response: Staff agreed and the following sentence was added to 23-7(b)(2): "This production rate, using 1996 revised emission factors in AP-42 Section 9.7, Cotton Gins, should result in less than 40 tons per year of PM-10 emissions." At the October 20, 1998, hearing on the proposed rule, Council thought the language should be more definite, and decided to delete the sentence after concluding that the reference did not need to be in the rule since the hearing record will indicate how the production rate was derived.

Comment: Council suggested the title of 23-4(a), "emission limit", be changed to "opacity limit" to be consistent with the same section in SC24, Grain Elevators.

Response: Staff agreed and the reference was added.

COMMENT: A comment was received that section 23-4(b) states that "no cotton gin shall be operated so as to cause or contribute to a violation of a primary PM-10 standard," but makes no mention of the secondary standard.

Response: Staff agreed and section 23-4(b) was changed to read "No cotton gin shall be operated so as to cause or contribute to a violation of the PM-10 ambient air quality standards or any other ambient air quality standard established in 252:100-3."

Comment: EPA commented that 252:100-23-7(b)(2) must specify a practically enforceable method or procedure to verify compliance with the 36,000 bales per year limitation.

Response: No changes were necessary since section 23-7(b)(1) requires compliance with "all of the requirements of this Subchapter." Thus, the cotton gin is already required to keep records in accordance with 23-3(b)(3).

**TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

**SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS
SECTION 252:100-23-3**

**SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS FROM GRAIN,
FEED OR SEED OPERATIONS
SECTION 252:100-24-3**

EXECUTIVE SUMMARY:

The purpose of these changes is to replace references to Subchapter 27 in sections 252:100-23-3 and 252:100-24-3 with references to 252:100-19-12. These changes are necessary because the substantive requirements of Subchapter 27 will be moved to section 252:100-19-12 and Subchapter 27 will be revoked, effective June of 2000. (Adopted by the Environmental Quality Board on November 16, 1999)

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF WRITTEN COMMENTS AND RESPONSES:

Comment: Environmental Protection Agency, December 10, 1999.

"Subchapter 23 is part of the approved SIP. By removing references to Subchapter 27 now, how will the provisions of Subchapter 27 be covered in the interim period?"

Response:

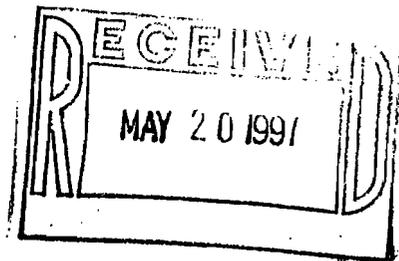
The proposed changes to Subchapters 23 and 24 will not take effect until the adopted changes to Subchapter 19 and the revocation of Subchapter 27 take effect, which will be on June 1, 2000. The references in question actually exempt cotton gins from the requirements of Subchapter 27, thus there would be no impact to the enforceability of Subchapter 27.

EPA File / Copy Dennis



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733



MAY 16 1997

Mr. Larry Byrum,
Director
Oklahoma Department of Environmental Quality
4545 North Lincoln Blvd. Suite 250
Oklahoma City, OK 73105-3483

Dear Mr. Byrum:

We are pleased to announce to you that the enclosed Federal Register notice adopting the Oklahoma cotton gin rule and revising the Particulate Matter State Implementation Plan (SIP) was signed by the Regional Administrator on April 24, 1997, and published on May 14, 1997. The final rule action will become effective on July 14, 1997, if no comments are received by June 13, 1997.

This action serves to strengthen the SIP and provides source specific rules that help protect air quality in Oklahoma. We appreciate your efforts and those from your staff during the development and approval of this action. If you have any questions or comments on this action you may call me directly, or have your staff contact Ms. Petra Sanchez at (214) 665-6686.

Sincerely yours,

Thomas H. Diggs
Chief
Air Planning Section

Enclosure

cc: Mr. J. Scott Thomas
Oklahoma Department of Environmental Quality

Mr. Brian Manning
Oklahoma Department of Environmental Quality

Mr. Max Price
Oklahoma Department of Environmental Quality

DATE: Submit any comments by June 13, 1997.

ADDRESSES: Address all comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC, 20530 (Room 850, WCTR Building).

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely—202-616-0178.

SUPPLEMENTARY INFORMATION: In the notice section of today's *Federal Register*, the Department of Justice provides a description of the "Law Enforcement Support Center (LESC) Database, JUSTICE/INS-023."

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Dated: April 28, 1997.
 Stephen R. Colgate,
 Assistant Attorney General for
 Administration.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, it is proposed to amend part 16 of Title 28 of the Code of Federal Regulations as follows:

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534, 31 U.S.C. 3717, 9701.

2. It is proposed to amend 28 CFR 16.99 by adding paragraphs (i) and (j) to read follows:¹

§ 16.99 Exemption of the Immigration and Naturalization Service Systems-limited access.

* * * * *

(i) The Law Enforcement Support Center Database (LESC) (Justice/INS-023) system of records is exempt under the provisions of 5 U.S.C. 552a (j)(2) from subsections (c) (3) and (4); (d); (e) (1), (2), (5), (8) and (g); but only to the extent that this system contains records within the scope of subsection (j)(2), and to the extent that records in the system are subject to exemption

therefrom. In addition, this system of records is also exempt in part under the provisions of 5 U.S.C. 552a (k) (2) from subsections (c)(3); (d); (e)(1), but only to the extent that this system contains records within the scope of subsection (k)(2), and to the extent that records in the system are subject to exemption therefrom.

(j) The following justifications apply to the exemptions from particular subsections:

(1) From subsection (c)(3) for reasons stated in paragraph (h)(1) of this section.

(2) From subsection (c)(4) from reasons stated in paragraph (h)(2) of this section.

(3) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subject of a criminal or civil investigation of the existence of that investigation; of the nature and scope of the information and evidence obtained as to their activities; and of information that may enable the subject to avoid detection or apprehension. Such disclosures would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation or other law enforcement operation such as deportation or exclusion. In addition, granting access to these records could result in a disclosure that would constitute an unwarranted invasion of the privacy third parties. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(4) From subsection (e)(1) for reasons stated in paragraph (h)(4) of this section.

(5) From subsection (e)(2) for reasons stated in paragraph (h)(5) of this section.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to criminal law enforcement in that it could compromise the existence of a confidential investigation.

(7) From subsection (e)(5) for reasons stated in paragraph (h)(7) of this section.

(8) From subsection (e)(8) for reasons stated in paragraph (h)(8) of this section.

(9) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OK-13-1-7080b; FRL-6822-4]

State of Oklahoma; Approval of State Implementation Plan (SIP) Revision; Oklahoma Cotton Gln Emissions Control SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to approve the SIP revisions submitted by the State of Oklahoma on May 16, 1994, to satisfy the Federal Clean Air Act requirements of section 110. The May 16, 1994, submittal adopts opacity rules for cotton gin operations in Oklahoma to control particulate matter and visible emissions. In the Rules and Regulation section of this *Federal Register*, the EPA is approving the State's request as a direct final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before June 13, 1997.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the above location and at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733.
 Oklahoma Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln, Suite 250, Oklahoma City, Oklahoma 73105-5220.

Anyone wishing to review this petition at the EPA office is asked to

¹ Proposed paragraphs (g) and (h) were published in the *Federal Register* on March 7, 1997 (62 FR 10495).

contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Petra Sanchez, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6686.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the rules section of this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: April 24, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97-12552 Filed 5-13-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO-023-1023(b); FRL-5823-1]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri for the purpose of meeting the requirements of the EPA's general conformity rule. In the final rules section of the Federal Register, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. An explanation for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by June 13, 1997.

ADDRESSES: Comments may be mailed to Christopher D. Hess, Environmental Protection Agency, Air Planning and

Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551-7213.
SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the Federal Register.

Dated: April 9, 1997.

Michael Sanderson,

Acting Regional Administrator.

[FR Doc. 97-12554 Filed 5-13-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 12-2-0039; FRL-5825-8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution District and South Coast Air Quality Management District State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from facilities that load organic liquids into tank trucks, trailers, or railroad tank cars and the control of emissions during the transfer of organic liquids between storage units and delivery vessels.

The intended effect of proposing limited approval and limited disapproval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rulemaking document will incorporate these rules into the federally approved SIP. EPA has evaluated the rules and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

DATES: Comments must be received on or before June 13, 1997.

ADDRESSES: Comments may be mailed to: Christine Vineyard, Rulemaking

Office [AIR-4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rules and EPA's evaluation report of the rules are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Fresno, CA 93721.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office, [AIR-4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1197.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being proposed for approval into the California SIP include: San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 463.3, Organic Liquid Loading, and South Coast Air Quality Management District (SCAQMD) Rule 462, Organic Liquid Loading. These rules were submitted by the California Air Resources Board (CARB) to EPA on January 28, 1992 and October 13, 1995, respectively.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the Los Angeles-South Coast Air Basin (LA Basin) and the San Joaquin Area that encompassed the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County APCD,¹ King County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County APCD. 43 FR 8964; 40 CFR 81.305. The San Joaquin Valley Air Basin which includes all the above eight

¹ At that time, Kern County included portions of two-air basins: The San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified, see 40 CFR 81.305 (1991).

means including use of an existing facsimile notification network.

Dated: April 29, 1997.

M.W. Brown,
Captain, U.S. Coast Guard, Captain of the Port, Chicago.

[FR Doc. 97-12645 Filed 5-13-97; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OK-13-1-7080a, FRL-5822-3]

Approval of a Revision to a State Implementation Plan; Oklahoma; Revision to Particulate Matter Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Oklahoma State Implementation Plan (SIP) submitted by the Governor on May 16, 1994. This action approves revisions to the Oklahoma SIP by adopting new rules and opacity requirements to control particulate matter emissions from new, modified, and existing cotton gin operations. Approval of this revision will strengthen the SIP by making it Federally enforceable. In addition, the new rules will simplify the process weight regulations in the State.

DATES: This action is effective on July 14, 1997, unless critical or adverse comments are received by June 13, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments should be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Copies of the State's submittal and other information relevant to this action are available for inspection during normal business hours at the following locations:

Environmental Protection Agency,
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,
Dallas, Texas 75202-2733.

Air and Radiation Docket and
Information Center, Environmental
Protection Agency, 401 M Street, SW.,
Washington, DC 20460.

Oklahoma Department of Environmental
Quality, Air Quality Division, 4545 N.
Lincoln, Suite 250, Oklahoma City,
Oklahoma 73105-5220.

Anyone wishing to review these documents at the EPA office is asked to

contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Petra Sanchez, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6686.

SUPPLEMENTARY INFORMATION:

I. Background

The revisions to this SIP action respond to the requirements of Section 110 of the Federal Clean Air Act (the Act), as amended in 1990. Section 110 requires States to adopt and submit to the Administrator a plan which provides for implementation, maintenance, and enforcement of the primary and secondary standards for the State. Code of Federal Regulations (CFR), 40 Part 50.6 defines the level of the National primary and secondary 24-hour ambient air quality standards (NAAQS) for particulate matter as 150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), 24-hour average concentration and 50 $\mu\text{g}/\text{m}^3$, annual arithmetic mean. Although Oklahoma is in attainment of the standards for particulate matter, submission and approval of this revision serves to strengthen the SIP in Oklahoma by making it federally enforceable.

This SIP action approves the new cotton gin requirements and opacity rules developed by the State of Oklahoma in consultation with EPA and the affected industry. The new rules require cotton gins to install specific control equipment and to meet a 20 percent visible emissions limit. The affected sources from this action are located throughout the State, but predominately in rural areas. Previously, Oklahoma did not have specific rules for cotton gin operations. Instead, this category of source was regulated under existing general particulate matter rules. These rules serve to strengthen the existing SIP by superseding the general requirements and by making them federally enforceable. In addition, they are applicable to new, existing, and modified gins.

During the development of the State rules, Oklahoma referenced various other State requirements and the EPA Visible Emissions (VE) performance testing methods in 40 CFR Part 60, Appendix A. The approved method for determining VE is Reference Method 9 (Method 9 or RM 9). Method 9 discusses how to make visual determinations of opacity for emissions from stationary sources. The mechanism for determining VE by States has often

included the use of an opacity regulation to assist in meeting or maintaining the particulate matter air quality standard.

II. Analysis of State Submittal

Emission Limit

Fugitive emissions from the cotton gin burr hopper dumping area have been a major source of complaints from inhabited areas. Amendments to the State rules update the control requirements for cotton gins throughout Oklahoma by specifying the emissions limitations and specific control measures to be utilized by new, modified, or existing cotton gins. To control fugitive emissions from burr hoppers during dumping, the use of total enclosure at existing gin sites located within the corporate city limits of any city or within 300 feet of two or more occupied establishments is required. All new gin sites are required to install and use a total enclosure on the burr hopper. Action must also be taken to minimize fugitive dust emissions during transportation and other operations. An opacity limit of 20 percent is set for discharges. This opacity limit, however, may be increased for particulates but only after the owner/operator can demonstrate to the satisfaction of the Oklahoma Air Quality Council at a public hearing that their controls meet State requirements and do not violate the National Ambient Air Quality Standards (NAAQS).

Emission Control Equipment

The Oklahoma cotton gin rule specifies the 1D/3D cyclone as the approved control equipment on high-pressure exhausts. This gives higher control efficiencies than the 2D/2D cyclone which is commonly used in cotton gin operations and has a comparable cost. Some facilities in Oklahoma have voluntarily installed 1D/3D cyclones prior to the adoption of this State regulation. However, to minimize the adverse economic impact, a phased-in approach is taken on existing facilities allowing continued use of 2D/2D cyclones until repair costs are no longer cost effective. Facilities will then be required to replace the older equipment with 1D/3D equipment.

For low-pressure exhausts, the use of 70 mesh or finer screens (or approved equivalent) is required. This is the most effective of the sizes considered (70, 80, and 100 mesh). The new rules provide equal or superior control of emissions compared with that provided for the cotton gin industry by the existing

general particulate matter control rules and guidelines.

Recordkeeping

All new, modified, or existing cotton gins are required to comply with the State rules and are required to maintain a log documenting the daily process weight, hours of operation, and air emission control equipment replacement schedule or repair costs.

III. Final Action

These rules have been developed with the cooperation of the affected industry, and use a control technology basis for determination of compliance. The rules are needed because the industry represents a significant source of particulate matter emissions and fugitive dust previously controlled by general particulate matter control rules and guidelines.

The EPA is approving the State's SIP revision and the adopted new rules pertaining to opacity requirements for cotton gin operations in Oklahoma. The EPA has reviewed the submittal for consistency with the Act, EPA regulations, and EPA policy. The EPA has determined that the rules meet the Act's requirements for revision to the SIP and today is approving under section 110 the above mentioned cotton gin rules.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this FR publication, the EPA is proposing to approve these SIP revisions should adverse or critical comments be received. This action will be effective July 14, 1997, unless adverse or critical comments are received by June 13, 1997.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent action that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such adverse comments are received, the public is advised that this action will be effective on July 14, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economical, and

environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over population of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. The Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to the State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 24, 1997.

Jerry Clifford,

Acting Regional Administrator.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart LL—Oklahoma

2. Section 52.1920 is amended by adding paragraph (c)(44) to read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *
(44) A revision to the Oklahoma SIP to include Oklahoma Administrative Code, Chapter 310:200, Subchapter 23, entitled, "Control of Emissions From Cotton Gins," submitted by the Governor on May 16, 1994.

(i) Incorporation by reference.
(A) Addition of Oklahoma Administrative Code, Chapter 310:200, Subchapter 23, entitled, "Control of Emissions From Cotton Gins," as adopted by the Oklahoma Air Quality Council on April 30, 1992, and effective June 1, 1993.

(ii) Additional material—None.

[FR Doc. 97-12551 Filed 5-13-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 023-1023(a); FRL-5922-9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: By this action the EPA grants final approval to the State Implementation Plan (SIP) submitted by the state of Missouri for the purpose of meeting the requirements of the EPA's general conformity rule. This fulfills the conditions of the approval granted on March 11, 1996, which became effective May 10, 1996.

DATES: This action is effective July 14, 1997 unless by June 13, 1997 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551-7213.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA granted conditional approval to Missouri's SIP revision (containing rule 10 CSR 10-6.300), regarding Conformity of General Federal Actions to State Implementation Plans, in a rulemaking dated March 11, 1996 (61 FR 9642-9644). This conditional approval was necessary because the state used a model rule developed by the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) that made two provisions of the Missouri rule more stringent than the Federal general conformity rule. The rationale for the conditional approval and for the EPA's determination regarding these provisions is explained in detail in the Technical Support Document which accompanied the March 11, 1996, conditional approval.

Under section 110(k)(4) of the Act, the EPA granted a conditional approval based on Missouri's commitment to correct the noted deficiencies not later than one year after the date of approval of the plan revision. Missouri committed to correct these deficiencies within one year from December 7, 1995. On November 20, 1996, Missouri submitted a revision to the SIP that corrects the deficiencies and meets the requirements of the conditional approval.

As requested by the EPA, this revised SIP specifically amends sections (3)(C)4 and (9)(B) of 10 CSR 10-6.300 regarding conformity analyses timeframes. Prior to the amendment, these cited sections contained sentences regarded as clarifying language in the STAPPA/ALAPCO model rule.

II. Final Action

The EPA is taking final action to approve revisions submitted on November 20, 1996, which fulfills the conditional approval effective May 10, 1996. This meets the Federal requirements set forth in 40 CFR 51.851 and 93.151.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action is effective July 14, 1997 unless, by June 13, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action is effective July 14, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act (CAA) do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

III. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols,

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA
4
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8

9 * * * * *
10 TRANSCRIPT OF PROCEEDINGS
11 OAC 252:100-23, CONTROL OF EMISSIONS FROM
12 COTTON GINS
13 HELD ON AUGUST 10, 1990
14 AT 1:00 P.M.
15 AT 4545 LINCOLN BOULEVARD, BURGINDY ROOM
16 IN OKLAHOMA CITY, OKLAHOMA
17 * * * * *

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25 REPORTED BY: Christy A. Myers, CER

26
27 MYERS REPORTING SERVICE
28 (405) 721-2092

1 COUNCIL MEMBERS

2
3 MS. SHARON MYERS, MEMBER
4 DR. FRED GROCE, MEMBER
5 MR. GARY KILPATRICK, MEMBER
6 MR. JOEL WILSON, MEMBER
7 MR. DAVID BRANECKY, MEMBER
8 MS. MERLENE SLAGELL, MEMBER
9 MR. BILL BRISICK, CHAIRMAN
10 MS. MYRNA BRUCE, SECRETARY
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1 PROCEEDINGS

2 MR. DYKE: The next item on the
3 Hearing Agenda today is Item Number 10.
4 This hearing is convened by the Air Quality
5 Council in compliance with the Oklahoma
6 Administrative Procedures Act, Title 40 of
7 the Code of Federal Regulations, as well as
8 the Authority of Title 27A of the Oklahoma
9 Statutes.

10 The hearing was advertised in the
11 Oklahoma Register for the purpose of
12 receiving comments pertaining to the
13 proposed new rule, OAC 252:100-23, Control
14 of Emissions from Cotton Gins. If you wish
15 to make a statement, please complete the
16 form at the registration table.

17 At this time, I will call upon Ms.
18 Becky Mainord to give staff position on the
19 proposed rule.

20 MS. MAINORD: Members of the
21 Council, ladies and gentlemen, I am Becky
22 Mainord of the Air Quality Rules and
23 Planning Unit.

24 The proposed revisions to Subchapter
25 23, Control of Emissions from Cotton Gins,
26 includes simplification of the language
27 according to the agency-wide rewrite
28 devroeg initiative and the addition of a
29 Permit By Rule section.

30 On the second page of the rule,
31 under Section 23-2, the definition "cotton
32 gin site" was deleted because it is the

1 same language used to define "gin site."
2 Also, the phrase "cotton gin site" is not
3 used in this rule.

4 Under Section 23-3, also on the
5 second page, the effective date of this
6 rule has been added to the applicability
7 requirements of Subsection (a). Subsection
8 (c) has been deleted.

9 On the third page of the rule in
10 Section 23-4(a), Opacity Limit, the
11 language changes for emissions limits to
12 reflect the proposed changes in 252:100-25-
13 3, Opacity Limits for Short-term
14 Occurrences, previously discussed by
15 Jeanette Buttram.

16 On the fourth page of the rule a new
17 Section 23-7 is proposed to provide a
18 Permit By Rule. This section includes
19 applicability and substantive requirements
20 for cotton gins. Last Friday, staff
21 received comments from EPA, which I would
22 like to enter into the record at this time.
23 This afternoon, staff will recommend
24 the Council continue the hearing until the
25 October 20, 1990, Air Quality Council
26 Meeting.

27 MR. DYKE: Any questions from the
28 Council of Ms. Mainord, or comments?

29 MR. BRANECKY: We're on 217
30 MR. DYKE: 23.

31 MR. BRANECKY: Yes, two. 23-
32 4(b), PM-10 emission limit says no cotton

1 gins shall be operated so as to cause or
 2 contribute to a violation of a primary PM-
 3 10 standard. It makes no mention of
 4 secondary standard, of secondary PM-10
 5 standards. So I would suggest it would
 6 probably be best just to have it read no
 7 cotton gin shall be operated so as to cause
 8 or contribute to the violation of the PM-10
 9 ambient standards established in 252.100-3.
 10 That would cover both the primary and the
 11 secondary PM-10 standards.
 12 MR. MALMROD: Staff agrees with
 13 that change.
 14 MR. BRANECKY: And then the other
 15 comment is on the paragraph above
 16 alternative emissions limit. There is a
 17 similar paragraph in Subchapter 24 which we
 18 haven't addressed yet. The title and
 19 wording is almost exactly the same. The
 20 title in that one is alternate opacity
 21 limit. I would suggest that those two
 22 paragraphs be consistent in the titles.
 23 MR. MALMROD: Yes, that change
 24 has been made, also.
 25 MR. BRANECKY: Okay.
 26 MR. DYKE: Any additional
 27 comments or questions from the Council?
 28 Any questions from the audience or the
 29 public? Anyone else wishing to make
 30 comments on this item? Anything else from
 31 the Council? Hearing none.
 32 MR. CHAIRMAN: I'll entertain a

1 motion to continue this hearing until the
 2 October 20th, next regular meeting.
 3 DR. GROSS: So moved.
 4 MR. WILSON: Second.
 5 MR. CHAIRMAN: We've got a motion
 6 and a second. Any more comments or
 7 questions? Myrna, call the roll.
 8 MS. BRUCE: Ms. Myers?
 9 MS. MYERS: Aye.
 10 MS. BRUCE: Dr. Gross?
 11 DR. GROSS: Aye.
 12 MS. BRUCE: Mr. Kilpatrick?
 13 MR. KILPATRICK: Aye.
 14 MS. BRUCE: Mr. Wilson?
 15 MR. WILSON: Aye.
 16 MS. BRUCE: Mr. Branecky?
 17 MR. BRANECKY: Aye.
 18 MS. BRUCE: Ms. Staggell?
 19 MS. STAGGELL: Aye.
 20 MS. BRUCE: Mr. Braisch?
 21 MR. BRAISCH: Aye.

(HEARING CONCLUDED.)

1 CERTIFICATE
 2 STATE OF OKLAHOMA)
 3) ss:
 4 COUNTY OF OKLAHOMA)
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 7 I, CHRISTY A. MYERS, Certified
 8 Shorthand Reporter in and for the State of
 9 Oklahoma, do hereby certify that the above
 10 proceedings is the truth, the whole truth,
 11 and nothing but the truth; and said
 12 proceedings was taken by me in shorthand
 13 and thereafter transcribed under my
 14 direction; that said proceedings was taken
 15 on the 18th day of August, 1998 at Oklahoma
 16 City, Oklahoma; and that I am neither
 17 attorney for nor relative of any of said
 18 parties, nor otherwise interested in said
 19 proceedings.
 20 IN WITNESS WHEREOF, I have hereunto
 21 set my hand and official seal on this, the
 22 28th day of August, 1998.
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 27 CHRISTY A. MYERS, C.S.R.
 28 Certificate No. 00310
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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

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REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

MEMBERS OF THE COUNCIL

1. MR. KILPATRICK - MEMBER
2. MS. SLAGELL - MEMBER
3. MR. WILSON - MEMBER
4. MS. MYERS - MEMBER
5. MR. BRANECKY - MEMBER
6. DR. CANTER - VICE CHAIRMAN
7. DR. GROSZ - MEMBER
8. MR. BRETSCH - CHAIRMAN
9. MR. DYKE - PROTOCOL OFFICER
10. MS. BRUCE - SECRETARY

PROCEEDINGS

MR. DYKE: The next item on the hearing agenda is Item Number 8. I will act as the Protocol Officer for this hearing.

This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, applicable to State Statutes and Title 40 of the Code of Federal Regulations.

The hearing was advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed new Rule, OAC 252:100-23, Control of Emissions from Cotton Gins.

If you wish to make a statement, please complete the form at the registration table. At this time, I will call upon Ms. Michelle Martinez, to give the staff position on the proposed rule.

MS. MARTINEZ: Members of the Council, ladies and gentlemen, the proposed revisions to Subchapter 23, Control of Emissions from Cotton Gins, which were presented at the August 18th, 1998, Council meeting include simplification of the language, the addition of a Permit by Rule Section, the deletion of the definition "cotton gin site", which is not used in the rule, the addition of the effective date of this rule to the applicability requirements in Section 23-3(a), the deletion of Section 23-1(f).

As a result of comments made previous to or during

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the August 18th, 1998, Council meeting, the following changes have been made. On page 3, under Section 23-4(a), Opacity Limit, the language change reflects the proposed changes in the opacity limit recommended by Jeanette Buttram in Subchapter 25-3(a)(1). On page 5, under Section 23-7(b)(2), a reference to the AP-42 Section 9.7, Cotton Gin, was added in response to comments from the EPA.

In addition, after receiving a comment from the Council regarding 23-4(b), page 3, PM-10 emission limits, the wording in the subsection was changed to read, "No cotton gin shall be operated so as to cause or contribute to a violation of the PM-10 ambient air quality standards or any other ambient air quality standard established in 252:100-3."

Also, on page 3, following a comment from the Council regarding the title of 23-4(a), the title was changed from emissions limit to opacity limit, to be consistent with the same section in Subchapter 24, Grain Elevators.

Finally, on page 4, the SIP code under the PBR section was changed from 072, Crop Services, to 0724, Cotton Ginning, to make it more specific.

Staff also recommends one additional change not shown in the rule. On page 2, under "existing gin", change Air Quality Division to Division.

A comment was -- actually, two comments were received from EPA yesterday afternoon, which I would like to enter into

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the record. The first comment states, under a Permit By Rule section, 252-100-23-7(b)(2), must specify a practically enforceable method or procedure to verify compliance with the 36,000 bales per year limitation. This may be accomplished by using the recordkeeping requirements in 252:100-23-3(b)(3), which requires the owner or operator of a cotton gin to maintain a log documenting the daily process weight and hours of operation, along with the replacement/repair costs of air emission control equipment, for a period of two years.

As a response to that, under Section 23-7(b)(1), that does already comply with all of the requirements of this subchapter. The cotton gin will be required to keep records in accordance with 23-3(b)(3). The second comment received from EPA was in support of the proposed changes.

At this time, staff suggests the proposed rule be recommended to the Board for permanent adoption.

MR. DYKE: Questions and discussion by the Council?

MR. WILSON: Question. In Section 23-7, Permit by Rule, (b)(2), what is the purpose of the last sentence that states, this production rate, using 1996 revised emission factors in AP-42, Section 9.7, Cotton Gins, should result in less than 40 tons per year of PM-10 emissions?

MS. MARTINEZ: In Subchapters 23 and 24, we put the same type of statement in the Permit by Rule section, for

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the industry to be able to look at the figures that we have come up with, to know where we got those, and to be able to tell if they fit in the Permit by Rule section.

MR. WILSON: Would it be cleaner to remove the word should result and replace it with results?

MS. MARTINEZ: Barbara, are you okay with that, to take the "should" out?

MS. HOFFMAN: Well, I guess we could. It seems to me that it's -- that we're -- this is not a given, but we're hoping that it does -- we're assuming that it will be. But I don't know that we can state that -- I suppose we could say, "will result".

MS. MYERS: Perhaps -- perhaps you need to phrase it, production rate using 1996 revised emission factors in AP-42 indicate less than 40 tons per year PM-10 emissions. Maybe that would be a little bit cleaner.

MR. WILSON: Isn't AP-42 an equation where you multiply the number of bales you have times an emission factor, and you come up with something less than 40 tons per year. And the only -- the only way it wouldn't is if you miscalculated. I think, "will result" is appropriate.

MS. BRADLEY: Well, I could make a statement that --

MR. DYKE: Excuse me, Cheryl, would you identify yourself?

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MS. BRADLEY: Cheryl Bradley. The production rate is based upon AP-42, Section 9.7, for Cotton Gins, and results in -- I think we need to somehow state that it is (inaudible) which I think is what Barbara was getting at.

DR. SHEEDY: Yeah, this is Joyce Sheedy. I -- we don't really need to have that sentence in there at all. I mean the rule is that the maximum production rate of a facility shall be 36,000 bales per year. It is necessary.

MS. MARTINEZ: Joyce, we did that so --

DR. SHEEDY: Yeah, I know. I know --

MS. MARTINEZ: So, industry will have the numbers that we came up with so they'll know where we got those. That's the reason we put those in there.

DR. SHEEDY: Yeah, I see the reason, but is it really needed as part of the rule?

MS. MYERS: Maybe it needs to be a footnote not put directly in the rule, itself. Is that possible?

MS. HOFFMAN: No.

MR. DYKE: It was my understanding it was put in to provide clarification. So, everyone knew how to apply this section to their -- to their industry. Would it be, since it has been discussed and discussed, would it be more clear to leave that last statement out. Does Council believe that that would help clarify things?

MR. WILSON: Either that, or replace the word

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"should" with "will". I want to be definite on that. I don't mind the clarity and I understand what you're trying to do. But "should" means may or may not.

MS. MYERS: I kind of like the idea of striking it.

MR. DYKE: Could we go on with additional comments and questions, and then we'll take care of this in some motion?

MR. WILSON: I have another question. What is the purpose for requiring -- I'm sorry. In 23-3(b)(3), what is the purpose of requiring the documentation of the hours of operation? I understand the daily process weight for keeping records to demonstrate compliance with the 36,000 bales. But the hours of operation, what -- what is the purpose of the requirement?

MS. MARTINEZ: Barbara, under Subchapter 24 we struck that. Is there a reason we kept it in 23 under the recordkeeping on page 3.

You are specifically asking about the hours of operation?

MR. WILSON: Yes.

MS. HOFFMAN: I think the reason -- I don't know for sure why it was in there to begin with. However, this rule was written in conjunction with owners and operators of cotton gins at the time. And none of them have asked for any language

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to be struck, so we just left it in. . . wasn't around at the time that this rule was promulgated, so I can't tell you exactly why they came up with that. Like I said, I think this is language that was arrived at through negotiations at the time.

MR. WILSON: It appears to me like it's a requirement that no longer is useful in demonstrating the compliance with -- with the rule.

MR. DYKE: Bill Fishback.

MR. FISHBACK: Bill Fishback. Mr. Wilson is exactly right. That's a superfluous requirement. I've worked quite a bit, not on the Cotton Gin rule, but on the Grain Elevator rule about 3 or 4 years ago. And I think Debbie Farry did, too. And the reason those hours of operation are in there is because the intent was to try to say which hourly (inaudible) it was multiplied by \$760, and come up with some ridiculous number of annual (inaudible) tons and therefore, ridiculously high emissions. And whether that was negotiated at the time with the industry involved or not, I agree with Mr. Wilson completely that it should be removed. It's absolutely superfluous. Because you have -- you have an annual limit on number of bales, so the hours of operation is useless. If you process 36,000 bales in one hour, or if it takes you all year, it's irrelevant for the purpose of this rule. So, I agree with him completely.

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MS. HOFFMAN: Could I just make one quick comment? The 36,000 bales is only for the Permit by Rule facilities. This particular requirement applies to all cotton gins. And it might be useful for determining that. So, I don't -- I really would hesitate at this point to delete this language without us doing some background checking on the origin of this language and that type of thing. Because I think -- I think that there was a reason for it at the time but I don't know off the top of my head what it was.

MR. BREISCH: I would suggest, maybe, that some reasoning was they wanted a record when it was operating in case of complaints.

MR. FISHBACK: That's possible, Mr. Breisch, but that's very often -- it's very seldom done to my knowledge. Because you don't report that you operated from midnight to 3 a.m. You report hours -- that you operated a certain number of hours per week or hours per day. I understand the purpose for which you might use that, but that's usually not the way those records are kept.

MR. WILSON: I'm okay with the requirement, as long as it -- it is serving a useful purpose. Otherwise, it requires an operator to record something that has no purpose.

MS. MYERS: It was based on cotton gins that are larger than Permit by Rule facilities. We may need that information too as a source for emitting.

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MR. DYKE: Rick Treeman.

MR. TREEMAN: I'm Rick Treeman. I was involved in the tests on the grain elevator rule. If I'm not mistaken, the hours are put in there for (inaudible) you can take that times your (inaudible) rate and come up with a number (inaudible).

MR. DYKE: Okay. Yes, ma'am?

MS. PARRY: Debra Parry. I do believe that there was a purpose of putting it in there for calculating emissions, but I'm not sure that it is still applicable. But it may be helpful, too, on a individual permit basis where it's needed. It's definitely -- (inaudible) looked into if it's needed or not.

MR. DYKE: Additional questions and comments from the Council at this time? Additional comments or discussion from the public?

MS. RENNIE: I'm Sandra Rennie, EPA. EPA would prefer that you leave this in until you can do further research, for the reason for it being in there. One reason I can see is that the numbers of calculated (inaudible) number of hours that you operated, you need to have a record of when you operated. So, whether it's used for other calculations later, that remains to be seen.

MR. DYKE: Ms. Rennie, do you have an opinion, or does EPA have anything to say about the other issue that we

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addressed, regarding the "should" and "will result" language on 100-23-7(2)?

MS. RENNIE: I would suggest another way to do it, as to the first sentence -- this is just a suggestion. 36,000 bales per year based on 1996 revised emission factors from AP-42, Section 9.7. That is a suggestion how you could put it in and you might want to consider that.

MR. DYKE: Thank you.

THE REPORTER: I'm sorry, what was your last name?

MS. RENNIE: Rennie, R-e-n-n-i-e.

THE REPORTER: Thank you.

MR. DYKE: Any additional comments from the public, or anyone wishing to speak on this particular rule?

MS. MEDLEY: I just want to state --

MR. DYKE: Go ahead.

MS. MEDLEY: -- let's continue with the 24 hours -- I mean, the hours of operation. At times, it varies, you know, the facilities that I've had to deal with there is, whatever it is, sometimes the hours of operation per day can make a difference on what you're trying to find out when you have a problem.

MR. DYKE: Thank you. Stanley?

MR. SPRUILL: Stanley Spruill, Environmental Protection Agency, Region Six. I just want to -- to kind of

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clarify our comment that we made. We suggest recordkeeping of 36,000 bales per year would qualify for a Permit by Rule. Our comment was based upon -- we're not sure a mechanism, whereby, you know, you can verify that a source is actually meeting that limitation. We suggested the existing recordkeeping requirements. I guess one thing I'm still not clear on, is there nothing in the Permit by Rule that said these records are being used to help us with compliance? Can you respond to that?

MS. MARTINEZ: Barbara, would you like to respond?

MS. HOFFMAN: If the records are available, then that's what our enforcement people will look at to determine compliance. I don't understand what the problem is.

MR. TREEMAN: We don't feel there is any need for more explicit records -- Permit by Rule records being used to show compliance.

MS. HOFFMAN: I don't think that's necessary.

MR. TREEMAN: I wanted to get that in the record.

MR. DYKE: Thank you. Would you repeat our recommendation, please?

MS. MARTINEZ: EPA's or ours?

MR. DYKE: Ours.

MS. MARTINEZ: The maximum production rate of a

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facility subject. This section shall be 36,000 bales per year. This production rate, using 1996 revised emission factors in AP-42, Section 9.7, Cotton Gins, should result in less than 40 tons per year of PM-10 emissions.

MR. DYKE: It's my understanding that we'll -- we recommend it as it stands, subject to any changes that the Council might wish to, in any fashion, amend it. So, with that --

MS. MYERS: When do you want it amended, right now?

MR. WILSON: I would -- I would make a motion that we approve it as it stands, with the amendment as follows, remove the last sentence of 252-100-23-7(b)(2).

MR. BRANECKY: And you're recommending number 3, is that right?

MR. BREISCH: Leaving that in.

MR. BRANECKY: Leaving that in.

MR. DYKE: As it reads.

MS. MARTINEZ: I believe that there was a comment from EPA the last time, wanting us to put in a reference to the AP-42, so I feel like we do need to put that in there somewhere.

MS. MYERS: Well, if we're going to put that in there, I'll still go with the statement earlier that calculations based on AP-42 indicate this production rate will

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result in less than 40 tons per year PM-10 emissions. That makes it more clear to me, anyway. That would give you your reference, too.

MR. WILSON: I'll remove my motion.

MR. DYKE: That -- was that your motion?

MS. MYERS: That was -- yeah, I'll make that motion.

MS. MARTINEZ: So, can I read it, just to make sure I have this straight. This production rate, using 1996 revised emission factors in AP-42, Section 9.7, Cotton Gins, indicate less than 40 tons per year of PM-10 emissions.

MR. WILSON: I would make a motion to use Sharon's, and add the final words and will be used to determine compliance with this standard.

MS. MARTINEZ: Will you read the whole thing for me, Sharon?

MS. MYERS: Christy, can you read that back to us on what I said or not?

THE REPORTER: On what part?

MS. MYERS: Calculations based on AP-42, where -- however I said it a while ago. I thought I said it right the first time.

THE REPORTER: I'm not sure where you're talking about.

MS. MYERS: Never mind.

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Certified shorthand reporter

THE REPORTER: I'm sorry. Let me look.

(Whereupon, a short break was taken where Ms. Myers' request was read back, after which the following took place).

MR. DYKE: Staff has a recommendation.

MS. MARTINEZ: Staff would like to recommend a change to 252:100-23-7(b)(2), to read as follows: Maximum production rate of a facility subject to this section shall be 36,000 bales per year. Calculations based on AP-42, Section 9.7, Cotton Gins -- let me start that sentence over. Calculations based on AP-42 emission factors, Section 9.7, Cotton Gins, indicate less than 40 tons per year of PM-10 emissions.

MR. WILSON: I make a motion to accept the change as read.

MR. BREISCH: We could accept or make a motion to adopt the rule as changed, without voting on this change, because there might be another change before we're through, or somebody else might want to comment.

MR. DYKE: Okay. Ray, identify yourself, please.

MR. BISHOP: My name is Ray Bishop with the DRQ. Leaving out the first part of the sentence, this production rate, we do not have that in there, we do not have the 36,000 bales to calculate the production rate on by using AP-42 factors. If you just say calculations, you're leaving out one

Christy A. Spivey
Certified shorthand reporter

part of that calculation that is the 16,000 bales. Without that, you can't do the calculations to show you're less than 40 tons. You just said calculations --

MS. MYERS: Right, right, I understand. Okay, we can include that on the tonnage -- I mean the bales. How would you like to see that worded, Ray? Calculations for 16,000 bales?

MR. BISHOP: That would work, yes.

MS. MARTINEZ: Say that again.

MS. MYERS: Calculations for 16,000 bales, based on AP-42, Section 9.7, Cotton Gins. AP-42 emission factors, Section 9.7, Cotton Gins, indicate less than 40 tons per year PM-10.

MS. MARTINEZ: Okay, I'm going to read this one more time. Section 252:100-23-7(b)(2) will read, maximum production rate of a facility subject to this section shall be 16,000 bales per year. Calculations for 16,000 bales, based on AP-42 emission factors, Section 9.7, Cotton Gins, indicate less than 40 tons per year of PM-10 emissions.

MR. DYKE: Barbara Hoffman?

MS. HOFFMAN: I think the sentence basically says the same thing but it's a little more confusing. I would suggest just deleting it, if you really don't like it. Let's just delete it. The main thing is -- have to -- there is a maximum production rate be no more than 16,000 bales. We know

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Certified Shorthand Reporter

how we arrived at the 16,000 bales. They don't have to -- the cotton gin folks don't have to know how we arrived at it. But we know how we arrived at it. We've got it in the record in the meantime. So, let's just delete that sentence.

MS. MEDLEY: I think the cotton gin operators probably ought to know how this was reached. I think to say that some facility doesn't need to know how this is figured is wrong.

MS. HOFFMAN: It's in the hearing record.

MR. DYKE: Debbie, did you have a comment?

MS. PARRY: Well, the comment I was going to make is the same thing you said. What are we actually requiring cotton gins to do, other than (inaudible) calculations? Do they have to do any type of calculations, or do they just have to demonstrate their production rates. If all they have to do is demonstrate the production rate, then why do we need to amend AP-42? Can you get all the information from the agency or it's in the record. However, if they want to know how to calculate it, they really don't need to calculate, all they have to do is demonstrate production limits.

MS. MYERS: I'll withdraw my motion and move to strike it.

MS. MARTINEZ: Staff recommends, then, that 23-7(b)(2), just read maximum production rate of a facility subject

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to this section shall be 16,000 bales per year, and just strike the last sentence.

MR. DYKE: Motion or a second?

MR. BREISCH: Just a minute. I want to see if there is any other comments that are going to effect the wording of this rule.

MR. DYKE: Bill?

MR. FISBACK: Bill Fishback. The point Ms. Myers made this morning, I believe it was Sharon, I believe was written before the deletion that ties into this specific edition of AP-42 which has the factor change, the calculation with change. Contrary to what's been said, the real intent is to have this particular Permit by Rule be available to sources that emit less than 40 tons. We have had some significant experience with, not the Cotton Gins, but with the Feed and Grain industry several years ago, where the AP-42 factors published at that time were extremely high. When they were revised, they came way down. I would hate to see this tied to a brake line and sand at 16,000 bales. Which based on this factor, is equivalent to 40 tons. If in the future the emission factors come down, many more bales could be processed and still emit less than 40 tons. So, what I would propose you do is tie this to a 40 ton emission rate and not a 16,000 bale production rate. Because that's really the intent here. Then you disassociate it from any particular fact. As long as the

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applicant can demonstrate by whatever factor is in effect at that time, that they emit less than 40 tons, then the production rate is irrelevant.

MR. BREISCH: Bill, why couldn't you put 40,000 tons in parenthesis after the 16,000 bales? 40 tons, I'm sorry.

MR. FISBACK: Well, you could, but it doesn't account for future changes in the factor that resulted in those two now being equivalent. As the emission factor goes down, the tonnage can go up -- the amount of process can go up without the emissions going up. And that's my point. The real intent here is to keep the emissions under 40 tons under Permit by Rule. So, just say that. In the future, it could be 100,000 bales, if factors are bales that show those emissions are still under 40 tons. The only thing -- remember, we're here not to control production, we're here to regulate emissions. So the focus ought to be on emissions.

MR. DYKE: Barbara?

MS. HOFFMAN: I would strongly urge you to have a production limit in this rule. And the reason why is that the Permit by Rule is for small facilities as we said that emits less than 40 tons per year. And what we're trying to do is make a rule simple enough for small facilities to be able to read and immediately know what they need to do to comply with them, not looking to them for how to know AP-42 or work up

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1 emission factors and multiply this times . We want them to
2 pick up this rule, to look at it and say, that's me, I'm Permit
3 by Rule, all I have to do is go and get registered. That's the
4 whole point of out permit continuum, is to make it easier for
5 those who have less emissions and more stringent and harder for
6 those who emit more. And -- and I would strongly urge you to
7 keep this rule as it is, and the fact -- the emission factors
8 change and they could actually produce more cotton bales
9 (inaudible) 40 tons per year, then we'll come back and we will
10 ask to change it and to raise it each year.

MR. DYKE: Bill.

MR. FISHBACK: The only problem with that is
that once you put this in a rule, it can't be changed easily
and quickly, and you have a lot of time go by where people are
basically incorrectly covered or not covered by this rule. If
you -- and I disagree with Barbara that -- that the calculation
is difficult. The calculation is simple. It's A times B
equals C. And anybody can do that calculation. You don't have
to be sophisticated at all to be able to do it. And if you tie
it to 40 tons, then you have fixed this forever. You never
have to revisit it.

MR. BRANECKY: Was there any input from the
cotton gin industry on this?

MS. MARTINEZ: Barbara, do you know if there
were any comments? You didn't receive any comments, did you?

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Certified Shorthand Reporter

HOFFMAN: Not one.

MS. MYERS: How many cotton gins have we got in
Oklahoma?

MS. HOFFMAN: Less than 10, I think.

MR. BREISCH: I think we're back asking for a
motion. And if you don't think we are, we are. So, somebody
make a motion on this, and I believe it's striking that one
sentence at this point. Do I have that motion?

MS. MYERS: I made that motion a while ago,
Bill.

MR. DYKE: I believe you did.

MR. BREISCH: Do I have a second?

MR. BRANECKY: Second.

MR. BREISCH: Motion has been made and seconded.
Do we have any comments or questions? If not, Myrna, call the
roll.

Wait, I'm sorry, for my clarification, are we voting
on the rule as changed, to be recommended to the DEQ, is that
your motion?

MS. MYERS: Yes.

MR. BREISCH: With this one --

MS. MYERS: With this one sentence struck.

MR. BREISCH: So the motion actually is
recommending this for permanent adoption by the DEQ.

MS. MYERS: With the changes that have been

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discussed, which include striking that last sentence.

MR. BREISCH: Everybody's clear. Myrna, call
the roll.

MS. BRUCE: Mr. Branecky.

MR. BRANECKY: Aye.

MS. BRUCE: Ms. Myers.

MS. MYERS: Aye.

MR. BRUCE: Mr. Wilson.

MR. WILSON: Aye.

MS. BRUCE: Dr. Gross.

DR. GROSS: Aye.

MS. BRUCE: Mr. Breisch.

MR. BREISCH: Aye.

(PROCEEDINGS CONCLUDED)

C E R T I F I C A T E

STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in
and for the State of Oklahoma, do hereby certify that the above
proceedings are the truth, the whole truth, and nothing but the
truth, in the proceedings aforesaid; that the foregoing
proceeding was taken by me in shorthand and thereafter

Christy A. Myers
Certified Shorthand Reporter

transcribed under my direction, that said proceedings was taken
on the 20th day of October, 1998, at Tulsa, Oklahoma; and that
I am neither attorney for nor relative of any of said parties,
nor otherwise interested in said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and
official seal on this, the 4th day of November, 1998.

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

Christy A. Myers
Certified Shorthand Reporter

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON OAC 252:100-23
CONTROL OF EMISSIONS FROM COTTON GINS

[AMENDED]

OAC 252:100-24

CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

[AMENDED]

HELD ON DECEMBER 14, 1999

AT 9:00 A.M.

AT 707 NORTH ROBINSON AVENUE

IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

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4 **BOARD MEMBERS**
5 Joel Wilson - Member
6 David Branecky - Member
7 Rick Treeman - Member
8 Leo Fallon - Member
9 Dr. Fred Grosz - Member
10 Bill Breisch - Chairman
11 David Dyke - Protocol Officer
12 Eddie Terrill - Director
13 Myrna Bruce - Secretary
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Page 4

1 252:100-23-3 actually exempts cotton gins
2 from the provisions of Subchapter 27. Thus
3 EPA's comments on the enforceability of
4 Subchapter 27 in context of Subchapter 23
5 is a null proposition. It makes no
6 difference.
7 We recommend that the Council vote
8 to submit these revisions to the
9 Environmental Quality Board for approval as
10 emergency rules, effective June 1, 2000.
11 MR. DYKE: Questions of Mr. Price
12 from the Council? Is there anyone wishing
13 to speak on this rule?
14 MR. BREISCH: I think we're ready
15 to make a motion. Do we take these
16 separately, 23 and 24?
17 MR. DYKE: Yes.
18 MR. BREISCH: I entertain a
19 motion on 23.
20 MR. WILSON: So moved.
21 MR. BRANECKY: Second.
22 MR. BREISCH: I've got a motion
23 and a second that we recommend this for the
24 permanent adoption.
25 MR. PRICE: For emergency.

Page 3

1 **PROCEEDINGS**
2 MR. DYKE: We would like to take
3 the next two items together. Items 6E and
4 6F, OAC 252:100-23, Control of Emissions
5 from Cotton Gins, and OAC 252:100-24,
6 Control of Emissions from Grain Elevators.
7 I'll call on Max Price.
8 MR. PRICE: Mr. Chairman, Members
9 of the Council, ladies and gentlemen, the
10 purpose of the proposed changes to Sections
11 252:100-23-3 and 252:100-24-3 is to
12 substitute references to Section 252:100-
13 19-12 for references to Subchapter 27,
14 because Subchapter 27 will be revoked and
15 its substantive requirements moved to
16 Section 252:100-19-12, in June of 2000.
17 We received one comment concerning
18 these revisions from EPA on December 10,
19 1999, quoting "Subchapter 23 is part of the
20 approved SIP. By removing references to
21 Subchapter 27, now, how will the provisions
22 to Subchapter 27 be covered in the interim
23 period?"
24 Our response is that the Section
25

Page

1 MR. BREISCH: You've got an
2 emergency, I'm sorry.
3 MR. PRICE: Emergency effective
4 June 1, 2000.
5 MR. BREISCH: You're right.
6 Effective June 1. Do we have a motion.
7 This is on 23.
8 MR. WILSON: So moved.
9 MR. BRANECKY: Second.
10 MR. BREISCH: Any more
11 discussion? If not, Myrna, call the roll.
12 MS. BRUCE: Mr. Wilson.
13 MR. WILSON: Yes.
14 MS. BRUCE: Mr. Branecky.
15 MR. BRANECKY: Yes.
16 MS. BRUCE: Mr. Treeman.
17 MR. TREEMAN: Yes.
18 MS. BRUCE: Mr. Fallon.
19 MR. FALLON: Yes.
20 MS. BRUCE: Dr. Grosz.
21 DR. GROSZ: Yes.
22 MS. BRUCE: Mr. Breisch.
23 MR. BREISCH: Yes.
24 We need a motion on 24.
25 MR. BRANECKY: So moved.

1 DR. GROSZ: Second.
2 MR. BREISCH: I've got a motion
3 and a second. This is the same --
4 emergency?
5 MR. PRICE: Yes.
6 MR. BREISCH: Myrna, call the
7 roll.
8 MS. BRUCE: Mr. Wilson.
9 MR. WILSON: Yes.
10 MS. BRUCE: Mr. Branecky.
11 MR. BRANECKY: Yes.
12 MS. BRUCE: Mr. Treeman.
13 MR. TREEMAN: Yes.
14 MS. BRUCE: Mr. Fallon.
15 MR. FALLON: Yes.
16 MS. BRUCE: Dr. Grosz.
17 DR. GROSZ: Yes.
18 MS. BRUCE: Mr. Breisch.
19 MR. BREISCH: Yes.
20 (PROCEEDINGS CONCLUDED)
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5 CERTIFICATE
6 STATE OF OKLAHOMA)
7 COUNTY OF OKLAHOMA) ss:
8 I, CHRISTY A. MYERS, Certified
9 Shorthand Reporter in and for the State of
10 Oklahoma, do hereby certify that the above
11 proceedings is the truth, the whole truth,
12 and nothing but the truth; that the
13 foregoing proceedings were taken by me in
14 shorthand and thereafter transcribed under
15 my direction; that said proceedings were
16 taken on the 14th day of December, 1999, at
17 Oklahoma City, Oklahoma, pursuant to
18 agreement and the stipulations hereinbefore
19 set forth; and that I am neither attorney
20 for nor relative of any of said parties,
21 nor otherwise interested in said action.
22 IN WITNESS WHEREOF, I have hereunto
23 set my hand and official seal on this, the
24 24th day of January, 2000.
25

5969

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

**OAC 252:100-24 Particulate Matter Emissions From Grain, Feed or Seed Operations; and
Appendix L: PM-10 Emission Factors for Permit by Rule for Grain Elevators**

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-24 and Appendix L
SIP Revisions

CHAPTER 100: AIR POLLUTION CONTROL

SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN ELEVATORS PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED OPERATIONS

Section:

- 252:100-24-1. Purpose [AMENDED]
- 252:100-24-2. Definitions [AMENDED]
- 252:100-24-3. ~~General provisions: applicability, determination of emissions~~ Applicability, general requirements [AMENDED]
- 252:100-24-4. ~~Visible emissions (opacity) limit~~ Visible emissions (opacity) limit [AMENDED]
- 252:100-24-5. ~~Emission control equipment and certification~~ Certification [AMENDED]
- 252:100-24-6. Fugitive dust controls [AMENDED]
- 252:100-24-7. Permit by rule [NEW]

252:100-24-1. Purpose

The purpose of this Subchapter is to control emissions from facilities that handle, store or process grains, feeds or seeds. ~~All facilities handling bulk agriculture commodities through grain handling equipment can apply this subchapter to emission sources at the facilities.~~

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

~~**"Fugitive Emission"** means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.~~

"Grain, Feed, or Seed Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, ~~which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.~~

"Grain, Feed, or Seed Operation" means any facility or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Loading-out hours of operation" means the hours calculated by dividing the cumulative total quantity loaded out for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material loaded out. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the ~~Director of the Air Quality Division~~ Director.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

~~"Process Emission" means emissions from a process equipment point source.~~

"Receiving hours of operation" means hours calculated by dividing the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the ~~Director of the Air Quality Division~~ Director.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

252:100-24-3. General provisions: applicability, determination of emissions
Applicability, general requirements

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed facilities in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) General requirements.

~~(b)(1)~~ **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed facility shall comply with the permitting requirements of OAC 252:100-7 and/or 252:100-8.

~~(c)(2)~~ **Air toxics emissions:** ~~Grain, feed, or seed facilities which that emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.~~

~~(d)(3)~~ **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting the commodity receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the ~~Air Quality Division personnel or its representative~~ DEQ during normal business hours.

~~(e)(4)~~ **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification as a Certified Visible Emission Evaluator.

~~(f)(5)~~ **Determination of emissions.** Emissions from grain, feed, or seed facilities shall be determined by the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or any other reasonably accurate method which can be shown to be

~~reasonably accurate when supported by engineering data and calculations, and approved in advance by the Air Quality Division DEQ.~~

252:100-24-4. ~~Smoke, Visible Emissions and Particulates~~ Visible emissions (opacity) limit

(a) ~~Visible emissions limits~~ **Opacity limit.** No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof ~~with a shade density exhibiting greater than twenty percent (20%) equivalent~~ 20% opacity. This requirement shall not apply to ~~smoke or visible emissions exhibiting greater than 20% opacity emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty-four hour period which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.~~

(b) **Alternate emissions opacity limit.** The 20% opacity ~~limits, as~~ limit required under 252:100-24-4 (a) may be increased for particulates only provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the ~~Oklahoma~~ Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.

(c) **Exceptions.** Exceptions to the requirements described in 252:100-24-4(a)(1) are provided as follows:

- (1) Visible emissions from loading-out (shipping) shall be no more than 65% ~~equivalent~~ opacity, and visible emissions from unloading (receiving) shall be no more than 55% ~~equivalent~~ opacity.
- (2) ~~Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.~~
- (3)(2) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than 10% opacity at any time.
- (4)(3) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than 10% opacity at any time.

252:100-24-5. ~~Emission control equipment and certification~~ Certification

(a) ~~Standards.~~ Emission control equipment where required by (40 CFR 60.300) ~~must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.~~

(b) ~~Affected facilities.~~ Affected facilities shall make best efforts to reduce dust emissions during load out by minimizing the distance from the load out spout to the top of the receiving vessel.

(c) ~~Certification.~~ Each new, modified, or existing grain, feed or seed facility in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this Subchapter by the DEQ Board. Annual certification of receiving, loading out, and total annual hours of operation, quantity received and loaded out, visible emissions, and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

(a) Initial certification. Any grain, feed or seed facility in existence on September 28, 1994, shall provide written certification of compliance with this subchapter by September 28, 1995, or within six months of receiving an initial certification form from DEQ.

(b) Annual certification. The owner, operator or other designated responsible party of a grain, feed or seed facility shall submit along with the annual emissions inventory, an annual certification of quantities received and loaded-out.

252:100-24-6. Fugitive dust controls

(a) All facilities will take reasonable precautions to prevent the discharge of any ~~visible~~fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow ~~visible~~fugitive dust emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

(c) All facilities shall make best efforts to reduce fugitive dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

252:100-24-7. Permit by Rule [NEW]

(a) Applicability. Any new or existing source may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 5153, Grain and Field Beans.

(b) Requirements.

(1) In addition to the requirements in 252:10-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter, with the exception of 252:100-24-5(a) and (b).

(2) The total annual emissions of PM-10 shall be calculated using the equation provided in Appendix L, which was derived from AP-42 9.9.1, Grain Elevators and Processes.

(3) For grain storage elevators located at any wheat flour mill, wet corn mill, dry corn mill, rice mill or soybean oil extraction plant, with a permanent grain storage capacity of 35,200 m³, or grain terminal elevators with a permanent storage capacity of more than 88,100 m³, which have commenced construction, modification, or reconstruction after August 3, 1978, the requirements of 40 CFR, Part 60, Subpart DD are also applicable.

CHAPTER 100: AIR POLLUTION CONTROL

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators

$$\left[\frac{R}{45} + \frac{S}{92} \right] \times 40 = \text{Combined Emissions (TPY)}^*$$

[NOTE: THE FORMULA BELOW IS A TEXT VERSION OF THE GRAPHIC FORMULA ABOVE]

$$\text{Combined Emissions (TPY)} = 40 \times (R/45 + S/92)$$

Where, R = Annual Grain Received (millions of bushels)
 S = Annual Grain Shipped (millions of bushels)

*To qualify for Permit by Rule, the total annual combined emissions must be less than 40 TPY.

Oklahoma Register

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed Rules: OAC 252:100-24, Control of Emissions from Grain Elevators. [NEW]

Summary: This new subchapter would subject all new and existing feed, seed, and grain facilities to state permitting requirements, and establish industry-specific emission and control standards.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, § 2-5-106 (Laws 1993, c. 145, § 43).

COMMENT PERIOD: Written comments will be accepted prior to and during the regularly scheduled meeting of the Oklahoma Air Quality Council. The meeting will be held Tuesday, March 8, 1994, in the Brown Room, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105. Briefing at 9:30 AM; meeting and hearing at 1:00 PM. Oral comments will be accepted during the hearing; written comments on the permit provisions may be mailed to the above-listed address, c/o Mr. Doyle McWhirter.

PUBLIC HEARINGS: Tuesday, March 8, in the Brown Room of the Lincoln Plaza Office Complex, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Division, Suite 250 of the Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105.

RULE IMPACT STATEMENT: A rule impact statement will be prepared, prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division, at the above address.

CONTACT PERSON: Mr. Doyle McWhirter (405) 271-5220.

[Okla. Reg. 94-47; filed January 14, 1994]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed Rules: OAC 252:100-24, Control of Emissions from Grain Elevators. [NEW]

Summary: This new subchapter would subject all new and existing feed, seed, and grain facilities to state permitting requirements, and establish industry-specific emission and control standards.

AUTHORITY: Environmental Quality Board; 27A O.S.Supp. 1993, § 2-5-106 (Laws 1993, c. 145, § 43).

COMMENT PERIOD: Written comments will be accepted prior to and during the regularly scheduled meeting of the Oklahoma Air Quality Council. The meeting will be held Tuesday, April 12, 1994, in the Auditorium of the Tulsa City-County Health Department, 4616 E. 15th St., Tulsa 74112. Briefing at 9:30 AM; meeting and hearing at 1:00 PM. Oral comments will be accepted during the hearing; written comments on the permit provisions may be mailed to the contact person listed below.

PUBLIC HEARINGS: Tuesday, April 12, in the Auditorium of the Tulsa City-County Health Department, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the contact person listed below.

RULE IMPACT STATEMENT: A rule impact statement will be prepared, prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the contact person listed below.

CONTACT PERSON: Mr. Doyle McWhirter, Department of Environmental Quality, Air Quality Division, Suite 250, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105. (405) 271-5220.

[Okla. Reg. 94-250; filed February 14, 1994]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed Rules: OAC 252:100-24, Control of Emissions from Grain Elevators [NEW]; OAC 252:100-31, Control of Emissions of Sulfur Compounds [AMENDED].

Summary: Subchapter 252:100-24 would subject all new and existing grain facilities to state permitting requirements, and establish industry-specific emission and control standards. Industry proposals would include seed, feed, and milling operations.

The intent of the revision in 252:100-31 is to resolve any discrepancies and inequities as applied to all sulfur recovery units in the state, and to provide that emissions standards are consistent with, and not more stringent than the New Source Performance Standards.

AUTHORITY: Environmental Quality Board; 27A O.S.Supp. 1993, § 2-5-106 (Laws 1993, c. 145, § 43).

COMMENT PERIOD: Written comments will be accepted prior to and during the regularly scheduled meeting of the Oklahoma Air Quality Council. The meeting will be held Tuesday, June 14, 1994, in the Brown Room, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd, Oklahoma City 73105. Briefing at 9:30 AM; meeting and hearing at 1:00 PM. Oral comments will be accepted during the hearing; written comments on the permit provisions may be mailed to the contact person listed below.

PUBLIC HEARINGS: Tuesday, June 14, in the Brown Room of the Lincoln Plaza Office Complex, as above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Division, Suite 250 of the Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105.

RULE IMPACT STATEMENT: A rule impact statement will be prepared, prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division, at the above address.

CONTACT PERSON: (405) 271-5220, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd, Oklahoma City 73105.

Contact person for Subchapter 252:100-24 - Mr. Doyle McWhirter.
Contact person for Subchapter 252:100-31 - Dr. Joyce Sheedy.

[Okla. Reg. 94-601; filed April 8, 1994]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed Rules: OAC 252:100-24, Control of Emissions from Grain Elevators [NEW].

Summary: This rule would subject all new and existing grain facilities to state permitting requirements and establish industry-specific emission and control standards. Includes facilities that handle, store, or process grain.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-2-101; 2-5-1-1 et seq.

COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Program or may, before September 28, 1994, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Wednesday, September 28, 1994, in Broken Bow, Oklahoma, at a location to be announced later.

PUBLIC HEARINGS: Wednesday, September 28, 1994, at 9:30 a.m., in Broken Bow, Oklahoma, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, OK 73105-3483.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Service at the above address.

CONTACT PERSON: Mr. Doyle McWhirter, (405) 271-5220.

ADDITIONAL INFORMATION: These rules were recommended by the Air Quality Council pursuant to public hearing on June 14, 1994.

[Okla. Reg. 94-1284; filed August 8, 1994]

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

RULEMAKING ACTION: PERMANENT final adoption.

RULES: OAC 252:100-24, Control of Emissions from Grain Elevators
(NEW)

AUTHORITY: Environmental Quality Board; 27A O.S.Supp. 1993, §§ 2-2-101, 2-5-101 et seq.

DATES:

Comment period: September 1, 1994 through September 28, 1994.

Public hearing: September 28, 1994.

Adoption: September 28, 1994

Submitted to Governor: October 7, 1994

Submitted to House: October 7, 1994

Submitted to Senate: October 7, 1994

Gubernatorial approval: November 17, 1994.

Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 29, 1995.

Final adoption: March 29, 1995.

Effective: July 1, 1995.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules: OAC 252:100-24, Control of Emissions from Grain Elevators (NEW).

Gubernatorial approval: November 17, 1994.

Register publication: 12 Ok Reg 353.

Docket number: 94-1535.

INCORPORATIONS BY REFERENCE: None.

ANALYSIS: This new subchapter would subject all new and existing grain facilities to state permitting requirements and establish industry-specific emission and control standards. Included are facilities that handle, store or process grain.

The Air Quality Council recommended the permanent adoption of this new subchapter at their meeting on June 14, 1994. The Air Quality Council began receiving comments on these new rules on February 1, 1994, and also considered these rules in public meetings on March 3, March 8, and April 12, 1994.

CONTACT PERSON: Mr. Doyle McWhirter, DEQ Air Quality Division, Suite 250, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105. 405 271-5220.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 1995.

[NEW]

SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

252:100-24-1. Purpose

The purpose of this Subchapter is to control emissions from facilities that handle, store or process grains. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities. This Subchapter is an interim rule effective until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division to replace the factored emission rates in this interim rule.

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Dust Suppression Additives" means FDA or FGIS-approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division.

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

"Existing Grain, Feed, or Seed Operation" means a facility which was in existence in 1993 and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.

"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any facility installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Operations Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.

"High Efficiency Cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the

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[NEW]

cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90% collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D (95% collection efficiency for TSP).

"Hours of Operation" is calculated by dividing the cumulative throughput total for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the throughput. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Medium Efficiency Cyclone" means any cyclone type collector less than 2D-2D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D-1D cyclone would exhibit a cylinder of 1 x D and a cone length of 1 x D. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

"Process Emission" means emissions from a process equipment point source.

"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded-out from the facility during any time period of interest divided by two.

252:100-24-3. General provisions: applicability, determination of emissions

(a) Applicability. The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) Permits required. In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operation shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) Air toxics emissions. Grain, feed, or seed operations which emit toxic air pollutants above the de minimis levels specified in OAC 252:100-41 are subject to all applicable requirements contained therein.

(d) Record-keeping. The owner or operator of a facility shall

[NEW]

maintain a daily log documenting the commodity throughput and hours of operation. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) Visible emissions test. Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification.

(f) Determination of emissions. Emissions from grain, feed, or seed operations shall be based on the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or other methods approved by the Air Quality Division. The following factored emissions are allowed by this interim rule only until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division. For this interim rule, emissions shall be calculated as follows for three classes of emissions:

- (1) Class I:
 - (A) Unloading (Receiving) - 0.6 lbs/ton.
 - (B) Loading (Shipping) - 0.3 lbs/ton.
 - (C) Opacity limits - Refer to OAC 252:100-24-4.
- (2) Class II - Emission Sources with Control Devices:
 - (A) AP-42 factor X (1-EFF). (EFF means fractional efficiency of control device.)
 - (B) Opacity limits - Refer to 252:100-24-4 for opacity limits.
- (3) Class III - Uncontrolled Vents:
 - (A) Pressurized - opacity limit only (Refer to OAC 252:100-24-4 for opacity limits).
 - (B) Non-pressurized - opacity limit only (Refer to OAC 252:100-24-4 for opacity limits).

252:100-24-4. Smoke, visible emissions and particulates

(a) Visible emissions limit. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade density greater than twenty percent (20%) equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty-four hour period.

(b) Alternate emissions limit. The (20%) opacity limits, as required under OAC 252:100-24-4 (a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in OAC 252:100-25-4 (1) through (3) have been met.

(c) Exceptions. Exceptions to the requirements described in OAC

[NEW]

252:100-24-4 (a) are provided as follows:

(1) Visible emissions from loading (shipping) shall be no more than sixty-five percent (65%) equivalent opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) equivalent opacity.

(2) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.

(3) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent (10%) opacity at any time.

(4) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than ten percent (10%) opacity at any time.

252:100-24-5. Emission control equipment and certification

(a) Standards. Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) Certification. Each existing grain elevator in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this Subchapter by the Air Quality Council. Annual certification of hours of operation and throughput and the operation and proper maintenance of required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

252:100-24-6. Fugitive dust controls

(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow visible emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

[Okla. Reg. 95-616; filed April 26, 1995]

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.

Proposed Rules: OAC 252:100-24, Control of Emissions from Grain Elevators [NEW]

Summary: This rule would amend the existing rule that subjects all new and existing grain facilities to state permitting requirements and establishes industry-specific emission and control standards.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§2-2-101; 2-5-1-1 et seq.

COMMENT PERIOD: Written comments will be accepted prior to and during the regularly scheduled meeting of the Oklahoma Air Quality Council. The meeting will be held Wednesday, February 22, 1995, in the Lincoln Plaza Office Complex, Brown Room, 4545 N. Lincoln Blvd., Oklahoma City, OK. Briefing is scheduled for 9:30 AM; meeting and hearing, for 1:00 PM. Oral comments will be accepted during the hearing; written comments on the proposed change may be mailed to Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, OK 73105-3483, c/o Mr. Scott Thomas

PUBLIC HEARINGS: Wednesday, February 22, 1995, in the Lincoln Plaza Office Complex, Brown Room, 4545 N. Lincoln Blvd., Oklahoma City, OK.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, OK.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division at the above address.

CONTACT PERSON: Mr. Scott Thomas or Deborah Perry (405) 271-5220

[Okla. Reg. 94-1689; filed December 21, 1994]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.

Proposed Rules: OAC 252:100-24, Control of Emissions from Grain Elevators [AMENDED].

Summary: The revision to Subchapter 24 would amend the existing rule that subjects all new and existing grain facilities to state permitting requirements and establishes industry-specific emission and control standards.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-5-106.

COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Program or may, before June 27, 1995, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Tuesday, June 27, 1995, at 1000 NE 10th Street, Oklahoma City, Oklahoma. The location of the meeting may be changed.

PUBLIC HEARINGS: Tuesday, June 27, 1995, at 9:30 a.m. in Oklahoma City, Oklahoma, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division at the above address.

CONTACT PERSON: Mr. Scott Thomas (405) 271-5220.

ADDITIONAL INFORMATION: These rules were recommended by the Air Quality Council pursuant to the public hearing on February 22, 1995.

[Okla. Reg. 95-650; filed May 4, 1995]

TITLE 252 DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

RULEMAKING ACTION: PERMANENT FINAL ADOPTION.

RULES: OAC 252:100-24, Control of Emissions from Grain Elevators [AMENDED].

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-2-101, 2-5-101 et seq.

DATES:

Comment period: June 1, 1995 through June 27, 1995

Public hearing: June 27, 1995

Adoption: June 27, 1995

Submitted to Governor: July 7, 1995.

Submitted to House: July 7, 1995.

Submitted Senate: July 7, 1995.

Gubernatorial approval: August 21, 1995.

Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 27, 1996.

Final adoption: March 27, 1996.

Effective: July 1, 1996.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules: 252:100-24-1 through 24-5 [AMENDED].

Gubernatorial approval: August 21, 1995.

Register publication: 13 Ok Reg 815.

Docket number: 96-25.

INCORPORATIONS BY REFERENCE: None.

ANALYSIS: The revision to Subchapter 24 would amend the existing rule that subjects all new and existing grain facilities to state permitting requirements and establishes industry-specific emission and control standards.

The Air Quality Council recommended the permanent adoption of this revision at their meeting on February 22, 1995. The Air Quality Council began receiving comments on this new rule on February 1, 1995, and also considered this rule in a public meeting on February 22, 1995.

CONTACT PERSON: Mr. Scott Thomas, DEQ Air Quality Division, Suite 250, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105. (405) 271-5220

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 1996.

SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

252:100-24-1. Purpose

The purpose of this Subchapter is to control emissions from facilities that handle, store or process grains. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities. ~~This rule is an interim rule effective until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division to replace the factored emission rates in this interim rule.~~

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

~~"Dust Suppression Additives" means FDA or FGIC approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division.~~

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

~~"Existing Grain, Feed, or Seed Operation" means a facility which was in existence in 1993 and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.~~

~~"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.~~

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any facility or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Operations Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.

~~"High Efficiency Cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the~~

ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D 2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90% collection efficiency for TSP). A 1D 2D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D (95% collection efficiency for TSP).

"Hours of Operation" is calculated by dividing the cumulative throughput total for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the throughput. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Loading-out hours of operation" means the hours calculated by dividing the cumulative total quantity loaded out for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material loaded out. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Medium Efficiency Cyclone" means any cyclone type collector less than 2D 2D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D 1D cyclone would exhibit a cylinder of 1 x D and a cone length of 1 x D. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

"Process Emission" means emissions from a process equipment point source.

"Receiving hours of operation" means hours calculated by dividing the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded out from the facility during any time period of interest divided by two.

252:100-24-3. General provisions: applicability, determination of emissions

(a) Applicability. The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations facilities in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) Permits required. In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operations facility shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) Air toxics emissions. Grain, feed, or seed operations facilities which emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(d) Record-keeping. The owner or operator of a facility shall maintain a daily log documenting the commodity throughput receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) Visible emissions test. Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification.

(f) Determination of emissions. Emissions from grain, feed, or seed operations facilities shall be based on determined by the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or other methods approved any other method which can be shown to be reasonably accurate when supported by engineering data and calculations, and approved in advance by the Air Quality Division. The following factored emissions are allowed by this interim rule only until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division. For this interim rule, emissions shall be calculated as follows for three classes of emissions:

(1) Class I-

(A) Unloading (Receiving) 0.6 lbs/ton.

(B) Loading (Shipping) 0.3 lbs/ton.

(C) Opacity limits Refer to 252:100-24-4.

(2) Class II Emission Sources with Control Devices.

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- ~~(A) AP 42 factor X (1 EFF). (EFF means fractional efficiency of control device.)~~
~~(B) Opacity limits Refer to 252:100-24-4 for opacity limits.~~
 (3) ~~Class III Uncontrolled Vents~~
~~(A) Pressurized opacity limit only (Refer to 252:100-24-4 for opacity limits.)~~
~~(B) Non-pressurized opacity limit only (Refer to 252:100-24-4 for opacity limits.)~~

252:100-24-4. Smoke, Visible Emissions and Particulates

(a) Visible emissions limits. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade density greater than twenty percent (20%) equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty-four hour period.

(b) Alternate emissions limit. The (20%) opacity limits, as required under 252:100-24-4 (a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(c) Exceptions. Exceptions to the requirements described in 252:100-24-4 (a) (1) are provided as follows:

(1) Visible emissions from loading-out (shipping) shall be no more than sixty-five percent (65%) equivalent opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) equivalent opacity.

(2) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.

(3) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent (10%) opacity at any time.

(4) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than ten percent (10%) opacity at any time.

252:100-24-5 Emission control equipment and certification

(a) Standards. Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) Affected facilities. Affected facilities shall make best efforts to reduce dust emissions during load-out by minimizing the

distance from the load-out spout to the top of the receiving vessel.

(c) Certification. Each new, modified, or existing grain, elevator feed or seed facility in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this Subchapter by the Air Quality Council/DEO Board. Annual certification of receiving, loading-out, and total annual hours of operation, quantity received and loaded-out, visible emissions, and throughput and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

[Okla. Reg. 96-530; filed April 25, 1996]

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Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1216]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed rules:

252:100. Air Pollution Control

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke. Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Summary:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to Subchapter 7 will delete the lower limit of 5 tons per year for

Permit by Rule (PBR) facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Two substantive changes are proposed for

Notices of Rulemaking Content

Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Room 101, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1216; filed 6-25-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1217]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

Proposed rules:

252:100, Air Pollution Control: Subchapter 47, Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

Summary:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled

Notices of Rulemaking Inter

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must put a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1259]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 7. Permits for Minor Sources
[AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins
[AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED].

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

SUMMARY:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to

Subchapter 7 will delete the lower limit of 5 tons per year Permit by Rule (PBR) facilities. This will allow the facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/delete initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix L requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and

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reformatting. Two substantive changes are proposed for Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to a version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

AN IDENTICAL NOTICE WAS PUBLISHED IN THE OKLAHOMA REGISTER ON JULY 15, 1998. AFTER PUBLICATION, THE COUNCIL MEETING LOCATION WAS CHANGED TO 4545 N. LINCOLN BLVD., BURGUNDY ROOM, OKLAHOMA CITY, OKLAHOMA. NO OTHER CHANGES WERE MADE TO THIS NOTICE.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1259; filed 7-9-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1260]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 47. Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

SUMMARY:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1358]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 8. Permits for Part 70 Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

SUMMARY:

In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a

PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no PBR has been written, the opportunity to apply for coverage under an applicable general permit. The Department also proposes to delete the definition for "Volatile Organic Solvents (VOS)," because the proposed changes to Subchapters 37 and 39 would exclude that term from the rules.

The Department is considering increases in the permit application fees in both Subchapters 7 and 8.

The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to both subchapters follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow such exceedances during one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. Other

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proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Three substantive changes are proposed for each Subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; a request dated April 21, 1997, from the Halogenated Solvents Industry Alliance, requesting that perchloroethylene be excluded from the definition of VOC; a request from Dow Corning that methylated siloxanes be excluded from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, that methyl acetate be excluded from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c). In addition, the Department is requesting comments on 252:100-39-47, Control of VOS Emissions from Aerospace Industries Coatings Operations. Options include (1) retain the present (ARACT) rule and enforce the emissions reduction plan specified therein; (2) repeal the present rule and promulgate new rules regulating specialty coatings; or (3) retain the present plan, promulgate new rules for specialty coatings, and allow the facility to choose which of the two they prefer. These options recognize that the new NESHAP for the aerospace industry controls VOC emissions except for specialty coatings. The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40

CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Tuesday, September 15, 1998, through Tuesday, October 20, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, October 13, 1998

Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 10, 1998 - 9:30 a.m. in Poteau (Location to be determined. See contact person)

PUBLIC HEARINGS:

Tuesday, October 20, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (Subchapters 5 and 8), Michelle Martinez (Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37, 39 and 41). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 7, 23, 24, 25, 37 and 39 that were the subject of a public hearing on August 18, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1358; filed 8-26-98]

Permanent Final Adoptions

~~greater than sixty (60) percent opacity for an period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24-hour period which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.~~

~~(2)(b) Alternative emissions opacity limit. The twenty (20) percent 20% opacity limit as required under 252:100-23-4(a) may be increased for particulates only provided that the owner/operator owner or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.~~

~~(b)(c) PM-10 emissions limit. No cotton gin shall impact the ambient air quality in such a manner as to violate be operated so as to cause or contribute to a violation of the primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24-hour average or any other ambient air standard quality standards or any other ambient air quality standard established by OAC in 252:100-3.~~

252:100-23-5. Emission control equipment

(a) ~~Low pressure exhausts. For emissionsemission control from low pressure exhausts, the use of screens with a mesh size of 70 by 70 or finer (U.S. Sieve), or the use of perforated condenser drums with holes not exceeding 0.045 inches in diameter or equipment of equivalent design efficiency as determined by the Executive Director shall be required.~~

(b) ~~High pressure exhausts. For emission control from high pressure exhausts, the use of 2D-2D cyclones shall be required for existing gins. Existing gins shall install and use 1D-3D cyclone collectors or equivalent when the capital cost of repair or replacement of the existing 2D-2D cyclone exceeds fifty (50) percent 50% of the capital cost of a new 1D-3D cyclone. New or modified cotton gins shall utilize a 1D-3D cyclone collector or equipment of equivalent collection efficiency upon commencement of operation.~~

(c) ~~Fugitive emissions Burr hoppers. For emission control of fugitive emissions from burr hoppers during dumping, the use of total enclosure burr hoppers at existing gin sites located within the corporate city limits of any city or within 300 feet of two or more occupied establishments is required must be totally enclosed. All new gin sites shall install and use a total enclosure on the burr hopper.~~

252:100-23-6. Fugitive dust controls

(a) For control of fugitive dust, no person shall cause or permit allow the handling, transporting, or disposition of any substance or material which that is likely to be scattered by the air or wind, or is susceptible to being airborne, or windborne, or to and no person shall operate or maintain or cause to be operated or maintained, any gin premisesite, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any

material or substance likely to be scattered by the wind or air, or susceptible to being windborne or airborne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.

(b) No person shall cause or permit allow the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

252:100-23-7. Permit by rule

(a) ~~Applicability. Any new or existing facility may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 0724 Cotton Ginning.~~

(b) Requirements.

(1) ~~In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter.~~

(2) ~~Maximum production rate of a facility subject to this section shall be 36,000 bales per year.~~

[OAR Docket #99-649; filed 4-13-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-652]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 24. Control of Emissions from Grain Elevators

252:100-24-1 through 252:100-24-6 [AMENDED]

252:100-24-7 [NEW]

Appendix L. PM-10 Emission Factors from Permit by Rule for Grain Elevators [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

July 15, 1998 through August 18, 1998; and September 15, 1998 through October 20, 1998

Public hearing:

August 18, 1998; October 20, 1998; and November 10, 1998

Adoption:

November 10, 1998

Submitted to Governor:

November 18, 1998

Submitted to House:

November 18, 1998

Submitted to Senate:

November 18, 1998

Gubernatorial approval:

December 15, 1998

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 1999

Final adoption:

March 24, 1999

Effective:

June 1, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed revisions to Oklahoma Administrative Code 252:100-24, Control of Emissions from Grain Elevators, will simplify the language under the agency-wide re-right/de-wrong initiative. It is also proposed to add a new Permit by Rule section to the subchapter that will streamline the permitting process by creating a mechanism that will eliminate the necessity for some grain elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to the subchapter follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 1999.

SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN ELEVATORS PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED OPERATIONS

252:100-24-1. Purpose

The purpose of this Subchapter is to control emissions from facilities that handle, store or process grains, feeds or seeds. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities.

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere

except through non-pressurized vents/openings, and s not be considered a source subject to emission calculati

"Fugitive Emission" means those emission ee not reasonably pass through a stack, chimney, vent, or of functionally equivalent opening.

"Grain, Feed, or Seed Facility" means the contiguous adjacent area under common control upon which a gr elevator, feed mill, or grain and seed processing equipm or structures are located, and all contiguous sites hav common control, which have SIC codes with the first 4 digits that are identical to the first two digits of the SIC c for grain elevators, feed mills, or grain and seed process equipment.

"Grain, Feed, or Seed Operation" means any facility installation at which grain, feed, or seed is loaded, handl cleaned, dried, stored, treated, or otherwise processed.

"Leg Capacity" means the maximum process rate which the manufacturer designs the elevating portion o grain, feed, or seed facility on a per leg basis.

"Loading-out hours of operation" means the ho calculated by dividing the cumulative total quantity load out for a given time period by 75% of the rated leg capaci This quotient is equivalent hours (not actual hours) operation required to process the material loaded o Actual leg capacity may be adjusted to more or less than 75 by individual facilities if documentation supporting t proposed adjustment is submitted to and approved by t Director of the Air Quality Division Director.

"Non-pressurized Vent or Opening" means an opening which allows the emissions of air and/ contaminants at pressures substantially equivalent atmospheric pressure without the use mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent opening which allows the emissions of air and/ contaminants at pressures greater than atmospher pressure indicating the use of mechanically-induced air flow

"Process Emission" means emissions from a proce equipment point source.

"Receiving hours of operation" means hours calculate by dividing the cumulative total quantity received for a give time period by 75% of the rated leg capacity. This quotie is equivalent hours (not actual hours) of operation require to process the material received. Actual leg capacity may t adjusted to more or less than 75% by individual facilities documentation supporting the proposed adjustment submitted to and approved by the Director of the Air Quali Division Director.

"Total hours of operation" means the sum of th receiving hours of operation and the loading out hours operation. Actual hours may be less since receiving ar loading-out operations may occur simultaneously.

252:100-24-3. General provisions: applicability, determination of emissions, Applicability, general requirements

(a) **Applicability.** The provisions of this subchapter a

applicable to all new, modified, and existing grain, feed, or seed facilities in the State of Oklahoma.

(1) Facilities in compliance with ~~OAC~~ 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of ~~OAC~~ 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) General requirements.

~~(b)(1)~~ **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed facility shall comply with the permitting requirements of ~~OAC~~ 252:100-7 and/or 252:100-8.

~~(e)(2)~~ **Air toxics emissions.** Grain, feed, or seed facilities which that emit toxic air pollutants above the deminimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

~~(d)(3)~~ **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting the commodity receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative DEQ during normal business hours.

~~(e)(4)~~ **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification a Certified Visible Emission Evaluator.

~~(e)(5)~~ **Determination of emissions.** Emissions from grain, feed, or seed facilities shall be determined by the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or any other reasonably accurate method which can be shown to be reasonably accurate when supported by engineering data and calculations, and approved in advance by the Air Quality Division DEQ.

252:100-24-4. Smoke, Visible Emissions and Particulates Visible emissions (opacity) limit

(a) ~~Visible emissions limits~~ **Opacity limit.** No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade density exhibiting greater than twenty percent (20%) equivalent 20% opacity. This requirement shall not apply to smoke or visible emissions exhibiting greater than 20% opacity emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in

~~any consecutive twenty-four hour period which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.~~

(b) **Alternate emissions opacity limit.** The 20% opacity limits, ~~as a limit~~ required under 252:100-24-4 (a) may be increased for particulates only provided that the ~~owner/operator/owner or operator~~ demonstrates to the satisfaction of the ~~Oklahoma~~ Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(c) **Exceptions.** Exceptions to the requirements described in 252:100-24-4 (a) ~~(1)~~ are provided as follows:

(1) Visible emissions from loading-out (shipping) shall be no more than sixty-five percent (65%) equivalent opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) equivalent opacity.

~~(2) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.~~

~~(3)(2)~~ Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent (10%) opacity at any time.

~~(4)(3)~~ Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than 10% opacity at any time.

252:100-24-5. Emission control equipment and certification Certification

(a) **Standards.** Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS-Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) **Affected facilities.** Affected facilities shall make best efforts to reduce dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

(c) **Certification.** Each new, modified, or existing grain, feed or seed facility in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this Subchapter by the DEQ Board. Annual certification of receiving, loading-out, and total annual hours of operation, quantity received and loaded-out, visible emissions, and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

(a) **Initial certification.** Any grain, feed or seed facility in existence on September 28, 1994, shall provide written

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certification of compliance with this subchapter by September 28, 1995, or within six months of receiving an initial certification form from DEQ.

(b) Annual certification. The owner, operator or other designated responsible party of a grain, feed or seed facility shall submit along with the annual emissions inventory, an annual certification of quantities received and loaded-out.

252:100-24-6. Fugitive dust controls

(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow visible fugitive dust emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

(c) All facilities shall make best efforts to reduce fugitive dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

252:100-24-7. Permit by rule

(a) Applicability. Any new or existing source may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 5153, Grain and Field Beans.

(b) Requirements.

(1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter, with the exception of 252:100-24-5(a) and (b).

(2) The total annual emissions of PM-10 shall be calculated using the equation provided in Appendix L, which was derived from AP-42 9.9.1, Grain Elevators and Processes.

(3) For grain storage elevators located at any wheat flour mill, wet corn mill, dry corn mill, rice mill or soybean oil extraction plant, with a permanent grain storage capacity of 35,200 m³, or grain terminal elevators with a permanent storage capacity of more than 88,100 m³, which have commenced construction, modification, or reconstruction after August 3, 1978, the requirements of 40 CFR, Part 60, Subpart DD are also applicable.

Permanent Final Adoptions

APPENDIX L. PM-10 EMISSION FACTORS FOR PERMIT BY RULE FOR GRAIN ELEVATORS [NEW]

$$\left[\frac{R}{45} + \frac{S}{92} \right] \times 40 = \text{Combined Emissions (TPY)}$$

Where, R = Annual Grain Received (millions of bushels)
S = Annual Grain Shipped (millions of bushels)

*To qualify for Permit by Rule, the total annual combined emissions must be less than 40 TPY.

[OAR Docket #99-652; filed 4-13-99]

Air Quality Council

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: January 11, 1994, 1:00 p.m.
Lincoln Plaza Office Complex
Suite 250
4545 North Lincoln Blvd.
Oklahoma City, OK

MEETING

- | | |
|---|------------------|
| 1. Call to Order | Chairman |
| 2. Roll Call | Secretary |
| 3. Approval of Minutes of
 October 19, 1993 | Chairman |
| 4. Approval of 1994 Meeting Agenda | Chairman |
| 5. Election of Officers | Council |
| A. Nominations and discussion | |
| B. Election/Vote | |
| 6. Resolutions - Roll Call Vote | |
| A. Green Lights program | |
| B. Uniform public participation (permit review) | |
| C. Inspection/Maintenance program | |
| D. Residential lead-based paint reduction program | |
| 7. New Business | Chairman |
| Discussion/consideration of
subjects/business arising within
the past 24 hours. | |
| 8. ADJOURNMENT | Chairman |
| Next meeting - Time and place
to be announced. | |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: **January 11, 1994, 9:30 a.m.**
Lincoln Plaza Office Complex
Suite 250
4545 North Lincoln Blvd.
Oklahoma City, OK

BRIEFING

- | | |
|---|-----------------|
| 1. Call to Order | Chairman |
| 2. Division Director's Report
Informational - An update of current events
and AQS activities | Director |
| A. Title V status - contractor, etc. | |
| B. Feed and Grain Rule Update | |
| C. Discussion by Council/Public | |
| D. Other | |
| 3. Schedule of Calendar Year 1994 Meetings
Discussion by Council/Public | Director |
| 4. Election of Officers
Discussion by Council/Public | Chairman |
| 5. Resolutions | Staff |
| A. Green Lights program | |
| B. Uniform public participation (permit review) | |
| C. Inspection/Maintenance program | |
| D. Residential lead-based paint reduction program | |
| 6. Adjournment
The meeting reconvenes at 1:00 P.M. | |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

January 3, 1993

M E M O R A N D U M

TO: Air Quality Council

FROM: *LD* Larry D. Byrum, Director
DMC Air Quality Division

SUBJECT: Feed and Grain Rule Update

During the public hearing to adopt revised subchapter 7 and new subchapter 8, the Oklahoma Feed and Grain Association made comments concerning the need for rules specific to their industry. In response to these comments, the staff indicated it would update the Council of the status of efforts to draft grain storage and handling technology specific rules.

The staff has been working with the grain industry for over two years to assure they were aware of the potential impacts of the forthcoming major source operating permit program requirements under 40 CFR Part 70 and to minimize these impacts as much as possible. And to draft a technology based rule specific to the grain storage and handling industry similar to what has been developed for the cotton ginning industry via subchapter 23. Several discussion meetings have been held and some progress has been made in enlightening the industry of the impacts of Part 70 permitting, but we have experienced difficulties in drafting a proposed rule for grain storage and handling sources. These difficulties include the determination of reliable emission factors, central equipment collection efficiencies, and reasonable economically available control methodology.

In the spring of 1993, the staff proposed a draft rule (attached) to the Grain Industry for their consideration and comments. Their response (attached) was received December 7, 1993. As you can see, there is considerable differences between the two proposals; however, both the grain industry and AQD have contacted Dr. Bill Barfield and his staff of the Oklahoma State University Agricultural Economics Section for assistance and advice in developing a grain storage and handling technology specific rule that is appropriate for the State of Oklahoma.

DRAFT

SUBCHAPTER 24. Control of Emissions from Grain Elevators

Section

- 310:200-24-1 Purpose
- 310:200-24-2 Definitions
- 310:200-24-3 General provisions: applicability
- 310:200-24-4 Smoke, visible emissions, and particulate
- 310:200-24-5 Emissions control equipment
- 310:200-24-6 Fugitive dust controls

310:200-24-1. Purpose

The purpose of this rule is to control particulate emissions from grain elevators.

310:200-24-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Elevator site" means the area upon which a grain elevator is located and all contiguous land having common ownership or control.

"Existing elevator" means a grain elevator which was in existence and has submitted a current accurate emission inventory to the Air Quality Service for the years 1990 and 199³. All other grain elevators shall be considered "new".

"Fabric filter" means any control device or system in which particulate matter is collected within a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration, designations referring to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 X D and a cone length of 2 X D (90 percent collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 X D (95 percent collection efficiency for TSP).

"Grain elevator" means any plant or installation at which grain is loaded, unloaded, handled, cleaned, dried, stored, or treated for commercial purposes.

310:200-23-3. General Provisions; applicability

(a) Applicability. The provisions of this Subchapter are applicable to all new, modified, and existing grain elevators operating in the State of Oklahoma. Grain Elevators in compliance with this Subchapter are exempt from the requirements of OAC 310:200-25, 310:200-27, and 310:200-29.

(b) Permits required. In addition to the requirements of this Subchapter, each new or modified Grain elevator shall comply with the permitting requirements of OAC 310:200-7.

(c) Air Toxics emissions. The requirements of this Subchapter are in addition to any which may be required under OAC 310:200-41.

(d) Record-keeping. The owner or operator of a grain elevator shall maintain a log documenting the daily process weight and hours of operation and air emissions control equipment replacement/repair cost. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Service personnel or its representative during normal business hours.

(e) Test methods.

(1) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A and be performed by an individual possessing current certification.

(2) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

(f) Effective date. This Subchapter shall become effective ??????.

300:200-24-4. Smoke, visible emissions, and particulates

(a) Visible Emissions limit.

(1) Emissions limit. No person shall cause, suffer, allow or permit discharge of any fume, aerosol, mist, gas, smoke, vapor, particulate

matter or any combination thereof a shade or density greater than twenty (20) percent equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for an period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24-hour period.

(2) Alternative emissions limit. The twenty (20) percent opacity limit as required under 310:200-23-4(a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 310:200-25-4(a) through (c) will be met.

(b) PM-10 emissions limit. No grain elevator shall impact the ambient air quality in such a manner as to violate the primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24-hour average or any other ambient air standard established by OAC 310:200-3.

310:200-24-5. Emissions Control Equipment

(a) Grain turning and Conditioning.

(1) Elevators with a rated turning rate equal to or greater than 10,000 bushels per hour shall for emission control utilize, at a minimum, a fabric filter or other control equipment of equivalent collection efficiency.

(2) Elevators with a rated turning rate of less than 10,000 bushels per hour shall for emission control utilize, at a minimum, an A.E.C. long cone high efficiency cyclone or other control equipment of equivalent efficiency.

(b) Grain loading and unloading.

(1) Elevators located within the corporate city limits of any city or within 300 feet of two or more occupied establishments shall for the control of fugitive emissions utilize the following: wind screening/enclosure on at least three sides (without truck lift) or wind screening/enclosure on two sides (with a truck lift); and negative air pressure (suction) on the dumping area or pit created by a properly sized suction fan which will be exhausted through a properly sized A.E.C. long cone high efficiency cyclone or other control equipment of equivalent collection efficiency; or other control equipment of equivalent collection efficiency.

(2) Elevators located outside the corporate city limits of any city and greater than 300 feet from two or more occupied establishments shall for the control of fugitive emissions, at a minimum, utilize wind screening on at least two sides of the dumping area or pit, or control equipment of equivalent collection efficiency.

310:200-24-6. Fugitive dust controls

(a) For control of fugitive dust; except as provided in OAC 310:200-24-5(b) (1) and (4); no person shall cause or permit the handling,

transporting, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being airborne, or wind-borne, or to operate or maintain or cause to be operated or maintained, any grain elevator premise, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any material or substance likely to be scattered by the wind or air, or susceptible to being wind-born or air-born that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.

(b) No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

rev. # 3 (9/11/92)

AIR QUALITY COUNCIL

Minutes

January 11, 1994

1:00 p.m.

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Larry Canter, Ph.D., Vice Chairman
Gary A. Kilpatrick
Pierre Taron
Kathryn Hinkle
Meribeth Slagell
Bill Fishback
Michael Hughes

Staff Present

Larry Byrum
Doyle McWhirter
Dennis Doughty
Scott Thomas
Shawna McWaters-Khalousi
Myrna Bruce

Council Members Absent

Mary Tillman

Guests Present

(See attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the basement entrance, first floor entrance at the Oklahoma State Department of Health building and the entrance door of the meeting room at the Lincoln Plaza location.

Call to Order - Mr. Breisch called the meeting to order and roll call was taken. All members were present except Ms. Tillman. Mr. Breisch stated that the items on the Meeting portion of the Agenda would be discussed along with continuation of discussion of the resolutions from the morning briefing.

Approval of Minutes - Mr. Kilpatrick made detailed suggestions for corrections to the October 19, 1993 Minutes. Ms. Hinkle made motion to accept the Minutes as amended with second by Mayor Taron. Roll call was taken as follows: Mayor Taron - aye; Dr. Canter - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Breisch - aye.

Approval of 1994 Meeting Schedule - Discussion was held regarding having a regularly scheduled meeting in Stillwater or at places other than Oklahoma City or Tulsa. If a new location became an option, Council would be notified and scheduling would be made. A motion was made by Mayor Taron to accept the meeting dates as presented:

March 8 in OKC	--	April 12 in Tulsa
June 14 in OKC	--	August 9 in Tulsa
October 11 in OKC	--	December 13 in OKC.

Second was made by Mr. Kilpatrick. Roll call taken as follows: Mayor Taron - aye; Dr. Canter - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Fishback - aye; Ms. Slagell; Mr. Breisch - aye.

Election of Officers - Mr. Breisch entertained a motion that a chairman and a vice chairman be elected in accordance with the Oklahoma Clean Air Act. Dr. Hughes moved that Mr. Breisch be elected as Chairman and that Dr. Canter be elected as Vice-Chairman. Motion seconded by Mr. Kilpatrick. With no discussion or other nominations; roll call was taken as follows: Mayor Taron - aye - Dr. Canter - aye - Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Breisch - aye.

RESOLUTIONS

GREEN LIGHTS PROGRAM

Mr. Breisch reiterated statements from the morning briefing. With discussion, Mr. Kilpatrick moved that the Council pass a resolution substantially like the draft presented by the Staff except that it would apply to the Green Lights Program only and the fourth paragraph should be in the singular not the plural. Second made by Mr. Fishback. Roll call was taken on this resolution as follows: Mayor Taron - aye; Dr. Canter - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Breisch - aye. A copy of the Resolution is attached as an addendum to the Minutes.

UNIFORM PUBLIC PARTICIPATION IN THE PERMITTING PROCESS

Mr. Breisch stated that according to discussion held in the Briefing Session that the Council has insufficient information to approve this resolution.

Mr. Byrum pointed out that the issue concerns statutory language to define uniform public participation in the permit review; that the Council would be supporting the Department in developing statutory language that would require this public participation process, and the major change in this process requires major sources to advertise the opportunity for a meeting when they file an application.

Mr. Kilpatrick felt one of the key issues was the lack of ability for the Air Quality Council or any of the other Councils to get involved in the drafting of language.

Ms. Hinkle felt that a reasonable legislation needs to be pursued.

Mr. Steve Thompson addressed the Council stating that the Agency would like to go to the legislature with a united front. He stated that it is the position of the Executive Director's office to make the processes under the DEQ as open to all the citizens as resources and capabilities allow. Mr. Thompson pointed out that the Statutes reflected the specific permitting process for Hazardous Waste, Solid Waste, Air Quality, and Water Quality and that changes were needed to bring them into conformity with the single permitting process. He stated the issue concerned refining the public participation process by statute in each one of these areas, and that it was logical outgrowth that the DEQ be a one-stop shop.

Dr. Hughes commented that he was personally not opposed and would encourage public participation, but would not support any resolution without sufficient information.

Mr. Thompson stated it was very important for DEQ to go to the legislature with support of the Councils and that the process would probably go forward, but it certainly would be in the best interest of the uniform process to have all the Councils' support.

Mr. Fishback asked the Council to craft a resolution that could be supported.

Mr. Breisch felt the Council was being asked to support legislation that would allow for tracking of permits and he expressed he could support a uniform application, as there was a need for it.

Ms. Slagell stated that she could not support this resolution without sufficient information.

Ms. Hinkle agreed that more information should have been made available but she could support the concept with details being filled in later.

Dr. Hughes remarked he would not vote to endorse specific legislation at this time; but could support a concept.

Mr. Breisch stated that industry needs something like this concept and felt that progress should not be stopped.

Mr. Kilpatrick read his suggestion for wording of the resolution: starting with the second paragraph and say "WHEREAS, the DEQ Board is evaluating the need for amendments or additions to Oklahoma Statutes regarding uniform public participation in the permitting process, and; WHEREAS, the implementation of such legislation should provide the citizens of Oklahoma with a more healthful environment through effective, efficient measures; NOW, THEREFORE, BE IT RESOLED BY THE AQC that the Council supports and endorses Board's efforts in this legislative initiative and encourages the AQD staff to assist in it's development."

Dr. Hughes stated he was in favor of participation, but was concerned that the Council's strength was being dwindled away and that the Council was having less input. He remarked he did not feel comfortable with the situation.

Mayor Taron stated that he would strongly support the concept of uniform public participation but it should be made clear that the Council is supporting a concept and not some unseen statute.

Ms. Hinkle felt that the Council should encourage development of the legislation.

Mr. Fishback endorsed the concept, but remarked that he wanted to encourage the Board to solicit advice from the Councils.

Mr. Kilpatrick made a new proposal to the beginning of the original draft resolution by adding, "We do not believe that we have received sufficient facts or information about the details of the Board's deliberations for a legislative initiative regarding uniform public participation in the permitting process in order to pass the proposed resolution."

Dr. Canter suggested that this paragraph be put at the bottom because that is the conclusion.

Mr. Kilpatrick suggested adding the wording "We encourage the Board to solicit input from the Air Quality Council in the development of such legislation."

A motion made by Mr. Kilpatrick to accept a resolution on uniform public participation as read and amended. Second was made by Ms. Slagell with roll call as follows: Mayor Taron - aye; Dr. Canter - aye; Ms. Hinkle - no; Dr. Hughes - aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Breisch - aye. A copy of the Resolution is attached as an addendum to the Minutes.

INSPECTION-MAINTENANCE RESOLUTION (I&M)

Mr. Breisch pointed out how close Tulsa has come to nonattainment and what a nonattainment classification would mean to the State. He acknowledged that he wanted this legislation and for several years had hoped to get something underway in the form of I&M. He stated that I&M is supported by the numerous communities within several states that they have had it in place for several years. He suggested that the Council support this legislation.

Mr. Byrum added that the author of the House Bill is Representative Larry Rice and that his skeleton bill directs the Agency and Air Quality Council to develop rules and regulations that will cover details of the program including model years of cars covered, cut-points, failure rates, repair costs, and fee structure. Mr. Byrum stated that all of these things will be discussed and decided in this forum.

Mr. Fishback related that he definitely supported an I&M program to maintain attainment in Tulsa and Oklahoma Counties subject to the results of comparative cost benefit analysis for available VOC control options.

Mr. Kilpatrick agreed with the analysis and supported the legislation.

The staff pointed out to the Council that I&M has benefits not obtained through the fuels program in that I&M offers control on both hydrocarbons, carbon monoxide and NOX. It was stated that Oklahoma City has had a problem with CO, and that Tulsa CO levels appear to be climbing, and that the I&M Program is about the only technology available other than oxygenated fuels for CO controls. It was pointed out that in Tulsa, the best control strategy might involve a mix of fuel control and I&M. It was pointed out that the oxygenated fuels program is receiving criticism because of possible health effects and that there are not any negative health effects from the I&M Program.

Mr. Fishback wanted to see in any legislation the Council endorses or proposes that antique vehicles (like '57 T-Bird) are certified legal prior to the implementation of the program and would get a waiver to continue.

Mr. Byrum pointed out that this program would involve passenger cars and one-ton and smaller trucks and that the fee is a cap derived from number of things.

Mr. Breisch entertained a motion to support legislation on the Inspection and Maintenance Program.

Mr. Kilpatrick moved the same motion that was passed for Green Lights except to substitute "Automobile Inspection & Maintenance" for "Green Lights".

Dr. Canter made the suggestion to add the word "and" between Inspection/Maintenance.

With second made by Ms. Hinkle, roll call taken as follows: Mayor Taron - aye; Dr. Canter - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Breisch - aye. A copy of this Resolution is attached as an addendum to the Minutes.

LEAD-BASED PAINT RESOLUTION

In discussion, Mr. Byrum advised that this bill will address the risks associated with children subjected to lead-based paint in pre-1978 homes. He said that the focus of the legislation would be to license and train contractors to do the removal or the capsuling of the hazard, and set up a certification process for laboratories that test to ascertain the presence of lead. He related that this is a retry of what was attempted in last year's legislation.

Mr. Kilpatrick offered to write a specific resolution stating that the Council supports legislation to protect contractor's involved in lead remediation projects and is concerned about contractors who are removing lead; but that the Council has not been given sufficient information. He recommended a resolution like the uniform public participation but changing the wording to involve lead-based paint only. Motion was made by Ms. Slagell to adopt a resolution using Mr. Kilpatrick's wording. Second was made by Dr. Canter with roll call as follows: Mayor Taron - aye; Dr. Canter - aye; Ms. Hinkle -no; Dr. Hughes -aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Breisch - aye. A copy of the Resolution is attached as an addendum to the Minutes.

Since the Resolutions were not immediately redone showing the new wording for each, blank signature pages were signed by the Council members.

Other Business - None.

Next Meeting - The next regular meeting will be held March 8 at the Lincoln Plaza Office Complex BROWN ROOM, Oklahoma City.

Meeting adjourned with a unanimous roll call vote.



William B. Breisch, Chairman
Air Quality Council



Larry B. Byrum, Director
Air Quality Division

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

January 11, 1994

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 GATHY MARTIN	DEQ - Cust Asst.		
2 DAVE SCHMIDT	Charles Machine wks	Po Box 66 Perry, Ok. 73054	NO
3 Alan Dove	Western GAS RESOURCES	12600 Quail Springs Park way	OKC 73137
4 LINDA H. WANNER	CCNDOL	921 NE 23rd, OKC 73105	NO
5 David Brantley	P.O.S.F	P.O. Box 321	OKC 73101 NO
6 LEGIT NIKHOLS	AAMA	2224 NW 50 #299,	OKC, OK 73112
7 EARL HATLEY	Okla. Toxics Campaign	3000 United Foundry Blvd.	OKC, 73112 #125
8 Shawna Mc-K	ABD		
9 Teri Hocking	AGD		
10 Ray Bishop	ACCND		
11			
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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
SPECIAL MEETING
AIR QUALITY COUNCIL

A Public Meeting: March 3, 1994, 1:00 p.m.
WHEELER BROTHERS GRAIN COMPANY
WATONGA, OKLAHOMA
KINGFISHER, OKLAHOMA

MEETING

- | | |
|--|------------------|
| 1. Call to Order | Chairman |
| 2. Roll Call | Secretary |
| 3. TOUR OF GRAIN HANDLING AND STORAGE FACILITY
Wheeler Brothers Grain
501 Russworm Drive
Watonga, OK | |
| then time permitting, to:
Wheeler Brothers Grain
13th & Robberts
Kingfisher, OK | |
| 4. ADJOURNMENT
Next meeting - March 8, 1994
Lincoln Plaza Office Complex
4545 N. Lincoln Boulevard
BROWN ROOM | Chairman |

SUBCHAPTER 24. Particulate Matter Emissions from Grain Elevators, Feedmills and Grain or Seed Operations.

252:100-24-1. Purpose

The purpose of this rule is to modify existing state air quality rules and to control the amount of particulates from facilities that handle, store or process grains, feed, or seed, as required by the 1990 Federal Clean Air Act. This subchapter supersedes other rules and regulations which are more stringent than Federal requirements, or which may be demonstrated to not adversely affect the environment.

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Grain, Feed, and Seed Operation" means any commercial plant or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain Feed and Seed Operations Site" means the area upon which a grain elevator, feedmill, or grain and seed processing equipment or structures are located, and all contiguous sites having common ownership or control, which have the same two digits of their SIC code.

"Existing Grain Feed and Seed operation" means a facility which is in existence and has submitted a current, accurate emission inventory to the Air Quality Division for the 1993 reporting period year. All other Grain Feed and Seed operations shall be considered new.

"Fabric filter" means any other control device or system in which particulate matter is collected within a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration, designations referring to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would

exhibit a cylinder length of 2 x D and a cone length of 2 x D. A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D. The efficiencies of these cyclones are 90% and 95% respectively.

"Dust suppression additives" means FDA or FGIS approved additives applied commercially for dust suppression. The efficiencies of these additives are 90%.

"Process Emission" means particulate matter that is emitted from a point source that can cross property boundaries.

"Throughput" Shall mean the pounds, tons, or bushels recieved added to the pounds, tons, or bushels loaded out divided by two.

252:100-24-3. General Provisions; applicability, calculations

(a) Applicability. The provisions of this Subchapter are applicable to all new, modified, and existing Grain, Feed, and Seed operations in the State of Oklahoma. Facilities in compliance with this subchapter are exempt from the requirements of OAC 310:200-25, 310:200-27 and 310:200-29.

(b) Permits required. In addition to the requirements of this subchapter, each new or modified facility shall comply with the permitting requirements of OAC 310:200-7,

(1) Except when the following exemptions for commercial facilities apply:

(A) The total storage capacity of the new and any existing facility or facilities does not exceed 1,500,000 bushels.

(B) The facility shall be located at least 1/2 mile from any recreational area or residence or other structure not occupied or used solely by the owner or operator of the facility or the owner of the property upon which the facility is located.

(C) Before construction of the facility begins, written site approval shall be received from the Director of the Air Quality Division.

(2) The installation of additional grain storage capacity which satisfies the following conditions:

(A) There shall be no increase in hourly grain handling capacity.

(B) Existing grain recieving and loadout facilities are utilized.

(C) Grain shall be conveyed by closed conveying systems and air suction shall not be pulled on any conveying unit.

(3) The minor source facilities subject to this subchapter shall be exempt from annual operating fees as required in OAC 252:100-7-4 (b).

(c) Record-keeping. The owner or operator of a facility shall maintain (daily) log documenting the commodity throughput or hours of operations required by the permit. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(d) Visible emissions (opacity) will not be monitored ^{or} enforced except as required on facilities subject to the Federal New Source Performance Standards, the required testing will be performed using criteria as established by EPA reference Method 9 contained in 40 CFR, Part 60, Appendix

(e) Process Weight Rate; Maximum process weight rate emissions shall be calculated as follows:

ALLOWABLE RATE OF EMISSION
BASED ON PROCESS WEIGHT RATE

PROCESS WEIGHT RATE pounds/hour	RATE OF EMISSIONS pounds/hour
1,000	1.6
1,500	2.4
2,000	3.1
2,500	3.9
3,000	4.7
3,500	5.4
4,000	6.2
5,000	7.7
6,000	9.2
7,000	10.7
8,000	12.2
9,000	13.7
10,000	15.2
12,000	18.2
14,000	21.2
16,000	24.2
18,000	27.2
20,000	30.1
30,000	44.9
40,000	59.7
50,000	64.0
60,000	67.4
70,000	70.5
80,000	73.2
90,000	75.7
100,000	78.1
150,000	87.7
200,000	95.2
250,000	101.5
500,000	123.9

Interpolation of the data in this table for process weights

up to 40,000 pounds per hour (lb/hr) shall be accomplished by the use of the equation $E = 3.12 (p 0.985)$, and interpolation and extrapolation of the data for process weight rates in excess of 40,000 lb/hr shall be accomplished by use of the equation $E = 25.4 (p 0.287)$ where E = rate of emission in lb/hr and P = process weight rate in tons per hour.

(f) Emission Calculations for uncontrolled emissions points; Appropriate emission factors shall be obtained using the PM-10 factors found in the AIRS facility subsystem source classification codes (SCCs) and emission factor listing criteria pollutants (EPA-450/4-90-003), or a 70% reduction adjustment from the appropriate AP-42 table factors. Reduction Sources; [Sieve analysis, Table 16, Midwest Research Institute Report "Potential Dust Emissions From Grain Elevators", Kansas City, MO. May, 1974..... AP-42 Appendices 11-2....Chapter 3, Estimates of Atmospheric Dispersion, Bruce Turner, EPA Research, Triangle Park, NC "Prevention of Dust Explosions In Grain Elevators- An Achievable Goal" United States Department of Agriculture, Task Force Report..... "Impact Study of Prohibiting Recombining Recirculation Dust at Export Elevators" Department of Agricultural Engineering, Texas A&M University.

(g) Emission calculations for controlled emission points; shall be calculated as above, times the efficiency of the control equipment.

Emissions shall be calculated from the following facility sources:

- i] receiving
- ii] load-out
- iii] exhausts from pneumatic dust control
- iiii] any non- enclosed transition that not entirely enclosed within the facility, or transitions that are exposed directly to the atmosphere.

Enclosed grain handling equipment that is without pneumatic dust control equipment shall not be considered a point subject to emission calculations.

252:100-24-4. Emission Control Equipment

Emission Control Equipment must meet the standards set under the Federal New Source Performance Standards, or as mandated by other Federal requirements for major sources. Additionally controls may be required to circumvent nuisance emissions which effect surrounding people or establishments.

252:100-24-5. Fugitive Dust Controls.

All facilities will take reasonable precautions to

prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

AIR QUALITY COUNCIL
Minutes
Special Meeting March 3, 1994
Wheeler Brothers Grain Facilities
Watonga and Kingfisher, Oklahoma
1:00 p.m.

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Gary A. Kilpatrick
Kathryn Hinkle
Meribeth Slagell
Bill Fishback
Michael Hughes

Staff Present

Larry Byrum
Doyle McWhirter
Larry Trent
Deborah Perry
Myrna Bruce

Council Members Absent

Mary Tillman
Pierre Taron
Larry Canter

Guests Present

(See attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the Wheeler Brothers Facility in Watonga, OK and at their Facility in Kingfisher, Ok.

Call to Order - Mr. Breisch called the meeting to order and roll call was taken. All members were present except Ms. Tillman, Dr. Canter, and Mayor Taron. Mr. Breisch stated that after the presentations, the Council would tour the facility, then go to Kingfisher and would automatically adjourn in Kingfisher.

Rick Treman, Safety Director, W. B. Johnston Company, introduced Ronald T. Noyes, P.E., Extension Agricultural Engineer, Agricultural Engineering and Biosystems, Oklahoma State University, who presented slides of the Watonga facility and explained what would be seen during the tour. Phil Kenkel, Extension Economist, Agricultural Economist, Oklahoma State University, presented a handout written in "layman's" terms and answered questions from the Council. Then Mr. Treman presented diagrams of the structure. The Council and guests were taken on the tour of the facility.

Individual questions were answered by guides furnished by the Grain and Feed Association.

The Tour then left Watonga and visited the Wheeler Brothers Grain Company in Kingfisher where demonstrations of the processes were witnessed.

Next Meeting - The next regular meeting will be held March 8 at the Lincoln Plaza Office Complex BROWN ROOM, Oklahoma City.

 4/12/94

William B. Breisch, Chairman
Air Quality Council



Larry D. Byrum, Director
Air Quality Division

March 2, 1994

Please sign-in for official Minutes
Thank you!

Mike Cassidy	Cassidy Grain Co.	Frederick, Ok.
Jim - Leroy	DEQ - Air Quality	
Doyle McWhorter	DEQ - Air Quality	
KATHY J. MARTIN	Customer Assistance, DEQ	271-1400
Alvin Nona	Small Business Assistance Program	271-1400
Kyle Arthur	Small Bus. Assist. Prog., DEQ	271-1400
Tommy Ford	ODEQ Air Qual.	- 271-5220
John Dangler	OG FA	Enid, OK 233-152
Mike Mahoney	Wheeler Bros. Grain Co.	Watonga, OK
Dan Kent	Triangle Coop Serv. Co.	Enid, OK
DAVID FAIRBANKS	STILLWATER MILLING CO.	STILLWATER, OK.
Carl Roggaw	OKLA. COOP COUNCIL	ENID, OK
RONALD T. NOYES	OKLAHOMA STATE UNIV.	STILLWATER, OK.
BUTCH MEIBERGEN	W.B. JOHNSTON GRAIN CO.	ENID, OK.
Edward Smith	McNeill Grain Co.	THOMAS OK

Watonga, OK
Wheeler Brothers Grain

6049

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: **March 8, 1994, 1:00 p.m.**
Lincoln Plaza Office Complex
BROWN ROOM
4545 North Lincoln Blvd.
Oklahoma City, OK

MEETING

- | | | |
|----|---|------------------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Public Rulemaking Hearings | |
| A. | OAC 252:003
Procedures of the Environmental Councils
[PERMANENT RULES] | Doughty |
| B. | Discussion by Council/Public | |
| C. | Possible action by Council to recommend
to DEQ Board for Adoption | |
| D. | OAC 252:100-24
Control of Emissions From Grain
Handling and Processing Industry | McWhirter |
| E. | Discussion by the Council/Public | |
| F. | Possible action by Council to recommend
to DEQ Board for Adoption | |
| 4. | Approval of Minutes of January 11, 1994 | Chairman |
| 5. | New Business
Discussion/consideration of
subjects/business arising within the past 24 hours. | Chairman |
| 6. | ADJOURNMENT
Next meeting - April 12, 1994
Tulsa City-County Health Dept.
AUDITORIUM | Chairman |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

6051

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: **March 8, 1994, 9:30 a.m.**
Lincoln Plaza Office Complex
BROWN ROOM
4545 North Lincoln Blvd.
Oklahoma City, OK

BRIEFING

1. **Call to Order** **Chairman**

2. **Division Director's Report - (Briefing)** **Director**

 Informational - An update of current events
 and AQS activities
 - A. Title V status - contractor, etc.
 - B. ODEQ Update
 - C. Other
 - D. Discussion by Council/Public

3. **Public Rulemaking Hearings - (Briefing)**
 - A. OAC 252:003 **Doughty**
 Procedures of the Environmental Councils

 - B. Discussion by Council/Public

 - C. OAC 252:100-24 **McWhirter**
 Control of Emissions From the Grain
 Handling and Processing Industry

 - D. Discussion by the Council/Public

4. **Adjournment**
 The meeting reconvenes at 1:00 P.M.

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

February 23, 1994

MEMORANDUM

TO: AIR QUALITY COUNCIL

FROM: *DM* Doyle McWhirter

SUBJECT: Proposed Subchapter 24, Control of Emissions From Grain Elevators

To understand the intent of proposed Subchapter 24 it should be understood that existing Subchapters 25, 27 and 29 have been applicable to the grain elevator industry since January 1973 and are now part of the SIP. Application of these rules has been slow due to limited AQD staff, except for complaint investigations. Historically, determination of compliance for grain elevators has been difficult because of emission factors reliability, expense of stack test, etc. However, with the recent passage of CAAA 90 and 40 CFR Part 70 permitting requirements, many of the Oklahoma grain elevators will be defined as Part 70 major sources. The intent of the proposed Subchapter 24 is to allow for:

1. Easier and less expensive determination of compliance status by elevator managers and AQD staff;
2. Establishment of enforceable limitations for grain elevators to avoid Part 70 permitting requirements;
3. Increasing VE allowable from 20% to 30% opacity for loading and unloading processes.

Attached is a copy of proposed OAC 252 100-24, entitled Control of Emissions from Grain Elevators. Subchapter 24 has been drafted to be very similar to the recently adopted Subchapter 23 - Control of Emissions from Cotton Gins. Proposed Subchapter 24 is a technology/performance standard-based and industry-specific rule. One of the major advantages of this rule is that grain elevator operators who are VE certified can make self determinations of their own compliance status. This should result in more facilities being able to maintain compliance status. Compliance with proposed Subchapter 24 exempts grain elevators from Subchapters 25, 27 and 29. However, it is not a relaxation of any compliance requirement except that section 24-4(a)(3)(A) increases allowable VEs from 20% to 30% opacity for loading and unloading processes. This change was made as a result of grain elevator industry representatives having indicated that the 20% opacity limitation for these processes was too restrictive and often could not be complied with.

The AQD staff has participated in several meetings and discussions with grain elevator representatives, as depicted in the attached chronology, in drafting proposed Subchapter 24. Since the January 1994 Council meeting it has been concluded that the various feed manufacturing, seed cleaning and milling facilities proposed in previous drafts submitted by the Grain and Feed Association should not be included in this rule.

Most feed manufacturing and flour milling operations are well controlled since particulate emissions equate to valuable product and Part 70 permitting requirements to these facilities is probable. These types of facilities utilize various processes which are designed for specific products. Therefore, developing a generic rule which would encompass all possible variations of these facilities would be far more complex than time allows. Also, nearly all discussions with the Feed and Grain Industry regarding proposed Subchapter 24 have centered around issues associated with the grain elevation and storage processes.

Section 24-5 Emission Control Equipment establishes enforceable limitations and requires certification of these limitations. This procedure provides the grain industry the opportunity to avoid Part 70 permitting requirements without the necessity of obtaining a permit. The certification is necessary to allow for review to assure that Part 70 permitting requirements have been avoided. There are situations where Part 70 permitting cannot or may not have been avoided, For instance, a 100 ton/yr emitted (controlled) will be a Part 70 source.

In conclusion, copies of materials which are pertinent to consideration of Subchapter 24 are included for your review. It is appropriate also to point out that proposed Subchapter 24 does not involve permit fees. The topic of fee is addressed in Subchapter 7 which is now an emergency rule. The only way that Subchapter 24 can affect fees is by changing an elevator from a Part 70 major source to State minor source.

The AQD staff while drafting this rule has received input from the affected industry, neighboring states and EPA has accomplished literature research. The staff feels that an appropriate draft proposal is being provided which does not result in a relaxation except for 24-4 (a) (3) (A) of currently existing applicable state and SIP rules. This proposal contains several advantages for the affected industry, one of which is the potential to avoid Part 70 permitting requirement.

SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

252:100-24-1 Purpose

The purpose of this rule is to control emissions from grain elevators, which elevate and store grains.

252:100-24-2 Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Grain elevator" means any commercial plant or installation at which grain is loaded, handled, stored, treated, or otherwise processed.

"Grain elevator site" means the area upon which a grain elevator is located, and all contiguous or adjacent properties having common ownership or control, which have the same first two digits of their SIC code.

"Fabric filter" means any control device or system in which particulate matter is collected within a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 99%.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration (refers to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion). A 2D-2D cyclone would exhibit a cylinder length of 2 X D and a cone length of 2 X D. A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 X D. These cyclones shall be capable of demonstrating collection efficiencies of 90% (2D-2D) and 95% (1D-3D) for particulate matter.

"Leg capacity" means the maximum process rate for which the elevating portion of a grain elevator is designed. When multiple legs are present only those which could operate simultaneously would contribute to the overall maximum leg capacity.

"Medium efficiency cyclone" means any cyclone type collector of the 1D-1D configuration (refers to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion). A 1D-1D cyclone would exhibit a cylinder of 1 X D and a cone length of 1 X D. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Non-pressurized vents or emission points" means any vent or opening which allows the flow of air and/or contaminants at atmospheric pressure without the use of mechanically-induced air flow.

252:100-24-3 General provisions; applicability

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified and existing grain elevators in the state of Oklahoma.

(1) Grain elevators in compliance with OAC 252:100-25, 252:100-27 and 252:100-29 are not required to comply with this subchapter.

(2) Grain elevators in compliance with this subchapter are exempt from the requirements of OAC 252:100-25, 252:100-27 and 252:100-29.

(b) **Permits required.** In addition to the requirements of this Subchapter, each new or modified grain elevator shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) **Air toxics emissions.** Grain elevators which emit toxic air pollutants above the de minimus levels specified in 252:100-41 are

subject to all applicable requirements contained therein.

(d) **Recordkeeping.** The owner or operator of a grain elevator shall maintain a daily log documenting the commodity throughput and hours of operation. These records shall be maintained for at least two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) **Test methods.** Visible emissions (opacity) testing shall be conducted using EPA reference Method 9 contained in 40 CFR, Part 60, Appendix A and be performed by an individual possessing current certification.

(f) **Determination of emissions.** Emissions from grain elevators shall be based on the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emissions calculations using approved published emissions factors or other methods approved by the Air Quality Division.

252:100-24-4 Smoke, visible emissions and particulates

(a) **Visible emissions limit.**

(1) **Emissions limit.** No person shall cause, suffer, allow or permit discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade or density greater than twenty (20) percent equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24-hour period.

(2) **Alternative emissions limit.** The opacity limits, as required under 252:100-24-4(a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.

(3) **Exceptions.** Exceptions to the requirements described in 252:100-24-4(a)(1) are provided as follows:

(A) emissions from loading (shipping) and unloading (receiving) shall be limited to no greater than thirty (30) percent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24-hour period.

(B) emissions from non-pressurized vents or emission points shall either be exhausted through the required control equipment described in 252:100-24-5 or shall be limited to no greater than ten (10) percent opacity at any time.

(b) **PM-10 emissions limit.** No grain elevator shall impact the ambient air quality in such a manner as to violate the primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24-hour average or any

other ambient air standard established by OAC 252:100-3.

252:100-24-5 Emission control equipment

(a) **Minimum requirements.** Grain elevators shall achieve a minimum collection efficiency and not exceed the maximum daily throughput or annual hours of operation based upon the maximum leg capacity as stipulated in Table I.

TABLE I: REQUIRED CONTROL EQUIPMENT FOR GRAIN ELEVATORS

Maximum Leg Capacity (bushels/hour)	Minimum Collection Efficiency	Maximum Daily Throughput (bushels)	Maximum Annual Hours of Operation
5,000	75% medium efficiency cyclone or demonstrated equivalent efficiency	120,000	1600
10,000	90% high efficiency cyclone (2D-2D) or demonstrated equivalent efficiency	240,000	2000
10,000	95% high efficiency cyclone (1D-3D) or demonstrated equivalent efficiency	240,000	4000
15,000	90% high efficiency cyclone (2D-2D) or demonstrated equivalent efficiency	360,000	1300
15,000	95% high efficiency cyclone (1D-3D) or demonstrated equivalent efficiency	360,000	2600
15,000	99% fabric filter or demonstrated equivalent efficiency	360,000	8760

(b) **Certification.** Each existing grain elevator in the state of Oklahoma shall provide written certification of compliance with Table I by September 1, 1994. Annual certification of hours of operation and the operation and proper maintenance of required control equipment shall be completed by the owner, operator or other designated responsible party

and submitted as part of the annual emissions inventory reporting form.

(c) **Minor source.** Except for nonattainment areas, facilities certifying compliance with this subchapter and having no greater than 1,750,000 bushels per year throughput shall not be considered a major source for a regulated pollutant for purposes of Title V.

252:100-24-6 Fugitive dust controls

(a) For control of fugitive dust, no person shall cause or permit the handling, transporting or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being airborne, or windborne, or to operate or maintain or to cause to be operated or maintained, any grain elevator site, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any material or substance likely to be scattered by the wind or air, or susceptible to being windborne or airborne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.

(b) No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

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AIR QUALITY COUNCIL BRIEFING NOTES

March 8, 1994
Lincoln Plaza Office Complex
Brown Room
1:00 p.m.

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Bill Fishback
Kathryn Hinkle
Meribeth Slagell

Council Members Absent

Gary Kilpatrick
Larry Canter
Michael Hughes
Mary Tillman
Mayor Taron

Staff Present

Larry Byrum
Doyle McWhirter
Dennis Doughty
Joyce Sheedy
Scott Thomas
Deborah Perry
Don Whitney
Myrna Bruce

Guests Present

(see attached list)

Due to extreme weather conditions, a quorum was not present to hold the Public Hearing and Meeting. After waiting for others to arrive, the Briefing began at 10:15 a.m. with those present. Council members absent were: Mr. Kilpatrick, Dr. Canter, Dr. Hughes, Ms. Tillman, and Mayor Taron.

Mr. Byrum gave an update of Title V status, a report on the workload analysis contractor, I and M activities, and current legislation. He presented the Council with a handout entitled "Cost Effectiveness of VOC Control Strategies".

Item 3 (A) on the Briefing Agenda (OAC 252:003 *Procedures of the Environmental Councils*, was not discussed or acted upon due to the lack of a quorum.

The absence of a quorum presented a significant dilemma for those persons who had come prepared to speak on behalf of the grain industry. Indications were that several had traveled considerable distance and some had flown from out of state in spite of the adverse weather conditions. It was made clear that the Council could take no action, and in fact the gathering could not even be considered a meeting. The visitors were further instructed that they would need to repeat their presentations when the public

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rulemaking hearing was held. However, in deference to their obvious desire to speak, they were allowed to make their presentations to the audience. The presentations were recorded, and will be available for distribution to the Council for future reference. Copies of all handouts were mailed to those Council members who were not present.

Mr. Doyle McWhirter discussed the staff recommendations for regulating emissions from grain elevators; Mr. Byrum then called upon Joe N. Hampton, Executive Vice-President, Oklahoma Grain & Feed Association. Mr. Hampton recognized audience members Phil Kenkel, Extension Economist, Agricultural Economist, Oklahoma State University; and Ronald T. Noyes, P.E., Extension Agricultural Engineer, Biosystems & Agricultural Engineering Department, Oklahoma State University. Handouts entitled "A Review and Critique of MRI Final Report, Potential Dust Emissions from a Grain Elevator in Kansas City, Missouri by Dr. Noyes and "Grain Elevators and Grain Dust Management Options" by Phil Kenkel and Ronald T. Noyes were distributed to the Staff and Council.

Thomas C. O'Connor, Director of Technical Services, National Grain and Feed Association spoke and distributed a handout entitled "Worker Exposure to Dust in the Grain Industry"; a research project sponsored by the National Grain and Feed Association, Washington, DC. Mr. O'Connor also left copies of his letter to Mr. Dallas Safriet, Environmental Protection Agency, Emissions Inventory Branch, Research Triangle Park, North Carolina.

Dr. Calvin B. Parnell, Jr., P.E., Professor, Department of Agricultural Engineering, Texas A&M University, College Station, Texas, and former member of the Texas Air Control Board, made a presentation on the subject of dust emissions from grain elevators and distributed a handout entitled "Testimony".

Mr. Rick Treeman, Safety Director, W.B. Johnston Company, thanked the Council for touring the Watonga and Kingfisher facilities and for hearing the presentations from the grain and feed industry. He referred to a handout entitled "Sieve Analysis of Collected Dust from a Terminal Grain Elevator". He also referred to three handouts too large to reproduce for each of the Council members: "Prevention of Dust Explosion in Grain Elevators--an Achievable Goal from the United States Department of Agriculture, Office of the Special Coordinator for Grain Elevator Safety and Security"; "Potential Dust Emissions from a Grain Elevator in Kansas City, Missouri, Final Report prepared for EPA by Midwest Research Institute"; and "Impact Study of Prohibiting Recombining Recirculation Dust at Export Elevators" provided by Department of Agricultural Engineering, Texas A & M University. These are filed at the Air Quality Division for viewing upon request. Copies of the Grain and Feed Industries' recommendation for subchapter 24 were also handed out.

Next Meeting - The next regular meeting will be held April 12, 1994, at the Tulsa City-County Health Department Auditorium.

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

March 8, 1994

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Joe Neal Hampton	OGFA	ENID, OK PO 1747	Yes
2 DAN KENT	TCSC	PO Box 1129 Enid, OK	No
3 Ron Noyes	OSU	224 AG HALL	No (Answers Questions)
4 Phil Kentel	OSU	STILLWATER, OK 512 Ag Hall	No (" ")
5 Calvin Pennel	TAMU	Dept of Ag Engineering TAMU	YES
6 Tom O'Connor	NGFA	1201 NEW YORK AVE NW SUITE 230, WASH DC	YES
7 Anna Clapper	OLCA	12104 CAMP/ATOP OKC 73120	Yes
8 Rick Tretens	OGFA	Box 1307 Enid Ok 73702	"
9 Butel Melbyer	"	" " "	NO
10 JOEL RICH	SINCLAIR OIL	POB 970, TULSA TH101	NO
11 Dean Anderson	Farmers Coop	Okla	No
12 Rod Oxford	Holliman Langhoke	Tulsa, OK	NO
13 DAVID FAIRBANKS	STILLWATER MILLING	STILLWATER, OK	NO
13 Mike Mahoney	Wheeler Bros Grain	Watonga OK	
14 Ray Bishop	TCCHD	4166 E. 15 th St. Tulsa	No
15 FRANK CONDON	EQ BOARD		
16 Lee Walsh	EQ BOARD		
17 RICK ROGERS	WESTERN FARMERS ELECTRIC COOP	BOX 429 ANADARKO	NO COM.
18 DO TWIE	GOODPASTURE INC	BOX 912 BROWNFIELD	
19 Chen Yang	ACOG	6600 N. Harney place Sp 200, OKC OK 73116	TX 7-2511 NO

20	N. Pai	ACOG	6600 N Haney	No
21	Alan Dove	Weston Gas	14000 Quail Springs Parkway	No
22	Alvin Ning	ODEQ	SBAP	No
23	KATHY J. MARTIN	ODEQ/CAP		No
24	Kyle Arthur	ODEQ/SBAP		No
25	Arlio Goferth	Clyde Coop		NO
26	Bill Butler	Clyde Co-op	Medford, OR	✓
27	Joe Hise	FAKLAND	IND.	-
28	Curt Keggus	Loop	COUNCIL	NO
29	DAVE Schmidt	Charles Machine Wks	Perry	OK NO
30	Delores King	ODEQ	AAD	
31	Ron Inlow	RSA		No
32	John Coakley	EQ	Board	No
33	Ed Smith	McNeil	Drain	NO
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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: **April 12, 1994, 9:30 a.m.**
Tulsa City-County Health Department
AUDITORIUM
4616 East 15th Street
Tulsa, Oklahoma

BRIEFING

- | | |
|---|------------------|
| 1. Call to Order | Chairman |
| 2. Division Director's Report
Informational - An update of current events
and AQS activities | Director |
| A. Title V status - Contractor -
 Legislation - Staffing - Other | |
| 1. Discussion by Council/Public | |
| 3. Public Rulemaking Hearings - (Briefing) | |
| A. OAC 252:003
Procedures of the Environmental Councils | Doughty |
| 1. Discussion by Council/Public | |
| B. OAC 252:100-24
Control of Emissions From the Grain
Handling and Processing Industry | McWhirter |
| 1. Discussion by the Council/Public | |
| 6. Adjournment
The meeting reconvenes at 1:00 P.M. | |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: **April 12, 1994, 1:00 p.m.**
Tulsa City-County Health Department
AUDITORIUM
4616 East 15th Street
Tulsa, Oklahoma

HEARING/MEETING

1. **Call to Order** Chairman
2. **Roll Call** Secretary
3. **Public Rulemaking Hearings**
 - A. OAC 252:003 Doughty
 Procedures of the Environmental Councils
 [PERMANENT RULES]
 1. Discussion by Council/Public
 2. Possible action by Council to recommend
 to DEQ Board for Adoption
 - B. OAC 252:100-24 McWhirter
 Control of Emissions From Grain
 Handling and Processing Industry
 1. Discussion by the Council/Public
 2. Possible action by Council to recommend
 to DEQ Board for Adoption
4. **Approval of Minutes of January 11, 1994** Chairman
 Approval of Minutes of March 3, 1994
5. **New Business** Chairman
 Discussion/consideration of subjects/business
 arising within the past 24 hours.
6. **ADJOURNMENT** Chairman
 Next meeting - June 14, 1994
 Lincoln Plaza Office Complex
 BROWN ROOM

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

AIR QUALITY COUNCIL

Minutes

April 12, 1994, 1:00 P.M.

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
TULSA CITY-COUNTY HEALTH DEPARTMENT AUDITORIUM
4616 EAST 15th STREET
TULSA, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Michael Hughes
Gary A. Kilpatrick
Pierre Taron
Kathryn Hinkle
Meribeth Slagell
Bill Fishback
Mary Tillman

Staff Present

Larry Byrum
Doyle McWhirter
Dennis Doughty
Scott Thomas
Deborah Perry
Myrna Bruce

Council Members Absent

Larry Canter

Guests Present

(see attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance to the meeting room.

Call to Order - Mr. Breisch called the meeting to order and roll call was taken as follows: Dr. Canter - absent; Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Approval of Minutes - Minutes to the January 11, 1994 and the March 3, 1994 meeting were presented. Motion to approve was made by Dr. Hughes and second made by Mr. Kilpatrick. Roll call vote as follows: Dr. Canter - absent; Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell -absent for this vote; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Procedures of the Environmental Councils - OAC 252:003 - As protocol officer, Mr. Larry Byrum convened the Hearing and called upon Mr. Dennis Doughty to give the staff position on this rule.

Mr. Doughty noted that this Procedural rule had previously been before the Council and that the Council had passed it once as an

Emergency Rule. Mr. Doughty clarified some points brought up during the Briefing including a concern regarding the passing of non-binding resolutions by other Councils. Mr. Doughty suggested new language "This paragraph shall not be construed to limit the authority of the Air Quality Council to pass binding resolutions under the Oklahoma Clean Air Act".

Concerning rulemaking hearings before the Council, Mr. Doughty suggested that language be added to the second sentence as follows: "Hearings before the Council shall be conducted by the Chair or the Chair's designee or at the request of the Council by Hearing Officer recommended by the Department". The Council shall also have the option to appoint Hearing Officers on their own motion." This language is in conformance with authority under the Oklahoma Clean Air Act.

The staff recommended that the Council recommend these changes to the Department of Environmental Quality Board.

Mr. Kilpatrick moved that the Council pass the resolution as proposed and amended by Mr. Doughty. Second by Dr. Hughes. Discussion was had and the Council voted as follows: Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Mr. Breisch pointed out that there was currently a motion on the table to adopt these procedures as corrected. Gary Kilpatrick amended his motion to agree with the second correction with a second by Michael Hughes. Roll was called as follows: Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Mr. Kilpatrick advised that the prior vote was to amend the original motion and made motion to vote on the original motion with second by Michael Hughes. Roll call as follows: Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

OAC 252:100-24 CONTROL OF EMISSIONS FROM GRAIN HANDLING AND PROCESSING INDUSTRY

As protocol officer Larry Byrum convened the Hearing and called on Mr. Doyle McWhirter to give staff position.

Mr. McWhirter stated that the Department and the Oklahoma Grain and Feed Association had several meetings but were unable to agree upon a mutually acceptable rule; therefore, the Department withdrew the proposed Subchapter 24 and requested that the Air Quality Council take no action concerning this matter.

With no questions of Mr. McWhirter from the Council or the audience, Mr. Byrum called upon those wishing to comment.

Mr. Steve Poag, Poag Grain, Inc., declined comment.

Mr. Curt Roggow, Oklahoma Ag Co-op Council also declined.

Mr. Dan Kent, Triangle Cooperative Service Company, declined.

Mr. Lew Meibergen, Johnston Enterprises, requested that in lieu of the Department's recommendation to withdraw, that the Council exempt the grain industry from these standards until such time of a mutual agreement. With the rules that are currently in place, he was concerned about what would happen to the grain dealers the day harvest starts.

Gary Kilpatrick questioned the immediate concern for the Council to pass a regulation which would affect this harvest and pointed out to Mr. Meibergen that nothing the Council does today will change what happens this harvest. Mr. Kilpatrick pointed out that an exemption does not take effect immediately because of all the regulatory processes it must go through.

Mr. Meibergen was concerned that if the current rule was enforced, the grain handlers could not comply without spending in excess of one million dollars.

Mr. Fishback asked Mr. McWhirter whether fugitive emissions and point source emissions through a stack or functional equivalent opening are subject to different opacity rules or the same opacity rules. Mr. McWhirter answered this inquiry stating that fugitive dust is not subject to opacity, but fugitive process emissions are subject to an opacity rule. Mr. McWhirter explained that the position taken by DEQ and EPA is that the dust from grain loading and unloading is considered a fugitive process emission. Mr. McWhirter stated that an example of fugitive dust would be dust that was generated by a vehicle or the wind blowing dust on the yard; and process emissions would be emissions that can be reasonably passed through a stack chimney or other functional means attributable to processing.

Mr. Meibergen was hopeful that an exemption could be in effect until such time that a committee could meet with the industry and the Department and a mutual agreement could be reached.

Mr. Fishback pointed out that except for Title V regulations, the industry would not have a specific concern at this time because the inability to meet opacity and the inability to meet process weight limitations goes back many years. Mr. Hasselwander added that the basis of the urgency in resolving this now was having to file the Title V application and there was no advantage in waiting. He expressed that Oklahoma could be a leader in filing a plan that was in the best interest to all.

Mr. Mike Mahoney, Oklahoma Grain and Feed Association, commented that the committee has worked on the proposal at least two days per week for many weeks and was drained; therefore, he would like to get something decided. He wanted to know how the DEQ staff could be sure that Region VI was going to kick this plan out when no other state's plan had been kicked out or accepted. Mr. Byrum pointed out that DEQ has sent copies of both proposals to EPA for comment. He expressed that EPA has stated in telephone conversations that neither proposal is approvable; but had Friday's agreement with the grain industry stood, staff was going to try to send that package to EPA. Mr. Byrum stated that staff has sent a copy of the rule that is in this packet to EPA for comment and has received their comments. Mr. Byrum pointed out that EPA was present at a previous meeting and has commented on the rule in public session, and will continue to make comments on the revisions.

Mr. Mahoney stated that industry would appreciate it if the Council would submit this plan to EPA for their decision as Texas did in March, 1993, and that the Texas plan has not been approved or disapproved. Mr. Mahoney advised that the reason industry turned down Friday's proposal was that Mr. Byrum told them that every elevator in the state of Oklahoma would have to file a Title V permit; and that industry has been working since December of 1991 to stay out of Title V. He expressed that in industry's proposal, there is a certification program to keep all out Title V if their emissions are below 100 tons.

Mr. Byrum stated that the objections are that EPA sees both rules as a relaxation of the SIP relative to opacity process weight and other problems and that if EPA adopts the 70/30 split, a precedent would be set nationwide.

Dr. Parnell said that the process of using .3 lbs for unloading and loadout is not in the SIP, therefore, EPA does not have the option to disallow or disapprove. Dr. Parnell stated that he believes that EPA sees this as only a Title V issue; but from his perspective it is also a grain dust explosion issue. Dr. Parnell stated he felt that the Council can win this with EPA Region VI because of the grain dust explosion problem.

Mr. Fishback asked the staff if the Council has to force this rule to be part of our SIP or can it be a work practice like Texas where EPA does not have the right to disapprove.

Mr. Byrum pointed out that each state controls air pollution differently and that Texas uses the nuisance rule per Dr. Parnell's statement. He also said that every grain elevator in Texas is permitted and that if all of Oklahoma's grain elevators were permitted, we probably would not be here today.

Dr. Parnell remarked that there were a number of elevators in Texas that are grandfathered.

Mr. Byrum noted that there is a different way that things are

handled from state to state and that there are at least 5 or 6 types of rules that are applicable to grain elevators.

Mr. Fishback stated that Mr. Kilpatrick was correct in stating that the reason Oklahoma cannot do what Texas is doing is because the rules currently applicable to the grain industry are in the approved SIP.

Mr. Byrum remarked that at the point the DEQ Board adopts the rule and it becomes effective, the State is bound by the rule, EPA is not and that EPA will continue to enforce the approved SIP. Mr. Byrum pointed out that the SIP will be different than the new rule the State has in place.

Butch Meiburgen with Johnston Grain stated that for three years the grain industry has been told to present a grain specific subchapter for acceptance as a change to the SIP and now it is not going to be presented as a change to the SIP. He related that industry has been asked to provide the best available technology and in lieu of no other technology available he did not know why this is not debatable with EPA or why industry can't prove its point with EPA.

Council reminded industry that Mr. Byrum said he was willing to present this to EPA as a SIP revision, but that he had indicated the chances were high that it would be disapproved. Once it was disapproved, the possibility of enforcement action exists and that if the industry were willing to accept that risk, it would be reasonable to pursue it directly with EPA.

Mr. Kilpatrick expressed that there were other issues that still have not been worked out such as whether the rule applies to or does not apply to just grain elevators. He stated that we can't arbitrarily take an industry and not apply our opacity rule to that industry. Mr. Kilpatrick stated that he would not vote to accept what the grain industry has put on the table without straightening out all the issues and understanding the ramifications. He stressed that Council relies upon industry and staff together to come up with a proposal that jointly can be justified and submitted to EPA and whether we think EPA is going to pass the rule or not, the Council must be sure it is the best thing for all.

Mr. Byrum mentioned that if opacity requirements were relaxed for one industry without justification, then every other industry in the State will ask for their opacity requirements to be relaxed.

Mr. Mahoney stated that the grain industry had no problem with the National Clean Air Act and the regulations, but does have a problem with the existing State code. He stated that if there is any fairness left in this world, we should not be held to something that was done in the early 70's that we are all out of compliance with every day and that we ought to be able to change the SIP plan and bring things up to the 90's.

Mr. Kilpatrick stated he did not think just passing what was on the

table was the right way for this to be handled because it will get disapproved by EPA. He pointed out that Council has gone all the way to the National EPA and won with industry in the past but it was done because we had our facts together and knew it was the best thing for the industry and for the people of Oklahoma. He expressed that we were not anywhere near that on this regulation.

Mr. Mahoney said that the way the process has been explained to industry by Mr. Byrum and Mr. McWhirter was that if EPA kicks it back we have a time period to come to the Council and get the plan back up to specs. He stated that they are just asking for that chance. Mr. Byrum said that EPA generally gives a period of time to work on a rule, but if you are in noncompliance, there is no grace period.

Ms. Tillman stated that the Council does not have enough information to make a decision and as the Chair suggested, maybe we should start a committee to assist staff and industry in coming to a conclusion.

Dr. Hughes added that the Council was sympathetic to the industry's plight and has tried to listen and understand all sides of the issue. He entertained an idea of establishing a working committee within the Council, grain industry and staff.

Mr. Phil Kenkel, Department of Ag Economics OSU commented about the OSU Shrink Study or the Mass Balance Study. He stated that there was not enough time for a study before the last Council meeting, as near full bins were needed but that OSU is still interested in providing unbiased information. Mr. Byrum advised that the staff is still interested in seeing this study performed.

Mr. Rick Treeman asked for the presentation made by Tom O'Connors at the March 8 meeting be entered into the record. This was agreed to by Mr. Doughty. Mr. Treeman also questioned if the SIP could be changed to a 20% opacity or on a process weight to which Mr. Byrum said that we can't just unilaterally relax the SIP. Mr. Treeman said he understood the need for justification for other industries, but wanted the Council to understand that other industries such as coal, rock, wood, etc. can add water for control; but the grain industry cannot because of Federal Grain Inspection Service rules as water adds weight to the grain.

Dr. Parnell, OGFA, stated that EPA is not all powerful and felt Oklahoma could take them on and win. He also commended the Council on the idea of having Council become involved in the mediatory process to come up with something that will be beneficial to the citizens and the industry of the State.

Mr. Joe Neal Hampton thanked the Chairman for the idea of the Council working with staff and industry.

Ms. Lisa Rodgers, Program Director of the American Lung Association of Green Country, Oklahoma read testimonials from Martin H. Welch,

M.D., Professor of Medicine, Pulmonary Disease and Critical Care Section, University of Oklahoma Health Sciences Center; and from Mrs. Anna Clapper. Both were presented for the record.

There was much discussion with Dr. Kenneth R. Hart, OU College of Medicine, regarding safety in the workplace vs. exposure to the general public.

With no other comments, Mr. Breisch pointed out several possible actions that could be taken. He indicated that the information should be in presentable form for the next meeting and requested a Council committee to work with industry and staff. Those from the Council volunteering for this committee were Mr. Fishback, Ms. Slagell, Dr. Hughes, Mr. Kilpatrick with Mr. Byrum to monitor the meetings. Mr. Breisch invited all Council members to attend these meetings but asked for coordination as to not have a quorum.

Ms. Tillman made a motion to continue the hearing until the next regular meeting which is June 14. Second was made by Dr. Hughes and roll call was taken as follows: Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

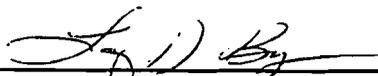
Other Business - None.

Next Meeting - The next regular meeting will be held June 14 at the Lincoln Plaza Office Complex BROWN ROOM, Oklahoma City.

Meeting adjourned with a unanimous roll call vote.

 8/9/84

William B. Breisch, Chairman
Air Quality Council



Larry D. Byrum, Director
Air Quality Division

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AIR QUALITY COUNCIL

Public Hearing and Meeting Attendance Record

APRIL 12, 1994

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	Lee Neuberg	Portland	Portland, ME	YES
2	John Smith	agribiz		NO
3	Keith Rickard	Sentinel Coop		NO
4	Jimmy Chandler	Sentinel Coop		NO
5	Jim P. Allen	Cooperative Extension Service		NO
6	Walter Williams	Farmer Dip		NO
7	Phil Kentel	OSU		NO
8	Jim Van Soudt	KSA		NO
9	Paul D. Dorn	Agribiz		NO
10	Ray Harsanyi	Tennessie		NO
11	Richard Clapham	Wakita		NO
12	Tom M. Smith	TEXAS		NO
13	DAVID FAIRBANKS	STILLWATER MILKING CO		NO
13	FRANK GIBSON	DEER BOARD		NO
14	Ed Carter	Rocky Coop		NO
15	Bob SATTRE	NEWKirk Coop		NO
16	Dan Kent	Triangle Coop Serv. Co.		YES
17	Gene Warnock	Kremlin Coop		NO
18	Kenneth R. Hest	Oklahoma University		YES
19	Butch Merluzen	OGFA		YES

20	RICK TREEMAN	OLFA	YES
21	JOE HAMPTON	OLFA	YES
22	CALVIN PARNELL	TEXAS A&M	YES
23	Mike Cassidy	Cassidy Grain Co	NO
24	Kurt Koggin	OKLA CO-OP COUNCIL	NO
25	Doucy Jolley	Kingfisher Coop	NO
26	Kurt Koggin	Farmers Grain Co	NO
27			NO
28	Steve Poag	POAG GRAIN	NO YES
29	PT Emery	Phillips Pet	NO
30	Wanda Beckman-Morrill	FARMLAND	NO
31	MARK JENNINGS	SHIPLEY, INHOPE	NO
32	Galen Madison	Conoco - Ponca City	NO
33	Sam Star	Blackwell Coop	NO
34	Ray Kirk	Blackwell COOP	NO
35	MIKE MAHONEY	Wheeler Bros Grain	YES
36	Don Thibault	ENVIROTECH, ENID	YES
37	Steve Taylor	Post 33	NO
38	Paul Deffenbaugh	Post 33	NO
39	CLYDE JONES	ZCA	NO
40	Nedine Britton	CASE	YES
41	Jim O'Blak	Tesaco	NO
42	Ray Bishop	TCCHD	NO
43	Dave Cox	TCCHD	NO
44	Nelora Kelley	ODEQ, AQ17	
45	KATHY J. MARTIN	ODEQ/CAP	NO
46	Kyle Arthur	ODEQ/CAP	NO

47	D. Muller	OWF			Yes - Maybe
48	Brent Griebel	Farm Agca			No
49					Statement
50	Rene Koster	TCC HD			
51	David Branecky	OG + E	OKC		No
52	Keith Hodges	OG + E	OG + E		No
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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: **June 14, 1994, 9:30 A.M.**
 Lincoln Plaza Office Complex
 BROWN ROOM
 4545 N. Lincoln Boulevard
 Oklahoma City, OK

BRIEFING

1. **Call to Order** **Chairman**

2. **Division Director's Report** **Director**
 Informational - An update of current events
 and AQS activities
 - A. **Title V status - Contractor -**
 Legislation - Staffing - Other
 1. **Discussion by Council/Public**

3. **Public Rulemaking Hearings - (Briefing)**
 - A. **OAC 252:100-24** **McWhirter**
 Control of Emissions From Grain Elevators
 1. **Discussion by Council/Public**

 - B. **OAC 252:100-31** **Thomas/Sheedy**
 Control of Emissions of Sulfur Compounds
 1. **Discussion by Council/Public**

4. **Adjournment**

 The meeting reconvenes at 1:00 P.M.

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: June 14, 1994, 1:00 P.M.
Lincoln Plaza Office Complex
BROWN ROOM
4545 North Lincoln Boulevard
Oklahoma City, OK

HEARING/MEETING

- | | |
|--|----------------------|
| 1. Call to Order | Chairman |
| 2. Roll Call | Secretary |
| 3. Public Rulemaking Hearings | |
| A. OAC 252:100-24
Control of Emissions From Grain Elevators | McWhirter |
| 1. Discussion by the Council/Public | |
| 2. Possible action by Council to recommend
to DEQ Board for Adoption | |
| B. OAC 252:100-31
Control of Emissions of Sulfur Compounds | Thomas/Sheedy |
| 1. Discussion by Council/Public | |
| 4. Approval of Minutes of April 12, 1994 | Chairman |
| 5. New Business
Discussion/consideration of subjects/business
arising within the past 24 hours. | Chairman |
| 6. ADJOURNMENT
Next meeting - August 9, 1994
Tulsa City County Health Department
AUDITORIUM | Chairman |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

*Submitted version
as corrected 6/11/94
and coded AQC.*

**SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS FROM GRAIN,
FEED OR SEED OPERATIONS.**

- 252:100-24-1. Purpose
- 252:100-24-2. Definitions
- 252:100-24-3. General Provisions; applicability, calculations
- 252:200-24-4. Smoke, Visible Emissions and Particulates
- 252:100-24-5. Emission Control Equipment
- 252:100-24-6. Fugitive Dust Controls
- 252:100-24-7. Applicability to other Agriculture Sources

252:100-24-1. Purpose

The purpose of this rule is to control emissions from facilities that handle, store or process grains. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities. This rule is an interim rule effective until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division to replace the factored emission rates in this interim rule.

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Dust Suppression Additives" means FDA or FGIS-approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division.

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and

shall not be considered a ~~point~~ source subject to emission calculations.

"Existing Grain, Feed, or Seed Operation" means a facility which ~~is~~ was in existence in 1993 and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.

"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any facility or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Operations Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common ~~ownership or~~ control, which have SIC codes with ~~identical~~ the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.

"High Efficiency Cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90% collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D (95% collection efficiency for TSP).

"Hours of Operation" is calculated by dividing the cumulative throughput total for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual

hours) of operation required to process the throughput. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Medium Efficiency Cyclone" means any cyclone type collector less than 2D-2D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D-1D cyclone would exhibit a cylinder of 1 x D and a cone length of 1 x D. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

"Process Emission" means emissions from a process equipment point source.

"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded-out from the facility during any time period of interest divided by two.

(a) Applicability. The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) Permits required. In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operation shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) Air toxics emissions. Grain, feed, or seed operations which emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(d) Record-keeping. The owner or operator of a facility shall maintain a daily log documenting the commodity throughput and hours of operation. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) Visible emissions test. Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification.

(f) Determination of emissions. Emissions from grain, feed, or seed operations shall be based on the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions

factors, or other methods approved by the Air Quality Division. The following factored emissions are allowed by this interim rule only until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division.

For this interim rule, emissions shall be calculated as follows for three classes of emission emissions points:

Class I: Unloading (Receiving) 0.6 lbs/ton
 Loading (Shipping) 0.3 lbs/ton
 Refer to 252:100-24-4 for opacity limits.

Class II: Vents Emission Sources with Control Devices
 AP-42 factor X (1-EFF)
 Refer to 252:100-24-4 for opacity limits.
 EFF means fractional efficiency of control device.

Class III: Uncontrolled Vents
 A. Pressurized - opacity limit only
 B. Non-pressurized - opacity limit only
 Refer to 252:100-24-4 for opacity limits.

252:100-24-4. Smoke, Visible Emissions and Particulates

(a) Visible emissions limit.

(1) Visible emissions limits. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade density greater than twenty percent (20%) equivalent opacity. This requirement shall not apply to smoke or visible

- emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty-four hour period.
- (2) Alternate emissions limit. The (20%) opacity limits, as required under 252:100-24-4 (a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.
- (3) Exceptions. Exceptions to the requirements described in 252:100-24-4 (a) (1) are provided as follows:
- (a) Visible emissions from loading (shipping) shall be no more than sixty-five percent (65%) equivalent opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) equivalent opacity.
- (b) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent ~~20%~~ (20%) opacity at any time.
- (c) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent (10%) opacity at any time.
- (d) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than ten percent (10%) opacity at any time.

252:100-24-5

Emission Control Equipment and Certification

(a) Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) Certification. Each existing grain elevator in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this rule by the Air Quality Council. Annual certification of hours of operation and throughput and the operation and proper maintenance of required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

252:100-24-6

Fugitive Dust Controls

(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow visible emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

AIR QUALITY COUNCIL

Minutes

June 14, 1994

1:00 p.m.

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Larry Canter, Ph.D., Vice Chairman
Gary A. Kilpatrick
Mary Tillman
J.W. (Bill) Fishback
Michael Hughes

Staff Present

Larry Byrum
Doyle McWhirter
Dennis Doughty
Scott Thomas
Myrna Bruce

Council Members Absent

Pierre Taron
Meribeth Slagell
Kathryn Hinkle

Guests Present

(See attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the basement entrance, first floor entrance at the Oklahoma State Department of Health building, the entrance door of the meeting room at the Lincoln Plaza location, and the entrance to the Air Quality Division.

Call to Order - Mr. Breisch called the meeting to order and roll call was taken. Members not in attendance were Ms. Slagell, Ms. Hinkle, and Mayor Taron. Mr. Breisch turned the meeting over to Mr. Byrum, who acted as protocol officer for Public Rulemaking Hearing OAC 252:100-24 Control of Emissions From Grain Elevators.

Mr. Doyle McWhirter presented the staff comments concerning this rule entitled "Particulate Matter Emissions from Grain, Feed, or Seed Operations." Mr. McWhirter advised that a committee made up of Air Quality Division staff members, Air Quality Council members, and Oklahoma grain and feed representatives reached an agreement after having met on three occasions to discuss and draft proposed subchapter 24.

Mr. McWhirter suggested that certain changes discussed in the briefing be added to the rule. The recommended changes are shown as underlined and deleted language in the copy of the rule attached as part of these Minutes. The recommended changes are denoted on pages 2, 5 and 6. With the inclusion of these changes, Mr.

McWhirter recommended the Council forward this rule to the Department of Environmental Quality Board for adoption.

Mr. Breisch entertained a motion to recommend adoption of this rule to the Department of Environmental Quality Board. Mr. Fishback made the motion as stated by Mr. Breisch with second by Ms. Tillman. Roll call as follows: Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - absent; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - absent; Mayor Taron - absent; Ms. Tillman - aye; Mr. Breisch - aye.

Mr. Gary Kilpatrick asked to place in the record a thank you to the industry, to the staff, and to the Council members, particularly Bill Fishback who chaired the committee, for the hard work done to resolve this issue. Dr. Hughes added an appreciation to Doyle McWhirter and Debbie Perry for the amount of emphasis and time devoted to this issue and to all the members of industry who participated and endured Council questioning and for allowing Council members to see the grain operations.

On behalf of the industry, Mr. Joe Hampton, Oklahoma Grain and Feed Association, gave a special thank you to the members of the Council who served on the committee, especially Mr. Fishback, and to members of the staff, especially Doyle and Debbie, for all the work put into this effort.

The next item on the agenda was public rulemaking hearing for OAC 252:100-31 Control of Emissions of Sulfur Compounds. Mr. Byrum acted as protocol officer and called up Mr. Scott Thomas and Dr. Joyce Sheedy to give the staff proposal on a suggested revision to this rule. Mr. Thomas recommended that the hearing be continued to the Council's August 9, 1994 meeting in Tulsa for the purpose of receiving as many comments as possible from all interested parties and from EPA. Dr. Sheedy provided technical information and answered questions from the audience and Council.

Chairman Breisch entertained a motion to continue the hearing until the next regular Council meeting as per the recommendation from staff. Mr. Kilpatrick made the motion as stated with second by Dr. Hughes. Roll call as follows: Dr. Canter - aye; Mr. Fishback - abstain; Ms. Hinkle - absent; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - absent; Mayor Taron - absent; Ms. Tillman - aye; Mr. Breisch - aye.

Approval of Minutes - Chairman Breisch reconvened the meeting and requested a motion for the approval of the Minutes of the April 12 meeting. In discussion, it was found on page 3, the words "of fugitive dust" needed to be added; and on page 2 change 'Dr.' Kilpatrick to "Mr." Ms. Tillman made the motion to approve the minutes as corrected with second by Dr. Hughes. Roll call as follows: Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - absent; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - absent; Mayor Taron - absent; Ms. Tillman - aye; Mr. Breisch - aye.

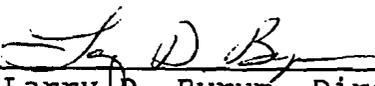
Other Business - No new business from staff. Mr. Tom Lay from audience discussed his interest in the TB&A contract stating that he was making an appearance on behalf of the Environmental Federation of Oklahoma in support of the draft study and pointed out that it was evidenced that the staff put a lot of hard work into the report.

Next Meeting - The next regular meeting will be held August 9, 1994 at the Auditorium, City-County Health Department, Tulsa, OK.

Meeting adjourned with a unanimous roll call vote.

 8/9/94

William B. Breisch, Chairman
Air Quality Council



Larry D. Byrum, Director
Air Quality Division

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

June 14, 1994

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	TOM LAY	EFO	201 Roberts St Ste 600 Okla City, OK 73102	YES
2	DAVID FAIRBANKS	STILLWATER MILLS	STILLWATER, OK	NO
3	Wilson Brunsing	Maple	" "	OK
4	Dan Kent	Triangle Corp. Dev. Co.	Enid, OK	
5	Kyle Arthur	DEQ/CAP/SBAP	OKC	No
6	Clayton Simmons	DEQ/CAP/SBAP	OKC	No
7	Pat Roggans	Okla. Corp. Council	ENID	NO
8	Mary Jung	Mustang Fuel	OKC	No
9	Dick Reid	Dynas Tire	OKC	NO
10	Alan Dove	Western Gas	OKC	No
11	Randy Ward	AQD	OKC	No
12	Beverly Smith	AAD	OKC	No
13	Mike Mahony	OGFA	Wagon	
13	Val Freeman	OGFA	Enid	
14	Ray Bishop	TCC#B	Tulsa	No
15	Howard Howard	PSO	PO Box 201 Tulsa	No
16	Dawn Laska	OCCH/DVC	OKC	No
17	Phil Merbergen II	OGFA	ENID	
18	Joe N. Hamilton	OGFA	"	
19	CARY COLLINS	AMC	CATAOSA	NO

- 20 Dave Schmitt Charles M. & Wks PoBox 66 Perry OK NO
- 21 David Hardy AGD
- 22 Albert King AGD
- 23 Bie Mace AGD
- 24 Kathy J. Martin CAP/ODEC
- 25 J. P. King Okla Railroad Assn
- 26 Davian King ODEC
- 27 Tim W. Primmer CCHDOC OK NO
- 28 Terry Linn TEC-AN 3535 NW 58th SUITE 470E OKC 7311
- 29 David Branceky OG & E P.O. Box 321 OKC 73101
- 30 Frank Gordon EQ Board
- 31 Ami Twank TE-AN, Inc. OKC
- 32 Susie King Nonoco 201 63rd St. 879-4872
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**RECOMMENDATION
TO THE
ENVIRONMENTAL QUALITY BOARD
FROM THE
AIR QUALITY COUNCIL**

The members of this Council, acting pursuant to the authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, Section 2-2-201, by roll call vote, make formal recommendation to the Environmental Quality Board that the rules specified below be adopted as permanent rules.

OAC 252:100-24
Control of Emissions From Grain Elevators

Prior to making this recommendation, this Council considered the rules and comments received thereon and determined, to the best of its knowledge, that all requirements of the Oklahoma Administrative Procedures Act applicable to this rulemaking have been followed.

With the understanding that such changes shall not invalidate this recommendation, this Council authorizes the Department staff to make any amendments approved by the Council, appropriate corrections of typographical errors, additions and deletions indicated by strikeout/underline, and formatting as required by the Office of Administrative Rules.

Respectfully,

W.B. Breisch
Chair or Designee

Signed this 14 day of June, 1994.

APPROVE	DISAPPROVE
1. <u>Michael Hughes</u>	1. _____
2. <u>Mary Tillman</u>	2. _____
3. <u>Larry Canter</u>	3. _____
4. <u>Gary Kilpatrick</u>	4. _____
5. <u>Bill Fishback</u>	
	ABSTAIN
6. <u>William B. Breisch</u>	1. _____
7. _____	2. _____
8. _____	3. _____
9. _____	4. _____
.....	
ABSENT	
1. _____	3. _____
2. _____	4. _____

**RECOMMENDATION
TO THE
ENVIRONMENTAL QUALITY BOARD

FROM THE
AIR QUALITY COUNCIL**

The members of this Council, acting pursuant to the authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, Section 2-2-201, by roll call vote, make formal recommendation to the Environmental Quality Board that the rule(s) specified below be adopted as (a) permanent rule(s) and by emergency and that the Board find that adoption of the rule(s) by emergency is warranted by the compelling extraordinary circumstance of the Federal Clean Air Act possibly becoming effective prior to this rule going into effect through normal channels, therefore, not affording the

OAC 252:100-24

CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

**see
below

Prior to making this recommendation, this Council considered the rules and comments received thereon and determined, to the best of its knowledge, that all requirements of the Oklahoma Administrative Procedures Act applicable to this rulemaking have been followed.

With the understanding that such changes shall not invalidate this recommendation, this Council authorizes the Department staff to make any amendments approved by the Council, appropriate corrections of typographical errors, additions and deletions indicated by strikeout/underline, and formatting as required by the Office of Administrative Rules.

Respectfully,

Bill Buis
Chair or Designee

** Grain and Feed Industry the protection they desire under this rule from the provisions of the Federal permitting requirements.

Signed this 9th day of AUGUST, 1994.

VOTING TO APPROVE:

J.W. (Bill) Fishback
Kathryn Hinkle
Michael Hughes
Gary Kilpatrick
Mary Tillman
William B. Breisch

VOTING AGAINST:

ABSTAINING:

Meribeth Slagell

ABSENT

Larry Canter
Pierre Taron

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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, DECEMBER 13, 1994
9:30 A.M.

LINCOLN PLAZA OFFICE COMPLEX
4545 NORTH LINCOLN BOULEVARD
BROWN ROOM
OKLAHOMA CITY, OKLAHOMA

BRIEFING

- | | | |
|----|--|----------|
| 1. | Call to Order | Chairman |
| 2. | Division Director's Report
Informational - An update of current events
and AQD activities

Title V Status -
Attainment Status - Legislation
Contract Status - Staffing - Other

Discussion by Council/Public | Director |
| 3. | Schedule of Calendar Year 1995 Meetings
Discussion by Council/Public | Director |
| 4. | Uniform Permit Processing
Discussion by Council/Public | Director |

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 271-5220.

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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, DECEMBER 13, 1994
1:00 P.M.

LINCOLN PLAZA OFFICE COMPLEX
4545 NORTH LINCOLN BOULEVARD
BROWN ROOM
OKLAHOMA CITY, OKLAHOMA

MEETING

- | | | |
|----|---|----------------------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Resolution - Dr. Michael Hughes | Director |
| 4. | Schedule of Calendar Year 1995 Meetings
Discussion by Council/Public | Chairman |
| 5. | Approval of Minutes of October 11, 1994 | Chairman |
| 6. | Grain and Feed (SC 24)
Oklahoma State University Study
Discussion by Council/Public | Staff/Grain Industry |
| 7. | New Business
Discussion/consideration of subjects/business
arising within the past 24 hours. | Chairman |
| 8. | ADJOURNMENT
Next Regular Meeting -
AS DETERMINED
Lincoln Plaza Office Complex Brown Room
4545 N. Lincoln
Oklahoma City, OK | Chairman |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

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AIR QUALITY COUNCIL
DECEMBER 13, 1994
1:00 p.m.
MINUTES

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Larry Canter, Ph.D., Vice Chairman
Gary A. Kilpatrick
Pierre Taron
Meribeth Slagell
Bill Fishback
David Branecky

Staff Present

David Dyke
Michael Peters
Scott Thomas
Joyce Sheedy
Doyle McWhirter
Deborah Perry
Ray Bishop
Rita Buetcher

Council Members Absent

Mary Tillman
Kathryn Hinkle

Guests Present

(see attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room at the Lincoln Plaza location, and the entrance to the Air Quality Division.

Call to Order - Mr. Breisch called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - here; Mayor Taron - here; Ms. Slagell - here; Dr. Canter - here; Mr. Fishback - here, Mr. Branecky - here; Mr. Breisch - here. Ms. Tillman and Ms. Hinkle were absent.

Resolution was read by Mr. Breisch accommodating Dr. Michael Hughes for his years of service to the Council. Dr. Hughes was not present. Motion to approve made by Mayor Taron with second by Mr. Kilpatrick. Roll call as follows: Dr. Canter - aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Mr. Breisch noted the next item on the Agenda was the Schedule of Calendar Year 1995 Meetings and pointed out that the two alternate

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schedules had been discussed in the Briefing Session and that the second alternate was selected. With no further discussion, Mayor Taron made the motion to approve the following dates: February 22, Lincoln Plaza Brown Room; April 18, Lincoln Plaza Brown Room; June 20, Tulsa City-County Auditorium; August 15, Lincoln Plaza Brown Room; October 17, Tulsa City-County Auditorium; December 19, Lincoln Plaza Brown Room. Second was made by Dr. Canter and roll call taken as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Mr. Breisch - aye.

Mr. Breisch requested a motion to approve the Minutes of the October 11, 1994 Meeting/Hearing. Motion was made to approve the Minutes as presented by Mr. Kilpatrick with second by Dr. Canter. Roll call vote as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mayor Taron - aye; Mr. Breisch - aye.

Deborah Perry gave staff position (outline attached) regarding the OSU Grain Study and Chairman Breisch opened the floor for discussion.

Representing the Grain and Feed Industry, Mr. Rick Treeman responded to staff position in these areas:

1. He was concerned that much effort had already gone into writing subchapter 24 to this point and regression is not wanted by anyone. He pointed out that through the efforts of Dr. Hughes, Mr. Fishback, Ms. Slagell, and Mr. Kilpatrick, an interim rule was prepared based upon the OSU study proposed by Mr. Fishback. He stressed that industry fulfilled completion of the study and felt it necessary to get subchapter 24 made permanent because the emission factors used there are imperative to the grain industry for permitting purposes. He noted that with the permitting process beginning, the current factors were needed to make it possible to know whether permits are to be for a true minor, synthetic minor, or Title V source. He related that the protocol for the study was accepted and followed explicitly. He pointed out that there are variables, but that the OSU Study was probably more appropriate than the MRI Study because the MRI Study pulled dust out of the air, not dust out of the grain stream.
2. To clarify the staff's comment that the grain was not directly from the field, Mr. Treeman pointed out that the grain coming from the field comes from combines with sophisticated fan systems which blow the dust and the weeds out of the wheat before it comes to the elevator. He stated that the more it is handled within the elevator, the more dust is generated.
3. He related that the fans that were used in the protocol were not creating a steady stream through the dump shed but the intent of those fans was to keep as much dust as possible suspended in the air so that it could be filtered out.

4. He said that the protocol did not actually direct sweeping the floor every time; its purpose was to get an upper limit on the total amount of dust in grain that would be subject to becoming airborne.
5. He pointed out that industry is not disputing visible emissions, but is disputing the quantity of those emissions, and that the intent in writing subchapter 24 was not necessarily for emission factors, but was to modify the state rules to be more appropriate for the grain and feed industry.
6. He stated that Ms. Perry had also mentioned record keeping and general permits similar to a Title V permit. He stressed that if recordkeeping is going to be an option, that the grain industry needs to know what recordkeeping will be needed in order that necessary records be kept.

Mike Mahoney, also from the grain industry, commented that at the June 1994 Air Quality Council Hearing the interim rule was passed. He said that in preparation for that meeting, the DEQ did some modeling that showed that the grain industry exceeded the limits, (NAAQS) and put monitors at the Weatherford Co-op. He stated that the emissions were less than what the model showed. He said that since the June meeting, industry has tried to get a synthetic minor permit approved by DEQ and that since the deadline is November 15, 1995, there is an urgency to get this rule passed. He pointed out that the first meeting between DEQ and grain and feed industry was in November, 1990; that there have been to a lot of meetings, the staff approved the protocol, and the study was done in September.

Mr. Joe Hampton echoed what Mr. Mahoney and Mr. Treeman said in pointing out that this battle has been fought for a long time; we have data from an unbiased third-party and had hoped that we go forward with this data from an unbiased third party.

Mr. Fishback commented that the intent as expressed by the industry representatives was to create a rule based on emission factors that reflected true emissions as accurately as possible. He acknowledged the fact that the 1972 MRI study gave numbers that were extremely high and pushed a number of sources into Title V status that would not normally be there. Mr. Fishback stated that he was very impressed with the thoroughness of the protocol development and the actual testing itself on the part of OSU. He also wanted to make sure that the audience and the Council understood that the intent of that study was to drive a truck into the building, close the doors, pull suction on that building, dump the grain from the truck, pull everything that is airborne out of the building, weigh it, divide what is collected by what is dumped, and come up with factors. He stressed that concerns about wind velocity through that building, what is the aerodynamic mean diameter of the particle, and whether the floor sweepings are included, really did not matter because the purpose was to establish a maximum limit. He stated that based on some very conservative modeling, concern was that grain elevators would have

a problem with the National Ambient Air Quality Standards, but the actual data shows there is not any problem at all. He said that a very careful distinction between what is emitted by the process and what is emitted off property or from the entire facility has to be shown. As a professional engineer he felt a maximum had been established. As a Council, and as an industry, and as a State, he felt we would be much better served to go forward, rather than to postpone because the deadlines are coming. He stated he had no doubt the date is the best for that set of circumstances. He shared the frustration that the industry expressed about the length of time taken writing this rule and that giant strides have been made toward getting good representative, repeatable data. He then proposed to adopt a rule with an agreeable emission factor, whether that number is EPA's proposed number or the OSU Study number, as action is better than inaction. He stated that he wanted to convey that there is now a very well conducted, well thought out, scientifically founded, accurately performed, defensible test.

Ms. Slagell stated that she also observed this study and felt the OSU Study was more than adequate and suggested that it is time to take a stand.

Mr. Kilpatrick questioned whether other emission factors besides loadout and receiving applied to this rule. Ms. Perry answered that in the study there was nothing else addressed because an agreement was made in subchapter 24 that elevator legs, headhouse handling, etc. would be considered totally enclosed. Ms. Perry stated that this is an issue still under consideration because the proposed AP42 did say there was an emission factor that should be attributable to headhouse handling.

Mr. Kilpatrick added that he felt this was a good set of data, that it was reasonably in the area of proposed AP42, and he would have no problem with proceeding ahead. He stated that he was a little concerned whether there would be some benefit in looking at a generic general permit.

Mr. Fishback related that if appropriate emission limits based on this test data were established, then a facility could know whether or not it was a synthetic minor. He pointed out that then the issue of whether it is permitted under a separate synthetic minor permit or a general permit could be decided separately. He added that it would be very convenient for all concerned to have 500 elevator facilities that were synthetic minors be handled as a general permit; but the determination of applicability is the issue. Are they subject, or not, based on the emission factors used and the amount of grain handled.

Dr. Sheedy, Program Director in the Permit Section stated the Permit Section was looking into doing a number of synthetic minors by another process once EPA accepts a federally enforceable rule. Some other federally enforceable type of rule may be very worthwhile, but that is a separate issue from the determination of what this emission factor should be. She added that knowing the

emission factor will allow people to determine whether or not they will be a Title V source.

Mr. Breisch asked the Council subcommittee, staff, and members of the grain and feed industry to consider all approaches to this matter, list them, comment upon them either negatively or positively and bring them before the next Council meeting. He felt that in this manner when and if EPA challenges, all issues will have been addressed.

Mr. Kilpatrick felt that the test which the staff and Council has to consider is whether this data is reasonably representative of the conditions we have here in the Oklahoma industry; document that, and proceed ahead with a common recommendation at the February meeting.

DEQ Permit Section staff member, Rita Buetcher, voiced her concern regarding staff's efforts in writing a permit based on this interim rule, with emissions factors as a part of a rule. She related that this had never been done in the past and EPA readily admits that AP42 is guidance, not a rule. She said that in the past, staff has been able to accept other sources of data when considering a permit application, and making a factor into a rule eliminates the opportunity for engineering judgements.

Mr. Breisch asked for a volunteer from Council to replace Dr. Hughes as the fourth member of the subcommittee. Dr. Canter volunteered to serve. Since members of the grain and feed industry, staff, and Council members were present, the subcommittee arranged for a meeting after the Council Meeting to discuss issues.

With no new business Mr. Breisch adjourned the meeting with a unanimous roll call vote.

Next Meeting - The next regular meeting will be held Wednesday, February 22, 1995 at 4545 North Lincoln Boulevard, Brown Room, Oklahoma City.


2/22/95

William B. Breisch, Chairman
Air Quality Council



Larry D. Byrum, Director
Air Quality Division

OUTLINE FOR GRAIN DUST STUDY DISCUSSION

Members of the Oklahoma Grain and Feed Association, OSU Division of Agricultural Sciences and Natural Resources and the Oklahoma Department of Environmental Quality met on September 26th and 27th in Alva, Oklahoma to observe and/or take part in the Grain Elevator Dust Emission Study.

- no surprises, AP-42 overstated
- purpose was to try to accurately quantify emissions
- to gain an understanding of what emission factors should be used to represent true emissions from grain elevators
- general agreement that the data produced from this study is quite valuable for this purpose
- preliminary review by the Air Quality staff, review continuing
- several issues to consider:
 - 1-tests performed according to the protocol?
 - 2-issues which may not have been accounted for in the study?
 - 3-other data available which should also be considered?
- some initial answers to these questions and some additional questions and concerns
- staff's opinion that the test procedures in accordance with the protocol, with exception of particle sizing of collected dust
- tests performed according to the protocol?
 - protocol stated dust collected from floor sweepings and filter bags would be separated through a sonic sifter
 - very lengthy process
 - would not provide aerodynamic mean diameter
 - OSU will retain samples
- issues which may not have been accounted for in the study?
 - we know that dust emissions vary from different grain elevators, and over time at an individual elevator
 - many variables which can effect air emissions
 - difficult to develop set of emission factors that will represent the industry as a whole
 - cannot account for all possible scenarios
 - observations did reveal some issues that had not been identified or considered adequately when the protocol was being developed
- 1-grain used was not directly from the field
 - grain was loaded out from bin at the elevator
 - grain went through the receiving, elevating, and load out processes and possibly additional transfer or turning processes before study
- two schools of thought regarding this issue
 - no data to support either
 - first says dust is generated through the movement of grain
 - previous handling would not be a significant factor
 - second, says larger amount of dust will be generated from foreign material carried with grain from field
 - effects of both occuring simultaneously
 - tend to generate more emissions
 - test would not be representative

2-draft AP-42 states "wind-tunnel effect" created when receiving operations located inside drive-through receiving shed
-air blows through receiving area at speeds greater than surrounding wind speeds

-protocol specified fans would be used to simulate typical air flows and keep smaller particles airborne
-fans were positioned such that air flow was circulating in a converging pattern, creating area of turbulence, rather than directional flow (as with winds)

-"wind-tunnel effect" observed during the testing procedures
-after sweeping floor doors were opened and large gust of wind blew through receiving area carrying visible dust with it

-perhaps some of dust swept from floor would have become airborne if doors were open

-some dust which settled on trucks and equipment not accounted for

-further supported by test data showing half the amount of dust was collected when doors were open

-particle size analysis of the test samples could possibly provide some insight

3-emissions observed during testing from top of headhouse

-three emission points on the headhouse
-Two cyclone exhausts, other some type of vent
-visible emissions from two points

-uncertain the origin of these emissions
-must be considered in evaluation of data

4-inconsistency was observed in the emissions from the truck loading (load out)
-visible emissions from truck loading from bin via outside spout much greater than load out from inside spout

-height of outside spout 5-7 feet above the truck
-inside spout only 1-2 feet above truck

-seems other factors such as drop height, wind exposure, and grain speed may have greater effect on quantity of emissions generated during load out

other data available which should also be considered?

-EPA sent Air Quality a draft copy of proposed revisions to AP-42
-indicated would be finalized in approximately 30 days

-EPA has withdrawn June draft
-working with National Grain and Feed Assoc. and states to obtain additional data to support new AP-42 section

-results of study sent to EPA contractor (MRI) to be considered with other available data when revising new AP-42 section

-Air Quality will continue to review the study data, as well as any data which becomes available

-review of the June AP-42 draft revealed additional issues which are also being considered:

-data indicated there should be distinction between country and terminal elevators
-based on test data that demonstrates much higher emission rates from terminal elevators
-no clear definition of "country" vs "terminal"
-explanation states country elevator receives grain directly from

- farmer, terminal elevator will receive large portion from other elevators
- terminal elevator has capacity to move grain faster
- draft AP-42 contains emission factors for "headhouse and internal handling operations"
- test results from controlled (cyclones) and uncontrolled operations
 - some emissions may be attributable to operations we are now considering totally enclosed (not emission points)

Other AQD concerns

- concerned that our actions are not in conflict with final actions taken by EPA in AP-42
- if ODEQ adopts emission factors which are lower than those approved by EPA, and these are used to permit synthetic minors, EPA will have strong reason to question the permits
 - EPA wants to review our synthetic minor permits
 - they have interest in grain elevators and will likely look at some of these permits
 - EPA can reject or rewrite these permits
- emission factors in Subchapter 24 will draw EPA attention to issue
- AQD's ability to write federally enforceable synthetic minor permits based on Subchapter 24 depends on getting EPA approval
 - important to be consistent with EPA's direction in new AP-42
- considering other ways to create synthetic minor sources
 - 1-facility can obtain a permit under existing rules
 - 2-possibly some type of generic "umbrella" permit
 - would involve setting criteria for inclusion and documentation or registration process
 - would streamline process for the industry
 - would lighten the permit load on staff
 - 3-possibly revise Subchapter 24 to sets up criteria for synthetic minors ("permit-by rule" concept)

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 13, 1994

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Anna Clapper	OK Coalition for Clean Air	OKC	
2 John Wilson	ODEQ		
3 Tim Forrest	OC-ALCB/AV	Tinker AFB, OK 73145	No
4 Phil BERTON	MOBIL OIL	12450 GREENSPRING DR HOUSTON TX 77060	
5 GENE ASANDOR	MOBIL OIL	12450 GREENSPRING DR HOUSTON, TX 77060	No
6 Gerald Brecher	WPEC	PO Box 429 Ardmore, OK	No
7 Adam Kemmerly	ODEQ-AQD		
8 Randy Ward	"		
9 Galt T. J. J. J.	Gardner - J. J. J.	101 S. Boston Ave Tulsa	NO
10 Rod Oxford	Holliman Longholz	10 Edgt 3 Tulsa	NO
11 Walt J. J.	ENV. J. J. J.	4190 Long Valley Dallas	NO
12 Merrit Nicewander	RMT/Jones & Neuse	12655 Central Dallas	No
13 Linn W. Wanner	CCHDOC	921 NE 23rd ST, OKC	No
13 Nelson Breisinger	Quapaw	Stillwater, OK	NO
14 Ann Jayne	ODEQ-AQD		
15 Alan Dove	Western Gas	OKC City	No
16 NATKAN BINAU	Western Gas	12200 Pecos St Denver, CO 80234	No
17 Frank Condon	EQ Board		
18 Louis Moffett	AQD	OKC	No
19 Metuge John	AQD	OKC	NO

20	A J Bower	DEQ - Customer Customer	No
21	John Coakley	EQ Board	
22	RNK Smith	DEQ/AGD	UCC
23	Bill Mace	DEQ	
24	Kathy Martin	CAP/DEQ	
25	Leick Koenig	ACOG	
26	Nancy Bennett	TXI	No
27	Fay Bishop	ODEQ	
28	Kent Stafford	ODEQ	
29	Steve Sweeney	OGFA	
30	Rich Tackman	"	Enid, OK
31	Dan Kent	TKSC	
32	Joan Hampton	OGFA	Enid, OK
33	Dr. W. W. Lugen II	OGFA	" "
34	Wade McNamey	OGFA	Walters
35	James H. H. H.	DEQ/AGD	OKC No
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February 8, 1995

MEMORANDUM

TO: Air Quality Council

FROM: Larry Byrum, Director
AIR QUALITY DIVISION *LB*

SUBJECT: GRAIN RULES

Please find attached proposed language for revisions to Subchapter 24 "Particulate Matter Emissions from Grain, Feed, or Seed Operations". These proposed revisions have been arrived at through discussions held by the Council's subcommittee and Air Quality staff with representatives from the grain industry.

The staff is also interested in pursuing a "permit by rule" concept which will allow certain grain facilities to certify that they are not a major source and consequently could be exempted from the Title V process. This will be discussed at the hearing.

Also attached is a summary of the proposed emission factors resulting from the OSU study. This summary was requested at the January 4, 1995 grain industry task force meeting.

Supplement 7/22/95
w/ Ray Siskin
changes

SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS
FROM GRAIN, FEED, OR SEED OPERATIONS

252:100-24-1.	Purpose
252:100-24-2.	Definitions
252:100-24-3.	General Provisions; applicability, calculations
252:200-24-4.	Smoke, Visible Emissions and Particulates
252:100-24-5.	Emission Control Equipment
252:100-24-6.	Fugitive Dust Controls
252:100-24-7.	Applicability to other Agriculture Sources

252:100-24-1. Purpose

The purpose of this rule is to control emissions from facilities that handle, store or process grains. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities. ~~This rule is an interim rule effective until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division to replace the factored emission rates in this interim rule.~~

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

~~"Dust Suppression Additives" means FDA or FGIS approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division.~~

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

~~"Existing Grain, Feed, or Seed Operation" means a facility which was in existence in 1993 and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.~~

~~"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.~~

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any facility or

installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"**Grain, Feed, or Seed Operations Facility**" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.

~~"High Efficiency Cyclone" means any cyclone type collector of the 2D 2D or 1D 3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D 2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90% collection efficiency for TSP). A 1D 3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D (95% collection efficiency for TSP).~~

~~"Hours of Operation" is calculated by dividing the cumulative throughput total for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the throughput. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.~~

"**Leg Capacity**" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Loading-out hours of operation" means the hours calculated by dividing the cumulative total quantity loaded out for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material loaded out. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

~~"Medium Efficiency Cyclone" means any cyclone type collector less than 2D 2D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D 1D cyclone would exhibit a cylinder of 1 x D and a cone length of 1 x D. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.~~

"**Non-pressurized Vent or Opening**" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"**Pressurized Vent or Opening**" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

"**Process Emission**" means emissions from a process equipment point source.

"Receiving hours of operation" means hours calculated by dividing

the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded out from the facility during any time period of interest divided by two.

252:100-24-3. General Provisions: Applicability, Determination of Emissions

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations facilities in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operation facility shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) **Air toxics emissions.** Grain, feed, or seed operations facilities which emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(d) **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting the commodity throughput receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification.

(f) **Determination of emissions.** Emissions from grain, feed, or seed operations facilities shall be based on the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or other methods developed under protocols approved by the Air Quality Division. ~~The following factored emissions are allowed by this interim rule only until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are~~

~~developed under protocols approved or accepted by the Air Quality Division.~~

~~For this interim rule, emissions shall be calculated as follows for three classes of emissions:~~

~~Class I: Unloading (Receiving) 3.6 lbs/ton
Loading (Shipping) 3.3 lbs/ton
Refer to 252:100-24-4 for opacity limits.~~

~~Class II: Emission Sources with Control Devices
AP 42 factor X (1 EFF)
Refer to 252:100-24-4 for opacity limits.
EFF means fractional efficiency of control device.~~

~~Class III: Uncontrolled Vents
A. Pressurized opacity limit only
B. Non-pressurized opacity limit only
Refer to 252:100-24-4 for opacity limits.~~

252:100-24-4. Smoke, Visible Emissions and Particulates

(a) Visible emissions limit.

(1) Visible emissions limits. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade density greater than twenty percent (20%) equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty-four hour period.

(2) Alternate emissions limit. The (20%) opacity limits, as required under 252:100-24-4 (a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(3) Exceptions. Exceptions to the requirements described in 252:100-24-4 (a) (1) are provided as follows:

(a) Visible emissions from loading-out (shipping) shall be no more than sixty-five percent (65%) equivalent opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) equivalent opacity.

(b) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.

(c) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent (10%) opacity at any time.

(d) Emissions from non-pressurized vents or openings without

control devices shall be limited to no greater than ten percent (10%) opacity at any time.

252:100-24-5 Emission Control Equipment and Certification

(a) Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) Affected facilities shall make best efforts to reduce dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

(c) Certification. Each new, modified, or existing grain, elevator feed or seed facility in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this rule by the Air Quality Council/DEQ Board. Annual certification of receiving, loading-out, and total annual hours of operation, quantity received and loaded-out, visible emissions, and throughput and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

252:100-24-6 Fugitive Dust Controls

(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow visible emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

AIR QUALITY COUNCIL
FEBRUARY 22, 1995
1:00 p.m.
MINUTES

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Larry Canter, Vice-Chairman
David Branecky
Bill Fishback
Kathryn Hinkle
Meribeth Slagell
Pierre Taron
Mary Tillman

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Ray Bishop
Joyce Sheedy
Rita Buetcher
Myrna Bruce

Council Members Absent

Gary Kilpatrick

Guests Present

(see attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room at the Lincoln Plaza location, and the entrance to the Air Quality Division offices.

Call to Order - Mr. Breisch called the meeting to order and roll was taken: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Mr. Kilpatrick - absent; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the December 13, 1994 Meeting/Hearing. Motion was made to approve the Minutes as presented by Mayor Taron with a second by Ms. Tillman. Roll call as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-24 CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

As protocol officer, Larry Byrum convened the hearing on OAC 252:100-24 Control of Emissions from Grain Elevators. The hearing was advertised in the Oklahoma Register for the purpose of receiving comments.

Mr. Ray Bishop presented the staff position on the rule, designed specifically to control emissions from facilities that handle, store, or process grains. Mr. Bishop stated this rule is the result of several years and hundreds of hours of cooperative efforts of Council members, the feed and grain industry, and the Air Quality staff. The agreement reached included specific changes listed below. Staff recommended that Council consider adoption of proposed Subchapter 24 rule and that a recommendation be forwarded to the Department of Environmental Quality Board for consideration as an emergency and permanent rule.

Specific changes to OAC 252:100-24:

- The emissions factors for grain handling were removed from the rule with emission factors being included in a background information document (guidance document). -- Mr. Bishop stated that removal of emissions factors precludes the need for EPA to verify the accuracy of emissions factors when approving the rule and will allow for flexibility in permitting facilities which may not be accurately represented by AP-42 emission factors.
- OAC 252:100-24-3(f) Determination of Emissions was changed to make the language identical to that found in 252:100-7-4(e)(9) Method of calculation.
- In the same subchapter, "based on" was changed to "determined by" for clarification. A few items were deleted because they were unnecessary and/or had no relevance to this subchapter.
- The citing of 252-100-24-7 Applicability to Other Agricultural Sources was deleted because this section of the rule no longer exists.
- Definitions of terms not referenced in the text of the rule were deleted to be included in the guidance document.
- Since the proposed rule is to be permanent and final, the language regarding interim status was removed from 252:100-24-1 and 252:100-24-3(f). Existing rules and interim measures are to be effective until July 1, 1995 or until particulate emissions rates of grain handling are developed.

Dr. Canter felt that the "Guidance Document" should reference the OSU Study as the fundamental study done to develop the emissions factors (.053). The OSU Study provides scientific rational for

those emissions standards. He added that the importance was the OSU Study emissions factors are less than the EPA AP-42 factors. Mr. Byrum advised that there was a need for other additions to the document and the staff would soon be meeting with the grain industry to discuss these items.

Robert Poppe, C.H. Guernsey & Company, questioned the definition of fugitive emissions. This definition now reads "those emissions which could not reasonably pass through a stack chimney, vent, or other functionally equivalent opening". Mr. Poppe's opinion was that the wording should read "do not pass thru ...". Ms. Tillman felt it incredibly important that the word "reasonably" be used.

Mr. Poppe mentioned the wording "visible" and "adjacent" contained in 252:100-24-6 be stricken. His rationale was the rule as currently written indicates if dust emissions gets on properties beyond adjacent properties the rule would not apply. The wording needed to be corrected to reflect that property beyond adjacent properties is furthermore subject to damage. He suggested adding the definition for "fugitive dust" to the guideline document. His rationale was this change would better reflect the health aspects of the emissions.

Mr. Byrum advised that the definition for "fugitive dust" is exactly the same as the definition in other portions of our rules. Mr. Doughty commented that the definition was designed to include facilities that may not have a stack and implies possible controls could be placed on the stack.

Mr. Fishback stated that health effects were not considered in the OSU Study because it was an emissions quantification study.

With no further comments, Mr. Breisch entertained a motion to recommend this proposed rule to the Environmental Quality Board for approval as an emergency and permanent rule.

Mr. Fishback made motion to adopt OAC 252:100-24 Control of Emissions from Grain Elevators with the specific changes. Dr. Canter made the second.

Ms. Tillman felt that Mr. Poppe's changes should be added to the motion. Ms. Tillman's rationale was that if there is a parking lot adjacent to the facility and a home next to the parking lot, the home might be affected but the parking lot would not be affected.

Mr. Fishback thought Ms. Tillman's reasoning was valid, therefore, the word 'visible' should be retained and presented no problem in emissions modeling. Often, the adjacent property is not impacted, however, the impact could be downwind. Ms. Tillman was not opposed to changing the word "visible", but she thought the wording should be "to interfere with the use of other properties".

Ms. Hinkle suggested the wording "or to interfere with other properties".

Ms. Tillman's proposal was to have the wording read "no person shall allow visible emissions beyond the property line in such a manner as to damage or interfere with the use of other property".

Mr. Fishback affirmed the motion and a second made to leave the language with the minor changes as proposed.

With no further discussion, roll call vote was taken: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Election of Officers for the Calendar Year 1995 - Mayor Taron made a motion to nominate Bill Breisch as Chairman for 1995 to be made by unanimous acclamation. A second was made by Dr. Canter. Roll call was as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - aye; Mr. Breisch - abstain.

A motion was made by Ms. Hinkle to elect Mary Tillman as Vice-Chairman for Calendar Year 1995. Mayor Taron made the second requesting unanimous acclamation. Roll call as follows: Mr. Branecky - aye; Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - aye; Ms. Slagell - aye; Mayor Taron - aye; Ms. Tillman - abstain; Mr. Breisch - aye.

New Business Joint Resolution for approval of:

Mr. Paden, Environmental Quality Board (EQB) member addressed the Council regarding the approving signature on the following four rules:

- OAC 252:100-8 OPERATING PERMITS (PART 70);
- OAC 252:100-8-6 ACID RAIN;
- OAC 252:100-31 CONTROL OF EMISSIONS OF SULFUR COMPOUNDS;
- OAC 252:100-45 MONITORING OF EMISSIONS

Mr. Paden advised that these rules were sent to Governor Walters after consideration and adoption by the EQB. Governor Walters signed these rules on November 30, 1994, as Permanent rules, but not as Emergency rules. The Legislature is working to correct this procedural oversight.

Mr. Paden complimented the Council on an excellent job when working closely with Theodore Barry & Associates (TB&A) on the management study. Mr. Paden acknowledged the amount of work performed when readying rules for the EQB's consideration and adoption.

As specified by the Administrative Procedures Act, rules are sent to the Governor, the President Pro Tempore, and the Speaker of the House. Rules have to go to the Governor in ten days. The Governor has 45 days to accept or reject the rule. Mr. Paden explained a mandate of the Federal Clean Air Act and the Oklahoma Clean Air Act to enforce the Clean Air Act Amendments of 1990. Because of verbal assurance from the Governor's office that the rules had been signed, the Air Quality Division billed \$16.19 per ton for

emissions pursuant to the TB&A study.

The solution would be a Joint Resolution asking the Legislature to approve the actions of both the Air Quality Council and the Environmental Quality Board, avoiding notification requirements and the Council's reinvolvement. The Permanent rule takes effect on March 23, 1995. The Joint Resolution should be the same date.

Ms. Tillman thanked Mr. Paden for informing the Council. Mr. Breisch extended the appreciation of the Council and thanked Mr. Paden.

Adjournment - Chairman Breisch adjourned the meeting with a unanimous roll call vote announcing that the next regular meeting will be held Tuesday, April 18, 1995 at 4545 North Lincoln Boulevard, Burgundy Room, Oklahoma City.



Mary Tillman, Vice Chairman
Air Quality Council



Larry D. Byrum, Director
Air Quality Division

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

FEBRUARY 22, 1995

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	Howard Ground	PSU	212 E. 6 th . Tulsa.	
2	Merrit Nicewander	RMT	Dallas Tx	No
3	Phil Kenton	OSU	Stillwater, OK	
4	Ron Noyes	OSU	STILLWATER, OK	No
5	Rod Oxford	Holliman Luskole	Tulsa	OK NO
6	CHI ONWUCHEKWA	PANHANDLE EASTERN HOUSTON		NO
7	Frank Condon	EQ Board		
8	GRANT MAZBUDZAK	ENV CONSULTN	Norman OK	
9	Glen Castlaberry	Tulsa City County	Tulsa	No
10	JACK FLY	ODEQ, AOD	TULSA	NO
11	Shawna McWhorter-Khalouei	AOD	OKC	NO
12	Rhonda Dukes	AOD	OKC	NO
13	John COAKLEY	EQ Board		
13	Dick Reid	Dayton Tire		
14	Alan Dove	Western Gas	OKC	No
15	Tim Forrest	Tinker AFB	OC-ALC/THU Tinker AFB, OK	No
16	Rick Teehan	OGFA	End OL	
17	Mike Mahoney	OGFA	Wahonee OK	
18	Butch Merletzen	OGFA	ENID OK	
19	Bill Mac	AOD		

20	Amin W. Williams	AQD	OK city, OK	No
21	Ron Inelove	RSA	Norman, OK	NO
22	Paige Morton	AQD	OKC	No
23	Beverly Smith	AQD	OKC	No
24	Kathy Martin	DEQ-CAP		No
25	Adam Kennedy	DEQ-AQD	OKC	NO
26	Randy Ward	DEQ-AQD	OKC	no
27	Nelson Brensing	OKC	Shelbourn	NO
28	A. L. Bonner	DEQ-CAP	OKC	N.
29	R. Clear	AQD		
30	M. Lumen	EMERCON	OKC	No
31	Doyce McWhorter	RMT/JN	Norman, OK	NO
32	Kim Warren	AQD	OKC	NO
33	Ernie Smith	"	"	NO
34	Joe Hampton	OSFA	Enid OK	
35	Robert Poppe	C.H. GUENSEY + CO	OKC OK	YES
36	Anna Clapper	OK Coalition/Claudio	OKC	—
37	Kent Fletcher	WFEC	Am OK OK	
38	Lee W. Pahn	DEQ Board	Tulsa, OK	YES
39	Larry Lugo	OBV	OKC	NO
40	MeLuge John	AQD	OK	NO
41				
42				
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45				
46				

RECOMMENDATION
TO THE
ENVIRONMENTAL QUALITY BOARD
FROM THE
AIR QUALITY COUNCIL

The members of this Council, acting pursuant to the authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Supp. 1993, Section 2-2-201, by roll call vote, make formal recommendation to the Environmental Quality Board the rule(s) specified below be adopted as (a) permanent rule(s) and by emergency and that the Board find that adoption of the rule(s) by emergency is warranted by the compelling extraordinary circumstance of the Federal Clean Air Act possibly becoming effective prior to this rule going into effect through normal channels, therefore, not affording the Grain and Feed Industry the protection they desire under this rule from the provisions of the Federal permitting requirements.

OAC 252:100-24
CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

Prior to making this recommendation, this Council considered the rules and comments received thereon and determined, to the best of its knowledge, that all requirements of the Oklahoma Administrative Procedures Act applicable to this rulemaking have been followed.

With the understanding that such changes shall not invalidate this recommendation, this Council authorizes the Department staff to make any amendments approved by the Council, appropriate corrections of typographical errors, additions and deletions indicated by strikeout/underline, and formatting as required by the Office of Administrative Rules.

Respectfully,



Chair or Designee

Signed this 22 day of Feb, 1995.

VOTING TO APPROVED:

William B. Breisch Pierre Taron
Larry Canter Mary Tillman
David Branecky
Bill Fishback
Kathryn Hinkle
Meribeth Slagell

ABSTAINING:

VOTING AGAINST:

ABSENT:

Gary Kilpatrick

BRIEFING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 9:30 A.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

1. **Call to Order** Chairman
2. **Division Director's Report** Dyke
Informational update of current events and AQD activities

PUBLIC HEARINGS

3. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public
4. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
5. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public
6. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public

7. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
Discussion by Council/Public
8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
Discussion by Council/Public
9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
Discussion by Council/Public
10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
Discussion by Council/Public
11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
Discussion by Council/Public

HEARING/MEETING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 1:00 P.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

- | | | |
|----|---|-----------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Approval of June 16, 1998 Minutes | Chairman |
| 4. | Resolutions – Bill Fishback – Marilyn Andrews | |

PUBLIC HEARINGS

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 Discussion by Council/Public; possible action by Council
14. **New Business** **Chairman**
 Discussion/consideration of subjects/business arising within the past 24 hours
 Possible action by Council
15. **Adjournment** **Chairman**
 Next Regular Meeting **TUESDAY, OCTOBER 20, 1998**
Tulsa City-County Auditorium
5051 South 129th East Tulsa OK

July 24, 1998

MEMORANDUM

TO: Air Quality Council

FROM: David R. Dyke, Interim Director
Air Quality Division

RE: Proposed modifications to Subchapter 24, Control of Emissions from Grain Elevators

Enclosed is a copy of the proposed draft modifications to Subchapter 24, Control of Emissions from Grain Elevators. The revisions to this Subchapter include simplification of the language, the addition of a new Permit by Rule (PBR) section and the addition of a new Appendix L, which contains PM-10 emission factors. Also, staff proposes to change the title of the Subchapter to Particulate Matter Emissions from Grain, Feed, or Seed Operations. It was not our intent to make substantive changes to the existing standards and their related requirements.

The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some elevators to obtain an individual air quality permit. Facilities that qualify for coverage under the PBR will simply register with AQD and certify their compliance with the rule. In order to qualify, an elevator:

- Must emit less than 40 tons per year of each regulated pollutant;
- Cannot be subject to Part 70 permitting; and
- Cannot be operated in conjunction with another facility that is subject to air quality permitting.

According to the AQD 1996 Emissions Report for Grain Elevators, there are approximately seven facilities in the state that will qualify for coverage under PBR because they emit over 5 tons per year of a regulated pollutant. The remaining grain elevators will likely be considered de minimis and not subject to air quality permitting.

A workgroup comprised of AQD staff and industry representatives met on June 30, 1998. Input from both parties resulted in a better proposal by facilitating the exchange of information and ideas among those affected.

The proposed Subchapter 24, Control of Emissions from Grain Elevators, will be brought to public hearing on August 18, 1998. Staff will recommend the rule be considered again at the next Air Quality Council meeting on October 20, 1998.

Enclosure: 1

6133

SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN
ELEVATORS PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED
OPERATIONS

Section

- 252:100-24-1. Purpose
- 252:100-24-2. Definitions
- 252:100-24-3. ~~General provisions: a~~Applicability, determination
of emissions general requirements
- 252:100-24-4. ~~Smoke, visible emissions and particulates~~ Visible
emissions (opacity) limit
- 252:100-24-5. Emission control equipment and certification
- 252:100-24-6. Fugitive dust controls
- 252:100-24-7. Permit by rule

252:100-24-1. Purpose

The purpose of this Subchapter is to control emissions from facilities that handle, store or process grains, feeds or seeds. ~~All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities.~~

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

~~"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.~~

"Grain, Feed, or Seed Operation" means any facility or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, ~~which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.~~

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Loading-out hours of operation" means the hours calculated by dividing the cumulative total quantity loaded out for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material loaded out. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

~~"Process Emission" means emissions from a process equipment point source.~~

"Receiving hours of operation" means hours calculated by dividing the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

252:100-24-3. ~~General provisions: a~~Applicability, determination of emissions~~general requirements~~

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed facilities in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) **General requirements.**

~~(b)~~(1) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed facility shall comply with the permitting requirements of OAC 252:100-7 ~~and~~ or 252:100-8.

~~(e)~~(2) **Air toxics emissions.** Grain, feed, or seed facilities ~~which~~that emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

~~(d)~~(3) **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting ~~the~~ commodity receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the ~~Air Quality Division personnel or its representative~~DEQ during normal business hours.

~~(e)~~(4) **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by ~~individual(s) possessing current certification.~~a Certified Visible Emission Evaluator.

~~(f)~~(5) **Determination of emissions.** Emissions from grain, feed, or seed facilities shall be determined by the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or any other reasonably accurate method ~~which can be shown to be reasonably accurate when supported by engineering~~

~~data and calculations, and approved in advance by the Air Quality Division-DEQ.~~

252:100-24-4. ~~Smoke, Visible Emissions and Particulates~~Visible emissions (opacity) limit

(a) ~~Visible emissions~~Opacity limits. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof ~~with a shade density exhibiting greater than twenty (20) percent 20% equivalent opacity. This requirement shall not apply to smoke or visible emissions exhibiting greater than 20% opacity emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty four hour period which may consist of one six-minute period in any consecutive sixty (60) minutes not to exceed three such periods in any consecutive 24 hours during which the average opacity of emissions may not exceed 60%.~~

(b) ~~Alternate emissions~~opacity limit. The 20% opacity limits, as required under 252:100-24-4 (a) may be increased for particulates only provided that the owner/ or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(c) **Exceptions.** Exceptions to the requirements described in 252:100-24-4 (a) ~~(1)~~ are provided as follows:

(1) Visible emissions from loading-out (shipping) shall be no more than 65% equivalent opacity, and visible emissions from unloading (receiving) shall be no more than 55% equivalent opacity.

~~(2) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.~~

~~(3)~~(2) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than 10% opacity at any time.

~~(4)~~(3) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than 10% opacity at any time.

252:100-24-5. ~~Emission control equipment and e~~Certification

~~(a) Standards. Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.~~

~~(b) Affected facilities. Affected facilities shall make best efforts to reduce dust emissions during load out by minimizing the distance from the load out spout to the top of the receiving vessel.~~

~~(e)(a) Initial certification. Each new, modified, or existing grain, feed or seed facility in the state of OklahomaAny grain, feed or seed facility in existence on September 28, 1994, shall provide written certification of compliance with this subchapter within one year of the adoption of this Subchapter by the DEQ Board, by September 28, 1995-, or within six months of receiving an initial certification form from DEQ. Annual certification of receiving, loading out, and total annual hours of operation, quantity received and loaded out, visible emissions, and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.~~

(b) Annual certification. The owner, operator or other designated responsible party of a grain, feed or seed facility shall submit along with the annual emissions inventory, an annual certification of receiving, loading out, and total annual hours of operation; quantity received and loaded-out; visible emissions; and the operation and proper maintenance of any required control equipment.

252:100-24-6. Fugitive dust controls

(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow ~~visible~~fugitive dust emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

(c) All facilities shall make best efforts to reduce fugitive dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

252:100-24-7. Permit by Rule

(a) Applicability. Any new or existing source may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 5153, Grain and Field Beans.

(b) Requirements.

(1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter, with the exception of 252:100-24-5(a) and (b).

(2) The total annual emissions of PM-10 shall be calculated using the equation provided in Appendix L.

**Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators
[NEW]**

$$\left[\frac{R}{45} + \frac{S}{92} \right] \times 40 = \text{Combined Emissions (TPY)}^*$$

Where, R = Annual Grain Received (millions of bushels)
 S = Annual Grain Shipped (millions of bushels)

*To qualify for Permit by Rule, the total annual combined emissions must be less than 40 TPY.

DRAFT

MINUTES

AIR QUALITY COUNCIL

AUGUST 18, 1998

Burgundy Room
4545 North Lincoln Boulevard
Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Sharon Myers
Fred Grosz
Gary Kilpatrick
Joel Wilson
David Branecky
Meribeth Slagell

Staff Present

David Dyke
Dennis Doughty
Scott Thomas
Barbara Hoffman
Ray Bishop
Linn Wainner
Michelle Martinez
Cheryl Bradley
Jeanette Buttram
Becky Mainord
Joyce Sheedy
Eddie Terrill
Myrna Bruce

Council Members Absent

Larry Canter

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for August 18, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room and also at the DEQ Tower.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye. Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 16, 1998 Public Meeting/Hearings. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye; Mr. Breisch - aye.

PUBLIC HEARING

**OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills
[NEW]**

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley to give staff recommendations on this rule. Ms. Bradley advised that the rule was first considered by the Council on June 16, 1998 at which time the hearing was continued because EPA was in the process of amending the federal standards that are the basis for the draft rule. These amendments became effective August 17, 1998. Ms. Bradley stated that staff had made the revisions consistent with the amended federal regulations and addressed all comments received.

After discussion, Chairman Breisch entertained a motion to recommend adoption of this rule as emergency and permanent to the Environmental Quality Board at its September 15, 1998 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

State 111(d) Plan for Municipal Solid Waste Landfills

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley for staff position regarding this State Plan. Ms. Bradley pointed out the criteria for approval of a state plan and advised that Oklahoma's mechanism to implement this Plan is OAC252:100-47. Ms. Bradley related that although no Council action was necessary, the staff requests to hear comments from the Council members and the public regarding the State Plan.

See attached transcript.

PUBLIC HEARING

OAC 252:100 Air Pollution Control:

Appendix E, Primary Ambient Air Quality Standards [AMENDED]

Appendix F, Secondary Ambient Air Quality Standards [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who stated that the revisions to these appendices would be identical to the revised federal National Ambient Air Quality Standards (NAAQS) for particulate matter and ozone

announced by EPA in the July 18, 1997 *Federal Register*. Ms. Martinez pointed out that according to the Secretary of State's Rules on Rulemaking, an appendix cannot be amended; therefore, staff recommended that Council vote to revoke the old appendices and pass the new appendices as permanent.

After discussion, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality Board as a permanent rule at its September 15, 1998 meeting. Mr. Kilpatrick moved that Council revoke the existing rule and replace them with the new rules as presented. Second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out revisions made to date and advised that staff was recommending that the comment period be left open until August 24 after which staff would revise the rule based upon comments received from Council and public; and would bring again to the Council's October 20 meeting.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Ms. Slagell. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position on this rule. Ms. Buttram advised that the rule was presented to Council's June 16 meeting where changes to simplify and clarify the rule and to fulfill an EPA State Implementation Plan (SIP) requirement concerning Continuous Emission Monitoring (CEM) were proposed. Ms. Buttram advised that comments received have been addressed and incorporated into the current draft rule. Following discussion with new comments, staff

recommended that the hearing be continued on this rule to the October 20 meeting to allow time for further comments.

Mr. Breisch asked for a motion to continue the hearing. Mr. Wilson made the motion and Ms. Slagell made the second. Roll call was as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Becky Mainord who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out the changes made and stated that it was staff's recommendation to continue the hearing until Council's next meeting.

Following discussion, Mr. Breisch entertained a motion to continue this rule. Dr. Grosz made that motion with second made by Mr. Wilson. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that revisions were made to simplify the language according to the Agency's re-write/de-wrong initiative, the addition of a Permit By Rule section, and to add a new Appendix L which would include PM₁₀ emission factors for the Permit By Rule. Ms. Martinez pointed out that comments had been received and considered, and that staff's recommendation was to continue the hearing to the next meeting.

After discussion, Mr. Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Mr. Branecky. Roll call

as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the revisions are part of the Agency's re-write/de-wrong initiative and respond to industry requests to exempt acetone, perchloroethylene, and methylated siloxanes from being considered VOCs. She advised that staff held a workshop on July 7 requesting public input and comments. She said there are numerous changes to be made in language, format and with the three substantive changes, staff recommended that the rule be continued to the next meeting.

Mr. Breisch entertained a motion to continue this rule. Mr. Branecky made motion with second made by Mr. Kilpatrick. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that there were numerous revisions as part of the Agency's re-write/de-wrong initiative and also five substantive changes to be considered; therefore, staff would recommend that the hearing be continued.

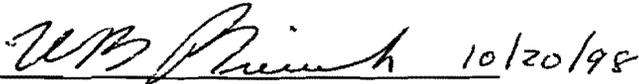
Mr. Breisch entertained a motion to continue this rule to the Council's October 20 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

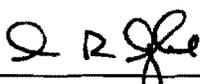
NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being October 20, 1998 at Tulsa City-County Health Department Auditorium, 5051 South 129th East, Tulsa, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.



WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL



DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

AUGUST 18, 1998

SIGN IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Pat Davenport	National Std. 3602 N. Perkins Rd.	918-744-1111
2. Bonnie Maxwell	Open Martin 2122 S. Yukon Tulsa	580-581-3388
3. Robert Edington	ARMSTRONG ST. LAWRENCE	405-377-1111
4. MICK COLE	DEQ EPA DALLAS	214 665 7200
5. SANDRA DENNIE	EPA DALLAS	214 665 7200
6. John Snow	5000 - HANOVER Yukon	
7. Flint Ruffin	Bartlesville	918-336-3000
8. Kathy Purcell	4608 S Garnett, Ste 100 Tulsa	918-665-0700
9. Norey Simms	DEQ	
10. Erney Grier	4600 S. Garnett Tulsa	918-641-0700
11. Dave Pruitt	103 SW 4th Lawton Ok 73501	580 561 3468
12. GRANT MAREBURGER	440 TERRACE NORMAN 73069	
13. Bruce Lucas	103 SW 4th Lawton OK 73501	580 581-3388
14. Subcontractor	Kansas Pipeline Rt 2 Box 173 Pawnee OK	918 76
15. WILLIAM CLARK	^{SUNCO} P.O. Box 2039 TULSA, OK 74107	918-574-6000
16. Mike Wood	Hot Springs, AR	501-624-4500
17. Nancy Coleman	RSA, Norman	405 321 3800
18. Bill Hildebrand	MORIL, EDMOND	405-398-8688
19. Kirk Trotter	OGFA	580-233-5800
20. John Wheeler	Trinity Consultants	(972) 661-8100
21. Steve Landers	Ft. James, MexK	918 683-7600
22. Gill Luten	"	"
23. Dustin Givens	"	"
24. Carol Baker	TAFB	736-7216
25. Andrew Livingston	Sinclair Oil Corp PO Box 970 Tulsa OK 74107	418-588-1120



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
AUGUST 18, 1998
SIGN IN SHEET PAGE TWO

NAME/AFFILIATION

ADDRESS

TELEPHONE

26. Bill Terrell

DEQ R-11

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**BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL**

**Tuesday October 20, 1998 9:30 A.M.
Tulsa City-County Health Department Auditorium
5051 South 129 East — Tulsa, Oklahoma**

1. **Call to Order – Bill Breisch**

2. **Division Director's Report**
Informational update of current events and AQD activities
 - A. Discussion by Council / Public

3. **CY99 Meeting Schedule**
 - A. Discussion by Council

4. **OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public

5. **OAC 272:100-7 Permits [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public

6. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]**
Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public

7. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – ~~Becky Mainord~~ *Mohr*
 - B. Questions and discussion by Council / Public

8. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public

9. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

10. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

11. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING/HEARING
AIR QUALITY COUNCIL

Tuesday October 20, 1998 1:00 p.m.
Tulsa City-County Health Department Auditorium
5051 South 129 East — Tulsa, Oklahoma

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the August 18, 1998 Regular Meeting
4. CY99 Meeting Schedule
 - A. Discussion by Council
 - B. Possible action by Council
 - C. Roll call vote
5. OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
 - C. Roll call vote
6. OAC 272:100-7 Permits [AMENDED]
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
7. OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]
Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
- A. Presentation – Becky Mainord
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
- A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
- A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
- A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
12. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
 The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
- A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
13. **NEW BUSINESS**
- A. Discussion/consideration of subjects / business arising within the past 24 hours
 - B. Possible action by Council
14. **ADJOURNMENT – Next Regular Meeting** **TUESDAY, DECEMBER 15, 1998**
 Lincoln Plaza Office Park · Burgundy Room 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma

Should you desire to attend but have a disability and need an accommodation,
 please notify our Department three days in advance at (405) 702-4100.

October 6, 1998

MEMORANDUM

TO: Air Quality Council
FROM: Eddie Terrill, Director *E.T.*
AIR QUALITY DIVISION
RE: Proposed modifications to Subchapter 24, Control of Emissions from Grain Elevators

Enclosed are copies of the proposed draft of Subchapter 24, Control of Emissions from Grain Elevators, and the rule impact statement. Subchapter 24 was brought to public hearing before the Air Quality Council on August 18, 1998, and it was recommended that the rule be continued until the October 20, 1998, Council meeting. The revisions to Subchapter 24 are a result of comments received during or before the August 18, 1998, hearing.

The first revision involves adding a reference to AP-42 9.9.1, Grain Elevators and Processes, under the new Permit by Rule section. Secondly, visible emissions and control equipment were deleted from the list of items requiring certification in the annual certification section. Finally, the language dealing with short-term exceedances of the opacity limits was changed under the opacity limits section to reflect the proposed changes to Subchapter 25.

Staff will suggest that the proposed rule be recommended to the Board for permanent adoption.

Enclosure: 2

SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN
ELEVATORS PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED
OPERATIONS

Section

- 252:100-24-1. Purpose
- 252:100-24-2. Definitions
- 252:100-24-3. ~~General provisions: applicability, determination of emissions~~general requirements
- 252:100-24-4. ~~Smoke, visible emissions and particulates~~Visible emissions (opacity) limit
- 252:100-24-5. Emission control equipment and certification
- 252:100-24-6. Fugitive dust controls
- 252:100-24-7. Permit by rule

252:100-24-1. Purpose

The purpose of this Subchapter is to control emissions from facilities that handle, store or process grains, feeds or seeds. ~~All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities.~~

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

~~"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.~~

"Grain, Feed, or Seed Operation" means any facility or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, ~~which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.~~

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Loading-out hours of operation" means the hours calculated by dividing the cumulative total quantity loaded out for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material loaded out. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

~~"Process Emission" means emissions from a process equipment point source.~~

"Receiving hours of operation" means hours calculated by dividing the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

252:100-24-3. ~~General provisions: applicability, determination of emissions~~ general requirements

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed facilities in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) **General requirements.**

~~(b)~~ (1) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed facility shall comply with the permitting requirements of OAC 252:100-7 ~~and~~ or 252:100-8.

~~(c)~~ (2) **Air toxics emissions.** Grain, feed, or seed facilities ~~which~~ that emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

~~(d)~~ (3) **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting the commodity receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the ~~Air Quality Division personnel or its representative~~ DEQ during normal business hours.

~~(e)~~ (4) **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by ~~individual(s) possessing current certification.~~ a Certified Visible Emission Evaluator.

~~(f)~~ (5) **Determination of emissions.** Emissions from grain, feed, or seed facilities shall be determined by the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or any other reasonably accurate method ~~which can be shown to be reasonably accurate when supported by engineering~~

~~data and calculations, and approved in advance by the Air Quality Division-DEQ.~~

252:100-24-4. ~~Smoke, Visible Emissions and Particulates~~Visible emissions (opacity) limit

(a) ~~Visible emissions~~Opacity limits. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof ~~with a shade density exhibiting greater than twenty (20) percent~~ 20% equivalent opacity. This requirement shall not apply to smoke or visible emissions ~~exhibiting greater than 20% opacity~~ emitted during short-term occurrences, ~~the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty four hour period which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.~~

(b) ~~Alternate emissions~~opacity limit. The 20% opacity limits, as required under 252:100-24-4 (a) may be increased for particulates only provided that the owner/ or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(c) Exceptions. Exceptions to the requirements described in 252:100-24-4 (a) ~~(1)~~ are provided as follows:

(1) Visible emissions from loading-out (shipping) shall be no more than 65% equivalent opacity, and visible emissions from unloading (receiving) shall be no more than 55% equivalent opacity.

~~(2) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.~~

~~(3)~~ (2) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than 10% opacity at any time.

~~(4)~~ (3) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than 10% opacity at any time.

252:100-24-5. ~~Emission control equipment and~~ eCertification

~~(a) Standards.~~ Emission control equipment where required by ~~(40 CFR 60.300)~~ must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

~~(b) Affected facilities.~~ Affected facilities shall make best efforts to reduce dust emissions during load out by minimizing the distance from the load out spout to the top of the receiving vessel.

~~(e)(a) Initial certification. Each new, modified, or existing grain, feed or seed facility in the state of OklahomaAny grain, feed or seed facility in existence on September 28, 1994, shall provide written certification of compliance with this subchapter within one year of the adoption of this Subchapter by the DEQ Board, by September 28, 1995-, or within six months of receiving an initial certification form from DEQ. Annual certification of receiving, loading out, and total annual hours of operation, quantity received and loaded out, visible emissions, and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.~~

~~(b) Annual certification. The owner, operator or other designated responsible party of a grain, feed or seed facility shall submit along with the annual emissions inventory, an annual certification of quantities received and loaded-out.~~

252:100-24-6. Fugitive dust controls

(a) All facilities will take reasonable precautions to prevent the discharge of any ~~visible~~ fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow ~~visible~~ fugitive dust emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

(c) All facilities shall make best efforts to reduce fugitive dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

252:100-24-7. Permit by Rule

(a) **Applicability.** Any new or existing source may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 5153, Grain and Field Beans.

(b) **Requirements.**

(1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter, with the exception of 252:100-24-5(a) and (b).

(2) The total annual emissions of PM-10 shall be calculated using the equation provided in Appendix L, which was derived from AP-42 9.9.1, Grain Elevators and Processes.

(3) For grain storage elevators located at any wheat flour mill, wet corn mill, dry corn mill, rice mill or soybean oil extraction plant, with a permanent grain storage capacity of 35,200 m³, or grain terminal elevators with a permanent storage capacity of more than 88,100 m³, which have commenced construction, modification, or reconstruction after August 3, 1978, the requirements of 40 CFR, Part 60, Subpart DD are also applicable.

**Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators
[NEW]**

$$\left[\frac{R}{45} + \frac{S}{92} \right] \times 40 = \text{Combined Emissions (TPY)}^*$$

Where, R = Annual Grain Received (millions of bushels)
 S = Annual Grain Shipped (millions of bushels)

*To qualify for Permit by Rule, the total annual combined emissions must be less than 40 TPY.

MINUTES

AIR QUALITY COUNCIL

OCTOBER 20, 1998

Tulsa City-County Health Department Auditorium
5051 South 129th Street East
Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce

Council Members Absent

Larry Canter
Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 20, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye. Mr. Kilpatrick, Ms. Slagell and Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 18, 1998 Public Meeting/Hearings. Motion was made by Mr. Wilson to approve the Minutes as presented and second to the motion was made by Dr. Grosz. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

1999 Meeting Schedule - Mr. Dyke presented Council with proposed scheduled for 1999 meetings with the suggestion that the December 21 date mentioned in the packet memo be changed to December 14. Ms. Myers made motion to accept the schedule as proposed: Wednesday, February 17, Tuesday, April 20, Tuesday, August 17, and Tuesday, December 14 at OKC, DEQ Multi-Purpose Room; with Tuesday, June 15 and October 19 at Tulsa, TCCHD Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out proposed revisions would modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits stating that actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Also, she stated that proposed revision would delete the lower limit of five tons per year for PBR facilities allowing those facilities with less than five tons per year emissions which are subject to NSPS or NESHAP to apply for a PBR instead of having to obtain an individual permit. Ms. Buttram advised that staff proposed that a new Part 9 be added that would outline the requirements necessary for a facility to qualify for a PBR. A third point she brought out was the proposed revision to delete the lower limit for general permits allowing facilities that may have less than 40 tons per year of emissions, but for which no PBR had been written, the opportunity to apply for coverage under an applicable general permit. Lastly, she added that the Department proposed to amend 252-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position on this rule. Ms. Buttram pointed out that the proposed amendments would fulfill an EPA requirement concerning Continuous Emissions Monitoring proposing to incorporate by reference the Federal opacity monitoring requirements for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators as specified in 40 CFR 51, Appendix P. She noted that the Department proposed to exempt from Appendix P requirements for those sources already subject to a new source performance standard and for sources scheduled for retirement within five years after the

amended rule takes effect. Ms. Buttram added that the amended rule would also provide criteria for approval of alternative monitoring requirements with additional changes that would clarify how the opacity standard is determined.

Mr. Breisch asked for a motion to recommend the rule as proposed to the Environmental Quality Board for permanent adoption. Mr. Wilson made the motion with David Branecky making the second. Roll call was as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out that the proposed revisions add a new Permit by Rule section that would streamline the permitting process by creating a mechanism that eliminates the necessity for some cotton gins to obtain an individual air quality permit. Ms. Martinez added that additional changes would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Following discussion, Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Ms. Myers made the motion with second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who advised that the proposed revisions would simplify the language under the agency-wide re-right/de-wrong initiative and would add a new Permit by Rule section to streamline the permitting process by creating a mechanism that would eliminate the necessity for some grain elevators to obtain an individual air quality permit. Ms. Martinez added that a new Appendix L proposed would contain PM-10 emission factors for PBR grain elevators. Additional changes follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the

opacity standard allowing exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Mr. Breisch entertained a motion to recommend the rule to the Environmental Quality Board for permanent adoption at its November 10 meeting. Mr. Wilson made that motion with second made by Ms. Myers. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She then pointed out four substantive changes that were proposed for Subchapter 37 as well as Subchapter 39:

- 1) to change the definition of “volatile organic compounds (VOC)” per Council’s direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;
- 2) to remove of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a);
- 3) a change regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences; and
- 4) to add a new Part 9, Permit by Rule for Volatile Organic Liquid Storage and Loading Facilities.

Mr. Breisch entertained a motion to continue this rule to Council’s December meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She stated that one substantive change affects both Subchapters 39 and 37

which is to change the definition of "volatile organic compounds" per Council's direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;

In Subchapter 39, Dr. Sheedy pointed out the need for correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2) which would be a substantive change along with the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c).

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's December 15 meeting. Mr. Branecky made that motion with the second made by Mr. Wilson. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the proposed revisions would update the adoption by reference of 40 CFR Part 63 to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. She pointed out that the new standards are Subpart S – NESHAP for Pulp and Paper Production and Subpart LL – NESHAP for Aluminum Production Plants. The proposed revisions will also update the adoption by reference of the NESHAP as found in 40 CFR Part 61 (with the exception of Subparts B, H, I, K, Q, R, T, and W. and Appendices D and E which address radionuclides) to July 1, 1998. Dr. Sheedy advised the Council that these modifications were necessary to obtain EPA's delegation of authority to implement the federal hazardous air pollutant program in Oklahoma.

Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Mr. Wilson made that motion with the second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

**OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees
[AMENDED]**

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Shawna McWaters-Khalousi for staff recommendation. Ms. Khalousi advised that the Department is proposing to amend 252:100-5-2.2 to increase annual operating fees assessed to minor facilities; amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits; and amend 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. Ms. Khalousi stated that it was staff's recommendation that this rule be continued to Council's December 15 meeting.

Mr. Breisch entertained motion to continue these rules to the December meeting. Ms. Myers made the motion and second was made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes.

NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being December 15, 1998 at Lincoln Plaza Office Complex Burgundy Room, 4545 North Lincoln, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

OCTOBER 20, 1998

SIGN-IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Bonnie McGilbra	2122 S. VUKAN TULSA	583-392
2. John Snow HANOVER	1600 W VANDAMENI	405-640-961
3. Carlos J. Nazario	Tinker AFB	405-734-70
4. Connie White	TINKER AFB	ll "
5. Rhonda Jeffries	ODEQ IRDAT	(918) 488 889
6. HERB NEUMANN	"	"
7. Nadene Barton	CASE	481-0474
8. FRANK CANTON	EQ BOARD	
9. Carol Barker	Tinker AFB	736-7246
10. Perry Friedrich	GRNA Chauveau	476-8268
11. SANDRA RENNIE	EPA REGION 6	(214) 665-7367
12. Terry Thomas	" "	214-665-7160
13. Stanley M. Spruiell	" "	(214) 665-7212
14. Anne Schaefer	Tinker AFB	405.734.7071
15. Rose Williams	Tinker AFB	405-734 3002
16. Bruce Russell	DEQ	918 488 8895
17. Bill CLARK	SUN Co. INC.	918-594-63
18. JACK FLY	TULSA	918-488-8895
19. Deann Hughes	Cardinal Enguery	405-842-104
20. Dustin Givens	Fort James	918 683-767
21. Steve Landers	" " "	" " "
22. GERALD BUTCHER	W/FEC	405-247-434
23. Howard Ground	CSW	24-777-1711
24. Deborah Perry	Emerson	918-665-769
25. Joel Nelson	Boeing P.O. Box 592808 Tulsa, OK 74158	918-832-3215



NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Rick Trema	Box 1307 Euclid, OK 73702	580-293-580
27. Kim Warram	6545 So Meridian Ste 214	405 722 7
28. Ron Sobber	10830 E 45th St ^{OKC} Tulsa	918 663 98
29. Edington	4115 N. Perkins Rd Stillwater	405-377-129
30. Ed Wadley	1408 S DENVER TULSA 74119	918-582
31. Don Pugh	American Airlines Po Box 582809, MD 508 Tulsa 74158	918-
32. Cathy Oshan	Mintech/Perma Fix 4608 S Garnett Tulsa 74116	64-
33. David Emery	12 AZ Phillips Building - Bartlesville OK 74003	
34. Cheryl Bradley	DEQ AQD	
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100

Subchapters or Sections Involved – [new, amended or revoked]

24 – Control of Emissions from Grain Elevators

Appendix L PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

On OCTOBER 20, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: 10-20-98

Chair or Designee

VOTING TO APPROVE:

William B. Breisch
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz .

ABSTAINING:

VOTING AGAINST:

ABSENT:

Larry Canter
Gary Kilpatrick
Meribeth Slagell

Environmental Quality Board

**ENVIRONMENTAL QUALITY
BOARD MEETING**

SEPTEMBER 28, 1994

BROKEN BOW, OKLAHOMA

[NEW]

SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS
FROM GRAIN, FEED, OR SEED OPERATIONS

252:100-24-1.	Purpose
252:100-24-2.	Definitions
252:100-24-3.	General Provisions; applicability, calculations
252:200-24-4.	Smoke, Visible Emissions and Particulates
252:100-24-5.	Emission Control Equipment
252:100-24-6.	Fugitive Dust Controls
252:100-24-7.	Applicability to other Agriculture Sources

252:100-24-1. Purpose

The purpose of this rule is to control emissions from facilities that handle, store or process grains. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities. This rule is an interim rule effective until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division to replace the factored emission rates in this interim rule.

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Dust Suppression Additives" means FDA or FGIS-approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division.

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

"Existing Grain, Feed, or Seed Operation" means a facility which was in existence in 1993 and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.

"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any facility or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

[NEW]

"Grain, Feed, or Seed Operations Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.

"High Efficiency Cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of $2 \times D$ and a cone length of $2 \times D$ (90% collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of $1 \times D$ and a cone length of $3 \times D$ (95% collection efficiency for TSP).

"Hours of Operation" is calculated by dividing the cumulative throughput total for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the throughput. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Medium Efficiency Cyclone" means any cyclone type collector less than 2D-2D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D-1D cyclone would exhibit a cylinder of $1 \times D$ and a cone length of $1 \times D$. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

"Process Emission" means emissions from a process equipment point source.

"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded-out from the facility during any time period of interest divided by two.

252:100-24-3. General Provisions: Applicability, Determination of Emissions

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt

[NEW]

from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operation shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) **Air toxics emissions.** Grain, feed, or seed operations which emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(d) **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting the commodity throughput and hours of operation. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification.

(f) **Determination of emissions.** Emissions from grain, feed, or seed operations shall be based on the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or other methods approved by the Air Quality Division. The following factored emissions are allowed by this interim rule only until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division.

For this interim rule, emissions shall be calculated as follows for three classes of emissions:

Class I: Unloading (Receiving) 0.6 lbs/ton
Loading (Shipping) 0.3 lbs/ton
Refer to 252:100-24-4 for opacity limits.

Class II: Emission Sources with Control Devices
AP-42 factor X (1-EFF)
Refer to 252:100-24-4 for opacity limits.
EFF means fractional efficiency of control device.

Class III: Uncontrolled Vents
A. Pressurized - opacity limit only
B. Non-pressurized - opacity limit only
Refer to 252:100-24-4 for opacity limits.

252:100-24-4. Smoke, Visible Emissions and Particulates

(a) **Visible emissions limit.**

(1) **Visible emissions limits.** No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas,

[NEW]

smoke, vapor, particulate matter or any combination thereof with a shade density greater than twenty percent (20%) equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty-four hour period.

(2) Alternate emissions limit. The (20%) opacity limits, as required under 252:100-24-4 (a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(3) Exceptions. Exceptions to the requirements described in 252:100-24-4 (a) (1) are provided as follows:

(a) Visible emissions from loading (shipping) shall be no more than sixty-five percent (65%) equivalent opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) equivalent opacity.

(b) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.

(c) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent (10%) opacity at any time.

(d) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than ten percent (10%) opacity at any time.

252:100-24-5 Emission Control Equipment and Certification

(a) Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) Certification. Each existing grain elevator in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this rule by the Air Quality Council. Annual certification of hours of operation and throughput and the operation and proper maintenance of required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

252:100-24-6 Fugitive Dust Controls

(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow visible emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

**ENVIRONMENTAL QUALITY
BOARD MEETING**

JUNE 27, 1995

OKLAHOMA CITY, OKLAHOMA

SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS
FROM GRAIN, FEED, OR SEED OPERATIONS

252:100-24-1.	Purpose
252:100-24-2.	Definitions
252:100-24-3.	General Provisions; applicability, calculations
252:200-24-4.	Smoke, Visible Emissions and Particulates
252:100-24-5.	Emission Control Equipment
252:100-24-6.	Fugitive Dust Controls
252:100-24-7.	Applicability to other Agriculture Sources

252:100-24-1. Purpose

The purpose of this rule is to control emissions from facilities that handle, store or process grains. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities. ~~This rule is an interim rule effective until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division to replace the factored emission rates in this interim rule.~~

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

~~"Dust Suppression Additives" means FDA or FGIS approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division.~~

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

~~"Existing Grain, Feed, or Seed Operation" means a facility which was in existence in 1993 and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.~~

~~"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.~~

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any facility or

installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Operations Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.

"High Efficiency Cyclone" means any cyclone type collector of the 2D 2D or 1D 3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D 2D cyclone would exhibit a cylinder length of $2 \times D$ and a cone length of $2 \times D$ (90% collection efficiency for TSP). A 1D 3D cyclone would exhibit a cylinder length of $1 \times D$ and a cone length of $3 \times D$ (95% collection efficiency for TSP).

"Hours of Operation" is calculated by dividing the cumulative throughput total for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the throughput. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Loading-out hours of operation" means the hours calculated by dividing the cumulative total quantity loaded out for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material loaded out. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Medium Efficiency Cyclone" means any cyclone type collector less than 2D 2D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D 1D cyclone would exhibit a cylinder of $1 \times D$ and a cone length of $1 \times D$. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

"Process Emission" means emissions from a process equipment point source.

"Receiving hours of operation" means hours calculated by dividing

the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded out from the facility during any time period of interest divided by two.

252:100-24-3. General Provisions: Applicability, Determination of Emissions

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations facilities in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operation facility shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) **Air toxics emissions.** Grain, feed, or seed operations facilities which emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(d) **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting the commodity throughput receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification.

(f) **Determination of emissions.** Emissions from grain, feed, or seed operations facilities shall be ~~based on~~ determined by the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or ~~other methods~~ approved any other method which can be shown to be reasonably accurate when supported by engineering data and calculations, and approved in advance by the Air Quality Division. ~~The following factored emissions are allowed by this interim rule only until July~~

~~1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division.~~

~~For this interim rule, emissions shall be calculated as follows for three classes of emissions:~~

~~Class I: Unloading (Receiving) 0.6 lbs/ton
Loading (Shipping) 0.3 lbs/ton
Refer to 252:100-24-4 for opacity limits.~~

~~Class II: Emission Sources with Control Devices
AP 42 factor X (1 EFF)
Refer to 252:100-24-4 for opacity limits.
EFF means fractional efficiency of control device.~~

~~Class III: Uncontrolled Vents
A. Pressurized opacity limit only
B. Non pressurized opacity limit only
Refer to 252:100-24-4 for opacity limits.~~

252:100-24-4. Smoke, Visible Emissions and Particulates

(a) Visible emissions limit.

(1) Visible emissions limits. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade density greater than twenty percent (20%) equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty-four hour period.

(2) Alternate emissions limit. The (20%) opacity limits, as required under 252:100-24-4 (a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(3) Exceptions. Exceptions to the requirements described in 252:100-24-4 (a) (1) are provided as follows:

(a) Visible emissions from loading-out (shipping) shall be no more than sixty-five percent (65%) equivalent opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) equivalent opacity.

(b) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.

(c) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent (10%) opacity at any time.

(d) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than ten percent (10%) opacity at any time.

252:100-24-5 Emission Control Equipment and Certification

(a) Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) Affected facilities shall make best efforts to reduce dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

(c) Certification. Each new, modified, or existing grain, elevator feed or seed facility in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this rule by the Air Quality Council+DEQ Board. Annual certification of receiving, loading-out, and total annual hours of operation, quantity received and loaded-out, visible emissions, and throughput and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

252:100-24-6 Fugitive Dust Controls

(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow visible emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, November 10, 1998
Kerr Country Mansion and Conference Center
1507 South McKenna
Poteau, Oklahoma

1. Call to Order - Herschel Roberts
2. Roll Call - Lynda Finch
3. Approval of Minutes of the September 15, 1998 Regular Meeting
4. **OAC 252:002 Procedures of the Department of Environmental Quality:**

Subchapter 17 of OAC 252:002 deals with the processing of citizen complaints received by the DEQ. The proposed amendment to Section 17-2 expands the definition of "enforcement action" to include a referral by a DEQ division to the Oklahoma Attorney General's Office, a district attorney's office, a state or federal law enforcement agency, or the DEQ's Environmental Crimes Investigation Team for investigation of possibly criminal environmental violations. Because criminal referral processes and criminal investigations typically are relatively involved and lengthy, this amendment is proposed to allow the DEQ to pursue possible criminal enforcement actions while still meeting agency complaint procedures and timelines.

Because this is an amendment to the procedural rules of the DEQ, it is not within the jurisdiction of an advisory council. Thus, the opportunity for public comment on this agenda item constitutes the rulemaking hearing on the proposal.

- A. Presentation -- Jimmy Givens, DEQ General Counsel
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

5. **OAC 252:100 Air Pollution Control:**

Three sets of changes are proposed:

- The proposed revisions to Subchapters 23 (Cotton Gins) and 24 (Grain Elevators) simplify the language under the DEQ's "re-right/de-wrong" rules simplification initiative. It is also proposed to add a new Permit by Rule section to both subchapters. The Permit by Rule will streamline the permitting process by creating a mechanism that will eliminate the need for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains Particulate Matter (PM)-10 emission factors for Permit by Rule grain elevators. Additional changes to both subchapters track proposed amendments of Subchapter 25 concerning opacity.

- In addition to “re-right/de-wrong” simplification changes, the proposed revisions to Subchapter 25 (Smoke, Visible Emissions and Particulates) incorporate by reference the federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries, subject to certain exceptions. Additional changes include exempting sources subject to opacity standards promulgated under the Federal Clean Air Act from the state opacity standard, and clarifying how the opacity standard will be determined at sources that have Continuous Opacity Monitors and those that do not.
- The proposed revisions to Subchapter 41 (Control of Emission of Hazardous and Toxic Air Contaminants) update the adoption by reference of federal rules to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. The new standards relate to pulp and paper production and to aluminum production plants. The proposed revisions also update the adoption by reference of the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) to July 1, 1998, with certain exceptions.

These changes were recommended by the Air Quality Council at their meeting on October 20, 1998.

- A. Presentation - David Branecky, Air Quality Council member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) for permanent adoption

6. Consideration of the Environmental Quality Report:

The Oklahoma Environmental Quality Code requires the DEQ to prepare an Environmental Quality Report and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1st of each year. Contrary to the statutory title, the purpose of this report for a fairly small targeted audience is to outline the DEQ’s two-year needs for providing environmental services within its jurisdiction, and to reflect any new federal mandates and recommended statutory changes. The Environmental Quality Board is to review, amend and approve the report.

- A. Presentation – Mark Coleman, DEQ Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote

- 7. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)
- 8. Executive Director’s Report
- 9. Vote on 1999 Environmental Quality Board meeting dates
- 10. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

**SUBCHAPTER 24. ~~CONTROL OF EMISSIONS FROM GRAIN~~
~~ELEVATORS~~PARTICULATE MATTER EMISSIONS FROM GRAIN,
FEED OR SEED OPERATIONS**

Section

- 252:100-24-1. Purpose
- 252:100-24-2. Definitions
- 252:100-24-3. ~~General provisions: applicability, determination of emissions~~Applicability, general requirements
- 252:100-24-4. ~~Smoke, visible emissions and particulates~~Visible emissions (opacity) limit
- 252:100-24-5. Emission control equipment and certification
- 252:100-24-6. Fugitive dust controls
- 252:100-24-7. Permit by rule

**SUBCHAPTER 24. ~~CONTROL OF EMISSIONS FROM GRAIN~~
~~ELEVATORS~~PARTICULATE MATTER EMISSIONS FROM GRAIN,
FEED OR SEED OPERATIONS**

252:100-24-1. Purpose

The purpose of this Subchapter is to control emissions from facilities that handle, store or process grains, feeds or seeds. ~~All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities.~~

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

~~"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.~~

"Grain, Feed, or Seed Operation" means any facility or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common control, ~~which have SIC codes with the first two digits that are identical to the first two digits of the SIC code for grain elevators, feed mills, or grain and seed processing equipment.~~

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Loading-out hours of operation" means the hours calculated by dividing the cumulative total quantity loaded out for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material loaded out. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the ~~Director of the Air Quality Division~~ Director.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

~~"Process Emission" means emissions from a process equipment point source.~~

"Receiving hours of operation" means hours calculated by dividing the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the ~~Director of the Air Quality Division~~ Director.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

252:100-24-3. ~~General provisions: applicability, determination of emissions~~ Applicability, general requirements

(a) Applicability. The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed facilities in the State of Oklahoma.

(1) Facilities in compliance with ~~OAC~~ 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of ~~OAC~~ 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) General requirements.

~~(b)(1)~~ (1) Permits required. In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed facility shall comply with the permitting requirements of ~~OAC~~ 252:100-7 and/or 252:100-8.

~~(c)(2)~~ (2) Air toxics emissions. Grain, feed, or seed facilities ~~which~~ that emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

~~(d)(3)~~ (3) Record-keeping. The owner or operator of a facility shall maintain a daily log documenting ~~the~~ commodity receipts and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the ~~Air Quality Division personnel or its representative~~ DEQ during normal business hours.

~~(e)(4)~~ (4) Visible emissions test. Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by ~~individual(s) possessing current certification~~ a Certified Visible Emission Evaluator.

~~(f)(5)~~ (5) Determination of emissions. Emissions from grain, feed, or seed facilities shall be determined by the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or any other reasonably accurate method which can be shown to be reasonably accurate when supported by engineering data and calculations, and approved in advance by the ~~Air Quality Division~~ DEQ.

252:100-24-4. ~~Smoke, Visible Emissions and Particulates~~ Visible emissions (opacity) limit

(a) ~~Visible emissions limits~~ Opacity limit. No person shall cause,

~~suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade density exhibiting greater than twenty (20) percent equivalent 20% opacity. This requirement shall not apply to smoke or visible emissions exhibiting greater than 20% opacity emitted during short-term occurrences, the shade or density of which is not greater than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty four hour period which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.~~

(b) ~~Alternate emissions opacity limit.~~ The 20% opacity limits, ~~as limit~~ required under 252:100-24-4 (a) may be increased for particulates only provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the ~~Oklahoma~~ Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(c) ~~Exceptions.~~ Exceptions to the requirements described in 252:100-24-4 (a) ~~(1)~~ are provided as follows:

(1) Visible emissions from loading-out (shipping) shall be no more than 65% ~~equivalent~~ opacity, and visible emissions from unloading (receiving) shall be no more than 55% ~~equivalent~~ opacity.

~~(2) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than twenty percent (20%) opacity at any time.~~

~~(3)~~ (2) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than 10% opacity at any time.

~~(4)~~ (3) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than 10% opacity at any time.

252:100-24-5. ~~Emission control equipment and certification~~ Certification

~~(a) Standards.~~ Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

~~(b) Affected facilities.~~ Affected facilities shall make best efforts to reduce dust emissions during load out by minimizing the distance from the load out spout to the top of the receiving vessel.

~~(c) Certification.~~ Each new, modified, or existing grain, feed or seed facility in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this Subchapter by the DEQ Board. Annual certification of receiving, loading out, and total annual hours of operation, quantity received and loaded out, visible emissions, and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other

~~designated responsible party and submitted as part of the annual emissions inventory reporting form.~~

(a) Initial certification. Any grain, feed or seed facility in existence on September 28, 1994, shall provide written certification of compliance with this subchapter by September 28, 1995, or within six months of receiving an initial certification form from DEQ.

(b) Annual certification. The owner, operator or other designated responsible party of a grain, feed or seed facility shall submit along with the annual emissions inventory, an annual certification of quantities received and loaded-out.

252:100-24-6. Fugitive dust controls

(a) All facilities will take reasonable precautions to prevent the discharge of any ~~visible~~ fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow ~~visible~~ fugitive dust emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

(c) All facilities shall make best efforts to reduce fugitive dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

252:100-24-7. Permit by Rule

(a) Applicability. Any new or existing source may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 5153, Grain and Field Beans.

(b) Requirements.

(1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter, with the exception of 252:100-24-5(a) and (b).

(2) The total annual emissions of PM-10 shall be calculated using the equation provided in Appendix L, which was derived from AP-42 9.9.1, Grain Elevators and Processes.

(3) For grain storage elevators located at any wheat flour mill, wet corn mill, dry corn mill, rice mill or soybean oil extraction plant, with a permanent grain storage capacity of 35,200 m³, or grain terminal elevators with a permanent storage capacity of more than 88,100 m³, which have commenced construction, modification, or reconstruction after August 3, 1978, the requirements of 40 CFR, Part 60, Subpart DD are also applicable.

**Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators
[NEW]**

$$\left[\frac{R}{45} + \frac{S}{92} \right] \times 40 = \text{Combined Emissions (TPY)}^*$$

Where, R = Annual Grain Received (millions of bushels)
 S = Annual Grain Shipped (millions of bushels)

*To qualify for Permit by Rule, the total annual combined emissions must be less than 40 TPY.

Additional Comments

**SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS
FROM GRAIN, FEED, OR SEED OPERATIONS**

EXECUTIVE SUMMARY:

Under the Federal Clean Air Act Amendments of 1990, sources with the potential to emit in excess of 100 T/Y of any regulated air pollutant would be subject to the permitting requirements of Title V of the Act. Facilities which handle seed, feed, and grain have high "potentials"; but are largely seasonal and, therefore, actually emit substantially less than their potential. These rules would subject all new and existing grain facilities to state permitting requirements; set limitations upon air emissions; and, for a majority of sources, bypass the more onerous Title V permitting requirements. This rule also attempts to establish industry-wide emission standards and bring them together in a single rule. The rule is effective *only* until actual test protocols are approved and empirical emissions standards are established by the industry, or until July 1, 1995, whichever is earlier. In the case empirical emission standards are not established, current AP-42 engineering factors will be utilized to determine emissions. Accurate emission factors are also important since they will provide the basis for annual operating fees under the permitting rules.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no analogous rules. These rules are an aid to compliance with Part 70 permitting requirements meant to assist industry.

ENVIRONMENTAL BENEFIT STATEMENT:

Applicable federal rules allow for state permits which in effect restrict emissions and remove certain facilities from the applicability of Title V. This takes advantage of this situation by setting emission standards and operational parameters which would limit the potential to emit of affected facilities, and therefore applicability of Title V. The state rule is actually less stringent than the federal rule; therefore the Environmental Benefit Statement requirement does not apply.

Comments and Response

1. Comment: EPA indicated that they could not approve a new rule which resulted in a relaxation of an existing State Implementation Plan without adequate technical and/or scientific data to justify such action.

Response: Staff agrees. Proposed Subchapter 24 provides for an opportunity for the affected industry to demonstrate any area of the existing applicable rules and provide data for making any appropriate changes to these rules.

2. Comment: What is the specific calculation process currently used to determine "potential to emit" under AP-42 guidelines?

Response: A source's emissions are to be calculated using its maximum capacity. Maximum emission capacity would then be the designed capacity times the total hours per year, times an emission factor, equals a source's potential to emit. Control equipment and restrictions of the hours of operations or other items which would reduce the potential to emit can be used in the calculations only if these limitations are enforceable by the Administrator, i.e., an enforceable permit.

3. Comment: Are there other allowable calculation procedures and, if so, would they result in a lower determination of "potential to emit"?

Response: Staff recommends using material balance, stack testing on identical equipment, mfg. guaranteed specifications, or any other method approved by AQS as equivalent. The probability of lowering the determination of "potential to emit" is difficult to answer because any one of these methods may depend upon several variables. However, it would be appropriate to indicate that stack testing would be most accurate followed by mfg. specifications, material balance, etc.

4. Comment: What are the necessary requirements of grain elevators which are determined to emit less than 100 tons of dust per year.

Response: Applicability to the Title V, Major Source Operating Permit, will be determined based upon potential to emit 100 tons per year or more, but has actual annual emissions of less than 100 tons per year (i.e., does not have enforceable limitations for less than 100 tons per year), then Title V permitting requirements will be applicable and the source will be required to submit a Title V permit application when Title V, Operating

Permit Program is implemented. If a source has the potential to emit 100 tpy or more but has enforceable limitations (i.e., a permit) for less than 100 tpy, A Title V permit will not be applicable and an application will not be required to be submitted when the Title V, Operating Permit Program is implemented. A grain elevator which has the potential to emit less than 100 tpy will not be applicable to the Title V Operating Permit Program, but will remain applicable to appropriate state air quality rules. Facilities which are applicable to a New Source Performance Standard such as Subpart DD - Standards of Performance for Grain Elevators, are defined as major sources and will be applicable to Title V operating permit requirements.

5. Comment: How will the use of mineral oil additives to the grainstream be incorporated into the calculation process?

Response: Upon receipt of acceptable documentation (mfg specs., stack test results, etc.) of demonstration that introduction of mineral oil additives have an established effect on ambient air emissions reductions and a quantification of such reduction, the AQS will be in a position to accept the mineral oil additive as an equivalent method of control for grain processing and handling emissions.

6. Comment: How will ODEQ-AQD classify and make determination of fugitive dust?

Response: Staff considers "fugitive emissions" as emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. This would include fugitive dust. "Process Fugitives" mean any emissions which are the result of any process such as receiving, turning, and handling, but are not classified as fugitive emissions because they could reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

7. Comment: Will all grain elevators have the "potential to emit" over 100 tons of dust if operated 24 hpd/365 days per year?

Response: AQS has not calculated the potential to emit of all grain processing facilities in the state. Applicability would depend upon the maximum capacity of all the process equipment, the number and type of all processes at a facility. In other words, it must be determined on a case by case basis.

8. Comment: Does ODEQ_AQD make no distinction as to the portion of dust emissions which is considered PM-10?

Response: Staff references CFR Part 70.2 Definition, "Major Source" (2) states: A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has

the potential to emit, 100 tpy or more of any air pollutant (including any major source fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purpose of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source.

The list of source categories has not been included because grain elevators are not on the list.

This definition includes, "as determined by rule by the Administrator"; this includes state rules which have been adopted as part of the state implementation plan. OAC 310:200-25, Smoke, Visible Emissions and Particulates, and OAC 310:200-27, Particulate Matter Emissions from Industrial and Other Processes and Operations, have been adopted as part of the Oklahoma SIP. These two rules establish the allowable visible emissions and TSP emissions are considered to be a regulated pollutant. PM-10 is considered separately for purposes of compliance with NAAQS.

9. Comment: What are the upcoming deadlines as to permitting requirements?

Response: Each state is required to submit a Title V Operating Permit Plan to EPA by Nov. 15, 1993. EPA must approve or disapprove a state's plan by Nov. 15, 1994.

Major Sources must submit an application for a Title V permit within 12 months of EPA's approval of a state's plan. Therefore, if EPA approves Oklahoma's plan by November 15, 1994, major source Title V permit applications will be required to be submitted on or before November 15, 1995.

10. Comment: What is the process involved of the Council changing the state's SIP as it pertains to the grain industry in a manner that will be approved by EPA. Is this what we are attempting to do via our subchapter?

Response: Staff concur, proposed subchapter 24, Control of Emissions from Grain Elevators, upon fulfillment of the Administrative Procedures Requirement imposed by Oklahoma State Statutes, will be submitted to EPA as a SIP revision as a state air quality rule specific to the grain elevators, and therefore removing grain elevators from the requirements of existing applicable subchapters 25-27-29. EPA reviews SIP submittal for their appropriateness. Some of the things which are considered in EPA review include: is the need for the proposed changes documented; does this documentation demonstrate the need for the change; and can the changes be defended from any challenges which may be presented.

EPA has the final authority whether to accept the proposed SIP revision, ask for additional information or changes from the state or to deny the proposal as a SIP revision. The state has always worked closely with EPA when preparing a proposed SIP revision in an effort to minimizing EPA's concerns and therefore improve the likelihood of submitting an approvable rule as a SIP revision.

11. Comment: The industry committee does not have a problem with the 55%-65% opacity levels tied to a study so long as we have some idea of the study parameters. Could staff possibly have their proposed study parameters available for industry's consideration prior to the first meeting?

Response: Staff presented the proposal for a study to your organization on Friday, April 8, 1994 and your group later declined that opportunity to go forward with such a study, therefore a detailed protocol for the study was not developed. The staff is certainly willing to develop a study protocol, however it would better serve the grain elevator industry and AQD alike to jointly develop the study protocol.

12. Comment: Could we have further explanation on what would be involved with the Title V permit process if we opt for the two year delay? We are confused between staff comments on April 8 and April 12 on this issue. How does staff anticipate this process will occur? How many elevators will be involved? Does staff have an idea of what a generic permit will look like?

Response: 1) The staff has said and will continue to take the position that any source which has the potential to emit 100 tpy of a regulated pollutant or any level of emission which makes that source applicable to Part 70 permitting requirement, will be expected to comply with the Part 70 permit application. However the staff has indicated that due to recent clarification of emission points at grain elevators, there is a likelihood that fewer elevators than originally estimated would have a 100 tpy actual or potential to emit.

2) During conversations with EPA on April 5, 1994 about the Part 70 Permitting Program, we became aware of new information which will allow for the staggering of applicability reviews and issuance of Part 70 permit applications. EPA indicated that a state has the option to clarify their Part 70 Permit Plan Submittal by providing a schedule for review and issuance of Part 70 permits. If it is determined at the time of the Part 70 permit reviews that a source or categories of source are not applicable to the Part 70 Permitting requirement, based upon newly developed emission data or any other information which may not have been available at the time when required to submit the application, a Permit 70 permit will not be required.

Preparation of the Part 70 permitting plan clarification could be utilized to allow those source categories that do not currently have reliable emission data time to research and develop representative emission data for their respective industry to be used as the basis of determining applicability to Part 70 permitting requirement.

3) AQD cannot at this time quantify the number of grain elevators which will be applicable to submitting a Part 70 permit application. However, we feel that the number will be relatively small.

4) The staff has a basic idea of what a "generic" permit for grain elevators would look like. That is, it would include all the appropriate items necessary to establish all the federally enforceable limitations to avoid applicability to the Part 70 permitting requirements. We believe that it would basically be a simplified version of the presently issued permit.

13. Comment: We believe that feed mills and seed processors need to be included in Subchapter 24.

Response: AQD staff does not believe sufficient review has been given to this issue to know all the ramifications which could result from inclusion of this segment of industry in proposed subchapter 24. Therefore, we do not feel it would be appropriate to take the action your organization is requesting until appropriate review has been accomplished. We proposed that subchapter should be applicable to only the grain elevating processes at this time and could be revised later to include feed mills and seed processor if determined appropriate to do so.

14. Comment: We believe that sufficient data has been submitted to support the 70% reduction of AP-42 emission factors.

Response: AQD staff has determined several issues that need resolution before staff can concur with this position. These issues were presented in a report dated April 1, 1994.

15. Comment: Which emission points will be considered in determining annual emission estimates?

Response: Staff has included section 24-3(f), which addresses the emission points and factors in Subchapter 24.

16. Comment: Industry is concerned that fees assessed from following current AP-42 factors will force country elevators out of business.

Response: Staff state that Subchapter 24 does not address fees. However, realizing that fees are a result of emission estimates, methods of calculating emissions are included in Subchapter 24.

OAC 252:100-24 PARTICULATE MATTER EMISSIONS
FROM GRAIN, FEED, OR SEED OPERATIONS

EXECUTIVE SUMMARY:

Under the Clean Air Act Amendments of 1990, sources with the potential to emit in excess of 100 tons per year of any regulated air pollutant would be subject to the permitting requirements of Title V of the Act. Facilities which handle seed, feed, and grain have high "potentials" but are largely seasonal and, therefore, actually emit substantially less than their potential. The intent of the revision to OAC 252:100-24 is to simplify and clarify the existing rule by: omitting the rule expiration date, removing many unnecessary definitions, and removing emission factors for grain handling. New language is added concerning Loading operations, Hours of operation, and Determination of emissions.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: A member of the Air Quality Council felt the "Guidance Document" accompanying this rule should reference the OSU Study as the fundamental study done to develop the emissions factors. This study provides a scientific rationale that is of importance since the OSU emission factors are less than the EPA AP-42 factors.

Response: The staff has met with representatives of the grain industry to discuss this and other additions to the document.

Comment: A representative from a local environmental firm questioned wording of the definition of fugitive emissions. Concern was expressed that as currently worded, the rule indicates if the dust emissions get on properties beyond adjacent properties, the rule would not apply. It was requested that the definition for "fugitive dust" be added to the guidance document to better reflect the health effects of the emissions.

Response: The staff stated the definition for "fugitive dust" is exactly the same as in other portions of Oklahoma Air Quality rules and that the definition was designed to include facilities that may not have a stack and implies possible controls could be placed on the stack. Further, health effects were not part of the OSU Study as it was an emissions quantification study. After discussion, it was agreed minor changes in wording be made.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES

There are no analogous rules. These rules are an aid with Part 70 permitting requirements meant to assist

for future reference, the should also say this is to assist with obtaining permits

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 24. CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

EXECUTIVE SUMMARY: The proposed revisions to Oklahoma Administrative Code 252:100-24, Control of Emissions from Grain Elevators, will simplify the language under the agency-wide re-right/de-wrong initiative. It is also proposed to add a new Permit by Rule section to the subchapter that will streamline the permitting process by creating a mechanism that will eliminate the necessity for some grain elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to the subchapter follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: EPA suggested the AP-42 Section 9.9.1, Grain Elevators and Processes, be referenced in the rule.

Response: Staff agreed and the reference was added.

Comment: Staff and Public requested the certification of visible emissions and operation and proper maintenance of any required control equipment be taken out of section 24-5(b), Annual certification.

Response: Staff agreed and the deletion was made.

Comment: EPA commented that 252:100-24-7 should include a practically enforceable method or procedure to verify compliance through recordkeeping and maintenance.

Response: No changes were necessary since section 24-7(b)(1) requires compliance with all of the requirements of the Subchapter, except 24-5(a) and (b). Thus, the recordkeeping requirements of 24-3(b)(3) are already applicable to Permit by Rule facilities.

Comment: Council recommended the word "equivalent" in section 24-4(c)(1) be deleted for reasons of consistency.

Response: Staff agreed and the two deletions were made in the section.

RECEIVED

9 1994

BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

ORIGINAL

* * * * *
HEARING BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
HELD ON APRIL 12, 1994
AT 4616 E. 15TH
TULSA, OKLAHOMA
* * * * *

COUNCIL MEMBERS PRESENT:

- Mr. Bill Breisch, Chairman
- Dr. Michael Hughes
- Ms. Meribeth Slagell
- Ms. Kathryn Hinkle
- Mr. Bill Fishback
- Mr. Gary Kilpatrick
- Ms. Mary Tillman
- Mayor Pierre Taron

Also Present:

- Mr. Larry Byrum, Protocol Officer
- Ms. Myrna Bruce, Secretary of Council

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I N D E X

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1 Tulsa, OK

2 April 12, 1994

3 1:00 o'clock p.m.

4 * * * * *

5 (The following public meeting was held before
6 the Oklahoma Department of Environmental Quality.)

7 THE CHAIRMAN: We'll have to call our meeting
8 officially to order. That's done. We'll have roll
9 call.

10 THE SECRETARY: Mayor Taron?

11 MR. TARON: Here.

12 THE SECRETARY: Dr. Tanner?

13 (No response.)

14 THE SECRETARY: Ms. Tillman?

15 MS. TILLMAN: Here.

16 THE SECRETARY: Dr. Hughes?

17 DR. HUGHES: Here.

18 THE SECRETARY: Ms. Hinkle?

19 MS. HINKLE: Here.

20 THE SECRETARY: Ms. Slagell?

21 MS. SLAGELL: Here.

22 THE SECRETARY: Mr. Fishback?

23 MR. FISHBACK: Here.

24 THE SECRETARY: Mr. Kilpatrick?

25 MR. KILPATRICK: Here.

1 THE SECRETARY: Mr. Breisch?

2 THE CHAIRMAN: Here.

3 Okay. If it's all right with you all, I want
4 to take care of the approval of the minutes of the
5 January 11th meeting and March 3rd meeting.

6 MR. TARON: Move to be approved.

7 DR. HUGHES: Second.

8 THE CHAIRMAN: Moved and seconded. Any
9 questions, comments?

10 (No response.)

11 THE CHAIRMAN: Call the roll.

12 THE SECRETARY: Mayor Taron?

13 MR. TARON: Aye.

14 THE SECRETARY: Ms. Tillman?

15 MS. TILLMAN: Aye.

16 THE SECRETARY: Dr. Hughes?

17 DR. HUGHES: Aye.

18 THE SECRETARY: Ms. Hinkle?

19 MS. HINKLE: Aye.

20 THE SECRETARY: Ms. Slagell?

21 (No response.)

22 THE SECRETARY: Mr. Fishback?

23 MR. FISHBACK: Aye.

24 THE SECRETARY: Mr. Kilpatrick?

25 MR. KILPATRICK: Aye.

1 THE SECRETARY: Mr. Breisch?

2 MR. BREISCH: Aye.

3 THE CHAIRMAN: Okay. At this time then we'll
4 go ahead and proceed with our rule making. Larry, you
5 will act as protocol officer for this portion of the
6 meeting.

7 MR. BYRUM: Ladies and gentlemen, my name is
8 Larry Byrum; I am the director of the Air Quality
9 Division. As such, I will act as protocol officer for
10 the hearing. The hearing is convened by the Air Quality
11 Council in compliance with the Oklahoma Administrative
12 Procedures Act in Title 40 of the Code of Federal
13 Regulations, Part 51, as well as the authority of Title
14 63 of the Oklahoma Statutes, Section 11801 and
15 following.

16 This hearing was advertised in the Oklahoma
17 Register for the purposes of receiving comments
18 pertaining to the procedures of the Environmental
19 Council, and if you wish to make a statement, please
20 complete the form that's back at the registration table,
21 and I will call upon you at the appropriate time.

22 At this time I will call upon Mr. Dennis
23 Doughty to give the staff position on this rule.

24 MR. DOUGHTY: Thank you, Larry. My name is
25 Dennis Doughty, staff attorney for the Air Quality

1 Service. And we have a procedural rule here which has
2 been before the Council a time or two before. It's a
3 rule which the Council has passed once as an emergency.
4 We had some discussion this morning. I was able to
5 retrieve the first page of the rule, and I hope each and
6 every one of you has a copy of the first page of the
7 rule.

8 In response to the comments this morning, I
9 would say that the very first -- the very first page,
10 the cover page, is extraneous and not meant to be part
11 of the rule. It's meant to be part of the
12 administrative procedures requirement that particular
13 information be included with the rule when it's sent
14 through the system.

15 On page 3, I was requested to look at the
16 jurisdiction issue. It says the Air Quality Council,
17 that the jurisdiction, although not necessarily limited
18 to specific articles, are generally set forth as
19 follows, and it says Article 5 of the Oklahoma
20 Environmental Quality Code. Article 5 happens to be the
21 Oklahoma Clean Air Act, which I think was what the
22 concern was. So that refers specifically to the Clean
23 Air Act, which should cover that particular problem.

24 There was a change that was requested in
25 duties, and what I did was come up with some new

1 language to add at the very end of (E) under Duties.
2 The language I have drafted says that this paragraph
3 shall not be construed to limit the authority of the Air
4 Quality Council to pass binding resolutions under the
5 Oklahoma Clean Air Act. And that was a concern that was
6 voiced this morning concerning the passing of nonbinding
7 resolutions for other councils.

8 MR. KILPATRICK: Which page is that on, Dennis?

9 MR. DOUGHTY: That's on page 3 under (E),
10 Duties.

11 Mr. Peyton had expressed some concern that the
12 Air Quality Council in a sense has authority to pass
13 binding resolutions, which I assume he was speaking of
14 the rule-making capacity and also the authority under
15 individual proceedings.

16 MR. HUGHES: Would you repeat that, please.

17 MR. DOUGHTY: What I added was: "This
18 paragraph shall not be construed to limit the authority
19 of the Air Quality Council to pass binding resolutions
20 under the Oklahoma Clean Air Act."

21 That doesn't grant any more authority. It just
22 says that it won't detract from what authority we
23 already have. And I hope that would be satisfactory.

24 There was one more comment this morning
25 concerning rule-making hearings before the Council, that

1 language be added to say that the Council has the -- or
2 at least to confirm the authority that the Council has
3 the authority to appoint hearing officers. What I did
4 was change the second sentence to read as follows:

5 "Hearings before the Council shall be conducted by the
6 chair or the chair's designee or at the request of the
7 Council by a hearing officer," and I changed the word
8 "appointed" to "recommended" by the department.

9 I added the following sentence: "The Council
10 shall also have the option to appoint hearing officers
11 on their own motion," which is in conformance with the
12 authority under the Clean Air Act.

13 THE CHAIRMAN: Now, you didn't change the
14 original paragraph any?

15 MR. DOUGHTY: Yeah. I changed the word
16 "appointed" to "recommended." It says that language in
17 effect referring to a hearing officer "appointed" by the
18 department; it says a hearing officer "recommended" by
19 the department.

20 THE CHAIRMAN: Okay.

21 MR. DOUGHTY: That's what I changed.

22 THE COURT: Okay. I didn't hear recommended.
23 In other words "appointed" is out.

24 MR. DOUGHTY: The language that I'm suggesting
25 would take out the word "appointed" and insert the word

1 "recommended," and then adding the language that says
2 that under their own authority they can by motion
3 appoint a hearing officer.

4 I believe that addresses the concerns of the
5 Council, as I recall. I think we would recommend that
6 if the Council sees fit to go ahead and recommend this
7 to the Board, these changes to the Board.

8 THE CHAIRMAN: Okay. Dennis, then can we go
9 ahead and pass this with these changes if we want to?

10 MR. DOUGHTY: Yes, of course.

11 MR. KILPATRICK: I so move that we pass the
12 resolution as proposed and amended by Mr. Doughty.

13 MR. HUGHES: Second.

14 MR. DOUGHTY: May I -- excuse me. May I
15 interrupt? We might want to ask for any comments --
16 before you actually vote on, you might ask for comments
17 or questions.

18 MR. BYRUM: Any more questions from the Council
19 for Mr. Doughty?

20 MS. HINKLE: I've got one question. Did I
21 understand you to say that page 1 that had been left
22 out --

23 MR. DOUGHTY: Yeah.

24 MS. HINKLE: -- was not intended -- it was
25 something that would be transferred with it, that it was

1 not a necessary part --

2 MR. DOUGHTY: I'm sorry, but the copy I
3 received just didn't have the first page in it, and it
4 went into the packet, and it just wasn't there.

5 MS. HINKLE: But it is definitely --

6 MR. DOUGHTY: Oh, absolutely. It's part of the
7 packet and part of the rule as passed previously.

8 MR. BYRUM: Any other questions of the Council
9 for Mr. Doughty?

10 DR. HUGHES: Call for the question.

11 MR. BYRUM: Should we hear from the audience,
12 perhaps?

13 Is there anyone in the audience who wishes to
14 address this subject?

15 MR. FOGDEN: I'm Frank Fogden representing
16 the DEQ. I guess I had a question on the last
17 recommendation if in fact any of the other councils
18 except the Air Quality Council has the authority to
19 appoint a hearing officer. Do you know if that's true,
20 Dennis?

21 MR. DOUGHTY: I haven't read all of their --
22 their implementing legislation, I certainly don't know.

23 You mean under the statutes?

24 MR. FOGDEN: Uh-huh.

25 MR. DOUGHTY: I'm not aware. We have some

1 other issues that come in here with the Council, too,
2 and that is the Council's authority to conduct
3 individual proceedings, which none of the other councils
4 do. And I think that issue is part of what's involved
5 here.

6 (A discussion was held off the record.)

7 MR. DOUGHTY: Okay. But I think the question
8 that he asked me was: Did any of the other councils
9 have the authority to appoint hearing examiners, and I
10 have to admit that I don't know the answer to that.

11 I'm not sure that they do.

12 FRANK FOGDEN: My recommendation is that it be
13 changed to specify Air Quality Council, because if it
14 goes to the Board and it does become issues that other
15 councils can't appoint, we can't change it, basically, I
16 don't believe.

17 MR. BYRUM: That's correct.

18 MR. FOGDEN: And then --

19 MR. TARON: If they want to change, it.
20 Whether or not --

21 MR. FOGDEN: -- emergency involved.

22 MR. BYRUM: What I believe he's saying is if
23 you make it specific that the Air Quality Council has
24 this authority and we pass it that way, it becomes
25 negative whether the other councils have that authority

1 or not. Is that correct?

2 MR. FOGDEN: Yes.

3 MR. BYRUM: And I think that's what he's asking
4 is if you make it specific for the Air Quality Council,
5 then if the other councils don't have that authority,
6 it's negative, the Board does not have to send it back
7 to us to put that wording back in. If the other
8 councils aren't granted by the law that authority, then
9 if we leave the language the way it is now, their choice
10 would be to grant that authority by passing what you
11 send forward or send it back to us to be modified.

12 MR TARON: I have a question. Who is the
13 authority? The legislature or the Department of
14 Environmental Quality? Who is the authority? Didn't
15 the legislature --

16 MR. BYRUM: Sure. And he's agreeing with that.

17 MR. KILPATRICK: Gave us the authority.

18 MR. BYRUM: But what he's saying is they may
19 not have given the other councils this authority.

20 MR. FOGDEN: I understood they didn't.

21 MR. BYRUM: Yeah, that's what he's saying. Go
22 ahead and say just the Air Quality Council here.

23 MR. DOUGHTY: Is the very last change that you
24 find exception to that we need to do something with? If
25 we added where we say council, if we say specifically

1 Air Quality Council, do you think that would be
2 satisfactory?

3 MR. FOGDEN: Yeah, I think so.

4 MR. KILPATRICK: I think you'd want to go back
5 and change the recommended back to appointed.

6 THE CHAIRMAN: I think you need another
7 sentence.

8 MR. KILPATRICK: Yeah. You have this sentence
9 down here. But you change the Council to the Air
10 Quality Council shall have the authority to point their
11 own.

12 I think -- I don't disagree with that, and it
13 may be a fact of law. I think it's unfortunate if the
14 other councils don't have the authority. I think if
15 it's a point that's not spoken to, they ought to pass
16 this rule so they have the authority rather than the
17 department.

18 But --

19 MR. DOUGHTY: If we change --

20 MR. KILPATRICK: That's not our problem; it's
21 their problem.

22 MR TARON: No. It's their problem.

23 MR. DOUGHTY: Well, if we change it back to
24 appointed and then in the last sentence say the Air
25 Quality Council shall have the sole option to appoint

1 its own hearing officers on their own motion, do you
2 think that would be satisfactory?

3 MS. HINKLE: What?

4 MR. DOUGHTY: If we change the word appointed
5 back to -- or recommended back to appointed, we can
6 change the last sentence to something to the effect of
7 saying: "However, the Air Quality Council shall have
8 the sole option of appointing its own hearing officers."

9 MR. KILPATRICK: Yeah. That will straighten it
10 out for us.

11 MR. DOUGHTY: Okay. The amended language will
12 read as follows, the very last sentence: "However, the
13 Air Quality Council shall also have the sole option to
14 appoint their own hearing officers."

15 Is that satisfactory?

16 (No response.)

17 MR. BYRUM: Are there questions for Dennis? I
18 see no further questions.

19 THE CHAIRMAN: Okay. We had a motion on the
20 floor, or the table, to adopt this as corrected. Does
21 that motion still stand?

22 MR. KILPATRICK: Do I need to amend my motion
23 to --

24 DR. HUGHES: I would say that you would have to
25 amend the motion and vote on the amendment and vote on

1 the motion.

2 MR. KILPATRICK: I will amend my motion to
3 agree with the second -- last correction.

4 MR TARON: Second.

5 THE CHAIRMAN: Any other comments or questions
6 from the Council?

7 (No response.)

8 THE CHAIRMAN: Okay, Merna, call the roll.

9 THE SECRETARY: Mayor Taron?

10 MR. TARON: Aye.

11 THE SECRETARY: Ms. Tillman?

12 MS. TILLMAN: Aye.

13 THE SECRETARY: Dr. Hughes?

14 DR. HUGHES: Aye.

15 THE SECRETARY: Ms. Hinkle?

16 MS. HINKLE: Aye.

17 THE SECRETARY: Ms. Slagell?

18 MS. SLAGELL: Aye.

19 THE SECRETARY: Mr. Fishback?

20 MR. FISHBACK: Aye

21 THE SECRETARY: Mr. Kilpatrick?

22 MR. KILPATRICK: Aye.

23 THE SECRETARY: Mr. Breisch?

24 THE CHAIRMAN: Aye.

25 (A discussion was held off the record.)

1 DR. HUGHES: You voted on the amendment. Now
2 we're voting on the motion itself.

3 MR. BYRUM: Original motion.

4 THE CHAIRMAN: Okay. Now, we'll entertain a
5 motion. We'll entertain a motion on the motion.

6 MR. KILPATRICK: We're just voting again on the
7 motion. We just voted on the amendment that passed.
8 Now, we are going to vote on the original motion. We
9 voted to amend the original motion.

10 MR. BYRUM: Now we need to vote on the original
11 motion.

12 MR. KILPATRICK: Now we're going to vote on the
13 motion.

14 THE CHAIRMAN: Okay. Well, what was the
15 original motion?

16 MR. FISHBACK: That was the one I made, and
17 then we changed it.

18 THE CHAIRMAN: Okay. All right.

19 All right. Okay. We'll vote on the original
20 motion, and it has been made and seconded.

21 DR. HUGHES: As amended.

22 THE CHAIRMAN: Okay, Myrna, call the roll.

23 THE SECRETARY: Mayor Taron?

24 MR. TARON: Aye.

25 THE SECRETARY: Ms. Tillman?

1 MS. TILLMAN: Aye.

2 THE SECRETARY: Dr. Hughes?

3 DR. HUGHES: Aye.

4 THE SECRETARY: Ms. Hinkle?

5 MS. HINKLE: Aye.

6 THE SECRETARY: Ms. Slagell?

7 MS. SLAGELL: Aye.

8 THE SECRETARY: Mr. Fishback?

9 MR. FISHBACK: Aye.

10 THE SECRETARY: Mr. Kilpatrick?

11 MR. KILPATRICK: Aye.

12 THE SECRETARY: Mr. Breisch?

13 THE CHAIRMAN: Aye.

14 MR. BYRUM: In acting as protocol officer, I
15 would say that this hearing is a continuation of the
16 previous hearing that was advertised in the Oklahoma
17 Register for purposes of receiving comments on Oklahoma
18 air pollution control rules, 252:100-24, Control of
19 Emissions from Grain Industry, Handling and Processing
20 Industry.

21 If you wish to make statements, please complete
22 the forms at the registration table, and I will call
23 upon you at the appropriate time.

24 At this time, I would like to call upon
25 Mr. Doyle McWhirter to give the staff position on these

1 changes.

2 MR. McWHIRTER: Mr. Chairman, members of the
3 counsel and the audience: My name is Doyle McWhirter,
4 and I am the Director of the Enforcement and Compliance
5 Section for the Air Quality Division in the Department
6 of Environmental Quality. I will give the Department's
7 position concerning proposed Subchapter 24.

8 The Department and the Oklahoma Feed and Grain
9 Association have had several meetings, as indicated in
10 your packets, plus a meeting was held on last Friday.
11 However, the Department and the Oklahoma Feed and Grain
12 Association have been unable to agree upon a mutually
13 acceptable rule.

14 Therefore, the Department withdraws its
15 proposed Subchapter 24 and requests that the Air Quality
16 Council take no action concerning this matter.

17 MR. BYRUM: Any questions for Doyle from the
18 Council?

19 (No response.)

20 Any questions from the audience?

21 (No response.)

22 Thank you, Doyle.

23 As I call -- I have received several slips up
24 here. As I call your name, if you choose -- if you
25 choose not to speak, say so. If you do choose to speak,

1 please come to the podium; and we would appreciate it if
2 you have prepared copies of your statement that you
3 would submit those to our recorder that we might be able
4 to include them as part of the transcript.

5 Mr. Steve Poag.

6 MR. POAG: I decline at this time.

7 MR. BYRUM: Okay.

8 Mr. Curt Roggow.

9 MR. ROGGOW: I will also decline.

10 MR. BYRUM: Okay.

11 Ray Hasselwander.

12 (No response.)

13 A VOICE: He's not here. He left.

14 MR. BYRUM: I apologize if I get some of these
15 names wrong. Dan Kent?

16 MR. KENT: I will pass at this point.

17 MR. BYRUM: Lew Meiburgen.

18 MR. LEW MEIBURGEN: Ray came in. Do you want
19 to hear from him first?

20 MR. BYRUM: We can.

21 MR. LEW MEIBURGEN: I'll be real brief, because
22 I wasn't going to say anything; I promised my son I
23 would keep quiet.

24 I am Lew Meiburgen. I'm president of Johnston
25 Enterprises in Enid, Oklahoma. We operate approximately

1 18 country elevators, 3 terminal elevators and 3 port
2 facilities, and we've been in business well over 100
3 years. And to be truthful with you, I can't believe
4 what I am hearing and what's going on, but it is, and we
5 have to face it.

6 The only thing I would have to say is that we
7 do service several customers, farm customers, as well as
8 nonag customers. That in lieu of the Department's
9 position that Doyle had just stated, I would like to ask
10 the Council to exempt us from these standards until such
11 time that we can come to a mutual agreement.

12 The thing that concerns me is what's going to
13 happen to me the day before harvest starts or the day
14 after harvest, with the rules and regs that we have
15 already in place.

16 With that I will be glad to try to answer any
17 questions that anyone may have.

18 MR. BYRUM: Any questions for Mr. Meiburgen
19 from the Council?

20 MR. LEW MEIBURGEN: Yes, sir.

21 MR. KILPATRICK: I get the impression your
22 immediate concern is for us to pass a regulation which
23 you think is going to affect you during this harvest.

24 MR. LEW MEIBURGEN: No. The way I understand
25 it, there is already a law and regulations on the books

1 for us to comply with today. Is that right?

2 MR. McWHIRTER: That's correct.

3 MR. LEW MEIBURGEN: And I cannot comply.

4 MR. KILPATRICK: Okay. But nothing we do today
5 is going to change what you do this harvest.

6 MR. LEW MEIBURGEN: Not unless you all would
7 exempt us until something --

8 MR. KILPATRICK: Even if we exempt you, all of
9 the regulatory processes have to go through. That
10 exemption does not take effect immediately, does it?
11 Even if we do that, there's no legal way, I don't think,
12 that you would be exempted in time for this harvest,
13 just because of the way the process works.

14 MR. LEW MEIBURGEN: I'm not an attorney.

15 MR. KILPATRICK: You've got to go to the
16 Governor. You've got to do all sorts of things.

17 MR. LEW MEIBURGEN: I am concerned of what
18 happened to our livelihood.

19 MR. KILPATRICK: What happened last year?

20 MR. LEW MEIBURGEN: Nothing. We paid the
21 emission fee or whatever fee it is that we pay.

22 MR. McWHIRTER: Annual renewal.

23 THE CHAIRMAN: And the year before?

24 MR. LEW MEIBURGEN: The same thing.

25 THE CHAIRMAN: I don't know where you're big

1 concern is this year.

2 MR. LEW MEIBURGEN: Well, my concern is, to be
3 truthful with you, that if they were to enforce what's
4 on the books today, we can't comply without spending in
5 excess of over a million bucks that's
6 nonrevenue-producing, and we couldn't be ready by
7 harvest time.

8 That's my concern.

9 MR. FISHBACK: But that's not a new issue.
10 That's a long-standing issue.

11 MR. LEW MEIBURGEN: That's right. But even
12 back after '72 when we built new facilities, we came to
13 the Department and made applications, and we were told
14 to comply and this and that. And then I guess the 1990
15 act threw all of that out.

16 We have tried our best to comply with -- and to
17 the best of my knowledge always have. We want to in the
18 future and will. But that's one thing that concerns me
19 is something.

20 MR. KILPATRICK: What regulation specifically
21 can't you comply with and in what operation does that --

22 MR. LEW MEIBURGEN: I would have to ask Rick.
23 What is it?

24 MR. TREEMAN: Subchapter 25 and 27 are two
25 areas.

1 MR. BYRUM: That's opacity.

2 MR. TREEMAN: Opacity.

3 MR. KILPATRICK: Opacity. And opacity is what?
4 On the fugitive emissions of loading and unloading?

5 MR. TREEMAN: That's kind of a gray area as far
6 as how that is defined. Through the rule, whether it
7 can reasonably pass through a functional vent, chimney,
8 stack, or other opening.

9 But opacity is one area that we cannot attain
10 20 percent on at this time and process with the
11 restrictions on process weight.

12 MR. McWHIRTER: More specifically, Rick, you
13 are talking about opacity on the unloading and the
14 load-out?

15 MR. TREEMAN: That's correct.

16 MR. BYRUM: I need to caution everybody to
17 identify yourselves, please, for the court reporter --
18 as we speak.

19 MR. FISHBACK: Mr. Fishback. Is it true
20 that -- this is a question for Mr. McWhirter. Is it
21 true that fugitive emissions and point source emissions
22 through a stack or functionally equivalent opening are
23 subject to different opacity rules? Or are fugitive
24 emissions and point source emissions subject to the same
25 opacity rules?

1 MR. McWHIRTER: The fugitive dust is not
2 subject to opacity rules. Fugitive process emission is
3 subject to an opacity ruling.

4 MR. FISHBACK: Is the dust from grain loading
5 and unloading considered fugitive dust?

6 MR. McWHIRTER: Fugitive process.

7 MR. FISHBACK: Fugitive process. So that makes
8 it subject to opacity.

9 MR. McWHIRTER: That is the position that we
10 have taken, and that is the position we have had
11 reconfirmed by the, I believe, March 16th letter from
12 EPA, the letter we received from EPA. I don't remember
13 the date.

14 MR. FISHBACK: Can you give us an example of
15 fugitive dust as opposed to fugitive processed dust?
16 What's an example? Grain loading and --

17 MR. McWHIRTER: Fugitive dust would be dust
18 that was generated by a vehicle or even the wind
19 blowing dust on the yard. Where the process emissions
20 would be emissions that can't be reasonably passed
21 through stack, chimney, or other functional vents.

22 MR. FISHBACK: And attributable to a process?

23 MR. McWHIRTER: Yes, sir.

24 I would point out to Mr. Meiburgen at this
25 time, that we have not -- that we have not and do not

1 anticipate bargaining the grain industry in the state of
2 Oklahoma anything above normal than what we've done for
3 the last several years, and that is basically respond to
4 citizens' complaints, which they are a high priority.
5 And other than that, Lord only knows we've got enough
6 work to do. We're not going to purposely target the
7 grain industry, or any other industry as far as that
8 goes.

9 MR. LEW MEIBURGEN: I appreciate that very
10 much, and I'm sure the rest of the grain people do also.

11 MR. BYRUM: Any other questions for
12 Mr. Meiburgen?

13 MR. TAYLOR: How long would you ask them for on
14 that temporary extension? One year? Two years?

15 MR. BYRUM: Would you identify yourself,
16 please, sir.

17 MR. TAYLOR: Steve Taylor with Port 33.

18 MR. LEW MEIBURGEN: I was just asking until --
19 I'm hopeful that they will have a committee to meet with
20 the industry and the Department and come to something
21 that's mutually agreeable and works for everybody and
22 meets all of the concerns with everyone.

23 I'm asking for until such time as it can be
24 agreed on. That's my request. But Doyle has relieved
25 me considerably over his statement.

1 MR. FISHBACK: Is it safe to say, sir, that
2 except for Title V regulations, the industry would not
3 have a specific concern at this time because your
4 inability to meet opacity and your inability to meet
5 process weight limitations goes back many years?

6 MR. LEW MEIBURGEN: That's right.

7 MR. FISHBACK: So this is really brought to
8 focus now because of Title V?

9 MR. LEW MEIBURGEN: Yes, sir.

10 MR. FISHBACK: Okay.

11 MR. BYRUM: Any other questions for
12 Mr. Meiburgen?

13 MR. LEW MEIBURGEN: Thank you very much.

14 MR. BYRUM: Thank you, sir.

15 Ray Hasselwander.

16 MR. HASSELWANDER: I am Ray Hasselwander, the
17 General Manager of the Farmers Quality Association in
18 Tonkawa and Ponca City, Oklahoma.

19 I would like the committee to expedite this
20 matter as quick as possible in whatever means is
21 necessary to do so.

22 We've spent a lot of time on this in the grain
23 industry. I think we're real close to an agreement that
24 will work for all of us. This needs to be done as quick
25 as possible.

1 MR. BYRUM: Any questions for this gentleman?
2 Any questions from the audience?

3 Thank you, sir.

4 MR. FISHBACK: I am sorry. I did have a
5 question.

6 MR. BYRUM: Go ahead.

7 MR. FISHBACK: I need to raise my hand higher.
8 What is the basis for the sense of urgency in
9 resolving this now, as opposed to at some point in the
10 past? What deadline do you see approaching that you're
11 most concerned about?

12 MR. HASSELWANDER: Well, I think one of the
13 main reasons that we have here is the Title V
14 application. In the grain industry you're not under it.
15 I don't want to go through that nor do that.

16 I think that's one of our main concerns, and I
17 don't think there's any advantage to wait. I don't know
18 why Oklahoma cannot be a leader in this industry to be
19 one of the first to file a plan that is good and the
20 best interest to be looked at for someone to follow us,
21 rather than we follow someone else.

22 I think we ought to be a leader in this great
23 nation of ours.

24 MR. FISHBACK: If the Title V permit process
25 could be standardized so that it would not be a burden

1 to the individual grain facility, so that it was almost
2 a standardized form with prearranged conditions, if it
3 didn't take hours and hours of someone's time that you
4 had to pay, obviously. If that could be arranged so
5 that it was less of an administrative or paper work
6 burden, would that lessen your concern?

7 MR. HASSELWANDER: It would be very helpful.

8 MR. FISHBACK: Okay.

9 MR. BYRUM: Thank you, sir.

10 Mr. Mike Mahoney.

11 MR. MAHONEY: My name is Mike Mahoney. I'm the
12 Executive Vice-president of White Brothers Grain
13 Company. I would just like to say that I've been
14 involved with our committee on working on our proposal
15 that we have for you today. We've been spending at
16 least two days per week working on this proposal.

17 We're drained. We're -- we would like to get
18 something decided. And I would like to know how the DEQ
19 staff can be 100 percent sure that Region 6 is going to
20 kick our plan out, when no plan has been kicked out or
21 accepted.

22 I would like to ask Mr. Byrum a question. Are
23 you batting a thousand percent whenever you speculate as
24 to what EPA is going to approve or regulate on?

25 MR. BYRUM: I would say that I'm not batting a

1 thousand percent, but we have sent copies of your
2 proposal, as well as our proposals, to EPA for comment,
3 which is typical; we do that on every rule we pass.
4 We've been told in phone conversations that neither one
5 of those are approvable by EPA.

6 I don't speak from my judgment as to whether or
7 not your plan is approvable; I speak from the comments
8 that we've received from their staff that have looked at
9 it in depth. We have several other rules that are down
10 there now that they are providing comments to us on, and
11 that's a typical process that we go through.

12 When we look at doing regs, whether it's for
13 aerospace in Tulsa or feed and grain in the remainder of
14 the state, we try to -- we try not to send something
15 down that we know they've already told us is not
16 approvable. That's a long-term exercise. The rule goes
17 to the Council, to the Board, through the Governor and
18 down to EPA. They send comments back or send a
19 disapproval back. At that point in time, then we start
20 back through the front door of the process again.

21 I think what we agreed with you the other day
22 on Friday was that had that agreement stood, we were
23 going to try to go forward and send that package down
24 whether or not we thought EPA would approve it.

25 MR. MAHONEY: I heard you say this morning that

1 you got a surprise from EPA on this deferment.

2 MR. BYRUM: On What?

3 MR. MAHONEY: On the deferment process.

4 MR. BYRUM: That's true.

5 MR. MAHONEY: You misinterpreted their intent.
6 My point is you are not batting a thousand percent when
7 you're trying to read EPA's every move.

8 MR. BYRUM: I would not say -- this is not
9 similar to that, in that what we were doing is looking
10 at an interpretation of a new program that's coming
11 down.

12 What we have done in your specific instance in
13 the grain industry's instances, we have sent a copy of
14 the rule that's in the packet to them for comments, and
15 they have given us their comments back.

16 So it's a little different. If you will recall
17 we had a gentleman from EPA at either the last meeting
18 or the meeting previous to that, and they made comments
19 on that rule in the public session, and they continued
20 to make comments on the revisions to that rule that
21 we've sent forward.

22 So, no, I don't bat a thousand on trying to
23 interpret EPA. I probably bat less than 10 percent on
24 trying to interpret EPA. In this instance, I am not
25 interpreting EPA; I'm just telling you what EPA has told

1 us.

2 MR. MAHONEY: Our group would very much
3 appreciate the Council at least submitting our plan to
4 EPA and let them decide on it. That is our goal. Why
5 should we be different than the state of Texas? They
6 are in EPA Region 6.

7 What we are asking you for is exactly what
8 Texas submitted in March of '93 to EPA. It has not been
9 approved; it hasn't been disapproved. We are just
10 asking this Council for the same shot. If EPA kicks it
11 out, we will come back to you; they will tell us why it
12 was kicked out, and we will work it out. I assure you
13 we will work it out with you.

14 The reason we turned down the proposal from
15 Friday is Mr. Larry Byrum told us that every elevator in
16 the state of Oklahoma would have to file a Title V
17 permit.

18 We have been working since --

19 MR. BYRUM: Objection.

20 MR. MAHONEY: -- December of 1991 to stay out
21 of Title V. In our proposal there's a certification
22 program to keep us all out of Title V if our emissions
23 are below 100 tons.

24 So that's what we couldn't understand from
25 Friday's meeting.

1 MR. FISHBACK: If your emissions are under 100
2 tons based on 70 percent --

3 MR. MAHONEY: No. We can do that however you
4 want to. In our proposal, yes, 70 percent.

5 MR. FISHBACK: One thing that hasn't been
6 shared with the Council, I don't believe, and again
7 because we haven't been part of the ongoing process
8 between the industry and the staff, what has been EPA's
9 objections? If I understood you right, Larry, you said
10 the staff's proposal and the industry's proposal had
11 been rejected by EPA.

12 MR. BYRUM: Yes.

13 MR. FISHBACK: What are their objections?

14 MR. BYRUM: EPA says both rules -- their rule,
15 our rule -- as a relaxation of the SIP.

16 MR. FISHBACK: Relative to opacity?

17 MR. BYRUM: Relative to opacity and processed
18 weight. They have some other problems, also. If
19 they -- if they adopt the 70/30 split that we're
20 proposing in a rule, then their setting a precedent
21 nationwide. It's not adopted in Texas; it's a rule of
22 practice of the Texas Air Control Board. So they have
23 some problems.

24 I don't wish to speak for EPA. We have
25 letters. We can get EPA to come, et cetera, et cetera.

1 If I try to predict EPA, I fail. But what I'm speaking
2 to is the things they have told us in phone
3 conversations in regards to this rule.

4 What we are trying to do is negotiate in good
5 faith with the industry and tell them the pitfalls that
6 lie ahead. We're not opposed to sending something down
7 that we know EPA is not going to agree to. But it is
8 simply not going to do any of us any good.

9 MR. FISHBACK: Did I hear Dr. Parnell this
10 morning say that the gentleman he had talked to at
11 EPA -- I was looking for you; I see you there now. The
12 gentleman he was talking to at EPA had indicated that
13 Region 6 did not have a problem with this identical
14 rule. Is that correct?

15 DR. PARNELL: Larry is telling you correct.
16 There's a difference in Texas in that we don't submit
17 our rule to be approved by EPA Region 6 -- pardon me, I
18 mean the practice. The process of using .3 pounds for
19 unloading and load-out is not in the SIP. It's not in
20 our SIP. They don't have the option to disallow or
21 disapprove that.

22 What I said this morning was in talking with
23 TNRCC, there is no anticipated problem with EPA in terms
24 of how they permit grain elevators in the state of
25 Texas.

1 MR. TARON: And that's not.

2 DR. PARNELL: Stan Meiburg is working on a
3 lawsuit that he lost out here on some kind of IMA
4 program someplace. And he -- my concern with Stan is --
5 in EPA Region 6; he's Gerald's boss -- he's thinking
6 that this is only a Title V issue. And I know most of
7 these people are talking Title V.

8 But from my perspective it is also a grain dust
9 explosion issue. If you poor people put controls on and
10 they blow up, we're in trouble here. We've got people
11 that are going to lose their lives in this issue. And
12 it's a nuisance dust issue, and I'm concerned.

13 Now, I really think -- to correspond with what
14 Mike is saying here, I really think this is a unique
15 situation in regard to grain dust and grain elevators
16 in EPA Region 6. I think this is one where this Council
17 can win that battle -- because of the grain dust
18 explosion problem.

19 If you're talking raw pressure, you're not
20 worried about grain dust explosion. Most of these
21 industries you are not worried about it. This industry
22 is going to increase the number of dust explosions, and
23 you're forced to put controls on, and you're going to do
24 it. Point six pounds per ton on unloading. You cannot
25 comply with the process weight limit. It's absolutely

1 impossible without controls.

2 You are forcing them to handle dust. You are
3 going to increase the number of dust explosions. This
4 is unique. I think this one you can win with EPA
5 Region 6.

6 MR. FISHBACK: Then a question for the staff
7 -- thank you. The question for the staff is: Do we
8 have to force this rule to be part of our SIP, or can we
9 have a work practice standard like the state of Texas
10 does, where EPA does not have the right to disapprove
11 it?

12 MR. KILPATRICK: It will change the SIP. We've
13 already got rules that are in the SIP.

14 MR. BYRUM: Let me go back to the fact that
15 each state did how they did differently. Texas uses the
16 nuisance rule, for example. You heard Dr. Parnell say
17 that if the little lady in tennis shoes gets dust on her
18 porch, they go out. He also said that every grain
19 elevator in Texas is permitted.

20 If all of our elevators were permitted, we
21 probably wouldn't be here today.

22 DR. PARNELL: Let me correct that, Larry. Not
23 all of grain elevators are permitted. We have a number
24 that are grandfathered in Texas.

25 MR. BYRUM: Okay. But you have a number that

1 are permitted,

2 But, anyway, there's a different way that
3 things are handled from state to state to state to
4 state.

5 We make a change here in a small portion, we
6 have to look at what it does in another portion, of our
7 total plan. And it's the same way with Texas: If they
8 make a change here, they look at it in toto. That's why
9 these folks are regulated by more than one rule. There
10 are, what, at least five or six rules that are
11 applicable or maybe applicable to them.

12 MR. FISHBACK: And Gary is correct. The reason
13 we can't do what Texas is doing is because the rules
14 currently applicable to the grain industry are in the
15 SIP --

16 MR. BYRUM: And approved.

17 MR. FISHBACK: And we know that for sure,
18 because you made the comment this morning that it is
19 difficult to tell what's in the SIP and what's approved.
20 We know for sure that those are part of the approved
21 SIPs.

22 MR. BYRUM: Yes. These we happen to know.

23 MR. FISHBACK: All right.

24 MR. BYRUM: The other thing that we have is
25 that if we choose to -- you all choose to pass the rule,

1 okay? You pass the rule: The Board passes the rule.
2 The Governor signs the rule, and we send the package to
3 EPA. At the point the Board passes the rule and it
4 becomes effective, then we are bound by the rule. EPA
5 is not.

6 EPA will be enforcing under the approved SIP.
7 The approved SIP will be different than the rule we have
8 in place.

9 If we take that action, then there is a chance,
10 a possibility -- they haven't done it; I don't know what
11 the possibilities are -- but there is a chance that they
12 may choose to take enforcement action if they disapprove
13 the rule. And I know some of you are familiar with
14 that.

15 MS. SLAGELL: Is this not where he's talking
16 about OSHA coming in and our chances of -- by changing
17 our SIP because of this?

18 MR. BYRUM: OSHA -- really the only thing OSHA
19 has to do with this, as far as I can tell, is the
20 workers' safety, and that's why the controls --
21 basically the controls you have in place now, Mike, are
22 in place; is that not right? For worker's safety and
23 OSHA?

24 MR. MAHONEY: That's the primary concern.

25 MR. FISHBACK: If the grain industry is willing

1 to accept the possibility of enforcement because the
2 state rule violates an approved SIP -- let me rephrase
3 that. Is the grain industry willing to accept the
4 possibility of enforcement because a state rule that we
5 would pass today violates an approved SIP? Is the
6 industry willing to accept that?

7 MR. MAHONEY: Yes, sir, we are.

8 MR. FISHBACK: Is that unanimous among all of
9 your representatives?

10 MR. BUTCH MEIBURGEN: I am Butch Meiburgen with
11 Johnston Grain. I am sure I don't understand the
12 question, and the reason being is that for three years
13 now we've been told that: Let's write grain specific
14 subchapter and present it and get our -- get it accepted
15 as our SIP or changed to the SIP.

16 Now I think what I'm hearing is: Okay. You
17 guys go ahead and pass it, but now we're not going to
18 present it as a change to our SIP.

19 Also, all along we have been told to present
20 you with the best available technology. That's what
21 we're trying to do. And in lieu of not being any other
22 technology available, I don't know why that is not
23 debatable with the EPA or, you know, why we can't prove
24 our point with the EPA.

25 MR. FISHBACK: I think Mr. Byrum said he is

1 willing to present this to EPA as a SIP revision, but
2 the chances are fairly high that they would disapprove
3 it. And once it's disapproved, if there are facilities
4 operating under that rule, the probability of
5 enforcement exists.

6 MR. BYRUM: I think we've already had that
7 offer on the table.

8 MR. FISHBACK: And if the industry is willing
9 to accept that risk, then I think it's reasonable to, as
10 this gentleman suggested, pursue it directly with EPA.

11 MR. KILPATRICK: I don't agree with that.
12 There's a lot of other issues. If you take their
13 proposal and compare it to the staff's proposal, there
14 is a lot of issues that still -- as Council members have
15 not been worked out. There's the issue of whether it
16 just applies to grain elevators or not applies.

17 They basically want -- they propose going all
18 the way back to NSPS, dropping out opacity. Our whole
19 rule-making procedure is based on opacity. It is not
20 like Texas. We have done things different. We can't
21 just arbitrarily now take an industry and say: We're
22 not going to apply opacity to this industry.

23 There's a lot of issues that to me that no
24 way I would at all vote to accept what the grain
25 industry has put on the table, without probably a week's

1 worth of hearings to straight out all of these issues
2 and understand what the ramifications are.

3 What we've relied on, I think, is a council
4 that's for the industry and for the staff to get
5 together and hopefully to come up with an agreement and
6 proposal that they can make to us that jointly they can
7 justify to us why we ought to accept it and submit it to
8 EPA.

9 I don't care whether we think EPA is going to
10 pass it or not. But I want to be sure when I pass it
11 that I know that I think it's the best thing to be
12 doing. And I don't think we're anywhere near that stage
13 and no way agree that we ought to, just because the
14 industry wants to propose we pass their thing and run it
15 down to EPA and give it a whirl. That's not good
16 regulatory action at all.

17 There is a lot of things in there I agree with.
18 I think there's a strong case for reducing some of these
19 things. But that doesn't mean we just pass that
20 language. We would have to sit here for a long time to
21 work out language we think might be acceptable.

22 I'm strongly in favor that there needs to be
23 more work. I certainly have heard or heard earlier this
24 morning, Larry mentioned that one of the reasons we
25 asked for a study on opacity -- I realize it wasn't a

1 protocol and from a practical standpoint you don't know
2 what to do -- but I can certainly understand if we're
3 going to relax opacity standards for this industry,
4 we've got to have some basis when we do that on why
5 we've done that.

6 It can't just be: Well, we thought it was a
7 good idea. Because we are going to have every industry
8 in the state of Oklahoma tramping in here wanting us to
9 relax opacity standards just because they think it would
10 be great for them too.

11 So I can certainly understand why the staff and
12 Mark Coleman were suggesting that there had to be
13 opacity studies.

14 I can understand that it's hard for the
15 industry to accept: We don't know what to do. Well,
16 that just says you've got to sit down and talk some
17 more -- that's all that says -- and figure out what
18 you're going to do, what the study is going to do.

19 No, I guess I would have to say I am not in
20 favor at all of passing any regulation just because we
21 think we ought to send it down there.

22 MR. MAHONEY: Please understand, we have no
23 problem with the national Clean Air Act. We have no
24 problem with all of those regulations.

25 MR. KILPATRICK: Well, I do.

1 MR. MAHONEY: Our problem is the existing state
2 code. And if there's any fairness left in this world,
3 we shouldn't be held to something that was done back in
4 the early '70s that we are all out of compliance with
5 every day. If there's any fairness, we ought to be able
6 to change that SIP plan.

7 I don't care if it is EPA Region 1 through 6,
8 whatever, this is still the United States of America,
9 and there ought to be a process of bringing things up to
10 the 1990s.

11 MR. KILPATRICK: I agree with you, but I don't
12 think the process you're suggesting, that we just pass
13 what you've got on the table, is the right one, because
14 I will guarantee you it will get disapproved.

15 What I'm suggesting is if we want -- and we've
16 gone all the way to national EPA and won on industry.
17 And one of the few states that I know of that's done
18 that. But we did it because we had our facts, and we
19 knew every issue why we were going to do that and why we
20 thought that was the best thing for the industry and the
21 best thing for the people of Oklahoma. But we had to
22 have our facts down. And I don't think we are anywhere
23 near that on this piece of regulation.

24 MS. TILLMAN: I don't know that that's even
25 true, because taking everything we've heard here today

1 and reading the literature, I'm not so sure it's not all
2 there: We just haven't seen it pulled together yet.

3 And that's one of the sad things. I think this
4 came to us way before its time. It's been two years
5 already. I agree that it's been too long. But passing
6 it -- when you are calling in -- when you're daring EPA
7 to come enforce on you, I have seen that fail.

8 MR. MAHONEY: We're not worried about that at
9 all.

10 MS. TILLMAN: Well, I am glad you're not, but
11 there is a reality. I was one of the people enforced
12 upon when it did happen.

13 They are absolutely right. When you go to EPA
14 with something, you need your facts.

15 MR. MAHONEY: But, ma'am, the way the process
16 has been explained to us, if EPA kicks it back, we have
17 a time period to come to the Council and get the plan
18 back up to specs. That's what Mr. Byrum and Doyle have
19 told us. We are just asking for the chance --

20 MS. TILLMAN: If you're in noncompliance,
21 you're in noncompliance. There's no grace period that
22 Larry can extend to you.

23 MR. BYRUM: EPA generally on a rule can
24 retroactively give a period of time to work on it, but
25 if you're in noncompliance, again, she's got a point.

1 MR. MAHONEY: I guess I will stop there. Thank
2 you.

3 MR. BYRUM: Any other questions for
4 Mr. Mahoney?

5 MR. BUTCH MEIBURGEN: I have one for
6 Ms. Tillman. Butch Meiburgen again. What would you
7 suggest the industry do --

8 MR. BYRUM: Butch, would you hold just a
9 second. They've got to change the tape.

10 (A short interruption was had in the
11 proceeding.)

12 MR. BUTCH MEIBURGEN: What would you suggest
13 that the industry do? We were told to present the
14 Council with our documentation. We did that prior to
15 the March meeting. We still do not believe that the
16 staff has read all of the documentation. That is why
17 we're still apart on one of the issues. That's this 70
18 percent issue where, you know, we're willing to live
19 with the 70 percent adjustment, even though the
20 information we have indicates maybe a 98 percent
21 adjustment.

22 You keep making the comment that we've come to
23 you too early. Well, how do you pull teeth, you know?
24 How do you get them to read the information or all of
25 it?

1 Another question, also, is on method 9. I
2 don't think, you know -- now this is what I've been told
3 on opacity. We have been told to read opacity, it has
4 to be six consecutive minutes. We don't have an
5 emission for six consecutive minutes.

6 So DEQ has told us: Okay. We will stop at the
7 stop watch, and then we will start it, and then we'll
8 stop it, and then we'll start it. Is this accurate?
9 You know, that's something we don't know about either on
10 opacity.

11 Also, there's a point of your double plumes.
12 On the points that we can't live with opacity, it's the
13 point of the double plume and the fugitive versus
14 process emissions.

15 MS. TILLMAN: Okay. To answer your first
16 question first.

17 For the Council to make a decision on these
18 items, it is here to soon. There's nothing here for us
19 to decide except for the fact, like our Chair said, that
20 we start a committee to maybe help you guys come to a
21 conclusion and be a part of that as it develops into one
22 presentation, instead of two.

23 MR. BUTCH MEIBURGEN: That's been our goal all
24 along to come with one.

25 MS. TILLMAN: If we can assist in that process

1 that's great.

2 MR. BUTCH MEIBURGEN: I believe our industry
3 would appreciate it.

4 DR. HUGHES: I don't -- I've just tried to sit
5 here and be quiet, which is unusual for me, but I don't
6 think there's a person on the Council that's not
7 sympathetic to your plight. I don't think there is a
8 person on the Council that hasn't tried to listen and
9 understand all sides of the issue. And I can understand
10 why everybody may be a little frustrated at this point.

11 But I think Mr. Kilpatrick has a good point.
12 When we get through with whatever it is that we're
13 getting ready to do, we want to be sure that your
14 industry is served well; we can turn around to other
15 industries and feel like we can face them with the same
16 kinds of approaches that we've afforded you, not to
17 mention the private citizens that might come in and
18 maybe want some of the changes to go in the reverse
19 direction. We have to sit here and balance both causes,
20 if you want to look at it that way.

21 But I don't think that there's a person up here
22 that is not sympathetic to your plight, and I don't
23 think that any of us are unwilling to try to help you
24 find some ground.

25 I guess my words to you is: At this point is

1 not a good time to back off and throw rocks at one
2 another, because we've got a very, very difficult
3 situation, and I can understand that harvest is getting
4 ready to start and people are going to have 19,000 other
5 things to be worrying about.

6 I would suggest, just from my standpoint, that
7 it might be wise to just back off from this thing a
8 little while. Sometimes we get too close to it, and it
9 gets personal. When you spend the amount of hours that
10 everybody has spent here, whether you be a member of the
11 industry or member of the staff, and you're not getting
12 anywhere, maybe a cooling-off period would not be too
13 bad.

14 And I would like to entertain the thought that
15 we do have a working committee within the Council and
16 the grain industry and the staff to sit down and try to
17 work through some rather rigorous calculations and
18 technical issues, and let's see if we can't create
19 something that all of us feel like we can support that
20 we can go home and go to bed at night and feel like
21 we've done what we think is correct.

22 MR TARON: You make that in the form of a
23 motion, Mike?

24 DR. HUGHES: I think we have --

25 MR. BYRUM: You have several more to hear from.

1 MS. TILLMAN: Would that take care of your
2 second question? Would that take care of your second
3 comment and question?

4 MR. BUTCH MEIBURGEN: That will suffice.

5 MR. BYRUM: We didn't offer an opportunity for
6 the Council or the audience to ask questions of
7 Mr. Mahoney.

8 Anyone wish to ask questions of Mr. Mahoney?

9 Thank you. Phil Kenkel.

10 We have several more to go.

11 MR. KENKEL: Phil Kenkel, Department of Ag
12 Economics O.S.U. Just want a couple points of
13 clarification on what's been called the O.S.U. Strict
14 Study or the Mass Balance Study, and I guess in
15 reference to the fact why that wasn't done.

16 Just to kind of go back through the chronology:
17 We submitted that on January 25th and heard back on
18 February 14th from DEQ. It was designed to measure the
19 total strength of handling process of grain, and we
20 tried to identify the moisture and tried to identify
21 what was swept up -- in other words, what was
22 accountable -- and assume that would be whatever was
23 left was an upper limit. And that's the way we
24 determined it of the amount of grain dust that could be.

25 DEQ indicated they had about four concerns,

1 that is, what they would look at when they were doing
2 their results. Two of them I guess would seem to be
3 philosophical. One was that they wanted to consider the
4 results, whether they were higher or lower than the
5 AP-42 estimate. And at this time we are working with
6 the 8.6 pounds per ton. And they also point out, of
7 course, that that would only be a facilitywide estimate.
8 There would be no way to determine what was coming from
9 each process.

10 And then they had two concerns that really
11 related to the timing of it, that wondered how much
12 variation we could get in grades of grain and the fact
13 of how much it affected the bins. The bins would not be
14 full. We were working with near empty bins rather than
15 near full bins.

16 Those last two, of course, were a problem
17 because there's not very much grain left in any of the
18 elevators at this point.

19 As I said, that happened on February 14th. And
20 it was just decided that -- again, our position was that
21 we didn't want to conduct the study until both sides
22 were in agreement how it was going to be used, and
23 February 14th was not enough time before the Council
24 meeting. So that's why the study did not take place.

25 It is kind of a crude study in that you could

1 possibly have as much as 40 pounds of moisture lost in
2 that handling of grain that we would be trying to
3 account for. So when we are trying to put an upper
4 limit on 8.6 pounds, it still seemed like maybe
5 something could provide some information.

6 And so we get down to now if we were thinking
7 about one pound of grain and trying to put an upper
8 limit on it, it would be more difficult, I guess, to get
9 that kind of accuracy.

10 But O.S.U. still would be glad in any way we
11 can to assist in providing unbiased information in any
12 way this process goes by. I just did want to comment on
13 what the proposed study did and why it didn't happen.
14 And basically it was because, I guess, from the
15 combination of the grain left in the industry and the
16 short time that we would have had to conduct that before
17 the March 8th meeting.

18 MR. BYRUM: Excuse me. Questions for
19 Mr. Kenkel?

20 MR. FISHBACK: Is it the consensus now of the
21 staff and the industry that this study would have value
22 and would be useful or not?

23 MR. BYRUM: I don't see many people from the
24 staff. Debbie, do have a comment on that?

25 MS. PERRY: I think we would still be

1 interested in seeing the results of it.

2 MR. BYRUM: I believe we would still be
3 interested in your participating. I believe that there
4 is information that can be gained that is indicative of
5 Oklahoma industry.

6 What we would like to do is sit down and talk
7 with the industry and with O.S.U. about how that can be
8 set up. We did provide comments back to them.

9 We understand the timing with the harvest
10 season coming up, this is something that we would have
11 to look at and might have to occur after the harvest
12 season. I understand it would be very difficult during
13 the harvest season, because they are going probably -- I
14 don't know what speed you go on -- but full tilt I would
15 think.

16 But it's still something I think that could
17 produce some useful information. And it would be
18 Oklahoma-specific. We believe that that's something we
19 can utilize to go to Dallas to plead their case, once
20 again.

21 MR. KENKEL: Again, let me reiterate. The
22 essential point to work out would be that it would
23 function as an upper limit. And so the fact -- and that
24 was not clear that that was their concern, I guess, when
25 the industry looked at the response.

1 MR. BYRUM: Correct. We would want -- we would
2 like to sit down with the industry and with O.S.U.,
3 considering them to be to experts in this, and look at
4 setting the parameters for the study to be done.

5 And we sent comments back preparatory to doing
6 that type of thing, I would think.

7 THE CHAIRMAN: Well, it seemed to me, though,
8 in one statement you made, you're dealing with such a
9 wide range of moisture that when you start reducing down
10 to what we're considering now a pound, the accuracy
11 might not be any good.

12 You know. And I just want the staff or anybody
13 that might have to spend any time or money on this
14 thing, is what would you use it for? I mean, what good
15 is it at all?

16 Because, you know, the accuracy of it wouldn't
17 get to any point that we're after.

18 MR. FISHBACK: Well, it depends on how
19 accurately the moisture content can be measured. His
20 concern is: If you're looking for one pound and you've
21 a shrink of 40, that easily masks it. But if the weight
22 loss due to moisture loss alone can be accurately
23 measured, then you can be pretty precise about what's
24 left over.

25 MR. KENKEL: We would attempt to account for

1 that 40, but we would be less confident accounting for
2 the 40 when we were worrying about one versus --

3 MR. BYRUM: And we understand those realities.
4 And I would say probably before a study such as this
5 would be even -- would move forward very far, we would
6 have lengthy discussions on what they believe their
7 ability to measure the moisture, et cetera, et cetera,
8 would be.

9 Other questions?

10 MS. HINKLE: I don't remember. Who's incurring
11 the expense of this study?

12 MR. KENKEL: The industry agreed to incur the
13 major expense, and then we would just provide personnel
14 from O.S.U. so it's an unfunded study from O.S.U. that
15 the industry would actually support, which a substantial
16 amount of money could move that much grain.

17 MR. BYRUM: Any other questions from the
18 Council?

19 MR. BUTCH MEIBURGEN: Butch Meiburgen again. I
20 don't know if you heard what Phil said. This was -- we
21 are trying to do this study prior to the March 8th
22 meeting. This is in dispute of the 8.6 pounds per ton
23 number. Because industrywide shrink, the total shrink
24 doesn't even equal the 8.6 pounds, let alone your dust
25 emissions.

1 That's what we had proposed that study for
2 before we pursued other avenues, as in having the
3 Council come out and tour the elevator; those types of
4 things.

5 Also, you know, the industry would like to see
6 the study -- I don't think it has anything to do with
7 the air quality standpoint now -- just to show the
8 managers in the industry the importance of shrink in a
9 country elevator.

10 MR. BYRUM: Other comments or questions? Thank
11 you. B.J. Medley. I believe B.J. is no longer here.

12 Rick Treeman.

13 MR. TREEMAN: I'm Rick Treeman with Johnston
14 Grain Company. I been taking notes all along, so this
15 is not going to be in any orderly fashion. One thing I
16 would like the Council to do is permit us to have Tom
17 O'Connors presentation from last time, the March 8th
18 meeting, be allowed to be entered into the record. Is
19 that possible?

20 MR. BYRUM: I believe it was entered in the
21 record as part of the last meeting.

22 MR. TREEMAN: That meeting, from what I
23 understand, never occurred because of lack of a quorum.

24 MR. BYRUM: Dennis?

25 MR. DOUGHTY: Larry, I think it would be okay

1 if it were referenced in the record and copies were made
2 available to anybody in the public that wanted to look
3 at it and comment on it and hear that particular
4 commentary.

5 MR. TREEMAN: One other thing before I go a
6 little further: Dr. Parnell has to leave real shortly,
7 so if there are any other questions that might be
8 addressed to --

9 MR. BYRUM: Dr. Parnell will be called on next,
10 so you're dependent on how long.

11 MR. TREEMAN: Okay. I'll be quick. I promise
12 I'll be quick. Just a couple of people have asked me a
13 couple of questions to ask you.

14 One of the things that you all said concerned
15 you about our rule and EPA's lack of okaying our rules
16 is going to be a relaxation of our existing SIP. So is
17 it possible to change our SIP on a 20 percent opacity or
18 on a process weight, or have we just be doing this for
19 the last 2 1/2 or three years for nothing? Is that even
20 possible to do?

21 MR. BYRUM: What you're attempting to do right
22 now is make a change in the SIP.

23 MR. TREEMAN: Correct. But any change that we
24 do in order --

25 MR. BYRUM: If we scientifically change the

1 SIP, for example, we had mentioned earlier that you had
2 in your load-out facility there are concerns for
3 explosions; there are concerns for health; there's
4 concerns for this, that, and the other.

5 As I mentioned to you Friday, I believe it was,
6 if we come up with that kind of information, then EPA
7 can, has a justification -- much the same as we've done
8 in other rules -- to relax the SIP in this one specific
9 area and hold it firm in other areas.

10 If we just unilaterally relax it, then we have
11 a problem with everyone in the world wanting a
12 relaxation in their specific case. We need
13 justification for it.

14 To answer your question simply: It's possible.

15 MR. TREEMAN: Okay. That answered my question.
16 I have been working real close with the staff, and I
17 wanted to let you know that. We have not been in an
18 adversarial role at all. We have worked real close with
19 each other and have gotten a lot accomplished. I will
20 say that. Doyle and Debbie are both to be commended.

21 Basically, back in October, Debbie Perry and I
22 got together to see what it would be like to permit one
23 of our facilities and found out due to existing state
24 rules, we cannot be granted a permit to operate. And
25 that really expedited what we're trying to do at this

1 point, because every day since then and every day we
2 operate we are -- a lot of us are in violation of state
3 rules and that's under process weight and that's under
4 opacity.

5 And that's one of the reasons we've had an
6 urgency on this, and we've tried to work toward that
7 same goal.

8 Second thing, we tried to address some of these
9 issues with a parallel document, you know, the things
10 that we provided were things as far as directives,
11 calculations of emissions, and things like that that
12 were not intended to be a part of the rule nor a portion
13 of the SIP. Similar to what Texas has done. That's in
14 our portion, in our rule where we defined emissions
15 points, the emission adjustments and things like that;
16 the protocol, the O.S.U. protocol.

17 The one thing that I have a concern about, and
18 I think Ms. Perry did a good job in critiquing the stuff
19 that we had, but she keeps referring to aerodynamic mean
20 particulate or something like that.

21 And the fact is -- and the bottom says we
22 wished we had that protocol. That protocol is not going
23 to give us any of that information. And that is
24 something that we were looking at to fund as an
25 industry. But as time goes on, the less and less

1 applicable I think that protocol is going to be to this
2 cause, as far as air emissions go.

3 Another area of concern of mine is the feed
4 mills and the seed processors are once again out of the
5 picture in their draft, the draft you got this morning.

6 They've been a very integral portion of going
7 through this, and I apologize -- excuse me -- because I
8 just recently got some particulate sizes done of various
9 feed ingredients. Feed ingredients are unique in one
10 thing. Normally they come in the smallest state they
11 are going to be in. You don't grind a feed ingredient
12 any more, for the most part. We've got the particulate
13 sizes on the products that will be ground.

14 The process weight table that Texas uses is
15 about half as stringent as ours. If I'm not mistaken
16 it's been modeled from California and Arizona. We're
17 back up there. That's one of the reasons we do need
18 some type of an adjustment to AP-42, because the process
19 weight table uses bad numbers to calculate those process
20 weights, or emissions from those processors. And that's
21 the AP-42 numbers.

22 One other thing, and the last thing I guess I'm
23 going to talk about, some of the other industries -- and
24 I understand your concern if you relax it to us you're
25 going to have to justify it to others. Some of the

1 other industries on opacity, whether it be coal, rock,
2 things like that, wood, you can use water on a lot of
3 those. We can't use water. I mean, a very minor
4 amount, just a very minor amount. But FGIS is doing
5 away with water. That's altering the grain, adding
6 weight to the grain.

7 So we're really tied as far as some of the
8 controls we can utilize without increasing these dust
9 levels to the minimum explosive concentration.

10 That's all I've got. I appreciate your time.

11 MR. BYRUM: Questions for Mr. Treeman?

12 MR. LEW MEIBURGEN: What's FGIS?

13 MR. TREEMAN: Federal Grain Inspection Service.

14 MR. BYRUM: Questions from the Council for
15 Mr. Treeman? Any other questions from the audience?

16 Thank you, sir.

17 MR. TREEMAN: Thank you.

18 MR. BYRUM: Dr. Parnell.

19 DR. PARNELL: Just a few comments. We do use
20 our process weight limit in Texas very extensively on
21 cotton ginning and grain elevators, etc. But that
22 process weight limit is about twice what you have in the
23 state of Oklahoma.

24 I think that's a problem you have in this state
25 with regard to agricultural industries. I would like to

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1 say that EPA is not above that and not all-powerful.
2 We've taken them on and we've won some battles. Those
3 battles we took on when I was on the Texas Air Control
4 Board were taken on because we were looking out for the
5 best interest of not only the industry but the citizens
6 of the state of Texas, and we were successful. And I
7 think you can be in Oklahoma.

8 Let me stop right there and see if there's any
9 question.

10 MR. BYRUM: Any questions for Dr. Parnell?

11 MR. KILPATRICK: This is the only question I
12 have. I am not up to speed on this process weight
13 calculation, but it seems to be a big impediment here.
14 What in your opinion -- obviously we have to look at our
15 system that we have here in Oklahoma. But if we were to
16 in essence, say, increase our process weight limits,
17 what is the trade off from EPA's standpoint? What is
18 the other control factors that it ties in with?

19 DR. PARNELL: Process weight is an alternative
20 control measure for regulatory agency to use. If you
21 take in so many tons of product and you take out so many
22 tons of product, whatever is the difference between
23 those two, there's a certain limit of what you can be in
24 compliance or noncompliance with that. And it's a
25 method a regulatory agency can use to control the

1 industry. And it's used extensively in what we call
2 Reg 1 in Texas on ag industries.

3 It helps develop emissions factors. We don't
4 disuse EPA's AP-42, as you well know after my discussion
5 this morning, emission factors. In fact, we use
6 emission factors on some industries that are half of
7 what AP-42 states.

8 They are allowed. That's a two-way story, I
9 might add; because if you come back and look at a low
10 emission factor it also limits the concentration that
11 can come out of that system in terms of dust control.
12 And so if you get into a situation where you say you
13 have a permitted allowable here of, say, one pound per
14 ton, and they're emitting more than one pound per ton,
15 they are in violation of that. And they can in effect
16 be subject to fines. And we have had this situation in
17 Texas. So it's not a simple process.

18 Let me commend the Chairman here and the
19 Council. I think the idea of having Council be involved
20 in some mediatory process to come up with something
21 that's going to benefit the citizens in the state of
22 Texas (sic) I think is an excellent idea. And I think
23 you can be successful in that regard.

24 I think there's a little bit of concern on my
25 part -- I hope I don't have to see you folks anymore --

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1 about being defensive on the part of your staff, and I
2 think you have an excellent staff, but the tendency to
3 try to defend EPA's numbers, which are absolutely
4 horrendous. There's no possible way that you can defend
5 those numbers. And wanting to defend EPA.

6 I see EPA as one tier that you have to work
7 with, by law, and yet they make mistakes, and if they
8 have in AP-42 in grain elevators, they need to be called
9 to the carpet and they need to find a way to correct
10 that.

11 MR. BYRUM: Other questions for Dr. Parnell?

12 MS. TILLMAN: I hope you didn't take it that
13 we were defending EPA. I think what we are saying is
14 when we go to present these to EPA that we want the
15 principal measures to be accurate.

16 DR. PARNELL: I think the difference --
17 Ms. Tillman; is that correct?

18 MS. TILLMAN: Yes.

19 DR. PARNELL: -- in -- when I was on the Board
20 in Texas, we had much less contact with Region 6 in
21 terms of would you approve this or would you approve
22 that. You very seldom ever heard that.

23 We went on several situations practically. We
24 have a dual permitting system in Texas: The state
25 permitting system and federal permitting systems. And

1 EPA says you can't do it, and we did it anyway. Because
2 that was the only way we can get it to work in Texas.

3 We have some 4,000 fellow operators of this
4 kind. We have some additional 200 engineers. While I'm
5 on that topic and since I am on the record, I would like
6 to make this comment. I want to mention Anna, Richard,
7 Lois, Mike, Kathryn, Thomas, and David, which are all
8 agricultural engineers I had the opportunity to teach
9 that now are on the permit engineering staff at TNRCC.

10 And, so, Mr. Byrum, when you go to looking for
11 engineers, we have some real good engineers in Texas.

12 (Laughter from the audience.)

13 MR. BYRUM: I think probably a couple of the
14 fellows from O.S.U. want to put a pitch in too. So
15 we're going to have to give them equal time.

16 DR. PARNELL: One of those young fellows is a
17 graduate of Texas A&M too. Stand up, Jim. Where are
18 you at Jim? He is standing up.

19 (Laughter from the audience.)

20 But, Ms. Tillman, I wasn't saying that the
21 Council was defending EPA.

22 MS. TILLMAN: We don't really have a problem
23 with going up against them.

24 DR. PARNELL: Sure. Exactly. Some discussion
25 between the staff and the Oklahoma Grain and Feed. My

1 perception is that there's a tendency of your staff to
2 want to be defending EPA, and that's a perception I
3 have. And maybe it's incorrect.

4 So I think that the goal here is to come up
5 with something that is going to benefit the system of
6 the state of Oklahoma, whether it be the industry. At
7 the same time there is an obligation to protect the
8 public. So you've got to come up with something here
9 that's going to be workable from the standpoint of your
10 staff, and you don't want to impose something on your
11 staff, because that's the worst thing to possibly do.
12 I've been there before; you don't want to do that.

13 Yet at the same time you want to do something
14 that's going to be beneficial to the citizens and the
15 industry in the state. And the grain industry is an
16 important part of your state.

17 MR. BYRUM: Any other questions for
18 Dr. Parnell?

19 (No response.)

20 Thank you, sir.

21 Joe Neal Hampton.

22 MR. HAMPTON: Thank you. I am Joe Neal Hampton
23 with the Oklahoma Grain and Feed Association. I will be
24 very brief and just say that, Mr. Chairman, I think your
25 idea of the committee and the Council working with our

1 committee and with the staff, we believe, is an
2 excellent idea. But while it's fresh on everybody's
3 mind and while I've still got some industry people
4 available the next month, we would like to go ahead, if
5 we could, and pursue this further and see what we could
6 end up on this.

7 And also we would like to know from the staff
8 that on the delay process, about how many Oklahoma
9 elevators possibly would have to fill out a Title V
10 permit, or is there possibly some way if we were in one
11 of that industry that was delayed could there be one
12 application for everybody?

13 MR. BYRUM: There could not be --

14 MR. HAMPTON: Simplify the application at the
15 same time.

16 MR. BYRUM: I think, as we told you Friday,
17 that we would work with you in every means possible to
18 simplify the application. Correct me if I'm wrong,
19 but -- I'm talking to my staff -- but you do not get the
20 protection of the permit shield and some of the other
21 advantages unless you do individual applications. And
22 I'm not sure that a generic application is allowed at
23 all. However, we would work with you to make as simple
24 of an application as possible.

25 I think there has been a misstatement in the

1 fact that it has been said that you have to obtain a
2 permit. That's not the case. You have to apply for a
3 permit, and it be deemed administratively complete.

4 MR. HAMPTON: Is there any way to do one permit
5 for the whole works?

6 MR. BYRUM: No. Not that I'm aware of.

7 MR. HAMPTON: Could you check? We'd appreciate
8 it.

9 MR. BYRUM: We'll sure check. Anybody --
10 Doyle? Dennis?

11 MR. McWHIRTER: The only thing that comes to my
12 mind. Doyle McWhirter for the staff. The only thing
13 that comes to my mind is a general permit, and that's
14 basically where you develop a permit that is applicable
15 to a general category of sources such as grain elevators
16 and then you go before a public hearing and in turn as
17 part of the public hearing, you know, to meet all of the
18 requirements of the part 7.

19 MR. BYRUM: I don't believe that we would be
20 able to cover all of your industry under that because
21 you have some that are going to pop out of that. Hang
22 on a second --

23 MR. DOUGHTY: I'm trying to recall the language
24 of the Clean Air Act. I think the burden is on the
25 individual or owner-operator to submit these

1 applications. I don't think you can do it in mass at
2 all -- unless it's under a general permit.

3 MR. BYRUM: That's my recollection of it, and
4 I'm not sure we could do every one of your industries
5 under that. We could do a large portion of it.

6 Questions from the Council for Mr. Hampton?

7 MR. HAMPTON: Thank you for your time.

8 MR. BYRUM: Any questions from the audience for
9 Mr. Hampton?

10 MR. CASSIDY: Mike Cassidy, Cassidy Grain
11 Company in Frederick. Joe Calvin just related to the
12 way our staff deals with EPA. I kind of like to compare
13 it to an IRS audit. When you're dealing with the IRS,
14 you don't volunteer all the information that you've got.
15 You give them what they need to know and do your best.

16 What I would like to do is ask the staff to
17 take more of a defensive when dealing with this industry
18 and back us up when dealing with the EPA.

19 MR. BYRUM: Any further questions for
20 Mr. Hampton?

21 MS. PERRY: Debbie Perry. I was just going to
22 ask if you have any idea how many elevators might be
23 over that 6 1/2 million.

24 MR. HAMPTON: I don't recall really. I'm sure
25 we could probably work on that. I'm sure we would be

1 willing to work with you to find out, but I can't answer
2 that.

3 MR. TREEMAN: Was that 6 1/2 based on how
4 many -- what's your emission factor?

5 MS. PERRY: It's based on approximately a
6 pound.

7 MR. TREEMAN: One pound. Okay.

8 MR. BYRUM: We would also -- Joe, to any extent
9 that you are able to effect this, we would also like to
10 know how many grain elevators are in Oklahoma. Not all
11 of them are members of your association, and there's a
12 lot of them that I think are going to have problems that
13 are totally unaware.

14 MR. HAMPTON: I would say between us and the
15 co-ops, Triangle Co-op Service and Co-op Council, there
16 would be 98 percent.

17 MR. BYRUM: Okay.

18 MR. HAMPTON: And those -- and I could --
19 between Dan and I, we have a list of every facility,
20 whether a member of ours or not. I'm sure we would get
21 the word to them one way or the other.

22 MR. BYRUM: Okay. You have one other question
23 here.

24 MR. FISHBACK: I think I can clarify the issue
25 of general permits. This is Section 504(D). It is very

1 short, so I will read it into the record: "The
2 permitting authority may, after notice and opportunity
3 for public hearing, issue a general permit covering
4 numerous similar sources. Any general permit shall
5 comply with all requirements applicable to permits under
6 this Title" -- meaning Title V -- "no source covered by
7 a general permit shall thereby be relieved from the
8 obligation to file an application under Section 503,"
9 which means a Title V application. "The general permit
10 is a paper work expedition -- expediting method for
11 issuing the permits, not for applying for the
12 application."

13 MR. HAMPTON: So if we were on this delayed
14 list, every elevator that came in would have to apply
15 for a Title V permit.

16 MR. FISHBACK: That's right. That was over the
17 hundred ton threshold.

18 MR. HAMPTON: Based on potential to emit, and
19 that's every elevator in the state.

20 MR. FISHBACK: Even with the one pound limit?

21 MR. BYRUM: We don't believe that's the case
22 with the one pound limit, Joe.

23 MR. HAMPTON: There are would be a lot of them
24 based on 365 days a year.

25 MR. BYRUM: Debbie, you said it's over --

1 MS. PERRY: That's where I was getting the
2 6 1/2 million per year. That would be kind of
3 approximate.

4 MR. TREEMAN: We would have to look it up.

5 MR. HAMPTON: Yes, we would have to take a look
6 at it.

7 MR. FISHBACK: Let me offer a suggestion in
8 responding to potential to emit issue. Since it is
9 obvious that they are not operating 8760 hours a year --
10 and I think this has been discussed before -- you can
11 write into your permit application an enforceable
12 condition to restrict yourselves to a certain number of
13 hours of operation that will thereby reduce your
14 potential to emit.

15 And I don't know what the permitting authority
16 would think, but if you were to -- you don't want to
17 pick 12 hours a day, because there might be days when
18 you need to run 24; and you don't want to pick 168 hours
19 a week, because there might be periods of time when you
20 need to exceed that. But if you pick 6000 hours a year
21 or 5500 hours a year or 7200 hours a year, it might give
22 you the flexibility to do what you need to do and still
23 bring your potential to emit down.

24 That's an approach you need to --

25 MR. HAMPTON: We looked at that as well as

1 three foot, but we felt like two foot was probably --

2 MR. FISHBACK: Okay.

3 MR. HAMPTON: That's mainly what most other
4 states are doing, is 3 foot.

5 MR. FISHBACK: Okay.

6 MR. BYRUM: Any other questions for
7 Mr. Hampton? Thank you.

8 Lisa Rodgers.

9 MS. RODGERS: I'm Lisa Rodgers, Program
10 Director of the American Lung Association of Green
11 Country, Oklahoma. The American Lung Association is not
12 here today to make a specific recommendation for policy
13 action. I would however like to present two
14 testimonials concerning the lung health effects
15 associated with inhaling grain dust. And I do have
16 copies.

17 (Passing out copies.)

18 The first one is by Martin H. Welch, M.D.,
19 Professor of Medicine, Pulmonary Disease and Critical
20 Care Section, University of Oklahoma Health Sciences
21 Center.

22 "The effects of silica dust exposure on the
23 lungs are well characterized. This dust causes a
24 distinctive disease called silicosis, which can be
25 recognized by the changes it produces in the chest

1 radiograph and the pulmonary function tests. Preventive
2 measures are likewise well understood and defined.

3 "Grain dust, in contrast, contains a number of
4 injurious substances which produce an increase in the
5 presence of a variety of symptoms which are nonspecific
6 and which also occur in people who are not grain dust
7 workers. These include chronic bronchitis, asthma,
8 chronic obstructive pulmonary disease, and allergic
9 alveolitis.

10 "In addition to these lung diseases, grain
11 workers are subject to rhinitis, conjunctivitis, and
12 dermatitis, and to a febrile flulike illness known as
13 grain fever.

14 "In most cases, the chest radiograph is not
15 abnormal in these conditions.

16 "Grain dust contains a number of substances
17 which may produce these disorders by way of an allergic
18 reaction, but the mechanisms are incompletely
19 understood. The grain itself, as well as fungus
20 particles and bacteria, may be involved. In contrast to
21 silicosis, there appears to be a great deal of variation
22 in the sensitivity of individual workers to the
23 components of grain dust.

24 "Because of these major differences between the
25 health effects of silica and grain dust exposure, there

1 has been a great deal of interest over the past two
2 decades in developing environmental control practices
3 specific to grain dust.

4 "In Canada where the problem has been well
5 recognized, control measures involving bag filter
6 systems have been designed with a goal of reducing dust
7 levels to 10 milligrams per cubic meter.

8 "Because of unique characteristics of grain
9 dust and its well recognized effects on health of grain
10 workers, it is recommended that the environmental
11 control regulations affecting grain workers be written
12 in a manner specific to this form of air pollution."

13 His reference was "Occupational Pulmonary
14 Disease: Focus on Grain Dust and Health," edited by
15 James A. Doseman and David J. Cotton, New York: Academic
16 Press, 1980.

17 And the second one I would like to present is
18 from Mrs. Anna Clapper.

19 "Mr. Chairman, members of the Air Quality
20 Council, ladies and gentlemen:

21 "My name is Anna Clapper. I live at 12104
22 Camelot Place, Oklahoma City, Oklahoma, 73120. I am a
23 former teacher, and now I am a homemaker, mother of
24 three children, and a grandmother of four. I have lived
25 in Maine, Pennsylvania, New Jersey, Idaho, Salt Lake

1 City, Utah; Boulder City, Nevada; and Whittier,
2 California before coming to Oklahoma 25 years ago.
3 Hence, I have personally experienced a vast range of air
4 quality, both good and polluted.

5 "For over 20 years I have been on the board of
6 the American Lung Association of Oklahoma and have
7 studied the health effects of air pollution. I am a
8 charter member of the Oklahoma Coalition for Clean Air
9 and have attended and participated in workshops and
10 seminars on the Clean Air Act in Denver, Colorado; Estes
11 Park, Colorado; Dallas, Texas; Houston, Texas; San
12 Antonio, Texas; Chicago, Illinois; Airlie, Virginia;
13 Washington, D.C., and Antigonish, Nova Scotia; so I have
14 a working familiarity of the Clean Air Act.

15 "I have attended meetings of the Air Quality
16 Council since the first regulation was adopted in the
17 Oklahoma Clean Air Act over 20 years ago and have given
18 testimony when appropriate and have taken part in
19 seminars in various areas of Oklahoma. My objective is
20 to obtain and maintain air quality that is consistent
21 with good health and a wholesome environment for those
22 who live in our state.

23 "Kindly visualize this pastoral scene as
24 exemplified by the words of this song:

25 'O, beautiful for spacious skies

1 'For amber waves of grain . . .'

2 "What a vivid picture this is our plains where
3 grain is grown, harvested, and stored. However,
4 something happens when the golden grains are harvested
5 and then stored in the grain elevators. There both
6 organic and inorganic composition of the stored product
7 complement each other. This is where illusion ends and
8 reality begins. As far back as 1713 it was documented
9 that 'grain sifters had asthma due to wheat, grain smut,
10 grain molds, grain mites, durum wheat, durum wheat dust,
11 and grain insects.'

12 "In the publication Occupational Lung Disease,
13 edited by J. Bernard L. Gee, M.D., of Yale University
14 School of Medicine, 1984, page 154, it states that
15 'Grain dust is a complex mixture of materials derived
16 from cereal grains as well as natural contaminants, for
17 example, silica, fungi, bacteria, endotoxin, insects,
18 mites, rat hair, pollens, and human additives
19 (pesticides and their residues). The biologic potency
20 of the dust is likely to vary with the grain and the
21 type of concentration of the contaminants
22 . . Cross-sectional epidemiologic surveys indicate a
23 high prevalence of chronic bronchitis and asthma as well
24 as conjunctival, laryngeal, nasal and systemic (grain
25 fever) symptoms in grain handlers. In addition,

1 exposure to pesticides may provide acute neurologic,
2 gastrointestinal, hepatic and pulmonary symptoms and can
3 cause chronic neurobehavioral effects.'

4 "Disease statistics of grain elevator operators
5 may not apply to the farmers since the patterns of
6 exposure, and composition of the dust may be different
7 in the various types of grain elevators and farm
8 operations, but the respiratory problems resulting in
9 exposure to grain dust appear to be identical...The
10 grain elevator operator and longshoremen are exposed
11 during loading and unloading of trucks, railroad cars,
12 and ships, during grain distribution and transport
13 within the elevator components, weighing, cleaning
14 operations, equipment maintenance, and grain
15 inspection....'

16 "To give some idea of the scope of the
17 situation in Oklahoma, I quote from Dr. Calvin B.
18 Parnell of Texas A&M University's testimony to the Air
19 Quality Council on March 8, 1994, page 2. 'Oklahoma has
20 a total of 354 grain handling facilities. Each of these
21 operations will typically handle 6,000 to 12,000 bushels
22 per hour unloading and loading grain. (This is usually
23 determined by leg capacity). One bushel of wheat weighs
24 60 pounds. Hence, a 12,000 bushel per hour elevator
25 will handle 360 tons per hour.'

1 "According to reports in 1993, the total amount
2 was about 5 million tons; therefore, this regulation can
3 have a marked impact on Oklahoma's occupational health.

4 "To clarify the possibilities of air
5 contamination, I quote from an Iowa study, Unit 3, page
6 2. 'Twenty-seven pounds of dust are emitted for every
7 ton of grain handled, resulting in 1.7 million tons of
8 grain dust produced every year. The concentration of
9 particles varies widely but may reach very high levels.
10 Measurements in elevators have ranged from .18 to 781
11 milligrams per cubic meter of total dust with the
12 respirable range extending up to 76.3 milligrams per
13 cubic meter. Airborne concentrations of fungal spores
14 often exceed one million spores per cubic meter.'

15 "If one is bewildered why there may not be too
16 many health complaints from workers in grain elevators,
17 it is documented on page 156 of the previous article
18 that, 'allergic workers who develop severe asthma will
19 likely leave the industry early in their employment.'
20 On page 4 of the Iowa study, 'persons with asthma
21 allergies either do not seek employment as grain
22 handlers or leave this employment rapidly because of an
23 increase of asthmatic symptoms. However, the prevalence
24 of occupational asthma has been reported to be five
25 times that of workers in other professions (50% grain

1 handlers, rather than 11% others, who are nonsmokers.)

2 "On page 157 of the Yale study, it states that,
3 'Labor Canada adopted a TLV of 10 milligrams per cubic
4 meter of total grain dust to protect workers. Cyclones
5 have been replaced by bag filters which are
6 theoretically 99.9% efficient. No such standard exists
7 in the United States where nuisance dust standard of 15
8 milligrams per cubic meter is used. Studies show,
9 however, that the respiratory effects can be found in
10 workers exposed to dust levels below the current TLV.'
11 Reduction in exposure levels can be accomplished by
12 following procedures listed in the article.

13 "Further documentation on the health effects of
14 grain dust may be found in the following: Occupational
15 Pulmonary Disease by James Dosman and David Cotton,
16 analysis of grain dust and effects on the respiratory
17 system; Occupational Lung Disease," 2nd Edition by
18 W. Keith Morgan, M.D., and Anthony Seaton, M.D., as well
19 as the publications "Agricultural Respiratory Hazards,"
20 Unit 3--Grain Dusts, by the American Lung Association of
21 Iowa in collaboration with The Institute of Agricultural
22 Medicine and Occupational Health, The University of
23 Iowa.

24 "Since the American Lung Association of
25 Oklahoma is vitally concerned with lung health, it is

1 urged that the members of the Air Quality Council be
2 cognizant of the adverse health effects of grain dust
3 and take these into consideration in your deliberations
4 on this regulation.

5 "Thank you for this opportunity to express the
6 concerns of a citizen who is dedicated to clean air for
7 Oklahoma as a necessity for a good quality of life.

8 Respectfully, Anna Clapper."

9 MR. BYRUM: Questions for Ms. Rodgers?
10 Questions from the audience for Ms. Rodgers?

11 MR. TREEMAN: It seems to me that all of the
12 studies you did -- Rick Treeman, Johnston Grain. The
13 studies you did and all the reference material was in
14 reference to employees and worker exposures.

15 This deal is not dealing with worker exposure.
16 That's OSHA's ballpark, not EPA's.

17 MS. RODGERS: I will tell Ms. Clapper that.

18 MR. TREEMAN: Well, even the first one you
19 read. You referred to the candidate study bag houses 10
20 milligrams per cubic meter of air. That's the OSHA PEL
21 for airborne dust in the work environment. That has
22 nothing to do with the public.

23 MR. KENT: Dan Kent, Triangle Co-op Service
24 Company. I would just like to ask if you knew that you
25 had a bad back, would you work at a job where you're

1 required lifting continually throughout the day?

2 MS. RODGERS: I did not write these.

3 Obviously, I wouldn't. But I think the main concern for
4 the Lung Association, maybe this did address employees,
5 but they are just as important as the little old lady
6 across the street. So if these are statements, even if
7 they apply to employees as well as the person who lives
8 across the street.

9 MR. BYRUM: Any other questions for
10 Ms. Rodgers?

11 MR. FISHBACK: Well, I think the point is that
12 there's a key difference between the employees and the
13 people who live across the street, and it's the
14 concentration level they are exposed to.

15 And the standard is written for protection of
16 the general public under EPA has previous discussion has
17 said today, are usually PELs divided by a hundred or a
18 thousand.

19 The reason for that, the premise for that, is
20 always that the public is continuously exposed; the
21 worker is only exposed 40 hours a week.

22 MR. BYRUM: The other way around.

23 MR. FISHBACK: Okay. The public is exposed 168
24 hours a week if they live within the impact zone of the
25 emitter.

1 So I think it's -- this data that you presented
2 is correct, but it's not an EPA jurisdictional question;
3 it's an OSHA jurisdictional question.

4 You can't translate workplace exposure and
5 health effects to what would occur in the general
6 population, because the exposure levels are much, much
7 different.

8 DR. HUGHES: Would you thank Ms. Clapper for
9 her usual diligence in bringing information to us. I
10 appreciate that.

11 MR. BYRUM: Thank you, Lisa.

12 MR. McWHIRTER: I've got a question. Perhaps
13 I'll wait until after --

14 MR. BYRUM: Okay. Dr. Hart.

15 DR. HART: I am not going to bring my testimony
16 up, and I am going to somewhat defend Lisa's comments up
17 here. She in fact presented what she thought was
18 appropriate for the group. And what she did present in
19 fact were facts taken from the appropriate authors and
20 studies. And what we were advised was that we would
21 prepare testimony based on our impression of the adverse
22 health effects associated with workers in the workplace
23 in the grain industries, and that is precisely what she
24 reported on.

25 I looked at other areas in my review of the

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1 studies, and essentially there are none. We really have
2 no good studies at all that would address adverse health
3 effects of the general public exposed to grain dust.

4 We have some pretty good data on the adverse
5 effects associated with farmers in general. And as a
6 result of these exposures in farmers in general -- and
7 I'm not sure we could really consider them general
8 public -- they in fact have surpassed the problems
9 associated with health, surpassed the incidents in the
10 prevalence of miners today. In fact, they are the
11 highest occupational ill-health rate of all workers in
12 the United States, all farmers and agricultural, which
13 would suggest to me, certainly, by any means, that we
14 indeed have a problem relative to that. The question
15 is: What concentration is really going to create the
16 problem? And we have to deal with that.

17 Even in the workplace today, it's very
18 difficult for us to actually measure or to quantify the
19 actual concentrations that are going to create the
20 problems that we are seeing. There are problems; we
21 know that. We have a pretty good idea of what those
22 problems are. We're not quite certain what causes those
23 problems, but we're working on it.

24 So I think it's appropriate relative to my
25 testimony, which in fact concentrates on the workplace

1 and that's where my expertise lies, as a matter of fact,
2 is in the workplace. But perhaps I could withhold that
3 and any information that I have I might offer it to the
4 staff to support them in the future.

5 And, Lisa, I know how it feels to be in a
6 circumstance like that. You did present the appropriate
7 facts as you were advised to present, and that was
8 entirely correct. And the testimony that she had from
9 Dr. Welch and from Anna Clapper were right on track.
10 They were perfect. Thank you.

11 MR. BYRUM: Any questions for Dr. Hart from the
12 Council?

13 Okay. Questions.

14 MR. HAMPTON: Sir, are you aware of the
15 independent study done by the National Grain Feed
16 Association to show there was no adverse effect on
17 workers other than those who smoked?

18 DR. HART: I have the results of that. I
19 haven't reviewed that yet. Again, we were told to
20 single only on the workplace, and so I didn't review
21 that in detail.

22 The cursory review that I did, I can track
23 pretty much with what was found in the workplace
24 relative to smoking. There were several studies that
25 were done that found that the level of disease

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1 associated with smoking was equivalent to that of people
2 exposed to grain dust in the workplace, that is,
3 nonsmokers. So I was curious about that, and I do want
4 to look into it, and I will.

5 MR. HAMPTON: I would like to respectfully
6 request that the copy to be presented at the March 8th
7 meeting would be entered as part of the record, that
8 study that I just referred to.

9 MR. BYRUM: Other questions for Dr. Hart?

10 MR. FISHBACK: Do I understand your comment
11 correctly that farmers as a group have more severe
12 health effects than any other occupational group?

13 DR. HART: That has finally arrived at that.
14 Now that's relative to -- we looked at miners as being
15 the worst. Now, what we are saying is the mortality
16 rate in farmers due to occupational illnesses is now
17 greater than any other occupation in the United States.

18 MR. FISHBACK: But are you trying to say that
19 that is related to grain dust exposure or everything
20 else?

21 DR. HART: Everything.

22 MS. SLAGELL: Everything. Because of the
23 machinery we drive; everything.

24 DR. HART: The incidents of death in teenagers
25 in the farms is greater than what we see in other

1 occupations.

2 MR. FISHBACK: And you would agree that that's
3 usually accidents.

4 DR. HART: That is. However with the pulmonary
5 diseases that we are seeing, the grain dust is a factor,
6 but there are many other factors. There is fertilizers,
7 pesticides. All of these factors were --

8 MR. FISHBACK: That was the question I was
9 going to ask, because it came across differently. You
10 didn't intend to apply that their health risk is because
11 of grain dust only.

12 DR. HART: Absolutely no way.

13 MR. FISHBACK: Does their respiratory disease
14 frequency exceed that of other occupational groups?

15 DR. HART: There are several kinds of pulmonary
16 diseases. But if we look at the chronic obstructive
17 lung disease, it does. It exceeds that. It's only one
18 of the diseases.

19 MR. FISHBACK: With nonsmokers in both groups?

20 DR. HART: Absolutely, that's been mixed. We
21 have had mixed studies in which that is done. Smoking
22 seems to be an additive effect, but it's still higher in
23 nonsmoking farmers than it is who are exposed.

24 MR. FISHBACK: But again the respiratory
25 disease could be from the inhalation of grain dust or

1 the inhalation of pesticides or --

2 DR. HART: Pesticides, fertilizers; absolutely
3 every one of these factors.

4 MR. FISHBACK: So we can't pin it on grain
5 dust.

6 DR. HART: No at all. Not at all.

7 MR. LEW MEIBURGEN: Isn't the farmer, though,
8 the largest work force in the nation?

9 DR. HART: It is indeed. May I just add to
10 that. An interesting thing I read the other day having
11 done that in another industry covered fairly recently,
12 and I was very curious.

13 The mining industry had the highest level of
14 occupational illnesses and diseases at one time. What
15 the mining industry has had a lot more standards and
16 regulations now enforced upon them. The question is:
17 What is really happening here? That's what we really
18 need to look at. It's a curiosity, and I'm not sure I
19 can pin anything on it.

20 DR. HUGHES: Your numbers, are you talking
21 about gross numbers or incident rates, in other words,
22 the number of cases per thousand workers?

23 DR. HART: These are what we call the
24 proportioned mortality ratios.

25 DR. HUGHES: Right. And the mortality that you

1 were talking about earlier was not only diseases; it
2 also included injuries?

3 DR. HART: Injuries, that's correct, yes.

4 MS. SLAGELL: Also bankruptcies.

5 DR. HART: I am sure that could do it.

6 MS. SLAGELL: Well, really. Western Oklahoma's
7 farmers are.

8 DR. HART: It's just a curiosity. And that we
9 all need to take that into consideration. I was really
10 surprised. I have been involved in other industries,
11 and I was really surprised to find that that was a
12 problem. Grain dust is one of these; it has to be
13 considered.

14 MR. KILPATRICK: In the study that was brought
15 up, they say that -- there are some health effects of
16 grain workers usually show that rates of chronic
17 bronchitis and abnormal pulmonary function were not
18 higher than usually encountered in other populations.
19 Later on it says that it was found that long-term grain
20 dust exposure may result in mild chest symptoms
21 especially tightness and a mild decline of pulmonary
22 function.

23 I know you haven't seen the data, what they
24 meant, but in your opinion, what's the difference
25 between an abnormal pulmonary function and a mild

1 decline in pulmonary function. I'm an engineer; I think
2 of numbers. I don't know what he --

3 DR. HART: I would do, and I'd have to look at
4 that. But in reading some of the other studies, I have
5 seen that used. And I think what they're referring to
6 is that if you take a photo -- just a frame at that
7 particular time or a photograph at that particular time
8 or do a pulmonary function study, that you may find a
9 decline when exposed. But take them out of the exposure
10 and it returns to normal.

11 The other is where you have a reduction in
12 pulmonary function studies, and it remains that way and
13 continues to decline. I think that's what they're
14 referring to, but I would have to look at those details.
15 Because we found in the grain dust workers in the
16 workplace that we can do pulmonary function studies on
17 individuals and find that there is a decline while they
18 are working. Take them out of the environment, in some
19 of the diseases -- not all of them, but some of those --
20 it is reversible, and they can come back to normal. And
21 it may be what they're referring to.

22 MR. KILPATRICK: I am glad to hear it's
23 reversible, because I'm the only Council member that
24 entered the grain elevator on our tour when we turned
25 off the vacuum system, and for three days afterwards I

1 can testify that I suffered from mild pulmonary function
2 disorder.

3 DR. HART: And that's entirely possible. It is
4 reversible, but we're talking about those that are
5 irreversible in the grain process which occur after
6 about six years' exposure.

7 Sorry to take so long.

8 MR. BYRUM: Other questions for Dr. Hart?

9 MR. McWHIRTER: This -- what was the PEL? Is
10 that the exposure limit?

11 DR. HART: No. The TLV. Threshold limit value
12 is what we were talking about.

13 MR. McWHIRTER: I thought there was an OSHA
14 standard. A standard in millimeters.

15 DR. HART: We're talking about ten milligrams
16 per cubic meter. Is that the parameter you are talking
17 about?

18 MR. McWHIRTER: No. What is --

19 MS. TILLMAN: PELs and TLVs are often the same
20 thing. They mean the same thing.

21 MR. McWHIRTER: We can probably relate that to
22 our occupational exposure level that is contained in
23 Subchapter 41. See if there's an occupational exposure
24 level established for this material.

25 MR. BYRUM: Other questions for Dr. Hart?

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1 Thank you, sir.

2 I find no one else wishing to speak. Is there
3 anyone else who wishes to speak to the Council? We had
4 called some names previously that had indicated they did
5 not wish to speak at that time. Does anyone wish to
6 speak to the Council?

7 I find no one wishing to speak.

8 THE CHAIRMAN: Is there any further discussion
9 or questions from the Council on this matter?

10 Okay. There's, I guess, several possible
11 actions that we could take. One I would like to at
12 least ask some questions about. It appears that the
13 industry has no fear if the state takes an action that
14 is not either sent to EPA or is sent to EPA and might
15 not get approved. And I don't know what kind of a
16 shield that puts up for them. But would there be such
17 an action that due to the rarity of an industry that
18 functions six weeks out of the year or something like
19 that that we shield them from having to make an
20 application under Title V at this time?

21 Don't everybody speak at once, staff.

22 MR. BYRUM: Okay. I will try that one for you.

23 I think that we -- it will not -- if they meet
24 the qualifications for being a major source under
25 Title V, it would not shield them from having to have a

1 permit. Whatever we do, we cannot take action such as
2 just to ignore this class, in my opinion.

3 Dennis, put you on the spot.

4 MR. DOUGHTY: I think I missed something there.
5 I thought I heard you say what's the scenario that we
6 can anticipate --

7 THE CHAIRMAN: My question is: Realizing that
8 EPA would not recognize a state rule if we passed one to
9 shield them from having to make an application under --
10 for a Title V permit. We know that; we can't do that on
11 a federal -- on a federal level or hope to get EPA
12 approval.

13 But if we justified it and found that we could,
14 based on their type of operations, a very few weeks out
15 of the year, and for some reason it's justified in our
16 opinion, shielding them on the state level, regardless
17 of what the feds might want to do, and if the industry
18 says that's acceptable to them -- and they evidently
19 have said such a thing -- is that possible to do?

20 MR. KILPATRICK: You're asking --

21 MR. DOUGHTY: Bill, I'm still struggling with
22 what your question is. There's a couple of ways we can
23 shield them.

24 I'm not sure that I particularly like that
25 term, but what we can do is issue them permits as

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1 synthetic miners, which will shield them, and you
2 understand that.

3 THE CHAIRMAN: I understand that.

4 MR. DOUGHTY: We can write a standard that we
5 send to EPA that they approve that is federally
6 enforceable that will shield them.

7 If we write something that is arbitrary or if
8 it's unapprovable by EPA, what we have is a situation
9 where the state is unable to act because they are in
10 compliance. If it is not approved by EPA and their
11 neighbor complains to EPA and EPA goes out and inspects
12 them -- generally, they will refer it to us and we'll
13 say: They are in compliance. Then more than likely
14 what could happen is EPA would come out and do an
15 inspection, and say: You're not in compliance; state,
16 what are you doing to do about it? And they will say:
17 They're in compliance with our rules.

18 Then EPA would take an enforcement action
19 against them based on the SIP, which they can enforce,
20 which happens to be our own rules of opacity, process
21 weight grain, and so on and so forth.

22 I don't know if that answers your question, but
23 in my mind that's the way I see the situation.

24 THE CHAIRMAN: Well, right now we have a
25 concern about us enforcing the regs that are on the book

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1 now, the rules that are on the books now. We had a
2 concern about that.

3 If we -- if we in Oklahoma reversed that rule
4 as a state rule --

5 MR. DOUGHTY: You mean just exempt them?

6 THE CHAIRMAN: Right.

7 MR. DOUGHTY: Will that shield them from EPA?

8 THE CHAIRMAN: Uh-huh.

9 MR. DOUGHTY: No way.

10 THE CHAIRMAN: No, I'm sorry. Not shield them
11 from EPA. There is no way we can shield them from EPA
12 right now, and in time to stop them from having to make
13 application under Title V, as of today. There's nothing
14 to prevent -- there's nothing -- there's nothing that
15 says -- or shields them from having to do it. We're
16 helpless. They've got to submit, as it stands now, an
17 application.

18 MR. DOUGHTY: Unless there's some other
19 enforceable limit that reduces their potential to emit.

20 One thing that Doyle and I talked about, that
21 we might think about, and it's just sort of a
22 preliminary thought, that we might be able to -- and we
23 might be able to use the present standards and pass
24 something that would limit hours of operation and so
25 forth that would exempt maybe a large portion of the

1 industry just simply based on the standards that we
2 have.

3 As far as potential to emit and Title V, it
4 would not exempt opacity and some of the other things.
5 But at least it would eliminate them from the burden of
6 having to submit a Title V application. That wouldn't
7 take care of some of the top facilities, but at least
8 it's a thought, and it's a starting place.

9 MS. TILLMAN: I think that was the major
10 concern we heard here today from the industry was that
11 they didn't want everyone one of their people to have to
12 submit Title V applications.

13 MR. DOUGHTY: I think we have two issues:
14 Opacity process weight rate versus Title V. I think we
15 can for some purposes perhaps separate the two and maybe
16 get us part way where we're going.

17 MR. BYRUM: I think we have already gone a long
18 ways. If we don't know -- what is it, how many bushels
19 again?

20 MS. PERRY: Six and a half million.

21 MR. BYRUM: -- six and a half million bushels
22 will do for the industry. I just don't know how many of
23 those -- how many facilities are at that level or below.
24 I don't know the answer to that. But we're already
25 there on that. So that's part of what Dennis is saying.

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1 MS. TILLMAN: And that's -- the rush issue is
2 that. The opacity thing is not so hot on the burner,
3 correct?

4 MR. DOUGHTY: I think so. This is a reg we've
5 had around for a long time. I keep hearing the
6 arguments, and what I fail to hear is that traditionally
7 if we've gone to EPA with a relaxation, we needed some
8 real hard facts or data, something that says: This
9 opacity is way too stringent, or this process weight
10 rate is way too stringent and there's no way they can
11 meet it. There are other ways that they might be able
12 to meet this.

13 Am I responding to your questions, Bill?

14 THE CHAIRMAN: Well, no, I guess really not.
15 Let's refer back to something that happened years ago.

16 We passed a rule that would have protected
17 Sheffield, and it didn't because EPA didn't accept that
18 rule, didn't put it on the books. We didn't realize
19 they didn't. But where they got fined was EPA came
20 around and did it; we didn't.

21 We tried to defend our position.

22 MR. DOUGHTY: It was a little bit different
23 situation. What we had was they had a variance, as I
24 recall, to one of our rules. The variance was never
25 sent to them as a SIP revision; therefore, it was not --

1 it was not -- EPA was not obligated to comply with that
2 variance, because it was never approved.

3 THE CHAIRMAN: I think it was a bubble deal
4 that we passed or something like that, wasn't it?

5 MR. DOUGHTY: That was part of it. That was
6 part of their permit, but in order for them to get their
7 equipment on and get the opacity down, it seems like
8 they spent like \$3 million or something. And EPA
9 referred it to us, and we said, "We can't do anything
10 about it; they've got a variance." And they said,
11 "Okay, we will."

12 And they went in, and I don't know what the
13 fine was, but it was pretty heavy.

14 MR. BYRUM: Several million dollars.

15 MR. DOUGHTY: And it didn't do much for the
16 EPA-state relationship; I will say that. But they
17 certainly proved their point.

18 THE CHAIRMAN: Yeah, but from the time that we
19 passed that rule or variance to the time EPA did
20 anything about it, how long was that?

21 MR. DOUGHTY: I don't know the exact time
22 frame. I know it was precipitated by complaint.
23 Somebody complained.

24 I think they had -- at that time we could only
25 do a variance for one year. So the variance could not

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1 have -- I mean --

2 MR. BYRUM: It occurred within a year.

3 MR. DOUGHTY: It may have been a year or more.

4 But the catch in that was that somewhere in the
5 interim they approved our opacity rate which has never
6 been part of the SIP. And then they turned around and
7 used it against them because of the variance. I think
8 we've got -- what we would have here is a similar
9 situation.

10 I do know that once we submit a SIP revision,
11 EPA has cause to take a look at it. So I don't know if
12 they would jump right out and do an enforcement action,
13 but I have no idea how long it would slow them up,
14 either.

15 MR TARON: Mr. Chairman, did I misunderstand
16 Larry awhile ago? Did he not say that we might be
17 better not even to address this at this time?

18 Did you make that statement awhile ago?

19 MR. BYRUM: In what context? Address the whole
20 rule?

21 MR TARON: The whole rule.

22 MR. BYRUM: That's a possibility that you have
23 is to not address it.

24 MR. TARON: That's what I think.

25 MR. KILPATRICK: I'm a little confused, because

1 I think Mr. Hampton at the end seemed to agree with the
2 committee approach. Earlier we had heard testimony from
3 the industry suggesting that they were recommending that
4 we pass their rules.

5 I'm not quite sure where industry stands. I
6 know where I stand, but I don't know what they're
7 recommending.

8 MR TARON: What about our suggestion to work
9 with them?

10 MR. KILPATRICK: That's what I'm saying. I
11 think Mr. Hampton -- I thought the last thing he said
12 was in agreement with that.

13 MR TARON: Should we have a motion here,
14 Mr. Chairman, to agree with that and go on with it? If
15 so I move.

16 THE CHAIRMAN: I think that would be fine.
17 I just -- you know, in item 2, under 3(B), we're to
18 explore any possible action that we might want to take.
19 And rather than to just jump in and do one thing, I
20 wanted to see if there were some other things that we
21 haven't discussed at this time.

22 So that's why I brought this one subject up.

23 MR. FISHBACK: Let me ask what I think is a
24 fundamental question.

25 We have subchapters, whatever they are, Doyle,

1 25, 27?

2 MR. McWHIRTER: Twenty-nine.

3 MR. FISHBACK: -- 29 on the books right now,
4 and I've heard several things today. Industry
5 acknowledges they can't meet the opacity and process
6 weight requirements of the existing rules which have
7 been on the books for 20 years. You also said that the
8 DEQ and the air quality program is not taking an
9 aggressive enforcement stance against those affected
10 facilities and has not.

11 But the fundamental question I see here is:
12 What is the difference between having a rule that's been
13 on the books for 20 years that the industry can't meet
14 and could -- EPA could have overfiled on; I mean, these
15 subchapters are part of the SIP, and if EPA wanted to
16 come to a grain elevator and say: Your opacity is --
17 whether your state agency enforces on you or not, your
18 opacity is too high. They could have done it and they
19 haven't.

20 So what is the difference between having a 20
21 year old rule you can't meet and having a brand new rule
22 that you can't meet?

23 I don't see the difference.

24 MS. SLAGELL: Common sense and logic.

25 MR. FISHBACK: And so --

1 MR. DOUGHTY: Bill, are you convinced -- is the
2 Council convinced that there's been enough evidence that
3 says they can't meet the opacity rule?

4 I'm not sure the staff is convinced that they
5 can't meet any of the standards; there's not some
6 alternative way. I would question that assumption, at
7 least at this point.

8 MR TARON: That's the reason for my suggestion
9 to go ahead and have the committee work with them. I
10 thought that's what we wanted.

11 MR. FISHBACK: I think there's a consensus to
12 do that, but I'm trying to understand here, because we
13 heard testimony from the industry that they didn't see
14 any risk in us -- even though Gary is uncomfortable with
15 it, they didn't see any risk in us proposing this rule
16 to EPA because it may or may not pass. Well, we've
17 already got a rule on the books they can't meet, so
18 what -- to me there is no difference.

19 MR. KILPATRICK: Well, there's a big
20 difference. We're passing the rule. I'm voting on it
21 saying, yes, I think this is a good rule for the state
22 of Oklahoma and the industry. There ain't no way.

23 MR. FISHBACK: If that's what's true, we ought
24 to revoke the existing rule right now. We ought to wipe
25 that rule off the books.

1 MR. KILPATRICK: No. You've got to have some
2 basis for doing that. What are you going to replace it
3 with?

4 MR. FISHBACK: If you have an industry group
5 that can't meet an existing rule, then it might as well
6 not be on the books. How can you defend a rule that is
7 impossible to meet?

8 MR. BYRUM: If you take that action --

9 MR. KILPATRICK: See those green marks, all of
10 those green marks? Those are the things that industry
11 has in that aren't in the proposal. We haven't even
12 talked about the green marks on here. All we have
13 talked about is one or two major issues. You know me,
14 am going to read every word. I want to know every word
15 before I am going to vote on it.

16 MR. FISHBACK: All I am saying is if we have an
17 unattainable situation here, then we have to rectify it.
18 And if we can't rectify it by supporting any rule today,
19 then we better rectify it by getting rid of an existing
20 rule.

21 MR. KILPATRICK: The existing rule applies to
22 all industries. So are you going to draft out a new
23 rule that says just for the agricultural industry, we
24 exempt them from --

25 MR. FISHBACK: That's one of the --

1 THE CHAIRMAN: That's kind of what I was
2 saying. And I just wanted to explore that.

3 MR. KILPATRICK: If you're going to do a
4 exemption, you better have the basis for the exemptions.

5 MS. SLAGELL: That's right, but we can discuss
6 that.

7 THE CHAIRMAN: That's right. Our only basis
8 would have been because of the peculiarity of the
9 operations of the mills.

10 MR. KILPATRICK: Oh, the basis for you right
11 now is because the industry says they can't meet the
12 rule. That's not a valid reason for an exemption.

13 MR. FISHBACK: And because -- if you accept the
14 testimony we've heard and because decreasing emissions
15 to the atmosphere increase concentrations inside the
16 equipment and increase the probability of grain
17 explosions. That is the key point that Dr. Parnell was
18 making over and over again.

19 MS. TILLMAN: But that's not in a presentable
20 form at this time.

21 MR. FISHBACK: Well, maybe not.

22 MS. TILLMAN: From what I think I am hearing
23 here today, what we're trying to do is help get the
24 industry to where they are not into immediate trouble
25 with the regs.

1 Okay. The air quality staff has already said
2 they are not going to go in and try to enforce the
3 opacity rule until they have time to work it out. The
4 next hot item is obviously the applications.

5 And we've already heard a good possibility that
6 most of them are going to be knocked out of having to do
7 the Title V permits.

8 I think those are the things we need to be
9 working on with them now is get those application
10 situations solved and at the same time have the
11 committee go in to take care of the opacity items and
12 the rest of the things that are in question.

13 That way when we do, we can get -- I agree
14 with you. I think most of the stuff is here; it's just
15 not in a presentable form. So let's get all of this
16 stuff moving and go with it.

17 THE CHAIRMAN: Okay. Let me ask a question,
18 then. If we continue this hearing, do we have to
19 continue it to a known date, or can we continue it until
20 either the next regular meeting or special meeting?

21 MR. DOUGHTY: Well, our next regular meeting is
22 a known date; is it not?

23 THE CHAIRMAN: That's right. But what if we
24 wanted a meeting -- what if we could expedite this thing
25 and we wanted it before that time?

1 MR. DOUGHTY: I think you would need to tell
2 them what that date is today. Otherwise, we would have
3 to go through our promulgation and rigmarole and
4 advertise and set a date, unless we wanted to do it as
5 an emergency or such.

6 MR. BYRUM: Next regular scheduled meeting is
7 June 14th.

8 SCOTT THOMAS: We have already taken the
9 liberty of advertising the June 14th meeting.

10 THE CHAIRMAN: Well, if we continued it, would
11 you have to readvertise it?

12 MR. BYRUM: No. It's currently advertised.

13 DR. HUGHES: I am confused. Could we meet next
14 week?

15 MR. BYRUM: You can call a special meeting. We
16 would have to go through some special advertising
17 problems, but, yes.

18 THE CHAIRMAN: Do we have a time frame that
19 would necessitate a special meeting on this?

20 MR TARON: Forty-eight hours is what the state
21 law says.

22 THE CHAIRMAN: No, I don't mean that. But I
23 mean -- is there some action we need to take, if we can,
24 prior to the next regular meeting?

25 MS. TILLMAN: Get your committee together

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1 that's going to work with the other two groups. You
2 could do that.

3 MR. FISHBACK: That's not even a meeting.

4 MR. DOUGHTY: We could work most of this out at
5 the staff level, I would think.

6 I don't see -- if the Council ultimately
7 decides to pass a rule; I think it can be done on an
8 emergency basis and also on a regular basis.

9 Larry, I don't know; I haven't heard from EPA,
10 but if we get it in before November 15th -- have you
11 gotten anything from EPA on that?

12 MR. BYRUM: No. They won't be able to even --
13 I don't see their being able to react to it.

14 I don't think that getting the rule in or not
15 getting the rule in will have any effect until the
16 date -- well, unless we were trying to shield them from
17 applying for a permit.

18 THE CHAIRMAN: That's what I'm attempting to
19 do.

20 MR. BYRUM: I don't know the number, and I
21 think feed and grain will need to provide us the number
22 that Debbie's comment exempts -- or not exempts but
23 takes care of. And I don't know what the remaining
24 numbers are. But the application for a permit is coming
25 closer and closer. I know of no way to do that.

1 And to answer Dennis's question: Do we know if
2 we get a proposed rule in to EPA prior to that date,
3 will they -- would that exempt them from doing a permit?
4 And I don't know the answer to that question.

5 Again, I am not going to try to say what EPA
6 would say on that. We'll ask them.

7 THE CHAIRMAN: The chances are we're going to
8 submit a rule to EPA that on the surface they're not
9 going to accept. I don't have a problem with that, but
10 I would expect that that's what is going to happen.
11 Even with the committee working with the Council and the
12 industry.

13 And I say that simply because I'm not convinced
14 that we want to cost the industry what it would cost to
15 meet -- or to put in the emission control devices to
16 meet the opacity that I'm afraid that EPA is going to
17 want.

18 MR. BYRUM: Again, EPA would look at the cost,
19 the relative cost and all of that, and I don't know
20 we've seen data on that.

21 THE CHAIRMAN: We sure haven't seen any data
22 that says that at their property line there's a health
23 hazard because of any of these emissions, have we?

24 MS. TILLMAN: Not only that, they had a very
25 good argument as to why the control mechanisms are not

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1 always a good thing to have. I think we have a very
2 good place for backing a stand if we can just get it
3 together in a presentable form. I don't see a problem
4 with EPA accepting it if we can back what we've been
5 saying here.

6 THE CHAIRMAN: Okay. Is the Council willing to
7 go along with the committee? Do you believe that that's
8 worthwhile and worth your time? Bill?

9 (Mr. Fishback Nods yes.)

10 THE CHAIRMAN: Okay. First of all, who would
11 volunteer for the committee?

12 MR. FISHBACK: I will.

13 MS. SLAGELL: I will too.

14 (Dr. Hughes raising his hand.)

15 THE COURT: One, two, three. I would like one
16 more. Mary?

17 Okay. We have four. Now, I would like anybody
18 that wants to come to these to be able to come, but I
19 want Larry to monitor and not put the burden of a
20 meeting on us.

21 MR. FISHBACK: We need to be careful of a
22 quorum, don't we?

23 THE CHAIRMAN: That's right.

24 MR. BYRUM: If you have four, you're going to
25 have to be basically the four.

1 THE CHAIRMAN: That's right. I'm just saying I
2 would like anybody on the Council to come to these
3 meetings, except for one reason: I don't want to be
4 burdened with a formal meeting.

5 So I would like Larry to monitor when you're
6 getting together that there are only four of you. First
7 of all, the four volunteers; next, if one of the
8 volunteers can't, somebody else can come along. And if
9 somebody wants to come to the meeting, they've got to
10 talk with Larry to assure that they won't make a meeting
11 of it.

12 Is that understood? Okay. Now, can we just
13 continue this meeting until next time with this type of
14 activity going on?

15 MR. DOUGHTY: I think that's a good idea, Bill,
16 and I think we can do that. We can continue the hearing
17 until the next regularly scheduled meeting. That ought
18 to give you enough time to resolve some of these issues
19 and draft some language and so on and so forth.

20 THE CHAIRMAN: Okay. Do we need a motion to
21 form a committee, or do we just simply need a motion to
22 continue the hearing?

23 MR. DOUGHTY: I would say a motion to continue
24 the hearing, but we've already got scheduled for a
25 hearing. So at this point, I don't think it really

1 matters.

2 THE CHAIRMAN: Then we don't have to concern
3 ourselves about continuing the hearing. That's set.

4 SCOTT THOMAS: It's in the Gazette.

5 MR. DOUGHTY: If you believe that the Register
6 will publish it the first of the month, then you're in
7 good shape. You may want to go ahead and vote to
8 continue the meeting until the next -- or the hearing
9 until the next meeting to be sure.

10 THE CHAIRMAN: First of all, I would like a
11 motion to continue this hearing until the next regular
12 meeting, which is June 14th.

13 MS. TILLMAN: So moved.

14 DR. HUGHES: Second.

15 THE CHAIRMAN: We've got a motion and a second
16 to continue the hearing until our next regular meeting,
17 which is June 14th.

18 MR. DOUGHTY: Is that here or in Oklahoma City?

19 THE CHAIRMAN: I think it's in Oklahoma City.

20 MR. BYRUM: Yeah.

21 THE CHAIRMAN: Call the roll.

22 THE SECRETARY: Mayor Taron?

23 MR TARON: Aye.

24 THE SECRETARY: Ms. Tillman?

25 MS. TILLMAN: Aye.

1 THE SECRETARY: Dr. Hughes?

2 DR. HUGHES: Aye.

3 THE SECRETARY: Ms. Hinkle?

4 MS. HINKLE: Aye.

5 THE SECRETARY: Ms. Slagell?

6 MS. SLAGELL: Aye.

7 THE SECRETARY: Mr. Fishback?

8 MR. FISHBACK: Aye.

9 THE SECRETARY: Mr. Kilpatrick?

10 MR. KILPATRICK: Aye.

11 THE SECRETARY: Mr. Breisch?

12 MR. BREICH: Aye.

13 THE CHAIRMAN: Okay. Now we have had
14 volunteers for the committee to work with the staff and
15 industry. I don't think we need a motion to formally
16 appoint that, but I would like to put it on the record
17 that, let's see, it was Mike, Mary Beth, Bill, and Gary;
18 is that right? And again I extend an invitation to
19 anybody or anybody on the Council to be at that meeting
20 subject to clearing it through Larry.

21 MR. FISHBACK: And who from the staff and who
22 from the industry will be working with us? Can we get
23 that on the record too?

24 MR. BUTCH MEIBURGEN: I'm Butch Meiburgen, and
25 I believe the industry would probably like to have the

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1 same two individuals that have -- doing the small
2 concentrated meeting: Mike Mahoney and Rick Treeman, if
3 Larry doesn't have any objection to that.

4 MR. BYRUM: I don't have any objection.

5 MR. BUTCH MEIBURGEN: And work with Doyle and
6 Debbie.

7 THE CHAIRMAN: I don't care who you all have.
8 I'd like to limit it to some reasonable number.

9 MR. BUTCH MEIBURGEN: Would the two be
10 reasonable?

11 THE CHAIRMAN: Four, five, or six; you know,
12 that number is reasonable. But have the same ones at
13 each meeting. How many?

14 MR. BUTCH MEIBURGEN: Normally I would say no
15 more than four.

16 THE CHAIRMAN: No more than four. Okay. One
17 more thing. These will have the power, or the authority
18 I should say, to make a binding agreement between the
19 staff and themselves that can be brought to the Council.
20 No last minute mind changes is what I'm getting at.

21 MR. LEW MEIBURGEN: It's a two-way street.

22 THE CHAIRMAN: That's right. The Council is
23 going to be there to make sure the staff doesn't do
24 that.

25 MR. BYRUM: And we'll have no more than 40

1 people.

2 MR. FISHBACK: And who from the staff?

3 MR. BYRUM: I would say that we'll probably
4 have Doyle and Debbie, and we have a couple of others.
5 I want to reserve the right to bounce in and out,
6 because I have to go to meetings all the time. But I
7 would like to sure know what is going on.

8 We'll have no more than four, except for me
9 bouncing in and out.

10 THE CHAIRMAN: Well, Larry that will conclude
11 the Council's part of this hearing.

12 (The hearing concluded.)

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6 I, GAYLA CHRONIC, CSR, RPR, having been
7 duly appointed as Official Court Reporter herein, do
8 hereby certify that the foregoing pages number from 2 to
9 112, inclusive, constitute a full, true, and accurate
10 transcript of all the proceedings had in the above
11 matter, all done to the best of my skill and ability.

12 DATED the 2nd day of May, 1994.
13
14
15
16
17

18 

19 GAYLA CHRONIC, CSR, RPR
20

21 Gayla S. Chronic
22 Oklahoma Certified Shorthand Reporter
23 Certificate Number 01127
24 Exp. Date: December 31, 1994
25

June 14, 1994

BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

ORIGINAL

* * * * *

HEARING BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
ON PROPOSED RULE OAC 252:100-24
AT 4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

* * * * *

COUNCIL MEMBERS PRESENT:

Mr. Bill Breisch, Chairman
Dr. Michael Hughes
Ms. Mary Tillman
Dr. Larry Canter
Mr. Gary Kilpatrick
Mr. Bill Fishback

ALSO PRESENT:

Mr. Larry Byrum, Protocol Officer
Ms. Myrna Bruce, Secretary of Council

Reported by:

Christina L. Stevens, CSR
PRIDE REPORTING SERVICES
2601 N.W. Expressway, Suite 103E
Oklahoma City, OK 73112
(405) 843-6498

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INCIDENTS OF COMMISSION MEETING

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SECONDED BY MS. TILLMAN	09
ROLL CALL VOTE.	10

1 June 14, 1994

2 Oklahoma City, Oklahoma

3 1:30 o'clock p.m.

4 * * * * *

5 THE CHAIRMAN: I'll call this hearing to order. Do you
6 want to call the roll.

7 MS. BRUCE: Dr. Canter.

8 DR. CANTER: Here.

9 MS. BRUCE: Mr. Fishback.

10 MR. FISHBACK: Here.

11 MS. BRUCE: Ms. Hinkle.

12 (No response.)

13 MS. BRUCE: Dr. Hughes.

14 DR. HUGHES: Here.

15 MS. BRUCE: Mr. Kilpatrick.

16 MR. KILPATRICK: Here.

17 MS. BRUCE: Ms. Slagell.

18 (No response.)

19 MS. BRUCE: Mayor Taron.

20 (No response.)

21 MS. BRUCE: Ms. Tillman.

22 MS. TILLMAN: Here.

23 MS. BRUCE: Mr. Breisch.

24 MR. BREISCH: Here.

25 THE CHAIRMAN: Okay. At this time, I'll turn the

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1 meeting over to Larry Byrum, who will act as our protocol
2 officer.

3 MR. BYRUM: Ladies and gentlemen, my name is Larry
4 Byrum. I'm the director of the air quality division of the DEQ.
5 As such, I will act as the protocol officer for this hearing.
6 This hearing is convened by the air quality council in
7 compliance with the Oklahoma Administrative Procedures Act and
8 Title 40 of the Code of Federal Regulations, part 51, as well as
9 the authority of Title 63 of the Oklahoma Statutes, section
10 1-1801 and following. This hearing was advertised in the
11 Oklahoma Register for the purposes of receiving comments
12 pertaining to the proposed revision of a rule for the feed and
13 grain industry. The Rule Number is 252:100-24-4. If you wish
14 to make a statement concerning this issue, please complete the
15 form which is located at the registration table. I will call
16 upon you at the appropriate time.

17 At this time, I would like to call upon Mr. Doyle
18 McWhirter of the staff to propose the staff position on these
19 changes. Mr. McWhirter.

20 MR. MCWHIRTER: Thank you, Mr. Chairman and members of
21 the council and guests in the audience. I'm Doyle McWhirter.
22 I'm the director of enforcement and compliance section for the
23 air quality division. I will give the staff's comments
24 concerning proposed Rule 252:100-24, commonly referred to as
25 subchapter 24, entitled, "Particulate Matter Emmissions from

1 Grain, Feed or Seed Operations."

2 A committee made up of four council members, Oklahoma
3 grain and feed industry representatives, and air quality
4 division staff, with Mr. -- with Dr. Fishback as the chair was
5 established by the air quality council meeting on April 12,
6 1994. The committee has met on three occasions to discuss and
7 draft proposed subchapter 24. The list of attendees, the
8 agendas, and the notes of these meetings was provided in the
9 council packets.

10 I'm happy to report that members of the committee have
11 reached agreement upon proposed subchapter 24, which is included
12 in the packets. And there is also copies available -- were
13 copies available at the table at the entrance.

14 I won't read all of the proposed subchapter 24 to this
15 group. There has been some suggested changes be made to the
16 language that was contained in what was in the -- been included
17 in the packet. I will read those suggested changes into the
18 rule, and then give the staff's recommendation.

19 On page 1, the definition included in 252:100-24-2
20 definitions, the definition for "Enclosed Grain Handling
21 Equipment," it has been suggested that the last sentence be
22 changed to read as follows: Emissions from this equipment shall
23 not be exhausted to the atmosphere except through
24 non-pressurized vents/openings, and shall not be considered a
25 source subject to emissions calculations. And that language --

1 what it does is it removes "point," the word "point," in that
2 sentence and changes it with "source."

3 In the next definition, which is on page 2, the
4 definition for "Existing Grain, Feed and Seed Operations"
5 suggested that the first sentence read as follows: Means a
6 facility which was -- remove the word "is" and replace it with
7 "was" -- in existence in 1993 and has submitted a current
8 emission inventory to the Air Quality Division for the 1993
9 reporting period year.

10 There is no other changes on that page until you get to
11 the definition of "Grain, Feed or Seed Operations Facilities."
12 And it's recommended that that be reworded to read as follows:
13 Means the contiguous or adjacent area under common control up
14 which a grain elevator, feed mill, or grain and seed processing
15 equipment or structure are located, and all contiguous sites
16 having common control, which have a SIC code with the first two
17 digits that are identical to the first two digits in the SIC
18 code for grain elevators, feed mills, or grain and seed
19 processing equipment.

20 The next suggested change would then be on page 5,
21 which page 5 is under section 24-3 in the middle of the page
22 where it is referring to the classes of emissions. It is
23 recommended that that sentence be changed to read as follows:
24 For this interim rule, emissions shall be calculated as follows
25 for three classes of emissions, colon. That is adding the

1 letter "S" to emission and removing the word "points."

2 The next recommended change is under Class II. Change
3 the word -- remove the word "vents" and replace it with the
4 words "emission sources" so that that line reads: Class II:
5 Emission sources with control devices.

6 The next recommended change is the last line in the
7 Class II portion. Suggested that it be reworded to read as
8 capital E capital F F means -- insert the word "fractional"
9 efficiency of control device.

10 The next recommended changes is on page 6 in paragraph
11 (3) (b). It is recommended to submit or -- not submit, but to
12 include the word -- the written words twenty percent in front of
13 the numerical 20%, so that paragraph B reads as follows:
14 Emissions from pressurized or non-pressurized vents or openings
15 with control devices shall be limited to no greater than "twenty
16 percent," written words, followed by the numerical writing of
17 20% opacity --

18 MR. BYRUM: Place that in parenthesis.

19 MR. MCWHIRTER: Placed in parenthesis, yes. I'm sorry.
20 -- at any time.

21 It is also suggested in paragraph c be changed to read
22 as follows: Emissions from pressurized vents or openings
23 without control devices shall either be enclosed, exhausted
24 through a control device, or shall be limited to no greater than
25 "ten percent" -- written, two words -- ten percent written and

1 insert in parenthesis the numerical figures of 10 with percent
2 sign, end of parenthesis, before opacity at any time.

3 In paragraph d, it is recommended that it be changed to
4 read as follows: Emissions from non-pressurized vents or
5 openings without control devices shall be limited to no greater
6 than ten percent and insert, open parenthesis, the numerical
7 10%, close parenthesis, followed by opacity at any time.

8 I believe that includes all of the recommended changes
9 that have been -- or changes that have been recommended be made
10 to this rule. With the inclusion of those changes into this
11 rule, it would be the staff's recommendation that the council
12 consider adoption of the proposed subchapter 24 with the
13 recommendation to forward it to the Department of Environmental
14 Quality Board for their consideration. I would be happy to try
15 to answer any questions.

16 MR. BYRUM: Any questions from council of
17 Mr. McWhirter?

18 (No response.)

19 MR. BYRUM: Any questions from the audience of
20 Mr. McWhirter?

21 (No response.)

22 MR. BYRUM: Thank you.

23 MR. MCWHIRTER: Thank you.

24 MR. BYRUM: I have a notice that Mr. Lay would like to
25 speak on the subject. Is he here? Is this the subject you want

1 to speak to?

2 MR. LAY: Actually, it was the contractor issue I
3 thought we were going to come back to this afternoon. It was
4 from this morning. Is that --

5 MR. BYRUM: Not right at this time. We'll be happy to
6 meet with you and address your concerns. Okay.

7 Anyone else who wishes to speak to this issue?

8 MR. KYLE: Let me ask a question, please. John Kyle
9 with the Oklahoma Railroad Association. These rules apply only
10 to the feed and seed operations and not really the
11 transportation type company. Is that true or not true?

12 MR. BYRUM: I believe that's true. It would not apply
13 to transportation companies per se unless they handled --

14 MR. KYLE: -- except for those kind of operations.

15 MR. BYRUM: Right. Right. Other questions?

16 Mr. Chairman, I see no further discussion of this
17 issue.

18 THE CHAIRMAN: Is there any discussion or questions
19 from council at this time? If not, I will entertain a motion to
20 recommend adoption of this rule to the DEQ.

21 MR. FISHBACK: So moved.

22 MS. TILLMAN: Second.

23 THE CHAIRMAN: I've got a motion and a second. Any
24 further discussion or questions?

25 MR. KILPATRICK: Question. That motion includes

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1 adoption of the rule as Doyle read it in the amendments?

2 THE CHAIRMAN: All right. Does the motion need to be
3 changed, or is that understood?

4 MR. KILPATRICK: It's understood.

5 THE CHAIRMAN: Okay. Call the roll.

6 MS. BRUCE: Dr. Hughes.

7 DR. HUGHES: Yes.

8 MS. BRUCE: Ms. Tillman.

9 MS. TILLMAN: Yes.

10 MS. BRUCE: Dr. Canter.

11 DR. CANTER: Yes.

12 MS. BRUCE: Mr. Kilpatrick.

13 MR. KILPATRICK: Yes.

14 MS. BRUCE: Mr. Fishback.

15 MR. FISHBACK: Yes.

16 MS. BRUCE: Mr. Breisch.

17 MR. BREISCH: Yes.

18 THE CHAIRMAN: That ends that item --

19 MR. KILPATRICK: Can I put one thing in the record,
20 Mr. Chairman? I would like to just place in the record -- I
21 think we ought to place in the record a thank-you to the
22 industry, to the service, and to the council members, and
23 particularly to Bill Fishback as the chair of the committee, who
24 has worked on this. I think they did a lot of work in the last
25 couple of months to bring this rule to fruition. I think we owe

1 them a debt of gratitude or something to get it resolved.

2 DR. HUGHES: I guess I would like to add to that. Both
3 Doyle and Debbie both placed a lot of emphasis and a lot of time
4 on this, and I appreciate that. And all of the members of the
5 industry that has participated and endured everybody's
6 questioning and even allowed to us see their operations was most
7 helpful. So I appreciate your willingness to work with us to
8 come to this point.

9 MR. HAMPTON: Mr. Chairman, I'm Joe Hampton. I'm
10 Executive Vice-President of the Oklahoma Grain and Feed
11 Association. And on behalf of the industry, we, too, want to
12 give a special thank-you to the members of the council who
13 served on this committee, especially Mr. Fishback, and to
14 members of the staff, especially Doyle and Debbie, for all the
15 work we put into this effort. It took well over a year to get
16 this accomplished. It was definitely a learning process for us;
17 we hope it was a two-way street.

18 And, again, we appreciated the opportunity to be able
19 to work together and come to the conclusion that benefits both
20 the industry and the people of Oklahoma. Thank you.

21 THE CHAIRMAN: I have observed that is getting written
22 into the record. We appreciate your comments.

23 (The meeting concluded at 1:50 o'clock p.m.)

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6 I, CHRISTINA L. STEVENS, CSR, having been duly
7 appointed as Official Court Reporter herein, do hereby certify
8 that the foregoing pages number from 1 to 11, inclusive,
9 constitute a full, true, and accurate transcript of all the
10 proceedings had in the above matter, all done to the best of my
11 skill and ability.

12 DATED the 22nd day of June, 1994.
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CHRISTINA L. STEVENS, CSR

20 Christina Lynn Stevens
21 Oklahoma Certified Shorthand Reporter
22 Exp. Date: December 31, 1994
23 Certificate No. 01579
24
25

BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

ORIGINAL

* * * * *
HEARING BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
ON OAC 252:100-24
HELD ON FEBRUARY 22, 1995
AT OKLAHOMA CITY, OKLAHOMA
* * * * *

COUNCIL MEMBERS PRESENT:

Mr. Breisch, Chairman
Mr. Branecky
Mayor Taron
Dr. Canter
Ms. Slagell
Mr. Fishback
Ms. Hinkle
Ms. Tillman

Also Present:

Mr. Larry Byrum, Protocol Officer
Ms. Myrna Bruce, Secretary of Council

Reported by:

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I N D E X

INCIDENTS OF TRIAL:

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Second by Dr. Canter	23
Vote	29

Oklahoma City, OK

February 22, 1995

1:00 o'clock p.m.

* * * * *

THE CHAIRMAN: We'll go ahead and call the meeting to order. It's our regular meeting of the Air Quality Council of the DEQ. First of all, we'll call the roll.

THE SECRETARY: Mr. Branecky?

MR. BRANECKY: Here.

THE SECRETARY: Dr. Canter?

DR. CANTER: Here.

THE SECRETARY: Mr. Fishback?

MR. FISHBACK: Here.

THE SECRETARY: Ms. Hinkle?

MS. HINKLE: Here.

THE SECRETARY: Ms. Slagell?

MS. SLAGELL: Here.

THE SECRETARY: Mayor Taron?

MAYOR TARON: Here.

THE SECRETARY: Ms. Tillman?

MS. TILLMAN: Here.

THE SECRETARY: Mr. Breisch?

MR. BREISCH: Here.

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1 THE CHAIRMAN: Approval of the minutes?

2 MAYOR TARON: I move the minutes be approved.

3 MS. TILLMAN: Second.

4 THE CHAIRMAN: I've got a motion and second.

5 Any questions or corrections? If not, call the roll.

6 THE SECRETARY: Mr. Branecky?

7 MR. BRANECKY: Aye.

8 THE SECRETARY: Dr. Canter?

9 DR. CANTER: Aye.

10 THE SECRETARY: Mr. Fishback?

11 MS. FISHBACK: Aye.

12 THE SECRETARY: Ms. Hinkle?

13 MS. HINKLE: Aye.

14 THE SECRETARY: Ms. Slagell?

15 MS. SLAGELL: Aye.

16 THE SECRETARY: Mayor Taron?

17 MAYOR TARON: Aye.

18 THE SECRETARY: Ms. Tillman?

19 MS. TILLMAN: Aye.

20 THE CHAIRMAN: Next on the agenda is public
21 hearing for the feed and grain facilities. Larry Byrum
22 will act as protocol officer, and I'll turn it over to
23 Larry.

24 MR. BYRUM: Ladies and gentlemen, members of
25 the Council: My name is Larry Byrum; I am the director

1 of the air quality division; and as such, I will act as
2 protocol officer for the hearing. This hearing was
3 convened by the Oklahoma Air Quality Council in
4 compliance with the Oklahoma Administrative Procedures
5 Act, Title 40 of the Code of Federal Regulations, Part
6 51, as well as the authority of Title 63 of the Oklahoma
7 Statutes, Sections 11801 et seq.

8 This hearing was advertised in the Oklahoma
9 Register for the purpose of receiving comments for the
10 proposed revisions to the OAC 252:100-24, control of
11 emissions from grain elevators.

12 If you wish to make a statement pertinent to
13 this rule, please complete the form at the registration
14 table at the back of the room. I will call upon you at
15 the appropriate time.

16 At this time I would like to call upon Mr. Ray
17 Bishop of the staff to give the staff's position on
18 these proposed changes.

19 Mr. Bishop.

20 MR. BISHOP: Mr. Chairman, members of the
21 Council, ladies and gentlemen: My name is Ray Bishop.
22 Today I am representing the staff of the air quality
23 division of the Oklahoma Department of Environmental
24 Quality and as such will give the staff's position
25 concerning proposed Rule 252:100-24, commonly referred

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1 to as Subchapter 24, entitled Particulate Matter
2 Emissions from Grain, Feed, or Seed Operations.

3 Many years have passed since we first began
4 drafting the rule designed specifically to control
5 emissions from facilities that handle, store, or process
6 grains. The rule before you today is the result of
7 hundreds of hours of cooperative effort by Council
8 members, the feed and grain industry, and members of the
9 air quality staff.

10 I'm happy to report that the Council's
11 subcommittee, members of the grain, feed, and seed
12 community, and air quality staff have reached an
13 agreement on the proposed Subchapter 24 rule.

14 Changes made to the rule since the last Council
15 meeting reflect agreements made regarding emission
16 factors to be used for this industry and a few minor
17 changes for clarification. The specific changes are as
18 follows:

19 References to the emission factors for grain
20 handling have been removed from the rule. Emission
21 factors are addressed in a background information
22 document which is separate from the rule.

23 Removal of emission factors precludes the need
24 for EPA to verify their accuracy when approving the
25 rule. This will also allow more flexibility in

1 permitting of facilities which may not be accurately
2 represented by the standard emission factors.

3 A portion of 252:100-24-3-(f), determination of
4 emissions, was changed. On page 3, the last paragraph,
5 the fifth line down, beginning with "or other methods"
6 and ending with "Air Quality Division" was changed to
7 make the language identical to that found in subchapter
8 252:100-7-4(e)(9), method of calculation.

9 A second change in the same paragraph on the
10 second line, "based on" has been changed to "determined
11 by" for clarification.

12 A few items were deleted simply because they
13 were unnecessary or had no relevance to this subchapter.
14 The citing of 252:100-24-7, applicability to other
15 agricultural sources, has been deleted, since this
16 section of the rule no longer exists. Definition of
17 terms which are not referenced anywhere in the text of
18 the rule have also been removed. These definitions have
19 been included in the background information document
20 which is not a part of the rule.

21 The existing rule is an interim measure which
22 was to be effective until July 1, 1995, or until the
23 date that measured particulate emissions rates are
24 developed. The rule you bring before you today is meant
25 to be permanent and final; therefore, the language

1 regarding interim status has been removed from
2 252:100-24-1 and 252:100-24-3-(f).

3 With the inclusion of these changes, it is the
4 staff's recommendation that the Council consider
5 adoption of the proposed Subchapter 24 rules with the
6 recommendation to forward them to the Department of
7 Environmental Quality Board for their consideration as
8 emergency and permanent rules.

9 I would be happy to try to answer any
10 questions.

11 MR. BYRUM: Any questions for Mr. Bishop from
12 the Council?

13 DR. CANTER: I am a little confused in one
14 sense. There was a sheet of paper on the back table
15 called a guidance document. Is that what you're
16 referring to when you say a background document?

17 MR. BISHOP: Yes, sir.

18 DR. CANTER: It is? Okay. And the guidance
19 document -- I realize it's a draft; at least that's my
20 understanding at this point. It does not refer to the
21 O.S.U. study, and it seems to me that the O.S.U. study
22 is a fundamental study that was done to come up with the
23 emission factors that are included in the document.

24 What I'm concerned about is what happens five
25 years down the road when no one that was a part of this

1 scenario is here and then somebody comes and says:
2 Well, where did that .053 come from? And the next thing
3 is no one knows.

4 And it seems to me the guidance document in
5 some fashion ought to refer to that study and refer to
6 the rationale that was used to develop .053. That was
7 time and effort. Bill Fishback led that effort, and
8 there is a solid scientific rationale for those
9 emissions standards.

10 And I think that's particularly important in
11 light of the fact that these standards are -- these are
12 not emission standards; these factors are lower than
13 what is currently in the EPA 1842. And I just feel like
14 that needs to be documented either in this, the guidance
15 document, or by referring to the O.S.U. study in the
16 guidance document so that information doesn't get lost
17 along the way. Because I suspect that it won't be too
18 long and we will be trying to figure out where those
19 numbers came from.

20 And right now we know, but it's got to be put
21 down for a paper trail.

22 MR. BYRUM: We had a discussion yesterday
23 afternoon with the folks from feed and grain. In fact,
24 they called yesterday morning, and I told them I had not
25 read the document that you're referring to. We had a

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1 discussion with them yesterday afternoon and told them
2 that we believed it needed some things added to it, and
3 we will be meeting with them, hopefully, within the next
4 week or so to do that sort of thing.

5 And I concur to that totally. We should refer
6 to the O.S.U. study. And there are several other items
7 that need to be included in that.

8 MR. FISHBACK: And does the industry agree with
9 including that reference?

10 MR. BYRUM: I would assume they do.

11 THE CHAIRMAN: Including it in the guidance
12 document.

13 MR. BYRUM: Yes.

14 MR. FISHBACK: I think that's a good point, and
15 I would agree with that, too.

16 MR. BYRUM: I think that's something that we
17 intend to do.

18 Other questions for Mr. Bishop? Of Council?
19 Of the audience?

20 (No response.)

21 Thank you, Ray.

22 I have one person who's indicated that they
23 wish to speak. Are there others that wish to speak to
24 the subject? Please fill out the form at the back, and
25 we'll have someone bring them up here to me.

1 Mr. -- I believe it's Robert Poppe.

2 MR. POPPE: Right.

3 Ladies and gentlemen of the Council, and the
4 public: My name is Robert Poppe, and I'm with C.H.
5 Guernsey & Company, for architects, engineers, and
6 consultants. We have on our staff one ex-Air Quality
7 employee, and I have coordinated a few little comments
8 with him.

9 What I want to go over is on the first page
10 under 252:100-24-2, under definitions, down under where
11 it calls out fugitive emissions reads: "Means those
12 emissions that could not reasonably pass through a stack
13 chimney, vent, or other functionally equivalent
14 openings."

15 We would propose that that reads "fugitive
16 emissions, which means those emissions that do not pass
17 through a stack, chimney, or a vent or other
18 functionally equivalent and openings." Take out the
19 words "could not reasonably." We feel reasonably is an
20 interpretation. Okay?

21 The other major point is back on the last page,
22 page 5. Under 252:100-24-6. We feel that the words
23 "visible" and the words "adjacent" need to be stricken.
24 And where that paragraph (a) reads "all facilities will
25 take reasonable precautions to prevent the discharge of

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1 any fugitive dust emissions beyond the property line
2 from which the emissions originate," and (b) "no person
3 shall allow emissions beyond the property line in such a
4 manner to damage or to interfere with other properties."

5 The way it reads now, is -- the way I read it,
6 anyway, is if this dust gets on properties beyond the
7 adjacent properties, then I would say legally that
8 that -- that that portion of the rule wouldn't apply. I
9 think something needs to be added to where properties
10 beyond the adjacent properties is also subject to the
11 capabilities of damages.

12 And also from that -- I have not found; it
13 probably is somewhere, but I haven't found where
14 fugitive dust itself is defined. So over on the
15 guideline document, I put down there at the bottom that
16 "fugitive dust means."

17 MR. BYRUM: Okay.

18 MR. POPPE: And it looks to me like it is --
19 that this will really be able to help and control not
20 only the emissions but help in some health aspects of
21 various locations.

22 MR. BYRUM: Any questions from the Council for
23 Mr. Poppe?

24 MR. FISHBACK: On your definition of fugitive
25 emission?

1 MR. POPPE: No. Definition for fugitive dust.
2 Oh, okay.

3 MR. FISHBACK: No. The first point you made
4 about the change in the definition of fugitive emission.

5 MR. POPPE: Yes.

6 MR. FISHBACK: What do you see as the impact in
7 changing the verb from "could" to "do"?

8 MR. BYRUM: Bill, before you go into that, I
9 would say that this definition, I think, is identical to
10 the definitions we have in other portions of our regs.

11 MR. FISHBACK: I think it is. I just wanted to
12 know what you expected to gain by that change.

13 MR. POPPE: I don't -- it appears to me that
14 when it says "that could not reasonably pass," it
15 appears to me that something either does or it doesn't.
16 I mean, it either can or it can't. And I don't see
17 where reasonably is an adjective there that -- you know,
18 it says it reasonably can or it reasonably can't.

19 MS. TILLMAN: I think it's a very important
20 thing, too?

21 MR. FISHBACK: I misunderstood, then. I didn't
22 understand you were striking the word "reasonably."

23 MS. TILLMAN: I didn't either until just now.

24 MR. FISHBACK: I thought you were just changing
25 the verb.

1 MS. TILLMAN: I think that word reasonably is
2 incredibly important to be left there.

3 MR. BYRUM: I think when we originally passed
4 this rule, if my memory serves me -- I don't have hair
5 now and probably had hair when we originally did it --
6 but I think the discussions centered around could
7 reasonably -- it might not reasonably pass through it if
8 you didn't build a stack. And I think there was a lot
9 of discussion that went on in the terms of art that went
10 into this.

11 So we would have to look at that change.

12 MR. POPPE: Could that be defined, then, back
13 under the guidance document what reasonably is defined
14 as for this -- for these rules?

15 MR. BYRUM: I think -- as I said, I think this
16 particular definition appears other places in our rules.

17 MR. POPPE: Okay.

18 MR. BYRUM: I don't know that through the
19 history of this rule being in place we've had any
20 problem with anyone defining what reasonably meant.

21 Dennis, are you aware of any?

22 MR. DOUGHTY: For the record, my name is Dennis
23 Doughty. I would make this comment, that the way this
24 definition is designed, it's meant to include those
25 facilities that may not have a stack, but they could

1 reasonably run the emissions through a stack, which also
2 implies that there is a possible control that you can
3 put on that particular stack. If you have something --
4 if you have -- let's say you have a, I don't know,
5 right-of-way where traffic and it's not reasonable to
6 put a stack on a right-of-way, and there may be some
7 pieces of equipment, but it's not reasonable to put a
8 stack on and therefore not reasonable to put control
9 equipment on.

10 But -- there are a lot of things that go into
11 whether or not it's reasonable: Is it technically
12 feasible to design a piece of control equipment or a
13 stack to go on this piece of equipment? Is it
14 economically feasible to spend thousands or millions of
15 dollars to run emissions through a stack?

16 So, granted, it is subject to interpretation,
17 but it's not an insurmountable problem. It's something
18 that we can handle, and I believe it is a good
19 definition that we've worked with and used.

20 MR. BYRUM: For a number of years.

21 MR. POPPE: Okay.

22 MR. BYRUM: Other questions of Mr. Poppe?

23 MR. FISHBACK: On your comment on the very last
24 section of the Rule 24-6, I believe I understand you to
25 say that you wanted to strike the word visible where it

1 appears in both subsection (a) and (b); is that correct.

2 MR. POPPE: Yes.

3 MR. FISHBACK: I believe I understand your
4 intent there, and don't let me put words in your mouth;
5 but let me ask the question.

6 Is your concern that dust that is not visible
7 can be harmful?

8 MR. POPPE: Yes.

9 MR. FISHBACK: In other words, just because you
10 can't see it doesn't mean it's not there.

11 MR. POPPE: That's correct.

12 MR. FISHBACK: I understand that concern, and
13 yet these are really opacity based rules, which in turn
14 are based on the dust being visible. And I think we
15 would have a real enforcement problem without that word
16 visible there, because that is the detection method.
17 The method nonopacity determination method is really
18 what it is, visible method.

19 The presumption there is that the emissions are
20 inconsequential if they pass the opacity stability test.
21 If you strike the word visible here, then you would
22 actually have to substitute some other test method for
23 the determination of whether the emission was present or
24 not, and I don't know of any measurement method that's
25 approved in that case.

1 I mean, you could presumably have some kind of
2 collection device. But you make enforcement -- By
3 deleting -- please understand, I understand your
4 concern. But by deleting that and calling any fugitive
5 emission -- requiring any fugitive emission to be
6 preventable, I think you've got an impossible detection
7 and enforcement situation.

8 That would be my concern. So, I would -- as
9 much as I -- you know, there is a lot of things that are
10 very harmful to human health that are impossible to
11 detect visibly, like carbon monoxide or benzene or other
12 things that obviously are gasses and have no visibility.

13 The intent here was that if you really can't
14 see it, then it's not present in a concentration high
15 enough to be harmful. And I think that -- I am not a
16 epidemiologist or toxicologist, but I think that
17 presumption is probably true in the case of grain dust.

18 So I understand your concern, but I think if we
19 struck that word, what enforcement tool is left?

20 So that's my concern about that change.

21 MR. POPPE: My only comment on that would be it
22 would be a collection system, you know, a collection pan
23 or something that you could collect that material in, in
24 different locations on different properties.

25 MR. FISHBACK: But then would you require every

1 source to have perimeter monitoring? I mean, that's a
2 pretty significant -- see, that's the beauty of Method
3 9: It's cheap and it's fast. And if you required every
4 source to have perimeter monitoring to prove -- You
5 see, there's another word in here that's very
6 significant, the word "any," prevent the discharge of
7 "any" fugitive dust.

8 Now, if we strike the word "visible," we've got
9 "any dust." It's very difficult to prove a negative.

10 You know, so, I just -- I just think that the
11 compliance demonstration aspect of this and the
12 enforcement aspect of it, from a practical matter, is
13 very difficult. And the cost of doing perimeter
14 monitoring, I mean --

15 MR. POPPE: I'm not talking about perimeter
16 monitoring.

17 MR. FISHBACK: Oh, you -- what was your
18 thought?

19 MR. POPPE: Just making a sample pan or
20 something on adjacent property or a sample pan on other
21 properties.

22 MR. FISHBACK: Then how do you determine from
23 what point of origin that material came?

24 MR. POPPE: Just by comparison.

25 MR. FISHBACK: So you have to have upwind and

1 downwind.

2 MR. BRANECKY: And what standard do you compare
3 them to?

4 MS. TILLMAN: And what are you trying to
5 achieve?

6 MR. BRANECKY: What's a violation or what's an
7 excessive number?

8 MR. FISHBACK: It's a good idea, but I think
9 the enforceability -- in fact, maybe we should ask some
10 of the enforcement people. The whole idea of visible
11 fugitive emissions limits was the fact that if there was
12 a complaint, the agency could be called, an enforcement
13 officer could come out and do a visible emission -- you
14 know, they're certified; they're called smoke readers,
15 you know, the certified visible emission readers. And
16 then they could determine if there was a violation based
17 on that. And it was quick and easy and inexpensive.

18 I just think this would create a lot of
19 additional problems. I don't disagree with your intent.
20 Everybody would like to have no dust. But from a
21 practical standpoint, I don't think it's enforceable.

22 MR. POPPE: What I'm talking about would be
23 that dust which has the capability of damaging or
24 interfering with other properties. Not all dust. It
25 wouldn't necessarily be it all is, but that which can

1 damage or interfere with other properties.

2 MS. TILLMAN: Well, for someone that doesn't
3 understand this, and I don't quite understand what your
4 point is, give me an example of what that would be.
5 That's totally out of a lack of understanding.

6 MR. POPPE: Okay.

7 MS. TILLMAN: What would be an instance where
8 nonvisible dust would be?

9 MR. POPPE: Well, I don't know that -- I take
10 not visible as not being able to see it but visible as a
11 possibility of interpretation as to whether someone can
12 see it or not. And my concern is that some of these
13 particles carry molds on them, and I'm concerned about
14 the fact in some situations that these emissions are
15 carrying molds and causing allergies.

16 And that's my concern.

17 MS. TILLMAN: Can we ask --

18 MR. POPPE: I'm asking for an interpretation
19 of whether you can visibly see it or not maybe that it
20 still is causing a problem and doing damage, but you're
21 not able to see it coming out of the stack or something.

22 Anyway, that's just my concern and why I marked
23 these in this language.

24 MS. TILLMAN: Bill, did you guys cover that
25 aspect of what the dust carries with it when you did a

1 study?

2 MR. FISHBACK: The O.S.U. study?

3 MS. TILLMAN: Right.

4 MR. FISHBACK: Did we address molds carried
5 with -- no, we did not. We did not.

6 In fact, it was not a health effect study at
7 all; it was an emissions and quantification study.

8 I don't think the intent originally was
9 anything other than to develop emission factors and not
10 try to speciate, if you want to use that word, what
11 might be emitted.

12 I think the health effects concern is valid;
13 and, in fact, if you will remember the previous Council
14 meetings, we had testimony from -- I don't remember the
15 gentleman's name, but we had testimony about the health
16 effects of inhaled grain dust. And I think our
17 conclusion at that time was that the level of
18 concentration and exposure of property was low enough
19 that it was not of fundamental concern.

20 The testimony that we heard, and I don't know
21 if you attended that Council meeting, had to do with
22 health effects on grain industry workers where obviously
23 the exposure levels are a lot higher; the exposure is a
24 great deal more frequent, more continuous.

25 And that was -- the health effects was a

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1 completely separate issue that we did not address in the
2 O.S.U. study.

3 MR. POPPE: Okay.

4 MR. BYRUM: Other questions for Mr. Poppe?

5 (No response.)

6 MR. BYRUM: Thank you, sir.

7 MR. POPPE: Thank you.

8 MR. BYRUM: I have no one else that's
9 indicating a desire to speak to this subject. Is there
10 anyone else that wishes to speak to the subject?

11 Mr. Chairman, I would find no one else is
12 wishing to speak on this subject.

13 THE CHAIRMAN: Okay. At this time we entertain
14 a motion to recommend this to the DEQ Board for
15 approval.

16 (A discussion was held off the record.)

17 THE CHAIRMAN: Larry reminds me it should be
18 permanent and emergency.

19 MR. FISHBACK: I would make a motion that we
20 adopt the Subchapter 24 rule as presented by Mr. Bishop
21 with the minor changes proposed or recommended by
22 Mr. Bishop.

23 THE CHAIRMAN: I've got a motion. I need a
24 second.

25 DR. CANTER: Second.

1 THE CHAIRMAN: I've got a motion and second.
2 Any further discussion or questions?

3 MS. TILLMAN: Yes. The last change that was
4 proposed by the last speaker of other properties instead
5 of adjacent properties.

6 THE CHAIRMAN: A motion wasn't made to approve
7 those changes.

8 MS. TILLMAN: Right. I'm not so sure that one
9 shouldn't be added in, though.

10 THE CHAIRMAN: Well, it seems to me if they
11 would affect the adjacent properties, that would be done
12 prior to adjacent -- affecting other properties.

13 MR. BRANECKY: Why would you leave the word
14 visible?

15 MS. TILLMAN: Well, I don't know. If you had a
16 cleared-off parking lot adjacent and you had a home next
17 to the cleared-off parking lot, it might affect the home
18 where it wouldn't affect the parking lot.

19 MR. FISHBACK: What you're referring to is the
20 very last section of the rule?

21 MS. TILLMAN: Yes.

22 MR. FISHBACK: And of the gentleman's concern,
23 Mr. Popper, was it?

24 THE CHAIRMAN: Poppe.

25 MR. FISHBACK: I'm sorry. His concern there

1 was that properties other than those immediately
2 adjacent might be affected?

3 MS. TILLMAN: Yes.

4 MR. BRANECKY: But those adjacent wouldn't be.

5 MS. TILLMAN: No, that's not saying that they
6 wouldn't. But maybe -- maybe not, you know. Every case
7 wouldn't be that they would definitely; the one next
8 door would be affected.

9 MR. FISHBACK: I think your point is well
10 taken, and I think if we retain the word visible in
11 there that we don't have a problem with that.

12 It is many times true in emissions modeling
13 that the adjacent property -- it's a skip effect. The
14 adjacent property is not necessarily affected; the
15 impact can be downwind.

16 MS. TILLMAN: Yes.

17 MR. FISHBACK: So I guess really substituting
18 any off-property receptors or any off-property locations
19 for just adjacent properties, that would be acceptable
20 to me.

21 MS. HINKLE: There was another change in what
22 he recommended.

23 MR. FISHBACK: The word visible.

24 MS. TILLMAN: No. We opposed the change in
25 that.

1 MS. HINKLE: It wasn't just substituting other
2 for adjacent; it was deleting the use of.

3 MR. BRANECKY: To interfere with other
4 properties.

5 MS. TILLMAN: It should be the use of other
6 properties, I would think.

7 MR. BRANECKY: He was suggesting with other
8 properties.

9 MS. HINKLE: So rather than just saying "or to
10 interfere with the use of adjacent properties"; it would
11 be "or to interfere with other properties."

12 MS. TILLMAN: And I don't like the deletion of
13 all of that, but I like "to interfere with the use of
14 other properties."

15 MR. FISHBACK: Your proposal, Mary, is to have
16 it read "no person shall allow visible emissions beyond
17 the property line in such a manner as to damage or
18 interfere with use of other properties."

19 MS. TILLMAN: Right.

20 Just because of the fact that you could have a
21 skip.

22 MR. FISHBACK: We leave the word visible; we
23 leave the word use; we change adjacent to other.

24 Dennis is standing up.

25 MR. DOUGHTY: I did want to make -- for the

1 record again: My name is Dennis Doughty.

2 I did want to make a comment. If I'm not
3 mistaken, this language was taken directly out of our
4 fugitive dust rule and just transferred over to this
5 particular rule.

6 I think there's another paragraph in that
7 fugitive dust rule that says that you shall not handle
8 materials in a manner that will cause them to be
9 dispersed and blown.

10 So if it goes over into the other properties,
11 we've never had a problem. We've always liberally
12 interpreted these wording adjacent to mean those
13 properties in that area that are affected by these
14 particular emissions.

15 So, if they're skipping one house and getting
16 another, we'll get them under this rule.

17 MR. FISHBACK: It doesn't say immediately
18 adjacent.

19 MR. DOUGHTY: Yeah. It doesn't say immediately
20 adjacent.

21 MS. TILLMAN: Okay.

22 MR. DOUGHTY: We've never had a problem with
23 that.

24 The other issue about -- let's see, what was
25 it?

1 MS. HINKLE: Use of?

2 MR. DOUGHTY: No. It had to do -- what was the
3 other? There's been a comment on that, and it slipped
4 my mind. Had to be visible.

5 I believe that if the emissions were visible
6 that would -- I mean, we could still use visibility as a
7 criteria for concluding that the emissions were coming
8 from this facility and going on adjacent properties. If
9 you limit it to visible, it makes it a lot easier to
10 enforce, as Mr. Fishback was saying.

11 The problem we have that we run into is if you
12 get out there somewhere distant from a particular
13 source, you don't know where those emissions are coming
14 from. They may be coming from their facility, they may
15 be coming from one somewhere else, or they may be coming
16 from Texas. We don't know.

17 So without the visible aspect in there, you do
18 have a proof problem.

19 MS. TILLMAN: If adjacent means in the vicinity
20 or --

21 MR. DOUGHTY: We have always interpreted that
22 if it's in the immediate area and it's coming visible
23 from a particular facility.

24 MS. TILLMAN: Then I agree.

25 MR. FISHBACK: Also, to address the gentleman's

1 concern about nonvisible emissions having potentially
2 adverse health effects. There is a standard in place
3 called the National Ambient Air Quality Standard For
4 Particulate Matter, and this is an enforceable standard
5 that's been on the books for a long time. And if there
6 was a situation where an off-property receptor, somebody
7 living on an adjacent property, felt that nonvisible
8 emissions were impacting them, testing could be done;
9 and it's basically ambient air sampling to find out what
10 the concentration is; and if in fact that standard is
11 being violated, then additional controls may be
12 required.

13 So there's protection in the existing law for
14 somebody being impacted by nonvisibility emissions. So
15 I think we're okay.

16 MR. BYRUM: And I would add to what Bill said.
17 We did do a study as part of this rule-making to measure
18 the PM-10 days in and around operating grain elevators.
19 And they were not significantly different than they were
20 in other areas of the state.

21 I don't remember the numbers, so don't --

22 MS. TILLMAN: Oh, come on.

23 MR. BYRUM: I can get you that data, but I
24 don't have that off the top of my head.

25 MR. FISHBACK: So procedurally we have a motion

1 on the table without a second --

2 THE CHAIRMAN: The motion stands as made and
3 seconded.

4 MR. FISHBACK: And the motion was to leave the
5 language as proposed by Mr. Bishop with the minor
6 changed proposed by Mr. Bishop.

7 THE CHAIRMAN: And that was seconded.

8 MS. TILLMAN: Yes.

9 THE CHAIRMAN: Now, any more discussion?

10 (No response.)

11 THE CHAIRMAN: Okay. Ready for the vote.

12 THE SECRETARY: Mr. Branecky.

13 MR. BRANECKY: Aye.

14 THE SECRETARY: Dr. Canter?

15 DR. CANTER: Aye.

16 THE SECRETARY: Mr. Fishback?

17 MR. FISHBACK: Aye.

18 THE SECRETARY: Ms. Hinkle?

19 MS. HINKLE: Aye.

20 THE SECRETARY: Ms. Slagell?

21 MS. SLAGELL: Aye.

22 THE SECRETARY: Mayor Taron?

23 MAYOR TARON: Aye.

24 THE SECRETARY: Ms. Tillman.

25 MS. TILLMAN: Aye.

1 THE SECRETARY: Mr. Breisch?

2 THE CHAIRMAN: Aye.

3 That concludes our hearing. We will take a
4 short break while the court recorder puts her equipment
5 away.

6 (The hearing concluded.)

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I, GAYLA CHRONIC, CSR, RPR, having been
duly appointed as Official Court Reporter herein, do
hereby certify that the foregoing pages number from 3 to
30, inclusive, constitute a full, true, and accurate
transcript of all the proceedings had in the above
matter, all done to the best of my skill and ability.

DATED the 2nd day of March, 1995.

Gayla Chronic

GAYLA CHRONIC, CSR, RPR

Gayla Chronic
Oklahoma Certified Shorthand Reporter
Certificate No. 01127

SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS
FROM GRAIN, FEED, OR SEED OPERATIONS

252:100-24-1.	Purpose
252:100-24-2.	Definitions
252:100-24-3.	General Provisions; applicability, calculations
252:200-24-4.	Smoke, Visible Emissions and Particulates
252:100-24-5.	Emission Control Equipment
252:100-24-6.	Fugitive Dust Controls
252:100-24-7.	Applicability to other Agriculture Sources

252:100-24-1. Purpose

The purpose of this rule is to control emissions from facilities that handle, store or process grains. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities. ~~This rule is an interim rule effective until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division to replace the factored emission rates in this interim rule.~~

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

~~"Dust Suppression Additives" means FDA or FGIS approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division.~~

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a source subject to emission calculations.

~~"Existing Grain, Feed, or Seed Operation" means a facility which was in existence in 1993 and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.~~

~~"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.~~

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any facility or

the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

~~"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded out from the facility during any time period of interest divided by two.~~

252:100-24-3. General Provisions: Applicability, Determination of Emissions

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations facilities in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operation facility shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) **Air toxics emissions.** Grain, feed, or seed operations facilities which emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(d) **Record-keeping.** The owner or operator of a facility shall maintain a daily log documenting the commodity ~~throughput receipts~~ and load-outs and hours of operation for each. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) **Visible emissions test.** Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification.

(f) **Determination of emissions.** Emissions from grain, feed, or seed operations facilities shall be based on the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or other methods developed under protocols approved by the Air Quality Division. ~~The following factored emissions are allowed by this interim rule only until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are~~

control devices shall be limited to no greater than ten percent (10%) opacity at any time.

252:100-24-5 Emission Control Equipment and Certification

(a) Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) Affected facilities shall make best efforts to reduce dust emissions during load-out by minimizing the distance from the load-out spout to the top of the receiving vessel.

(c) Certification. Each new, modified, or existing grain, elevator feed or seed facility in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this rule by the Air Quality Council-DEQ Board. Annual certification of receiving, loading-out, and total annual hours of operation, quantity received and loaded-out, visible emissions, and throughput and the operation and proper maintenance of any required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

252:100-24-6 Fugitive Dust Controls

--(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow visible emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA

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9 TRANSCRIPT OF PROCEEDINGS
10 OAC 252:100-24, CONTROL OF EMISSIONS FROM
11 GRAIN ELEVATORS
12 HELD ON AUGUST 18, 1998
13 AT 1:00 P.M.
14 AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
15 IN OKLAHOMA CITY, OKLAHOMA
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25 REPORTED BY: Christy A. Myers, CSR

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27 MYERS REPORTING SERVICE
28 (405) 721-2882
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1 PROCEEDINGS

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3 MR. DYER: The next item on the
4 agenda today is Item Number 11. This
5 hearing is convened by the Air Quality
6 Council in compliance with the Oklahoma
7 Administrative Procedures Act and Title 40
8 of the Code of Federal Regulations, as well
9 as the authority of Title 27A of the
10 Oklahoma Statutes.

11 The hearing was advertised in the
12 Oklahoma Register for the purpose of
13 receiving comments pertaining to the
14 proposed new rule OAC 252:100-24, Control
15 of Emissions from Grain Elevators. If you
16 wish to make a statement, please complete
17 the form at the registration table.

18 At this time, I will call upon Ms.
19 Michelle Martinez to give staff position on
20 this proposed rule.

21 MS. MARTINEZ: Members of the
22 Council, ladies and gentlemen, the
23 revisions to Subchapter 24, Control of
24 Emissions from Grain Elevators, include
25 simplification of the language, the
26 addition of a Permit By Rule section and a
27 new Appendix L which includes PM-10
28 emission factor -- factors for the Permit
29 By Rule.

30 The title of the subchapter is being

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1 changed to reflect what was recommended to
2 the Board at the June 14, 1994, Air Quality
3 Council meeting, which was Particular
4 Matter Emissions from Grain, Feed, or Seed
5 Operations. A shortened title was given on
6 the agenda for the June 1994 meeting, and
7 was mistakenly carried over into the actual
8 rule.

9 Under Section 24-4 (a), Opacity
10 limit, the language change reflects the
11 proposed changes in the opacity limit
12 recommended by Jeanette Buttram in
13 Subchapter 25-3(a)(2).

14 Under Section 24-5 (a), was deleted
15 because it didn't create any substantive
16 requirements and was considered
17 unnecessary, and (b) was moved to 24-6.

18 A new Section 24-7, is proposed to
19 provide a Permit By Rule, which includes
20 applicability and requirements for grain
21 elevators. Also a new Appendix L is
22 proposed for the industry to calculate
23 combined emissions, which will allow them
24 to see if their total emissions will be
25 under 40 tons per year, as required for
26 Permit By Rule coverage.

27 A meeting between Air Quality
28 Division staff and industry representatives
29 was held on June 30, 1998. Input from both
30 parties resulted in a better proposal by

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1 facilitating the exchange of information
2 and ideas among those affected.

3 We received comments from the EPA,
4 which I would like to enter into the
5 record. These comments brought to our --
6 I'm sorry. These comments asked us to
7 reference the AP-42, Section 9.9.1, Grain
8 Elevators and processes in Subchapter 24.
9 A copy of these comments have been made
10 available to the Council. Staff agrees
11 with this reference -- or with this
12 comment, and this reference will be added
13 to Subchapter 24 before the next meeting in
14 October.

15 We also received an oral comment
16 from a representative of the Oklahoma Feed
17 and Grain Association, requesting that we
18 delete the visible emissions certification
19 from the annual certification requirement.
20 Staff agrees, and we will take out visible
21 emissions before the next hearing.

22 This afternoon, staff recommends
23 that the Council continue the hearing until
24 the October 20, 1998, Air Quality Council
25 meeting.

26 MR. DYKE: Is there a
27 continuation comment period?

28 MS. MARTINEZ: No.

29 MR. DYKE: Any questions of Ms.
30 Buttram from the Council? Ms. Martinez?

5

1 MS. MARTINEZ: I'll let her
2 answer.

3 MR. DYKE: I'm sorry. Any
4 questions of Ms. Martinez from the
5 audience? From the public? Anything
6 further on this matter?

7 MS. MYERS: I have a comment. In
8 line with what David Branecky said earlier
9 about consistency, I didn't catch it a
10 while ago. I'm a little bit slow. In the
11 previous subchapter it refers to emissions
12 limit. This one refers to opacity limits.
13 For consistency through these various
14 rules, I think we need to take a look at
15 that.

16 MS. MARTINEZ: They'll be called
17 opacity limits.

18 MS. MYERS: Okay. Thank you.

19 MR. DYKE: Anything further on
20 this matter? Mr. Chairman?

21 MR. CHAIRMAN: I'll entertain a
22 motion that we continue this hearing until
23 our next regular meeting on October 20.

24 MS. MYERS: I'll make a motion.

25 MR. BRANECKY: Second.

26 MR. CHAIRMAN: Motion has been
27 made and seconded. Any more comments or
28 questions? If not, Myrna, call the roll.

29 MS. BRUCE: Ms. Myers?

30 MS. MYERS: Aye.

6

1 MS. BRUCE: Dr. Gross?

2 DR. GROSS: Aye.

3 MS. BRUCE: Mr. Kilpatrick?

4 MR. KILPATRICK: Aye.

5 MS. BRUCE: Mr. Wilson?

6 MR. WILSON: Aye.

7 MS. BRUCE: Mr. Branecky?

8 MR. BRANECKY: Aye.

9 MS. BRUCE: Ms. Slagell?

10 MS. SLAGELL: Aye.

11 MS. BRUCE: Mr. Breisch?

12 MR. BREISCH: Aye.

13
14 (HEARING CONCLUDED)

7

1 CERTIFICATE
2 STATE OF OKLAHOMA)
3) ss:
4 COUNTY OF OKLAHOMA)

5
6
7 I, CHRISTY A. MYERS, Certified
8 Shorthand Reporter in and for the State of
9 Oklahoma, do hereby certify that the above
10 proceedings is the truth, the whole truth,
11 and nothing but the truth; and said
12 proceedings was taken by me in shorthand
13 and thereafter transcribed under my
14 direction; that said proceedings was taken
15 on the 18th day of August, 1998 at Oklahoma
16 City, Oklahoma; and that I am neither
17 attorney for nor relative of any of said
18 parties, nor otherwise interested in said
19 proceedings.

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand and official seal on this, the
22 28th day of August, 1998.

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27 CHRISTY A. MYERS, C.S.R.
28 Certificate No. 00310
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DEPARTMENT OF ENVIRONMENTALITY

AIR QUALITY DIVISION

STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS

OF THE PUBLIC HEARING ON THE OAC 252:100-24
CONTROL OF EMISSIONS FROM GRAIN ELEVATORS (AMENDED)

HELD ON OCTOBER 20, 1998, AT 1:00 P.M.

AT TULSA CITY-COUNTY

HEALTH DEPARTMENT AUDITORIUM

IN TULSA, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE

(405) 721-2882

MEMBERS OF THE COUNCIL

- 1. MR. KILPATRICK - MEMBER
- 2. MS. SLAGELL - MEMBER
- 3. MR. WILSON - MEMBER
- 4. MS. MYERS - MEMBER
- 5. MR. BRANECKY - MEMBER
- 6. DR. CANTER - VICE CHAIRMAN
- 7. DR. GROSZ - MEMBER
- 8. MR. BREISCH - CHAIRMAN
- 9. MR. DYKE - PROTOCOL OFFICER
- 10. MS. BRUCE - SECRETARY

PROCEEDINGS

MR. DYKE: Item Number 9, that's OAC 252:100-24.

I will continue to act as Protocol Officer.

This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, applicable State Statutes and Title 40 of the Code of Federal Regulations.

This hearing was advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed new Rule, OAC 252:100-24, Control of Emissions from Grain Elevators.

At this time, I will call upon Michelle Martinez to give the staff position on this proposed rule.

MS. MARTINEZ: Members of the Council, ladies and gentlemen, the proposed revisions to Subchapter 23 -- I'm sorry. The previously proposed revisions to Subchapter 24, Control of Emissions from Grain Elevators, which were presented at the August 18th, 1998, Council meeting include simplification of the language, the addition of a Permit by Rule section, the addition of a new Appendix L, which includes the new PM-10 emission factors for the PBR, changing the title to "Particulate Matter from Grain, Feed and Seed Operations, deleting Section 24-5(a) because it didn't create any substantive requirements and was considered unnecessary, and moving 24-5(b) to 24-6.

Christy A. Myers
Certified shorthand Reporter

As a result of the comments made previous to or during the August 18th, 1998 Council meeting, the following changes have been made.

On page 4, under Section 24-4(a), Opacity limit, the language change reflects the proposed changes in the opacity limit recommended by Jeanette Buttram in Subchapter 25-3(a)(1).

On page 5, under Section 24-7(b)(1), a reference to the AP-42, Section 9.9.1, Grain Elevators and Processes, was added in response to comments from the EPA.

In addition, after receiving staff comments and a comment from a representative from the Oklahoma Grain and Feed Association, on page 5, both the visible emission certification and the control equipment certification were deleted from 24-5(b).

And, finally, on page 5, since the PBR must contain all applicable requirements, we also added 24-7(b)(3), which is the MSPS for Grain Elevators.

Staff recommends two additional changes for reason of simplification not shown in the rule. On page 2, under "loading our hours of operation", change "Director of the Air Quality Division" to "Division Director". And on page 3, under "receiving hours of operation", change "Director of the Air Quality Division" to "Division Director."

On page 4, under 24-4(c)(1), the phrase "equivalent opacity" is used twice. After a comment received from the

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Certified shorthand Reporter

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1 Council this morning in the briefing, staff recommends the word
2 "equivalent" be struck from language for reasons of
3 consistency.

4 We also received two comments from the EPA yesterday
5 afternoon for Subchapter 24, which I would like to enter into
6 the record. The first comment states 252:100-24-7, should
7 include a practically enforceable method or procedure to verify
8 compliance through recordkeeping and maintenance. This may be
9 accomplished by using recordkeeping requirements of 252:100-24-
10 3(b)(3), which require the owner or operator to maintain a
11 daily log documenting particulate matter nominally 10 microns
12 and less emission factors for a period of 2 years.

13 As a response, Section 24-7(b)(1), does require
14 compliance with all the requirements of the Subchapter 24-5(a)
15 and (b). Thus, the recordkeeping requirements of 24-3(b) are
16 applicable to Permit by Rule facilities. The second comment
17 received from the EPA was in support of the proposed rule.

18 At this time, staff suggests the proposed rule be
19 recommended to the Board for permanent adoption.

20 MR. DYKE: Thank you. Questions of Ms. Martinez
21 from the Council? Questions or comments on this rule from the
22 public? Does EPA have any additional comments? Any further
23 comments on this rule?

24 MR. BREISCH: I'll entertain a motion that this
25 rule be recommended to the DEQ Board for permanent adoption.

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1 WILSON: So moved.

2 MS. MYERS: I'll second it.

3 MR. BREISCH: We've got a motion and a second.

4 Any other questions or comments?

5 Myrna, call roll.

6 MS. BRUCE: Mr. Braneky.

7 MR. BRANECKY: Aye.

8 MS. BRUCE: Ms. Myers.

9 MS. MYERS: Aye.

10 MS. BRUCE: Mr. Wilson.

11 MR. WILSON: Aye.

12 MS. BRUCE: Dr. Gross.

13 DR. GROSZ: Aye.

14 MS. BRUCE: Mr. Breisch.

15 MR. BREISCH: Aye.

16 (PROCEEDINGS CONCLUDED)

17 C E R T I F I C A T E

18 STATE OF OKLAHOMA)
19) ss:
20 COUNTY OF OKLAHOMA)

21 I, CHRISTY A. MYERS, Certified Shorthand Reporter in
22 and for the State of Oklahoma, do hereby certify that the above
23 proceedings are the truth, the whole truth, and nothing but the
24 truth, in the proceedings aforesaid, that the foregoing
25

Christy A. Myers
Certified Shorthand Reporter

1 proceeding was taken by me in shorthand and thereafter
2 transcribed under my direction; that said proceedings was taken
3 on the 20th day of October, 1998, at Tulsa, Oklahoma; and that
4 I am neither attorney for nor relative of any of said parties,
5 nor otherwise interested in said proceedings.

6 IN WITNESS WHEREOF, I have hereunto set my hand and
7 official seal on this, the 4th day of November, 1998.

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Christy A. Myers
Certified Shorthand Reporter

TO: Air Quality Council
Tulsa City-County Health Dept.
Tulsa, Oklahoma

FROM: Anna A. Clapper
12104 Camelot Place
Oklahoma City, Oklahoma 73120

Date: April 12, 1994

RE: OAC 252:100-24, Control of Emissions From Grain
Handling and Processing Industry- Health Aspects

Mr. Chairman, members of the Air Quality Council, ladies and gentlemen:

My name is Anna Clapper. I live at 12104 Camelot Place, Oklahoma City, Oklahoma 73120. I am a former teacher, and now I am a homemaker, mother of three children and grandmother of four. I have lived in Maine, Pennsylvania, New Jersey, Idaho, Salt Lake City, Utah; Boulder City, Nevada; and Whittier, California before coming to Oklahoma twenty-five years ago. Hence, I have personally experienced a vast range of air quality, both good and polluted.

For over 20 years I have been on the board of the American Lung Association of Oklahoma and have studied the health effects of air pollution. I am a charter member of the Oklahoma Coalition for Clean Air and have attended and participated in workshops and seminars on the Clean Air Act in Denver, Colorado; Estes Park, Colorado; Dallas, Texas; Houston, Texas; San Antonio, Texas; Chicago, Illinois; Airlie, Virginia; Washington, D.C. and Antigonish, Nova Scotia, so have a working familiarity of the Clean Air Act.

I have attended meetings of the Air Quality Council since the first regulation was adopted in the Oklahoma Clean Air Act over twenty years ago, and have given testimony when appropriate, and have taken part in seminars in various areas of Oklahoma. My objective is to obtain and maintain air quality that is consistent with good health and a wholesome environment for those who live in our state.

Kindly visualize this pastoral scene as exemplified by the words of this song:

"O, beautiful for spacious skies,
For amber waves of grain ...

What a vivid picture this is of our plains where grain is grown, harvested and stored! However, something happens when the golden grains are harvested and then stored in the grain elevators.

There both organic and inorganic composition of the stored product complement each other. This is where illusion ends and reality begins. As far back as 1713 it was documented that "grain sifters had asthma due to wheat, grain smut, grain molds, grain mites, durum wheat, durum wheat dust and grain insects."

In the publication, Occupational Lung Disease, edited by J. Bernard L. Gee, M.D. of Yale University School of Medicine, 1984, page 154, it states that " Grain dust is a complex mixture of materials derived from cereal grains as well as natural contaminants, for example, silica, fungi, bacteria, endotoxin, insects, mites, rat hair, pollens, and human additives (pesticides and their residues). The biologic potency of the dust is likely to vary with the grain and the type of concentration of the contaminants....Cross-sectional epidemiologic surveys indicate a high prevalence of chronic bronchitis and asthma as well as conjunctival, laryngeal, nasal and systemic (grain fever) symptoms in grain handlers. In addition exposure to pesticides may provide acute neurologic, gastrointestinal, hepatic, and pulmonary symptoms and can cause chronic neurobehavioral effects".

"Disease statistics of grain elevator operators may not apply to farmers since the patterns of exposure, and composition of the dust may be different in the various types of grain elevators and farm operations, but the respiratory problems resulting in exposure to grain dust appear to be identical...The grain elevator operator and longshoremen are exposed during loading and unloading of trucks, railroad cars and ships, during grain distribution, and transport within the elevator components, weighing, cleaning operations, equipment maintenance, and grain inspection...."

To give some idea of the scope of the situation in Oklahoma, I quote from Dr. Calvin B. Parnell of Texas A&M University's testimony to the Air Quality Council on March 8, 1994, page 2, " Oklahoma has a total of 354 grain handling facilities. Each of these operations will typically handle 6,000 to 12,000 bushels per hour (bu/hr) unloading and loading grain. (This is usually determined by leg capacity). One bushel of wheat weighs 60 pounds. Hence, a 12,000 bu/hr elevator will handle 360 tons per hour."

According to reports, in 1993 the total amount was about 5.0 million tons. Therefore, this regulation can have a marked impact on Oklahoma's occupational health.

To clarify the possibilities of air contamination I quote from an Iowa study, Unit 3, page 2 "27 pounds of dust are emitted for every ton of grain handled, resulting in 1.7 million tons of grain dust produced per year. The concentration of particles varies widely, but may reach very high levels: Measurements

in elevators have ranged from 0.18 to 781 mg/m³ of total dust with the respirable range extending up to 76.3 mg/m³. Airborne concentrations of fungal spores often exceed one million spores per cubic meter."

If one is bewildered why there may not be too many health complaints from workers in grain elevators, it is documented on page 156 of the previous article that "... allergic workers who develop severe asthma will likely leave the industry early in their employment." On page 4 of the Iowa study, "... persons with asthma allergies either do not seek employment as grain handlers or leave this employment rapidly because of an increase of asthmatic symptoms. However, the prevalence of occupational asthma has been reported to be five times that of workers in other professions (50% grain handlers, rather than 11% others, who are non-smokers.)"

On page 157 of the Yale study, it states that " Labor Canada adopted a TLV of 10 mg/m³ of total grain dust to protect workers. Cyclones have been replaced by bag filters which are theoretically 99.9% efficient. No such standard exists in the United States where nuisance dust standard of 15 mg/m³ is used. Studies show however, that the respiratory effects can be found in workers exposed to dust levels below the current TLV." Reduction in exposure levels can be accomplished by following procedures listed in the article.

Further documentation on the health effects of grain dust may be found in the following: Occupational Pulmonary Disease by James Dosman and David Cotton; analysis of grain dust and effects on the respiratory system, Occupational Lung Disease, 2nd edition by W. Keith Morgan, M.D. and Anthony Seaton, M.D. as well as the publications " Agricultural Respiratory Hazards", Unit 3- Grain Dusts by the American Lung Association of Iowa in collaboration with The Institute of Agricultural Medicine and Occupational Health, The University of Iowa.

Since the American Lung Association of Oklahoma is vitally concerned with lung health, it is urged that the members of the Air Quality Council be cognizant of the adverse health effects of grain dust and take these into consideration in your deliberations on this regulation.

Thank you for this opportunity to express the concerns of a citizen who is dedicated to clean air for Oklahoma as a necessity for a good quality of life.

Respectfully,

Anna A. Clapper
Anna A. Clapper

6377



The
University of Oklahoma

Health Sciences Center

DEPARTMENT OF FAMILY MEDICINE
College of Medicine
Division of Occupational and Environmental Medicine

TO : Air Quality Council
Tulsa City-County Health Dept
Tulsa, Oklahoma

FROM : Kenneth R. Hart, DO, MPH
University of Oklahoma College of Medicine
Division of Occupational and Environmental Medicine
Oklahoma City, Oklahoma 73104

SUBJECT: Health Aspects of Grain Handling

DATE : April 12, 1994

Mr. Chairman, Members of the Air Quality Council, Ladies and Gentlemen:

My name is Dr. Kenneth R. Hart. I am an Associate Professor of Occupational and Environmental Medicine at the University of Oklahoma College of Medicine. At the request of Mr. Terry Carlton of the Oklahoma Lung Association, I am here to provide you testimony regarding the medical aspects of grain handling and the potential of adverse health effects associated with exposure to grain dust.

I am Board Certified by the American Board of Preventive Medicine, a specialist in Aerospace Medicine and Occupational and Environmental Medicine. I received my pre-medical training from Kansas State College, my medical training from the University of Health Sciences - Kansas City and a Masters Degree in Public Health from the University of Texas - Houston. My specialty training was received from the University of Texas - Houston, Johnson Space Center and the United States Air Force School of Aerospace Medicine. I recently joined the faculty at the University of Oklahoma College of Medicine after a long career in the United States Air Force as an Air Force Physician.

My remarks today will focus strictly on the health aspects of exposures to grain dust as provided through several studies that have been conducted over the past several years. In response to the health concerns of exposure to grain dust in the grain industry, I will provide you with my understanding of the results and conclusions of studies that were conducted because of concerns with the potential of risks associated with grain dust exposure. I would like to approach this in three parts. First, a review of the general hazards of grain dust, general health effects of grain dust exposure addressing acute diseases, chronic diseases, then discuss the findings and conclusions of the principle investigators who published the several papers that I have reviewed.

It is generally accepted by most of the investigators in the field of which we are discussing that several hazards exist in association with exposure to grain dust. One must consider first, the particles from the grain which can consist of protein and starch granules, husks and other particles from the grain itself. Fungi that grow on the grain must be considered with the insects and mites that live in the grain. Rodents may infest grain and leave their spore. Bacteria are also a consideration, as well as, bacterial waste products which consist of endotoxins, pesticide residues, and of course, silica. All of these factors present a certain hazard when coming in contact with very sensitive areas of the human body. Some of the symptoms one would expect from this would be conjunctivitis, rhinitis, and perhaps even dermatitis. Our major concern, however, is the ill effects associated with the inhalation of these particulates and the reaction within the lungs, as well as, reactions within the body, generally. The vast majority of the studies that have been conducted would suggest that there is a relatively high prevalence in association with skin disease, eye and nasal problems, as well as, other pulmonary problems such as bronchitis, pneumonitis, pulmonary fibrosis and asthma.

This brings me to the second point, which is general health effects of grain dust exposure. The health effects can be divided into two distinct areas with the first being acute disease. Acute diseases could consist of organic dust syndrome or an entity termed grain fever or farmers lung. This disorder is characterized by fever and general malaise that occurs following re-exposure to grain dust after one or two weeks outside the environment. This disorder would be more suggestive of a hypersensitivity reaction created by the initial exposure with symptoms developing to subsequent exposures. Another acute disorder would be occupational asthma. Based on the studies that we have seen, however, this is extremely rare when associated with grain dust exposure, but never the less a consideration. Mucous membrane irritation is relatively common and prevalent in workers exposed to grain dust. Allergic reactions are another consideration, but relatively rare in the grain dust environment. Microbial infections are infections by bacteria. This is another consideration, but not a serious one.

The next aspect associated with general health effects of grain dust exposure is that of chronic diseases. The first that has been demonstrated in animal studies is that of hypersensitivity pneumonitis. Chronic bronchitis appears to be another one of the major concerns based on the studies that I have reviewed. Finally, chronic obstructive lung disease is a condition that is seen relatively commonly within the grain dust industry. The majority of the acute symptoms, thus far discussed, were usually relieved within one or more hours after cessation of exposure. Some persons, however, continue to have symptoms throughout the day, night and sometimes into the next morning and working day. Symptoms of the chronic disorders occurred daily, weekly or monthly depending on the grain handled and the concentration of the dust. Job location, time of the year and atmospheric conditions also appeared to be factors.

The vast majority of the studies that were conducted included pulmonary function studies to measure the level of pulmonary function or the loss of function relative to the duration or concentration of exposure. The majority of the studies that are in the literature today, focused on several aspects of problems associated with grain dust exposure. Initially, these studies focused on adverse pulmonary effects of grain dust.

The latest studies have focused on the dose-response relationship with an attempt to establish a threshold limit value that would in fact eliminate or nearly eliminate the majority of symptoms or adverse effects. Concern was expressed throughout the majority of the studies with the potential of bias due to the healthy worker effect. This situation would occur when the only workers that would be reviewed or studied would be those who were healthy enough to tolerate the symptoms or not develop the disease for a long period of time. There were no studies that reviewed adequately the health effects in those individuals who may not have continued their work in the grain industry as a result of symptoms of exposure to grain dust or other reasons.

Finally, the studies in general, indicated the magnitude of the problems to be only modest. Here, however, the healthy worker effect must be considered. The pulmonary function changes which result from grain dust exposure are both acute and chronic - meaning the effects could become apparent within minutes of initial exposure to grain dust and could be reversible over hours or days while the chronic effects are at least partially reversible over a period of months. Most investigators generally agreed that the conditions were consistent with the presence of a pulmonary restrictive defect and that grain handlers showed an increased non-specific bronchial reactivity that is experienced from continuing exposure to grain dust. It is generally agreed that the adverse pulmonary effects of grain dust are most likely due to an irritant effect. While these are conclusions of the investigators, most still feel that further investigation is required to delineate conclusively the adverse health effects of grain dust exposure. Because of a probable strong dose-response relationship between grain dust exposure and respiratory symptoms and lung function studies, the allowable exposure level is probably too high.

I conclude my testimony with these comments and will be available to answer questions relative to the factors that led to these conclusions. I will plan to offer a more detailed explanation in any of those areas I have discussed. I want to thank you for the opportunity to meet with all of you today and to offer my assistance in this very interesting area of environmental concern.

Respectfully,



Kenneth R. Hart, DO, MPH
Associate Professor
Occupational and Environmental Medicine

KRH/lc

Background

Contract# 53-6395-9-120

Title: Impact Study of Prohibiting Recombining
Recirculation Dust at Export Elevators

Revised Final Report

Contractor:

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February 1992

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6. OBJECTIVE II: WHAT IS THE EFFECT ON GRAIN QUALITY OF PROHIBITING THE RECOMBINING OF RECIRCULATION DUST TO THE GRAIN STREAM AT EXPORT ELEVATORS?

The issue of prohibiting R/R partly focuses on foreign discontent with U.S grain quality. Because of the implication that grain dust is related to quality, it is important to quantify the amount of dust in the grain and its relation to grain quality.

6.1 PROCEDURES

1. Approximately 454 grams (1 pound) of grain from each sample was used in the tumbler-airwash procedure developed in the Department of Agricultural Engineering at Texas A&M University to determine the amount of dust concentration in the grain. The grain was tumbled using the tumbler box covered with fine mesh (opening size of 178 microns) for three minutes to determine the amount of free fine dust in the grain. The grain sample was then transferred to the tumbler with 2 mm holes and tumbled for three minutes to determine the amount of material with sizes between 178 microns and 2 mm. For wheat samples, the grain was not tumbled in the 2 mm tumbler box because some wheat kernels were smaller than 2 mm and passed through the holes.
2. FGIS standard grading was performed on a portion of each grain sample. A standard FGIS grade includes test weight, moisture, heat damaged kernels, broken kernels, and foreign material.

6.2 RESULTS

Table 3 shows the average dust contents of inbound and outbound corn from Elevators 3, 4, and 7. At every elevator, there was an increase in total dust content between the time grain entered an elevator and when it left, but the fine dust contents and coarse dust contents did not necessarily increase at every elevator. Most likely, the changes in dust contents were the result of blending. Coincidentally, Elevator 3, which used 100% R/R dust, showed a much higher dust content than the other two elevators. In fact, both the inbound and outbound corn from Elevator 3 showed higher dust contents. However, at most elevators, it is common to have R/R dust systems on inbound conveying equipment to reduce losses due to shrinkage, and this was the case at these three elevators. Likely, the inbound corn at Elevator 3 had deteriorated during storage at another elevator, causing the high dust content. If the presence of R/R dust systems had caused the high dust content in Elevator 3's corn, then the other two elevators would have shown high dust contents in their inbound corn samples also. This was not the case, and the data from soybean dust extraction helps to further demonstrate this point.

TABLE 3. AVERAGE DUST CONTENTS FOR CORN SAMPLES.

Corn	Dust	Inbound	Outbound
Elevator 3	Fine	0.256% ± 0.151	0.183% ± 0.049
	Coarse	0.323% ± 0.229	0.409% ± 0.328
	Total	0.579% ± 0.339	0.592% ± 0.367
Elevator 4	Fine	0.136% ± 0.041	0.177% ± 0.021
	Coarse	0.175% ± 0.087	0.160% ± 0.041
	Total	0.312% ± 0.123	0.337% ± 0.047
Elevator 7	Fine	0.103% ± 0.039	0.134% ± 0.031
	Coarse	0.142% ± 0.106	0.173% ± 0.098
	Total	0.245% ± 0.132	0.307% ± 0.118

Table 4 shows the average dust contents of inbound and outbound soybeans for three elevators. Like the corn, soybeans generally showed an increase in total dust content from inbound to outbound. In all cases, the increase in total dust content can be attributed largely to the dramatic increase in coarse dust (>2mm). By inspection of the dust sieving data in Objective IV, it can be seen that the soybean dust captured by dust control systems is composed largely of particles smaller than 1mm. Thus recombination of dust should not be responsible for the increase in total dust for soybeans.

TABLE 4. AVERAGE DUST CONTENTS FOR SOYBEAN SAMPLES.

Soybeans	Dust	Inbound	Outbound
Elevator 3	Fine	0.055% ± 0.039	0.051% ± 0.013
	Coarse	0.378% ± 0.264	0.523% ± 0.331
	Total	0.433% ± 0.304	0.575% ± 0.344
Elevator 4	Fine	0.033% ± 0.008	0.059% ± 0.009
	Coarse	0.385% ± 0.201	0.770% ± 0.234
	Total	0.418% ± 0.208	0.830% ± 0.241
Elevator 7	Fine	0.031% ± 0.008	0.033% ± 0.006
	Coarse	0.065% ± 0.031	0.111% ± 0.068
	Total	0.096% ± 0.037	0.144% ± 0.073

Table 5 shows the average fine dust contents of the wheat samples. Results for the wheat samples also show the same increase in dust content from inbound to outbound as the other grains. Elevator 5, which had the highest percentage of bin dust systems, had the largest increase in fine dust content for wheat samples.

TABLE 5. AVERAGE DUST CONTENTS FOR WHEAT SAMPLES.

Wheat	Dust	Inbound	Outbound
Elevator 2 (SRW)	Fine	0.029% ± 0.005	0.029% ± 0.008
Elevator 5 (HRW)	Fine	0.028% ± 0.004	0.056% ± 0.036
Elevator 6 (HRW)	Fine	0.025% ± 0.004	0.029% ± 0.004

Grain samples were sent to FGIS in an attempt to find a linear correlation between FGIS grade factors and the amount of fine dust extracted with the tumbler device. In this regression, each FGIS grade factor was the independent variable, and fine dust content was the dependent variable. Results of the regression analysis are in Table 6.

Every grain had one instance where dust content was found to be correlated to a grade factor with a probability of 90% or higher. In three of the four grains, fine dust content was correlated with the grade factor referred to as Total Damaged Kernels (DKT). It is reasonable to expect that dust content be correlated to this factor, since damaged kernels would likely produce more dust after repeated handling. However, only in the case of soybeans did a grade factor account for more than 50% of the correlation. This indicates that while grade somewhat influences the dust content of the grain, there are still factors other than grade that affect the amount of dust in the grain.

9. OBJECTIVE V: WHAT ARE THE PHYSICAL AND CHEMICAL CHARACTERISTICS OF THE DUST IN QUESTION?

Prohibition of R/R will likely result in the removal of approximately 3.2 pounds of dust per ton of grain. In order to provide a reasonable justification for disallowing R/R, it will be important to know the characteristics of the dust removed to: (1) estimate the impacts on the grain of removing the dust, and (2) suggest alternative uses for the dust.

9.1 PROCEDURES

1. A proximate analysis was performed on a small portion of corn, soybeans, wheat, R/R dust, and bin dust to compare the nutrient values of the grain and the dust samples.
2. Dust samples collected from elevators were divided into smaller lots of about 454 grams (1 pound). From each lot approximately 100 grams were placed in a shaker sieve to find the distribution of large particles in the dust. The screens used in the sieve had opening sizes of 1000, 500, 250, and 106 microns.
3. A few grams of each dust was used in the wet sieving procedure described by Jones (1986) to determine the fraction of dust smaller than 100 microns in each dust type.
4. A few grams of dust from each lot were analyzed with the Coulter Counter Model TA-II in the Processing Laboratory in the Department of Agricultural Engineering at Texas A&M University. The Coulter Counter determines particle size distribution (PSD) of particles with a diameter of less than 100 microns.
5. Dust filters used in the fine dust tumbler were also analyzed with the Coulter Counter to determine the particle size distribution of the dust extracted with the tumbler.
6. 250 grams from each grain sample were allocated for determination of mycotoxin levels. Along with the grain samples, 250 grams of R/R dust and/or bin dust from each facility were allocated for the same tests. Aflatoxin B1 was the principle mycotoxin studied.
7. 100 grams of corn, R/R corn dust, and bin corn dust were tested for activity levels of three commonly used pesticides. The three pesticides were Malathion, Actellic (Pirimiphos-Methyl), and Reldan (Chlorpyrisos-Methyl).
8. A procedure and equipment developed by Lesikar (1991) was used to determine the minimum explosive concentration (MEC) of three types of grain dust. In the procedure, the explosion chamber was fitted with a paper diaphragm, and the dust

TABLE 22. RESULTS OF DRY SIEVING FOR HARD RED WINTER WHEAT DUSTS.

Sample	< 106	106 < 250	250 < 500	500 < 1000	> 1000
Elev 5 Bin Dust (10 samples)	0.306	0.346	0.176	0.065	0.107
Elev 6 Bin Dust (15 samples)	0.353	0.297	0.083	0.063	0.204
Elev 6 R/R Wheat Dust (10 samples)	0.493	0.332	0.070	0.031	0.074

Table 23 shows the results of the wet sieving for hard red winter wheat dusts. Typically, wheat dust contains a higher amount of chaff, hulls, and other large particles which tend to flake. The additional vibrations from the ultrasonic bath likely caused the large difference between the dry sieving and wet sieving data. Similarly, there is some natural cohesiveness between the dust particles which was destroyed by the action of the dispersant and vibration of the procedure.

TABLE 23. RESULTS OF WET SIEVING FOR HARD RED WINTER WHEAT DUSTS.

Sample	% less than 100 microns
Elev 5 Bin Dust	54.5 ± 0.8
Elev 6 Bin Dust	58.1 ± 1.6
Elev 6 R/R Dust	73.7 ± 5.6

SOYBEANS

Results of the dry sieving tests for soybean dust samples are shown in Table 24. Particle sizes are in microns. Both of the R/R soybean dust samples had an extremely high amount of fine dust. Like the wheat dust samples, the bin soybean dusts contained higher amounts of large particles compared to the R/R dust samples. This indicates that bin dust contains more hulls, trash, and dirt than R/R dust. The bin dust samples also contained significantly less fine dust since they were mixtures of different grain dusts and floor sweepings.

TESTIMONY

by

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to the

**Oklahoma Air Quality Council
Oklahoma City, Oklahoma
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THE IMPLEMENTATION OF THE FEDERAL CLEAN AIR ACT ITS IMPACT ON THE GRAIN INDUSTRY IN OKLAHOMA

INTRODUCTION

Let me introduce myself. I am a professor in the Department of Agricultural Engineering at Texas A&M University. In that capacity I teach and conduct research. I served as a member of the nine member citizen board that function as the governing body of our state air pollution regulatory agency (SAPRA) - The Texas Air Control Board from January, 1990 until September, 1993. I teach 2 to 3 courses during the fall and spring semesters. They include: AGEN 365 - Unit Operations, AGEN 360 - Systems Engineering, AGEN - 300 Management Science, MEEN/AGEN 477 Air Pollution Engineering. My research has included the following: (1) Dispersion Modeling of SO₂ from coal fired power plants, (2) Cyclone Design. The 1D3D cyclone design was developed in my lab. This cyclone is BACT in California and Arizona and we are currently conducting research on new cyclone and abatement system designs, (3) Grain Dust Explosions., (4) Biomass conversion. One of my colleagues is developing a correction to the AP-42 cattle feed lot emission factor. I have conducted particulate matter source and area sampling. In 1972, I was responsible for conducting a study that involved isokinetically sampling 10 exhausts from a cotton gin, simultaneously. The results of this were that particulate emission rates from cotton gins will range from less than 1 to over 4 pounds per bale. The current AP-42 emission factor for cotton gins is 2.24 lbs/bale. Throughout my career, I have been involved with air pollution and air pollution abatement.

What is air pollution?

"Air pollution is the presence in the outdoor atmosphere of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation." (Cooper and Alley, 1990)

Grain elevators can only pollute air by violating the "nuisance" aspect of the definition. "Nuisance" is in reference to the part of the definition that refers to unreasonable interference with "enjoyment ..." It is the responsibility of a SAPRA to regulate nuisance violators and it is in this context that your state DEQ is regulating grain elevators. The regulation of grain elevators is different than regulating industries emitting toxics or hazardous waste incinerators, etc.. Concerns for public health are a higher priority.

The implementation of the Federal Clean Air Act (FCAA) amendments is difficult for most states. With the exception of California, most states must expand their staffs so that they can implement this act. The Texas Air Control Board was faced with hiring 700 plus personnel in less than 4 years, establishing a Title V Federal Operating Permit (FOP) program and collecting fees to fund the work as required by the FCAA. We were faced with losing one billion dollars of federal highway funds if we were unsuccessful. I suspect that

Oklahoma is faced with a similar situation. The state funding for the expanded mission mandated by the FCAA is supposed to be derived from fees imposed on polluters. Any industry that emits 100 tons of a criteria pollutant must be classified as a Title V "major source" and must pay annual emission fees at a minimum rate of \$25 per ton. One method for determining which industries are major sources is to use the document published by EPA that lists emission factors for industries that emit pollutants - AP-42. Table 1 is the AP-42 listing of the uncontrolled emission factors from grain elevators in the U.S.. I've added another column to show emission factors in units of pounds per ton. Note that for country elevators, the emission factor is 8.6 lbs/ton.

The U.S. Grain handling and marketing system is the envy of the world. We have 7,000 country elevators, 300 inland terminals and 60 export facilities. Grain elevators are basically simple systems. Grain is transported to the elevator, unloaded, elevated, conveyed to bins and stored. In many country elevators, the grain passes through a dryer prior to being conveyed to storage. When it is time for the grain to progress in the marketing system, it moves from the storage bin through a spout to a belt conveyor, elevated and conveyed to a rail car or ship.

Oklahoma has a total of 345 grain handling facilities. Each of these operations will typically handle 6,000 to 12,000 bushels per hour (bu/hr) unloading and loading grain. (This is usually determined by the leg capacity.) One bushel of wheat weighs 60 pounds. Hence, a 12,000 bu/hr elevator will handle 360 tons per hour. Based upon the AP-42 emission factor of 8.6 lbs/ton, the estimate of particulate matter emission rate would be over 3000 pounds per hour. This is not happening. This is a weight loss (shrink) as a consequence of emissions of particulate matter of 0.43%. For some elevators, a shrink exceeding 0.3% is an indication of theft.

It is my understanding that the Oklahoma Department of Environmental Quality (DEQ) is attempting to use this factor (8.6 lbs/ton) to determine whether an elevator can be classified as a Title V "major source" i.e. emitted over 100 tons of particulate per year. A country elevator would be a "major source" if it handled 775,000 bushels per year and emitted 8.6 lbs per ton. Many of the country elevators in Oklahoma have receipts exceeding one million bushels. It is not uncommon for a country elevator to handle 10 to 20 million bu/yr. Using this emission factor, a 10 million bu/yr facility would emit 1290 tons and would be required to pay \$32,250 per year at \$25 per ton of emissions. This same elevator would have an estimated emission rate of 45 tons per year in Texas and would not be required to pay annual fees because it would not be a Title V "major source" (less than 100 tons of particulate emitted). The difference is that the permit engineers with the Texas Natural Resource Conservation Commission (TNRCC) use a 0.3 lb/ton emission factor for grain elevators. I believe that 0.3 lbs/ton is too high.

Oklahoma produced 171 million bushels of wheat in 1992 and approximately 5 million bushels of grain sorghum. Disregarding grain handled by an elevator that crossed into Oklahoma from another state, the 8.6 lb/ton emission factor could result in a bill for

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\$576,000 annually for emission fees as Title V "major source" fees at \$25 per ton. Many of the 345 grain elevators in Oklahoma will be inappropriately classified as a "major source". The cost of installed controls to reduce hypothetical emissions listed in AP-42 could be devastating to this industry.

Serious problems can result from unfair or inappropriate implementation of the 1990 FCAA amendments relative to grain handling. This will occur if the state Department of Environmental Quality (DEQ) were to characterize emissions from grain handling facilities using emission factors published by EPA. If the Oklahoma DEQ were to use AP-42 emission factors, a large number of the Oklahoma country elevators will be classified as "major sources" and will be required to pay annual emission fees. This is improper, inappropriate and wrong. They are not "major sources"! Hence, they should not be required to pay annual emission fees. Regulating air pollution is required but unfair and inappropriate application of rules and regulations do not serve the public.

The AP-42 emission factors for grain elevators are totally wrong and should not be used by state air pollution regulatory agencies (SAPRAS) to characterize air pollution emissions from grain handling operations.

PROBLEMS WITH THE MRI STUDY

How could the EPA publish data in AP-42 that totally misrepresents the emission of particulate from grain elevators? The answer is that they were using the results of a study performed by Midwest Research Institute (MRI) completed in 1974. The MRI scientists performed their study at a terminal grain elevator in Kansas City. They collected data on the mass of dust collected by each of the seven bag filters and the mass of grain moving through the elevator during the same time period and reported the ratio as "uncontrolled" emission factors. The protocol of the study was flawed. The MRI investigators assumed that the dust control systems with associated dust collection systems (filters) would be required at any grain elevator for normal operations and that if the bag filters were not present the dust captured by these systems would be emitted. Both of these assumptions were wrong!

The reasons for having dust control systems at grain elevators are as follows: (1) to prevent dust explosions, (2) housekeeping (reduce the amount of grain dust settling on floors that must be periodically swept up) and (3) compliance with air pollution regulations at the unloading pit and the rail car or truck load-out area. The emissions from this facility that could have impacted the public were the "fugitive" emissions from the incoming and exiting grain functions and the emissions from the filter collectors. The grain dust captured by the filters was not emitted.

I am going to attempt to illustrate how serious this error was with the following example: The emission factor for "Headhouse (legs)" is 5 lbs/ton. (See Table 1.) A leg at a grain elevator is a bucket elevator designed to elevate grain so that it can be dropped into a bin. No dust control is required to perform the elevation function. In other words, an enclosed leg, without dust control has zero emissions. The elevator used in the MRI study was pulling suction from the "boot" and "head" of the leg to lower the concentration of dust entrained in the air at the grain transfer points to prevent grain dust explosions. The dust captured by the "leg" dust control system was captured by the bag filter, weighed and returned to the grain stream. Because this dust was returned to the grain stream, it potentially was captured by other dust control systems downstream. Dust captured by six of the bag filters in this study was returned to the grain stream. (This is a common practice.) Yet, the MRI scientists used the mass of dust captured by the bag filters divided by the grain stream mass as their estimate of grain elevator emission factors. This was **WRONG!** This dust was not emitted!

Can you comprehend the frustration of a grain elevator manager when he attempts to explain to a regulator that his elevator leg is enclosed and he is not pulling any suction from the leg but he is told that according to EPA, the leg is emitting 5 lbs/ton. The regulator is looking for the air pollution abatement system (controls) and if the leg has no cyclone or bag filter, it must be emitting 5 lbs/ton according to AP-42. The manager tries to get the regulator to show him where his enclosed leg is emitting dust but the regulator points to the AP-42 emission factors and says that he must be emitting 5 lbs/ton because he has no controls. In other words, the regulator has received "guidance" from EPA to use the emission factor in "the book" (AP-42) even though it is obvious that the enclosed leg is not emitting dust. This is wrong!

Many country elevators have no suction on their legs. I've been told that the regulator has suggested that the manager should install suction and dust control on the leg to lower the legs emission rate. This is ludicrous. If the manager were to install suction on the boot and head pulley with associated bag filters, negative consequences can result: (1) The emissions of the bag filter will in effect increase the emission rate of the leg. Prior to the dust control system being installed, the enclosed leg was emitting "zero" particulate. Assuming the bag filter emission rate is 0.01 grains per dry standard cubic foot (gr/dscf), a 10,000 cfm dust collector will be emitting 6.5 grams per minute. (2) The elevator manager will spend \$50,000 to \$100,000 for the system that will not improve his productivity. (3) The re-introduction of the captured dust will increase the chances of a dust explosion. This is especially true if the dust control system were to re-introduce the captured dust to the boot of the leg.

Another problem with the protocol of the MRI study was the lack of consideration of the particle size distribution of the material captured by the 7 bag filters. Dust control systems capture large particles such as broken kernels, etc.. These large dust particles are not an air pollution problem in that they settle out very close to the source. Turner (1970) indicated that only particles less than 20 microns in diameter should be included in dispersion modeling. In AP-42 under "Fugitive Dust Sources" the following statement is made:

"Smaller particles, particularly those less than 10 to 15 micrometers in diameter, have much slower gravitational settling velocities and are much more likely to have their settling rate retarded by atmospheric turbulence. Thus, based on the presently available data, it appears appropriate to report only those particles smaller than 30 micrometers." In other words, dust particles larger than 30 microns should not be an air pollution problem since they settle out close to the source and are not transported across the property line.

Wallin et.al (1992) published sieve analyses of samples collected by MRI during their 1974 study. (See Table 2.) Mr. Wallin obtained this information from MRI to establish a more realistic emission factor for Texas grain elevators. Note that the fraction less than 44 microns was 2% and 0.57% for truck receiving and railcar loading, respectively. Corn cleaning, gallery belt, tunnel belt and head house (legs) will have no emissions unless a dust control system has been installed. If we were to take the AP-42 uncontrolled emission factors for receiving and loadout, 0.6 and 0.4 lbs per ton, respectively; multiplied times the fraction less than 45 microns, it would result in an emission factor of 0.035 lbs per ton of dust that can be transported across the property line affecting the public. The TNRCC uses 0.3 lbs/ton.

WHAT IS THE EMISSION FACTOR FOR AN ELEVATOR HANDLING WHEAT?

I have been involved with numerous studies relative to grain dust explosions. One measurement that I have routinely made is the fine dust (dust less than 100 microns) content of grain. Typically, wheat will contain less than 0.03% or 0.6 lbs per ton fine dust. Of this 0.6 lbs/ton, 50% is larger than 15 microns. This is the total fine dust content of wheat. In the process of moving through the elevator, only a fraction of this fine dust is entrained in the air and transported across property lines (air pollution). There is no way that a grain elevator handling wheat can emit 8.6 lbs/ton.

In my work with wheat dust (Parnell et.al, 1986), I have found that approximately 34% of the wheat dust captured by a bag filter is fine dust (less than 100 microns). (See Table 3.) Approximately 50 % of the fine dust is less than 15 microns. (See Table 4.) In other words, approximately 17% of wheat dust captured by a bag filter is less than 15 microns. This is a very conservative number because the methodology used to determine the fraction of fine dust was wet sieving using alcohol. Dry sieving results in a much lower fine dust fraction. Approximately 30 % of the dust captured by a bag filter of a dust control system in an elevator handling wheat is less than 30 microns. This means that the total amount of dust in grain that has the possibility of being emitted is 0.18 lbs per ton. This can only occur if 100 % of this dust is extracted from the grain and emitted. It is likely that less than 50 % of this total will be emitted. Hence, I estimate that an uncontrolled emission factor from a grain elevator should be less than 0.1 lb/ton.

If one were to assume that 20% of the total trash and fine dust emitted by the elevator were less than 30 microns and that the 1 lb per ton emission factor for unloading and load-out emission factors (Table 1) were accurate, a measure of the amount of dust transported

across property lines in an uncontrolled situation would be equivalent to an emission factor of 0.2 lbs/ton.

GRAIN DUST EXPLOSIONS

A grain dust explosion at an elevator or feed mill can be devastating. Schoeff (1994) reported that 13 explosions occurred in 1993 up from a record low of 6 in 1992. Property damage was \$3.5 million. How could implementing air pollution regulations impact grain dust explosions? You must understand the mechanism of grain dust explosions.

In order to have a grain dust explosion 4 ingredients are required: (1) fuel - Grain dust suspended in air at or above the minimum explosive concentration (MEC). The value of 50 grams per cubic meter (g/m^3) is the accepted MEC for grain dust. If the concentration of grain dust is less than this, an explosion will not occur. (2) Ignition source. (3) Oxygen. (4) Containment - Most assume that containment is needed so that rupture of the rapidly burning grain dust can occur (explosion). Containment is needed, in the case of primary explosions, to achieve an MEC. Elevator legs are the leading location of primary explosions.

A grain dust explosion is usually a series of explosion. The first is usually small (<2psi). It usually referred as the "primary". The primary propagates a pressure wave and a fire front. The pressure wave moves away from the primary location at 1000 feet per second (fps) followed by a relatively slow moving fire front (10 fps). This pressure wave entrains layered dust into another MEC that is ignited by the fire front resulting in secondary explosions. The multiple secondary explosions result in numerous fatalities and devastating property loss. Secondary explosions generate pressures in excess of 80 psi and can result in 10 ton segment of concrete being moved 100 yards. The primary method for preventing grain dust explosions is to prevent MECs from occurring. There are only three methods that can be used to lower the dust concentration at a grain transfer point: (1) dust control systems - These are in reality "dust management systems" in that only a fraction of the dust in grain is captured. Properly designed and maintained dust control systems can effectively lower the dust concentration at a grain transfer point to below 50 g/m^3 . (2) mineral oil application systems - A small amount of food grade mineral oil is applied to the grain surface. Fine dust particles "stick" to the grain surface and are not entrained in air at the grain transfer points. FDA limits the amount of oil that can be applied to less than 200 ppm (1.5 gallons per 1000 bushels). (3) Water sprays - This is controversial and FGIS is attempting to ban this method.

Any requirement by EPA or a SAPRA that results in increasing the number of MECs in a grain handling facility will increase the probability of a dust explosion. MECs are present in bag filters when the dust layer on the surface of bags is removed and settles to the bottom to be collected. MECs can occur as dust is conveyed.

The implementation of the FCAA for grain handling facilities can and in my opinion

will have an impact on the number of grain dust explosions at grain handling facilities in the U.S.. I believe that if EPA were to insist that all states use their AP-42 emission factors, the number of Minimum Explosive Concentrations (MECs) will increase. As a consequence, the probability of a dust explosion at grain handling facilities will increase.

SUMMARY

I believe that the published AP-42 emission factors for grain elevators are wrong and over-estimate particulate matter emissions from grain elevators by a factor of at least 20. I've attempted to illustrate how bad these numbers are in this testimony and I have been critical of the MRI study that served as the basis for the erroneous emission factors. This is an important issue. The regulation of air pollution will impact the economics of the grain industry in your state and could result in relatively small elevators being forced to cease operations. This can impact producers who were customers of that elevator. Another major factor is that improper imposition of air pollution regulations on grain elevators can result in an increase in grain dust explosions. I believe that the emission factor of a grain elevator handling wheat should be less than 0.3 lbs per ton (total) and I presented data to support this position.

The decision you make will impact the grain industry. I hope that I have been able to "shed some light" on this controversial issue.

REFERENCES

Cooper, D.C. and F.C. Alley. 1990. Air Pollution Control A Design Approach. Waveland Press, Inc. Prospect Heights, Ill.

Lesikar, B.J., C.B. Parnell, Jr. and A. Garcia, III. 1991. Determination of Grain Dust Explosibility Parameters. Transactions of the ASAE. 34(2):571-576.

Midwest Research Institute. 1974. Potential Dust Emissions from a Grain Elevator in Kansas City, Missouri. Final Report, Contract No. 68-02-0228.

Midwest Research Institute. 1973. Emissions Control in the Grain and Feed Industry, Volume I-engineering and Cost Study. EPA-450/3-73-a, Research Triangle Park, N.C.

Parnell, C.B. Jr., D.D. Jones, R.D. Rutherford and K.J. Goforth. 1986. Physical Properties of Five Grain Dust Types. Environmental Health Perspectives. 66:183-188.

Parnell, C.B. Jr. 1992. Impact Study of Prohibiting Recombining Recirculation Dust at Export Elevators. Final Report, Department of Agricultural Engineering, Texas A&M University, College Station Tx.

Schiff, R.W. 1994. Grain Dust Explosions Up in 1993. Newsletter, Department of g Grain Science and Industry, Kansas State University, Manhattan, Ks.

Turner, B.D. 1970. Workbook of Atmospheric Dispersion Estimates. Environmental Protection Agency, Research Triangle Park, N.C.

U.S. EPA. 1988. Compilation of Air Pollution Emission Factors Volume I: Stationary point and area sources. research Triangle Park, N.C.

Wallin, G., M. Gibbs, R. Hyde, A. Rodriguez, and M. Wilson. 1992. Emission Factors May Cost Agricultural Operations Big Bucks. Paper No. 92-1039, Presented at the Summer meeting of ASAE in Charlotte, N.C. Texas Natural Resources Conservation Commission, Austin, Tx.

Table 1. Total Particulate Emission Factors for Grain Elevators, Based on Amount of Grain Received or Shipped^a (EPA, 1988, AP-42 Emission Factor.)

Emission Factor Rating: C

Type of Operation	Emission factor, kg/Mg handled ^b	x	Typical ratio of grain received or shipped ^c	x	Emission factor, kg/Mg received or shipped	Emission factor, lb/ton received or shipped
Country Elevators						
Unloading (receiving)	0.3		1.0		0.3	0.6
Loading (shipping)	0.2		1.0		0.2	0.4
Removal from bins (tunnel belt)	0.5		2.1		1.0	2.0
Drying ^d	0.4		0.3		0.1	0.2
Cleaning ^e	1.5		0.1		0.2	0.4
Headhouse (legs)	0.8		3.1		2.5	5.0
					TOTAL	8.6
Inland Terminal Elevators						
Unloading (receiving)	0.5		1.0		0.5	1.0
Loading (shipping)	0.2		1.0		0.2	0.4
Removal from bins (tunnel belt)	0.7		2.0		1.4	2.8
Drying ^d	0.6		0.1		0.1	0.2
Cleaning ^e	1.5		0.2		0.3	0.6
Headhouse (legs)	0.8		3.0		2.3	4.6
Tripper (gallery belt)	0.5		1.7		0.8	1.6
					TOTAL	11.2
Export Elevators						
Unloading (receiving)	0.5		1.0		0.5	1.0
Loading (shipping)	0.5		1.0		0.5	1.0
Removal from bins (tunnel belt)	0.7		1.2		0.8	1.6
Drying ^d	0.5		0.01		0.01	0.02
Cleaning ^e	1.5		0.2		0.3	0.6
Headhouse (legs)	0.8		2.2		1.7	3.4
Tripper (gallery belt)	0.5		1.1		0.6	1.2
					TOTAL	8.82

a Assumes amount received is approximately equal to the amount shipped.

b To obtain units of lb/ton, multiply factors by 2.0

c Reference 6. Average values from a survey of elevators across the U.S. Can be considerably different for any individual elevator or group of elevators in the same locale.

d See Note b in Table 1.

e See Note c in Table 1.

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Table 2. Sieve analysis of collected grain dust from bag filter catches of a well controlled grain elevator (Midwest Research, 1974).

Size Range (x) (Microns)	Truck Rec. (%)	PR car Load out (%)	Corn Cleaner (%)	Gallery Belt (%)	Tunnel Belt (%)	Head House (%)
x <44	2.00	0.57	0.57	31.94	0.52	11.71
x <63	15.69	3.25	5.40	55.06	4.83	56.45
x <177	80.92	54.43	57.65	77.93	58.75	89.48
x <710	97.52	98.38	98.17	98.48	96.10	99.52
x <1410	99.24	99.69	99.49	99.06	99.23	99.89

Table 3. Percent by weight of grain dust less than 100 μm by wet sieving. *Environmental Health Perspectives Vol 66, pp. 183-188, 1986.*

Dust	% <100 μm	SD, %	CV, %
Soybean	50.6	1.53	2.95
Rice	44.2	2.20	4.99
Corn	54.1	3.30	6.10
Wheat	34.3	1.68	4.88
Sorghum	34.3	1.30	3.79

Table 4. Particle size distributions of soybean, rice, corn, wheat, and sorghum dust, < 100 μm using the Coulter Counter, Model TAIL. *Environmental Health Perspectives Vol 66, pp. 183-188, 1986.*

	Soybean	Rice	Corn	Wheat	Sorghum
Mean, μm	13.6	10.7	13.2	13.4	14.0
Median, μm	14.8	12.1	13.6	14.7	15.7
Mode, μm	16.1	18.0	13.7	15.8	18.1
SD, μm	1.87	2.24	1.80	2.08	2.16
Skewness	-0.810	-0.830	-0.860	-0.790	-0.720
Kurtosis	1.90	2.58	1.69	2.34	2.96

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GRAIN ELEVATOR EMISSION FACTORS

Testimony to the

Oklahoma Air Quality Council

April 12, 1994

by

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6905

GRAIN ELEVATOR EMISSION FACTORS

I testified to this council on March 8, 1994 with a specific purpose of discrediting the EPA AP-42 Emission Factors that specify that an uncontrolled grain elevator would have an emission factor of 8.6 pounds of dust per ton. It is my understanding that the DEQ staff does not dispute that these factors are in error. If these numbers are in error then what should be the emission factor for grain elevators? I have read the memorandum prepared for you by Deborah Perry in reference to "Analysis of Documents Submitted by Oklahoma Grain and Feed Association to Support a 70% Reduction of AP-42 when Calculating Emissions from Grain Elevators". I believe that some issues are unclear and I hope to "add some light" to these issues with this testimony.

A state air pollution regulatory agency (SAPRA) must have an emission factor for a source of pollution. I outlined in my testimony the "Texas Model" which is being used by the permit engineers with the TNRCC. They have had the experience of permitting grain elevators for over 20 years. The Texas Model for an elevator with no drying or dust control is as follows:

(1) Only the unloading and loading AP-42 emission factors are used. It is assumed that only these two operations will entrain dust in the air to be moved by air currents across property lines to affect the public (air pollution). The sum of these two AP-42 emission factors is 1 lb/ton.

(2) The sieve analysis performed by MRI on the dust captured during the study indicated that only 2% of the dust captured during the unloading operation was less than 44 microns and only 0.57% of the dust captured during rail car loading was less than 44 microns. This same sieve analysis showed that only 16% and 4% of the dust captured during unloading and loading, respectively were less than 63 microns. The TNRCC chose to use 30% of the 1 lb/ton was dust of the size that would be entrained in the air at the loading and unloading points of an elevator. In effect, this 30% used by the TNRCC is an assumption that 70% of the dust emitted at these points will settle out near the source.

The subject of Ms. Perry's memo is addressing this 70% reduction of the AP-42 emission factors associated with unloading and loading operations at a grain elevator which sums to 1 lb/ton. In effect the original AP-42 emission factor of 8.6 lbs/ton has been reduced to 1 lb/ton. Now the question is how much of that 1 lb/ton would contribute to air pollution or be transported across the property line.

Ms. Perry has indicated that she does not feel that I "provided accurate and appropriate documentation to support reducing AP-42 factors by 70%" I described the "Texas Model" in my recommendation for the Oklahoma DEQ staff which reduces the 8.6 lbs/ton to 0.3 lbs/ton. Ms. Perry suggests that the sieve analysis performed by MRI was insufficient data and based upon her conversation with Dr. Lundgren, sieve analyses will not provide a good measure of the aerodynamic particle diameter. She is correct with regard to sieve analyses and aerodynamic particle size. However, the only data available for the dust captured by the bag filter is their sieve analyses.

What will the Oklahoma DEQ use for an emission factor for grain elevators? I believe that if Oklahoma were to use the 1 lb/ton for uncontrolled elevators, this decision would be

inappropriate. It is obvious that MRI captured broken kernels and trash particles when their sieve analyses indicated that less than 2% was less than 44 microns. In addition, their data was based upon the capture of material at a grain transfer point with a dust control system. There was no attempt at sampling dust concentrations at the emitting points with high volume samplers. It is likely that the actual concentration of dust entrained in air at the loading and unloading points was much less than the 1 lb/ton total. Even sampling with a high volume air sampler would have eliminated the broken kernels and trash that was captured and weighed in their study. A 70% reduction from 1 lb/ton to 0.3 lb/ton is in my opinion a conservative approach for the Oklahoma DEQ. It is a much higher emission factor than the factor that would be associated with the 98% reduction that is indicated by the reported sieve analysis. The actual emission rate should be less than 0.1 lb/ton for wheat.

Ms. Perry stated that all the data I referenced was based upon particle size distributions using sieve analyses. This was incorrect. I routinely use a Coulter Counter to obtain particle size distributions for particulate less than 100 microns in my research. (I've provided the staff with some of my publications describing this process.)

Dr. Dale Lundgren Ph.D., P.E. has excellent credentials. I also have spent a number of years conducting research on topics related to air pollution. My graduate students and I developed the 1D3D cyclone that is BACT in California and Arizona. I have directed research projects that included sampling downwind from emitting sources with PM10 and TSP samplers. I directed the graduate student whose research resulted in a new PM10 cotton dust sampler (McFarland et al., 1987). I have spent a number of years conducting research directed at preventing dust explosions (Lesikar et al., 1991 and Wardlaw et al., 1989). In 1972, I conducted the "sampling" study where the emission concentrations from control devices from a gin processing stripped cotton were measured (Parnell and Baker, 1973). These data were used to develop emission factors from cotton gins and are currently being used by the TNRCC in their permitting process. I also teach the only undergraduate engineering class on air pollution engineering at Texas A&M University.

Ms. Perry stated that I did not provide accurate and appropriate documentation to support reducing AP-42 by 70%. I believe what she meant was she does not believe that there is sufficient documentation to reduce the 1 lb/ton emission factor (the sum of loading and unloading emission factors from AP-42) to 0.3 lb/ton. AP-42 lists a total of 8.6 lbs/ton. I submit that reducing the 8.6 lbs/ton to 1 lb/ton is merely common sense. The legs, gallery and tunnel do not emit dust. The MRI sieve analysis was sufficient documentation for the TNRCC to reduce the 1 lb/ton to 0.3 lbs/ton.

In an attempt to provide an alternative justification, I presented recent data on the quantity of fine wheat dust per ton of grain obtained by an air wash procedure and the fraction of fine dust of the total dust captured by a filter using a wet sieving procedure. (See the enclosed excerpts from the Final Report of the "Impact Study of Prohibiting Dust at Export Elevators" (1992)). Both of these procedures incorporate a screen to separate trash from fine dust. However, the air wash and wet sieving procedures are far different than the sieve analyses used by MRI in their study. The average fine dust (< 178 μm) content of wheat using tumbler-air wash procedure for "inbound" wheat in my most recent research

indicates that wheat will contain 0.029%, 0.028% and 0.025% (0.6 lbs of fine dust per ton). "Inbound refers to grain entering the terminal elevator in a condition similar to its condition leaving a country elevator. This is the most accurate data that I have on the dust content of wheat. In my opinion, less than 5% of the dust in grain will be entrained in air at the unloading or loading operation of an elevator. I suggested that if 10% of the dust in grain were to be entrained in air and transported across property lines, the resulting emission factor would be less than 0.1 lb/ton.

It would be ideal to have the results of a well planned study that demonstrates that the emission factor for the combined unloading and loading operations of an uncontrolled grain elevator handling wheat is 0.1 lb/ton. However, these results do not exist. It is my opinion that a 0.3 lb/ton emission factor is too high but appropriate until these data are produced. My major concern is that states will attempt to force country elevators into installing dust control systems based on the inaccurate AP-42 emission factors and the result will be a dramatic increase in grain dust explosions with associated loss of life of employees.

Ms. Perry made the point that sieve analysis results are not equivalent to "aerodynamic diameter" of grain dust. She is correct. She used the example of a cylindrical particle with a diameter of 5 microns and a length of 80 microns. In my experience, this physical description is not typical of grain dust particles. Enclosed is a reprint of one of my papers published in the Environmental Health Perspectives entitled "Physical Properties of Five Grain Dusts". The particle size distributions (PSD) of the different grain dusts reported were obtained with the Coulter Counter Model TA II. With the exception of soybeans, grain dust will have a particle density (ρ_p) of 1.5 g/cm³. We routinely utilize a Coulter Counter to obtain particle size distributions of particulate less than 100 microns. This sizing process yields data for the equivalent spherical diameter of particulate. The definition of aerodynamic diameter is the diameter of a unit density sphere that has the same settling velocity as the particle in question. It can be calculated with the following equation: (Cooper and Alley)

$$d_a = (18\mu v_t / C\rho_w g)^{1/2}$$

where

d_a = aerodynamic diameter,

μ = gas viscosity,

v_t = settling velocity,

ρ_w = density of water, and

g = gravitational acceleration.

To convert a PSD obtained with a Coulter Counter which is a function of equivalent spherical diameter of unit density particles, we use the following equation:

$$d_a = (\rho_p)^{1/2} d_s$$

where

d_a = aerodynamic diameter,

ρ_p = particle density (g/cm³) or specific gravity, and

d_s = spherical diameter.

McFarland and Ortiz (1982) used this same procedure in their research evaluating PM10 samplers.

The issue is that the MRI screen analyses do not provide a measure of aerodynamic diameter. I submit that the TNRCC considered this in their decision to use 70% instead of 98% of the dust settling out near the source in their estimation of emission factors from unloading and loading. I also submit that the 1 lb/ton AP-42 emission factor is too high in that MRI used the mass of dust, broken kernels and trash captured by a dust control system to obtain the 1 lb/ton factor. Hence a 0.3 lb/ton factor for unloading and loading is "conservative" from a regulatory perspective.

Ms. Perry did not accept the assumption made by the TNRCC staff that particles larger than 30 microns would settle out near the source and suggested that "particulate matter measured by the high-volume method ... describes the acceptable method..." See enclosed paper by McFarland and Ortiz (1983) where they tested High Volume samplers and state "At wind speeds of 2 and 8 km/h, the Hi-Vol has a cutpoint of $\approx 45 \mu\text{m}$ (aerodynamic particle diameter for which the penetration is 50 percent) whereas at 24 km/h the cutpoint is reduced to $\approx 30 \mu\text{m}$ ". EPA states the following in AP-42:

"Thus high volume samplers do not provide definitive particle size information for emission factors. However, an effective cutpoint of 30 micrometers aerodynamic diameter is frequently assigned to the standard high volume sampler."

I believe that there is sufficient documentation in the literature to assume that particulate matter larger than 45 microns (AD) will settle near the source and should not be considered in the emission factor calculations. In other words, these larger particles will not cause air pollution off the property.

SUMMARY

The Oklahoma Air Quality Council and DEQ staff have some difficult decisions to make. My testimony on March 8, 1994 and April 12, 1994 were an attempt provide a scientific basis for your decision process. Hopefully, I have made the following points:

(1) The AP-42 emission factors indicating an emission factor of 8.6 lbs/ton for an uncontrolled grain elevator are wrong and should not be used.

(2) The "Texas Model" uses a 1 lb/ton total emission factor for unloading and loading and assumes that 70% will settle out near the source. The result is that the total emission factor for the unloading and loading operations of an uncontrolled grain elevator is 0.3 lb/ton.

(3) I am of the opinion that 0.3 lbs/ton for these two operations is too high. However, I understand why the TNRCC uses this number. It can be corrected with results from a credible study.

(4) Inappropriate application of air pollution regulations can increase the number of grain dust explosions.

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REFERENCES

- Cooper, D.C and F.C. Alley. 1994. Air Pollution Control A Design Approach. Waveland Press, Inc. (Second Edition) Prospect Heights, Ill.
- Lesikar, B.J., C.B. Parnell, Jr., and A. Garcia. 1991. Determination of Grain Dust Explosibility Parameters. ASAE Transactions Vol 34(2):pp 571-576. (Received a Paper Award)
- McFarland A.R. and C.A. Ortiz. 1982. A 10 μ m Cutpoint Ambient Aerosol Sampling Inlet. Atmospheric Environment, Pergamon Press LTD., Vol 16(12):pp 2959-2965.
- McFarland, A.R. and C.A. Ortiz. 1983. Evaluation of Prototype PM-10 Inlets with Cyclonic Fractionators. APCA Paper No. 33.5, Presented at the 76th Annual Meeting of APCA.
- McFarland, A.R., P.D. Hickman and C.B. Parnell, Jr.. 1987. A New Cotton Dust Sampler for PM-10 Aerosol. American Industrial Hygiene Association Journal. Vol 48(3):pp 293-297. (Received the outstanding paper award from AIHA for 1987)
- Parnell, C.B., Jr. and R.V. Baker. 1973. Particulate Emissions of a Cotton Gin in the Texas Stripper Area. Production Research Report No. 149. USDA, ARS.
- Parnell, C.B., Jr., D.D. Jones, R.D. Rutherford and K.J. Goforth. 1986. Physical Properties of Five Grain Dust Types. Environmental Health Perspectives. Vol 66:pp 183-188.
- Parnell, C.B., Jr., D.D. Spillman, and D.P. Whitelock. 1992. Impact Study of Prohibiting Recombination Recirculation Dust at Export Elevators. Final Report Contract #53-6395-9-120, USDA, FGIS.
- Wardlaw, H.D., C.B. Parnell, Jr., and B.J. Lesikar. 1989. Dust Suppression Results with Mineral Oil Applications for Corn and Milo. ASAE Transactions Vol 32(3):pp 293-297. (Received a Paper Award)

A copy of these papers will be provided to your DEQ staff.

STATEMENT CONCERNING HEALTH EFFECTS OF GRAIN DUST FOR
SUBMISSION TO MEMBERS OF OKLAHOMA AIR QUALITY COUNCIL

April 12, 1994

by

Martin H. Welch, M.D.
Professor of Medicine
Pulmonary Disease and Critical Care Section
University of Oklahoma Health Sciences Center

The effects of silica dust exposure on the lungs are well characterized. This dust causes a distinctive disease called silicosis, which can be recognized by the changes it produces in the chest radiograph and in pulmonary function tests. Preventive measures are likewise well understood and defined.

Grain dust, in contrast, contains a number of injurious substances which produce an increase in the presence of a variety of symptoms which are non-specific, and which also occur in people who are not grain dust workers. These include chronic bronchitis, asthma, chronic obstructive pulmonary disease, and allergic alveolitis.

In addition to these lung diseases, grain workers are subject to rhinitis, conjunctivitis, and dermatitis, and to a febrile flu-like illness known as grain fever.

In most cases, the chest radiograph is not abnormal in these conditions.

Grain dust contains a number of substances which may produce these disorders by way of an allergic reaction, but the mechanisms are incompletely understood. The grain itself, as well as fungus particles and bacteria may be involved. In contrast to silicosis, there appears to be a great deal of variation in the sensitivity of individual workers to the components of grain dust.

Because of these major differences between the health effects of silica and grain dust exposure, there has been a great deal of interest over the past two decades in developing environmental control practices specific to grain dust.

In Canada where the problem has been well recognized, control measures involving bag filter systems have been designed with a goal of reducing dust levels to 10 mgm/m³.

Because of unique characteristics of grain dust and its well recognized effects on health of grain workers, it is recommended that environmental control regulations affecting grain workers be written in a manner specific to this form of air pollution.

Reference:

Occupational Pulmonary Disease: Focus on Grain Dust and Health. Edited by James A. Dosman and David J. Cotton. New York: Academic Press, 1980.

CURRICULUM VITAE

MARTIN HENRY WELCH, M.D.

April, 1994

I. PERSONAL

A. Vital Statistics

1. Date of Birth August 21, 1936
2. Place of Birth Edgerton, Wisconsin
3. Citizenship U.S.
4. Marital Status Married - Jane Elizabeth Harris
5. Children Julie Elizabeth - 1973
Michael Edward - 1974
Martha Jane - 1977
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II. EDUCATION

- A. Pulmonary Disease Trainee (Clinical Assistant
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University of Oklahoma Medical Center
Oklahoma City, OK 1967-1968
- B. Resident in Medicine
University of Oklahoma Medical Center
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- C. Fellow in Medicine
University of Minnesota
Minneapolis, MN 1964-1966
- D. Resident in Medicine
Anker Hospital
St. Paul, MN 1964-1966
- E. U.S.P.H.S. Heart Disease Control Officer
(Surgeon) 1962-1964
- F. Rotating Internship
Minneapolis General Hospital
Minneapolis, MN 1961-1962
- G. University of Wisconsin 1961
M.D. Degree
- H. University of Wisconsin 1958
B.A. Degree

III. CERTIFICATIONS

- A. Diplomat, American Board of Internal Medicine 1972
28316

IV. STATE LICENSURE

- A. Wisconsin
(Active) #14448 1962
- B. Ohio
(Inactive) #35026198 1962
- C. Oklahoma
(Active) #8792 1966
- D. Kansas
(Inactive) #16555 1976
- E. Michigan
(Inactive) #30548 1972

V. ORGANIZATIONS AND COMMITTEES

- A. Department of Veterans Affairs Medical Center
 - 1. Infection Control Committee

- 2. Critical Care Committee
- 3. Quality Assurance Committee
- B. Oklahoma Memorial Hospital
 - 1. Ad hoc Committee on Respiratory Therapy
Chairman
 - 2. Ethics Committee September, 1992 to present
- C. University of Oklahoma Health Sciences Center
 - 1. Director, Professional Practice Plan Funds Disperser
for Pulmonary Clinical Faculty
 - 2. Sub committee for Development of Standards for
Adult Patient Referrals (Professional Practice Plan) November, 1991 to present
 - 3. Co-Director 19th and 20th Department of Medicine
Critical Care Course 1992 and 1993
 - 4. Ethics Committee

VI. MEMBERSHIPS

- A. National
 - 1. American College of Physicians (Fellow) 1973 to present
Program Chairman, Kansas Regional Meeting 1985
 - 2. American College of Chest Physicians (Fellow) 1973 to present
 - a. Respiratory Therapy Committee
Member of Steering Group 1976 to 1979
 - 3. American Thoracic Society 1968 to present
 - 4. American Association for Respiratory Therapy
Board of Medical Advisors
 - a. Advisor to Committee on Rehabilitation
and Continuing Care 1979 to 1980
 - b. Advisor to Cardiopulmonary Section 1980
 - 5. American Federation for Clinical Research
 - 6. Alpha Omega Alpha - Faculty Member 1982

B. State and Local

- | | |
|------------------------------|-----------------|
| 1. Oklahoma Thoracic Society | 1972 to present |
| Program Chairman | 1972 to 1973 |
| Secretary-Treasurer | 1972 to 1973 |

VII. ORGANIZATIONS AND COMMITTEES

A. Department of Veterans Affairs Medical Center

1. Infection Control Committee
2. Critical Care Committee
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B. Oklahoma Memorial Hospital

1. Ad hoc Committee on Respiratory Therapy
 Chairman
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1. Director, Professional Practice Plan Funds Disperser
 for Pulmonary Clinical Faculty
2. Sub committee for Development of Standards for
 Adult Patient Referrals (Professional Practice Plan) November, 1991 to present
3. Co-Director 19th and 20th Department of Medicine
 Critical Care Course 1992 and 1993
4. Ethics Committee

VIII. PRESENTATIONS

1. Welch MH: Ventilation-perfusion relationships in COPD. University of Oklahoma Graduate Course, Oklahoma City, 1969.
2. Welch MH, Reinecke M, Guenter CA and Hammarsten JF: Comparison of patient populations with alpha₁ antitrypsin deficiency. Transaction: 28th VA-Armed Forces Pulmonary Disease Research Conference, Cleveland, 1969.
3. Welch MH, Reinecke M, Hammarsten JF and Guenter CA: The role of intermediate antitrypsin levels in pulmonary disease. American Thoracic Society, Miami Beach, 1969.
4. Welch MH, Guenter CA, Leu JD and Whitcomb WH: Erythropoietic stimulating factor in chronic obstructive lung disease with polycythemia. Transaction: 29th VA-Armed Forces Pulmonary Disease Research Conference, Cincinnati, 1970.

5. Welch MH, Guenter CA, Leu JD and Whitcomb WH: Oxygen transport and control of erythropoiesis in primary and secondary polycythemia. American Thoracic Society, Cleveland, 1970.
6. Reinecke ME, Guenter CA, Welch MH and Whitcomb WH: Radioisotopic techniques in the study of obstructive lung disease. Southwestern chapter, Society of Nuclear Medicine, Oklahoma City, 1970.
7. Welch MH: Alpha₁ antitrypsin factor deficiency and emphysema. Southern Thoracic Society, Memphis, 1970.
8. Welch MH: Spectrum of pulmonary disease in alpha₁ antitrypsin deficiency. International Symposium on Proteolysis and Pulmonary Emphysema, Pasadena, 1971.
9. Guenter CA and Welch MH: Alpha₁ antitrypsin deficiency and pulmonary disease: The significance of blood-borne mediators of lung injury and defense. Midwestern Respiration Club. Chicago, 1971.
10. Pleural Disease. Western Regional Meeting, Royal College of Physicians and Surgeons of Canada (panel member), Calgary, Alberta, 1972.
11. Welch MH: Workshop on intermittent positive pressure breathing and ventilators. A Practical Workshop in Pulmonary Disease. University of Michigan Postgraduate Course, Ann Arbor, 1973.
12. Welch MH: The importance of heredity in early diagnosis of obstructive pulmonary disease. University of Michigan Continuing Education Course, Advances in Internal Medicine, Ann Arbor, 1973.
13. Panel Chairman: A case presentation on respiratory failure. Blood Gases and Blood Pressure, University of Michigan Postgraduate Course, Ann Arbor, 1974.
14. Welch MH: Workshop on fiberoptic bronchoscopy. Advances in Internal Medicine, University of Michigan Postgraduate Course, Ann Arbor, 1974.
15. Welch MH: Workshop on intermittent positive pressure breathing and ventilators. A Practical Workshop in Pulmonary Disease, University of Michigan Postgraduate Course, Ann Arbor, 1974.
16. Welch MH: Oxygen toxicity. Hypoxemic respiratory failure - mechanisms and management. A Postgraduate Course sponsored by the American College of Chest Physicians and University of Michigan Medical Center, Ann Arbor, 1974.
17. Graham JP, Rotman HH and Welch MH: Workshop: Management of acute respiratory failure. Advances in Internal Medicine, University of Michigan Postgraduate Course, Ann Arbor, 1975.
18. Brook CJ and Welch MH: Workshop: Ventilator, IPPB and nebulization. A Practical Workshop in Pulmonary Disease, University of Michigan Postgraduate Course, Ann Arbor, 1975.
19. Tumors of the Respiratory Tract. Conference on Oncology, Center for Continuing Health Education, Wichita State University, Wichita, 1976.
20. Panel Member: Drugs for asthma. Kansas Regional meeting, American College of Physicians, Overland Park, 1977.

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21. Panel Member: What should be the data base - Psychiatry and Medicine Update 1977. Kansas District Branch, American Psychiatric Association and Department of Postgraduate Education, University of Kansas School of Medicine, Wichita, 1977.
22. Workshop: Spirometry and chronic obstructive pulmonary disease. Annual meeting, Kansas Academy of Family Physicians. Wichita, 1977.
23. Welch MH: Oxygen therapy. Respiratory Therapy Committee Scientific Update, American College of Chest Physicians, Washington, D.C., 1978.
24. Wolfe JE, Ruth WE and Welch MH: Meet the Professor, panel discussion in pulmonary diseases. American College of Physicians, Kansas Regional Meeting, Wichita, 1979.
25. Welch MH: Lung disorders of a rural population. Hertzler Medical Symposium, Halstead, KS, 1979.
26. Banc RC, VanOrdstrand HS, Welch MH and Vrancey GA: Panel discussion: Rural lung disease and disability evaluation. Hertzler Medical Symposium, Halstead, KS, 1979.
27. Welch MH, Manning RT, Grohs HK and Perry J: Workshop on laboratory clues to treatable disease. Internal Medicine for Primary Care Physicians, Wesley Medical Center and UKSM-W, 1979.
28. Donnatelle E, Reed DC and Welch MH: Clinical problems in the elderly patient (panel). Internal Medicine for Primary Care Physicians, Wesley Medical Center and USKM-W, 1980.
29. Greenberger NJ, Ruth WE and Welch MH: MKSAP V review course, sponsored by the University of Kansas and the American College of Physicians, Kansas City, 1980.
30. Ruth WE, Kerby G, Welch MH and Good JT: Pulmonary Diseases Review. MKSAP V review course, 1980.
31. Manning RT, Crow EW, Welch MH, Minns GO and French V: Clinical therapeutics (panel discussion) Internal Medicine for Primary Care Physicians, Wesley Medical Center and UKSM-W, Wichita, 1981.
32. Kleinholtz EJ, Jr., Kerby GR and Welch MH: "Meet the Professor" - panel discussion in pulmonary diseases. American College of Physicians regional meeting, Topeka, KS, 1981.
33. Nellis SF, Welch MH and Meredith WT: Diffuse intrapulmonary hemorrhage without immune complexes or antibasement membrane antibody. American College of Physicians regional meeting, Topeka, KS, 1981.
34. Denning DP, Welch MH and McMullen B: Cryptococcal pneumonia with an endobronchial cryptococcoma: An unusual presentation. American College of Physicians regional meeting, Topeka, KS, 1984.
35. Welch MH: Definitions and Diagnosis in COPD and Therapeutic Uses of Oxygen. Postgraduate Course - Ambulatory Management of COPD in Adults. UKSM-W, Lawrence, KS, 1984.
36. Baker JH, Tosh F and Welch MH: Radiometric method improves data recovery time in pulmonary tuberculosis. American College of Physicians Regional Meeting, Wichita, KS, 1985.

37. Welch MH: COPD; Pulmonary Infections; Pulmonary Function Studies in the Office; Interpreting ABG's. Spring symposium: Topics in Medicine, UKSM-W, Lake of the Ozarks, Osage Beach, MO, 1985.
38. Welch MH: Hypoxemic Respiratory Failure; Disorders of Temperature. 14th Annual Critical Care Medicine Course, University of Oklahoma Health Sciences Center, Oklahoma City, OK, 1987.
39. Welch MH: Acute Lung Injury. 15th Annual Critical Care Medicine Course, University of Oklahoma Health Sciences Center, Oklahoma City, OK, 1988.
40. Welch MH: Acute Lung Injury: Pathogenesis and Pathophysiology. 16th Annual Critical Care Medicine Course, University of Oklahoma Health Sciences Center, Oklahoma City, OK, 1989.
41. Welch MH: Workshop Leader: Pulmonary Problems; Respiratory Failure. 17th Annual Critical Care Medicine Course, University of Oklahoma Health Sciences Center, Oklahoma City, OK, 1990.
42. Welch MH: Exercise and Nutrition in COPD Management. University of Kansas Medical Center, Wichita, KS. Grand Rounds, VAMC. November 1, 1990.
43. Welch MH: Weaning from Mechanical Ventilation. Grand Rounds, St. Joseph Medical Center, Wichita, KS. November 1, 1990.
44. Welch MH: When is CPR Appropriate? Grand Rounds, School of Medicine, University of Kansas Medical Center, Wichita, KS. November 2, 1990.
45. Welch MH: Resident's Noon Conference, Department of Medicine. Weaning From the Ventilator. November 27, 1990.
46. Welch MH: Weaning From Mechanical Ventilation. Oklahoma Medical Center Respiratory Therapy Department. February 5, 1991.
47. Welch MH: Workshop Panel: Difficult Questions in Resuscitation, Withholding and Withdrawal. 18th Annual Critical Care Medicine Course, University of Oklahoma Health Sciences Center, Oklahoma City, OK, 1991.
48. Welch MH: Resident's Noon Conference, Department of Medicine. Inhalation Injury. Sept. 24, 1991.
49. Welch MH: Workshop Panel, University of Oklahoma Department of Medicine 19th Annual Critical Care Course, Oklahoma City, OK, 1992.
50. Welch MH: Department of Medicine Medical Grand Rounds. CPR and DNR: Medical Facts and Ethical Implications. May 13, 1992.
51. Intensive Bioethics Course Georgetown University, Washington, D.C., May 31-June 6, 1992.
52. Welch MH: Department of Neurology Grand Rounds. Medical Facts and Legal Implications. June 18, 1992.
53. Pharmacology 6103: General and Systemic Toxicology. Toxic Response of the Lung. June 30, 1992.
54. Clinical Medicine Course. PA Lecture #3310: Arterial Blood Gas Interpretation and Pulmonary Function Testing. November 10, 1992.

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55. Welch MH: Workshop Panel, 20th annual Department of Medicine Critical Care Medicine Course, 1993.
56. Welch MH: Housestaff Core Conference. "Sarcoidosis". October 26, 1993.
57. Co-Director, Department of Medicine Critical Care Course, Marriott Hotel, March 6-10, 1994.
58. Welch MH: Department of Medicine Grand Rounds. "Sarcoidosis". March 16, 1994.

SUPPLEMENTAL INFORMATION

COUNCIL MEETING

JANUARY 11, 1994

January 3, 1993

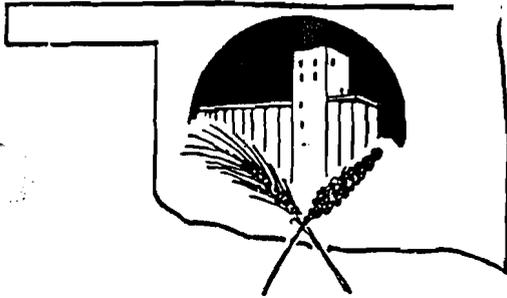
M E M O R A N D U M

TO: Air Quality Council
FROM: *LD* Larry D. Byrum, Director
DM Air Quality Division
SUBJECT: Feed and Grain Rule Update

During the public hearing to adopt revised subchapter 7 and new subchapter 8, the Oklahoma Feed and Grain Association made comments concerning the need for rules specific to their industry. In response to these comments, the staff indicated it would update the Council of the status of efforts to draft grain storage and handling technology specific rules.

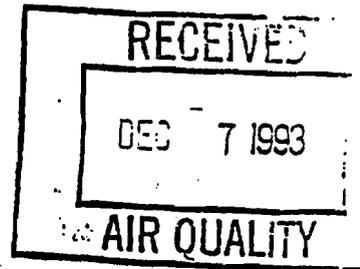
The staff has been working with the grain industry for over two years to assure they were aware of the potential impacts of the forthcoming major source operating permit program requirements under 40 CFR Part 70 and to minimize these impacts as much as possible. And to draft a technology based rule specific to the grain storage and handling industry similar to what has been developed for the cotton ginning industry via subchapter 23. Several discussion meetings have been held and some progress has been made in enlightening the industry of the impacts of Part 70 permitting, but we have experienced difficulties in drafting a proposed rule for grain storage and handling sources. These difficulties include the determination of reliable emission factors, central equipment collection efficiencies, and reasonable economically available control methodology.

In the spring of 1993, the staff proposed a draft rule (attached) to the Grain Industry for their consideration and comments. Their response (attached) was received December 7, 1993. As you can see, there is considerable differences between the two proposals; however, both the grain industry and AQD have contacted Dr. Bill Barfield and his staff of the Oklahoma State University Agricultural Economics Section for assistance and advice in developing a grain storage and handling technology specific rule that is appropriate for the State of Oklahoma.



OKLAHOMA GRAIN AND FEED ASSN

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Farmland Industries
Okeene, OK

December 6, 1993

Mr. Larry Byrum, Director
Air Quality Service
4545 N. Lincoln Boulevard
Oklahoma City, OK 73105

Dear Mr. Byrum:

Enclosed is our draft of Subchapter 24 to the Oklahoma Clean Air Act dealing with grain, feed mill, and grain or seed processors. Our committee looks forward to the meeting with you and your staff on Monday, December 13, 1993, at 1:30 p.m. at your office.

If possible, the committee would like to know the amount of the 5 year permit fee as proposed. They are aware of the proposed amount of the annual minor source fee, but are not aware of the level of the 5 year permit fee.

Since I will be recovering from back surgery, I will not be in attendance at this meeting. I trust you will have a productive one. Until I return to the office, Rick Treeman serve as our "point person".

Most sincerely,

Joe N. Hampton
Executive Vice President

JNH/gw

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SUBCHAPTER 24. Control of Emissions from Grain Elevators,
Feedmills and Grain or Seed Processors.

SECTIONS

310:200-24-1	Purpose
310:200-24-1	Definitions
310:200-24-3	General Provisions: applicability
310:200-24-4	Smoke, visible emissions, and particulates
310:200-24-5	Emissions Control Equipment
310:200-24-6	Fugitive Dust Controls

310:200-24-1. Purpose

The purpose of this rule is to control emissions from facilities that handle, store or process grains, feed or seed.

310:200-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Facility" means any plant or installation at which grain feed or seed is loaded, unloaded, handled, cleaned, dried, stored, treated, or otherwise processed for commercial purposes.

"Facility Site" means the land upon which a grain elevator, feedmill, or grain elevator, feedmill, or grain or seed processing equipment or structures are located.

"Existing facility" means a facility which is in existence and has previously been grandfathered or exempt. All facilities constructed after January 1, 1993 shall be considered new.

"Fabric filter" means any other control device or system in which particulate matter is collected within a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"High efficiency cyclone" means any cyclone type collector of 2D-2D or 1D-3D configuration, designations refereeing to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D. A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D. The efficiencies of these cyclones are 90% and 95% respectively. For TSP - ? in H₂O?

"Dust suppression additives" means FDA or FGIS approved additives applied commercially for dust suppression. The efficiencies of these additives are 90%.

"Air Baffles" means a series of inverted V baffles installed under the dump pit grating which diverts or restricts the air flow from escaping receiving pit, these baffles reduce free air at grating by approximately 85%, with a net reduction of emissions by 50%.

310:200-24-3. General Provisions: Applicability, Calculations

(a) Applicability. The provisions of this subchapter are applicable to all new, modified, and existing facilities operating in the State of Oklahoma. Facilities in compliance with this subchapter are exempt from the requirements of OAC 310:200-25, 310:200-27, 310:200-29, and 310:200-40.

(b) Permits required. In addition to the requirements of this subchapter, each new or modified facility (unless modification doesn't increase net emissions) shall comply with the permitting requirements of OAC 310:200-7. An agricultural specific, industry adaptable permit shall be adopted.

(c) Record-keeping. The owner or operator of a facility shall maintain a log documenting the annual commodity throughput. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Service personnel or its representative during normal business hours.

(d) Test methods.

(1) Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A and be performed by an individual possessing current certification.

(2) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

(3) Effective date. This subchapter shall become effective upon approval by the Air Quality Division of the Oklahoma Department of Environmental Quality.

(e) Calculations. Appropriate emission factors shall be obtained using the PM-10 increments found in the AIRS facility subsystem source classification codes (SCCs) and emission factor listing criteria pollutants (EPA-450/4-90-003), with allowances for control efficiency. AP-42 could be substituted with allowances for control efficiencies in lieu of SCC factors.

Use what is contained in OAC 310:200-7.9

Impact on environment

310:200-24-4. Smoke, visual emissions, and particulates

(1) Emissions limit. No person shall cause, suffer, allow or permit discharge of any fume, aerosol, mist, gas, smoke, vapor, particulate matter of any combination thereof a shade or density greater than thirty (30) percent opacity.

21100-254(a) must apply

(2) Alternate emissions limit. The thirty (30) percent opacity limit as required under 310:200-24-4 (a) may be increased, for particulates only, to (50) percent in the receiving areas and to (60) percent at the loadout areas of the facilities. An average of no more than (30) percent opacity for the entire facility will be maintained. *what does it mean*

(3) PM-10 emissions limit. No facility shall impact the ambient air quality in such a manner as to violate the primary PM-10 standard of 50 ug/m3 annual arithmetic mean or 150 ug/m3 24-hour average or any other ambient air standard established by OAC 310:200-3.

310:200-24-5. Emission Control Equipment

Emissions that do not exceed the standards for ambient air, do not interfere with the use of adjacent properties, as well as do not make a facility become classified as major source should be controlled at the operators discretion.

we can not allow a single to interfere with the air quality standards

who makes these determinations

310:200-24-6. Fugitive Dust Controls

All facilities will take reasonable precautions to prevent the discharge of visible emissions of fugitive dust beyond the property line from which the emissions originate.

Try to mix these existing requirements together

This requires no control equipment and if has been determined that grain elevator do not comply will appear in the next rule without control equipment

DRAFT

SUBCHAPTER 24. Control of Emissions from Grain Elevators

Section

- 310:200-24-1 Purpose
- 310:200-24-2 Definitions
- 310:200-24-3 General provisions: applicability
- 310:200-24-4 Smoke, visible emissions, and particulate
- 310:200-24-5 Emissions control equipment
- 310:200-24-6 Fugitive dust controls

310:200-24-1. Purpose

The purpose of this rule is to control particulate emissions from grain elevators.

310:200-24-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Elevator site" means the area upon which a grain elevator is located and all contiguous land having common ownership or control.

"Existing elevator" means a grain elevator which was in existence and has submitted a current accurate emission inventory to the Air Quality Service for the years 1990 and 199³. All other grain elevators shall be considered "new".

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"Fabric filter" means any control device or system in which particulate matter is collected within a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration, designations referring to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 X D and a cone length of 2 X D (90 percent collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 X D (95 percent collection efficiency for TSP).

"Grain elevator" means any plant or installation at which grain is loaded, unloaded, handled, cleaned, dried, stored, or treated for commercial purposes.

310:200-23-3. General Provisions; applicability

(a) Applicability. The provisions of this Subchapter are applicable to all new, modified, and existing grain elevators operating in the State of Oklahoma. Grain Elevators in compliance with this Subchapter are exempt from the requirements of OAC 310:200-25, 310:200-27, and 310:200-29.

(b) Permits required. In addition to the requirements of this Subchapter, each new or modified Grain elevator shall comply with permitting requirements of OAC 310:200-7.

(c) Air Toxics emissions. The requirements of this Subchapter are in addition to any which may be required under OAC 310:200-41.

(d) Record-keeping. The owner or operator of a grain elevator shall maintain a log documenting the daily process weight and hours of operation and air emissions control equipment replacement/repair cost. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Service personnel or its representative during normal business hours.

(e) Test methods.

(1) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A and be performed by an individual possessing current certification.

(2) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

(f) Effective date. This Subchapter shall become effective ??????.

300:200-24-4. Smoke, visible emissions, and particulates

(a) Visible Emissions limit.

(1) Emissions limit. No person shall cause, suffer, allow or permit discharge of any fume, aerosol, mist, gas, smoke, vapor, particulate

matter or any combination thereof a shade or density greater than twenty (20) percent equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for an period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24-hour period.

(2) Alternative emissions limit. The twenty (20) percent opacity limit as required under 310:200-23-4(a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 310:200-25-4(a) through (c) will be met.

(b) PM-10 emissions limit. No grain elevator shall impact the ambient air quality in such a manner as to violate the primary PM-10 standard of 50 ug/m³ annual arithmetic mean or 150 ug/m³ 24-hour average or any other ambient air standard established by OAC 310:200-3.

310:200-24-5. Emissions Control Equipment

(a) Grain turning and Conditioning.

(1) Elevators with a rated turning rate equal to or greater than 10,000 bushels per hour shall for emission control utilize, at a minimum, a fabric filter or other control equipment of equivalent collection efficiency.

(2) Elevators with a rated turning rate of less than 10,000 bushels per hour shall for emission control utilize, at a minimum, an A.E.C. long cone high efficiency cyclone or other control equipment of equivalent efficiency.

(b) Grain loading and unloading.

(1) Elevators located within the corporate city limits of any city or within 300 feet of two or more occupied establishments shall for the control of fugitive emissions utilize the following: wind screening/enclosure on at least three sides (without truck lift) or wind screening/enclosure on two sides (with a truck lift); and negative air pressure (suction) on the dumping area or pit created by a properly sized suction fan which will be exhausted through a properly sized A.E.C. long cone high efficiency cyclone or other control equipment of equivalent collection efficiency; or other control equipment of equivalent collection efficiency.

(2) Elevators located outside the corporate city limits of any city and greater than 300 feet from two or more occupied establishments shall for the control of fugitive emissions, at a minimum, utilize wind screening on at least two sides of the dumping area or pit, or control equipment of equivalent collection efficiency.

310:200-24-6. Fugitive dust controls

(a) For control of fugitive dust; except as provided in OAC 310:200-24-5(b) (1) and (4); no person shall cause or permit the handling,

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transporting, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being airborne, or wind-borne, or to operate or maintain or cause to be operated or maintained, any grain elevator premise, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any material or substance likely to be scattered by the wind or air, or susceptible to being wind-born or air-born that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.

(b) No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

rev. # 3 (9/11/92)

SUPPLEMENTAL INFORMATION

COUNCIL MEETING

MARCH 8, 1994

6435

MARK S. COLEMAN
Executive Director



DAVID WALTERS
Governor

State of Oklahoma
DEPARTMENT OF ENVIRONMENTAL QUALITY

February 18, 1994

M E M O R A N D U M

TO: Air Quality Council
FROM: Larry D. Byrum, Director
AIR QUALITY DIVISION
SUBJECT: MARCH 8 COUNCIL PACKET

Please find enclosed additional information regarding agenda item OAC 252:100-24 Control of Emissions From the Grain Handling and Processing Industry.

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MARK S. COLEMAN
Executive Director



DAVID WALTERS
Governor

State of Oklahoma
DEPARTMENT OF ENVIRONMENTAL QUALITY

January 7, 1998⁴

Ms. Jole C. Luehrs, Chief
New Source Review Section
EPA Region VI (6T-AN)
1445 Ross Avenue
Dallas, TX 75202-2733

RE: CLARIFICATION OF ISSUES REGARDING GRAIN ELEVATORS

Dear Ms. Luehrs:

I want to express our appreciation for the opportunity to have Nick Stone attend our January 5 meeting with the Oklahoma Feed and Grain Committee. His participation was very helpful for all involved in this somewhat difficult issue. We are moving forward in our efforts to develop a mutually acceptable rule which will be specific to the feed and grain industry. However, there are two key issues which were discussed in our meeting which need further clarification before we can proceed:

1. Definition of fugitive source.

Emissions from receiving (dump) pits and unloading stations, including railcar loadouts at grain elevators are a significant percentage of the total particulate emissions. Emissions from these points are typically difficult to effectively control. How we address these emissions will depend on whether they are considered fugitive emissions, process fugitives or point sources.

Our latest draft included opacity limits for these points which would be very difficult for the facilities to meet. In addition, our experience with site investigations at grain elevators has demonstrated the difficulty in making visual emissions readings at receiving and loadout points. Please provide us guidance in addressing these emissions. Does EPA consider these point source, process fugitive or fugitive emissions?

2. Regulated air pollutant for Part 70.

The Oklahoma Feed and Grain Committee has requested that emissions calculations and determinations of applicability to Part 70 operating permits be based on PM-10 rather than PM (TSP). Please provide EPA's position regarding the use of PM-10 emissions instead of PM (TSP) when calculating source emissions for Part 70 determinations.

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Ms. Jole C. Luehrs

January 7, 1993

Page 2

We need to resolve these questions before we can decide the direction to proceed with this new rule. Your attention to this matter will be greatly appreciated.

Thank you for your continued help and cooperation,

Sincerely,

A handwritten signature in cursive script that reads "Joyce D. Sheedy for Larry D. Byrum". The signature is written in dark ink and is positioned below the word "Sincerely,".

Larry Byrum, Director
Air Quality Division

cc: Doyle McWhirter, Director, Permits and Enforcement
Joyce D. Sheedy, Ph.D., Acting Supervisor, Permits
Deborah Perry, Engineer, Permits

MARK S. COLEMAN
Executive Director



David Walters

DAVID WALTERS
Governor

State of Oklahoma
DEPARTMENT OF ENVIRONMENTAL QUALITY

February 14, 1994

Mr. Phil Kenkel, Ph.D.
Extension Agricultural Economist
Oklahoma Cooperative Extension Service
109 Agricultural Hall
Stillwater, Oklahoma 74078

RE: Protocol for Field Study of Grain Dust Emissions

Dear Drs. Kenkel and Noyes:

I have reviewed the proposed protocol for the grain dust emissions field study and have discussed it with other members of our staff. I believe the proposal will provide us some valuable data for comparison with the emission factors provided in AP-42. The mass balance approach seems to be the best method available to us in this short time frame. The results of this study should provide us with scientifically sound, unbiased data that can be used to make acceptable adjustments to the AP-42 factors if warranted.

We do have some concerns that will have to be considered when we are examining the results. Due to financial and time constraints certain issues cannot be addressed in this study, however, they must be considered in our final analysis of the data produced from this study. For this reason we would like to clearly voice these concerns now so that they will be known to everyone involved and any possible revisions of the protocol can be made at this time to address these concerns where possible.

We must look carefully at the results of this study and consider the implications regarding grain dust emissions. If everyone involved accepts the study as unbiased and scientific, then we will consider the results regardless of whether they are lower or higher than the AP-42 calculated emissions.

In addition, we need to take into account the quality or grade of the grain used in each test run. I think we would prefer that more than one test be performed using different grades of grain in each. However, I realize this may not be possible due to time limitations and availability of grain. At a minimum the grade of the grain used must be well documented.

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Drs. Kenkel and Noyes
February 14, 1994
Page 2

There are many situations at grain elevators which can cause variations in dust emissions and we will not be able to account for each of these in this study. However, certain situations must at least be considered when analyzing the results. We will want to consider possible differences in the emissions from elevators which are very near capacity versus those which are nearly empty. In addition, we must consider if the results are representative of emissions from grain which has been turned/handled several times as well as for freshly harvested grain.

We feel the biggest drawback of this method is the fact that the results will be facility-wide. Thus, we will not have results which can be compared with AP-42 factors for each point/process at the facility. We will only be able to compare the results with the sum of the AP-42 calculated emissions for each point. However, we feel this is the best method available at this time considering the economic and time limitations. We will make appropriate adjustments to AP-42 emission factors (if the study warrants) with this and any other considerations in mind.

A response to these comments is not necessary unless certain changes to the protocol will be implemented to account for these concerns. Otherwise, we will discuss any concerns when analyzing the results.

Please contact our office as soon as possible testing facilities have been identified. We are anxious to get the project underway and would like to have the opportunity to be present during the testing. Please feel free to contact me at 271-5220 ext.116 if you have any questions. Thank you for your continued cooperation.

Sincerely,



Deborah Perry
Environmental Engineer
Air Quality Division

cc: Ron Noyes, P.E., Biosystems and Agricultural Engineering, OSU
Doyle McWhirter, Director, Enforcement and Compliance, AQD



Oklahoma Cooperative Extension Service

Division of Agricultural Sciences and Natural Resources
Oklahoma State University

Mr. Larry Byrum, Director
Air Quality Division
Department of Environmental Quality
4545 North Lincoln Blvd., Suite 250
Oklahoma City, OK 73105-3483

January 24, 1994

RE: Request for Assistance on Fugitive Dust Emissions by the Oklahoma Department of Environmental Quality and the Oklahoma Grain Elevator Industry

Dear Mr. Byrum;

On January 3, we met with representatives of the Oklahoma Department of Environmental Quality. During that meeting, they indicated the need for technical assistance in working with the grain elevator fugitive dust issue. In our discussion, they indicated a concern with the accuracy of emission data in Table AP-42, but felt that there was not suitable data available to support alternative emission factors. While they were sympathetic with the grain industries concern over the economic impact of the proposed grain dust regulations, they emphasized their need to base emission factors on realistic, scientifically based estimates of grain elevator dust emissions.

Shortly after our meeting with DEQ representatives, the Oklahoma Grain Elevator Task Force involved in developing Sub-Chapter 24 of Oklahoma Air Quality Regulations contacted us with similar concerns over basing the fugitive dust emission calculations on the EPA Table AP-42, and asked for technical assistance from OSU.

During the past week, we reviewed the Final Report, Contract No. 68-02-0228, Task No. 24 prepared by Midwestern Research Institute for EPA where the AP-42 data was developed. From this review, a number of concerns are raised about this research, including the weighing systems and the reintroduction of the dust to the grain stream, where it appears that the researchers may have recovered and measured part of the same dust more than once. The measurement process we propose in this study eliminates that type of problem.

In recognition of the importance of this issue and in response to these requests for fugitive dust emission information, we are proposing that OSU conduct a study of overall grain dust emissions. We have developed the protocol for a model field study of three categories of elevators. Given the time and budgetary constraints, we feel that this study represents the best avenue of providing scientifically sound, unbiased data on this important issue.

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We understand from our discussions with the DEQ representatives that the draft regulations need to be finalized during the next two months. This time frame works best within our regular university work schedules, as we have heavy time commitments from mid-March through mid-May. If you and the Air Quality Council concur with the need for this research, the protocol and field study preparations should be quickly finalized.

Our objective is to serve as an unbiased third party in conducting research which addresses the concerns of DEQ and the grain elevator industry. If all of the concerned parties agree with this important study, we would hope to work closely with the council and DEQ in finalizing the research protocol. In light of the time pressures involved it would be helpful if you could review this proposal and let us know your response within the next week. If needed, we will meet with you, your staff, and representatives of DEQ to discuss this proposed study.

We look forward to your response.

Sincerely



Ronald T. Noyes, P.E., Professor
Extension Agricultural Engineer
Stored Grain Management



Phil Kenkel, Ph. D., Assistant Professor
Extension Agricultural Economist
Agribusiness

c: Bill Barfield, Biosystems & Agr. Engr.
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Ray Campbell, Interim Dir., CES
Elevator Task Force

Enclosure

January 24, 1994

**Proposed Grain Dust Emission Values Study
for
Oklahoma Department of Environmental Quality**

submitted by

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Biosystems & Agricultural Engineering Department
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SITUATION

The 1990 Federal Clean Air Act amendments (FCAA) require states to regulate industries and facilities that emit air pollutants. The EPA must approve state plans to enforce the FCAA within the set standards of the amendments. The interpretation and definition of the amendments have not been completed or specified in some commercial agricultural areas in Oklahoma, including grain elevators and feed mills.

An EPA document entitled AP-42 contains tables of emission factors for various air pollutants from different sources, including agriculture and the grain industry. The emission factors for commercial grain handling facilities are based on EPA sponsored research reported by Midwest Research Institute in "Potential Dust Emissions from a Grain Elevator in Kansas City, Missouri", the Final Report, Contract No. 68-02-0228, Task No. 24 prepared by Midwestern Research Institute for EPA where the AP-42 data was developed.

Our review of the Midwest Research document indicates several serious research problems. Three significant problems were: 1] the grain dust weighing system, which did not operate accurately part of the time; 2] the grain dust routing system where the dust was discharged back into the grain, where in some cases, the same dust may have been recovered more than once; and 3] the fact that their tests involved extracting data from a high velocity negative air aspiration filtering system, which collected grain dust, fine grain particles, and foreign material, some of which did not have the potential to become airborne, this was not a true fugitive dust collection study.

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Grain elevator industry managers and university stored grain research and extension scientists in several states, including Oklahoma, are concerned about the accuracy of AP-42 table values because of biased research techniques, they believe the AP-42 table contains unrealistically high grain handling emission factors.

PROPOSED STUDY

If AP-42 emission data are biased and do not represent a valid and reasonable representation of dust emissions from grain transfer systems in elevators, the use of this data imposes an unrealistic loss penalty to Oklahoma grain handlers. Government and industry personnel agree that research is needed to validate or refute AP-42 emission factors. The appropriateness of AP-42 emission factors for Oklahoma elevators is extremely important since controlling grain dust will have a large economic impact on the Oklahoma grain industry. Resources and time are not available to conduct the complex engineering and economic studies needed to reconstruct and validate all emission source data points listed by AP-42.

The Oklahoma Department of Environmental Quality has expressed intention to work with the grain industry to develop a plan which complies with the 1990 Federal Clean Air Act requirements but minimizes the adverse economic impact on the industry. If the AP-42 emission factors are inappropriate for Oklahoma grain elevators, any alternative measures or adjustments to the AP-42 estimates must be based on sound, unbiased research.

Requests have been made by DEQ leaders and the Oklahoma elevator task force that OSU specialists develop a study to document levels of emissions from representative grain elevators. In keeping with its public service role, it is proposed that faculty specialists and technicians from the Division of Agricultural Sciences and Natural Resources, Oklahoma State University assist in providing additional information on this important issue. OSU has a strong, multidisciplinary team of specialists working in stored grain who are qualified, unbiased (as evidenced by national publications, receipts of unsolicited federal grants, and invitations to present at national and international stored grain conferences) and are willing to assist in this effort.

Based on these requests, the following model research project is developed to determine overall levels of grain dust emitted during grain handling operations, typical in both country and terminal elevators.

RESEARCH OBJECTIVES

Within the existing time and budget constraints, resources are not available to replicate and validate the original research on which AP-42 is based. The following study has been designed to document general composite estimates of potential fugitive grain dust emissions for typical Oklahoma grain elevator facility operations.

Specific objectives include:

1. Determine the total weight loss (shrinkage) from complete and partial handling cycles in typical types of grain elevator facilities (concrete silos in country elevators, steel tanks at country elevators, and concrete facility at terminal elevators).
2. Determine the proportion of the previously identified weight loss that can be accounted for by measured moisture loss and recovered grain (sweepings) within the elevator facility and premises.
3. Based on the results of objectives 1 and 2, determine upper limits of dust which could be emitted by each type of elevator facility. If these upper limits are lower than the amounts implied by the AP-42, procedures for adjusting the AP-42 estimates will be proposed.

RESEARCH BASIS

Grain dust emissions are measured on the basis of units weight of dust per weight of product (i.e. pounds dust/ton of grain). If a specified lot [weight] of grain is brought into a grain facility, unloaded, moved through specific processes, held in storage until the entire lot is received, then loaded out and weighed again immediately during load out, the difference in the original weight of the incoming grain and the outgoing weight of grain will be the *maximum potential amount of dust emitted* by the sum of the processes involved.

At that point, total weight in minus total weight out = gross weight differential. The gross weight differential does not account for other losses which may occur during normal handling that do not constitute fugitive dust emissions. For example, recovered grain materials like grain dust, kernel particles and foreign material (sweepings) that were part of the total weight in that are released from the grain but fall or settle to the floor, ground, driveway or other parts of the elevator facility and are retained within the facility premises. The net difference between the gross weight differential determined by scale weights minus the recovered grain materials that are weighed and moisture loss is the net fugitive grain dust that is emitted to atmosphere, or gross weight differential - recovered grain material - moisture loss - sweepings = fugitive grain dust emitted.

STUDY DESIGN

Several elevator locations identified by the OSU research team will be reviewed to select the three locations to be used as test sites. Testing is estimated at one day per elevator site, or three days total.

Hard red winter wheat will be brought into the elevator by truck, weighed on the truck scale, unloaded at the grain pit, elevated through the leg, discharged through the distributor and down spouts directly into a steel bin or concrete silo, or discharged onto a conveyor belt, conveyed down a belt and discharged through a tripper into a concrete silo. All grain in each test will be accumulated in the storage tank or silo before any unloading begins. Unloading will be continuous until the storage structure is empty.

A steel bin will be unloaded either by auger, by side draw gravity spout or elevated through the leg and loaded onto trucks, then weighed. A country elevator concrete silo will be unloaded via a belt, leg and down spout into trucks, then weighed. A terminal elevator concrete silo will be unloaded via a belt and leg and down spouts to trucks, then weighed. Each storage structure and the remainder of the elevator where dust settled from conveyors or spouts will be cleaned and the sweepings weighed.

A minimum volume of at least 25,000 bushels (1,500,000 lbs.) of Oklahoma hard red winter wheat will be unloaded, handled, and outloaded through three different representative elevators within the state. The actual volume may be higher, based on the elevator selected for the test. The incoming and outgoing grain will be weighed on certified scales checked by a state licensed inspector. Scales with weight increments of 20 lbs. that are accurate to within 0.10% of the maximum capacity of the scale will be used. Thus, if the weight loss of 7,816 is off by 0.10% or 0.001, that would be 7.8 lbs.

All areas of the elevator involved in these grain handling tests will be cleaned immediately before the test at each elevator, be inspected by OSU representatives and sealed off during the test. Cleanup of dust, trash and grain particles will be conducted under the supervision of OSU specialists immediately after the last grain is weighed, to allow for adjustment of the weight differential.

In order to test both country and terminal elevators using steel and concrete storage facilities, three types of facilities are proposed for testing:

1. A country elevator using steel bin storage and a leg capacity of 7,000-12,000 bu/hr with a direct unload auger, tank side draw unload spout, or leg and down spout loadout to trucks for weighing out.
2. A country elevator with concrete silo storage and leg capacity of 7,000-12,000 bu/hr. Leg can dump directly into the silo from down spout, and grain can return to leg for down spout load out to trucks for weighing out.

3. A terminal elevator with concrete silo storage and leg capacity of 10,000-20,000 bu/hr. Leg to dump on gallery belt with tripper discharge into concrete silo; silo unloads onto tunnel belt to leg for down spout load out to trucks for weighing out.

Note: It is not necessary to evaluate steel tanks at terminal elevators since each bin size at terminal facilities are similar in size to tanks at country elevators.

Both accountable (moisture loss and floor sweepings) and unaccountable (potential fugitive dust) grain handling weight loss will be measured in three typical elevator facilities. Each facility will be cleaned before the test lot of grain is transferred through the facility and loaded back out; dust, trash and grain kernel particles accumulated on the floors and equipment will be collected and weighed. These sweepings will be combined with computed moisture loss, and will be subtracted from the test lot weight loss differential to determine the actual product weight loss emitted as fugitive dust - - dust which actually leaves the premises.

Grain handling at many country elevators often does not involve head house or tunnel belt conveying operations. Grain is typically unloaded directly out of steel grain bins and silos by down spout or inclined auger conveyors, without returning to the main leg. In the test model for country elevators, we propose to use a modified handling path that elevates the grain one time through the main elevator leg, with unloading coming from the storage unit directly back into the truck for weighing.

Moisture is a potential component that can be accounted for by accurately measuring grain moisture content and weight before and after each complete transfer process. **Example:** 25,000 bushels of HRW wheat weighed in at 1,500,000 lbs. and weighed out at 1,494,340 lbs., with a gross weight loss of 5,660 lbs. Assume the housekeeping cleanup operation sweepings weighed 1,880 lbs. and that the average moisture level of incoming wheat was 11.23% [wet basis] and outgoing wheat averaged 11.18% [wet basis].

The weight loss of the original grain lot due to moisture loss is computed by the formula:

$$FGW = IGW \times \left[1 - \frac{IMC}{100} \right] / \left[1 - \frac{FMC}{100} \right]; \quad \text{[Equation 1]}$$

$$MWL = IGW - FGW; \quad \text{[Equation 2]}$$

Substituting Equation 1 for FGW in Equation 2,

$$MWL = IGW - IGW \times \left[1 - \frac{IMC}{100} \right] / \left[1 - \frac{FMC}{100} \right]. \quad \text{[Equation 3]}$$

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where:

MWL = Moisture Weight Loss
IGW = Initial Grain Weight
FGW = Final Grain Weight
IMC = Initial Moisture Content
FMC = Final Moisture Content

$$\text{Then, MWL} = 1,500,000 - 1,500,000 \times \frac{[1 - 0.1123]}{[1 - 0.1118]} = 1,500,000 - 1,499,155.6;$$

MWL = 844.40 lbs. of water lost during the handling process.

Thus, the total loss of fugitive grain dust would be 1,500,000 - 1,494,340 - 1,880 - 844 = 2,936 lbs. Dividing 2,936 lbs. by 1,500,000 lbs. = 0.0019573, or 0.196% fugitive emission dust loss.

PROCEDURAL GUIDELINES

Procedural guidelines proposed by OSU grain handling specialists are:

1. OSU specialists and technicians will act as third party representatives to monitor all test functions and activities, certifying that truck or elevator batch scales used in the test have been inspected within the normal allotted time specified by state law for weights and measures.
2. Tests will be conducted at three Oklahoma grain elevators with facilities that are representative of operations typical of Oklahoma grain elevator operations.
3. Test lots of about 25,000 bushels [approximately 1,500,000 lbs.] of hard red winter wheat will be transferred at each of three selected elevator facilities, with OSU specialists selecting typical grain lots to be transferred.
4. Grain facilities will be swept clean immediately prior to the test so that test grain lot fractions, foreign material and dust that falls or settles on the premises can be recovered for weighing to compute the fugitive grain dust component of the test. All areas involved in handling the test lot of grain will be inspected and sealed off or monitored by OSU specialists or technicians.
5. Since AP-42 is based on a grain elevator with no dust control, all dust control devices in the elevator system will be shut off during the entire test and controls to these devices will be sealed off by OSU specialists.

6. Grain bins or silos that receive, accumulate and hold the test lot of grain will be cleaned, inspected by OSU specialists, and sealed off prior to and during the tests. Cleanup of the bins or silos will be under the supervision of OSU specialists.

7. Trucks used for transporting will be inspected, fuel tanks topped off, and fuel will be added at periodic intervals to maintain the truck tare weight at the initial test weight for weighing operations, or each empty truck will be re-weighed after five loads to see if the tare weight has changed significantly.

8. Each truck load of wheat going in and coming out will be sampled for moisture and a composite moisture will be established for the total initial lot weight and final lot weight so that the grain lot moisture differential weight can be computed for each test.

9. Fugitive dust emissions for each elevator test will be computed by taking the initial lot weight minus final lot weight, minus sweepings, minus moisture loss differential.

10. Fugitive dust emissions weight for each of the three elevator tests will be computed as a percentage of grain handled, and this value will be used as a ratio factor multiplier for a given type of elevator to adjust the total emission value for each type of elevator grain handling operation.

11. Department of Environmental Quality and Elevator Industry representatives are invited to be on hand during the tests to observe the test operations, so each group fully understands and is in agreement with test procedures.

12. Test result modifiers of AP-42 table values can be included in Sub-Chapter 24 language as relates to fugitive dust emissions [in place of original AP-42 data only]. These can then be submitted for approval by the Air Quality Council and Region 6 EPA administrators.

IMPLICATIONS

The results of this experiment are expected to demonstrate the relative maximum amounts of dust emitted by handling grain through complete processes at facilities which are typical of dust emission processes that normally occur in country and terminal elevators.

The sum of the emission factors from AP-42 for the cumulative processes by which the grain is handled can be compared to the losses that actually occur during each composite handling experiment. If the actual emissions are significantly less, then a correction factor can be applied to AP-42 values to provide more reasonable emission factors for the Oklahoma grain industry.

MEMORANDUM

SUBJECT: Definition of Regulated Air Pollutant for Purposes of Title V

FROM: Lydia N. Wegman, Deputy Director
Office of Air Quality Planning and Standards (MD-10)

TO: Air Division Director, Regions I-X

In response to requests for guidance on the definition of "regulated air pollutant," this memorandum clarifies the approach set forth by the definition in the 40 CFR part 70 regulations and indicates the ways in which the class of regulated air pollutants can change. The attachment provides a compilation of the lists of pollutants which are considered "regulated air pollutants" for purposes of the operating permits programs under title V of the Clean Air Act (Act). This memorandum also provides guidance on the Environmental Protection Agency's (EPA) definition of "air pollutant," as that term is used in determining major source status pursuant to section 302 of the Act. Finally, this memorandum emphasizes the ability of permitting authorities to designate certain quantities of emissions of regulated air pollutants as "insignificant" with respect to the obligation to report emissions of those pollutants in permit applications. The policies set out in this memorandum and attachment are intended solely as guidance, not final agency action, and cannot be relied upon to create any rights enforceable by any party.

I. Regulated Air Pollutant

The definition of regulated air pollutant, found at 40 CFR 70.2 is important because it determines which pollutants and emissions units must be addressed in a source's title V permit application. In addition, this definition can affect whether a State's fee revenue is presumed adequate to fund its title V program and in some cases, the amount of permit fees a source must pay. Each of these roles is discussed below.

Once a source is subject to a title V permitting program, its emissions of all regulated air pollutants (except those which meet the permitting authority's criteria for "insignificant" emissions) must be described in the permit application along with all emissions of pollutants for which the source is considered major. Similarly, applications must describe all emissions units

which emit regulated air pollutants (except those deemed insignificant).

In addition, the concept of regulated air pollutant plays an important role in the area of permit fees. First, regulated air pollutants are the starting point for determining which pollutants must be included when relying on the \$25 ton per year (as adjusted by the consumer price index) presumptive minimum program cost as a basis for demonstrating the adequacy of a State's projected fee revenue. As part of this demonstration, the State projects its revenue using a subset of regulated air pollutants [i.e., regulated pollutant (for presumptive fee calculation)]. Second, many States are developing fee schedules which impose fees based on emissions of regulated air pollutants."

The population of regulated air pollutants is composed of the following categories of pollutants:

(1) Nitrogen oxides (NO_x) and volatile organic compounds (VOC's). The definition of regulated air pollutant specifically includes these two significant precursors to ozone formation. This approach is consistent with the Act's treatment of VOC's and NO_x pursuant to part D of title I of the Act. (These ozone precursors are combined with the criteria pollutants for purposes of the attached list of regulated pollutants);

(2) Any pollutant for which a national ambient air quality standard has been promulgated [i.e., particulate matter (measured as PM-10: particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers), sulfur dioxide, ozone, nitrogen dioxide, carbon monoxide, and lead];

(3) Any pollutant that is subject to a new source performance standard promulgated under section 111 of the Act [including section 111(d)], which require new and modified sources to satisfy emissions standards, work practice standards, and other requirements;

(4) Any of the ozone depleting substances specified as a Class I (primarily chlorofluorocarbons) or Class II substance (hydrochlorofluorocarbons) under title VI of the Act [all of which became regulated pollutants when they became subject to standards and requirements for (1) servicing of motor vehicle air conditioners and (2) restrictions on the sale of ozone-depleting substances promulgated into 40 CFR part 82 (57 FR 31242, July 14, 1992)]; and

(5) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g)(2), (j), and (r) of the Act.

It is important to note that, if a pollutant is regulated

for one source category by a standard or other requirement, then the pollutant is considered a regulated air pollutant for all source categories. This rule is relevant to all the pollutants listed under items (3), (4), and (5) above with one exception: those which are the subject of case-by-case MACT determinations under section 112(g)(2).

The issue of when a substance regulated under section 112 becomes a regulated air pollutant merits further discussion:

- When a permitting authority makes a case-by-case MACT determination under section 112(g)(2), then the pollutant for which the determination is made is regulated even though EPA has not issued a standard for that pollutant. However, the pollutant is considered regulated only with respect to the individual source for which the MACT determination was made.
- A pollutant will become regulated under section 112(j) of the Act (the "MACT hammer") if the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act. Pursuant to section 112(j), permitting authorities will be required to make case-by-case MACT equivalent determinations. The pollutants become regulated nationwide upon the date this provision takes effect for the pollutant (i.e., 18 months after the missed deadline for the standard but not prior to 42 months after the enactment of the Act Amendments of 1990). Pollutants so regulated are considered regulated air pollutants for all sources that emit the pollutant because the hammer provision is a broadly applicable surrogate for the promulgation of a MACT standard. This is in contrast to the section 112(g)(2) determinations which are triggered only for the single source subject to the requirement, rather than nationwide.
- The EPA's proposed rule required by section 112(r)(3), lists substances which could cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment if accidentally released, was published in the Federal Register on January 19, 1993 (58 FR 5102). All of the listed pollutants will become regulated air pollutants upon promulgation of the list.

The attachment to this memorandum contains a list of pollutants which are regulated as well as a list of pollutants which are subject to regulation under section 112 in the future, as discussed above. It is also important to note that the attached lists are dynamic and subject to change. For example, the EPA is required to review periodically the statutory list of pollutants in section 112(b) and is authorized to delete and add substances if the scientific data demonstrate that such a change

is appropriate.

We have attempted to note the likely near-term changes in the regulations that determine which pollutants are "regulated air pollutants," and we will provide updates to this guidance periodically.

The definition of regulated air pollutants does not limit the air pollutants which a State may choose to regulate nor does it limit the information (such as for permit applications) which a State may require of a source. States are free to adopt more expansive approaches to the regulation of toxic air pollutants than is required by part 70.

II. Definition of "Air Pollutant" Pursuant to Section 302

Considerable interest has been expressed in a related, but distinct, area: the definition of "air pollutant" contained in section 302(g) of the Act. This definition governs which pollutants are to be considered in determining whether a source is "major" pursuant to section 302(j) of the Act. This is important to the operating permit program because all major sources must obtain a title V permit. Although section 302(g) can be read quite broadly, so as to encompass virtually any substance emitted into the atmosphere, EPA believes that it is more consistent with the intent of Congress to interpret this provision more narrowly. Were this not done, a variety of sources that have no known prospect for future regulation under the Act would nonetheless be classified as major sources and be required to apply for title V permits. Of particular concern would be sources of carbon dioxide or methane.

As a result, EPA is interpreting "air pollutant" for section 302(g) purposes as limited to all pollutants subject to regulation under the Act. This would include, of course, all regulated air pollutants plus others specified by the Act or by EPA rulemaking. This approach results in the inclusion of the pollutants on the list of hazardous air pollutants in section 112(b) that are not otherwise regulated. It should be noted that the 1990 Amendments to the Act did include provisions with respect to carbon dioxide (section 821) and methane (section 603), but these requirements involve actions such as reporting and study, not actual control of emissions. Therefore, these provisions do not preempt EPA's discretion to exclude these pollutants in determining whether a source is major. If the results of the studies required by the 1990 Amendments to the Act suggest the need for regulation, these pollutants could be reconsidered at that time for classification as pollutants subject to regulation under the Act.

This approach to interpreting section 302(g) is similar to

the traditional practice of the prevention of significant deterioration (PSD) program under part C of title I of the Act [see, e.g., Implementation of North County Resource Recovery PSD Remand, Gerald Emison, Director, OAQPS, dated September 22, 1987].

III. De Minimis Thresholds

With the 1990 Amendments, the Act expressly addresses a significantly broader range of pollutants. The EPA believes that this will confer real benefits to air quality management and that the title V permit program offers the flexibility for efficient implementation of these requirements. This function includes providing information about emissions of these pollutants, through the permit application process, even if the particular pollutant is not currently required to be controlled at the individual source. The EPA also realizes, though, that in many cases these pollutants are emitted in amounts of no significance to air quality management. It would be unduly burdensome to require permit applicants to quantify all emissions of these pollutants, especially given their considerable number and, in some cases, difficulty in quantification.

The part 70 promulgation recognized this fact but gave only very general guidance as to the approvable options for States in developing their part 70 programs. Section 70.5(c) provides that "[T]he Administrator may approve as part of a State program a list of insignificant activities and emissions levels which need not be included in permit applications." The regulation further provides that "[T]he permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information needed to collect any permit fees owed under the fee schedule approved pursuant to §70.9(b) of this part." §70.5(c)(3)(i).

The EPA understands the need for States to establish de minimis thresholds for emissions reporting purposes in permit applications and recognizes that the particular thresholds selected by individual States can vary based on their air quality management needs and professional judgement. The EPA will work with States to develop part 70 programs that will best meet their program needs.

For further information, call Kirt Cox at (919) 541-5399 or Candace Carraway at (919) 541-3189.

Attachment

cc: Air Branch Chiefs, Regions I - X

Regional Office Permit Program Contacts
 OAQPS Division Directors

LIST OF REGULATED AIR POLLUTANTS
 (As of April 1993)

I. Pollutants for Which an NAAQS Has Been Established

lead
 sulfur dioxide
 nitrogen dioxide
 carbon monoxide
 particulate matter (PM10)
 ozone, including precursors:
 nitrogen oxides (NO, NO₂, NO₃, N₂O, N₂O₃, N₂O₄, N₂O₅)
 volatile organic compounds (VOC's)

As defined in 40 CFR 51.100(s), the term VOC includes any compound of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate) which participates in atmospheric photochemical reactions. The EPA has developed a list of substances (which is subject to change) which are excluded from the VOC definition because of their negligible reactivity. The EPA's proposal to exclude perchloroethylene from the definition was published in 57 FR 48490 (October 26, 1992).

The following organic compounds are excluded from the definition of VOC because of they have been determined to have negligible photochemical reactivity:

methane
 ethane
 methylene chloride (dichloromethane)
 1,1,1-trichloroethane (methyl chloroform)
 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113)
 trichlorofluoromethane (CFC-11)
 dichlorodifluoromethane (CFC-12)
 chlorodifluoromethane (CFC-22)
 trifluoromethane (FC-23)
 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114)
 chloropentafluoroethane (CFC-115)
 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123)
 1,1,1,2-tetrafluoroethane (HFC-134a)
 1,1-dichloro 1-fluoroethane (HCFC-141b)
 1-chloro 1,1-difluoroethane (HCFC-142b)
 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
 pentafluoroethane (HFC-125)
 1,1,2,2-tetrafluoroethane (HFC-134)

1,1,1-trifluoroethane (HFC-143a)
 1,1-difluoroethane (HFC-152a)

perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

II. Pollutants Regulated Under New Source Performance Standards

Criteria pollutants (including VOC's and NO_x) plus:

dioxin/furan (defined in 40 CFR 60.53a to mean total tetra through octachlorinated dibenzo-p-dioxins and dibenzofurans)
 fluorides
 hydrogen chloride
 hydrogen sulfide (H₂S)
 sulfuric acid mist
 total reduced sulfur
 reduced sulfur compounds
 total suspended particulate

* The new source performance standard (NSPS) for municipal waste combustors (MWC) controls emissions of dioxin/furans and hydrogen chloride gas (40 CFR 60.53a and 60.54a) as surrogates for controlling emissions of organic compounds and acid gases which are emitted in the exhaust gases from MWC units. Thus, the indicated dioxin/furan compounds and hydrogen chloride are regulated pollutants.

Note that the EPA has drafted a proposed revision to the NSPS for MWC's which will regulate substances like cadmium which are not currently regulated air pollutants. As this revised NSPS and other standards are developed, there may be additions to the list of regulated pollutants.

III. Class I and Class II Substances Under Title VI

Class I Substances

carbon tetrachloride
chlorofluorocarbon-11 (CFC-11)
chlorofluorocarbon-12 (CFC-12)
chlorofluorocarbon-13 (CFC-13)
chlorofluorocarbon-111 (CFC-111)
chlorofluorocarbon-112 (CFC-112)
chlorofluorocarbon-113 (CFC-113)
chlorofluorocarbon-114 (CFC-114)
chlorofluorocarbon-115 (CFC-115)
chlorofluorocarbon-211 (CFC-211)
chlorofluorocarbon-212 (CFC-212)
chlorofluorocarbon-213 (CFC-213)
chlorofluorocarbon-214 (CFC-214)
chlorofluorocarbon-215 (CFC-215)
chlorofluorocarbon-216 (CFC-216)
chlorofluorocarbon-217 (CFC-217)
halon-1211
halon-1301
halon-2402
methyl chloroform

Class II Substances

hydrochlorofluorocarbon-21 (HCFC-21)
hydrochlorofluorocarbon-22 (HCFC-22)
hydrochlorofluorocarbon-31 (HCFC-31)
hydrochlorofluorocarbon-121 (HCFC-121)
hydrochlorofluorocarbon-122 (HCFC-122)
hydrochlorofluorocarbon-123 (HCFC-123)
hydrochlorofluorocarbon-124 (HCFC-124)
hydrochlorofluorocarbon-131 (HCFC-131)
hydrochlorofluorocarbon-132 (HCFC-132)
hydrochlorofluorocarbon-133 (HCFC-133)
hydrochlorofluorocarbon-141 (HCFC-141)
hydrochlorofluorocarbon-142 (HCFC-142)
hydrochlorofluorocarbon-221 (HCFC-221)
hydrochlorofluorocarbon-222 (HCFC-222)
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hydrochlorofluorocarbon-226 (HCFC-226)
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hydrochlorofluorocarbon-253 (HCFC-253)
hydrochlorofluorocarbon-261 (HCFC-261)
hydrochlorofluorocarbon-262 (HCFC-262)
hydrochlorofluorocarbon-271 (HCFC-271)

IV. Pollutants Regulated Under Section 112

pollutants for which national emission standards for hazardous air pollutants (NESHAP's) have been established:

arsenic
asbestos
beryllium
benzene
mercury
radionuclides
vinyl chloride

POLLUTANTS SUBJECT TO REGULATION UNDER SECTION 112

I. Pollutants listed in Section 112(b):

The 189 pollutants listed in section 112(b) are not considered regulated air pollutants until addressed in a requirement that it be controlled by a source. None of the listed pollutants meets the definition except: asbestos, benzene, and vinyl chloride (for which NESHAP's have been established); and hydrogen chloride (gas), dibenzofurans, and 2,3,7,8-Tetrachlorodibenzo-p-dioxin (regulated under the municipal waste combustor NSPS). Most of the listed pollutants will become regulated when EPA promulgates the Hazardous Organic NESHAP (HON) which is discussed below. The remaining pollutants will become regulated: (1) when EPA promulgates a Maximum Achievable Control Technology (MACT) standard for the pollutant under section 112(d), (2) for a particular source, when case-by-case MACT determinations are made under section 112(g) for the source, or (3) the later of June 15, 1994 or 18 months after EPA fails to issue emissions standards for categories of sources in compliance with the timetable promulgated pursuant to section 112(e) as mandated by Section 112(j).

The section 112(b) list contains some technical errors which will be corrected in subsequent rulemaking. The majority of the technical corrections likely to be made are noted below. Also, the pollutants from the 112(b) list which are addressed in the proposed HON are followed by an asterisk.

CAS number	Chemical name
75070	Acetaldehyde*
60355	Acetamide*
75058	Acetonitrile*
98862	Acetophenone*
53963	2-Acetylaminofluorene*
107028	Acrolein*
79061	Acrylamide*
79107	Acrylic acid*
107131	Acrylonitrile*
107051	Allyl chloride*
92671	4-Aminobiphenyl*
62533	Aniline*
90040	o-Anisidine*
1332214	Asbestos
71432	Benzene (including benzene from gasoline)*
92875	Benzidine*

6461

98077 Benzotrichloride*
 100447 Benzyl chloride*
 92524 Biphenyl*
 117817 Bis(2-ethylhexyl)phthalate (DEHP)*
 542881 Bis(chloromethyl)ether*
 75252 Bromoform*
 106990 1,3-Butadiene*
 156627 Calcium cyanamide
 105602 Caprolactam*
 133062 Captan
 63252 Carbaryl
 75150 Carbon disulfide*
 56235 Carbon tetrachloride*
 463581 Carbonyl sulfide*
 120809 Catechol*
 133904 Chloramben
 57749 Chlordane
 7782505 Chlorine
 79118 Chloroacetic acid*
 532274 2-Chloroacetophenone*
 108907 Chlorobenzene*
 510156 Chlorobenzilate
 67663 Chloroform*
 107302 Chloromethyl methyl ether*
 126998 Chloroprene*
 1319773 Cresols/Cresylic acid (isomers and mixture)*
 95487 o-Cresol*
 108394 m-Cresol*
 106445 p-Cresol*
 98828 Cumene*
 94757 2,4-D (2,4-Dichlorophenoxyacetic acid, including salts and esters)*
 DDE* [recommended technical correction: CAS number 72559] (1,1-dichloro-2,2-bis(p-chlorophenyl)ethylene)
 334883 Diazomethane*
 132649 Dibenzofurans* [recommended technical correction: Dibenzofuran]
 96128 1,2-Dibromo-3-chloropropane*
 84742 Dibutylphthalate*
 106467 1,4-Dichlorobenzene(p)* [recommended technical correction: 1,4-Dichlorobenzene]
 91941 3,3-Dichlorobenzidene* [recommended technical correction: 3,3'-Dichlorobenzidine]
 111444 Dichloroethyl ether (Bis(2-chloroethyl)ether)*
 542756 1,3-Dichloropropene*
 62737 Dichlorvos
 111422 Diethanolamine*
 121697 N,N-Diethyl aniline (N,N-Dimethylaniline)*
 [recommended technical correction: N,N-Dimethylaniline]

64675 Diethyl sulfate*
 119904 3,3-Dimethoxybenzidine* [recommended technical
 correction: 3,3'-Dimethoxybenzidine]
 60117 Dimethyl aminoazobenzene*
 119937 3,3',-Dimethyl benzidine* [recommended technical
 correction: 3,3',-Dimethylbenzidine]
 79447 Dimethyl carbamoyl chloride* [recommended
 technical correction: Dimethylcarbamoyl chloride]
 68122 Dimethyl formamide* [recommended technical
 correction: N,N-Dimethylformamide]
 57147 1,1-Dimethyl hydrazine* [recommended technical
 correction: 1,1-Dimethylhydrazine]
 131113 Dimethyl phthalate*
 77781 Dimethyl sulfate*
 4,6-Dinitro-o-cresol, and salts* [recommended
 technical correction to remove CAS number]
 51285 2,4-Dinitrophenol*
 121142 2,4-Dinitrotoluene*
 123911 1,4-Dioxane (1,4-Diethyleneoxide)*
 122667 1,2-Diphenylhydrazine*
 106898 Epichlorohydrin (1-Chloro-2,3-epoxypropane)*
 106887 1,2-Epoxybutane*
 140885 Ethyl acrylate*
 100414 Ethyl benzene* [recommended technical correction:
 Ethylbenzene]
 51796 Ethyl carbamate (Urethane)*
 75003 Ethyl chloride (Chloroethane)*
 106934 Ethylene dibromide (Dibromoethane)*
 107062 Ethylene dichloride (1,2-Dichloroethane)*
 107211 Ethylene glycol*
 151564 Ethylene imine (Aziridine) [recommended technical
 correction: Ethyleneimine (Aziridine)]
 75218 Ethylene oxide*
 96457 Ethylene thiourea*
 75343 Ethylidene dichloride (1,1-Dichloroethane)*
 50000 Formaldehyde*
 76448 Heptachlor
 118741 Hexachlorobenzene*
 87683 Hexachlorobutadiene*
 77474 Hexachlorocyclopentadiene
 67721 Hexachloroethane*
 822060 Hexamethylene-1,6-diisocyanate*
 680319 Hexamethylphosphoramide*
 110543 Hexane*
 302012 Hydrazine*
 7647010 Hydrochloric acid [recommended technical
 correction: Hydrochloric acid (hydrogen
 chloride)(gas only)]
 7664393 Hydrogen fluoride (Hydrofluoric acid)
 123319 Hydroquinone*
 78591 Isophorone*

	Lindane (all isomers) [Recommended technical correction: 1,2,3,4,5,6-Hexachlorocyclohexane (all stereo isomers, including lindane)]
108316	Maleic anhydride*
67561	Methanol*
72435	Methoxychlor
74839	Methyl bromide (Bromomethane)*
74873	Methyl chloride (Chloromethane)*
71556	Methyl chloroform (1,1,1-Trichloroethane)*
78933	Methyl ethyl ketone (2-Butanone)*
60344	Methyl hydrazine* [recommended technical correction: Methylhydrazine]
74884	Methyl iodide (Iodomethane)*
108101	Methyl isobutyl ketone (Hexone)*
624839	Methyl isocyanate*
80626	Methyl methacrylate*
1634044	Methyl tert butyl ether* [recommended technical correction: Methyl tert-butyl ether]
101144	4,4-Methylene bis(2-chloroaniline)* [recommended technical correction: 4,4'-Methylenebis(2-chloroaniline)]
75092	Methylene chloride (Dichloromethane)*
101688	Methylene diphenyl diisocyanate (MDI)* [recommended technical correction: 4-4' Methylene diphenyl diisocyanate (MDI)]
101779	4,4,-Methylenedianiline*
91203	Naphthalene*
98953	Nitrobenzene*
92933	4-Nitrobiphenyl*
100027	4-Nitrophenol*
79469	2-Nitropropane*
684935	N-Nitroso-N-methylurea*
62759	N-Nitrosodimethylamine*
59892	N-Nitrosomorpholine*
56382	Parathion
82688	Pentachloronitrobenzene (Quintobenzene)
87865	Pentachlorophenol
108952	Phenol*
106503	p-Phenylenediamine*
75445	Phosgene*
7803512	Phosphine
7723140	Phosphorus
85449	Phthalic anhydride*
1336363	Polychlorinated biphenyls (Aroclors)*
1120714	1,3-Propane sultone*
57578	beta-Propiolactone*
123386	Propionaldehyde*
114261	Propoxur (Baygon)*
78875	Propylene dichloride (1,2-Dichloropropane)*
75569	Propylene oxide*
75558	1,2-Propylenimine (2-Methyl aziridine)*

91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine [recommended technical correction: 2,4-Toluenediamine]
584849	2,4-Toluene diisocyanate
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
1330207	Xylenes (isomers and mixture)
95476	o-Xylenes [recommended technical correction: o-Xylene]
108383	m-Xylenes [recommended technical correction: m-Xylene]
106423	p-Xylenes [recommended technical correction: p-Xylene]
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds [1]
0	Glycol ethers [2]
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers [3]
0	Nickel Compounds
0	Polycyclic Organic Matter [4] [recommended technical correction: Polycyclic Organic Matter]
0	Radionuclides (including radon) [5]
0	Selenium Compounds

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

1 $X'CN$ where $X = H'$ or any other group where a formal dissociation may occur.

For example KCN or $Ca(CN)_2$

2 Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol $R-(OCH_2CH_2)_n-OR'$ where

$n = 1, 2, \text{ or } 3$

$R = \text{alkyl or aryl groups}$

$R' = R, H, \text{ or groups which, when removed, yield glycol ethers with the structure: } R-(OCH_2CH)_n-OH.$ [recommended technical correction: $R-(OCH_2CH_2)_n-OH$] Polymers are excluded from the glycol category.

3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to $100^\circ C$. [recommended technical correction: Limited to, or refers to, products from incomplete combustion of organic compounds (or material) and pyrolysis processes having more than one benzene ring, and which have a boiling point greater than or equal to $100^\circ C$.]

5 A type of atom which spontaneously undergoes radioactive decay.

II. Pollutants subject to the Hazardous Organic NESHA (HON):

As part of the effort to regulate pollutants listed in section 112(b), the EPA has developed the (HON) which will apply to the synthetic organic chemical manufacturing industry and will control emissions of 149 volatile hazardous air pollutants (HAP's). All of the pollutants listed in the HON are among the 189 HAP's listed in section 112(b) and are identified (with an asterisk) in the preceding section of this document. Pollutants addressed by the HON will become regulated on the effective date specified in the HON.

III. Pollutants listed under Section 112(r):

Section 112(r)(3) requires that EPA promulgate an initial list of at least 100 substances with threshold quantities which would cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment if accidentally released. The EPA's proposed rule to implement 112(r)(3) was published in the Federal Register on January 19, 1993 (58 FR 5102). The proposed list of substances includes 100 acutely toxic substances, 62 flammable gases and volatile flammable liquids, and commercial explosives (classified by the Department of Transportation in Division 1.1). The listed pollutants will become "regulated" for purposes of title V upon final promulgation of the list.

The toxic and flammable substances listed in the proposed rule are arranged alphabetically and by CAS number on the attached lists.

NOTICE

The policies set out in this guidance document are intended solely as guidance and do not represent final agency action and are not ripe for judicial review. They are not intended, nor can they be relied upon, to create any rights enforceable by any party in litigation with the United States. The EPA officials may decide to follow the guidance provided in this guidance document, or to act at variance with the guidance, based on an analysis of specific circumstances. The EPA may also change this guidance at any time without public notice.

Agricultural Respiratory Hazards Education Series

For the Health Professional



UNIT 3 Grain Dusts

AMERICAN  LUNG ASSOCIATION of Iowa

in collaboration with

The Institute of Agricultural Medicine
and Occupational Health
The University of Iowa

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GRAIN DUSTS

Summary

Grain dust, a complex and variable mixture of particles from plants, insects, soil, microorganisms, and other sources, produces a number of responses within the respiratory tract. These range from an acute inflammatory response (manifest as nasal stuffiness, rhinorrhea, sore throat, and acute bronchitis) to asthma, chronic obstructive pulmonary disease (including bronchitis and airways obstruction), and rarely, when grain has spoiled, hypersensitivity pneumonitis. An acute febrile response, the toxic organic dust syndrome (TODS), may occur with heavy exposure. Most of these responses are common among grain handlers who work with grain regularly, such as grain elevator workers or grain transporters; dusts are especially prevalent when grain is being moved. Farmers, who inhale grain dusts sporadically, appear to be affected less frequently and severely.

Diagnosis, treatment and prevention of these respiratory responses depend on linking an individual's symptoms to the specific occupational exposure. Reduction of the exposure is crucial, and can be accomplished by good husbandry and housekeeping, good design and ventilation of storage structures, or removal of a grain handler to a less dusty work place. Early recognition of airways obstruction through medical surveillance will help prevent chronic respiratory illness among grain handlers.

I. GRAIN DUSTS IN AGRICULTURE

Dusts from grain consist of a complex mixture of organic and inorganic particles from sources as diverse as leaves, soil, and insect parts. (See Fig. 1) The mixture varies with the type of grain, where it is grown, growing conditions, and methods of harvest, storage, and processing. Most grain dust particles are biologically active vegetable dusts, and a significant amount are respirable (less than 10μ in diameter). Dusts of certain grains such as durum wheat and barley are reported to be more irritating than others.¹ Adverse health effects also increase as moisture content and spoilage increase.

The bulk of particles are from fruits of grasses such as wheat, legumes such as soybeans, or oil seeds such as rape seed. Bits of leaves and stems also may be present. Nonplant contaminants are numerous. Animal material (bits of insects, rodents, or birds, or their excreta), mites, chemical residues (pesticides used to grow or

later treat the grain), and inorganic matter (soil including silica particles) all may be intermixed in small quantities. A variety of fungi and bacteria, their spores, and their by-products also pose a respiratory hazard. Species of microorganisms vary with regional climate and change from harvest through storage. In North America major fungi are *Penicillium* and *Aspergillus* species; thermophilic actinomycetes increase in wet and overheated grain. Many of the components of grain dust are capable of affecting the respiratory tract individually; together, they produce a heterogeneous array of biological effects as outlined in Section II.

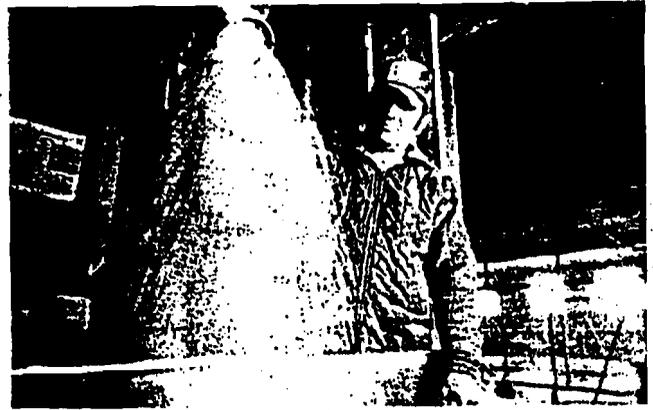


Figure 1

Grain dusts, which may include particles from plants, animals, insects, soil, and microorganisms, as well as chemical residues, can induce a variety of human respiratory responses. Here, grain dusts are being aerosolized as livestock feed is being ground.

Who is exposed to grain dust, and when?

Anyone involved in production, storage, transportation, or processing of grain can suffer the effects of regular inhalation of grain dusts. Exposure starts with farmers and farm workers who grow, harvest, sometimes store, and then transport grain to local storage facilities. These farmers are exposed to grain dust sporadically. Exposure extends far beyond the farm to workers in feed mills, grain elevators, and grain transportation industries. (See Fig. 2) These workers, who are routinely exposed to grain dust, suffer from respiratory responses more commonly and severely than do farmers. Small grain elevator agents and workers store and clean grain, and

may grind and mix it into animal feed. Other workers load and transport it by truck or rail to larger elevators, where it is handled by additional workers, and eventually to terminal elevators at harbors or milling centers that store millions of bushels of grain. Grain is then prepared by dock workers and longshoremen for transport abroad, or is processed by millworkers in feed, flour, or seed mills. This unit covers effects of grain dust inhalation detected among this great variety of agricultural workers, concentrating on the grain handlers who work with grain on a daily basis. Occupational asthma from processed grains is well documented,² but effects of flour dust and other processed grain products among bakers and food handlers are not discussed here.

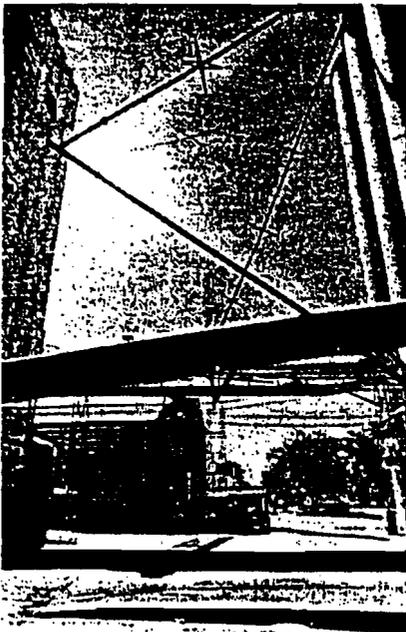


Figure 2

Workers in grain elevators, feed mills, and grain transportation industries are exposed to grain dusts most frequently, and thus suffer from specific respiratory responses more commonly and severely than do farmers.

Exposure to grain dusts can occur at any stage of the above process. Clouds of grain dusts are most evident whenever grain is moved, and especially heavy exposures among any grain handlers occur during dumping and loading grain. (See Fig. 3) In elevators, highest total dust exposures occur during performance of housekeeping and maintenance chores and in towermen working in transfer galleries.³

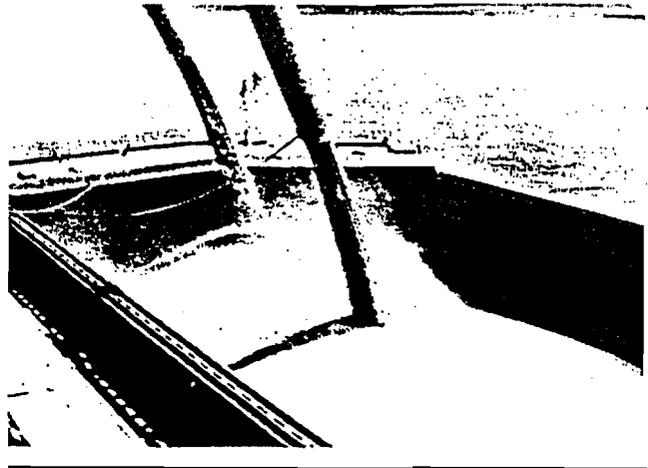


Figure 3

Large quantities of grain dust become aerosolized when grain is moved, such as here, where grain is being loaded onto a barge.

How common is exposure to grain dust?

Grain dust potentially affects a large population: an estimated half million workers (excluding farmers) are involved in storage, transportation, and processing of grain. In addition, huge quantities of dust are known to be generated by the grain industry, making the grain industry a major source of industrial pollution: 27 pounds of dust are emitted for every ton of grain handled, resulting in 1.7 million tons of grain dust produced per year.⁴ The concentration of particles varies widely, but may reach very high levels. Measurements in elevators have ranged from 0.18 to 781 mg/m³ of total dust, with the respirable range extending up to 76.3 mg/m³.⁵ Airborne concentrations of fungal spores often exceed one million spores per cubic meter.

Agricultural workers clearly may be exposed to large quantities of dust. The prevalence of resulting respiratory responses is less well defined. Although prevalence of respiratory responses to grain dust varies from study to study, the presence of cough and phlegm, indicators of bronchitis, are consistently high, generally about twice that of nonexposed populations. Studies also find evidence of airways obstruction and chronic lung disease among greater-than-expected numbers of workers.⁶ Prevalence rates are thought to be higher than those documented, since studies are completed on "survivor populations," those who have not vacated because of adverse effects of grain dust; this is especially common among those with allergic reactions to grain dust. The variation in prevalence of disease probably

stems from the heterogeneous nature of grain dust, as well as from variations in study populations and research techniques.

II. RESPIRATORY EFFECTS OF GRAIN DUST INHALATION

Grain dust reactions represent multiple and simultaneous potential reactions to multiple causative agents. The many reactions and causative agents may create a complex clinical presentation that at times confounds specific diagnosis, causes physicians to describe health effects in general terms, and makes predictions of future health problems difficult.

Further confusing diagnosis is the fact that a single biological response may be caused by different types of grain dust, and a single type of grain dust may cause different types of reactions. In addition, multiple pulmonary responses may occur simultaneously, with involvement of immunological, pharmacological, or physical responses, or a combination of these. Since dust particles range from over 20 μ to less than 5 μ in diameter, they can initiate responses in large and small airways or penetrate the alveoli to initiate biological effects there. Responses may be influenced by smoking history and by length and type of employment in grain handling. Thus, a specific response often cannot be identified with a specific type of grain dust or specific agent within the dust.

Although mechanisms of many of the respiratory responses have not been fully defined, a distinct set of acute and chronic health effects have been correlated with occupational handling of grain. The biological responses to grain dust are summarized in Table 1. Links between these responses and specific constituents of grain dust are outlined in Table 2. These tables and the following descriptions concentrate on responses of workers routinely exposed to grain dusts, as opposed to farmers or others exposed occasionally.

Inhalation of grain dusts may cause an acute inflammatory reaction of the upper airways, including the nasal mucosa, sinuses, and pharynx, manifest in many cases as nasal stuffiness, sore throat, or rhinorrhea. This nuisance effect of grain dusts is a complaint of nearly all grain workers.

"Grain asthma", a form of occupational asthma producing bronchoconstriction with cough, wheezing, and dyspnea, may immediately follow exposure, be delayed several hours, include a dual (immediate and delayed) response, or recur successive nights following exposure. The asthmatic reaction may be caused by any number of grain dust components, but the mechanism for producing the response is not always clear. It is now recognized that delayed asthma (IgG-mediated) may be induced in addition to the classical IgE-mediated immediate response, and that asthma also may be induced through physical or pharmacological

Table 1

Biological Effects of Grain Dust

Effect	Prevalence Among Grain Handlers
Acute respiratory inflammatory response: nasal stuffiness, rhinorrhea, sore throat acute bronchitis	quite common common
Occupational asthma	common
Chronic obstructive pulmonary disease: chronic bronchitis airways obstruction	common occasional to common
Toxic organic dust syndrome (TODS)	occasional
Hypersensitivity pneumonitis	very rare; potentially results from exposure to spoiled grain
Additional irritant effects: eye irritation dermatitis	extremely common occasional to common
Deaths from explosions	rare

6473

Table 2
Biological Effects of Specific Constituents of Grain Dust⁷

	grain, plant matter	bacterial and fungal matter including spores and by- products	animal matter including mites	inorganic mat- ter including soil
Acute respiratory inflammatory response:				
• nasal stuffiness, rhinorrhea, sore throat	X	?		
• acute bronchitis	X			
Occupational asthma:				
• immunological	X	X	X	
• nonimmunological	X	X		X
Chronic obstructive pulmonary disease:				
• chronic bronchitis	X	?		?
• airways obstruction	X	?		
Toxic organic dust syndrome (TODS)	X	X		
Hypersensitivity pneumonitis (spoil- ed grain only)		X		
Additional irritant effects:				
• eye irritation	X			
• dermatitis	X		X	

mechanisms. The prevalence of grain asthma is thought to be artificially low because persons with asthma allergies either do not seek employment as grain handlers or leave this employment rapidly because of an increase in asthmatic symptoms. However, the prevalence of occupational asthma has been reported to be five times that of workers in other professions [50% (grain handlers) rather than 11% (others) among nonsmokers].⁸

Many complaints associated with grain dust fall into the category of **chronic obstructive pulmonary disease**. Bronchitis, characterized by chronic cough and phlegm production, is the most consistent response induced by grain dust. Chronic exposure to grain dusts is thought to lead to increased bronchial reactivity and chronic bronchitis, either with or without airways obstruction. Loss of lung function is greater among grain handlers than that expected for a comparable group not handling grain, but of the same age. At first airflow obstruction (measured by decreased forced expiratory volumes, or FEV₁) is observed during work but is reversible,

improving when the grain handler is not at work. With repeated exposure, this obstruction may become chronic. There is also evidence that workers who have an acute response to grain dust (decline in lung function over a work shift) are more likely to have accelerated baseline declines in lung function over time.⁹

While bronchitis and airways obstruction are common among nonsmoking grain handlers, these are more common among grain handlers who smoke cigarettes. It is thought that cigarette smoke and grain dust work additively, accelerating changes in the peripheral airways so the respiratory symptoms occur sooner, or at a younger age, and are more frequent and severe. There is some evidence that cigarette smoke and grain dust may act synergistically in decreasing expiratory flow rates.

An acute systemic reaction may result from inhalation of grain dusts. The **toxic organic dust syndrome (TODS)**, commonly referred to as "grain fever" is characterized by chills, fever, flushed face, myalgia, and malaise, sometimes with cough, wheezing, and shortness of breath. The

illness typically occurs in new workers, or commences following heavy exposure in a worker who has been temporarily removed from grain dust such as on a Monday following vacation. Symptoms typically commence after work, and may last several hours or a few days. Some researchers feel that this is a response to inhalation of endotoxins.¹⁰ A similar syndrome (sometimes called pulmonary mycotoxicosis, atypical farmer's lung, or silo unloader's syndrome) is caused by spoiled grain or silage containing high concentrations of fungal and bacterial spores and by-products, and is seen among farmers. Malaise, myalgia, and chills typically commence a few hours after exposure. This biological response is described in depth in Unit 2.

A few cases of hypersensitivity pneumonitis (See Unit 2) have been reported following exposure to moldy or contaminated grain.

Grains stored in elevators are commonly fumigated. Fumigants inhaled either during the fumigation process or from residues immediately after grain is removed from storage can be lethal. Respiratory effects of fumigants are discussed in Unit 6.

In addition to reactions of the respiratory system, grain dust can produce dermatitis and conjunctivitis among workers. Explosions of high concentrations of grain dusts have killed many grain elevator employees, and continue to pose a potentially severe hazard.

Diagnosis

Because of the complexity of causative agents and potential biological responses, each patient's reaction to grain dust inhalation varies. Diagnosis depends on a thorough occupational history documenting type and time of exposure, and correlating these to onset of symptoms. Workers in grain elevators, feed mills, or grain transportation industries may experience any of the responses listed in Table 2 (excluding hypersensitivity pneumonitis) fairly commonly. Farmers who are not routinely exposed to grain dust might experience acute inflammatory responses or TODS, especially when exposed to massive quantities of bacterial or fungal-laden dusts, such as when shoveling moldy grain or working with spoiled corn silage in an enclosure. (See Fig. 4) Exposure to grain dusts also could trigger asthma or hypersensitivity pneumonitis in a sensitized farmer. Onset of chronic obstructive pulmonary disease in a farmer would probably result from multiple occupational exposures, one of which could be exposure to grain dust.



Figure 4

Although farmers often are not exposed to grain dusts routinely enough to suffer specific adverse effects, they may suffer from TODS after inhaling massive quantities of dusts from spoiled grain. This type of exposure can occur in situations such as this, when a farmer cleans the residual moldy grain out of a bin.

Diagnostic tests for occupational asthma include pulmonary function tests, in particular assessment of FEV₁ or peak flow rates before and after work. Skin tests usually are not useful; reactions to grain dust usually cannot be linked to a specific dust component.

Diagnosis of chronic obstructive pulmonary disease is dependent on assessment of respiratory symptoms, lung function (typically, an obstructive pattern is detected), and chest radiographs. Chest radiographs typically reveal nonspecific signs of airways obstruction, and are useful for excluding other pulmonary diseases. The importance of monitoring grain industry and agricultural workers for early onset of chronic obstructive pulmonary disease cannot be overemphasized. Spirometry should be performed annually to document changes in lung function, especially when workers are symptomatic.

Diagnosis of TODS or "grain fever," which is common among grain industry workers, depends on presentation with appropriate symptoms and signs following a known exposure to grain dust. Individuals usually lack serum precipitins to antigens of spoiled grain, have normal pulmonary functions, and usually have a clear chest radiograph. A similar syndrome seen among farmers is characterized by massive exposure to bacterial and fungal-laden dusts from spoiled grain or silage.

Diagnosis of hypersensitivity pneumonitis and

distinctions of acute hypersensitivity pneumonitis and TODS are described in depth in Unit 2.

Treatment

The major thrust of any treatment program among both grain industry workers and farmers should be to control exposure sources. This is critical to prevent repeated episodes of acute responses, and (in the case of chronic obstructive pulmonary disease and hypersensitivity pneumonitis) to prevent permanent damage, disability, and possibly death. Grain industry workers with occupational asthma, progressive chronic obstructive pulmonary disease, or hypersensitivity pneumonitis should be relocated to low or no-exposure areas. Farmers with these illnesses often can alter work practices to prevent exposure; treatment procedures and the dramatic steps taken by some farmers with hypersensitivity pneumonitis are outlined in Unit 2. Use of personal protective equipment, medical surveillance, and other preventive steps are discussed in the following section.

No specific treatment is required for either acute inflammatory responses or TODS. Both are self-limiting. Medication for patients with occupational asthma is similar to that for other asthmatics, but should be combined with job changes to reduce exposure to grain dusts. Desensitization is not helpful. Both smoking cessation and decreased exposure are critical to patients with chronic obstructive pulmonary disease; bronchodilators or antibiotics should be given as indicated.

III. PREVENTION OF GRAIN DUST INDUCED ILLNESS

As with any occupational disease, prevention rests primarily on reducing exposure to the source of illness. Because of the threat of grain dust explosions, attempts to reduce dust levels in grain elevators have been made since the turn of the century. More recent controls on the farm include structural improvements such as combines or tractor cabs with filtered air. In newer grain elevators, totally enclosed conveyor belts, dust collectors, and good ventilation systems have greatly reduced dust. These improvements are lacking on older farm equipment and in older or smaller rural elevators. Adding them, while desirable, is both costly and difficult. Thus, farmers and other grain handlers should be taught the hazards of grain dust inhalation, and

techniques for decreasing these hazards based on good husbandry techniques in growing, harvesting, and storing the grain, and on good housekeeping and work practices in elevators. Complete drying of grain is crucial to reduce spoilage and resulting bacterial and fungal spores and toxins. Fumigating the grain also will help. Grain placed in storage should always be top quality, with insect and animal contamination kept to a minimum. When grain dust levels are above 10 mg/m³, or when workers are especially sensitive, personal protective equipment (a certified dust mask, see Unit 9) should be used.

Because exposure to grain dust cannot be fully controlled, medical surveillance must be a second major component of any preventive program. New workers of a grain handling business should have a preemployment examination that includes an occupational and medical history, physical examination, and spirometry. Anyone who demonstrates respiratory symptoms or disease, pulmonary function abnormalities, or evidence of airways obstruction should ideally be placed in a job where less exposure to dusts will occur. Regular medical workups, which include lung function tests performed as close as possible to the place of employment, will allow detection of developing airflow obstruction while it is still reversible. Inquiries should be made into the cause of absenteeism and complaint of respiratory or other grain dust-related symptoms. Workers who develop airflow obstruction or significant respiratory symptoms should transfer to low dust jobs. Reduction of dust inhalation through use of a respirator may be possible for some workers. Because of the apparent additive effect of smoking and grain dust, smoking cessation programs should be recommended for anyone in regular contact with grain dust. Medical evaluation also should address nonrespiratory effects of grain dust exposure, such as skin rash and eye irritation.

References cited

1. Flaherty DK: Mechanisms of host response to grain dust, in Kelley WD (ed): Agricultural Respiratory Hazards. Cincinnati, Ohio, American Conference of Governmental Industrial Hygienists, 1982, Vol 2, p 198.
2. Salvaggio JE, Taylor G, Weill H: Occupational asthma and rhinitis in Merchant JA (ed): Occupational Respiratory Diseases, DHHS (NIOSH) Publication No. 86-102. US Dept of Health and Human Services, 1986.

3. Farant JP, Moore CF: Dust exposures in the Canadian grain industry. American Industrial Hygiene Association Journal 1978; 39:177-194.
4. Vandegrift AE, Shannon LJ, Sallee EE, et al: Particulate air pollution in the United States. Journal of the Air Pollution Control Assn 1971; 21:324.
5. Farant JP, Moore CF: op. cit.
6. Becklake MR: Grain dust and health: State of the art, in Dosman JA, Cotton DJ: (eds) Occupational Pulmonary Disease. Focus on Grain Dust and Health. New York, Academic Press Inc, 1980, pp 194-196.
7. Ibid, adapted from Table IV, p 198; reproduced with permission of author and publisher.
8. doPico GA: Epidemiologic basis for dose-response criteria, in Kelley WD (ed): Agricultural Respiratory Hazards. Cincinnati, Ohio, American Conference of Governmental Industrial Hygienists, 1982, Vol 2, p 191.
9. Chan-Yeung M, Enarson D, Tabona M, et al: Factors affecting longitudinal decline in lung function among grain elevator workers. American Review of Respiratory Disease Supplement 1983; 127:154.
10. Rylander R: Role of endotoxins in the pathogenesis of respiratory disorders, in International Symposium on Respiratory Disorders Among Farmers, Kuopio Finland, 1985, to be published.

Additional Resources

Dosman JA, Cotton DJ: Occupational Pulmonary Disease, Focus on Grain Dust and Health. New York, Academic Press Inc, 1980, 615 pp. [Articles on all aspects of grain dust-induced respiratory responses. See especially Arhiril MI: A health surveillance program for grain workers, pp 597-602; Becklake MR: Grain dust and health: State of the art, pp 189-200].

Kelley WD (ed): Grain dust session, in Agricultural Respiratory Hazards. Cincinnati, Ohio, American Conference of Governmental Industrial Hygienists, 1982, Vol 2, pp 185-222.

Warren CPW: Health and safety in the grain industry, in Rom WN: Environmental and Occupational Medicine, Boston, Little, Brown and Co., 1983, pp 221-232.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DRAFT

Larry Byrum
Oklahoma Department of Environmental Quality
Air Quality Program
4545 North Lincoln Blvd., Suite 250
Oklahoma City, Oklahoma 73105-3483

Re: Questions Concerning Grain & Feed Operations

Dear Mr. Byrum:

Thank you for your letter dated January 7, 1994, requesting clarification on issues concerning grain and feed operations in the State of Oklahoma.

Your first question concerns emissions from grain receiving and loadout points. Specifically, you asked if these emissions were point source, process fugitive, or fugitive emissions. The term "process fugitive emissions" is not recognized in the Clean Air Act (CAA) or the regulations promulgated under the CAA.

The regulations define "fugitive emissions" at 40 CFR §§ 51.166(b)(20) and 70.2, as "those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening." The Environmental Protection Agency (EPA) takes the position that emissions associated with the loading and unloading of grain into a facility would constitute a process emission and would require application of controls to meet the National Ambient Air Quality Standards for PM-10. This position is based on the fact that grain elevators and handling facilities are covered under the New Source Performance Standards for Grain Elevators, 40 CFR Part 60, Subpart DD. In these regulations, loading and unloading activities are subject to emission standards and fugitive emissions are defined as emissions not collected by the control system.

Your second question concerns the use of PM-10 instead of Total Suspended Particles (TSP) to determine applicability of Part 70. Part 70 applies to "major sources", one category of which is "a major stationary source of air pollutants, as defined in Section 302 of the CAA, that directly emits or has the potential to emit, 100 [tons per year] or more of any air pollutant". EPA interprets the term "air pollutant", for Section 302(g) purposes, as those pollutants subject to regulation under the CAA.

Particulate matter is a pollutant subject to regulation under the CAA (i.e. under the New Source Performance Standards for Grain Elevators, 40 CFR Part 60, Subpart DD). Therefore, a facility which emits or which has the potential to emit more than 100 tons per year of any particulate matter would be considered a major source under the Part 70 regulations.

I hope this information helps in your negotiations with the Grain & Feed Association. Region 6 fully supports the efforts of your team to successfully implement the Title V program. If I can provide further information or answer any questions, please call me at (214) 655-7205 or Nick Stone of my staff at (214) 655-7226.

Sincerely yours,

DRAFT

Gerald Fontenot
Chief
Air Programs Branch (6T-A)

MARK S. COLEMAN
Executive Director



DAVID WALTERS
Governor

State of Oklahoma
DEPARTMENT OF ENVIRONMENTAL QUALITY

February 14, 1994

Msc
FILE COPY

The Honorable Ed Long
Oklahoma State Senate
State Capitol, Room 414
Oklahoma City, Oklahoma 73105

Dear Senator Long:

The correspondence indicated in your letter related to the Oklahoma Feed and Grain Association (OFGA) has been received by the Department of Environmental Quality (DEQ). As you indicated, OFGA sent correspondence on January 10, 17, 27, and again on February 2. The questions posed in the correspondence required verification for accuracy. I am told that we would be trying to finish off the response to one letter when a new piece of correspondence would be received from OFGA. Finally, all letters from OFGA were responded to by one letter, rather than four, dated February 4, 1994. (attached)

I am aware of no industry with which the DEQ has spent more time and effort to resolve issues than the time spent with OFGA. When the Clean Air Act amendments of 1990 were passed by Congress, it became apparent that literally thousands of businesses would be subject to air quality regulations which had previously not been regulated or had experienced limited regulation. Among the associations notified by DEQ related to this potential regulation was OFGA.

Air emissions sources which will be subject to the more stringent and costly regulation are known as Title V sources. Each industry including the grain industry wanted to avoid the more stringent and costly regulation and so advised DEQ. DEQ suggested that OFGA propose industry specific rules and permitting scenarios which would allow this avoidance and yet comply with federal and state regulations. DEQ met with OFGA on a number of occasions throughout 1992 and early 1993 to update them on the developing federal regulations and encourage them to submit their proposal. Many times industrial associations from several states will bond together nationally to propose a regulation that most states will use.

- In early spring of 1993, OFGA advised DEQ that it did not possess the legal or technical expertise to draft proposed changes to the existing rule and requested that DEQ draft changes for them. In order to assist OFGA, DEQ drafted a grain industry specific rule which it forwarded to OFGA for comment in late spring of 1993.

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The Honorable Ed Long
February 14, 1994
Page Three

- Late in January the EPA official advised DEQ that Mr. Hampton had called seeking an opinion. Although nothing has been committed to writing, the EPA official advised Mr. Hampton that its ruling would be unfavorable to OFGA. The EPA official also indicated that TSP would be used region wide, including Texas, unless some scientific data were forthcoming to change that opinion.

Two additional issues have surfaced. The first is the calculation of permit fees. Changes to fee calculation have been made to favorably accommodate facilities which install emission reduction equipment. This rule change occurred at the request of OFGA. To accommodate this change, the rule now calculates fees based on potential emissions rather than a flat rate. TSP is the method of measurement in the current rule. Some members of OFGA may now object to this method, or they may just not like the current regulations.

Secondly, federal law requires that certain industries complete an emission inventory. The grain industry is among those. OFGA objected that the inventory was too difficult to complete. DEQ simplified the inventory and mailed a new version to the grain industry. DEQ volunteered to perform the necessary calculations for the grain industry, an accommodation it has offered no other industry. Regardless, OFGA still believes the inventory is too complex. Federal law also requires the submittal of information related to potential toxic releases. Mr. Hampton, against our direct advise, has advised OFGA members not to fulfill this requirement of federal law.

The DEQ continues to believe that the grain industry can comply with state and federal law and yet avoid the tremendous potential economic and operational effects of Title V. To exempt them from state control would, we believe, accomplish exactly what they wish to avoid. In order to do so, however, OFGA must decide to work within the constraints of the existing laws and rules. It would also be helpful if they would decide to try a little harder to help us to help them. More patience is something we could all use.

Regardless, we will continue to try to resolve these issues and move forward in a reasonable way to implement this new, federally driven program.

Very truly yours,



Mark S. Coleman
Executive Director

SUMMARY OF TEXAS EMISSIONS CALCULATIONS METHODS FOR GRAIN ELEVATORS

Members of the Texas Air Control Board, "TACB", (now the Texas Natural Resources Conservation Commission) presented a paper entitled "Emission Factors May Cost Agricultural Operations Big Bucks" at the 1992 International Summer Meeting of the American Society of Agricultural Engineers. The paper described Texas approach for calculating air emissions from agricultural sources.

The paper compares the effects on the agricultural industry when using EPA definitions and AP-42 emission factors versus using Texas definitions and adjustments to AP-42 emission factors.

Texas defines fugitive emissions as "any gaseous or particulate contaminant entering the atmosphere without first passing through a vent designed to direct or control its flow". This differs from EPA's definition which states that fugitive emissions include "those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening". The Texas definition allows emissions from loading and unloading areas at grain elevators to be considered fugitive. This is significant since fugitive emissions do not have to be included in the total emissions used to determine if a source is subject to Title V permitting (i.e. major source with greater than 100 TPY of any regulated pollutant).

The paper also describes a method for adjusting the emissions calculated using AP-42 emission factors. According to the paper, Texas makes an assumption that only 30% of the AP-42 particulate emissions actually remain airborne and leave the site. Additionally, they assume that only 15% of AP-42 emissions are PM-10 emissions. These assumptions are based on an examination of the methods used to develop the AP-42 emission factors.

AP-42 emission factors for grain elevators are based primarily on a 1974 report from Midwest Research Institute. The TACB paper described the Midwest study as follows:

"Midwest weighed bag filter catches from a Kansas City terminal elevator for several months during its operation. This was a well controlled elevator with suction pulled from many areas all venting to different baghouses...Midwest was concerned about the large particulate such as whole or half kernels of grain captured by the suction system and performed a one time sieve analysis of the collected dust...The results show how large the particulates were; as much as 98 percent of the particulate were greater than 44 microns in size for truck unloading stations."

Authors of the Texas paper confess there is no direct relationship between results of the Midwest sieve analysis and the 70% reduction of AP-42 factors used by Texas. They felt AP-42 was not representative of actual emissions and simply chose to reduce it by 70%.

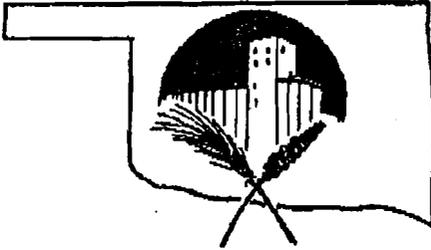
6483

Our staff has discussed this matter with Dr. Dale Lundgren, professor of environmental engineering at the University of Florida. Dr. Lundgren currently teaches the EPA training course "Source Sampling for Particulate Pollutants" and has done extensive research studying the behavior of particles in the atmosphere. Dr. Lundgren explained that a sieve analysis may not provide data representative of true aerodynamic diameter of particulates. Moisture can drastically effect the accuracy of sieve analysis results. Lundgren stated that a sieve analysis will give correct results about 10% of the time. He added that truly accurate results can only be obtained from atmospheric sampling.

Particle velocities are just as important as particle size when determining ability of a particle to remain airborne. Dr. Lundgren explained that there is no specific size range in which particles will remain airborne. Exit velocities, wind speed and direction, moisture, chemical properties and many other factors effect a particle's travel distance. For example, it is possible that particles greater than 100 microns could be carried off-site if released at high velocities or caught in a strong wind current. Obviously, the distance from the point of release to the property line is also a relevant factor.

The Oklahoma Air Quality staff does not feel we have adequate data pointing to any particular number or percentage to allow an adjustment to AP-42 emission factors at this time. We are encouraged by the proposed study which was prepared by the Biosystems and Agricultural Engineering Division of the OSU Cooperative Extension Service. Results of this study may provide scientific data to allow Oklahoma to use emission factors for grain elevators which are more realistic than AP-42.

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February 25, 1994

TO: Mark Coleman and Larry Byrum

FROM: Joe N. Hampton, Executive Vice President

Gentlemen:

Enclosed is our draft of a grain elevator, feed mill, and seed processing subchapter to the Oklahoma Clean Air Act. I am certain there are many technical changes that need to be made to make it conform with certain language requirements, and I trust this can be done at a later date.

Regarding the referenced material, we are in the process of obtaining complete copies. We will pass them on to you as soon as they are available.

Please give me a call if you have any questions.

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SUBCHAPTER 24. Particulate Matter Emissions from Grain Elevators, Feed Mills and Grain or Seed Operations.

252:100-24-1. Purpose

The purpose of this rule is to modify existing state air quality rules and to control the amount of particulates from facilities that handle, store or process grains, feed, or seed, as required by the 1990 Federal Clean Air Act. This subchapter supersedes other rules and regulations which are more stringent than Federal requirements, or which may be demonstrated to not adversely affect the environment.

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Grain, Feed, and Seed Operation" means any commercial plant or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, and Seed Operations Site" means the area upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common ownership or control, which have the same two digits of their SIC code.

"Existing Grain, Feed, and Seed Operation" means a facility which is in existence and has submitted a current, accurate emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.

"Fabric filter" means any other control device or system in which particulate matter is collected within a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration; designations referring to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D. A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D. The efficiencies of these cyclones are 90% and 95% respectively.

"Dust suppression additives" means FDA or FGIS approved additives applied commercially for dust suppression. The efficiencies of these additives are 90%.

"Process Emission" means particulate matter that is emitted from a point source that can cross property boundaries.

"Throughput" shall mean the pounds, tons, or bushels received added to the pounds, tons, or bushels loaded out divided by two.

252:100-24-3. General Provision; applicability, calculations

(a) Applicability. The provisions of this Subchapter are applicable to all new, modified, and existing grain, feed, and seed operations in the State of Oklahoma. Facilities in compliance with this subchapter are exempt from the requirement of OAC 310:200-25, 310:200-27 and 310:200-29.

(b) Permits required. In addition to the requirements of this subchapter, each new or modified facility shall comply with the permitting requirements of OAC 310:200-7,

(1) Except when the following exemptions for commercial facilities apply:

(A) The total storage capacity of the new and any existing facility or facilities does not exceed 1,500,000 bushels.

(B) The facility shall be located at least 1/2 mile from any recreational area or residence or other structure not occupied or used solely by the owner or operator of the facility or the owner of the property upon which the facility is located.

(C) Before construction of the facility begins, written site approval shall be received from the Director of the Air Quality Division.

(2) The installation of additional grain storage capacity which satisfied the following conditions:

(A) There shall be no increase in hourly grain handling capacity.

(B) Existing grain receiving and load-out facilities are utilized.

(C) Grain shall be conveyed by closed conveying systems and air suction shall not be pulled on any conveying unit.

(c) Recordkeeping. The owner or operator of a facility shall maintain a (daily) log documenting the commodity throughput or hours of operations required by the permit. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(d) Visible emissions (opacity). Opacity will not be monitored or enforced except as required on facilities subject to the Federal New Source Performance Standards, the required testing will be performed using criteria as established by EPA reference Method 9 contained in 40 CFR, Part 60, Appendix.

(e) Process Weight Rate. Maximum process weight rate emissions shall be calculated as follows:

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**ALLOWABLE RATE OF EMISSION
BASED ON PROCESS WEIGHT RATE**

PROCESS WEIGHT RATE pounds/hour	RATE OF EMISSIONS pounds/hour
1,000	1.6
1,500	2.4
2,000	3.1
2,500	3.9
3,000	4.7
3,500	5.4
4,000	6.2
5,000	7.7
6,000	9.2
7,000	10.7
8,000	12.2
9,000	13.7
10,000	15.2
12,000	18.2
14,000	21.2
16,000	24.2
18,000	27.2
20,000	30.1
30,000	44.9
40,000	59.7
50,000	64.0
60,000	67.4
70,000	70.5
80,000	73.2
90,000	75.7
100,000	78.1
150,000	87.7
200,000	95.2
250,000	101.5
500,000	123.9

Interpolation of the data in this table for process weights up to 40,000 pounds per hour (lb/hr) shall be accomplished by the use of the equation $E = 3.12 (p 0.985)$, and interpolation and extrapolation of the data for process weights rates in excess of 40,000 lb/hr shall be accomplished by use of the equation $E = 25.4 (p 0.287)$ where E = rate of emission in lb/hr and P = process weight rate in tons per hour.

(f) Emission Calculations for Uncontrolled Emissions Points. Appropriate emission factors shall be obtained using the PM-10 factors found in the AIRS facility subsystem source classification codes (SCCs) and emission factor listing criteria pollutants (EPA-450/4-90-003), or a 70% reduction adjustment from the appropriate AP-42 table factors. Reduction Sources: (Sieve analysis, Table 16, Midwest Research Institute Report "Potential Dust Emissions From Grain Elevators", Kansas City, MO. May, 1974 . . . AP-42 Appendixes

SUPPLEMENTAL INFORMATION

COUNCIL MEETING

APRIL 12, 1994

DATE: April 6, 1994

MEMORANDUM

TO: Air Quality Council

FROM: *DMC* Doyle McWhirter, Program Director
Enforcement and Compliance Section

SUBJECT: PROPOSED SUBCHAPTER 24
CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

A committee organized to jointly develop a final version of subchapter 24 has attended the following work sessions.

March 4, 1994	Mr. Rick Treeman, OGFA Ms. Deborah Perry, AQD Mr. Doyle McWhirter, AQD
March 15, 1994	Mr. Rick Treeman, OGFA Ms. Deborah Perry, AQD Mr. Doyle McWhirter, AQD
March 25, 1994	Mr. Rick Treeman, OGFA Mr. Mike Mahoney, OGFA Ms. Deborah Perry, AQD Mr. Doyle McWhirter, AQD
March 30, 1994	Mr. Rick Treeman, OGFA Mr. Mike Mahoney, OGFA Ms. Deborah Perry, AQD Mr. Doyle McWhirter, AQD

Some progress was accomplished, however, three main issues still remain. These issues are:

- 1) appropriate emission factors;
- 2) whether or not subchapter 24 should be applicable to only the grain elevating portion of a facility or should all processes involving grain processing such as milling, seed cleaning, feed manufacturing etc. be included, and;
- 3) opacity allowables for the loading and unloading processes.

Therefore, the Air Quality Division and the Oklahoma Grain and Feed Association are each submitting a draft of subchapter 24 for Council's consideration (Attachments I and II).

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These three issues remain unresolved because:

- 1) The OFGA prefers that emissions calculations be performed utilizing the same methodology as the Texas Natural Resources Conservation Commission (TNRCC). The AQD does not believe that the TNRCC methodology is scientifically defensible or appropriate to incorporate into the Oklahoma Air Program (Attachments III and IV). There are other factors and implications involved in the Texas program which do not exist and perhaps are not appropriate in our program.
- 2) As indicated in the memo contained in the March 8, 1994 Council Meeting packet, the AQD does not believe that sufficient specific detail particular to the other process involved (milling, seed cleaning, feed manufacturing, etc.) has been properly evaluated. Also, due to the wide range of diversity which exists within the industry over the State of Oklahoma, it would not be appropriate for these other processes to be applicable to subchapter 24 except for the grain elevator portion.
- 3) The OFGA does not feel they can meet any opacity limit standard for the loading and receiving processes. AQD feels that the allowables as contained in subchapter 24-4(2)(3) are the maximum relaxation acceptable. The AQD is not sure this new standard will be acceptable to EPA as a SIP revision.

During the March 8, 1994 meeting, the Council requested information pertaining to complaints, particularly, those received involving grain elevators. This information is being provided at this time in Attachment V. During the January meeting, the Council requested information pertaining to the potential health effects associated with grain dust. The staff has arranged for Dr. Kenneth R. Hart, of the Oklahoma University Health Sciences Center, Department of Family Medicine, Division of Occupational and Environmental Medicine to make comment to the Council concerning this issue.

ATTACHMENT I

SUBCHAPTER 24.

CONTROL OF EMISSIONS FROM GRAIN ELEVATORS

252:100-24-1 Purpose

The purpose of this rule is to control emissions from grain elevators, which elevate and store grains. This rule also applies to the grain elevating portion of any other facility which handles grain.

310:200-24-2 Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Enclosed grain handling equipment" means equipment which is totally self-contained or enclosed within a structure at a grain elevator that is not exhausted to the atmosphere except through a non-pressurized vent or opening.

"Fabric filter" means any control device or system in which particulate matter is collected within a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 99%.

"Grain elevator" means any commercial plant or installation at which grain is loaded, handled, or stored.

"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration (refers to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion). A 2D-2D cyclone would exhibit a cylinder length of 2 X D and a cone length of 2 X D. A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 X D. These cyclones shall be capable of demonstrating collection efficiencies of 90% for particulate matter.

"Hours of operation" means any hour or part thereof, that the elevator leg is elevating grain.

"Leg capacity" means the maximum process rate for which the elevating portion of a grain elevator is designed.

"Medium efficiency cyclone" means any cyclone type collector of the 1D-1D configuration (refers to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion). A 1D-1D cyclone would exhibit a cylinder of 1 X D and a cone length of 1 X D. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Non-pressurized vents or emission points" means any vent or opening which allows the flow of air and/or contaminants at atmospheric pressure without the use of mechanically-induced air flow.

"Site" means the area upon which a grain elevator is located, and all contiguous or adjacent properties having common ownership or control, which have the same first two digits of their SIC code.

"Throughput" means the pounds, tons or bushels received added to the pounds, tons or bushels loaded out divided by two.

252:100-24-3 General provisions; applicability

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified and existing grain elevators in the state of Oklahoma. Grain elevators in compliance with this subchapter are exempt from the requirements of OAC 252:100-25, 252:100-27 and 252:100-29.

(b) **Permits required.** In addition to the requirements of this Subchapter, each new or modified grain elevator shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) **Air toxics emissions.** Grain elevators which emit toxic air pollutants above the de minimus levels specified in 252:100-41 are

subject to all applicable requirements contained therein.

(d) **Recordkeeping.** The owner or operator of a grain elevator shall maintain a daily log documenting the commodity throughput and hours of operation. These records shall be maintained for at least two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) **Test methods.** Visible emissions (opacity) testing shall be conducted using EPA reference Method 9 contained in 40 CFR, Part 60, Appendix A and be performed by an individual possessing current certification.

(f) **Determination of emissions.** Emissions from grain elevators shall be based on the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emissions calculations using approved published emissions factors or other methods approved by the Air Quality Division.

252:100-24-4 Smoke, visible emissions and particulates

(a) **Visible emissions limit.**

(1) **Emissions limit.** No person shall cause, suffer, allow or permit discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade or density greater than twenty (20) percent equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than twenty (20) minutes in any consecutive 24-hour period.

(2) **Alternative emissions limit.** The twenty (20) percent opacity limit, as required under 252:100-24-4(1)(a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.

(3) **Exceptions.** Exceptions to the requirements described in 252:100-24-5(a) (1) and (2) are provided as follows:

(A) receiving and unloading points shall be limited to no greater than forty (40) percent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than fifteen (15) minutes in any sixty (60) consecutive minutes and/or no more than seventy-five (75) minutes in any consecutive 24-hour period.

(B) emissions from non-pressurized vents or emission points shall either be exhausted through the required control equipment described in 252:100-24-7 or shall be limited to no greater than ten (10) percent opacity at any time.

252:100-24-5 Emission control equipment

(a) **Minimum requirements.** Grain elevators shall achieve a minimum collection efficiency and not exceed the maximum annual hours of operation based upon the maximum leg capacity as stipulated in table below:

TABLE I: REQUIRED CONTROL EQUIPMENT FOR GRAIN ELEVATORS

Maximum Leg Capacity (bushels/hour)	Minimum Collection Efficiency	Maximum Daily Throughput (bushels)	Maximum Annual Hours of Operation
5,000	75% medium efficiency cyclone or demonstrated equivalent efficiency	120,000	1600
10,000	90% high efficiency cyclone (2D-2D) or demonstrated equivalent efficiency	240,000	2000
10,000	95% high efficiency cyclone (1D-3D) or demonstrated equivalent efficiency	240,000	4000
15,000	90% high efficiency cyclone (2D-2D) or demonstrated equivalent efficiency	360,000	1300
15,000	95% high efficiency cyclone (1D-3D) or demonstrated equivalent efficiency	360,000	2600
15,000	99% fabric filter or demonstrated equivalent efficiency	360,000	8760

(b) **Certification.** Each existing grain elevator in the state of Oklahoma shall provide written certification of compliance with Table I by September 1, 1994. Annual certification of hours of operation and the operation and proper maintenance of required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

252:100-24-6 Fugitive dust controls

(a) For control of fugitive dust, no person shall cause or permit the handling, transporting or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being airborne, or windborne, or to operate or maintain or to cause to be

operated or maintained, any grain elevator site, open area, right-of-way, storage pile or materials, vehicle, or construction, or any other enterprise which involves any material or substance likely to be scattered by the wind or air, or susceptible to being windborne or airborne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.

(b) No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate.

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

STANDARD POLICY FOR DETERMINING EMISSIONS POINTS AND CALCULATING
PARTICULATE EMISSIONS AT GRAIN ELEVATORS

DETERMINATION OF EMISSION POINTS

The following points shall be considered emissions points:

- 1 - Receiving (unloading)
- 2 - Shipping (load-out)
- 3 - Exhausts from dust control equipment
- 4 - Any open transition, or other grain handling operation, which is exposed directly to the atmosphere

Equipment, such as elevator legs or tunnel belts, which is totally enclosed will not be considered a point of emissions.

CALCULATION OF EMISSIONS

Particulate emissions from grain elevators will be based on AP-42 emission factors for the emission points identified above. Further explanation of this calculation method is provided below.

1 - Receiving (unloading)

Use AP-42 EF of 0.6 lb/ton of grain received.

2 - Shipping (loading)

Use AP-42 EF of 0.3 lb/ton of grain shipped out.

3 - Exhausts from control equipment

Use the AP-42 EF for the operation for which the control equipment is applied. The following examples illustrate this method:

Elevator leg

1.5 lb/ton X tons grain elevated X (1 - control efficiency)

Tunnel belt

1.0 lb/ton X tons grain handled X (1 - control efficiency)

Control equipment for multiple operations

Cyclone with 90% collection efficiency used to control dust from tunnel belt, cleaning operation and bucket elevator:

(1.5 + 1.0 + 3.0) X tons grain handled X (1 - 0.90)

4 - Open transition

Use the AP-42 EF which applies to the particular operation which is exposed to the atmosphere.

ATTACHMENT II

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SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED OPERATIONS.

- 252:100-24-1. Purpose
- 252:100-24-2. Definitions
- 252:100-24-3. General Provisions; applicability
- 252:100-24-4. Smoke, Visible Emissions and Particulates
- 252:100-24-5. Emission Control Equipment
- 252-100-24-6. Fugitive Dust Controls

252:100-24-1. Purpose

The purpose of this rule is to control emissions from facilities that handle, store or process, grains, feed or seed.

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Dust Suppression Additives" means FDA or FGIS approved additives applied commercially for dust suppression. The efficiencies of these additives is 90%.

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained and is enclosed within a structure on the grain, feed, or seed facility. This equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall not be considered a point subject to emission calculations.

"Existing Grain, Feed, or Seed Operation" means a facility which is in existence and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.

"Fabric Filter" means any control device or system in which particulate matter is collected within a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any commercial plant or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Operations Site" means the area upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common ownership or control, which have the same first two digits of their SIC code.

"High Efficiency Cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration, designations referring to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length or $2 \times D$ and a cone length of $2 \times D$. A 1D-3D cyclone would exhibit a cylinder length of $1 \times D$ and a cone length of $3 \times D$. The efficiencies of these cyclones are 90% and 95% respectively.

"Medium Efficiency Cyclone" Means any cyclone type collector of the 1D-1D configuration, designations referring to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D-1D cyclone would exhibit a cylinder of $1 \times D$ and a cone length of $1 \times D$. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Hours of Operation" means taking the throughput totals and dividing it by the leg capacity, this will give hours of operation required to handle products processed.

"Leg Capacity" means the maximum process rate for which the elevating portion of a grain, feed, or seed facility is designed on a per leg basis.

"Non-pressurized Vents or Openings" means any vent or opening which allows the flow of air and/or contaminants at atmospheric pressure without the use of mechanically-induced air flow.

"Process Emission" means particulate matter that is emitted from a point source that can cross property boundaries.

"Throughput" means the pounds, tons, or bushels received added to the pounds, tons, or bushels loaded out divided by two.

252:100-24-3. General Provisions: applicability

(a) **Applicability.** The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25, 252:100-27, and 252:100-29.

(b) **Permits required.** In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operation shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8,

(1) Except when the following exemptions for commercial facilities apply:

(a) The installation of additional grain storage capacity which satisfies the following conditions:

- (1) There shall be no increase in hourly grain handling capacity.
- (2) Existing grain receiving loadout facilities are utilized.
- (3) Grain shall be conveyed by enclosed handling equipment and pneumatic dust controls will not be utilized on any handling equipment.

(c) Air toxics emissions. Grain, feed, or seed operations which emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(d) Record-keeping. The owner or operator of a facility shall maintain a (daily) log documenting the commodity throughput and hours of operations. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) Visible emissions. Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and be performed by an individual possessing current certification.

(f) Determination of emissions. Determination of emissions from grain, feed, or seed operations shall be based on the best available data and technology. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions factors, or other methods approved by the Air Quality Council.

252:100-24-4. Smoke, Visible Emissions and Particulates

(a) Visible emissions. Visible emission (opacity) will be regulated as required on facilities or the portion of a facility that is regulated by Subpart DD of the New Source Performance Standards (NSPS). All facilities exempt from regulation under NSPS will be exempt from opacity regulations.

252:100-24-5 Emission Control Equipment

(a) Minimum requirements. Grain, feed, or seed operations shall achieve a minimum collection efficiency and not exceed the maximum daily throughput or annual hours of operation based upon the maximum individual leg capacity as stipulated in Table 1. These controls will be required only on bucket elevator legs and then only if they are considered emission points.

TABLE 1; REQUIRED CONTROL EQUIPMENT FOR GRAIN ELEVATORS
Equipment required will be of the type listed or other of demonstrated equivalent efficiency.

Maximum leg capacity BU/HR	Minimum Collection Efficiency, only if leg is an emission point	Max Daily Throughput (bushels)	Max Annual Hours of Operation at leg capacity
5,000	75% Med Efficiency cyclone (1D-1D)	120,000	1,600
10,000	90% High Efficiency cyclone (2D-2D)	240,000	2,000
10,000	95% High Efficiency cyclone (1D-3D)	240,000	4,000
15,000	90% High Efficiency cyclone (2D-2D)	360,000	1,300

Maximum leg capacity BU/HR	Minimum Collection Efficiency, only if leg is an emission point	Max Daily Throughput (bushels)	Max Annual Hours of Operation at leg capacity
15,000	95% High Efficiency cyclone (1D-3D)	360,000	2,600
15,000	99% Fabric Filter	360,000	8,760

Emission Control Equipment where required by subpart DD must meet the standards set under the Federal New Source Performance Standards, or as mandated by other Federal requirements for major sources. Additionally controls may be required to circumvent nuisance emissions.

- (b) **Certification.** Each existing grain elevator in the State of Oklahoma shall provide written certification of compliance with Table 1 within one year of the acceptance of this rule. Annual certification of hours of operation and the operation and proper maintenance of required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.
- (c) **Minor Sources.** Except for non-attainment areas, facilities certifying compliance with this subchapter shall not be considered a major source for a regulated pollutant for purposes of Title V.

252:100-24-6. Fugitive Dust Controls

All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

**OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY/
GUIDANCE POLICY FOR EMISSION CALCULATIONS
FOR GRAIN, FEED, OR SEED OPERATIONS**

The following points shall be considered emission points and emission calculated from each;

- 1) Receiving (unloading)
- 2) Shipping (load-out)
- 3) Exhausts from pneumatic dust controls
- 4) Any open transition that is not enclosed within a facility or is otherwise exposed directly to the atmosphere.

1) Emission calculations for uncontrolled emissions points; Emission factors shall be obtained using a 70% reduction adjustment from the appropriate AP-42 table factors. Reduction Reference Sources: (Sieve analysis, Table 16, Midwest Research Institute Report "Potential Dust Emissions from Grain Elevators" Kansas City, MO May, 1974 . . . AP-42 Appendixes 11-2 . . Chapter 3, "Estimates of Atmospheric Dispersion" Bruce Turner, EPA Research, Triangle Park, NC . . . "Prevention of Dust Explosions in Grain Elevators - An Achievable Goal" United States Department of Agriculture, Task Force Report . . . "Impact Study of Prohibiting Recombining Recirculation Dust at Export Elevators" Department of Agricultural Engineering, Texas A&M University . . . "Emission Factors May Cost Agricultural Operations Big Bucks" A paper written for the ASAE by Gary Wallin P.E., Mark Gibbs P.E., Richard Hyde, Anna Rodriguez, and Mike Wilson Permit Engineers TNRCC and presented at the International summer meeting sponsored by the ASAE.

2) Emission calculations for controlled emission points: shall be calculated as above, times the efficiency of the control equipment.

Enclosed grain handling equipment that is without pneumatic dust control equipment shall not be considered a point subject to emission calculations.

ATTACHMENT III

6505

MEMORANDUM

DATE: APRIL 1, 1994

TO: AIR QUALITY COUNCIL

THROUGH: LARRY BYRUM, DIRECTOR
AIR QUALITY DIVISION

DMC DOYLE McWHIRTER, PROGRAM DIRECTOR
ENFORCEMENT AND COMPLIANCE SECTION

FROM: *DP* DEBORAH PERRY
ENVIRONMENTAL ENGINEER

RE: ANALYSIS OF DOCUMENTS SUBMITTED BY OKLAHOMA GRAIN AND FEED
ASSOCIATION TO SUPPORT A 70% REDUCTION OF AP-42 WHEN
CALCULATING EMISSIONS FROM GRAIN ELEVATORS

"Sieve Analysis, Table 16", Midwest Research Institute, Addendum to
"Potential Dust Emissions from Grain Elevators", Kansas City, Missouri,
May 1974.

This data is based on a single sieve analysis and therefore may not be
representative.

A sieve analysis is not an accurate method for determining aerodynamic
particulate diameter. A sieve analysis, at best, will only provide the
physical diameter of the particles. Physical diameter is not appropriate
when characterizing particle behavior in the atmosphere. In order to
account for irregular-shaped particles and other factors, such as
variations in particle density and wind speeds, **aerodynamic mean
diameter** is used to study atmospheric dispersion of particulate matter.
A cascade impactor is typically used to determine aerodynamic diameter.
This device inertially separates particles by aerodynamic diameter.

For example, a particle may have physical dimensions of 80 micrometers
by 5 micrometers. This particle would probably be retained in a sieve
analysis as greater than 80 micrometers in diameter. However, the
aerodynamic diameter may only be 25 micrometers.

The text above Table 16 includes the following statement:

"Particles 30 and less are normally assumed to be the particles that
can be suspended in air and are used in dispersion modeling to
determine off property impacts."

Although this statement seems to be repeated in other supporting
documents, there is no data provided to substantiate it. This statement
would imply that PM-30 should be the criteria for regulating
particulates. We have no data or other guidance to support this.

I have discussed this matter with Dale Lundgren, Ph.D, P.E., professor
of environmental engineering at the University of Florida. Dr. Lundgren
currently teaches the EPA training course "Source Sampling for
Particulate Pollutants" and has done extensive research studying the

behavior of particles in the atmosphere and has, through his graduate study program, compiled years of data in this area. In our telephone conversations and during my attendance at the EPA training course recently taught by Dr. Lundgren in December of 1993, he explained that there is a curve which represents (aerodynamic) particle size vs. settling velocity. He emphasized that there is not a certain size range which can be used to represent particles which could remain suspended.

Dr. Lundgren continues to have an ongoing program in which he and his students take atmospheric samples and make particle size distribution studies. These studies have shown that ambient air typically has particles in the 1-100 micrometer size range.

"Prevention of Dust Explosions In Grain Elevators - An Achievable Goal", A Task Force Report, United States Department of Agriculture.

The excerpt from this document which was submitted by the Oklahoma Grain and Feed Association includes a section entitled "4.2.5 Dust Generation". This section discusses estimates of quantities of dust generated by grain handling as it relates to explosive hazards in grain elevators. There is no definition, explanation or description offered in this material of what the USDA considers to be "grain dust". Therefore it is difficult to determine if the USDA definition of grain dust concurs with that used in the context of air quality management.

This section provides estimates of total tonnage of dust generated from exports of wheat, corn and soybeans. These estimates are based on inspections of these grain exports and the assumption that dust generated for all grains amounts to 0.1 percent of the total volume of grain handled. It also explains that their results are about doubled when using the weight of grain rather than volume. This would imply approximately 4 pounds of dust is generated per ton of grain handled.

The information provided did not include any supporting data. Additionally, the following statements from the document reinforce the fact that this information is only an estimation:

"...different grains produce different amounts of dust ... and each successive handling creates additional dust."

"...the precise effect of successive handling, processing, and storage operations cannot be determined."

"AP-42, Section 11.2 FUGITIVE DUST SOURCES", May 1983.

This section of AP-42 discusses fugitive dust emissions, especially from unpaved roads. The following statements are of concern:

"... particles larger than about 100 micrometers are likely to settle out within 6 to 9 meters (20 to 30 ft) from the edge of the road. Particles that are 30 to 100 micrometers in diameter are likely to undergo impeded settling... likely to settle within a few hundred feet

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from the road. Smaller particles, particularly those less than 10 to 15 micrometers in diameter, have much slower gravitational settling velocities and are much more likely to have their settling rate retarded by atmospheric turbulence. Thus, based on presently available data, it appears appropriate to report only those particles smaller than 30 micrometers."

This implies that only PM-30 should be regulated (at least in terms of fugitive dust emissions). However, we do not have any guidance from EPA to substantiate this. Additionally, our SIP does not exempt particles greater than 30 micrometers. "TSP" is defined in our state rules as particulate matter measured by the high-volume method described in Appendix B of 40 CFR Part 50. Appendix B describes the acceptable method for determining TSP in the atmosphere. This sampling method favors the collection of particles up to 25-50 micrometers (aerodynamic diameter), depending on wind conditions, and is 99% effective in collecting particles as small as 0.3 micrometers, according to Appendix B.

This further indicates that particles larger than PM-30 may be found in the atmosphere and are regulated as TSP in our SIP. Also, reinforced is the fact that all reference to particle size in the atmosphere should address aerodynamic diameter.

"Impact Study of Prohibiting Recombining Recirculation Dust at Export Elevators", Department of Agricultural Engineering, Texas A&M University, Revised February 1992.

The excerpt from this document which was provided (page 15) includes a table of average fine dust contents in wheat samples and discusses how fine dust content correlates to grain quality (grade factor). "Fine dust" is not defined and the method for determining the fine dust content was not explained. The table provides average dust contents listed as percentages of "inbound" and "outbound" at three different elevators. I am not sure what these percentages relate to or exactly what "inbound" and "outbound" mean.

Testimony by Dr. Calvin B. Parnell, Jr., P.E., Professor of Agricultural Engineering, Texas A&M University, Presented March 8, 1994.

Dr. Parnell states that an emission factor of 0.3 lb of dust/ton of grain is an appropriate and conservative factor to use for all grain elevators. He explains that based on his work and experience with grain handling and dust measurement this is probably too high. However, all the data which he references is based on particle size determinations using sieve analysis. This does not provide an accurate indication of aerodynamic diameter as discussed previously.

I believe there is little or no disagreement from anyone involved with Dr. Parnell's assessment of the inappropriateness and inaccuracy of the MRI study and resulting AP-42 emission factors. However, I do not feel that he has provided accurate and appropriate documentation to support reducing AP-42 factors by 70%.

"Workbook of Atmospheric Dispersion Estimates", D. Bruce Turner, EPA, Office of Air Programs, Research Triangle Park, Revised 1970.

This document provides very little relevant material other than the implication that particles should be less than about 20 microns in order to perform dispersion estimates using the mathematical relationship provided. This procedure includes many assumptions, including assuming particles will behave like a gas. This method is obsolete and not particularly relevant since whether particles behave like a gas is not an issue in our discussion. I think it is clear that larger particles will not be suspended indefinitely with gas-like behavior. However, while particles may eventually settle out, it is not clear how far they may be transported before this actually occurs. There are many factors which determine whether this will occur on or off the facility property. These include wind speed (atmospheric turbulence), particle density and distance from the point of release to the property boundary.

"Emission Factors May Cost Agricultural Operations Big Bucks", by TACB Permit Engineers for presentation at the 1992 International Summer Meeting of The American Society of Agricultural Engineers, June 1992.

This paper explains that regulators in Texas use a 70% reduction in AP-42 emission factors for TSP at grain elevators and why they believe it is appropriate. The reasoning is based on two closely-related issues.

The first issue is what portion of particulate matter emitted from grain elevators is too large to be transported off property. TACB justifies the 70% reduction based on the results of the MRI one time sieve analysis which showed greater than 98% of particulates collected were greater than 44 microns for truck unloading areas.

The second issue is what is the actual particulate size which will settle out of the atmosphere and remain on site. TACB proposes that particles greater than 30 microns will not be transported off site.

I have discussed both of these issues previously. Accurate data has not been presented to represent particle size distribution of emissions from grain elevators based on **aerodynamic diameter**. Documentation to support that PM-30 is the only particulate matter of concern is also lacking.

CONCLUSIONS

There has not been substantial data available to me to support a 70% reduction of the AP-42 emission factors. Unfortunately, the current values are somewhat easily disputed as well. For this reason, the AQD was very hopeful that the study proposed by the Agricultural Extension Engineers at OSU would provide data which could be supported and relied upon. However, since time is now very limited, as well as available grain to conduct the study, this may no longer be a possibility. Without additional data to demonstrate the actual aerodynamic diameter of particulates emitted from grain elevators and the relative ability of these particles to be transported off the source property, I cannot support the 70% reduction in AP-42 emission factors as proposed by the Oklahoma Grain and Feed Association.

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ATTACHMENT IV



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

STANDARD EXEMPTION LIST

**Incorporated By Reference Into 30 TAC 116,
Control of Air Pollution By Permits For New Construction
or Modification, §116.211**

ADOPTED AUGUST 16, 1993

Preface to the Standard Exemption List

This revision incorporates changes adopted by the former Texas Air Control Board on August 16, 1993 and effective September 20, 1993. This document is incorporated by reference into Regulation VI, Control of Air Pollution By Permits For New Construction or Modification, and is, therefore, not published in the Texas Register.

Please contact the Texas Natural Resource Conservation Commission (TNRCC) Regional Office that serves your area if you have any questions about your compliance status under TNRCC regulations. Information on permit requirements for construction of new facilities or for modification of existing facilities may be obtained from the Permits Division of the TNRCC, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1000. If you have questions about the interpretation of the Standard Exemption List or have suggestions for changes to it, please call the Permits Division or Regulation Development Division at the same address and telephone number.

The TNRCC is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age or disability in employment or in the provision of services, programs, or activities.

In compliance with the Americans With Disabilities Act, this document may be requested in alternate formats by contacting Air Quality Planning Division staff at (512) 908-1457, (512) 908-1500 FAX or 1-800-RELAY-TX (TDD), or by writing; P.O. Box 13087, Austin, Texas 78711-3087 or visiting at 12124 Park 35 Circle, Austin, Texas.

74. Any grain handling, storage, and drying facility which meets conditions (a), (b), or (c) below.
- (a) The facility is in noncommercial use only - that is, used only to handle, dry, and/or store grain produced by the owner(s) of the facility if the following conditions are satisfied:
 - (1) The total storage capacity does not exceed 750,000 bushels.
 - (2) The grain handling capacity does not exceed 4,000 bushels per hour.
 - (3) The facility is located at least 500 feet from any recreational area or residence or business not occupied or used solely by the owner of the facility.
 - (b) The facility is in commercial use and the following conditions are satisfied:
 - (1) The total storage capacity of the new and any existing facility or facilities does not exceed 1,500,000 bushels.
 - (2) The facility shall be located at least $\frac{1}{4}$ mile from any recreational area or residence or other structure not occupied or used solely by the owner or operator of the facility or the owner of the property upon which the facility is located.
 - (3) Before construction of the facility begins, written site approval shall be received from the Executive Director of the TNRCC and the facility shall be registered with the appropriate regional office using Form PI-7.
 - (c) The installation of additional grain storage capacity which satisfies the following conditions:
 - (1) There shall be no increase in hourly grain handling capacity.
 - (2) Existing grain receiving and loadout facilities are utilized.
 - (3) Grain shall be conveyed by closed conveying systems and air suction shall not be pulled on any conveying unit.
 - (4) Written site approval shall be received from the Executive Director of the TNRCC before construction begins for facilities utilizing existing grain receiving facilities when new gravity or auger loadout systems are to be installed.
75. Surface coating facilities in which no metal spraying or metalizing is done, if the total emission of VOC used for cleanup and contained in the coating materials as applied is less than 6.0 lb/hr, averaged over any 4-hour period, and 500 pounds per week, and:
- (a) The surface coating operations are performed indoors or in an enclosed work area and the following conditions apply:
 - (1) If the facility is a spraying operation, all spraying is conducted in a spray booth or work area in which the emissions of particulate matter are controlled by either a water wash system or a dry filter system. For either system, the particulate removal efficiency shall be not less than 90%; and:

ATTACHMENT V

6515

Department of Environmental Quality
Air Quality Division

March 14, 1994

MEMORANDUM

TO: *DSM* Doyle McWhirter, Director
Enforcement and Compliance Section

FROM: Kevin Barnard *KB*
Enforcement and Compliance Section

SUBJECT: air quality complaints on feed and grain facilities

Attached is a list of all air quality complaints received by the Department of Environmental Quality statewide from July 1, 1994 to March 7, 1994. A total of 944 air quality related complaints were received in this period. Of these 11 complaints were on grain elevators and flour mills. The complete records of these complaints are attached as well. Of the total air quality complaints, the percentage of feed and grain complaints is 1.17 percent.

It might also be noted that of the 944 total complaints, 419 were related to refinery odors in Tulsa.

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Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
09/25/93

Complaint Number: 292-70-93-00002 Date Received: 09/17/93
Referral Complaint Number: Time Received: 13:15
Received By: LIN KOTTKE
AGENCY ASSIGNMENT
Agency: Contact Phone: (405)338-8544
Agency Contact: LIN KOTTKE Subprogram/County: TEXAS
Date Assigned: 09/23/93 Time Assigned: 10:35

COMPLAINANT
Name: GENE HERSHEY Home Phone: (405)652-2732
Address: BOX 926 Work Phone: () -
City: HOOKER State: OK Zip: 73945-

COMPLAINT INFORMATION
Type of Complaint: NORMAL Incident or Discovery: D Date: 09/17/93
Nature of Complaint: FUGITIVE DUST FROM GRAIN ELEVATOR.
Alleged Receiving Waterbody: Confirmed (Y/N): N
Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
County: 70
Legal Description: / NW/4 Section: 34 Township: 5N Range: 17E
Square Mile Grid:
General Description: ALONG RAILROAD PARRALELL TO HWY 54.
Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
Name: CARGILL ELEVATOR Phone No.: (405)652-2430
Address: 307 S. IRELAND
City: HOOKER State: OK Zip: 73945-

REFERRAL
Date: 09/23/93 Time: 10:35 Contact Person: LIN KOTTKE
Source Code: 29231 Assigned To: TEXAS County Program Code:
DEQ Division Assigned AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Assignments Completed AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
Response Contact Person: LIN KOTTKE
Contact with Complainant Date: 09/17/93 Time: 15:05
Contact with Alleged Responsible Party Date: 09/22/93 Time: 09:22
Written Notice of Proposed Action to Complainant Date: / /
Written Notice of Resolution to Complainant Date: 09/23/93
Date Under Investigation: 09/17/93
Date Under Litigation: / /
Date Under Remediation: / /
Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
Resolution Notes: LKOTTKE TALKED WITH RICHARD CARTER AN EMPLOYEE,
SAID THAT DUST IS COMING FROM DRYER, AND HAVING
INSTALLED A MINERAL OILER TO CONTROL DUST 2 DAYS
AGO 9-20-93. CAN'T REALLY SEE A DIFFERENT YET.
POSSIBLY NEED A CYCLONE ON DRYER. ALLEN DUNCAN IS
THE MANAGER.
9-23-93: TALKED WITH MR. DUNCAN, HE IS WORKING ON
A COMPLETE DUST COLLECTION FOR EVERY BEN, PROBABLY
WILL BE NEXT YEAR BEFORE SYSTEM IS COMPLETE.
TALKED WITH COMPLAINANT ON 9-23-93 AT 10:15
TELLING THEM. CLOSED COMPLAINT.

Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
09/25/93

Complaint Number: 292-70-93-00002 Date Received: 09/17/93

Date Resolved: 09/23/93

Resolved By: LIN KOTTKE

Confirmation Status: 1 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)

Questionnaire Date Sent: / / Date Returned: / / Response Pos?: N

Current Date
03/11/94

DEPA DEPT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
09/27/93

Complaint Number: 292-36-93-00009 Date Received: 07/27/93
Referral Complaint Number: Time Received: 10:00
Received By: JOHN CULLIN
AGENCY ASSIGNMENT
Agency: Contact Phone: (405) 762-1641
Agency Contact: JOHN CULLIN Subprogram/County: KAY
Date Assigned: 07/27/93 Time Assigned: 10:00

COMPLAINANT
Name: Home Phone: () -
Address: Work Phone: () -
City: State: Zip: -

COMPLAINT INFORMATION
Type of Complaint: ANONYMOUS Incident or Discovery: I Date: 07/27/93
Nature of Complaint: FLOUR DUST EMISSION.
Alleged Receiving Waterbody: Confirmed (Y/N): N
Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
County: 36
Legal Description: NW/4 NW/4 SE/4 Section: 22 Township: 27N Range: 1W
Square Mile Grid:
General Description: 425 W. BROADWAY, BLACKWELL
Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
Name: CON-AGRA FLOUR MILL Phone No.: () -
Address: 425 WEST BROADWAY
City: BLACKWELL State: OK Zip: -

REFERRAL
Date: 07/27/93 Time: 10:00 Contact Person: JOHN CULLIN
Source Code: 29231 Assigned To: KAY County Program Code:
DEQ Division Assigned AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Assigments Completed AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
Response Contact Person: JOHN CULLIN
Contact with Complainant Date: 07/27/93 Time: 10:00
Contact with Alleged Responsible Party Date: 07/27/93 Time: 10:30
Written Notice of Proposed Action to Complainant Date: / /
Written Notice of Resolution to Complainant Date: 07/30/93
Date Under Investigation: 07/27/93
Date Under Litigation: / /
Date Under Remediation: / /
Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
Resolution Notes:

Comments by: AHARRELL
Date: 07/30/93 Time: 09:55:58

7/27/93 - OBSERVED LARGE AMOUNT OF FLOUR DUST
BEING EMITTED AROUND SOCK FASTENER ON TOP OF
GROENDYKE BULK TRUCK. NOTIFIED BART HAHLEWEG,
MANAGER, CON-AREA. HE INSTRUCTED TOMMY GRACE TO
REPAIR SOCK FASTENER. CLOSED.

Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
09/27/93

Complaint Number: 292-36-93-00009 Date Received: 07/27/93
Date Resolved: 07/27/93 Resolved By: JOHN CULLIN
Confirmation Status: 1 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)
Questionnaire Date Sent: / / Date Returned: / / Response Pos?: N

Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
09/28/93

Complaint Number: 292-36-93-00007 Date Received: 07/26/93
Referral Complaint Number: Time Received: 08:10
Received By: JOHN CULLIN
AGENCY ASSIGNMENT
Agency: Contact Phone: (405)762-1641
Agency Contact: JOHN CULLIN Subprogram/County: KAY
Date Assigned: 07/26/93 Time Assigned: 08:10

COMPLAINANT
Name: Home Phone: () -
Address: Work Phone: () -
City: State: Zip: -

COMPLAINT INFORMATION
Type of Complaint: ANONYMOUS Incident or Discovery: I Date: 07/26/93
Nature of Complaint: BAD-SMELLING, SOUR ODOR COMING FROM FLOUR MILL.
Alleged Receiving Waterbody: Confirmed (Y/N): N
Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
County: 36
Legal Description: NW/4 NW/4 NE/4 Section: 22 Township: 27N Range: 1W
Square Mile Grid:
General Description: 425 W BLACKWELL
BLACKWELL
Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
Name: CON-AGRA FLOUR MILL Phone No.: () -
Address: BOX 880
City: BLACKWELL State: OK Zip: -

REFERRAL
Date: 07/26/93 Time: 08:10 Contact Person: JOHN CULLIN
Source Code: 29234 Assigned To: KAY County Program Code:
DEQ Division Assigned AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Assignments Completed AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
Response Contact Person: JOHN CULLIN
Contact with Complainant Date: 07/26/93 Time: 08:10
Contact with Alleged Responsible Party Date: 07/27/93 Time: 10:30
Written Notice of Proposed Action to Complainant Date: / /
Written Notice of Resolution to Complainant Date: 07/30/93
Date Under Investigation: 07/27/93
Date Under Litigation: / /
Date Under Remediation: / /
Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
Resolution Notes:

Comments by: AHARRELL
Date: 07/30/93 Time: 10:07:48

7/27/93 - EMPLOYEES HAVE BEEN WASHING OUT BULK
RAIL CARDS PAST TWO WEEKS. ON OR ABOUT 7/26/93 A
LEAK DEVELOPED IN THE RECLAMATION TANK USED TO
HOLD DIRTY WASH WATER. WASH WATER AND FLOUR
LEAKED ONTO GROUND ALONG RAIL SIDING. MIXTURE

Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
09/28/93

Complaint Number: 292-36-93-00007 Date Received: 07/26/93
SOURD IN THE HOT WEATHER. ARE NOW IN THE PROCESS
OF SCRAPING UP SOUR RESIDUE FOR DISPOSAL IN
LANDFILL, WILL THEN COVER AREA WITH CLEAN SAND.
WAITIN GFOR SPILLAGE TO DRY OUT FOR COMPLETE
REMOVAL. CLOSED.

Date Resolved: 07/27/93 Resolved By: JOHN CULLIN
Confirmation Status: 1 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)
Questionnaire Date Sent: / / Date Returned: / / Response Pos?: N

Current Date
03/11/94

DEPA. ENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
01/06/94

Complaint Number: 292-99-93-02348 Date Received: 11/04/93
Referral Complaint Number: Time Received: 14:00
Received By: JAY HERNING
AGENCY ASSIGNMENT
Agency: Contact Phone: (405) 327-3192
Agency Contact: JAY HERNING Subprogram/County: WOODS
Date Assigned: 11/08/93 Time Assigned: 10:30

COMPLAINANT
Name: FERN SMILEY Home Phone: (405) 824-5641
Address: 201 ASH Work Phone: () -
City: WAYNOKA State: OK Zip: 73860-

COMPLAINT INFORMATION
Type of Complaint: NORMAL Incident or Discovery: I Date: 11/01/93
Nature of Complaint: DUST FROM WAYNOKA GRAIN ELEVATOR WAS CAUSING
PROBLEM.
Alleged Receiving Waterbody: Confirmed (Y/N): N
Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
County: 76
Legal Description: NW/4 NW/4 SE/4 Section: 2 Township: 24N Range: 16W
Square Mile Grid:
General Description:
Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
Name: WAYNOKA COOP ASSOCIATION Phone No.: (405) 824-3461
Address: 300 S. CLEVELAND
City: WAYNOKA State: OK Zip: 73860-

REFERRAL
Date: 11/08/93 Time: 10:30 Contact Person: JAY HERNING
Source Code: 29231 Assigned To: WOODS County Program Code:
DEQ Division Assigned AOD: N HWMD: N SWMD: N WQD: N RAD: N
Assigments Completed AOD: N HWMD: N SWMD: N WQD: N RAD: N
Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
Response Contact Person: JAY HERNING
Contact with Complainant Date: 11/04/93 Time: 15:30
Contact with Alleged Responsible Party Date: 11/04/93 Time: 15:00
Written Notice of Proposed Action to Complainant Date: 11/08/93
Written Notice of Resolution to Complainant Date: / /
Date Under Investigation: 11/04/93
Date Under Litigation: / /
Date Under Remediation: / /
Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
Resolution Notes:

Comments by: TPHAM
Date: 11/08/93 Time: 10:33:05

11-04-93: JHERNING CONTACTED A.J. FERGUSON
(MANAGER) OF GRAIN ELEVATOR. MADE AN INSPECTION
OF ELEVATOR AND DIDN'T OBSERVED ANY DUST. TALKED
TO SOME NEIGHBORS, AND THEY SAID THEY OCCASIONALLY

Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
01/06/94

Complaint Number: 292-99-93-02348 Date Received: 11/04/93
GET DUSTED. COMPLAINANT SAID THEY HAS OBSERVED
DUST ON THEIR CARS.
JHERNING WILL TALK TO MORE OF THE PEOPLE AND MAYBE
REFER THIS TO AIR QUALITY.

Comments by: SKAY
Date: 01/06/94 Time: 10:46:11

12-17-94 JHERNING WROTE LETTER TO COMPLAINANT AND
TOLD HER THERE WAS NOTHING WE COULD DO UNLESS WE
SAW THE DUST COMING OUT OF THE ELEVATOR AND TO
CONTACT JHERNING WHEN IT DOES OCCUR. CLOSE

Date Resolved: 01/06/94 Resolved By: JAY HERNING
Confirmation Status: 3 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)
Questionnaire Date Sent: / / Date Returned: / / Response Pos?: N

Current Date
03/11/94

DEPA AGENCY OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
02/11/94

Complaint Number: 292-58-93-00012 Date Received: 09/09/93
 Referral Complaint Number: Received By: CLYDE MASON Time Received: 15:47
AGENCY ASSIGNMENT
 Agency: Contact Phone: (405)271-5220
 Agency Contact: KEVIN BERNARD Subprogram/County: AIR QUALIT
 Date Assigned: 09/10/93 Time Assigned: 09:00

COMPLAINANT
 Name: FRANK Phipps Home Phone: (918)676-3738
 Address: RT. 2, BOX 91 Work Phone: () -
 City: FAIRLAND State: OK Zip: 74343-

COMPLAINT INFORMATION
 Type of Complaint: NORMAL Incident or Discovery: I Date: 09/09/93
 Nature of Complaint: SIMMONS FEED MILL AT FAIRLAND IS PRODUCING A LOT OF DUST. THE DUST IS A VERY FINE POWDER. MR. PHIPPS THINKS A LOT OF DUST IS RELEASED IN A PURGE OF EQUIPMENT EARLY IN THE MORNING. SIMMONS HAD TO ADD CONTROL EQUIPMENT TO A SIMILAR PLANT IN SOUTHWEST CITY, MO. RECENTLY.
 Alleged Receiving Waterbody: Confirmed (Y/N): N
 Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
 County: 58
 Legal Description: NE/4 NW/4 NE/4 Section: 17 Township: 26N Range: 23E
 Square Mile Grid:
 General Description: SOUTHWEST OF FAIRLAND ON HWY 60.
 Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
 Name: SIMMONS INDUSTRIES Phone No.: (918)676-3285
 Address: P.O. BOX 749
 City: FAIRLAND State: OK Zip: 74343-

REFERRAL
 Date: 09/10/93 Time: 09:00 Contact Person: JERRY MATTHEWS
 Source Code: 29231 Assigned To: AIR QUALIT County Program Code:
 DEQ Division Assigned AOD: Y HWMD: N SWMD: N WQD: N RAD: N
 Assignments Completed AOD: Y HWMD: N SWMD: N WQD: N RAD: N
 Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
 Response Contact Person: JERRY MATTHEWS
 Contact with Complainant Date: 09/09/93 Time: 15:47
 Contact with Alleged Responsible Party Date: / / Time:
 Written Notice of Proposed Action to Complainant Date: 09/10/93
 Written Notice of Resolution to Complainant Date: 02/11/94
 Date Under Investigation: 09/09/93
 Date Under Litigation: / /
 Date Under Remediation: / /
 Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
 Resolution Notes: *****
 Comments by: AHARRELL
 Date: 09/10/93 Time: 08:59:45

 COMPLAINANT WILL CALL WHEN CONDITION ARE BAD TO HELP INVESTIGATION.

Complaint Number: 292-58-93-00012 Date Received: 09/09/93

Comments by: AHARRELL
Date: 12/06/93 Time: 14:35:22

11/10 - MR. PHIPPS CALLED AND SAID TO COME AT ANY TIME. DUST IS ESPECIALLY BAD IN MORNING AND LATE EVENING WHEN WIND IS FROM THE SOUTH.
11/18 - COMPLAINANT NOT AT HOME. NO DUST VISIBLE FROM FACILITY. WENT TO CITY HALL/POLICE DEPT AND OFFIER ON DUTY REPORTED NO COMPLAINTS OF DUST. WILL CALL IF COMPLAINTS RECEIVED. WILL RECHECK AT LATER DATE. WIND FROM THE SOUTH ON THIS DATE.
11/29 - MET WITH COMPLAINANT AND DROVE PAST PLANT. REQUEST REVIEW/INSPECTION BY AQS ADDRESSING THE FOLLOWING POINTS BY THE COMPLAINANT:
1) AT TIMES THE EMISSIONS FROM ONE OF THE STACKS ON THE BUCKLEE SEPARATORS EXCEEDS 20% OPACITY. THESE STACKS SHOULD ALSO BE EXTENDED TO DISTRIBUTE DUST OVER LARGER AREAS.
2) AT NIGHT THE PLANT SEEMS TO PURGE OR BLOW DOWN DUST COLLECTING EQUIPMENT AND PRODUCES A LOT OF DUST.
3) TRUCK AND RAILCAR UNLOADING AREAS SHOULD BE CHECKED DURING UNLOADING OPERATIONS FOR FUGITIVE DUST VIOLATIONS.
4) THE GRAIN USED IS MOLDED OR OTHERWISE COMPROMISED. AFLATOXIN PRODUCED BY THE MOLD IS RELEASED IN THE DUST FROM THE PLANT. AFLATOXINS CAN CAUSE ILLNESS AND POSSIBLY CANCER. THESE TOXINS MAY NOT BE REGULATED UNDER CURRENT LAW.

REFER TO AIR QUALITY SERVICE.

Comments by: LMOSS
Date: 01/11/94 Time: 18:48:32

MATTHEWS - 1-5-94 - INSPECTION OF THIS FACILITY WILL BE SCHEDULED AT A TIME THAT WILL BE ARRANGE WITH THE COMPLAINANT AND SIMMONS INDUSTRIES.

Comments by: TPHAM
Date: 01/26/94 Time: 12:11:56

JERRY MATTHEWS:1/21/94 - AT TIME OF HIS INSPECTION, THERE WAS EMISSION COMING FROM THE COOLING TOWER. HE WAS NOT ABLE TO DO A VALID READING OF METHOD 9. HE WILL REVISIT SITE TO ATTEMP TO DO METHOD 9 READING. THERE IS POLLUTION CONTROL EQUIPMENTS AT ALL POSSIBLE EMISSION POINT.

Comments by: LMOSS
Date: 01/28/94 Time: 10:29:19

JAYNE - MATTHEWS WILL MAKE ANOTHER INSPECTION NEXT WEEK TO DO A VISIBLE EMISSIONS.

Comments by: EAKIN
Date: 02/11/94 Time: 16:04:15

2/4/94 - MATTHEWS - INSPECTED FACILITY. AN EPA METHOD 9 VE EVALUATION WAS CONDUCTED ON THE EMISSION POINTS. NO VISIBLE EMISSIONS ABOVE REGULATORY LIMITS WERE OBSERVED. NO FUGITIVE DUST WAS OBSERVED AT THE FACILITY. NO VIOLATIONS RELATED TO THE COMPLAINT WERE FOUND DURING THE INSPECTION.

COMPLAINT CLOSED.

Date Resolved: 02/04/94 Resolved By: JERRY MATTHEWS
Confirmation Status: 3 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)
Questionnaire Date Sent: 02/11/94 Date Returned: / / Response Pos?: N

Current Date
03/11/94

DEPA. AGENCY OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
02/11/94

Complaint Number: 292-27-93-00001 Date Received: 08/09/93
Referral Complaint Number: Time Received: 11:00
Received By: CRAIG LANGLEY
AGENCY ASSIGNMENT
Agency: Contact Phone: (405) 271-5220
Agency Contact: KEVIN BARNARD Subprogram/County: AIR QUALIT
Date Assigned: 08/09/93 Time Assigned: 11:55

COMPLAINANT
Name: Home Phone: [REDACTED]
Address: Work Phone: [REDACTED]
City: State: OK Zip: [REDACTED]

COMPLAINT INFORMATION
Type of Complaint: CONFIDENTIAL Incident or Discovery: I Date: 08/06/93
Nature of Complaint: S. ELEVATOR PRODUCING DUST AND CHAFF.
Alleged Receiving Waterbody: Confirmed (Y/N): N
Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
County: 27
Legal Description: Section: Township: Range:
Square Mile Grid:
General Description: 405 1/2 S. MAIN.
Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
Name: CLYDE COOP Phone No.: (405) 395-3341
Address: 405 1/2 S. MAIN
City: MEDFORD State: OK Zip: 73759-

REFERRAL Contact Person: KEVIN BARNARD
Date: 08/09/93 Time: 11:55
Source Code: 29231 Assigned To: AIR QUALIT County Program Code:
DEQ Division Assigned AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Assignments Completed AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
Response Contact Person: KEVIN BARNARD
Contact with Complainant Date: 08/09/93 Time:
Contact with Alleged Responsible Party Date: / / Time:
Written Notice of Proposed Action to Complainant Date: 08/09/93
Written Notice of Resolution to Complainant Date: 11/24/93
Date Under Investigation: 08/09/93
Date Under Litigation: / /
Date Under Remediation: / /
Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
Resolution Notes: 8/9/93-TALKED TO BILL BUTLER, MANAGER, WHO HAS NO KNOWLEDGE OF ANY MECHANICAL PROBLEMS AT COOP, BUT WAS AWARE OF DUST AND CHAFF PROBLEM. REQUESTED BUTLER TO INFORM DEQ OF ANY MECHANICAL PROBLEMS.
8/9/93- CONTACTED COMPLAINT- TOLD HIM TO NOTIFY ME OF ANY FURTHER INCIDENTS.

Comments by: LMOSS

6529

Complaint Number: 292-27-93-00001 Date Received: 08/09/93
Date: 10/11/93 Time: 14:32:31

9/28-1530 - AFTER RECEIVING NOTICE THAT SOUTH ELEVATOR WAS AGAIN PRODUCING CHAFF I MADE A SITE VISIT OF THE FACILITY. NO VISIABLE EMISSIONS WERE NOTED UPON MY ARRIVAL AT THE ELEVATOR. I SPOKE TO AN ACUQUAINAN OF THE COMPLAINANT WHO STATED THAT THE EMISSIONS HAD RECENTLY CEASED. I THEN CONTACTED THE COOP MANAGER BILL BUTLER, AND ELEVATOR FOREMAN, DELVIN ABEI, AND WAS TOLD THE PROCESSING WAS CURRENTLY IN PROGRESS WITH NO CHANGE IN THEIR PROCEDURE SINCE THE START AT AROUND 8 AM THAT DAY.

WILL GIVE 2 WKS UPDATE.

9/29- REC COMPLAINT RE TO DUST AND CHAFF AGAIN AT TEH SOUTH ELEVATOR. WHEN I ARRIVED AT THE SITE I OBSERVED MATERIAL INTERMITTANLY BLOWING FROM THE TOP OF THE SOUTH ELEVATOR. AT TTHAT TIME WHEAT WAS BEING DROPPED FROM THE LOADING BAY OF THE SAME ELEVATOR. BOTH BAY DOOR WERE OPEN ALLOWING AIR CURRENTS TO CARRY DUST AND CHAFF AWAY FROM THE PROPERTY. THE SIT FOREMAN, SCHMITZ, EXPLAINED THAT DOORS WERE OPEN TO ALLEVIATE EXPLOSION HAZARD DUE TO DUST BUILD UP IN LOADING BAY. HE ALSO EXPLAINED THAT DUST CONTROL MEEASURES IN PLACE DO NOT REMOVE THE DUST AND CHAFF BUT REINTRODUCT IT INTO THE WHEAT STREAM AT A PALCE WERE AN EXPLOSION HAZARD IS LESS LIKELY. REFER TO AIR QUALITY.

Comments by: AHARRELL
Date: 11/02/93 Time: 16:36:06

10/28 - AN AIR QUALITY INSPECTION WAS CONDUCTED BY KEVIN BERNARD. BRANCH MANAGER, AEBI, SAID THAT IN THE PAST THERE WERE SOME PROBLEMS WITH WATER PLUGGING THE SPOUT ON THE CYCLONE. AT PRESENT, IT IS IN GOOD WORKING ORDER. WILL REINSPECT WHEN THE FACILITY IS IN OPERATION TO OBSERVE EMISSIONS.

Comments by: KGREER
Date: 11/24/93 Time: 14:52:07

ON 11/18/93 KEVIN BARNARD CONDUCTED AN AIR QUALITY INSPECTION OF CLYDE COOP IN RESPONSE TO THE ABOVE MENTIONED COMPLAINT. TWO EPA METHOD 9 VISIBLE EMISSION EVALUATIONS WERE CONDUCTED AT THE ELEVATOR WHILE IT WAS IN OPERATION. THE FIRST EVALUATION WAS OF THE NORTH LEG OF THE NORTH ELE3VATOR HOUSE. MR. AEBI SAID THAT A BEARING WAS OUT IN THE SOUH LEG OF THE NORTH HOUSE AND COULD NOT BE OPERATED. THE HIGHEST OPACITY AVERAGE OBSERVED AT THE CYCLONE FOR THE NORTH LEG FOR SIX CONSECUTIVE MINUTES WAS 6.9 PERCENT. THE SECOND EVALUATION WAS OF THE SOUTH ELEVATOR HOUSE. NO VISIBLE EMISSION WERE OBSERVED FROM THIS ELEVATOR. MR. AEBI SAID THAT THESE ELEVATORS WERE TURNING WHEAT AT A RATE OF 3000-3500 BUSHELS PER HOUR. HE SAID HE WAS TRYING TO OPERATE THE ELEVATOR TO CREATE A WORSE-CASE SCENARIO FOR THE INSPECTION. MR. AEBI SAID THAT THE WHEAT BEING TURNED WAS A YEAR OLD AND QUITE A BIT DUSTIER THAN NEWER WHEAT. HE ALSO STATED THAT HE WAS RUNNING THE OVERHEAD BINS DURING THE INSPECTION BECAUSE THESE CREATED DUST AS WELL. SOME FUGITIVE DUST WAS OBSERVED EMANTING FROM THE DRIVEWAY DOORS OF THE NORTH ELEVATOR HOUSE. THIS DUST BLEW NORTH ALONG THE PROPERTY OF CLYDE COOP AND MOSTLY DISSIPATED BEFORE CROSSING THE PROPERTY LINE. FUGITIVE DUST WAS NOT OBSERVED BLOWING ON THE COMPLAINANT'S PROPERTY. THERE WERE NO VIOLATIONS OBSERVED. THIS COMPLAINT WAS NOT CONFIRMED.

Comments by: EAKIN
Date: 02/11/94 Time: 16:17:15

2/4/94 - BARNARD - INSPECTED FACILITY. A VISIBLE

Current Date
03/11/94

DEP. .MENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
02/11/94

Complaint Number: 292-27-93-00001 Date Received: 08/09/93
EMISSION EVALUATION WAS CONDUCTED ON THE SOUTH
ELEVATOR. VISIBLE EMISSIONS WERE BELOW 5%
OPACITY. MR. AEBI, CLYDE COOP, SAID THAT THE
FACILITY IS CONSIDERING REPLACING EXISTING AIR
POLLUTION CONTROL EQUIPMENT WITH NEWER EQUIPMENT TO
ALLEVIATE COMPLAINTS. STILL RESOLVED.

Date Resolved: 11/24/93 Resolved By: KEVIN BARNARD
Confirmation Status: 2 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)
Questionnaire Date Sent: 08/09/93 Date Returned: 08/13/93 Response Pos?: Y

Current Date
03/11/94

DEPA DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
03/01/94

Complaint Number: 292-99-93-01131 Date Received: 07/15/93
Referral Complaint Number: Time Received: 08:55
Received By: A HARRELL
AGENCY ASSIGNMENT
Agency: Contact Phone: (405)271-5220
Agency Contact: ANN JANE Subprogram/County: AIR QUALIT
Date Assigned: 07/15/93 Time Assigned: 10:15

COMPLAINANT
Name: [REDACTED] Home Phone: () -
Address: [REDACTED] Work Phone: [REDACTED]
City: State: Zip: -

COMPLAINT INFORMATION
Type of Complaint: Anonymous Incident or Discovery: D Date: 07/15/93
Nature of Complaint: FEED AND RESIDUE FROM A FEED MILL IS CONSISTENTLY
GETTING INTO MOTORS AND ON THE ROOF OF THE
DETENTION FACILITY. IT GOES THROUGH THE AIR VENTS
BREAKING FEDERAL REGULATIONS FOR PEOPLE IN JAIL.
Alleged Receiving Waterbody: Confirmed (Y/N): N
Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
County: 10
Legal Description: NW/4 Section: 32 Township: 4 S Range: 2 E
Square Mile Grid:
General Description: 107 1ST SW, ARDMORE. THE FEED MILL IS AT 100 S.
WASHINGTON, ARDMORE.
Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
Name: BLUEBONNETT FEED MILL Phone No.: () -
Address: 100 S. WASHINGTON
City: ARDMORE State: OK Zip: -

REFERRAL Contact Person: ANN JANE
Date: 07/15/93 Time: 10:15
Source Code: 29233 Assigned To: AIR QUALIT County Program Code:
DEQ Division Assigned AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Assignments Completed AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
Response Contact Person: ANN JANE
Contact with Complainant Date: / / Time:
Contact with Alleged Responsible Party Date: / / Time:
Written Notice of Proposed Action to Complainant Date: / /
Written Notice of Resolution to Complainant Date: / /
Date Under Investigation: 09/14/93
Date Under Litigation: / /
Date Under Remediation: / /
Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
Resolution Notes:

Comments by: TPHAM
Date: 09/24/93 Time: 09:46:13

REFERAL TO AIR QUALITY

Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
03/01/94

Complaint Number: 292-99-93-01131 Date Received: 07/15/93

Comments by: TPHAM

Date: 11/04/93 Time: 10:20:02

KDB INSPECTED THE SITE AND FOUND NO VIOLATION

Date Resolved: 09/14/93

Resolved By: KEVIN BENARD

Confirmation Status: 2 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)

Questionnaire Date Sent: / /

Date Returned: / /

Response Pos?: N

Current Date
03/11/94

DEPA DEPT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
10/11/93

Complaint Number: 292-99-93-01972 Date Received: 09/28/93
 Referral Complaint Number: Time Received: 14:00
 Received By: JEFF DYE

AGENCY ASSIGNMENT
 Agency: Contact Phone: (405)623-7977
 Agency Contact: BOB GIGER Subprogram/County: DEWEY
 Date Assigned: 09/28/93 Time Assigned: 16:10

COMPLAINANT
 Name: OSCAR HUMPHREYS Home Phone: (405)887-3316
 Address: P.O. BOX 47 Work Phone: () -
 City: FAY State: OK Zip: 73646-

COMPLAINT INFORMATION
 Type of Complaint: NORMAL Incident or Discovery: I Date: 09/28/93
 Nature of Complaint: TURNING WHEAT IN ELEVATOR CAUSING BLOWING DUST AND
 CHAFF. MAY CAUSE FUGITIVE DUST FROM DROPPING
 GRAIN IN LOADOUT AREA.
 Alleged Receiving Waterbody: Confirmed (Y/N): N
 Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
 County: 22
 Legal Description: Section: Township: Range:
 Square Mile Grid:
 General Description: FAY IS 25 MILES NORTH OF WEATHERFORD IN SOUTHEAST
 DEWEY COUNTY.
 Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
 Name: MCNEAL GRAIN COMPANY Phone No.: () -
 Address:
 City: FAY State: OK Zip: 73646-

REFERRAL Contact Person: BOB GIGER
 Date: 09/28/93 Time: 16:10
 Source Code: 29231 Assigned To: DEWEY County Program Code:
 DEQ Division Assigned AQD: Y HWMD: N SWMD: N WQD: N RAD: N
 Assignments Completed AQD: Y HWMD: N SWMD: N WQD: N RAD: N
 Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
 Response Contact Person: BOB GIGER
 Contact with Complainant Date: 09/30/93 Time:
 Contact with Alleged Responsible Party Date: 09/30/93 Time:
 Written Notice of Proposed Action to Complainant Date: / /
 Written Notice of Resolution to Complainant Date: 10/01/93
 Date Under Investigation: 09/28/93
 Date Under Litigation: / /
 Date Under Remediation: / /
 Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
 Resolution Notes:

 Comments by: TPHAM
 Date: 10/01/93 Time: 09:54:01

 9-30-93 BOB WENT TO SITE, THEY DO HAVE A PROBLEM,
 NO LEG WITH DUST CONTROL, THEY ARE THROUGH USING
 FOR THIS YEAR. MORE THAN LIKELY THEY WILL NOT BE

6885

Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
10/11/93

Complaint Number: 292-99-93-01972 Date Received: 09/28/93
USING THIS ELEVATOR NEXT YEAR. BUT IF THEY DO USE
IT, THEY WILL FIX IT BEFORE USE.

Date Resolved: 09/30/93 Resolved By: BOB GIGER
Confirmation Status: 1 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)
Questionnaire Date Sent: 10/01/93 Date Returned: 10/08/93 Response Pos?: Y

Current Date
03/11/94

DEPARTMENT OF ENVIRONMENTAL QUALITY
Data Complaint Form

Last Update
11/24/93

Complaint Number: 292-99-93-02188 Date Received: 10/19/93
Referral Complaint Number: Time Received: 16:42
Received By: MSMITH
AGENCY ASSIGNMENT
Agency: Contact Phone: (405)271-5220
Agency Contact: KEVIN BENARD Subprogram/County: AIR QUALIT
Date Assigned: 10/19/93 Time Assigned: 16:50

COMPLAINANT
Name: Home Phone: () -
Address: Work Phone: () -
City: State: OK Zip: () -

COMPLAINT INFORMATION
Type of Complaint: CONFIDENTIAL Incident or Discovery: D Date: 10/18/93
Nature of Complaint: COLLINGWOOD COOP HAS DUST POURING OUT OF THE
DRYERS. CHAFF IS COVERING THE HOUSE AND PROPERTY.
Alleged Receiving Waterbody: Confirmed (Y/N): N
Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
County: 04
Legal Description: SW/4 Section: 25 Township: 6N Range: 18E
Square Mile Grid:
General Description: IN TYRONE
Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
Name: COLLINGWOOD COOP Phone No.: () -
Address: City: TYRONE State: OK Zip: -

REFERRAL
Date: 10/19/93 Time: 16:50 Contact Person: KEVIN BENARD
Source Code: 29231 Assigned To: AIR QUALIT County Program Code:
DEQ Division Assigned AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Assignments Completed AOD: Y HWMD: N SWMD: N WQD: N RAD: N
Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
Response Contact Person: KEVIN BENARD
Contact with Complainant Date: 11/02/93 Time: 14:28
Contact with Alleged Responsible Party Date: 11/02/93 Time: 14:40
Written Notice of Proposed Action to Complainant Date: 10/25/93
Written Notice of Resolution to Complainant Date: 11/24/93
Date Under Investigation: 11/02/93
Date Under Litigation: / /
Date Under Remediation: / /
Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
Resolution Notes:

Comments by: MSMITH
Date: 10/22/93 Time: 09:45:55

GARY COLLINS TALKED TO [REDACTED] ON 10/21/93.
NO DUST WAS COMING FROM THE CO-OP. HE SAID LINN
WOULD VISIT HER WHEN HE GOT BACK.

Complaint Number: 292-99-93-02188 Date Received: 10/19/93
Comments by: TPHAM
Date: 11/03/93 Time: 09:49:11

LKOTTKE TALKED [REDACTED] AND SHE SAID DUST WAS COVERING HER HOUSE, AND SHOW ME WHERE IT WAS COMING FROM. I TALKED WITH SHANE CLAYPOOL (MANAGER OF ELEVATOR) AND DID AN INSPECTION. HE SHOW ME HIS DUST COLLECTION UNIT WHICH WAS WORKING. I SHOWED HIM WHERE [REDACTED] DUST WAS COMING FROM. GRAIN WAS DUMPED INTO AN OVERHEAD BEN. THEN INTO A TRUCK. DUST WAS COMING OUT OF OVERHEAD BEN VENT. SHANE SAID THAT HE WAS DOING EVERYTHING POSSIBLE TO KEEP THE AIR CLEAN ACCORDING TO STANDARD. NO DUST WAS SEEN LEAVING THEIR PROPERTY TODAY. I WOULD LIKE TO REQUEST SOMEONE FROM AIR QUALITY TO DO A JOINT INSPECTION.
11-03-93: REFERED TO AIR QUALITY

Comments by: KGREER
Date: 11/24/93 Time: 15:30:22

ON 11/17/93 KEVIN BARNARD CONDUCTED AN AIR QUALITY INSPECTION OF COLLINGWOOD GRAIN, INC. THE COMPLAINANT INDICATED TO MR. KOTTKE THAT DUST FROM THE OVERHEAD BINS ABOVE THE LOADOUT AREA OF THE ELEVATOR WAS GETTING ON HIS PROPERTY. CORN WAS DUMPED INTO THE PIR FROM THE OVEHEAD BINS FOR THE VISIBLE EMISSION EVALUATION. A VISIBLE EMISSION EVALUATION WAS CONDUCTED OF THE MIDDLE VENT BETWEEN THE TWO OVERHEAD BINS. THE FIRST SIX MINUTES OF THE READING WERE INVALIDATED BECAUSE DUST FROM THREE VENTS WERE MIXING AT THE OBSERVATION POINT MAKING THE READING ARTIFICIALLY HIGH. THE OBSERVER POSITION WAS CHANGED TO TRY TO ISOLATE THE EMISSIONS FROM THE MIDDLE VENT. FROM THIS POSITION, THE HIGHEST OPACITY AVERAGE OBSERVED FOR SIX CONSECUTIVE MINUTES WAS 14.4 PERCENT.
ONE TRUCK WAS OBSERVED DUMPING CORN INTO THE LOADOUT PIT. FUGITIVE DUST WAS OBSERVED BEING GENERATED AT THIS POINT. THE BLUEPRINT FOR THIS FACILITY SHOWED THAT A FAN WAS INSTALLED IN LINE EITH THIS PIT TO PLACE IT UNDER NEGATIVE PRESSURE TO CONTROL DUST EMISSIONS. IT MAY BE THAT THIS FAN WAS NEVER INSTALLED AS INDICATED ON THE BLUEPRINT OR IT WAS NOT FUNCTIONING AT THE TIME OF THE INSPECTION. COLLINGWOOD GRAIN INDICATED THAT ALL THEIR EQUIPMENT WAS FUNCTIONING PROPERLY. FUGITIVE DUST WAS NOT OBSERVED LEAVING THE FACILITY PROPERTY. COLLINGWOOD GRAIN APPLIED FOR A PERMIT IN 1988 FOR THE FACILITY. THE PERMIT FOR THIS FACILITY WAS NEVER ISSUED BY AIR QUALITY. IT DOES NOT APPEAR AT THIS TIME THAT THE PERMIT WAS NOT ISSUED DUE TO A FAILURE BY THE COMPANY TO SUPPLY INFORMATION TO THE AIR QUALITY DIVISION. THIS WILL BE REFERED TO THE PERMIT SECTION FOR FURTHER EVALUATION.
THE BAGHOUSE WAS OBSERVED IN OPERATION AT THE FACILITY. NO VISIBLE EMISSIONS WERE OBSERVED FROM THE BAGHOUSE STACK DURING THE INSPECTION. THERE WAS SOME DUST GENERATED DURING THE INSPECTION BUT NOT ENOUGH TO CONSTITUTE A VIOLATION.

Date Resolved: 11/24/93 Resolved By: KEVIN BARNARD
Confirmation Status: 2 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)
Questionnaire Date Sent: / / Date Returned: / / Response Pos?: N

Complaint Number: 292-99-93-02391 Date Received: 11/09/93
 Referral Complaint Number: Time Received: 09:30
 Received By: TPHAM
AGENCY ASSIGNMENT
 Agency: Contact Phone: (405)233-0650
 Agency Contact: DAVID KILMER Subprogram/County: KINGFISHER
 Date Assigned: 11/09/93 Time Assigned: 15:30

COMPLAINANT
 Name: JANET SNOW Home Phone: (405)375-6045
 Address: 310 E. BROADWAY Work Phone: () -
 City: KINGFISHER State: OK Zip: 73750-

COMPLAINT INFORMATION
 Type of Complaint: NORMAL Incident or Discovery: D Date: 11/09/93
 Nature of Complaint: THE KINGFISHER GRAIN ELEVATOR DUST IS CAUSING PROBLEMS. THE COMPLAINANT'S FRONT PORCH IS COVERED WITH CHAFF.
 Alleged Receiving Waterbody: Confirmed (Y/N): N
 Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
 County: 37
 Legal Description: Section: Township: Range:
 Square Mile Grid:
 General Description: GRAIN ELEVATOR IN KINGFISHER
 Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
 Name: COOP ELEVATOR Phone No.: (405)375-5900
 Address:
 City: KINGFISHER State: OK Zip: -

REFERRAL
 Date: 11/09/93 Time: 15:30 Contact Person: DAVID KILMER
 Source Code: 29233 Assigned To: KINGFISHER County Program Code:
 DEQ Division Assigned AOD: Y HWMD: N SWMD: N WQD: N RAD: N
 Assignments Completed AOD: Y HWMD: N SWMD: N WQD: N RAD: N
 Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
 Response Contact Person: DAVID KILMER
 Contact with Complainant Date: 11/24/93 Time:
 Contact with Alleged Responsible Party Date: / / Time:
 Written Notice of Proposed Action to Complainant Date: 11/24/93
 Written Notice of Resolution to Complainant Date: 03/01/94
 Date Under Investigation: 02/25/94
 Date Under Litigation: / /
 Date Under Remediation: / /
 Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
 Resolution Notes:

 Comments by: LMOSS
 Date: 02/28/94 Time: 18:13:09

 COMPLAINTS IN KINGFISHER COUNTY WERE TRANSFERRED
 TO CRAIG LANGLEY 2/25/94

Complaint Number: 292-99-93-02391 Date Received: 11/09/93

Comments by: EAKIN

Date: 03/01/94 Time: 08:03:45

2/25/94 - COLLINS/KILMER - TALKED WITH ELEVATOR
GEN. MGR. DOUG FISHER. HE COULD NOT REMEMBER ANY
SPECIFIC PROBLEMS FROM NOVEMBER. ELEVATORS WERE
NOT CAUSING A PROBLEM WHILE WE WERE PRESENT ABOUT
15:50.

2/25/94 - COLLINS/KILMER - TALKED TO COMPLAINANT;
SHE INDICATED THAT THE ELEVATOR HAS NOT BEEN
CAUSING A PROBLEM RECENTLY (SINCE NOVEMBER). WE
AGREED TO CLEAR OUT THIS COMPLAINT AND WILL REOPEN
WHEN AND IF THE ELEVATOR AGAIN CAUSES A PROBLEM.
SHE WAS INSTRUCTED TO KEEP NOTES OF DATES AND
TIMES AND CALL ENID DEQ OR STATE DEQ IF THE
PROBLEM RECURS.

COMPLAINT CLOSED.

Date Resolved: 02/25/94 Resolved By: DAVID KILMER

Confirmation Status: 1 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)

Questionnaire Date Sent: 03/01/94 Date Returned: / / Response Pos?: N

Current Date
03/11/94

DEPA **MENT OF ENVIRONMENTAL QUALITY**
Data Complaint Form

Last Update
11/24/93

Complaint Number: 292-99-93-02517 Date Received: 11/22/93
 Referral Complaint Number: Time Received: 11:39
 Received By: T PHAM

AGENCY ASSIGNMENT
 Agency: Contact Phone: (918)744-1000
 Agency Contact: JACK WALLING Subprogram/County: TULSA
 Date Assigned: 11/22/93 Time Assigned: 12:30

COMPLAINANT
 Name: CANDYCE TIFFANY Home Phone: (918)251-9089
 Address: 116 W. MEMPHIS Work Phone: () -
 City: BROKEN ARROW State: OK Zip: 74012-

COMPLAINT INFORMATION
 Type of Complaint: NORMAL Incident or Discovery: D Date: 11/21/93
 Nature of Complaint: THE AIR IN YOUR HOME SMELL LIKE GASOLINE BECAUSE
 THE PEOPLE ACROSS THE STREET ARE TAKING OUT AN
 ABOVE GROUND STORAGE TANK.
 Alleged Receiving Waterbody: Confirmed (Y/N): N
 Fish/Wildlife Kill Confirmed? (Y/N): N

LOCATION OF COMPLAINT
 County: 72
 Legal Description: NE/ SW/ NW/ Section: 14 Township: 18N Range: 14E
 Square Mile Grid: 1484
 General Description: SOUTH SIDE OF 100 BLKS OF WEST MEMPHIS ST.
 Geoposition Latitude: Longitude:

RESPONSIBLE PARTY
 Name: CO-OP OF BROKEN ARROW Phone No.: (918)251-5379
 Address: 507 N. MAIN
 City: BROKEN ARROW State: OK Zip: 74012-

REFERRAL
 Date: 11/22/93 Time: 12:30 Contact Person: BERNIE NALLY
 Source Code: 29234 Assigned To: TULSA County Program Code: 6331

DEQ Division Assigned	AQD: Y	HWMD: N	SWMD: N	WQD: N	RAD: N
Assignments Completed	AQD: Y	HWMD: N	SWMD: N	WQD: N	RAD: N

Referral To Other Agency: Date: / / Time:

INVESTIGATION/ACTION
 Response Contact Person: BERNIE NALLY
 Contact with Complainant Date: 11/23/93 Time: 16:20
 Contact with Alleged Responsible Party Date: 11/23/93 Time: 15:30
 Written Notice of Proposed Action to Complainant Date: 11/24/93
 Written Notice of Resolution to Complainant Date: 11/24/93

Date Under Investigation: 11/23/93
 Date Under Litigation: / /
 Date Under Remediation: / /
 Date Under Mediation: / / Date Mediation Letter Sent: / /

RESOLUTION
 Resolution Notes:

 Comments by: KCOULANDER
 Date: 11/24/93 Time: 15:43:31

 BERNIE NALLY: TELEPHONE CALL TO A.R.P./FARMERS
 CO-OP OF BROKEN ARROW. DOLLY (ASSISTANT MANAGER)
 HAD SOIL CONTAMINATION TRUCKED AWAY. THERE WERE
 NO SPILLS. THE COMPLAINANT DID NOT REPORT THE

6541

Complaint Number: 292-99-93-02517 Date Received: 11/22/93
PROBLEM TO CO-OP MANAGER AT THE SITE. TELEPHONE
CALL TO COMPLAINANT. I LEARNED THAT THE CO-OP IS
REMOVING THE TANKS AND THE SOIL. THE BAD GASOLINE
SMELL IS ONLY SLIGHT AT 4:20 P.M. ON 11-23-93.
THE COMPLAINANT IS SATISFIED THAT THE CO-OP IS
OBEYING THE LAWS AND REMEDIATING THE NUISANCE
ODOR. *****

RESOLUTION LETTER: I INVESTIGATED YOUR COMPLAINT.
I LEARNED THAT GASOLINE CONTAMINATED EQUIPMENT AND
SOIL WAS REMOVED WITHOUT ANY PUBLIC DANGER. THE
BAD SMELL CAME FROM THE REMEDIATION WORK AT THE
SITE. THE ODOR OF GASOLINE ASSOCIATED WITH THE
WORK WILL STOP WHEN THE CLEAN-UP IS FINISHED.

Date Resolved: 11/24/93 Resolved By: BERNIE NALLY
Confirmation Status: 2 (1=Conf. Viol., 2=Conf. No Viol., 3=Unconf.)
Questionnaire Date Sent: 11/24/93 Date Returned: / / Response Pos?: N

Report is limited by the following selected criteria:

Kevin Barnard

Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Locatic
01-01-93-00001	10/04/93	02/03/94	ORGANIGRO	01/28/94	KEVIN BARNARD	01
01-01-93-00002	10/12/93	02/03/94	ORGANIGRO	01/28/94	KEVIN BERNARD	01
01-02-94-00001	02/22/94	02/24/94	JOANN & KEN CODAY	02/24/94	JAY HERNING	02
01-05-93-00005	07/23/93	02/07/94	DUNLAP, PETE	07/30/93	NOEL PATTEN	05
01-05-93-00008	10/14/93	02/07/94	ORGAIN, CARL	10/15/93	NOEL PATTEN	65
01-05-93-00009	11/22/93	12/23/93	PROGRESSIVE AGRI SERVICE, INC.	12/23/93	KEVIN BARNARD	05
01-05-93-00013	12/17/93	03/03/94	PETRO SOURCE	/ /	KEVIN BARNARD	05
01-07-93-00015	12/28/93	02/07/94	RAY WELBORN	01/14/94	PAM WATSON	07
01-08-93-00012	12/03/93	01/03/94	KAISER FRANCIS OIL CO.	12/23/93	RICHARD MCDANIEL	08
01-08-93-00018	12/23/93	12/23/93		12/23/93	RICHARD MCDANIEL	08
01-08-93-00019	12/23/93	12/30/93		12/30/93	RICHARD MCDANIEL	08
01-08-93-00020	12/27/93	12/28/93		12/28/93	RICHARD MCDANIEL	08
01-08-94-00001	01/12/94	02/03/94	HARRISON GYPSON CO.	01/19/94	RICHARD MCDANIEL	08
01-09-93-00019	09/20/93	11/02/93	GERALD TODD	09/28/93	BRUCE VANDE LUNE	09
01-09-94-00010	02/18/94	03/04/94	TODD, J. W.	/ /	JERRY MATTHEWS	09
01-10-93-00014	09/30/93	12/02/93	LEN POTTS	09/30/93	DEWAYNE WORKMAN	10
01-10-93-00022	12/14/93	02/25/94	TOTAL PETROLEUM	/ /	KEVIN BARNARD	10
01-12-93-00010	09/27/93	10/11/93	BOORHEM FIELDS	10/08/93	CHUCK TILLMAN	12
01-14-93-00030	09/14/93	10/20/93	GIBBON	10/19/93	GAY RUSSELL	14
01-14-93-00045	11/01/93	11/02/93	O.U.	11/02/93	DAVID JONES	14
01-16-93-00108	08/25/93	03/04/94		08/27/93	JEFF LAWLER	16

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This report is limited by the following selected criteria:

Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
292-16-93-00112	09/30/93	03/04/94	RICHARD HILL	10/15/93	DON PENDERGRAPH	16
292-16-93-00116	10/25/93	12/20/93		12/17/93	DON PENDERGRAPH	16
292-16-93-00201	12/15/93	03/04/94	MOTO CROSS RACEWAY	12/15/93	JEFF LAWLER	16
292-16-93-00301	10/27/93	02/03/94	MCS CONSTRUCTION, MIKE MOON	02/03/94	KEVIN BARNARD	16
292-16-93-00303	12/15/93	01/05/94	ALVAN RAY KEPHART	01/05/94	JEFF LAWLER	16
292-16-94-00005	01/19/94	01/20/94	NAIL HOUSE	01/20/94	DON PENDERGRAPH	16
292-16-94-00010	02/04/94	02/09/94	BARBIE, EDDIE	02/09/94	DON PENDERGRAPH	16
292-17-93-00002	08/30/93	01/27/94	WALTERS, CITY OF	08/31/93	MERLE HOLLANSWORTH	71
292-17-93-00003	09/02/93	10/14/93	AUBREY RITTER	09/10/93	MERLE HOLLANDSWORTH	17
292-17-93-00005	12/09/93	01/18/94	JIMMY EDGMON	12/14/93	MERLE HOLLANDSWORTH	17
292-19-93-00010	08/17/93	09/10/93	HAVIS CHADWICK	08/18/93	ROBERT HUBER	19
292-19-93-00014	09/18/93	01/12/94	ED REDDING	09/18/93	ROBERT HUBER	19
292-19-93-00016	09/17/93	10/07/93		09/21/93	ROBERT HUBER	19
292-19-94-00020	02/14/94	02/17/94	LAKE COUNTRY HOMEOWNERS ASSOC.	02/14/94	RICHARD FORBES	19
292-20-94-00001	02/01/94	02/25/94	CLINTON COTTON OIL MILL	/ /	PAT FRISBY	20
292-20-94-00002	02/01/94	02/25/94	CLINTON COTTON OIL MILL	/ /	PAT FRISBY	20
292-20-94-00003	02/01/94	02/25/94	CLINTON COTTON OIL MILL	/ /	PAT FRISBY	20
292-21-93-00003	07/30/93	12/17/93	CLARENCE SCROGGINS	12/17/93	KEVIN BARNARD	21
292-24-93-00005	07/21/93	12/15/93	ADVANCE MEAT CO.	12/10/93	CRAIG LANGLEY	24
292-24-93-00007	07/23/93	10/25/93	SPOT SHOP	08/03/93	DAVID KILMER	24
292-24-93-00016	12/06/93	03/03/94		03/03/94	CRAIG LANGLEY	24

s report is limited by the following selected criteria:

Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
-25-94-00007	01/20/94	01/31/94	CITY OF PAULS VALLEY	01/21/94	DAVID GOLDEN	25
-25-94-00009	01/26/94	02/03/94	BOLING WELDING SERVICE	01/28/94	DAVID GOLDEN	25
-26-93-00010	10/08/93	12/21/93	MILLPART DRILLING FLUIDS	10/08/93	CLIFFORD PETTIJOHN	26
-27-93-00001	08/09/93	02/11/94	CLYDE COOP	11/24/93	KEVIN BARNARD	27
-27-93-00002	09/09/93	12/22/93	DENNIS YUNKER	12/22/93	CRAIG LANGLEY	27
-28-93-00005	09/14/93	01/27/94	GRANITE, CITY OF	09/16/93	JOHNNA KERR	28
-28-93-00009	11/29/93	12/23/93	MANGUM FARMERS COOP.	12/21/93	KEVIN BARNARD	28
-28-94-00003	02/18/94	03/04/94	CITY OF MANGUM	02/22/94	JOHNNA KERR	28
-29-93-00001	11/30/93	11/30/93	HARMON CO COOP	11/30/93	RICK DAVIS	29
-33-93-00004	07/27/93	11/22/93		07/27/93	RICK DAVIS	33
-33-94-00004	02/09/94	03/02/94	ADAMS, RICHARD	02/09/94	RICHARD DAVIS	33
-35-93-00022	09/24/93	11/01/93	RAVIA	09/27/93	DAVID FERRIS	35
-36-93-00003	07/06/93	09/27/93	CHARLES MONOY	07/12/93	JOHN CULLIN	36
-36-93-00007	07/26/93	09/28/93	CON-AGRA FLOUR MILL	07/27/93	JOHN CULLIN	36
-36-93-00009	07/27/93	09/27/93	CON-AGRA FLOUR MILL	07/27/93	JOHN CULLIN	36
-36-93-00023	11/29/93	01/26/94	WITCO CORP.	12/10/93	JOHN CULLIN	36
-37-93-00001	08/18/93	01/19/94		12/21/93	JOE HUTCHESON	37
-38-93-00306	10/25/93	11/02/93	BROCE ASPHALT & CONSTRUCTION PLANT	11/02/93	DON PENDERGRAPH	38
-38-94-00003	02/14/94	03/04/94		/ /	DON PENDERGRAPH	38
-39-93-00004	07/22/93	12/02/93	TRANSOK	09/20/93	RICK MANLEY	39
-39-93-00005	07/26/93	01/26/94	TWIN CITIES READY MIX	10/20/93	ANN JAYNE	39

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Complaints Summary Printed By: EAKIN

This report is limited by the following selected criteria:

Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
292-39-93-00008	08/19/93	01/03/94	FARREL COOPER, MIKE WILSON, LESLIE	12/06/93	RICK MANLEY	39
292-39-94-00001	01/21/94	03/03/94	ATLANTIC RICHFIELD	/ /	KEVIN BARNARD	39
292-40-94-00002	01/04/94	01/27/94	FRYHOVER, DON	01/10/94	MIKE ROBINSON	40
292-44-93-00009	08/04/93	09/07/93	LITT FOWLER	08/09/93	DEBBIE TAYLOR	44
292-44-93-00023	12/09/93	01/13/94	WASHINGTON COTTON GIN	12/10/93	DEBBIE TAYLOR	44
292-45-93-00002	07/26/93	12/14/93	CARTER & SONS TRUCK & TRAILER SALES	12/14/93	GREG WORRELL	45
292-45-94-00005	01/27/94	02/15/94	HOUSTON OIL	02/15/94	LYNNE MOSS	45
292-45-94-00006	01/31/94	02/22/94	ROCKWALL INTERNATIONAL	/ /	KEVIN BARNARD	45
292-45-94-00007	01/31/94	02/01/94	CARTER, KEN - CARTER & SONS TRUCK A	02/01/94	GREG WORRELL	45
292-49-93-00012	08/17/93	01/05/94	GRDA (RON COKER)	12/01/93	MIKE FLETCHER	49
292-49-93-00013	08/31/93	02/25/94	RUPE, GERALD	/ /	KEVIN BARNARD	49
292-49-93-00018	09/10/93	09/20/93	PRYOR MUNICIPAL UTILITY BOARD.	09/20/93	PAMELA SNYDER-OSMUN	49
292-49-93-00021	09/20/93	12/03/93	MITCH'S TEXACO	09/20/93	P S-OSMUN	49
292-49-93-00023	10/08/93	01/13/94	GRAND NATIONAL TRAILERS	10/19/93	JOHN D. ETHRIEDGE	72
292-49-94-00012	02/16/94	03/03/94	PAPER RECYCLING	02/28/94	LYNNE MOSS	49
292-51-93-00003	07/15/93	12/15/93		12/15/93	CAREY BELL	51
292-51-93-00004	07/15/93	09/21/93		08/16/93	CAREY BELL	51
292-51-93-00010	11/30/93	12/20/93	ROY WALKUP	11/30/93	CAREY BELL	51
292-54-93-00004	08/20/93	01/27/94	OKEMAH, CITY OF	01/07/94	THOMAS DENNIS	54
292-54-94-00009	02/11/94	03/03/94		03/01/94	THOMAS DENNIS	54
292-55-93-02025	07/02/93	11/15/93	BAR-S MANUFACTURING	07/12/93	CURT GOELLER	55

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055-93-02068	07/07/93	11/15/93	RICHARD WADE	07/07/93	PAM DEWOODY	55
055-93-02082	07/07/93	11/15/93		08/10/93	PAM DEWOODY	55
055-93-02090	07/08/93	11/15/93	BOAT CITY	07/12/93	CURT GOELLER	55
055-93-02103	07/09/93	02/24/94	TOM BATT	07/09/93	PAM DEWOODY	55
055-93-02211	07/16/93	10/14/93		07/19/93	CURT GOELLER	55
055-93-02230	07/20/93	11/15/93		07/27/93	PAMELA L DEWOODY	55
055-93-02260	07/23/93	02/14/94	BRADFORD COMMONS APT.	08/10/93	PAMELA L DEWOODY	55
055-93-02293	07/23/93	11/02/93		09/28/93	CURT GOELLER	55
055-93-02302	07/23/93	11/02/93		09/28/93	DON SOULE	55
055-93-02365	07/28/93	10/12/93		08/02/93	CURT GOELLER	55
055-93-02385	07/29/93	11/15/93		07/30/93	RICHARD KIENLEN	55
055-93-02445	08/03/93	11/15/93		08/13/93	CURT GOELLER	55
055-93-02556	08/11/93	03/01/94	TISCO PIPE	08/16/93	CURT GOELLER	55
055-93-02598	08/16/93	11/15/93		08/18/93	PAM DEWOODY	55
055-93-02619	08/18/93	11/15/93	THE NAIL STUDIO JENNIFER BAKER	08/19/93	RICHARD KIENLEN	55
055-93-02638	08/18/93	10/28/93		08/18/93	PAM DEWOODY	55
055-93-02639	08/18/93	09/28/93		08/18/93	PAMELA L DEWOODY	55
055-93-02642	08/18/93	11/15/93		08/18/93	PAM DEWOODY	55
055-93-02643	08/18/93	10/15/93	JOHN GREVE	08/20/93	TOM HUDSON	55
055-93-02687	08/20/93	12/23/93		08/23/93	PAMELA DEWOODY	55
055-93-02837	09/02/93	10/08/93		09/13/93	RICHARD KIENLEN	55

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292-55-93-02896	09/08/93	10/28/93	TINKER AIR FORCE BASE	09/09/93	PAM DEWOODY	55
292-55-93-02966	09/15/93	09/30/93		09/22/93	CURT GOELLER	55
292-55-93-03029	09/21/93	10/28/93		10/08/93	TOM HUDSON	55
292-55-93-03146	10/01/93	03/01/94		10/04/93	CURT GOELLER	55
292-55-93-03159	10/04/93	10/14/93		10/08/93	TOM HUDSON	55
292-55-93-03179	10/04/93	10/12/93	DAVID PERSONETTE	10/06/93	TOM HUDSON	55
292-55-93-03188	10/05/93	10/14/93	PETROFAB INC.	10/08/93	CURT GOELLER	55
292-55-93-03249	10/08/93	10/28/93	DAN LUTEN	10/08/93	PAM DEWOODY	55
292-55-93-03296	10/14/93	10/20/93		10/18/93	DON SOULE	55
292-55-93-03312	10/18/93	10/20/93	HAROLD AND NANCY SMITH	10/19/93	TOM HUDSON	55
292-55-93-03317	10/18/93	10/20/93	DANIEL HOBBS	10/19/93	TOM HUDSON	55
292-55-93-03366	10/21/93	10/28/93		10/22/93	CURT GOELLER	55
292-55-93-03393	10/26/93	10/27/93	SOUTHWEST MEDICAL CENTER	10/27/93	CHERYL MARTIN	55
292-55-93-03506	11/09/93	11/15/93		11/10/93	CURT GOELLER	55
292-55-93-03530	11/09/93	12/06/93		11/10/93	CURT GOELLER	55
292-55-93-03598	11/18/93	12/03/93	SOUTHWEST MEDICAL CENTER	11/23/93	PAM DEWOODY	55
292-55-93-03615	11/22/93	02/15/94	SW MEDICAL CENTER	01/04/94	PAM DEWOODY	55
292-55-93-03645	11/23/93	12/08/93	TRUMBULL ASPHALT	11/29/93	CURT GOELLER	55
292-55-93-03679	11/29/93	01/10/94	HANSON MILLWORK & TRIM CO	12/15/93	TOM HUDSON	55
292-55-93-03681	11/29/93	12/29/93		12/01/93	TOM HUDSON	55
292-55-93-03725	12/02/93	12/10/93	ROYAL CHATEAU APTS.	12/06/93	CURT GOELLER	55

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2-55-93-03775	12/08/93	02/07/94	GENEVA WALKER	12/10/93	CURT GOELLER	55
2-55-93-03863	12/20/93	12/29/93	LOUIS	12/21/93	RICHARD KIENLEN	55
2-55-93-03864	12/20/93	12/29/93	SOUTH COMMUNITY HOSPITAL	12/21/93	PAM DE WOODY	55
2-55-93-03887	12/23/93	01/10/94		12/30/93	TOM HUDSON	55
2-55-93-03903	12/27/93	01/07/94	STEWARTS AUTO DESIGN	12/28/93	TOM HUDSON	55
2-55-94-00114	01/12/94	02/08/94		02/01/94	PAM DEWOODY	55
2-55-94-00325	02/03/94	02/16/94	OWEN'S CO	02/15/94	TOM HUDSON	55
2-55-94-00489	02/17/94	02/24/94	RAMOS MANUFACTURING CO.	/ /	PAM DEWOODY	55
2-55-94-00535	02/23/94	03/01/94	MID-GUARD	/ /	TOM HUDSON	55
2-58-93-00003	07/26/93	12/28/93	HUMBLE SAND & GRAVEL	12/10/93	KEVIN BARNARD	58
2-58-93-00004	07/23/93	11/18/93	TEETER'S ASPHALT AND MATERIALS	11/17/93	CLYDE MASON	58
2-58-93-00009	08/23/93	12/06/93	NELSON STONE, INC.	10/04/93	CLYDE MASON	58
2-58-93-00011	09/07/93	09/17/93	LESTER HIGH	09/17/93	CLYDE MASON	58
2-58-93-00012	09/09/93	02/11/94	SIMMONS INDUSTRIES	02/04/94	JERRY MATTHEWS	58
2-58-93-01001	07/23/93	11/09/93	RAYMOND WHALING	11/09/93	RICK FORBES	57
2-60-93-00016	10/20/93	11/02/93	BILL HAIKEY	10/21/93	PETE DAVIS	60
2-60-93-00102	08/12/93	10/18/93		08/17/93	CARL JONES	60
2-60-93-00103	08/16/93	09/22/93		08/17/93	CARL JONES	60
2-60-93-00110	12/02/93	02/14/94	OBERLIN COLOR PRESS	02/04/94	KEVIN BARNARD	60
2-60-93-00111	11/26/93	03/03/94	OBERLIN COLOR PRESS	03/01/94	JEFF DYE	60
2-61-93-00001	08/26/93	11/02/93	JIM FORTNEP	09/01/93	JOE DRUMMOND	61

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292-61-94-00005	01/07/94	01/18/94	NORMAN DAVIS	01/18/94	KARL TAYLOR	61
292-62-94-00002	01/24/94	02/09/94	EMCO, J. P.	02/02/94	GREG BELCHER	62
292-63-93-00003	07/08/93	03/01/94		07/14/93	DIANNE CHAPMAN	63
292-63-93-00020	09/28/93	11/24/93	MARY AND JACK LOW	10/07/93	LARRY TATE	63
292-63-93-00029	12/10/93	12/23/93	IRA WHITT	12/13/93	DIANNE CHAPMAN	63
292-63-94-00011	02/15/94	03/02/94	BODARD-HALE DRILLING CO	02/15/94	LARRY TATE	63
292-64-94-00006	02/22/94	03/02/94		02/22/94	CHUCK TILLMAN	64
292-68-93-00001	07/20/93	09/23/93		07/22/93	BOB BATES	68
292-70-93-00002	09/17/93	09/25/93	CARGILL ELEVATOR	09/23/93	LIN KOTTKE	70
292-70-93-00005	07/01/93	07/12/93	SUN REFINING & MARKETING	07/10/93	GLEN CASTLEBERRY	72
292-72-93-00007	07/01/93	12/23/93	SUN REFINING AND MARKETING	07/09/93	GLEN CASTLEBERRY	72
292-72-93-00008	07/01/93	11/24/93	SINCLAIR REFINERY	07/09/93	GLEN CASTLEBERRY	72
292-72-93-00010	07/07/93	08/09/93	FO-MAC, DIVISION OF FURON COMPANY	07/19/93	WALTER CATRETT	72
292-72-93-00013	07/08/93	08/02/93	NOT NAMED	07/09/93	WALTER CATRETT	72
292-72-93-00014	07/12/93	08/02/93	MR. JOE GOAD	07/12/93	BERNIE NALLY	72
292-72-93-00015	07/12/93	08/16/93	YAFFE METALS	08/16/93	JOHN ETHRIEDGE	72
292-72-93-00021	07/13/93	11/24/93	REFINERIES - NOT NAMED	07/15/93	RHONDA JEFFRIES	72
292-72-93-00022	07/13/93	11/24/93	REFINERIES - NOT NAMED	07/15/93	RHONDA JEFFRIES	72
292-72-93-00023	07/13/93	11/24/93	REFINERIES - NOT NAMED	07/15/93	RHONDA JEFFRIES	72
292-72-93-00024	07/14/93	10/19/93	UNKNOWN	10/14/93	BERNIE NALLY	72
292-72-93-00027	07/15/93	10/22/93	HURST STONE	07/15/93	JOHN ETHRIEDGE	72

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72-93-00029	07/15/93	08/13/93	UNKNOWN	07/19/93	GLEN CASTLEBERRY	72
72-93-00030	07/15/93	11/24/93	REFINERIES? NOT NAMED	07/21/93	RHONDA JEFFRIES	72
72-93-00033	07/19/93	08/09/93	RANDY NEWMAN	07/19/93	WALTER CATRETT	72
72-93-00034	07/19/93	08/26/93	SUN REFINING AND MARKETING	07/29/93	GLEN CASTLEBERRY	72
72-93-00035	07/19/93	08/26/93	SUN REFINING & MARKETING	07/29/93	GLEN CASTLEBERRY	72
72-93-00036	07/19/93	08/18/93	SUN REFINERY	07/29/93	GLEN CASTLEBERRY	72
72-93-00038	07/19/93	11/24/93	REFINERIES? NOT NAMED	07/29/93	GLEN CASTLEBERRY	72
72-93-00039	07/20/93	08/10/93	DARYL ISAACSON	07/23/93	DAVISON VIRGIL	72
72-93-00040	07/20/93	07/22/93	RAY REAMY, R. S. SANDBLASTING	07/21/93	WALTER CATRETT	72
72-93-00041	07/17/93	11/24/93	SUN REFINING & MARKETING	07/19/93	GLEN CASTLEBERRY	72
72-93-00042	07/20/93	08/12/93	RYDER TRUCKS	07/20/93	RAY BISHOP	72
72-93-00043	07/20/93	07/26/93		07/23/93	JOHN ETHRIEDGE	72
72-93-00044	07/20/93	01/13/94	SUN REFINERY	07/20/93	GLEN CASTLEBERRY	72
72-93-00045	07/21/93	11/24/93	SUN REFINERY	07/29/93	GLEN CASTLEBERRY	72
72-93-00046	07/20/93	07/30/93	SHERWOOD CONSTRUCTION	07/26/93	JOHN ETHRIEDGE	72
72-93-00048	07/19/93	03/01/94	REFINERY ?	07/19/93	RHONDA JEFFRIES	72
72-93-00051	07/22/93	08/25/93	MR. CLOWDERS	07/23/93	WALTER CATRETT	72
72-93-00052	07/22/93	11/24/93	SUN REFINERY	07/29/93	GLEN CASTLEBERRY	72
72-93-00053	07/22/93	09/01/93	VERDIGRIES VALLEY, JOE HAMPTON	08/31/93	RHONDA JEFFRIES	72
72-93-00054	07/22/93	11/24/93	SUN REFINERY	07/27/93	GLEN CASTLEBERRY	72
72-93-00056	07/23/93	11/24/93	SUN REFINERY	08/30/93	GLEN CASTLEBERRY	72

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292-72-93-00058	07/27/93	08/09/93	SHERWOOD CONSTRUCTION	07/28/93	JOHN ETHRIEDGE	72
292-72-93-00059	07/27/93	09/21/93	SINCLAIR REFINERY	09/13/93	RHONDA JEFFRIES	72
292-72-93-00061	07/28/93	08/13/93	UNKNOWN	07/29/93	JOHN ETHRIEDGE	72
292-72-93-00062	07/28/93	08/11/93	UNKNOWN	07/28/93	JOHN ETHRIEDGE	72
292-72-93-00064	07/29/93	11/24/93		08/05/93	WALTER CATRETT	72
292-72-93-00065	07/28/93	08/11/93	TULSA RENDERING	07/30/93	GLEN CASTLEBERRY	72
292-72-93-00066	07/28/93	08/11/93	TULSA RENDERING	07/30/93	GLEN CASTLEBERRY	72
292-72-93-00067	07/30/93	08/13/93	CONCRETE INDUSTRIES	08/13/93	JOHN D. ETHRIEDGE	72
292-72-93-00068	08/02/93	08/16/93	UNKNOWN NAME	08/03/93	JOHN ETHRIEDGE	72
29 2-93-00069	08/02/93	08/16/93	HURRICANE COATINGS	08/16/93	JOHN ETHRIEDGE	72
292-72-93-00070	07/30/93	08/13/93	SUN REFINERY	07/30/93	GLEN CASTLEBERRY	72
292-72-93-00071	08/02/93	11/24/93	SUN REFINING	08/05/93	WALTER CATRETT	72
292-72-93-00074	08/02/93	11/30/93		08/05/93	WALTER CATRETT	72
292-72-93-00076	08/03/93	11/30/93	REFINERIES?	08/05/93	WALTER CATRETT	72
292-72-93-00077	08/03/93	11/30/93	UNKNOWN	08/05/93	WALTER CATRETT	72
292-72-93-00079	08/04/93	08/11/93	TULSA RENDERING	08/11/93	GLEN CASTLEBERRY	72
292-72-93-00080	08/04/93	08/09/93	SHINGLETON	08/09/93	JOHN ETHRIEDGE	72
292-72-93-00081	08/05/93	11/30/93	SUN REFINERY	08/16/93	JOHN ETHRIEDGE	72
292-72-93-00082	08/05/93	11/08/93	REFINERIES	10/18/93	WALTER CATRETT	72
292-72-93-00083	08/05/93	08/12/93	MARY AND LEON WALDEN	08/06/93	DAVISON VIRGIL	72
292-72-93-00086	08/09/93	08/12/93	ROBBIE VICE	08/11/93	DAVISON VIRGIL	72

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2-72-93-00087	08/09/93	10/22/93	EMPIRE CONSTRUCTION	10/14/93	BERNIE NALLY	72
2-72-93-00091	08/08/93	11/30/93	REFINERIES	08/13/93	JOHN ETHRIEDGE	72
2-72-93-00093	08/11/93	09/15/93	ALL WOOD PRODUCTS COMPANY	09/03/93	BERNIE NALLY	72
2-72-93-00095	08/11/93	09/17/93	SUN REFINERY	09/07/93	WALTER CATRETT	72
2-72-93-00097	08/12/93	08/13/93	ONG	08/13/93	JOHN D. ETHRIEDGE	72
2-72-93-00101	08/17/93	08/20/93		08/20/93	JOHN ETHRIEDGE	72
2-72-93-00104	08/19/93	09/02/93	NOT NAMED	08/19/93	JACK FLY	72
2-72-93-00111	08/23/93	09/15/93	SUN REFINERY	09/03/93	DAVISON VIRGIL	72
2-72-93-00112	08/23/93	09/15/93	SUN REFINERY	09/03/93	DAVISON VIRGIL	72
2-72-93-00113	08/24/93	09/20/93	UNKNOWN NAME	09/17/93	JOHN D. ETHRIEDGE	72
2-72-93-00114	08/24/93	12/28/93		08/24/93	WALTER CATRETT	72
2-72-93-00117	08/25/93	09/03/93	SUN REFINING	08/25/93	DAVISON VIRGIL	72
2-72-93-00118	08/25/93	10/14/93	REFINERIES?	10/06/93	DAVISON VIRGIL	72
2-72-93-00120	08/26/93	09/21/93	SHERWOOD CONSTRUCTION? UNKNOWN	09/14/93	JOHN ETHRIEDGE	72
2-72-93-00122	08/27/93	09/02/93	SUN REFINERY	08/27/93	BERNIE NALLY	72
2-72-93-00124	08/25/93	12/23/93	UNKNOWN NAME-SHERWOOD CONSTRUCTION	09/14/93	JOHN ETHRIEDGE	72
2-72-93-00126	08/27/93	09/03/93	E. H. YANCEY	08/31/93	DAVISON VIRGIL	72
2-72-93-00129	08/30/93	09/15/93	RANDY GOODWIN	09/13/93	JOHN D. ETHRIEDGE	72
2-72-93-00130	08/31/93	09/15/93	SINCLAIR REFINERY	09/03/93	BERNIE NALLY	72
2-72-93-00131	08/31/93	10/25/93	REFINERIES?	09/03/93	BERNIE NALLY	72
2-72-93-00133	09/01/93	09/15/93	UNKNOWN	09/13/93	BERNIE NALLY	72

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292-72-93-00135	09/01/93	09/27/93	MR. LEON SCHMIDT	09/24/93	RICHARD FORBES	57
292-72-93-00136	09/03/93	11/23/93	UNKNOWN	11/23/93	DAVISON VIRGIL	72
292-72-93-00138	09/03/93	09/15/93	SUN REFINERY	09/08/93	HERB NEUMANN	72
292-72-93-00139	09/10/93	12/29/93	SINCLAIR REFINERY	09/13/93	JACK FLY	72
292-72-93-00146	09/10/93	11/03/93	SUN REFINERY	09/10/93	JACK FLY	72
292-72-93-00150	09/15/93	01/13/94	RAUCH BROTHERS	09/15/93	JOHN ETHRIEDGE	72
292-72-93-00152	09/16/93	12/28/93	SUN REFINING	09/21/93	DAVISON VIRGIL	72
292-72-93-00153	09/16/93	09/21/93	SUN REFINING	09/16/93	DAVISON VIRGIL	72
292-72-93-00154	09/16/93	09/21/93	SUN REFINING	09/16/93	DAVISON VIRGIL	72
292-72-93-00155	09/16/93	10/28/93	SUN REFINING	09/16/93	DAVISON VIRGIL	72
292-72-93-00157	09/16/93	09/29/93	ARROW CEMENT	09/23/93	BERNIE NALLY	72
292-72-93-00158	09/20/93	09/24/93	SUN REFINING	09/22/93	BERNIE NALLY	72
292-72-93-00162	09/20/93	11/19/93	MANHATTAN CONSTRUCTION COMPANY	11/19/93	DAVISON VIRGIL	72
292-72-93-00163	09/20/93	11/19/93	MANHATTAN CONSTRUCTION	11/19/93	DAVISON VIRGIL	72
292-72-93-00164	09/20/93	11/19/93	MANHATTAN CONSTRUCTION	11/19/93	DAVISON VIRGIL	72
292-72-93-00165	09/20/93	11/19/93	MANHATTAN CONSTRUCTION	11/19/93	DAVISON VIRGIL	72
292-72-93-00168	09/22/93	09/24/93	SUN REFINERY	09/23/93	BERNIE NALLY	72
292-72-93-00169	09/21/93	09/24/93	SNOW FLEURIES	09/23/93	RHONDA K. JEFFRIES	72
292-72-93-00170	09/21/93	10/08/93	MANHATTAN CONSTRUCTION COMPANY	10/01/93	JOHN D. ETHRIEDGE	72
292-72-93-00171	09/21/93	02/11/94	MANHATTAN CONSTRUCTION	10/01/93	JOHN D. ETHRIEDGE	72
292-72-93-00172	09/23/93	09/24/93	TULSA RENDERING	09/24/93	GLEN CASTLEBERRY	72

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-72-93-00173	09/23/93	10/19/93	ROBBIE VICE	10/18/93	JOHN D. ETHRIEDGE	72
-72-93-00176	09/24/93	09/27/93	BROOKS GREASE SERVICE INCORPORATED	09/24/93	WALTER CATRETT	72
-72-93-00178	09/24/93	10/14/93	ST. JOHN'S MEDICAL BUILDING	10/11/93	RAY BISHOP	72
-72-93-00180	09/27/93	09/30/93	JOHN MCCLAIN	09/30/93	BERNIE NALLY	72
-72-93-00181	09/28/93	10/11/93	SUN REFINING	10/11/93	DAVISON VIRGIL	72
-72-93-00183	09/27/93	10/11/93	UNKNOWN NAMES	10/11/93	DAVISON VIRGIL	72
-72-93-00185	09/28/93	11/22/93	MR. & MRS. FISHER	10/05/93	BERNIE NALLY	72
-72-93-00188	09/29/93	10/08/93	UNKNOWN NAME	10/04/93	DAVISON VIRGIL	72
-72-93-00189	09/29/93	10/19/93	UNKNOWN NAME	10/11/93	JOHN D. ETHRIEDGE	72
-72-93-00190	09/29/93	10/19/93	UNKNOWN NAME	10/11/93	JOHN D. ETHRIEDGE	72
-72-93-00191	09/30/93	10/14/93	SUN REFINING	10/07/93	DAVISON VIRGIL	72
-72-93-00195	09/30/93	10/15/93	DID NOT NAME - REFINERY?	10/07/93	WALTER CATRETT	72
-72-93-00197	09/30/93	10/14/93	SUN REFINING	10/06/93	DAVISON VIRGIL	72
-72-93-00198	09/30/93	10/14/93	SUN REFINERY	10/06/93	DAVISON VIRGIL	72
-72-93-00199	09/30/93	10/29/93	SUN REFINERY	10/06/93	DAVISON VIRGIL	72
-72-93-00203	10/06/93	10/12/93	KERR ELEMENTARY SCHOOL	10/06/93	RENE' KOESLER	72
-72-93-00205	10/06/93	10/14/93	SUN REFINERY	10/07/93	BERNIE NALLY	72
-72-93-00206	10/06/93	10/29/93	SUN REFINERY	10/22/93	BERNIE NALLY	72
-72-93-00207	10/06/93	10/29/93	SUN REFINERY	10/22/93	BERNIE NALLY	72
-72-93-00210	09/23/93	10/13/93	FORD GLASS PLANT	10/07/93	RHONDA JEFFRIES	72
-72-93-00211	10/07/93	10/19/93	UNKNOWN RESPONSIBLE PARTY	10.18.93	BERNIE NALLY	72

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92-72-93-00212	10/11/93	11/17/93	BOTH REFINERIES	11/16/93	WALTER CATRETT	72
92-72-93-00213	10/11/93	10/22/93	REFINERY	10/21/93	WALTER CATRETT	72
92-72-93-00214	10/08/93	10/28/93	UNKNOWN NAME	10/11/93	RENE' KOESLER	72
92-72-93-00215	10/12/93	10/27/93	UNKNOWN NAME	10/18/93	JOHN D. ETHRIEDGE	72
92-72-93-00216	10/12/93	10/27/93	UNKNOWN NAME	10/18/93	JOHN D. ETHRIEDGE	72
92-72-93-00217	10/12/93	11/02/93	UNKNOWN NAME	10/18/93	JOHN D. ETHRIEDGE	72
92-72-93-00218	10/12/93	10/19/93	REFINERY?	10/14/93	HERB NEUMANN/WALTER CATRETT	72
92-72-93-00219	10/12/93	10/27/93	NOT NAMED	10/13/93	GLEN CASTLEBERRY	72
92-72-93-00221	10/14/93	10/19/93	REFINERIES	10/19/93	HERB NEUMAN	72
92-72-93-00224	10/19/93	11/29/93	REFINERIES	10/29/93	WALTER CATRETT	72
92-72-93-00225	10/18/93	11/08/93	UNKNOWN	11/05/93	WALTER CATRETT	72
92-72-93-00226	10/19/93	11/17/93	UNKNOWN	11/16/93	WALTER CATRETT	72
92-72-93-00228	10/20/93	11/08/93	SUN REFINERY	11/05/93	WALTER CATRETT	72
92-72-93-00231	10/22/93	10/27/93	RENBERG'S	10/25/93	RENE' KOESLER	72
92-72-93-00232	10/22/93	10/27/93	PHYSICIANS BUILDING	10/25/93	GLEN CASTLEBERRY	72
92-72-93-00233	10/25/93	11/01/93	SUN REFINERY	10/26/93	GLEN CASTLEBERRY	72
92-72-93-00234	10/25/93	11/15/93	REFINERIES	11/10/93	JACK FLY	72
92-72-93-00235	10/26/93	12/16/93	JUNIPER HILL FARM, INC.	12/13/93	BERNIE NALLY	72
92-72-93-00236	10/27/93	11/03/93	JAY RAMBO COMPANY	10/29/93	BERNIE NALLY	72
92-72-93-00239	10/28/93	12/20/93	LEROY LARK	11/23/93	DAVISON VIRGIL	72
92-72-93-00240	10/28/93	11/15/93	SUN REFINERY	10/29/93	JACK FLY	72

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2-72-93-00243	10/29/93	11/24/93	REFINERIES?	11/22/93	DAVISON VIRGIL	72
2-72-93-00247	11/04/93	11/08/93	BELL ELEMENTARY	11/08/93	RENE' J. KOESLER	72
2-72-93-00252	11/09/93	11/10/93	WILBUR SADLER	11/10/93	JOHN D. ETHRIEDGE	72
2-72-93-00253	11/10/93	12/03/93	NOT NAMED	11/12/93	HERB NEUMANN	72
2-72-93-00254	11/10/93	12/03/93	NOT NAMED	11/12/93	HERB NEUMANN	72
2-72-93-00255	11/09/93	11/24/93	NAME UNKNOWN	11/23/93	BERNIE NALLY	72
2-72-93-00258	11/12/93	12/06/93	MADISON MIDDLE SCHOOL	12/06/93	RHONDA JEFFRIES	72
2-72-93-00259	11/12/93	12/06/93	MADISON MIDDLE SCHOOL	12/06/93	RHONDA JEFFRIES	72
2-72-93-00264	11/18/93	01/13/94	MRS. ADA SMITH	11/18/93	DAVISON VIRGIL	72
2-72-93-00265	11/19/93	11/23/93	FORD GLASS PLANT	11/22/93	RHONDA JEFFRIES	72
2-72-93-00266	10/26/93	11/24/93	JOHN ZINK	11/22/93	DAVISON VIRGIL	72
2-72-93-00274	11/12/93	12/16/93	REFINERIES	12/15/93	DAVISON VIRGIL	72
2-72-93-00282	12/06/93	12/10/93	BRAD FROST	12/07/93	BERNIE NALLY	72
2-72-93-00283	12/06/93	01/05/94	BRAD FROST	12/08/93	BERNIE NALLY	72
2-72-93-00284	12/07/93	01/05/94	UNKNOWN - NOT NAMED	12/09/93	HERB NEUMANN	72
2-72-93-00289	12/08/93	01/05/94	NOT NAMED - UNKNOWN	12/08/93	JACK FLY/WALTER CATRETT	72
2-72-93-00292	12/08/93	12/15/93	O. D. WINGARD	12/14/93	JOHN D. ETHRIEDGE	72
2-72-93-00294	12/08/93	12/16/93	THORNTON YMCA	12/10/93	RENE' KOESLER	72
2-72-93-00299	12/13/93	12/15/93	FRAZIER'S	12/15/93	DAVISON VIRGIL	72
2-72-93-00303	12/20/93	01/10/94	ORAL ROBERTS UNIVERSITY	12/20/93	RENE' J. KOESLER	72
2-72-93-00306	12/21/93	12/23/93	S & S METALS	12/23/93	DAVISON VIRGIL	72

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292-72-93-00308	12/21/93	12/29/93	ROGERS GALVANIZING	12/22/93	DAVISON VIRGIL	72
292-72-93-00313	12/30/93	01/19/94	DARRYL ISAACSON	01/19/94	DAVISON VIRGIL	72
292-72-94-00001	01/03/94	01/10/94	SOURCE UNKNOWN	01/04/94	HERB NEUMANN	72
292-72-94-00003	01/07/94	01/27/94	LYNCH-CAIN, BRENDA	01/19/94	BERNIE NALLY	72
292-72-94-00010	01/12/94	02/04/94	LYNCH-CAIN, BRENDA	01/19/94	BERNIE NALLY	72
292-72-94-00014	01/20/94	02/15/94	RON FLEMING	01/27/94	BERNIE NALLY	72
292-72-94-00018	01/21/94	01/24/94	YAFFE METALS, INC.	01/21/94	BERNIE NALLY	72
292-72-94-00019	01/21/94	01/26/94	YAFFE METALS, INC.	01/24/94	BERNIE NALLY	72
292-72-94-00020	01/24/94	01/24/94	REFINERIES?	/ /	LYNNE MOSS	72
292-72-94-00022	01/25/94	02/02/94	OLD VILLA VILLAGE MOBILE HOME PARK	01/28/94	MARK D. FLEMING	72
292-72-94-00025	01/27/94	03/04/94	SINCLAIR REFINERY	02/22/94	RHONDA JEFFRIES	72
292-72-94-00026	01/27/94	02/09/94	NAME UNKNOWN	02/04/94	BERNIE NALLY	72
292-72-94-00031	02/01/94	02/10/94	NAME NOT KNOWN	02/03/94	DAVISON VIRGIL	72
292-72-94-00035	02/03/94	02/11/94	MID CONTINENT CEMENT PLANT	02/07/94	BERNIE NALLY	72
292-72-94-00039	02/04/94	03/01/94	PLANT NAME UNKNOWN	/ /	JOHN ETHRIEDGE	72
292-72-94-00041	02/04/94	02/11/94	YAFFE METALS	/ /	BERNIE NALLY	72
292-72-94-00042	02/04/94	03/04/94	REFINERY?	/ /	DAVISON VIRGIL	72
292-72-94-00047	02/04/94	02/11/94	YAFFE METALS, INC.	/ /	BERNIE NALLY	72
292-72-94-00048	02/04/94	02/11/94	YAFFE METALS, INC.	/ /	BERNIE NALLY	72
292-72-94-00049	02/07/94	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-72-94-00050	02/07/94	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72

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2-72-94-00051	02/07/94	03/01/94		/ /	DAVISON VIRGIL	72
2-72-94-00052	02/04/94	03/01/94	FEDERAL METALS	/ /	DAVISON VIRGIL	72
2-72-94-00053	02/10/94	02/10/94	PAUL WATKINS	/ /	BERNIE NALLY	72
2-72-94-00054	02/14/94	02/14/94	NAME NOT KNOWN	/ /	DAVISON VIRGIL	72
2-72-94-00057	02/15/94	02/16/94	HILLCREST MEDICAL CENTER	02/15/94	RENE' J. KOESLER	72
2-72-94-00062	02/15/94	02/16/94	MARY & CHARLIE FRAZIER	/ /	DAVISON VIRGIL	72
2-72-94-00063	02/15/94	02/17/94	MOTT ROOFING & SHEET METAL COMPANY	02/16/94	RENE' KOESLER	72
2-72-94-00065	02/16/94	03/04/94	REFINERY?	/ /	JACK FLY	72
2-72-94-00068	02/16/94	03/03/94	UNKNOWN	/ /	JOHN ETHRIEDGE	72
2-72-94-00076	02/23/94	03/03/94	ROBERTS	/ /	DAVISON VIRGIL	72
2-73-93-00006	08/03/93	01/07/94		01/07/94	RON MCCLARY	73
2-74-93-20005	08/17/93	01/03/94	ANDY DIETZEL	12/01/93	RICK AUSTIN	74
2-75-93-00001	07/15/93	01/26/94	MARTIN & TRENE CHAVARRIA	11/30/94	KEVIN BARNARD	75
2-75-93-00006	09/07/93	01/27/94	CORDELL, CITY OF	09/20/93	BETH LEDBETTER	75
2-99-93-01015	07/01/93	12/21/93	SOUTHERN PLAINS LANDFILL	12/17/93	KEVIN BARNARD	26
2-99-93-01016	07/02/93	12/28/93		07/12/93	GLEN CASTLEBERRY	72
2-99-93-01024	07/02/93	07/14/93		07/12/93	GLEN CASTLEBERRY	72
2-99-93-01032	07/02/93	01/26/94	SUNDOWN TRAILERS	01/20/94	KEVIN BERNARD	35
2-99-93-01037	07/05/93	12/02/93	NOBLE MATERIALS	09/15/93	KEVIN BARNARD	14
2-99-93-01044	07/07/93	12/15/93	BFI LANDFILL	12/15/93	PETE DAVIS	60
2-99-93-01049	07/07/93	01/27/94	NEWKIRK, CITY OF	07/16/93	JOHN CULLIN	36

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292-99-93-01056	07/07/93	03/01/94	KELCO	12/17/93	KEVAN BERNARD	56
292-99-93-01064	07/08/93	11/12/93	MCALISTER ARMY AMMUNITION PLANT	10/05/93	KEVIN BARNARD	61
292-99-93-01066	07/08/93	09/27/93	LANNY FADELY	08/27/93	RICK FORBES	57
292-99-93-01070	07/08/93	11/18/93	TERRY LEARD ASSOCIATES - ENGINEERS	11/17/93	JOHN SMITH	66
292-99-93-01080	07/09/93	01/11/94	SOONER ROCK AND SAND	01/11/94	DAVID GOLDEN	50
292-99-93-01089	07/12/93	10/01/93	MIKE BILLBE	07/21/93	BRUCE VANDE LUNE	09
292-99-93-01092	07/12/93	12/02/93	LINDALL MILLIGAN	10/25/93	DAVID JONES	25
292-99-93-01093	07/12/93	11/08/93	LAIDLAW LANDFILL	07/13/93	DAVID P. DAVISON	55
292-99-93-01103	07/10/93	11/12/93	MCALISTER ARMY AMMO DEPOT	10/05/93	KEVIN BARNARD	61
292-99-93-01127	07/14/93	08/02/93	INDIAN SPRINGS RV PARK	07/16/93	LEE TUNSTALL	45
292-99-93-01131	07/15/93	03/01/94	BLUEBONNETT FEED MILL	09/14/93	ANN JANE	10
292-99-93-01133	07/15/93	12/02/93		07/20/93	DARRELL GLENN	14
292-99-93-01145	07/15/93	01/13/94		07/22/93	CAREY BELL	51
292-99-93-01146	07/10/93	12/22/93	SOUTHERN PLAINS LANDFILL	12/17/93	KEVIN BARNARD	26
292-99-93-01154	07/16/93	12/02/93	EXSIL INC.	07/20/93	DAVID GOLDEN	50
292-99-93-01164	07/17/93	11/18/93	NATHAN BOWDEN	11/18/93	JOHN SMITH	66
292-99-93-01166	07/16/93	11/15/93		07/20/93	DON SOULE	55
292-99-93-01168	07/19/93	01/13/94	INDIAN SPRINGS RV PARK	07/19/93	LEE TUNSTALL	46
292-99-93-01192	07/21/93	11/08/93	WILL'S CONCRETE	08/03/93	ZANE WHITE	32
292-99-93-01196	07/21/93	02/04/94	CHOCTAW, CITY OF	08/11/93	CURT GOELLER	55
292-99-93-01212	07/23/93	11/24/93	SUN REFINING AND MARKETING	07/30/93	GLEN CASTLEBERRY	72

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2-99-93-01216	07/22/93	11/29/93	HOLNAM PLANT	10/18/93	GREG BELCHER	62
2-99-93-01227	07/26/93	11/24/93	SUN REFINING & MARKETING	07/30/93	GLEN CASTLEBERRY	72
2-99-93-01230	07/26/93	01/27/94	NORMAN, CITY OF	09/01/93	DAVID JONES	14
2-99-93-01231	07/26/93	01/27/94	NORMAN, CITY OF	09/01/93	DAVID JONES	14
2-99-93-01232	07/26/93	01/27/94	NORMAN, CITY OF	08/31/93	DAVID JONES	14
2-99-93-01235	07/26/93	02/04/94	SUN REFINING AND MARKETING	07/30/93	GLEN CASTLEBERRY	72
2-99-93-01236	07/26/93	11/24/93	SUN REFINING & MARKETING	07/30/93	GLEN CASTLEBERRY	72
2-99-93-01239	07/26/93	12/30/93	MCALESTER ARMY AMMUNITION PLANT	10/05/93	KEVIN BARNARD	61
2-99-93-01251	07/24/93	03/02/94	MCALESTER AMMUNITION PLANT	10/05/93	KEVIN BARNARD	61
2-99-93-01252	07/23/93	11/24/93	SUN REFINERY	07/23/93	GLEN CASTLEBERRY	72
2-99-93-01254	07/25/93	12/02/93	SUN REFINING AND MARKETING	08/11/93	GLEN CASTLEBERRY	72
2-99-93-01257	07/27/93	02/04/94	SHEFFIELD STEEL	07/30/93	GLEN CASTLEBERRY	72
2-99-93-01269	07/28/93	11/24/93	SUN REFINERY	07/29/93	JOHN ETHRIEDGE	72
2-99-93-01272	07/28/93	02/03/94	TWIN CITY CONCRETE CO.	12/16/93	ANN JAYNE	39
2-99-93-01282	07/28/93	11/24/93	SUN REFINERY	08/03/93	GLEN CASTLEBERRY	72
2-99-93-01284	07/29/93	08/17/93	SYN ENERGY	08/16/93	RHONDA JEFFRIES	72
2-99-93-01288	07/28/93	10/05/93	KOCH INDUSTRIES	08/05/93	CRAIG LANGLEY	27
2-99-93-01293	07/29/93	12/16/93	SOUTHWEST WOOD PRODUCTS	12/13/93	TOM HUDSON	55
2-99-93-01297	07/30/93	10/04/93	JOE BROWN CEMENT COMPANY	09/10/93	KEVIN BARNARD	48
2-99-93-01314	07/31/93	11/24/93	SUN OIL	07/31/93	JACK WALLING	72
2-99-93-01315	07/31/93	08/11/93	SUN OIL	07/31/93	JACK WALLING	72

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292-99-93-01316	07/31/93	08/11/93	NOT NAMED	07/31/93	JACK WALLING	72
292-99-93-01319	07/31/93	12/03/93	SUN REFINERY	08/11/93	GLEN CASTLEBERRY	72
292-99-93-01320	08/01/93	08/13/93		08/03/93	GLEN CASTLEBERRY	72
292-99-93-01333	08/02/93	03/01/94	WAUKOMIS COOP SUPPLY CO.	08/03/93	LYNNE MOSS	24
292-99-93-01336	08/03/93	01/13/94		08/03/93	PAMELA L DEWOODY	55
292-99-93-01351	08/03/93	02/04/94	RON PERSLEY	09/28/93	CURT GOELLER	55
292-99-93-01373	08/05/93	11/08/93	AQUA FARMS	08/17/93	ZANE WHITE	32
292-99-93-01378	08/05/93	12/27/93		12/09/93	PAM DEWOODY	55
292-99-93-01387	08/05/93	12/15/93		12/15/93	GREG BELCHER	62
292-99-93-01393	08/06/93	11/15/93	ARCO DEHYDRATION PLANT	09/22/93	KEVIN BARNARD	39
292-99-93-01404	08/07/93	02/04/94	EDDIE REED	09/01/93	RICK MANLEY	64
292-99-93-01405	08/08/93	11/30/93	SUN AND SINCLAIR OIL REFINERY	08/17/93	JOHN ETHRIEDGE	72
292-99-93-01411	08/09/93	12/21/93		12/21/93	MARVIN BOATRIGHT	56
292-99-93-01412	08/08/93	10/29/93	SUN REFINERY	08/10/93	JOHN ETHRIEDGE	72
292-99-93-01413	08/08/93	11/30/93	SUN REFINERY	08/10/93	JOHN ETHRIEDGE	72
292-99-93-01414	08/08/93	11/30/93	SUN REFINERY	08/10/93	JOHN ETHRIDGE	72
292-99-93-01415	08/08/93	09/02/93	SUN OIL REFINERY	08/10/93	JOHN ETHRIEDGE	72
292-99-93-01421	08/09/93	02/04/94	TISSINGTON ASPHALT	08/13/93	KARL TAYLOR	61
292-99-93-01429	08/10/93	11/22/93	ALTUS FLYING SERVICES	08/10/93	LYNNE MOSS	33
292-99-93-01431	08/10/93	11/15/93	CARLAWN PVC MANUFACTURING	08/17/93	CURT GOELLER	55
292-99-93-01455	08/11/93	08/18/93	MARK CAVENAUGH	08/18/93	RAY BISHOP	72

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
99-93-01459	08/12/93	10/25/93	CUSHING LANDFILL	08/25/93	BILL WARDEN	60
99-93-01460	08/12/93	12/15/93	HOLNAM CEMENT PLANT	12/15/93	GREG BELCHER	62
99-93-01461	08/12/93	02/04/94		08/20/93	TOM HUDSON	55
99-93-01467	08/13/93	09/21/93		08/16/93	STEVE WIMBERLY	49
99-93-01471	08/12/93	09/21/93	UNKNOWN	09/13/93	WALTER CATRETT	72
99-93-01472	08/12/93	09/21/93		09/13/93	WALTER CATRETT	72
99-93-01485	08/13/93	09/17/93	GEORGE OTT	08/17/93	MIKE FLETCHER	21
99-93-01488	08/15/93	11/30/93	SUN REFINERY	08/17/93	JACK FLY	72
99-93-01489	08/15/93	11/30/93	SUN OIL	08/17/93	JACK FLY	72
99-93-01491	08/16/93	01/13/94	SUN REFINERY	08/16/93	JACK FLY	72
99-93-01506	08/16/93	09/02/93		08/16/93	JACK FLY	72
99-93-01508	08/16/93	09/02/93	UNKNOWN	08/17/93	JACK FLY	72
99-93-01513	08/17/93	09/21/93	CUMMINGS MATERIAL, INC.	09/14/93	JOHN D. ETHRIEDGE	72
99-93-01517	08/17/93	09/02/93	SUN OIL	08/17/93	JACK FLY	72
99-93-01518	08/17/93	09/02/93	SUN OIL	08/18/93	JACK FLY	72
99-93-01521	08/17/93	03/07/94	PUBLIC SERVICE	08/27/93	DON PENDERGRAPH	16
99-93-01525	08/17/93	10/08/93		08/27/93	TOM HUDSON	55
99-93-01527	08/18/93	09/02/93	UNKNOWN	08/18/93	JACK FLY	72
99-93-01532	08/17/93	12/23/93	MORROW CEMENT PLANT	12/23/93	JERRY MATTHEWS	52
99-93-01537	08/17/93	12/23/93	SUNOCO	08/18/93	JACK FLY	72
99-93-01538	08/18/93	02/04/94		09/01/93	JOE HUTCHESON	37

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Complaints Summary Printed By: EAKIN

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
92-99-93-01550	08/19/93	10/05/93		08/25/93	TOM HUDSON	55
92-99-93-01551	08/18/93	08/20/93	O.G. & E., SOONER STATION	08/20/93	JERRY MATHEWS	52
92-99-93-01557	08/19/93	09/02/93	SUN REFINERY	08/20/93	JACK FLY	72
92-99-93-01558	08/19/93	09/02/93	SUN REFINERY	08/19/93	JACK FLY	72
92-99-93-01559	08/19/93	09/14/93	SUN REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01561	08/19/93	09/14/93	SUN REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01562	08/19/93	09/14/93	SUN REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01564	08/19/93	09/10/93	SUN REFINERY	09/08/93	DAVISON VIRGIL	72
92-99-93-01576	08/20/93	09/22/93	SOUTHWEST MEDICAL CENTER OF OK	09/15/93	PAMELA DEWOODY	55
92-99-93-01587	08/23/93	03/01/94	GAYLOR, .	03/01/94	KEVIN BERNARD	73
92-99-93-01589	08/21/93	09/03/93	SUN OIL REFINERY	08/23/93	DAVISON VIRGIL	72
92-99-93-01590	08/21/93	09/03/93	SUN OIL REFINERY	08/23/93	DAVISON VIRGIL	72
92-99-93-01591	08/22/93	09/14/93	SUN OIL REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01592	08/22/93	09/15/93	SUN OIL REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01593	08/22/93	09/14/93	SUN OIL REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01594	08/22/93	09/14/93	SUN OIL REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01595	08/22/93	09/15/93	SUN OIL REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01596	08/22/93	09/10/93	SUN OIL REFINERY	09/07/93	DAVISON VIRGIL	72
92-99-93-01597	08/22/93	09/08/93	SUN OIL REFINERY	09/03/93	DAVISON VIRGIL	72
92-99-93-01598	08/22/93	02/11/94	SUN OIL REFINERY	10/07/93	DAVISON VIRGIL	72
92-99-93-01599	08/22/93	09/14/93	SUN OIL REFINERY	09/07/93	DAVISON VIRGIL	72

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Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
99-93-01601	08/22/93	09/14/93	SUN OIL REFINERY	09/07/93	DAVISON VIRGIL	72
99-93-01602	08/22/93	09/03/93	SUN OIL REFINERY	08/22/93	DAVISON VIRGIL	72
99-93-01603	08/23/93	09/03/93	SUN OIL REFINERY	08/23/93	DAVISON VIRGIL	72
99-93-01610	08/21/93	10/11/93	YAFFEE METAL	10/05/93	CAREY BELL	51
99-93-01616	08/22/93	03/07/94	RANDALL CARLSON	09/02/93	JEFF LAWLER	16
99-93-01619	08/23/93	02/04/94		09/30/93	GREG RESSEL	34
99-93-01623	08/23/93	12/30/93	SUN REFINERY	09/07/93	DAVISON VIRGIL	72
99-93-01624	08/23/93	09/10/93	REFINERY - NOT NAMED	09/09/93	DAVISON VIRGIL	72
99-93-01625	08/24/93	09/08/93	REFINERY - NOT NAMED	09/07/93	DAVISON VIRGIL	72
99-93-01629	08/24/93	03/03/94	TOWERTECH, INC.	01/27/94	JILL WINTERS	26
99-93-01634	08/24/93	11/19/93	TOTAL PETROLEUM	09/13/93	DEWAYNE WORKMAN	10
99-93-01647	08/25/93	10/05/93	SUN REFINERY (OLD TEXACO)	09/09/93	DAVISON VIRGIL	72
99-93-01648	08/25/93	09/10/93	SUN OR SINCLAIR	09/08/93	DAVISON VIRGIL	72
99-93-01649	08/26/93	09/08/93	SUN REFINERY	09/07/93	DAVISON VIRGIL	72
99-93-01650	08/26/93	09/08/93	SUN REFINERY	09/07/93	DAVISON VIRGIL	72
99-93-01654	08/26/93	02/04/94		09/13/93	CLIFFORD PETTIJOHN	26
99-93-01658	08/26/93	12/16/93	CARL JACKSON	11/30/93	BETH LEDBETTER	20
99-93-01661	08/26/93	09/08/93	SUNOCO REFINERY	09/07/93	DAVISON VIRGIL	72
99-93-01667	08/27/93	01/07/94	T&M SAND & GRAVEL CO.	01/07/94	BOB BATES	68
99-93-01672	08/27/93	11/12/93	RALPH DEFRANGE	08/30/93	JOE DRUMMOND	61
99-93-01675	08/27/93	09/24/93	SUNOCO REFINERY	08/28/93	BERNIE NALLY	72

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Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
292-99-93-01682	08/30/93	02/04/94	BFI	12/23/93	KEVIN BERNARD	60
292-99-93-01684	08/30/93	10/21/93	GENE SATTERFIELD	08/31/93	CHUCK TILLMAN	12
292-99-93-01687	08/30/93	03/03/94	RUSHING PAVEMENT	/ /	JERRY MATTHEWS	07
292-99-93-01694	08/30/93	10/08/93	MEXICO IMPORTS	09/15/93	TOM HUDSON	55
292-99-93-01697	08/30/93	11/19/93	TOTAL REFINERY	09/13/93	DAVID FERRIS	10
292-99-93-01716	08/12/93	11/24/93	TDK FERRITES CORPORATION	08/30/93	JERRY MATTHEWS	63
292-99-93-01724	09/01/93	11/22/93	FREDDIE DAVIS	09/02/93	NOEL PATTEN	05
292-99-93-01725	09/01/93	02/04/94	WITCO	11/09/93	KEVIN BARNARD	36
292-99-93-017	09/02/93	09/03/93	BEE LINE SALVAGE AND METAL	09/03/93	TOM INGRAM	56
292-99-93-01730	09/02/93	12/22/93	JONES GROCERY	09/09/93	KARL TAYLOR	61
292-99-93-01734	09/02/93	09/10/93	UNKNOWN	09/03/93	BERNIE NALLY	72
292-99-93-01739	09/03/93	02/04/94	LEWIS, JANET AND PHILIP	02/02/94	RON MCCLARY	73
292-99-93-01742	09/03/93	09/15/93	SUN REFINARY	09/13/93	HERB NEUMANN	72
292-99-93-01743	09/03/93	09/17/93	CHARLES THOMPSON	09/17/93	CURT GOELLER	55
292-99-93-01745	09/05/93	10/28/93	TINKER AFB	09/09/93	PAM DEWOODY	55
292-99-93-01747	09/07/93	11/19/93	TOTAL PETROLEUM REFINERY	09/13/93	DEWAYNE WORKMAN	10
292-99-93-01748	09/04/93	12/13/93	TOTAL REFINERY	09/13/93	DEWAYNE WORKMAN	10
292-99-93-01749	09/05/93	12/30/93		09/16/93	HERB NEUMANN	72
292-99-93-01751	09/08/93	11/19/93	TOTAL REFINERY	09/13/93	DEWAYNE WORKMAN	10
292-99-93-01756	09/08/93	11/19/93	TOTAL REFINERY	09/13/93	DEWAYNE WORKMAN	10
292-99-93-01757	09/07/93	09/21/93	UNKNOWN	09/20/93	HERB NEUMANN	72

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99-93-01775	09/09/93	02/04/94	TOTAL REFINERY	01/10/94	BLABLAKE RUDD	43
99-93-01777	09/08/93	10/05/93		09/09/93	NANCY COLEMAN	09
99-93-01778	09/08/93	09/24/93	STRINGFELLOW & SONS	09/15/93	KARL TAYLOR	61
99-93-01779	09/09/93	10/04/93	ARKLA GAS	09/13/93	KARL TAYLOR	61
99-93-01780	09/09/93	10/08/93	COOK FENCE & IRON	09/27/93	TOM HUDSON	55
99-93-01786	09/09/93	03/03/94	ALUMINUM SERVICES	03/01/94	KEVIN BARNARD	46
99-93-01788	09/10/93	03/02/94	JIM FISHER	09/29/93	GREG BLETCHER	62
99-93-01790	09/10/93	11/03/93	MERIDIAN MATERIALS	10/19/93	CHUCK TILLMAN	12
99-93-01794	09/11/93	10/19/93	MCALESTER ARMY AMMUNITION PLANT	10/05/93	KEVIN BARNARD	61
99-93-01795	09/11/93	01/28/94	MCALESTER ARMY AMMUNITION PLANT	01/28/94	KEVIN BARNARD	61
99-93-01798	09/11/93	09/14/93	SUN REFINERY	09/11/93	JACK FLY	72
99-93-01819	09/16/93	09/21/93	SUN REFINERY	09/16/93	DAVISON VIRGIL	72
99-93-01822	09/16/93	01/04/94	ADAMS WOOD PRODUCTS	09/28/93	BETH LEDBETTER	20
99-93-01835	09/14/93	09/24/93	SUN REFINERY	09/21/93	JACK FLY	72
99-93-01853	09/18/93	09/24/93	SUN REFINERY	09/21/93	BERNIE NALLY	72
99-93-01854	09/18/93	09/24/93	SUN REFINERY	09/21/93	BERNIE NALLY	72
99-93-01855	09/18/93	10/28/93	TINKER AFB	09/20/93	PAMELA DEWOODY	55
99-93-01856	09/19/93	09/24/93	SUN OIL REFINERY	09/21/93	BERNIE NALLY	72
99-93-01858	09/19/93	09/28/93	SUN REFINERY	09/21/93	BERNIE NALLY	72
99-93-01860	09/19/93	09/24/93	SUN REFINERY	09/21/93	BERNIE NALLY	72
99-93-01861	09/19/93	09/24/93	SUN OIL REFINERY	09/22/93	BERNIE NALLY	72

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192-99-93-01862	09/19/93	09/24/93	SUN REFINERY	09/22/93	BERNIE NALLY	72
192-99-93-01863	09/19/93	10/06/93	SUN REFINERY	09/22/93	BERNIE NALLY	72
192-99-93-01864	09/19/93	09/24/93	SUN REFINERY	09/22/93	BERNIE NALLY	72
192-99-93-01865	09/19/93	09/24/93	SUN REFINERY	09/22/93	BERNIE NALLY	72
192-99-93-01866	09/19/93	09/24/93	SUN REFINERY	09/22/93	BERNIE NALLY	72
192-99-93-01867	09/19/93	09/30/93	SUN REFINERY	09/30/93	BERNIE NALLY	72
192-99-93-01868	09/19/93	11/01/93	SUN REFINERY	09/22/93	BERNIE NALLY	72
192-99-93-01876	09/19/93	02/11/94	NOBLE MATERIALS	01/28/94	JERRY MATTHEWS	14
192-99-93-01888	09/21/93	09/28/93	UNKNOWN ODOR	09/23/93	BERNIE NALLY	72
192-99-93-01897	09/22/93	03/02/94	QUINTON (JIM) FISHER	09/29/93	GREG BELCHER	62
192-99-93-01900	09/22/93	09/28/93	SUN REFINERY	09/23/93	BERNIE NALLY	72
192-99-93-01901	09/22/93	09/24/93	SUN REFINERY	09/23/93	BERNIE NALLY	72
192-99-93-01902	09/22/93	09/24/93	SUN REFINERY	09/23/93	BERNIE NALLY	72
192-99-93-01903	09/22/93	09/29/93	SUN REFINERY	09/23/93	BERNIE NALLY	72
192-99-93-01910	09/22/93	01/28/94	ORGANIGRO	01/28/94	JERRY MATTHEWS	01
192-99-93-01920	09/23/93	02/11/94	NOBLE MATERIALS	01/28/94	JERRY MATTHEWS	14
192-99-93-01924	09/23/93	01/14/94	SHEIFY	01/14/94	RANDALL BRIX	73
192-99-93-01944	09/27/93	01/13/94	RICK WEEB, COUNTY COMMISSIONER	09/28/93	BETH LEDBETTER	20
192-99-93-01957	09/28/93	10/14/93	ONG	10/01/93	DEBBIE TAYLOR	44
192-99-93-01961	09/27/93	10/14/93	SUN REFINERY	10/04/93	DAVISON VIRGIL	72
192-99-93-01962	09/28/93	10/14/93	SUN REFINERY	10/04/93	DAVISON VIRGIL	72

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99-93-01963	09/27/93	10/15/93	SUN REFINERY	10/08/93	DAVISON VIRGIL	72
99-93-01964	09/27/93	10/29/93	SUN REFINERY	10/07/93	DAVISON VIRGIL	72
99-93-01965	09/27/93	10/29/93	SUN REFINERY	10/07/93	DAVISON VIRGIL	72
99-93-01972	09/28/93	10/11/93	MCNEAL GRAIN COMPANY	09/30/93	BOB GIGER	22
99-93-01975	09/29/93	02/04/94	WITCO	11/01/93	KEVIN BARNARD	36
99-93-01995	09/30/93	12/03/93	SUN OIL REFINERY	10/13/93	DAVISON VIRGIL	72
99-93-01996	09/30/93	10/13/93	SUN OIL REFINERY	10/01/93	DAVISON VIRGIL	72
99-93-02005	10/01/93	02/04/94	BALES SALVAGE	10/01/93	JOHN CULLIN	36
99-93-02007	10/01/93	02/11/94	CASWELL ORTH ASPHALT COMPANY	10/07/93	KEVIN BARNARD	05
99-93-02015	11/22/93	03/03/94	FARMERS UNION COOP GIN	/ /	JERRY MATTHEWS	17
99-93-02017	09/30/93	10/29/93	SUN OIL REFINERY	10/06/93	DAVISON VIRGIL	72
99-93-02018	09/30/93	10/14/93	SUN REFINERY	10/06/93	DAVISON VIRGIL	72
99-93-02022	10/01/93	10/05/93	MEMORIAL HOSPITAL	10/04/93	DEWAYNE WORKMAN	10
99-93-02023	09/30/93	10/14/93	SUN OIL REFINERY	10/06/93	DAVISON VIRGIL	72
99-93-02027	10/04/93	10/11/93	FARMERS OF DIAMOND	10/05/93	LIN KOTTKE	70
99-93-02031	10/03/93	02/11/94	NOBLE MATERIALS	01/28/94	JERRY MATTHEWS	14
99-93-02033	10/03/93	10/28/93	TINKER AFB	10/08/93	PAM DEWOODY	55
99-93-02034	10/03/93	10/08/93	SUN REFINERY	10/04/93	HERB NEUMANN	72
99-93-02035	10/03/93	10/08/93	SUN OIL REFINERY	10/04/93	HERB NEUMANN	72
99-93-02037	09/24/93	02/11/94	NOBLE MATERIALS	01/28/94	JERRY MATTHEWS	14
99-93-02040	10/04/93	10/25/93	SUN REFINERY	10/22/93	BERNIE NALLY	72

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Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
292-99-93-02041	10/04/93	10/29/93	SUN REFINERY	10/07/93	BERNIE NALLY	72
292-99-93-02042	10/04/93	10/29/93	SUN REFINERY	10/22/93	BERNIE NALLY	72
292-99-93-02047	10/05/93	01/27/94	NORMAN, CITY OF, JIM BERRY	10/07/93	DEBBIE TAYLOR	14
292-99-93-02049	10/05/93	12/16/93	MR. MCGEEHEE	11/17/93	JOHN SMITH	66
292-99-93-02050	10/05/93	10/14/93	WESTERN TOWER	10/08/93	CURT GOELLER	55
292-99-93-02051	10/05/93	10/08/93	MEDSERVE HOME HEALTH CARE	10/06/93	DEBBIE TAYLOR	44
292-99-93-02053	10/05/93	02/04/94	FRED PHILLIPS	12/03/93	RICK MANLEY	31
292-99-93-02058	10/06/93	10/14/93	CROSSROADS MANAGEMENT	10/07/93	CURT GOELLER	55
292-99-93-02071	10/06/93	10/15/93	SUN REFINERY	10/07/93	BERNIE NALLY	72
292-99-93-02075	10/06/93	10/15/93	SUN REFINERY	10/07/93	BERNIE NALLY	72
292-99-93-02076	10/06/93	10/15/93	SUN REFINERY	10/07/93	BERNIE NALLY	72
292-99-93-02077	10/06/93	10/29/93	SUN REFINERY	10/18/93	BERNIE NALLY	72
292-99-93-02078	10/07/93	10/29/93	SUN REFINERY	10/22/93	BERNIE NALLY	72
292-99-93-02080	10/08/93	02/04/94	MCCOLOR'S BODY SHOP	10/11/93	KARL TAYLOR	61
292-99-93-02082	10/07/93	10/29/93	SUN REFINERY	10/19/93	BERNIE NALLY	72
292-99-93-02083	10/07/93	10/29/93	SUN REFINERY	10/18/93	BERNIE NALLY	72
292-99-93-02085	10/07/93	01/19/94	TO BE DETERMINED	01/05/94	RICHARD MCDANIEL	08
292-99-93-02092	10/08/93	10/28/93	TINKER AFB	10/08/93	PAM DEWOODY	55
292-99-93-02094	10/08/93	11/29/93	QUICK SET	10/18/93	ROBERT HUBER	19
292-99-93-02098	10/09/93	02/11/94	NOBLE MATERIALS	01/28/94	JERRY MATTHEWS	14
292-99-93-02099	10/08/93	10/29/93	SINCLAIR REFINERY	10/18/93	BERNIE NALLY	72

s report is limited by the following selected criteria:

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
-99-93-02101	10/11/93	11/08/93	SUN REFINERY	11/05/93	WALTER CATRETT	72
-99-93-02102	10/11/93	11/08/93	SUN REFINERY	11/05/93	WALTER CATRETT	72
-99-93-02112	10/11/93	01/18/94	DOLESE & LATIMER ROCK CRUSHERS	10/22/93	JOE DAVID FERRIS	35
-99-93-02113	10/11/93	10/27/93	SUN REFINERY	10/14/93	HERB NEUMANN	72
-99-93-02114	10/11/93	12/30/93	SUN REFINERY	10/14/93	HERB NEUMANN	72
-99-93-02115	10/11/93	10/27/93	SUN REFINERY	10/14/93	HERB NEUMANN/WALTER CATRETT	72
-99-93-02117	10/11/93	10/27/93	SUN REFINERY	10/14/93	HERB NEUMANN	72
-99-93-02118	10/11/93	10/27/93	SUN REFINERY	10/14/95	HERB NEUMANN/WALTER CATRETT	72
-99-93-02119	10/11/93	10/27/93	SUN REFINERY	10/14/93	HERB NEUMANN/WALTER CATRETT	72
-99-93-02121	10/12/93	10/27/93	SUN REFINERY	10/18/93	GLEN CASTLEBERRY	72
-99-93-02139	10/13/93	01/27/94	TULSA, CITY OF	10/18/93	GLEN CASTLEBERRY	72
-99-93-02158	10/14/93	10/26/93	SUN REFINERY	10/22/93	HERB NEUMANN	72
-99-93-02159	10/14/93	10/26/93	SUN REFINERY	10/22/93	HERB NEUMANN	72
-99-93-02160	10/14/93	10/26/93	SUN REFINERY	10/22/93	HERB NEUMANN	72
-99-93-02161	10/14/93	10/26/93	SUN REFINERY	10/22/93	HERB NEUMANN	72
-99-93-02162	10/14/93	10/26/93	SUN REFINERY	10/22/93	HERB NEUMANN	72
-99-93-02168	10/15/93	12/30/93	SUN REFINERY	10/21/93	WALTER CATRETT	72
-99-93-02169	10/15/93	10/27/93	SUN REFINERY	10/21/93	WALTER CATRETT	72
-99-93-02171	10/15/93	10/27/93	SUN REFINERY	10/21/93	WALTER CATRETT	72
-99-93-02188	10/19/93	11/24/93	COLLINGWOOD COOP	11/24/93	KEVIN BENARD	04
-99-93-02202	10/22/93	11/22/93	UNKNOWN	11/05/93	WALTER CATRETT	72

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
292-99-93-02203	10/22/93	11/02/93	SUN REFINERY	11/02/93	JACK FLY	72
292-99-93-02207	10/22/93	12/16/93	FRANK JONES & BILLY MCCARTER	12/16/93	CAREY BELL	51
292-99-93-02213	10/22/93	12/30/93	SUN REFINERY	10/27/93	JACK FLY	72
292-99-93-02215	10/23/93	10/29/93	SUN REFINERY	10/26/93	JACK FLY	72
292-99-93-02216	10/23/93	11/01/93	SUN REFINERY	10/26/93	JACK FLY	72
292-99-93-02217	10/23/93	11/01/93	SUN REFINERY	10/26/93	JACK FLY	72
292-99-93-02219	10/23/93	11/05/93	SUN REFINERY	10/27/93	JACK FLY	72
292-99-93-02220	10/23/93	11/05/93	SUN REFINERY	10/27/93	JACK FLY	72
292-99-93-02221	10/23/93	11/05/93	SUN REFINERY	10/27/93	JACK FLY	72
292-99-93-02223	10/23/93	11/01/93	SUN REFINERY	10/26/93	JACK FLY	72
292-99-93-02224	10/23/93	11/01/93	SUN REFINERY	10/27/93	JACK FLY	72
292-99-93-02225	10/23/93	12/30/93	SUN REFINERY	10/27/93	JACK FLY	72
292-99-93-02230	10/25/93	11/23/93	PROGRESSIVE AGRI. SERVICES INC.	10/27/93	NOEL PATTEN	05
292-99-93-02238	10/25/93	02/02/94	RANDY ROSS	10/28/93	BOB BATES	68
292-99-93-02240	10/25/93	10/29/93	SEMONE'S LIGHTING	10/26/93	JACK FLY	72
292-99-93-02242	10/25/93	11/05/93		10/27/93	NOEL PATTEN	05
292-99-93-02243	10/26/93	10/28/93	SOUTHWEST MEDICAL CENTER	10/28/93	CHERYL MARTIN	55
292-99-93-02245	10/26/93	02/04/94		01/27/94	NOEL PATTEN	05
292-99-93-02247	10/26/93	12/30/93	UNKNOWN	12/16/93	CAREY BELL	51
292-99-93-02258	10/27/93	11/03/93	SUN REFINERY	11/02/93	JACK FLY	72
292-99-93-02259	10/27/93	11/04/93	SUN REFINERY	11/02/93	JACK FLY	72

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Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
99-93-02260	10/27/93	01/13/94	SUN REFINERY	10/27/93	JACK FLY	72
99-93-02261	10/27/93	11/15/93	NOT NAMED	11/02/93	JACK FLY	72
99-93-02262	10/27/93	01/19/94	ERICK DISPOSAL WELL	11/01/93	NOEL PATTEN	05
99-93-02263	10/27/93	11/05/93	ERICK DISPOSAL WELL	11/05/93	NOEL PATTEN	05
99-93-02265	10/28/93	01/13/94	SUN REFINERY	10/28/93	JACK FLY	72
99-93-02266	10/28/93	11/04/93	SUN REFINERY	11/02/93	JACK FLY	72
99-93-02267	10/28/93	01/13/94	SUN REFINERY	10/28/93	JACK FLY	72
99-93-02272	10/28/93	02/04/94	J.P. EMCO	01/28/94	GAY RUSSEL	62
99-93-02282	11/01/93	03/03/94	MARY HURLEY HOSPITAL	/ /	KEVIN BARNARD	15
99-93-02285	11/01/93	12/03/93	UNKNOWN	12/03/93	DAVISON VIRGIL	72
99-93-02288	10/30/93	02/11/94	NOBLE MATERIALS	01/28/94	JERRY MATTHEWS	14
99-93-02292	10/31/93	11/03/93	NOT NAMED	11/02/93	DAVISON VIRGIL	72
99-93-02295	11/01/93	03/01/94	ORGANIGRO	01/04/94	KEVIN BARNARD	01
99-93-02312	11/01/93	12/17/93	SUN REFINERY	11/01/93	DAVISON VIRGIL	72
99-93-02314	11/03/93	03/02/94	LONE STAR	01/04/94	PAM SNYDER-OSMUN	49
99-93-02321	11/03/93	11/22/93	MR. SCOTT	11/17/93	ROBERT HUBER	19
99-93-02324	11/03/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72
99-93-02326	11/03/93	02/14/94	SATTCO	/ /	JERRY MATTHEWS	07
99-93-02329	11/01/93	02/11/94	SUN OIL REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72
99-93-02330	11/01/93	01/18/94	SUN OIL	/ /	LYNNE MOSS/DAVISON VIRGIL	72
99-93-02331	11/01/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
292-99-93-02333	11/02/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02336	11/02/93	01/18/94	SUN OIL	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02337	11/02/93	03/04/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02339	11/04/93	12/17/93	OG&E MUSTANG POWER PLANT	11/08/93	CURT GOELLER	55
292-99-93-02346	11/05/93	02/15/94	GENERAL BUILDER SUPPLIES	02/15/94	TOM HUDSON	55
292-99-93-02348	11/04/93	01/06/94	WAYNOKA COOP ASSOCIATION	01/06/94	JAY HERNING	76
292-99-93-02358	11/02/93	02/11/94	REFINERY?	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02359	11/02/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02360	11/02/93	02/11/94	SUN	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02361	11/03/93	02/11/94	REFINERY?	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02363	11/03/93	02/11/94	SUN OIL	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02364	11/03/93	02/11/94	SUN OIL	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02365	11/03/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02366	11/03/93	02/11/94	SUN	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02368	11/08/93	02/11/94	SUN OIL	/ /	LYNNE MOSS	72
292-99-93-02369	11/09/93	02/11/94	SUN OIL	/ /	LYNNE MOSS	72
292-99-93-02373	11/08/93	03/02/94	HENRYETTA PALLETT COMPANY	11/09/93	MARVIN BOATRIGHT	56
292-99-93-02376	11/04/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-93-02377	11/04/93	02/16/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-93-02381	11/04/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-93-02382	11/09/93	11/12/93	DHS	11/10/93	ROBIN TYREE	42

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Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Locatic
99-93-02383	11/04/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02385	11/06/93	03/01/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02387	11/06/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02389	11/07/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02391	11/09/93	03/01/94	COOP ELEVATOR	02/25/94	DAVID KILMER	37
99-93-02392	11/07/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02393	11/07/93	03/04/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02394	11/09/93	03/04/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02401	11/10/93	01/07/94	JAMES GRAVES	12/16/93	CLYDE MASON	58
99-93-02403	11/09/93	03/04/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02407	11/10/93	03/04/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02408	11/10/93	03/04/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02409	11/10/93	03/04/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02411	11/10/93	12/17/93	SUN REFINERY	11/17/93	HERB NEUMANN	72
99-93-02413	11/10/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02414	11/10/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02415	11/10/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02416	11/10/93	03/01/94	OIL CENTER BUILDING	11/15/93	RICHARD KIENLEN	55
99-93-02417	11/10/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02418	11/10/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
99-93-02419	11/11/93	02/11/94	REFINERIES?	/ /	LYNNE MOSS/HERB NEUMANN	72

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Rece	Last Update	Against Name	Resolve Date	Investigator	County Location
292-99-93-02421	11/11/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02423	11/12/93	12/30/93	PAPER WORK CO.	11/12/93	DON WATSON	72
292-99-93-02426	11/12/93	01/27/94	KELCO	01/27/94	KEVIN BARNARD	56
292-99-93-02427	11/12/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02428	11/11/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02429	11/11/93	02/11/94	SUN REFINERY	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02431	11/11/93	03/04/94	SUN OIL	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02432	11/11/93	02/11/94	SUN OIL	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02433	11/11/93	02/11/94	SUN OIL	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02434	11/11/93	02/14/94	SUN OIL	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02435	11/11/93	02/14/94	SUN OIL	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02436	11/11/93	02/14/94	SUN OIL	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02439	11/12/93	02/14/94	SUN OIL	/ /	LYNNE MOSS/HERB NEUMANN	72
292-99-93-02467	10/19/93	02/14/94	SUN REFINING	/ /	LYNNE MOSS	72
292-99-93-02500	11/19/93	03/03/94	JACKSON'S WRECKING AND HAULING SERV	/ /	CRAIG LANGLEY	37
292-99-93-02504	11/18/93	02/14/94	SUN REFINING	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02506	11/18/93	02/14/94	SUN REFINING	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02512	11/18/93	02/14/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02513	11/18/93	02/14/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72
292-99-93-02517	11/22/93	11/24/93	CO-OP OF BROKEN ARROW	11/24/93	BERNIE NALLY	72
292-99-93-02518	11/18/93	02/14/94	SUN REFINERY	/ /	LYNNE MOSS/DAVISON VIRGIL	72

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Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Locatic
-99-93-02519	11/20/93	12/17/93	SUN REFINERY	11/22/93	LYNNE MOSS	72
-99-93-02520	11/20/93	12/28/93	SUN REFINERY	11/20/93	LYNNE MOSS	72
-99-93-02523	11/21/93	12/17/93	SUN REFINERY	11/21/93	LYNNE MOSS	72
-99-93-02531	11/23/93	01/04/94	ROCKY SCHAW	01/04/94	BILL KROPH	77
-99-93-02535	11/12/93	01/27/94	KELCO	12/21/94	KEVIN BARNARD	56
-99-93-02537	11/17/93	01/27/94	KELCO	01/27/94	KEVIN BARNARD	56
-99-93-02538	11/22/93	02/14/94		/ /	LYNNE MOSS	72
-99-93-02539	11/22/93	02/14/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-93-02547	11/23/93	02/03/94	SUN REFINERY	11/29/93	JACK FLY	72
-99-93-02548	11/23/93	02/03/94	NOT NAMED	11/29/93	JACK FLY	72
-99-93-02549	11/23/93	02/03/94	NOT NAMED	11/29/93	JACK FLY	72
-99-93-02550	11/24/93	02/14/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-93-02560	11/29/93	02/03/94	WITCO CORP.	12/10/93	JOHN CULLIN	36
-99-93-02562	11/29/93	12/14/93	WITCO CORP	12/10/93	JOHN CULLIN	36
-99-93-02574	11/29/93	12/17/93	PROGRESSIVE AGRI SERVICE, INC.	11/30/93	NOEL PATTEN	05
-99-93-02577	11/29/93	11/29/93	ARNOLD TURMAN	11/29/93	LARRY TATE	63
-99-93-02585	11/30/93	12/16/93	WASHINGTON COTTON GIN	12/08/93	DEBBIR TAYLOR	44
-99-93-02591	12/01/93	12/03/93	PHILLIPS 66	12/02/93	DAVISON VIRGIL	72
-99-93-02594	12/01/93	12/10/93		12/03/93	DAVISON VIRGIL	72
-99-93-02601	12/01/93	02/18/94	WAURIKA, CITY OF	02/07/94	KEVIN BARNARD	34
-99-93-02604	12/01/93	03/03/94		03/01/94	JERRY MATTHEWS	09

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292-99-93-02607	12/02/93	12/13/93	CLEAN-IT SANDBLASTING/PAINTING	12/09/93	CURT GOELLER	55
292-99-93-02611	10/02/93	12/16/93	ALLWARTE RECYCLING INC.	12/06/93	ROBERT HUBER	19
292-99-93-02621	12/06/93	01/14/94	MAGICIAN PAINT BODY SHOP	12/14/93	JOHN D. ETHRIEDGE	72
292-99-93-02628	12/01/93	02/04/94		01/07/94	GREG RESSEL	34
292-99-93-02631	12/06/93	01/26/94	COUNTY COMMISSIONER DISTRICT 3	01/26/94	LINN WAINER	55
292-99-93-02632	12/07/93	12/30/93	SUN REFINERY	12/19/93	HERB NEUMANN	72
292-99-93-02634	12/07/93	03/03/94	TILLMAN COUNTY COOP	03/03/94	PATRICK FRISBY	71
292-99-93-02642	12/07/93	02/11/94	KELCO	12/21/93	KEVIN BARNARD	56
292-99-93-02643	12/07/93	12/10/93	HILLCREST HEALTH CENTER	12/09/93	CHERYL MARTIN	55
292-99-93-02646	12/08/93	12/30/93	NOT NAMED	12/18/93	HERB NEUMANN	72
292-99-93-02647	12/07/93	02/14/94	SUN OIL	/ /	LYNNE MOSS	72
292-99-93-02648	12/07/93	02/14/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-93-02649	12/07/93	12/13/93		12/10/93	RICHARD KIENLEN	55
292-99-93-02650	12/08/93	02/14/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-93-02651	12/08/93	02/14/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-93-02652	12/08/93	02/14/94		/ /	LYNNE MOSS	72
292-99-93-02653	12/08/93	02/14/94	SUN OIL	/ /	LYNNE MOSS	72
292-99-93-02663	12/09/93	02/04/94	KELCO	01/27/94	KEVIN BARNARD	56
292-99-93-02664	12/08/93	02/14/94	SUN OIL	/ /	LYNNE MOSS	72
292-99-93-02666	12/08/93	02/10/94	OKLAHOMA HIGHWAY DEPARTMENT	02/09/94	RANDALL BRIX	11
292-99-93-02667	12/08/93	02/10/94	STEPP MOBILE HOMES	/ /	RANDALL BRIX	11

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
-99-93-02670	12/09/93	03/04/94		/ /	LYNNE MOSS	72
-99-93-02671	12/09/93	02/17/94	SUN OIL	/ /	LYNNE MOSS	72
-99-93-02681	12/09/93	02/14/94		/ /	LYNNE MOSS	72
-99-93-02696	12/13/93	03/04/94	WAGONER CONCRETE READY MIX	/ /	KEVIN BARNARD	73
-99-93-02698	12/10/93	02/17/94		01/17/94	CAREY BELL	51
-99-93-02699	12/13/93	02/14/94	REFINERY?	/ /	LYNNE MOSS/BERNIE NALLY	72
-99-93-02700	12/12/93	02/14/94	REFINERY?	/ /	LYNNE MOSS/BERNIE NALLY	72
-99-93-02705	12/12/93	02/11/94	FARMER'S COOP GIN	02/11/94	PATRICK FRISBY	71
-99-93-02717	12/14/93	01/07/94		12/16/93	PAM OSMUN	49
-99-93-02722	12/15/93	01/05/94		01/05/94	DAVID KILMER	47
-99-93-02724	12/15/93	01/10/94	QUICK WAY PIT	12/30/93	TOM HUDSON	55
-99-93-02730	12/15/93	02/15/94	CHIEF CHEMICAL	02/15/94	GLEN JONES	73
-99-93-02731	12/16/93	12/29/93	PALET SYSTEM	12/21/93	BERNIE NALLY	72
-99-93-02735	12/16/93	01/03/94	P.M.G. TRADEMARK GRAPHICS	12/29/93	DAVISON VIRGIL	72
-99-93-02751	12/17/93	03/02/94	OHSC - BSEB	12/21/93	CHERYL MARTIN	55
-99-93-02760	12/21/93	12/23/93	SUN OIL AND REFINING	12/23/93	JACK FLY	72
-99-93-02761	12/21/93	02/03/94	NOT NAMED	12/23/93	JACK FLY	72
-99-93-02765	12/21/93	02/28/94		/ /	CRAIG LANGLEY	37
-99-93-02776	12/22/93	03/03/94	YAFFEE IRON AND METAL	/ /	KEVIN BERNARD	51
-99-93-02779	12/22/93	03/03/94	NOBLE MATERIALS	12/30/93	KEVIN BARNARD	14
-99-93-02790	12/23/93	01/04/94	GEORGIAN COURT NURSING HOME	01/03/94	BERNIE NALLY	72

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Complaints Summary Printed By: EAKIN

This report is limited by the following selected criteria:

Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
292-99-93-02796	12/25/93	02/14/94	SUN OR SINCLAIR	/ /	LYNNE MOSS	72
292-99-93-02797	12/25/93	12/27/93		12/27/93	LYNNE MOSS	40
292-99-93-02805	12/27/93	02/04/94	ORGANIGRO	02/04/94	JERRY MATTHEWS	01
292-99-93-02806	12/27/93	03/03/94	PSI, INC.	/ /	KEVIN BERNARD	73
292-99-93-02807	12/27/93	01/03/94	NOT NAMED	12/29/93	DAVISON VIRGIL	72
292-99-93-02808	12/27/93	01/03/94	NOT NAMED	12/29/93	DAVISON VIRGIL	72
292-99-93-02809	12/27/93	03/02/94	GREEN, MARIE	/ /	RANDALL BRIX	73
292-99-93-02810	12/28/93	02/04/94		/ /	DENNIS WHITFIELD	41
292-99-93-02811	12/28/93	01/19/94	YAFFE METALS	01/19/94	BERNIE NALLY	72
292-99-93-02812	12/28/93	01/11/94	WORD INDUSTRIES ?	01/10/94	RICK FORBES	59
292-99-93-02814	12/27/93	02/15/94	RELIANCE PIPELINE	01/19/94	KEVIN BERNARD	39
292-99-93-02818	12/28/93	12/30/93	F&H INC.	12/29/93	JOHN STERLING	44
292-99-93-02819	12/28/93	01/04/94	GEORGIAN COURT NURSHING HOME	01/03/94	BERNIE NALLY	72
292-99-93-02820	12/28/93	02/15/94	SILVER SPRINGS APARTMENTS	02/11/94	RHONDA HESTER	72
292-99-93-02825	12/29/93	03/02/94	SMITH CO.	01/05/94	KEVIN BARNARD	19
292-99-93-02834	12/30/93	01/11/94	SUN REFINING	01/06/94	HERB NEUMANN	72
292-99-93-02835	12/30/93	12/30/93	SOLID WASTE SYSTEM BUILDING	/ /	DON WATSON	72
292-99-93-02842	12/30/93	02/17/94	SUN OIL	/ /	LYNNE MOSS	72
292-99-93-02843	12/31/93	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-93-02844	12/31/93	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-93-02845	12/31/93	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
99-93-02846	12/31/93	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02847	12/31/93	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02848	12/31/93	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02849	12/31/93	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-93-02850	12/31/93	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-94-00010	01/01/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-94-00022	01/05/94	02/23/94	MCGEE, DEAN	02/22/94	CURT GOELLER	55
99-94-00032	01/04/94	03/03/94	WAGONER CONCRETE READY-MIX	/ /	KEVIN BARNARD	73
99-94-00033	01/04/94	03/03/94	WAGONER CONCRETE REDI-MIX	/ /	KEVIN BARNARD	73
99-94-00036	01/05/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
99-94-00065	01/04/94	02/15/94	SUN REFINING	/ /	LYNNE MOSS	72
99-94-00071	01/10/94	03/03/94	MCALESTER ARMY AMMUNITION DEPOT	/ /	KEVIN BARNARD	61
99-94-00072	01/07/94	02/04/94	DOLE SELLS	02/04/94	BOB BATES	68
99-94-00073	01/08/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
99-94-00079	01/09/94	02/04/94	DALWORTH TRUCKING, W. R. STABBS	01/10/94	MARVIN BOATRIGHT	56
99-94-00085	01/10/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-94-00113	01/14/94	02/14/94	WITCO	02/07/94	JEFF DYE	36
99-94-00124	01/14/94	01/19/94	OEXCO	01/18/94	CURT GOELLER	55
99-94-00130	01/18/94	01/20/94	BEELINE SCRAP METAL	01/19/94	MARVIN BOATRIGHT	56
99-94-00144	01/15/94	02/22/94	BURKETT, NOEL AND GLENDYL PARRISH	/ /	PAM WATSON	48
99-94-00163	01/19/94	02/11/94	NOBLE MATERIALS	01/28/94	JERRY MATTHEWS	14

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This report is limited by the following selected criteria:

Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	Count; Location
292-99-94-00164	01/14/94	02/11/94	NOBLE MATERIALS	01/28/94	JERRY MATTHEWS	14
292-99-94-00168	01/19/94	02/04/94	HOLIDAY MECHANICAL SERVICES	01/31/94	CLIFFORD PETTIJOHN	26
292-99-94-00170	01/20/94	02/23/94	MOORE, GERALD	02/23/94	JOHN SMITH	66
292-99-94-00175	01/21/94	01/27/94	METAL SERVICES	01/25/94	GLEN CASTLEBERRY	72
292-99-94-00183	01/14/94	03/03/94	CHAVARRIA, MARTIN & TRENE	/ /	KEVIN BARNARD	75
292-99-94-00184	01/21/94	02/15/94	SUNCO	/ /	LYNNE MOSS	72
292-99-94-00185	01/21/94	02/15/94	SUNOCO REFINERY	/ /	LYNNE MOSS	72
292-99-94-00195	01/24/94	01/25/94	ORYX	01/25/94	GREG BELCHER	62
292-99-94-00201	01/21/94	02/15/94	SUN REFINING	/ /	LYNNE MOSS	72
292-99-94-00202	01/21/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
292-99-94-00205	01/21/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00207	01/21/94	02/15/94		01/31/94	JOHN CULLIN	36
292-99-94-00212	01/25/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
292-99-94-00216	01/24/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00217	01/24/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00219	01/24/94	02/03/94	WITCO CORP.	02/01/94	JOHN CULLIN	36
292-99-94-00226	01/26/94	02/11/94	JERRY SMITHY RECYCLING	02/10/94	CAREY BELL	51
292-99-94-00227	01/26/94	02/15/94	SUN CO	/ /	LYNNE MOSS	72
292-99-94-00228	01/26/94	03/03/94	OKLAHOMA STEEL AND WIRE	03/03/94	JERRY MATTHEWS	48
292-99-94-00229	01/26/94	02/14/94	WITCO	01/26/94	JEFF DYE	36
292-99-94-00230	01/26/94	02/11/94	SANTE FE RAIL ROAD	/ /	JOHN CULLIN	36

Complaints & Printed By: EA.

s report is limited by the following selected criteria:

Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
-99-94-00234	01/26/94	03/01/94	O.Z. GEDNEY NELSON	02/11/94	JOHN ETHRIEDGE	72
-99-94-00239	01/26/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00240	01/26/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00241	01/26/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00242	01/26/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-94-00243	01/26/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00245	01/26/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00246	01/26/94	02/15/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00248	01/27/94	03/03/94	CLINTON COTTON OIL MILL	/ /	KEVIN BARNARD	20
-99-94-00250	01/28/94	02/03/94	WHITCO	02/01/94	JOHN CULLIN	36
-99-94-00262	01/29/94	03/03/94	PSI, INC.	/ /	KEVIN BARNARD	73
-99-94-00283	02/01/94	03/04/94	CONTROL POWER	/ /	PAT FRISBY	10
-99-94-00288	02/01/94	02/09/94	SUN REFINERY	02/09/94	JOHN ETHRIEDGE, R.S.	72
-99-94-00289	02/01/94	02/09/94	SUN REFINERY	02/09/94	JOHN ETHRIEDGE, R.S.	72
-99-94-00304	02/02/94	03/01/94	ADA AIRCRAFT PAINT INC.	02/04/94	GREG BELCHER	62
-99-94-00306	02/01/94	02/15/94	NOBLE MATERIAL	02/10/94	KEVIN BARNARD	14
-99-94-00308	02/02/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-94-00309	02/02/94	02/11/94	KOCH HYDROCARBON TRUCK STATION	/ /	JOHN ETHRIEDGE	72
-99-94-00315	02/03/94	02/03/94	REFINERY?	/ /	JOHN ETHRIEDGE	72
-99-94-00316	02/03/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-94-00323	02/03/94	02/11/94	SUN REFINERY	/ /	LYNNE MOSS	72

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Complaints Summary Printed By: EAKIN

This report is limited by the following selected criteria:

Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint NO.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
292-99-94-00325	02/03/94	02/11/94	REFINERY?	/ /	LYNNE MOSS	72
292-99-94-00326	02/03/94	02/11/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00327	02/03/94	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00333	02/04/94	02/15/94	LARRY ALBIN	02/15/94	JEFFERY LAWLER	69
292-99-94-00344	02/07/94	02/07/94	KOCH PETROLEUM	/ /	JOHN ETHRIEDGE	72
292-99-94-00345	02/07/94	02/17/94	SUN OIL	/ /	LYNNE MOSS	72
292-99-94-00346	02/07/94	02/25/94	WITCO CORP.	02/16/94	KEVIN BARNARD	36
292-99-94-00350	02/07/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00351	02/07/94	02/15/94	WAYNE CHILDERS	/ /	CLYDE MASON	18
292-99-94-00354	02/07/94	02/25/94	YAFFE METALS, INC.	/ /	ALAN BARTLETT/BERNIE NALLY?	72
292-99-94-00355	02/04/94	02/15/94	SUN?	/ /	LYNNE MOSS	72
292-99-94-00356	02/05/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00357	02/05/94	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00359	02/06/94	02/15/94	SUN REFINERY	/ /	LYNNE MOSS	72
292-99-94-00360	02/05/94	02/28/94	WITCO	02/16/94	KEVIN BARNARD	36
292-99-94-00361	02/05/94	03/04/94	WITCO	02/16/94	KEVIN BARNARD	36
292-99-94-00362	02/05/94	02/28/94	WITCO	02/16/94	KEVIN BARNARD	36
292-99-94-00365	02/08/94	02/09/94	WALKER, ANDY	/ /	JOHN ETHRIEDGE	72
292-99-94-00383	02/10/94	03/03/94	ROCKWALL SAW MILL	/ /	GREG WORRELL	45
292-99-94-00384	02/10/94	03/03/94	ROCKWALL INTERNATIONAL	/ /	GREG WORRELL	45
292-99-94-00394	02/10/94	03/03/94	CREEK COUNTY COMMISSIONER	02/14/94	ROBERT HUBER	19

Complaints &
Printed By: EAMON

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Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
99-94-00403	02/13/94	03/03/94	CHEVARIA, MARTIN	/ /	PAT FRISBY	75
99-94-00406	02/12/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
99-94-00407	02/15/94	02/23/94	REFINERY?	/ /	LYNNE MOSS	72
99-94-00409	02/13/94	03/04/94	SINCLAIR OIL	/ /	LYNNE MOSS	72
99-94-00410	02/13/94	03/04/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-94-00411	02/13/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
99-94-00415	02/15/94	02/17/94	PEOPLE ELECTRIC COOP	02/16/94	GREG BELCHER	62
99-94-00417	02/11/94	03/03/94	WITCO	02/16/94	KEVIN BARNARD	36
99-94-00419	02/15/94	02/15/94	SINCLAIR OIL?	/ /	LYNNE MOSS	72
99-94-00421	02/15/94	03/03/94		/ /	RICK AUSTIN	74
99-94-00428	02/16/94	02/16/94	REFINERY?	/ /	JACK FLY	72
99-94-00432	02/16/94	03/04/94	REFINERY?	/ /	JACK FLY	72
99-94-00433	02/16/94	03/04/94	REFINERY?	/ /	JACK FLY	72
99-94-00434	02/16/94	02/22/94	CITY OF MANGUM	02/18/94	JOHNNA KERR	28
99-94-00437	02/17/94	03/04/94	CIMARRON CEDAR CO.	/ /	JERRY MATTHEWS	67
99-94-00439	02/17/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
99-94-00442	02/16/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
99-94-00443	02/17/94	02/23/94	VARNUM ELEMENTARY SCHOOL	02/17/94	MAX BURNETT	67
99-94-00444	02/16/94	03/04/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-94-00445	02/16/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
99-94-00446	02/16/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72

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Complaints Summary Printed By: EAKIN

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Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
-99-94-00447	02/16/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00449	02/17/94	02/17/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-94-00457	02/18/94	03/04/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-94-00458	02/17/94	03/04/94	WITCO	/ /	KEVIN BARNARD	36
-99-94-00461	02/16/94	03/04/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-94-00462	02/18/94	03/04/94	SUN OIL	/ /	LYNNE MOSS	72
-99-94-00466	02/18/94	03/03/94	CLAREMORE, CITY OF	03/01/94	JOHN SMITH	66
-99-94-00468	02/18/94	03/04/94	SUN REFINERY	/ /	LYNNE MOSS	72
-99-94-00474	02/22/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00475	02/18/94	03/01/94	SHARP'S CLEANERS	02/25/94	DEBBIE TAYLOR	14
-99-94-00476	02/22/94	03/02/94	WALKER, CLAUDE	02/25/94	ROBERT HUBER	19
-99-94-00483	02/22/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00487	02/22/94	03/04/94	REFINERY?	/ /	LYNNE MOSS	72
-99-94-00489	02/22/94	03/03/94	CLAUDE WALDER	02/25/94	ROBERT HUBER	19
-99-94-00492	02/22/94	03/03/94	GARY'S AUTO BODY	/ /	ROBIN TYREE	42
-99-94-00505	02/23/94	02/23/94		/ /	ROBERT HUBER	19
-99-94-00506	02/23/94	02/25/94	FINCHUM, JAMES	02/25/94	CURT GOELLER	55
-99-94-00512	02/24/94	03/04/94	SHEARS & SONS MANUFACTURING	/ /	KEVIN BARNARD	33
-99-94-00513	02/23/94	03/04/94	CHIEF CHEMICAL	03/03/94	PHILL BOWERS	73
-99-94-00517	02/24/94	03/01/94	TINKER AIR FORCE BASE	02/25/94	PAM DEWOODY	55
-99-94-00518	02/24/94	02/24/94		/	PAM WATSON	48

Complaints S Printed By: EAA...

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Source Code: 2923
Complaints from: 07/01/93

Un-Resolved Complaints
Resolved Complaints

Complaint No.	Date Received	Last Update	Against Name	Resolve Date	Investigator	County Location
99-94-00520	02/18/94	03/04/94	SUN REFINING	/ /	LYNNE MOSS	72
99-94-00542	02/28/94	03/04/94	WAGONER CONCRETE READY MIX	/ /	KEVIN BARNARD	73
99-94-00546	02/28/94	03/01/94	WOOD DESIGN	/ /	CURT GOELLER	55
99-94-00553	02/28/94	03/03/94	REFINERY	/ /	LYNNE MOSS	72
99-94-00558	02/26/94	03/01/94	GENEVA WALKER	03/01/94	CURT GOELLER	55
99-94-00560	02/26/94	03/01/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-94-00577	03/02/94	03/02/94	JP EMCO	/ /	GREG BELCHER	62
99-94-00580	03/02/94	03/04/94	COMMERCE RESIN	/ /		66
99-94-00583	03/02/94	03/02/94	JOHN ZINC CORP.	/ /		74
99-94-00585	03/03/94	03/03/94	REFINERY	/ /	LYNNE MOSS	72
99-94-00589	03/03/94	03/03/94	REFINERY	/ /	LYNNE MOSS	72
99-94-00605	03/03/94	03/04/94	JUDD , STEVE	/ /	BERNIE NALLY	72
99-94-00607	03/03/94	03/04/94	SUN REFINERY	/ /	LYNNE MOSS	72
99-94-00611	03/04/94	03/04/94	SINCLAIRE	/ /	LYNNE MOSS	72
99-94-00613	03/03/94	03/07/94	KELCO	03/07/94	MARVIN BOATRIGHT	56
99-94-00615	03/04/94	03/07/94	NAIL HOUSE	/ /	DON PENDERGRAPH	16
99-94-00618	03/04/94	03/07/94	BRAUM'S	03/04/94	DAVID JONES	44
99-94-00624	03/04/94	03/07/94	WEST, REEVES	/ /		53
99-94-00628	03/05/94	03/07/94		/ /		57
99-94-00631	03/06/94	03/07/94		/ /		55

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SUPPLEMENTAL INFORMATION

COUNCIL MEETING

JUNE 14, 1994

MEMORANDUM

DATE: JUNE 2, 1994

TO: AIR QUALITY COUNCIL

FROM: *DM.* DOYLE MCWHIRTER, PROGRAM DIRECTOR
ENFORCEMENT AND COMPLIANCE SECTION

SUBJECT: PROPOSED SUBCHAPTER 24
PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED
OPERATIONS

A Committee composed of Air Quality Council members, Oklahom Grain & Feed Industry Representatives and Air Quality staff members was established as a result of the April 12, 1994 Air Quality Council Meeting. This committee was charged with the responsibility to write a consolidated final draft of proposed Subchapter 24.

Meetings were held on May 6, 18 and 31, 1994. Agendas and notes on discussion of these meetings are provided (see Attachment I).

Members of the committee have reached agreement on proposed Subchapter 24 and provide the attached revision for your consideration (see Attachment II).

MEETING AGENDA
FRIDAY MAY 6, 1994
10:00 A. M.

AIR EMISSIONS ISSUES

OKLAHOMA GRAIN AND FEED ASSOCIATION

AND

OKLAHOMA STATE DEPARTMENT OF
ENVIRONMENTAL QUALITY
AIR QUALITY PROGRAM

AND

SELECTED MEMBERS OF THE
OKLAHOMA AIR QUALITY COUNCIL

- I. INTRODUCTIONS
- II. OBJECTIVES AND CONCERNS
- III. ISSUES
 - A. TITLE V APPLICABILITY
 - B. SYNTHETIC MINOR OPTION
 - C. AP-42 VS. OTHER EMISSION OPTIONS
 - 1. MATERIAL BALANCE
 - 2. STACK TESTING
 - D. PROCESS WEIGHT TABLE
 - E. OPACITY REGULATIONS
 - 1. MODELING
 - 2. OFFSETS
 - F. ENFORCEMENT ISSUES

Grain & Feed/Air Quality Meeting May 6, 1994

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GRAIN & FEED COMMITTEE MEETING NOTES

MAY 06, 1994

4545 N. LINCOLN BLVD.

OKLAHOMA CITY, OKLAHOMA

(BURGANDY ROOM)

FEED AND GRAIN COMMITTEE MEETING

Bill Fishback, council chairman, opened the meeting and ask each attendee to introduce themselves. He asked F&G to explain their goals and objectives.

Concerns of the Grain and Feed Association:

- Avoid Title V
- Achieving compliance with applicable rules.
 1. Modify existing rules so that compliance can be achieved.
 2. Develop a new rule.
- Want to be treated no more stringently than other states.

3 issues which remain unresolved in development of Subchapter 24:

- Opacity limits
- Emission factors
- Addition of feed and seed facilities

Reason for including other facilities such as feed mill and seed cleaning operations:

- All related, don't want to go through this process again for these facilities

DEQ Objectives (Doyle McWhirter)

- Wants no unfair advantages from other states.
- Wants to be similar in our program to other states.
- Wants to help F&G and other industries to avoid Part 70 applicability.
- Develop new rule that industry will be able to comply with - hopefully with self-determination of compliance.
- Considered using PM-10 monitors.

Bill Fishback attended a recent Title V workshop in Mississippi and explained some of the issues discussed there. The basic problem for grain industries in using AP-42 for each of the emission points listed is that this will cause many elevators to be Title V sources which are actually minor sources. An option to avoid this is a Synthetic Minor permit which provides federally enforceable limits. This seems logical since elevators don't typically run 8,760 hours per year.

All elevators in Mississippi using AP-42 and maximum capacity (8760 hrs/yr) are Title V sources. They are recommending all to apply for Synthetic Minor permits.

There is a strong argument that putting on control equipment may cause more deaths than leaving them off. But controls are not the only alternative - limiting hours of operation could also be used to limit emissions.

"Effective" operating hours could be obtained by taking throughput divided by capacity of leg. This may not account for variations in leg speed used. If load is 1 million bushels with cups full it will take a certain number of hours. If you load the

same amount half full it will take a different number of hours.

Emissions related to not only total throughput but total hours emissions are exposed to air.

Effective hours could be negotiated on a case-by-case basis based on variations in leg rate, when facilities know their typical leg rate and % full in leg cups. This would drop the majority of elevators out of Title V. Need to only count hours when grain is moving.

Example of 1 million bushels elevated with a 10,000 bushel per hour leg operating at 75% capacity gives 133 "effective" hours of operation.

Bill Fishback suggested that potential emissions could be calculated using AP-42 and a ratio of actual operating hours to the number of hours in a year. This is based on the assumption that AP-42 gives the maximum potential to emit for 8,760 hours in a year. DEQ staff indicated that AP-42 is believed to give an estimate of emissions based on throughput regardless of the hours.

Calculations:

1 million bu/yr maximum potential to emit

$$30,000 \text{ tons/yr} \times 8.6 \text{ lb/ton} = 129 \text{ tons/yr}$$

at only 876 bu/yr take 876/8760 ratio

$$\begin{aligned} &\text{times max potential to emit at 8760} \\ &= 129 \text{ ton/yr} \times 876/8760 = 12.9 \text{ ton/yr} \end{aligned}$$

Basis: Materials moved at half speed would have half the emissions. This type of calculation would help elevators avoid applicability to Title V, however, the validity of these calculations is questionable.

Everyone involved agrees that AP-42 factors are probably not representative. Taking a percentage reduction of AP-42 would only produce another unrepresentative estimate. Emission factors are a big area of disagreement. If a leg is not exposed, AQD agrees that it is not considered an emission point. Emissions need to be based on scientifically defensible data.

AQD encouraged G&FA to do material balance to get individual emissions at each facility. Even if MRI study was perfectly correct, it was only correct for that facility at which it was done.

Concerns expressed by G&FA:

- some facilities never empty
- doesn't account for dust which settles on site
- don't take moisture readings on all loads

Bill Fishback explained this method would not be appropriate on a daily basis because it wouldn't give an accurate account for each day since you would never know the change in inventory on a daily basis. A material balance would have to be on an annual basis (or

harvest).

input + change in accumulation = output

-take as many moisture samples as is necessary to represent moisture loss - industry would decide how often. The change in accumulation minus any documented losses would be considered the emissions.

How do you account for emissions settling on site?

- Impact modeling (treating facility as a single point source)
 - uses temperature, height, velocity/flow rate
 - ISCST
 - ISCLT
 - TSCREEN

-Models use stack parameters, emission rate, meteorology to determine impact and compliance with NAAQS for PM-10. Modeling is only an estimate with a wide margin of error. However, it is a good tool to help determine placement of ambient air monitors. Dispersion modeling is an acceptable means of evidence in a court of law.

-could use this in reverse to set limits on max emission rate which is below NAAQS standards

-emission rate is directionally proportional to predicted concentration

"Fishback's Formula" based on 1,000,000 bushels/year

$$\begin{array}{r} 1,000,000 \text{ Bu/yr} \\ \times \quad 60 \text{ lbs} \\ \hline 60,000,000 \text{ lbs/yr} \\ / \quad 2,000 \text{ lbs/ton} \\ \hline 30,000 \text{ ton/yr grain} \\ \times \quad 8.6 \text{ (AP-42) lbs/ton dust} \\ \hline 258,000 \text{ lbs/yr dust} \\ / \quad 2,000 \text{ ton/yr dust} \\ \hline 129 \text{ ton/yr dust} \\ \\ \frac{876}{8760} \times 129 = 12.9 \text{ ton/yr} \end{array}$$

If facility has maximum process capability of 1,000,000 bu/yr, Maximum potential to emit will allow you to safely use this formula.

Instead of AP-42:

- Get some other emissions estimate.
- Measure emissions from individual facilities.
- MRI study not truly representative of all grain elevators.

- Each facility do a material balance and find their own maximum capacity # instead of (AP-42).
- Measure losses during maximum working period to find maximum potential to emit.

Concern

- Some facilities are never empty therefore makes an accurate number difficult to find; doesn't account for settling.

Response

- Need to know change in level over a year or season.
- Whatever amount of loss is unaccountable is an emission. Do a material balance and compare to AP-42 to get the best #'s.

Concern:

- Is settlement on facility's property a concern under the Clean Air Act?
- Does AP-42 account for loss on-site?

Particulate Sizes:

- Is it appropriate to consider only particles less than 20 microns in size?
- To use 20 micron particle size is inaccurate because according to studies, even particles this size will carry long distances therefore it does not guarantee settlement on property. There is a great margin of error due to many variables.
- Even with good particle size data, it seems that even small particles will carry long distances.
- Monitor/sampler could be used to indicate how far particulate actually travels.

Monitoring

- AQD would prefer to work with G&FA to utilize their input on scheduling and site selection for the PM-10 Monitors.
- Monitoring study could show whether emissions do or don't impact surrounding area. Would show how much goes on/off property.
- Do modeling to find optimum placement of monitors.
- Find maximum impact area and put monitor there to prove that even at worse case scenario, facility does not exceed standards. Therefore, there is no need for additional equipment to control emissions.
- Monitoring does not necessarily keep facility out of Title V.
- this is EPA acceptable methodology.
- Modeling is not designed to replace monitoring however it does reduce the number of monitors used.
- Modeling could show there is no need for bags or other equipment.
- Opacity would be easier to lower if modeling shows it to be in compliance with NAAQS limits.
- Methodology is needed to determine compliance with rules.
- Methodology needs to be economical.
- Visible emissions are the most economic tool to determine compliance.

- Bullet testing with PM-10 monitors
- Individual location should keep notes on activities in their immediate surroundings (ie. harvest times, etc.) to help determine time and placement of monitors and to help rule out emissions from other sources.

Proposed Study to determine opacity levels

- Modeling and/or monitoring to look at compliance with NAAQS.
 - Modeling could allow each facility to set its own opacity levels?
 - Modeling could give individual opacity limits for each elevator site.
- Opacity study will be pending an agreement on reading times (6 minute consecutive readings, does that stop between loads?) and Method 9 procedures.
- AQD is willing to host a special smoke school to help grain industries get their personnel certified.
- Both AQD and G&FA would like to see many more opacity readings at loading and unloading areas at different facilities.
- Study would consider number of complaints received.
- Cost analysis for control equipment would be a factor.
- Study would consider the risk of potential employee exposure and explosive hazard due to requiring control equipment

What is the definition of Process Equipment?

Fugitive dust -vs- process emissions

- Need a resolution of the definitions of fugitive dust -vs- process emissions.
- Do readings to determine actual loading and unloading emissions.

How will Method 9 apply to facilities with sheds?

- Is the process continuous between cars/loads?
- Where is the reading taken?

Feed & Grain does not see the need for controls at load-out because few complaints are made against elevators and they are generally well supported by their communities.

Complaints

- At what point does AQ investigate? within 2 days of notification.
- Without standards how can there be an end to some complaints?
- F&GA feels that complaints could better be handled by AQD notifying facilities to allow them the opportunity to resolve the issue.

What is the deadline for Title V?

- Title V applications must be submitted within one year from the date AQD receives EPA approval of Title V program. (November 1995?)
- AQD believes that Synthetic Minor permits must be issued before approval of the Title V program. Therefore, AQD is

recommending all facilities wanting a Synthetic Minor permit submit the ASAP. AQD has asked EPA for clarification on this issue.

Process Weight Rate Allowable

- Using AP-42 violates process weight rate allowable and opacity.
- Could use results from monitoring to set a different allowable hourly emission based on process weight rate.
- Subchapter 24 could provide alternative process weight rate allowable as long as it can be shown that the rates would not violate the NAAQS.

Feed Mill and Seed Plants

- AQ contends that there is not enough background information/knowledge to deal with them yet
- Current rules are applicable now to Feed Mills, Seed Plants, and every other industry which emits.
- AQD believes most of these facilities are already in compliance.
- Expansion of rules will be considered pending further exploration of processes at these other types of facilities.

MEETING AGENDA
WEDNESDAY MAY 18 1994
10:00 A. M.

AIR EMISSIONS ISSUES

OKLAHOMA GRAIN AND FEED ASSOCIATION

AND

OKLAHOMA STATE DEPARTMENT OF
ENVIRONMENTAL QUALITY
AIR QUALITY PROGRAM

AND

SELECTED MEMBERS OF THE
OKLAHOMA AIR QUALITY COUNCIL

- I. REVIEW OF MAY 6, 1994 MEETING MINUTES
- II. DISCUSSION OF PRELIMINARY MODELING RESULTS
- III. DISCUSSION OF ALTERNATIVE AP-42 FUGITIVE EMISSION CALCULATION METHODS
- IV. DISCUSSION OF PROPOSED INDUSTRY SUBCHAPTER 24 (MAY 12, 1994)
- V. DISCUSSION OF EMISSIONS MONITORING
- VI. *Emission Rate Determination METHODS*

**MEETING OF
OKLAHOMA GRAIN & FEED ASSOCIATION AND ODEQ/AIR QUALITY DIVISION**

MAY 18, 1994

**LINCOLN PLAZA
4545 N LINCOLN BLVD
OKLAHOMA CITY, OKLAHOMA**

Air Quality Council
Mike Hughes
Bill Fishback
Gary Kilpatrick
Meribeth Slagell

ODEQ/Air Quality
Doyle McWhirter
Debbie Perry

Farmers Coop
Ray Hasselwander

Oklahoma Coop Council
Curt Roggow

Wheeler Bros. Grain Co.
Mike Mahoney

W.B. Johnson
Rick Treeman

RECAP OF MAY 6 MEETING

Bill Fishback opened the meeting with a review of the previous meetings notes and last agenda.

1. Discussion of Title V subjectivity and AP-42.
 - It was agreed to use AP-42 factors (.9 lbs/ton) and to give credit for controls:
 - 90% for oil
 - 50% for baffells
 - It was agreed that AP-42 is flawed, but agreement has not been reached as to whether it is too high or too low.
2. Discussion of Synthetic Minor option to limit hours of operation and get below Title V.
 - Using AP-42 factors on a throughput basis does not account for hours of operation.
 - It was agreed that using wattage to obtain hours of operation is not practical for this industry.
3. Feed and Grain industry seeks relief from opacity limits.
 - This is reflected in the rewrite of Subchapter 24 and alternative opacity in Subchapter 25.
 - It is agreed that according to NAAQS, industry must show compliance.
 - Method 9 will be performed using 6 consecutive minute readings.
 - A 2 year study on opacity will be implemented.
4. Discussion of results of preliminary modeling by Debbie Perry and Bill Fishback on SCREEN.
 - Model overestimates and predicts major violations.
5. Discussion of Offsets.
 - As long as the end result (in terms of amount of emission reduction) is the same, one source can be controlled as opposed to 2 or more.

MAY 18 MEETING NOTES

I. Method 9 Discussion

- A. Method 9 was designed for continuous processes and is therefore not the most appropriate method for this industry.
- B. There are other methods available, however at this point in time Method 9 is written into the rule as the EPA accepted method of opacity readings.
- C. Need to develop a control/opacity methodology for industries with intermittent process like Feed & Grain utilizes.

II. Bill Fishback suggested that F&G has 3 main options/choices to help them achieve continuous compliance.

A. Control Equipment

- 1. F&G expressed that this option would be too costly.

B. Testing/Monitoring

- 1. Ambient concentration testing, Hi-Vol sampling with PM-10 monitors to find off-property impact.
 - a. AQD will provide PM-10 monitors and do analysis of data.
 - b. F&G will provide power on sites where monitors are placed.
 - c. Site selection will be done by AQD with consideration of input from F&G.
 - d. Monitors will be placed:
 - 1. At terminal elevators (for worse case scenario)
 - 2. Upwind
 - 3. Downwind
- 2. Emissions testing at the source.
 - a. F&G industry will do stack testing to determine elevator emissions.
 - b. Accurate emissions data from stack testing can be used to obtain more accurate results from modeling.
- 3. Opacity testing.
 - a. Opacity will be determined using Method 9.
- 4. If a correlation between the above occurs, then using opacity (Method 9) only to regulate would be justified.

C. One time EPA Method V stack testing.

- 1. Very costly to F&G (approx. \$5000/day).

III. Testing/Monitoring Discussions

A. Testing concerns and responses to those concerns.

- 1. Are results of tests representative?

2. Are particulates coming from the industry source or from other unrelated sources? High Vol samplers will be used to reduce other particulate (ie. from other sources such as wheat harvest fields, etc.).
3. Where would PM-10 monitors be located? Locations would be both upwind and downwind and suggestions from F&G on location will be considered.

B. If data was available for this industry, perhaps EPA would adopt them nationally.

IV. AP-42 discussions.

- A. Grain factors could be based on MRI study of iron ore.
- B. Processes of iron ore and F&G industries are not similar enough to make these types of comparisons.
- C. Should factors for fugitive dust be used instead?
- D. Could recalculate using iron ore factors adjusting the density for grain.
- E. Correct number probably somewhere in between fugitive dust and listed grain factors.
- F. It was agreed to do monitoring to discern more accurate factors for F&G.
- G. .9 can be used for facilities where emissions come predominantly from loading and unloading.
- H. Any facility with pressurized vents must install controls for those vents or seal them off.
- I. All pressurized vents not associated with loading and unloading must have control devices OR be enclosed if there are visible emissions. Control devices for these vents should be passive (eg. sock or manifold).
- J. Some grain handling facilities have emissions aside from loading and unloading. After Subchapter 24, these "other" emissions need to be addressed.
- K. Categories of emission points:
 1. Loading & unloading = 0.9%
55% unloading opacity
65% loading opacity
 2. Controlled vents = AP-42 X (1-efficiency)
20% opacity
 3. Uncontrolled vents
 - a. Pressurized: > or = 20% opacity ---> enclosure or passive control device
 - b. Unpressurized: 10% opacity only

V. Title V discussions.

- A. Title V includes all facilities. All emitters must file an application.
- B. Title V permitting determined on cumulative pollutant emissions.
- C. What defines "new" and "existing" facilities under Title V.
- D. What is the law concerning "shutdowns".
- E. Synthetic Minor permit applications to be filed by 11-95. After that date, Title V application/permit will be the only method of getting a permit.

VI. Discussion of a proposed method to capture and measure particulates from unloading.

- A. Trucks would be driven into an enclosed structure.
- B. Create a vacuum and filter out fugitive dust with a bag.

1. Locate hose intake for bag catch at a point remote from actual unloading.
- C. Divide bag catch (pounds) by amount of grain dumped (tons).
- D. Procedure would be repeated numerous times with several grain types in order to obtain a realistic average.
- E. Discussion occurred in regards to modifying the above procedure for use with railcar unloading.
 1. Railcar unloading does not occur inside an enclosed or enclosable structure.
 2. It is agreed that the above method is not feasible for railcar unloading.

VII. Determination of continuous compliance.

- A. AQD needs a short-term and long-term method of determining Maximum Allowable Throughput.
- B. F&G will provide cumulative throughput totals for any given point in the calendar year.

VIII. Next meeting scheduled for May 31, 1994 at 10am.

MEETING AGENDA
TUESDAY MAY 31, 1994
10:00 A. M.

AIR EMISSIONS ISSUES
OKLAHOMA GRAIN AND FEED ASSOCIATION
AND
OKLAHOMA STATE DEPARTMENT OF
ENVIRONMENTAL QUALITY
AIR QUALITY PROGRAM
AND
SELECTED MEMBERS OF THE
OKLAHOMA AIR QUALITY COUNCIL

- I. REVIEW OF MAY 18, 1994 MEETING MINUTES
- II. AGREEMENTS REACHED ON MAY 18, 1994
 - A. INTERIM RULE
 - B. UNLOADING MONITORING PROTOCOL
 - C. LOADING MONITORING PROTOCOL
 - D. CORRELATION BETWEEN
 1. EMISSION RATE
 2. OPACITY
 3. AMBIENT CONCENTRATION
 - E. DEFINITION OF "HOURS OF OPERATION"
IMPACT ON SYNTHETIC MINOR PERMIT
 - F. OPACITY LIMITS
 - G. DEFINITION OF PRESSURIZED VENT
 - H. DEFINITION OF NON-PRESSURIZED VENT
 - I. AMBIENT MONITORING SITE SELECTION
- III. PROPOSED SUBCHAPTER 24 (MAY 26, 1994)

MEETING OF

OKLAHOMA FEED & GRAIN ASSOCIATION AND ODEQ/AIR QUALITY DIVISION

MAY 31, 1994

**LINCOLN PLAZA
4545 N LINCOLN BLVD
OKLAHOMA CITY, OKLAHOMA**

ATTENDEES

Bill Fishback
Dan Kent
Joe Neal Hampton
Mike Mahoney
Rick Treeman
Ray Hasselwander
Doyle McWhirter
Debbie Perry
Phil Kenkel
Ron Noyes
Jim P. Allen
Mike Hughes

Notes from May 31, 1994 Meeting

- I. Review of last meeting.
- II. Discussion of changes to Subchapter 24.
 - A. Comments were heard from each attendee regarding Subchapter 24.
 - B. Minor adjustments in wording were made and agreed upon. (See Subchapter 24 revision.)
- III. Discussion of testing protocol.
 - A. Feed & Grain agreed to choose three locations for monitoring with the provision that monitoring be done correctly and expediently.
 - 1. It was agreed that data collected from monitors at volunteered sites will not be used against the site. Compliance or violation of the site will be determined on an equal basis as those sites not volunteering.
 - 2. Loading rates from the volunteering sites will be provided in order to make accurate calculations from monitoring.
 - B. It was suggested that some County Health Departments have PM-10 monitors already in place. Data from these monitors could potentially be analyzed for ambient air quality.

SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED OPERATIONS.

- 252:100-24-1. Purpose
- 252:100-24-2. Definitions
- 252:100-24-3. General Provisions; applicability, calculations
- 252:200-24-4. Smoke, Visible Emissions and Particulates
- 252:100-24-5. Emission Control Equipment
- 252:100-24-6. Fugitive Dust Controls
- 252:100-24-7. Applicability to other Agriculture Sources

252:100-24-1. Purpose

The purpose of this rule is to control emissions from facilities that handle, store or process grains. All facilities handling bulk agricultural commodities through grain handling equipment can apply this subchapter to emission sources at the facilities. This rule is an interim rule effective until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division to replace the factored emission rates in this interim rule.

252:100-24-2. Definitions

The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Dust Suppression Additives" means FDA or FGIS-approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division.

"Enclosed Grain Handling Equipment" means equipment that is totally self-contained or is enclosed within a structure at a grain, feed, or seed facility. Emissions from this equipment shall not be exhausted to the atmosphere except through non-pressurized vents/openings, and shall

not be considered a point subject to emission calculations.

"Existing Grain, Feed, or Seed Operation" means a facility which is in existence and has submitted a current emission inventory to the Air Quality Division for the 1993 reporting period year. All other grain, feed, and seed operations shall be considered new.

"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent.

"Fugitive Emission" means those emissions that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"Grain, Feed, or Seed Operation" means any facility or installation at which grain, feed, or seed is loaded, handled, cleaned, dried, stored, treated, or otherwise processed.

"Grain, Feed, or Seed Operations Facility" means the contiguous or adjacent area under common control upon which a grain elevator, feed mill, or grain and seed processing equipment or structures are located, and all contiguous sites having common ownership or control, which have SIC codes with identical first two digits.

"High Efficiency Cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90% collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D (95% collection efficiency for TSP).

"Hours of Operation" is calculated by dividing the cumulative throughput total for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the throughput. Actual leg capacity may be adjusted to more

or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Leg Capacity" means the maximum process rate for which the manufacturer designs the elevating portion of a grain, feed, or seed facility on a per leg basis.

"Medium Efficiency Cyclone" means any cyclone type collector less than 2D-2D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D-1D cyclone would exhibit a cylinder of 1 x D and a cone length of 1 x D. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Non-pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures substantially equivalent to atmospheric pressure without the use of mechanically-induced air flow.

"Pressurized Vent or Opening" means any vent or opening which allows the emissions of air and/or contaminants at pressures greater than atmospheric pressure indicating the use of mechanically-induced air flow.

"Process Emission" means emissions from a process equipment point source.

"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded-out from the facility during any time period of interest divided by two.

252:100-24-3.

General Provisions: Applicability, Determination of Emissions

(a) Applicability. The provisions of this subchapter are applicable to all new, modified, and existing grain, feed, or seed operations in the State of Oklahoma.

(1) Facilities in compliance with OAC 252:100-25, 252:100-27, and 252:100-29 are not required to comply with this subchapter.

(2) Facilities in compliance with this subchapter are exempt from the requirements of OAC 252:100-25 (visible emissions), 252:100-27 (process weight), and 252:100-29 (fugitive dust).

(b) Permits required. In addition to the requirements of this subchapter, each new, modified or existing grain, feed, or seed operation shall comply with the permitting requirements of OAC 252:100-7 and 252:100-8.

(c) Air toxics emissions. Grain, feed, or seed operations which emit toxic air pollutants above the de minimis levels specified in 252:100-41 are subject to all applicable requirements contained therein.

(d) Record-keeping. The owner or operator of a facility shall maintain a daily log documenting the commodity throughput and hours of operation. These records shall be maintained for a period of two years and shall be made available for inspection by the Air Quality Division personnel or its representative during normal business hours.

(e) Visible emissions test. Visible emissions (opacity) testing shall be conducted using EPA reference method 9 contained in 40 CFR, Part 60, Appendix A and must be performed by individual(s) possessing current certification.

(f) Determination of emissions. Emissions from grain, feed, or seed operations shall be based on the best available data. This may include actual emissions as determined by stack testing, mass balance calculations, emission calculations using approved published emissions

factors, or other methods approved by the Air Quality Division. The following factored emissions are allowed by this interim rule only until July 1, 1995 or until the date (whichever is earlier) that measured particulate emission rates from grain handling are developed under protocols approved or accepted by the Air Quality Division.

For this interim rule, emissions shall be calculated as follows for three classes of emission points:

Class I: Unloading (Receiving) 0.6 lbs/ton
 Loading (Shipping) 0.3 lbs/ton
 Refer to 252:100-24-4 for opacity limits.

Class II: Vents with Control Devices
 AP-42 factor X (1-EFF)
 Refer to 252:100-24-4 for opacity limits.
 EFF means efficiency of control device.

Class III: Uncontrolled Vents
 A. Pressurized - opacity limit only
 B. Non-pressurized - opacity limit only
 Refer to 252:100-24-4 for opacity limits.

252:100-24-4.

Smoke, Visible Emissions and Particulates

(a) Visible emissions limit.

(1) Visible emissions limits. No person shall cause, suffer, allow or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof with a shade density greater than twenty percent (20%) equivalent opacity. This requirement shall not apply to smoke or visible emissions emitted during short-term occurrences, the shade or density of which is not greater

than sixty percent (60%) opacity for a period aggregating no more than five minutes in any sixty consecutive minutes and/or no more than twenty minutes in any consecutive twenty-four hour period.

- (2) Alternate emissions limit. The (20%) opacity limits, as required under 252:100-24-4 (a) may be increased for particulates only provided that the owner/operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.
- (3) Exceptions. Exceptions to the requirements described in 252:100-24-4 (a) (1) are provided as follows:
 - (a) Visible emissions from loading (shipping) shall be no more than sixty-five percent (65%) equivalent opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) equivalent opacity.
 - (b) Emissions from pressurized or non-pressurized vents or openings with control devices shall be limited to no greater than 20% opacity at any time.
 - (c) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent opacity at any time.
 - (d) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than ten percent opacity at any time.

252:100-24-5

Emission Control Equipment and Certification

(a) Emission control equipment where required by (40 CFR 60.300) must meet the standards set under the Federal New Source Performance Standards (NSPS Subpart DD), or as mandated by other Federal requirements for major sources. Additional controls may be required to reduce nuisance emissions.

(b) Certification. Each existing grain elevator in the state of Oklahoma shall provide written certification of compliance with this subchapter within one year of the adoption of this rule by the Air Quality Council. Annual certification of hours of operation and throughput and the operation and proper maintenance of required control equipment shall be completed by the owner, operator or other designated responsible party and submitted as part of the annual emissions inventory reporting form.

252:100-24-6

Fugitive Dust Controls

(a) All facilities will take reasonable precautions to prevent the discharge of any visible fugitive dust emissions beyond the property line from which the emissions originate.

(b) No persons shall allow visible emissions beyond the property line in such a manner as to damage or to interfere with the use of adjacent properties.

SUPPLEMENTAL INFORMATION

COUNCIL MEETING

DECEMBER 13, 1994

December 5, 1994

MEMORANDUM

TO: Air Quality Council

FROM: Larry D. Byrum, Director
AIR QUALITY DIVISION *LDB*

SUBJECT: OSU GRAIN DUST STUDY

The OSU Division of Agricultural Sciences has completed its grain dust emission study. The purpose of this study was to help develop accurate emission factors to be applied to the Oklahoma grain industry. A copy of the study is attached for your review and will be an item of discussion at the December 13 Council meeting.

Debbie Perry



Oklahoma Cooperative Extension Service

Division of Agricultural Sciences and Natural Resources Oklahoma State University

Department of Agricultural Economics • 513 Agricultural Hall
Stillwater, Oklahoma 74078-0505 • (405) 744-6081 • FAX (405) 744-8210

512 Agricultural Hall
(405) 744-9820
October 21, 1994

Mr. Larry Byrum, Director
Air Quality Division
4545 N. Lincoln Blvd.
Suite 250
Oklahoma City, OK 73105-3483

Dear Mr. Byrum:

I have attached a report containing the results of the grain elevator dust emission study conducted in Alva, Ok. on Sept. 26-27. I have also forwarded a copy of this report to the DEQ and AQC representatives who attended the test and I have provided a copy to the OGFA. These results should be useful in developing representative and scientifically defensible emission factors.

Please let me know if you have any questions, or if we can provide any further clarifications. We appreciate this opportunity to assist the Oklahoma Department of Environmental Quality and the Oklahoma grain industry.

Sincerely,

Phil Kenkel

Phil Kenkel
Extension Economist

bes
enclosures

cc:
Debbie Perry
Adam Kemmerly
Punk Bonner
William Fishback
Meribeth Slagell
OGFA-Grain Dust Taskforce

6637

October 21, 1994

AE#-9453

Results
Grain Elevator Dust Emission Study

Conducted by Oklahoma State University
Division of Agricultural Sciences and Natural Resources
in Conjunction with
Oklahoma Department of Environmental Quality and
Oklahoma Grain and Feed Association Task Force

Phil Kenkel
Extension Economist-Agribusiness

Ron Noyes, P.E.
Extension Agricultural Engineer

Background

The 1990 Clean Air Act required state environmental agencies, including the Oklahoma Department of Environmental Quality, to develop permit programs for a variety of industries, including the grain handling industry. This process involves the use of emission factors for grain elevator operations. The emission factors are an integral and important part of the determination of grain elevators' "potential to emit" airborne dust and in the calculation of operating fees. Unless they obtain a minor source permit from the state regulatory authority, firms with a potential to emit over 100 tons/year are classified as major source polluters and fall under federal EPA permitting process.

The implementation of the permitting process in Oklahoma highlighted an urgent need for accurate emission factors which are representative of typical Oklahoma grain elevators. The only existing source of emission factors for grain elevators is the EPA's AP-42 document. Examinations of the research methods used to develop the estimates in the AP-42 document along with the analysis of other available data caused the Oklahoma Grain and Feed Association task force, Oklahoma Department of Environmental Quality representatives, and members of the Oklahoma Air Quality Council to become concerned that the existing AP-42 emissions estimates were seriously flawed and overstated. (This same concern is being mirrored at the national level, as evidenced by negotiations between the National Grain and Feed Association and Federal EPA during a meeting in Raleigh, N.C. on Aug. 29, 1994.) The use of overstated emissions estimates would result in unnecessary operating restrictions, major investments in emission control equipment, and excessive annual emission fees.

Due to the concern over the existing emission factors and the critical need for accurate data, a team of faculty from the OSU Division of Agricultural Sciences and Natural Resources proposed a grain dust emission study from which accurate, representative, and scientifically defensible emission factors could be developed. This proposal was formally made to the Oklahoma Air Quality Council and the Oklahoma Department of Environmental Quality during a Grain and Feed Industry/Air Quality Council-Grain and Feed Industry Committee meeting on May 31, 1994. The Oklahoma Air Quality Council and Oklahoma Department of Environmental Quality

subsequently accepted the concept of a grain dust emission study. During the June 14th AQC meeting the Oklahoma DEQ, Oklahoma AQC, and grain industry task force agreed to the text for a grain industry subchapter of the Oklahoma Clean Air Act. The grain industry sub-chapter specified that the existing AP-42 emission estimates for receiving and loading would be used as interim values for a period not to exceed one year, during which time a grain dust emission study would be conducted to develop permanent emission factors. The sub-chapter was formally passed by the AQC on June 14th, 1994 and subsequently passed by the DEQ Board on September 28, 1994. The final protocol for the test was submitted to the Oklahoma DEQ and AQC by the OSU faculty team on September 16, 1994. The protocol was reviewed by DEQ staff and formally accepted on September 20, 1994.

Study Objectives

The primary objective of the study was to capture and measure the amount of grain dust emitted during typical receiving and load-out processes of a country elevator. The receiving study was sub-dividing into three parts to investigate the impact of truck type (hopper-bottomed versus end-dump) on dust emissions and to determine the efficiency of dump-pit baffles in reducing dust emissions at receiving. Dump pit baffles were included in the study due to the lack of any existing efficiency estimates for this fairly low cost emission control. The formal objectives of the study were:

- I. Capture and measure the amount of grain dust emitted (per ton of grain handled) during the receiving process of a typical Oklahoma elevator;
- II. Capture the amount of grain dust emitted (per ton of grain handled) during the truck load-out process of a typical Oklahoma elevator;
- III. Measure the impact of dump-pit baffles on grain dust emissions from receiving operations; and
- IV. Determine the impact of truck type (end-dump versus hopper bottomed) on dust emissions at receiving.

Test Site Selection

The proposed procedure for measuring the emitted dust required a country elevator facility with an enclosed dump-shed that could be adequately sealed. The need for an efficiency estimate for dump-pit baffles also required that the facility have a removable baffle system in place. A list compiled by the Oklahoma Grain and Feed Association indicated that four country elevator facilities located in Omega, Dacoma, and Alva had enclosed dump-pits equipped with dust control baffles. After a tour of the facilities, the Wheeler Brothers Elevator in Alva, Oklahoma was selected. This elevator was selected because it was the only facility in which the dump-pit baffles could be easily removed so that tests could be conducted with and without the baffle

system. (In the other elevators the dust control baffles were permanently welded or otherwise permanently secured.)

Test Procedures

Overview

The basic format of the receiving and load-out tests involved unloading or loading trucks containing a known amount of grain in a specially modified enclosed dump shed. A 7.5 h.p. centrifugal blower mounted outside the dump shed was used to evacuate the dust laden air from the shed through a set of fabric bag filters. The air movement generated by the centrifugal blower helped to keep all of the airborne particles in suspension until they reached the 13" diameter inlet pipe, positioned near the center of the dump shed, which exhausted to the filter bags. Two additional high volume propeller fans were stationed in the shed (see Figure 1) and operated during the test to simulate a 12-15 m.p.h. wind through the dump shed. These fans helped to further ensure that all of the small, light weight dust particles remained in suspension.

Dump Shed

The enclosed driveway portion of the concrete dump shed in which the test was conducted has a total volume of approximately 24,000 cu. ft. The dump shed had full height driveway doors on the east and west ends. A small office was located to the south of the dump shed area and was separated by a door. A man-lift access area was located along the north of the dump pit. A temporary plywood partition was constructed to separate the dump pit area from this access area. A 13 inch diameter steel air duct was routed through the plywood partition with the inlet positioned approximately 7' high and directly above the dump pit unloading point. The duct routed the dust laden air from the enclosed driveway area to the centrifugal blower and filter bag assembly which were mounted in the man-lift access area. All minor cracks between the plywood partition, the ducting, and the concrete walls were sealed with duct tape or other sealing material. The only air inlet into the enclosed driveway area of the shed was the small gaps around the truck doors on the east and west ends of the shed. The negative pressure generated by the 7.5 h.p. blower ensured that no dust escaped from these cracks. The primary air flow was around the doors, across and over the grain dump pit, and up to the outlet duct.

A small door was constructed in the plywood partition to allow the truck driver to exit the dump shed after loading or unloading processes were completed and to allow the test supervisors to monitor the test without disturbing the outer doors. The partition was also equipped with a plexiglass window which allowed test personnel to observe the test without entering the enclosed shed.

Dump-pit

The dump pit grate had a surface area of approximately 64 sq. ft. (8' by 8') and a depth of 12 ft. In order to simulate typical operating conditions the receiving test began with the pit empty and the elevator leg operating before and during the time the grain was being unloaded into the pit. The dump pit was equipped with removable dust control baffles (see Figure 2) which were designed to partially restrict dust laden air from leaving the dump pit. When all of the baffles were positioned in the fully closed position, approximately 14% of the surface area of the dump grate was open. During the receiving operation the baffles directly under the grain swung open allowing the grain to flow through, and generating additional open area. The dump pit baffles were removed for the initial receiving tests which involved both hopper-bottomed and end-dump trucks and were re-installed for the baffle efficiency test. The dump pit was equipped with a pneumatic dust control system but, this system was not operated during the test procedures.

Blower and Filter Bags

The outlet from the 7.5 h.p. centrifugal blower was attached to three, 6" diameter by 12' long high efficiency fabric bag filters through a specially constructed manifold. The blower provided approximately 2,400-2,500 c.f.m. which allowed for a complete air exchange of the dump shed in approximately 10 minutes. The blower was started when the grain unloading or loading process began and was operated for a sufficient amount of time to create 1 1/2 to 2 air exchanges for the dump shed area. During the test, manometer readings were taken periodically (Appendix 1) to measure the differential pressure across the blower. These measurements, along with the manufactures fan curve for the blower (Figure 3) were used to calculate the actual airflow through the filter bags.

The fabric filter bags and end clamps were weighed before each test to establish a tare weight. The bags were reweighed at the completion of each test to determine the amount (lbs.) of dust captured. After each test was completed and the bags had been weighed, the clamps were removed from the end of the bags and the bags were cleaned by exhausting air from the centrifugal blower through the bags with the ends opened. Periodically during the two day testing period, when the manometer readings indicated that the static pressure readings were increasing, one filter bag was replaced with a new, or hand-cleaned bag, prior to the next test.

Trucks

Two truck types, a hopper-bottomed semi-trailer and an end-dump tandem axle truck, were used during the open dump-pit (baffles removed) receiving test. Each truck had a capacity of approximately 17-18 tons (34,000-36,000 lbs). The unloading opening of the tandem end-dump truck started 4' 11" above the dump pit grate and ended up 2' 11" when the truck bed was in the fully raised position. The hopper bottom semi-trailer dump gate height was 17 3/4" above the dump grate. The trailer was equipped with three 15 3/4" by 10", air operated, rack and pinion slide gates which were fully opened during each receiving test. The end-dump truck had two slide gate openings, each 7" high by 15" wide, which were fully opened during each test.

Load Out Spout

The discharge spout in the dump-shed was of a fixed height design and was approximately 6 ft. above the bottom of the truck bed. The spout was in line with the inlet pipe to the centrifugal blower. Each load-out test took approximately 6 1/2 minutes, indicating an effective load-out speed of 5,700 bu./hr (170.8 tons/hr.).

Number of Truck Loads

Five loads from each truck type were used during the open dump-pit receiving study. The truck types were alternated during the test to prevent down time while the truck was being weighed, loaded, and re-weighed. The truck type was recorded for each test and all of the results were separated by truck type.

The baffle efficiency study involved an additional five loads from the tandem end-dump truck. The tandem end-dump represented the worst case scenario in terms of dust emitted and therefore, provided a conservative estimate of the baffle efficiency. All of the procedures for the baffle efficiency test were identical to the open dump-pit test. A ratio of the average amount of dust (lbs./ton) emitted from the tandem end-dump truck with and without the baffles installed was calculated to determine the efficiency of the dump-pit baffles.

Five truck loads with the tandem end-dump truck were used for the load-out study. Since the truck heights of the hopper bottom and end-dump trucks were almost identical, the load out results would not be expected to vary significantly with truck type.

Weights

Each truck load of wheat was weighed on the elevator scale which had a current certification. The filter bags and clamps were weighed on a Class I laboratory scale provided by the Oklahoma State Department of Agriculture, Weights and Measures Division. The scale provided (which is used by weights and measures inspectors to certify scales at commercial facilities) had an accuracy of + or - 1/1000 lb. Mr. Charles Carter, Oklahoma Department of Agriculture, Weights and Measures, set-up, leveled and calibrated the scale, and performed the weighing for the receiving end-dump and receiving hopper bottom tests. Dr. Phil Kenkel, OSU Agricultural Economics conducted the weighing for the baffle efficiency and load-out tests conducted on the second day.

October 21, 1994

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Supplemental Tests

Two supplemental tests were conducted in conjunction with the primary receiving, load-out, and baffle efficiency tests. An "extra fan time" test was conducted to determine the impact of additional dump shed evacuation on the amount of dust collected. This test was conducted in conjunction with the last end-dump truck load of the receiving study. The filter bags were weighed after the fan had been run for the standard 20 minute interval. The bags were then re-attached to the fan (without being emptied) and the fan was run an additional 20 minutes. The bags were then re-weighed to determine the additional dust captured by doubling the fan time and air volume. The elapsed time between fan shut off and re-start was 3 minutes, 10 seconds.

The second supplemental test was the measurement of the non-airborne dust which settled on the floor during the standard receiving, receiving with baffles installed, and load-out tests. The dump shed was completely swept prior to each test. After the shed had been evacuated for the designated 20 minute time, the dust which settled to the floor was swept up and weighed. The collection of the floor dust occurred before the doors of the shed were opened. Since the samples of "floor dust" also contained whole and partial kernels of grain spilled during the loading and unloading processes, the samples were saved for sieving and/or particle size analysis. In addition, an open door "reference" test was conducted to determine the amount of floor dust which would be expected to be recovered during normal (OSHA mandated) housekeeping procedures. This "reference level" was determined by sweeping up and measuring the amount of dust which fell to the floor of the dump shed when trucks were unloaded with both doors to the shed open, and the outside winds flowing through the shed.

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**Table 1
Summary of Emission Test Design**

Test Number	Purpose	Truck Type	# Loads	Avg. Load Weight (tons)	Avg. Unloading or loading time	Time of fan run
1	Receiving	End-dump	5	18.15	3.5	20 min
1	Receiving	Hopper bottom	5	17.63	1.5	20 min*
2	Baffle	End-dump	5	18.46	3.5	20 min
3	Load out	End-dump	5	18.50	6.5	20 min

* The first two repetitions for the hopper bottom truck used a fan time of 15 minutes since the dump shed was free of visible dust after that period of time. The fan time for the remainder of the tests were increased to 20 minutes after analysis of the preliminary manometer readings and calculated airflows.

Supplementary Tests

S1	Extra fan time	End-dump	1	18.15	3.5	20 min
Non-airborne dust (floor dust)* estimates						
S2	Receiving (no baffles)	End-dump	5	18.15	3.5	20 min
S2	Receiving (no baffles)	Hopper bottom	5	17.63	1.5	20 min
S2	Receiving (baffles)	End-dump	5	18.46	3.5	20 min
S2	Receiving open door reference level	End-dump	4	18.33	3.5	NA
S2	Load out	End-dump	5	18.50	6.5	20 min

*Performed concurrently with receiving and load-out studies.

RESULTS

Airflow

The average total airflow through the filter bags (Table 2) for each test/truck combination ranged from 43,914 ft³ to 49,092 ft³ (1.83 to 2.05 times the air volume of the dump shed). Analysis of the individual airflow and dust collection results provided ample evidence that the air volume was sufficient to capture all airborne dust.

First, results of the extra fan time test run in conjunction with the receiving study indicated that moving an additional 46,566 ft³ (1.94 times the dump shed volume) through the filter bags resulted in an insignificant increase (.0009 lbs./ton) in the amount of dust collected. This indicated that more than doubling the air volume increased the amount of dust collected by only about 2%.

Second, a statistical analysis (linear regression) was performed to determine if there was any significant relationship between the amount of dust collected from each truck load of each test and the amount of air moved through the filter bags for that test. The results indicated no statistically significant positive relationship between airflow and dust collected for any of the receiving or load out studies.

Table 2					
Total Calculated Airflow (ft³) Through the Filter Bags*					
	Receiving-hopper bottom	Receiving-end-dump	Receiving-baffle	Load-out	Extra fan time test
Load #1	37,542	47,928	46,108	50,490	
Load #2	37,409	47,732	45,839	48,820	
Load #3	48,082	41,670	47,004	50,644	
Load #4	47,683	44,463	46,150	47,424	
Load #5	48,853	46,500**	48,856	48,082	46,566**
Average	43,914	45,658	46,191	49,092	46,566

* Calculated from static pressure observations (inches of water column) taken by periodic (2-4 minute interval) manometer readings and the manufacture's fan curve (Figure 3).

** Extra fan time test conducted after completion of normal procedures for #5 end-dump load.

Grain Quality

Each truck load of wheat used for the test was officially sampled and graded by Enid Grain Inspection Service (licensed under the United States Grain Standard Act). Grain grades are a function of a number of variables including test weight (the density of the kernels, lbs/bu.), the percentage of foreign material (FM), shrunken and broken kernels (SB), damaged kernels (DK), and other factors. The grading standards provide lower limits for test weight and upper limits for all of the other factors. Any one grading factor can lower the final grade. For example, a low test weight would lower the final grade, regardless of the FM, SB, DK, and other factors. Wheat quality is affected by environmental conditions. The quality of wheat received by a particular elevator varies from year to year with the local growing and harvesting conditions.

The amount of dockage in the grain and the moisture content are not grade factors but, are recorded on the official grade sheet. Dockage in wheat is defined as *"all material other than the wheat which can be removed from the sample by use of an approved device according to procedures prescribed in FGIS instructions. Also, underdeveloped, shriveled, and small pieces of wheat kernels removed in properly separating the material other than wheat and that cannot be recovered by properly re-screening or recleaning."* (Federal Grain Inspection Service, Grain Inspection Handbook, 13.14). In simple terms, dockage consists of material either larger than or smaller than the average sized wheat kernel which can be separated by screening procedures. The most typical form of dockage in Oklahoma wheat is chess seeds. Chess seeds are about the same size as wheat kernels, but are lighter than wheat and have a more pointed appearance (OSU Cooperative Extension Circular E-920).

None of the grade and non-grade factors listed on the official grade sheet directly measures the amount of dust in the grain. The most relevant factors would probably be the amount of dockage, SB and FM. Since dockage represents both small and large material, it may or may not relate to grain dustiness. For example, chess seeds and large feed pellets in wheat would function as dockage. Shrunken, broken and underdeveloped wheat kernels, can officially function as either SB or dockage depending on where they lay after the grain is screened using official procedures. Most of the material removed during the official SB screening procedures is typically too large to become airborne. However, some portion of this material could be small enough to affect wheat dustiness. Foreign material represents any material other than wheat which is hand picked from a 30g. sample which has previously been screened for dockage and SB. Examples of foreign material in wheat would include corn, feed pellets the same size as wheat kernels, stones, weed seeds, dirt, and any unidentified substances. Most material hand separated as FM is not small enough to be considered grain dust since the fine materials have been previously removed in the dockage and SB screening procedures.

The official grades and relevant grade factors for the test samples are provided in Table 3. A five year average of quality factor data for hard red winter wheat is provided in Table 4. The grain used in the test appears to be representative of hard red winter wheat grown in Oklahoma. The test grain had virtually the same test

weight as the FGIS 5 year average. The test grain had a lower amount of FM and dockage relative to the FGIS 5 year average, and slightly less SB.

Table 3 Summary of Grain Quality						
Load #	Test weight	Moisture	FM	SB	Dockage	Grade
Receiving-End-dump #1	60.5	12.0	0	1.8	.3	1
Receiving-Hopper #1	60.4	12.0	0	2.2	.3	1
Receiving-End-dump #2	60.3	12.2	.1	1.5	.4	1
Receiving Hopper #2	60.2	12.0	.1	1.4	.4	1
Receiving-End-dump #3	60.7	11.8	.1	1.4	.3	1
Receiving-Hopper #3	60.7	11.9	0	1.2	.2	1
Receiving-End-dump #4	60.2	12.1	.1	1.5	.4	1
Receiving-Hopper #4	60.3	12.0	.1	1.5	.4	1
Receiving-End-dump #5	60.2	12.2	.1	1.5	.4	1
Receiving-Hopper #5	60.5	12.2	.1	1.3	.3	1
Baffle #1	59.8	11.7	.1	1.8	.4	2
Baffle #2	60.1	11.1	0	1.6	.5	1
Baffle #3	60.0	11.3	0	1.9	.5	1
Baffle #4	60.9	11.7	0	1.2	.3	1
Baffle #5	61.0	11.9	.1	1.1	.3	1
Load-out #1	60.0	11.7	.1	2.4	.8	1
Load-out #2	60.3	11.9	.1	1.7	.6	1
Load-out #3	61.2	12.1	0	1.3	.3	1
Load-out #4	59.9	12.1	.1	1.6	.4	2
Load-out #5	59.9	12.1	.1	1.6	.4	2
Average	60.35	11.9	.07	1.5 8	.44	-

Based on official sampling and grading by Enid Grain Inspection Service

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Table 4
Federal Grain Inspection New Crops Survey Data Summary for
Hard Red Winter Wheat
1986 through 1990 Crops
versus
Test Wheat

	Test Weight	FM	SB	Dockage
FGIS New Crop Average	60.3	.33	1.98	.86
Test Wheat	60.35	.07	1.58	.44

Source-OSU Cooperative Extension Service Bulletin E-920

Dust Emission Estimates

The calculated dust emissions (amount of dust captured per ton of grain handled) are provided in Table 5. The average amount of dust collected during the receiving study was .0191 lbs./ton for the hopper bottom truck and .0388 for the end-dump truck for an overall average of .029 lbs./ton. The dust control baffles reduced the amount of dust collected by 20.9%. The amount of dust collected during load-out was .0084 lbs./ton. A comparison of the calculated dust emissions with the existing AP-42 emission factors is provided in Table 6.

The emission data for each test was consistent across the various repetitions. The receiving dump pit baffle test and the hopper bottom tests demonstrated the least load-to-load variations, while the receiving end-dump truck tests had the most variation. All of the tests resulted in fairly tight confidence intervals around the averages¹. The results indicated that the hopper bottom truck had approximately half (49.22%) the dust emissions of the end-dump truck.

The dump bit baffle design used in this test were installed about 4-5 years ago. They are one of a variety of baffle designs developed by millwrights in the Oklahoma region. More efficient designs are available that are reported to have higher efficiency compared to the baffles tested at this elevator.

¹ A 90% confidence interval indicates that, based on the variations within the sample, there is a 90% probability that the true average from repeating the experiment an infinite number of time would fall within the confidence limits.

Table 5
Summary of Airborne Dust Collected (lbs./ton)

	Receiving Hopper Bottom	Receiving End-dump	Receiving baffles	Load-out
Load 1	.0172	.0308	.0284	.0051
Load 2	.0193	.0273	.033	.0071
Load 3	.0181	.0537	.0308	.0077
Load 4	.0219	.0430	.0305	.0101
Load 5	.0190	.0393	.031	.0122
Average	.0191	.0388	.0307	.0084
Std. Dev.	.0016	.0093	.0015	.0025
Lower 90% confidence limit	.0175	.0295	.0293	.006
Upper 90% confidence limit	.0207	.0482	.0322	.0109
Receiving-Overall Average	.029 lbs/ton			
Baffle Efficiency	20.9%			

Table 6
**Comparison of Dust Collected with AP-42 Emission Factors
(lbs./ton)**

	Receiving			Loading
	Hopper Bottom	End Dump	Overall	
Dust Collected	.0191	.0388	.029	.0084
AP-42 Emission Factor	.60			.3

Results-Supplementary Non-airborne Dust

While not part of emission estimates, results on the amount of non-airborne dust which settled to the floor during each test provide useful indications of the approximate amount of grain dust which becomes separated from the grain flow during the handling process. The impact of truck type and baffles on the amount of non-airborne dust has important implications for elevator housekeeping procedures and worker safety. These results also support the contention that the original AP-42 emission estimates were grossly overstated since the total amount of airborne and non-airborne (settled) dust collected during the receiving tests was 7-11 times less than the AP-42 receiving emission factor.

The amount of non-airborne (settled) floor dust collected ranged from .0697 lbs/ton for the receiving/end-dump truck test to .0055 lbs./ton for the load-out test (Table 7). Table 7 also contains estimates of the portion of the settled dust which would be expected to be collected during normal (OSHA mandated) housekeeping procedures. These amounts were determined by measuring the average amount of dust which was gathered from the floor when the end-dump truck was unloaded using normal dumping procedures, i.e with both dump shed doors open. In the open-door receiving (reference) test the amount of dust normally recovered from the dump pit floor during housekeeping procedures averaged .0208 lbs./ton.

The results indicated that the dump pit baffles were more effective in limiting non-airborne dust than in limiting airborne dust. While reducing airborne dust by 20.9%, the baffles reduced the amount of dust collected on the floor by over 52%. The overall efficiency of the dump pit baffles in limiting both airborne and non-airborne dust was 39.17%.

Table 7 Supplementary Results (Non-Airborne) Floor Dust Collected (lbs./ton)				
	Receiving-Hopper bottom	Receiving-End-dump	Receiving Baffles	Load-out
Floor Dust Collected*	.0333	.0488	.0257	.0040
Floor dust recovered during normal housekeeping*	.0142**	.0208	.0100**	.0017**
Floor dust adjusted for dust recovered during normal housekeeping	.0191	.0280	.0157	.0023
Baffle efficiency-floor dust	52.89%			
Baffle efficiency-Floor Dust and Airborne Dust	39.17%			
* Amount of dust swept up from floor after end-dump truck was unloaded with all dump shed doors open. Data conducted for end-dump receiving test only. Dust was screened with a coarse (Standard #16) sieve to remove wheat kernels, stones (and in the case of one sample, a broken bolt).				
** Estimated based on the same ratio of dust collected in housekeeping procedures to total floor dust as the end-dump receiving test.				

LIST OF FIGURES

1. Figure 1-Dump Shed Diagram
2. Figure 2-Dump Pit Baffle Design
3. Figure 3-Fan Curve for Centrifugal Blower #2075

ATTACHMENTS

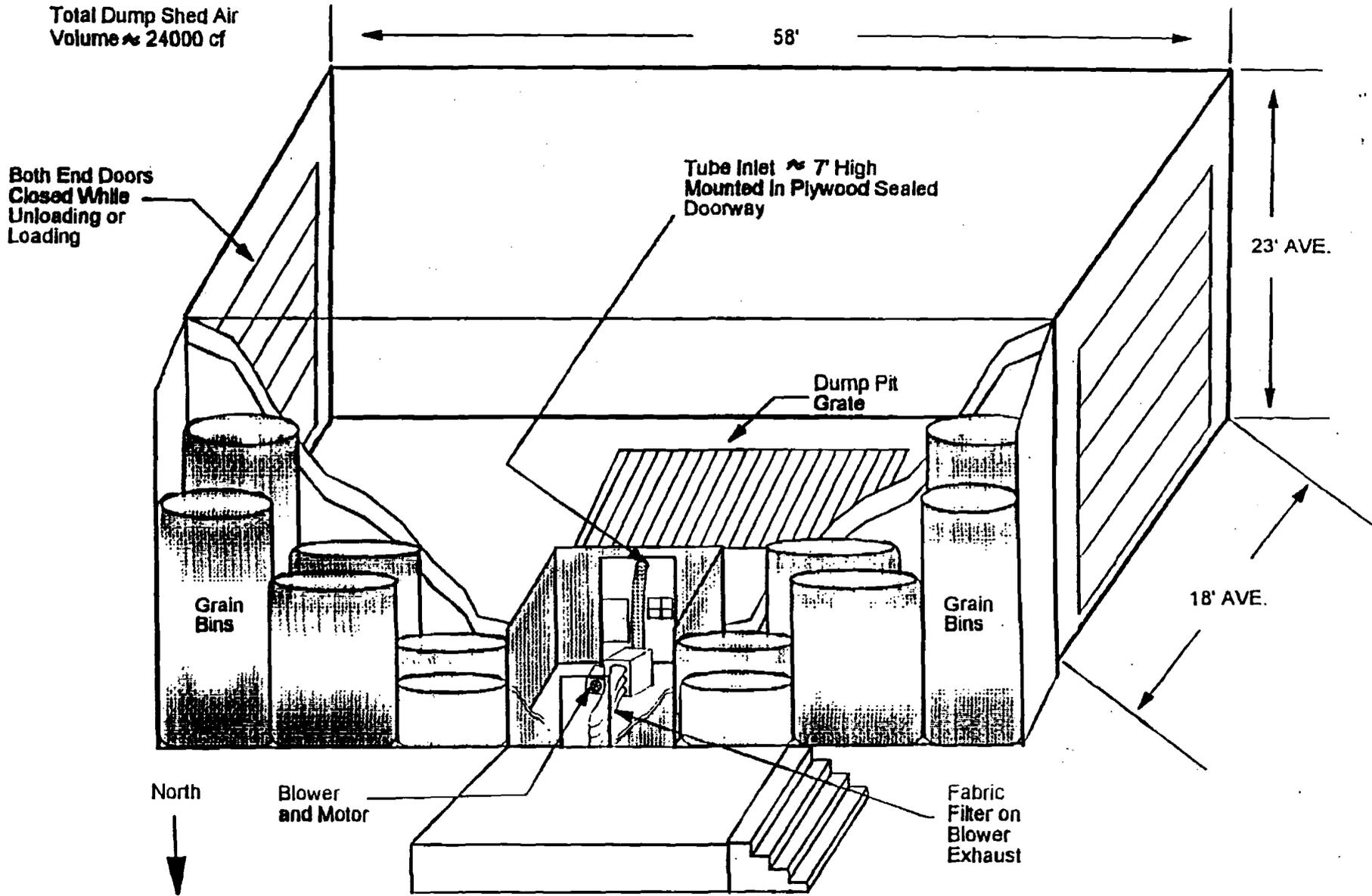
1. Appendix 1-Air Measurement Data Sheets
2. Appendix 2-Dust and Truck Weights Data Sheets
3. Appendix 3-Official Summary of Grades-Enid Inspection Service
4. Appendix 4-Copies of Truck Scale Tickets
5. Appendix 5-Official Test Protocol (9-17-94)

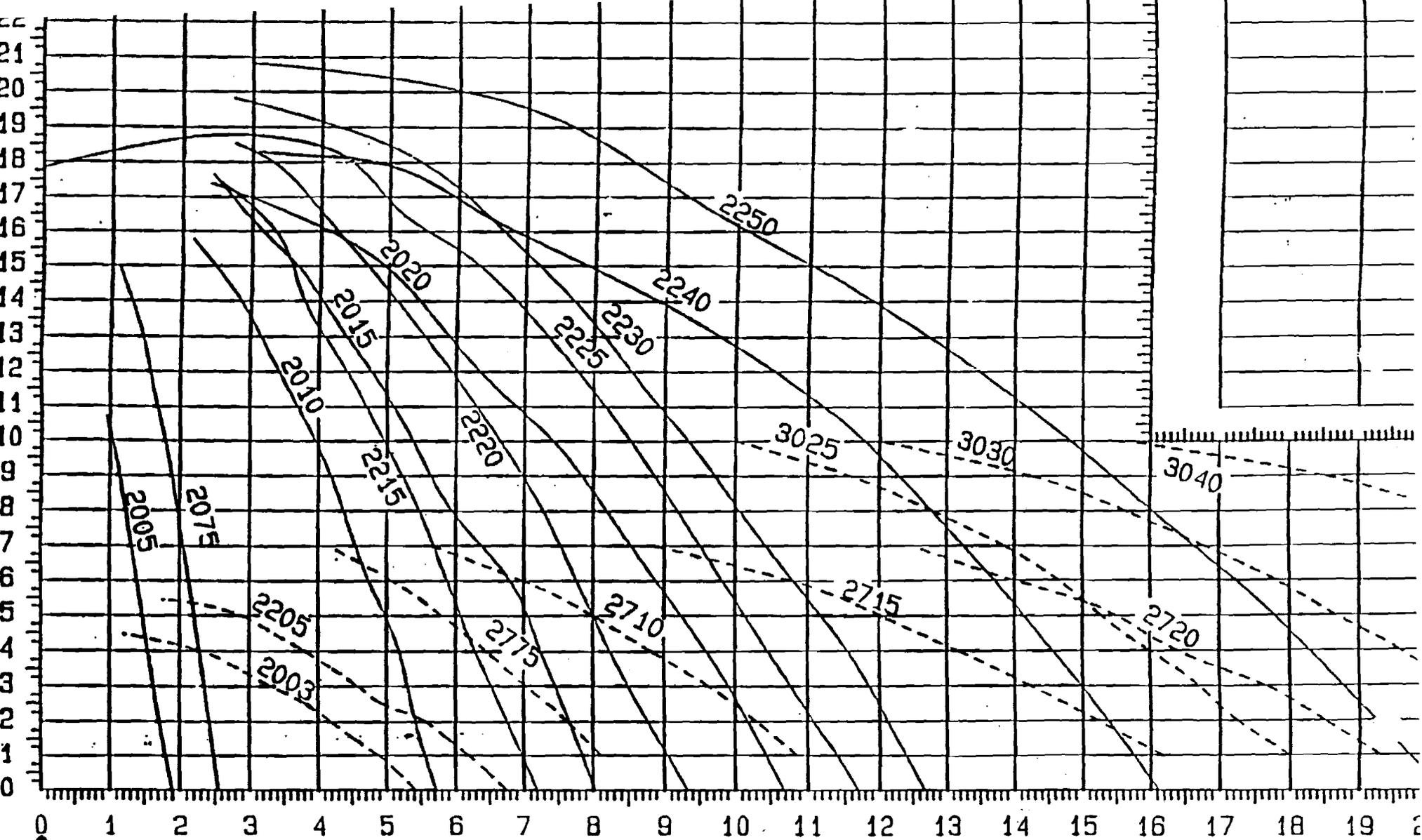
References

Adam, B. D. and K. B. Anderson. "Costs and Benefits of Cleaning Hard Red Winter (HRW) and Soft Red Winter (SRW) Wheats." Bulletin E-920, Cooperative Extension Service, Division of Agricultural Sciences and Natural Resources, Oklahoma State University, October, 1992.

USDA Federal Grain Inspection Service. Grain Inspection Handbook II: Grain Grading Procedures, 10-1-90.

Figure 1. Dump Shed Layout





CFM X 1000

LEGEND
 1750 RPM -----
 3450 RPM _____

GEORGE A. ROLF
 ROLFES
 CENTRIFUGAL

Appendix 1

Receiving/Loadout Grain Dust Emission Study Airborne Dust Recovery Airflow Data Wheeler Brothers Elevator Alva, OK - - 9/26/94

Field Test Protocol Developed/Administered
by
R.T. Noyes, P.E., Extension Agricultural Engineer
&
Phil Kenkel, Ph.D., Extension Agricultural Economist
Oklahoma State University, Stillwater, OK

RECEIVING Study

Weather: Sunny and Mild, Light Winds

Open Dump Pit [No Baffles]; 7.5 HP Rolfes Centrifugal Blower w/13" ID Suction Pipe from Sealed Dump Shed; Blower Outlet Manifoldded to three 6 inch Dia. x 12 ft. High Eff. Bag House Filters

Test No.	Truck Description	Time	Elapsed Time [min.]	Static Pressure [inches water col.]	Airflow [cfm]
1	Hopper Bottom [Dump Time 1.5 minutes]	9:36:52	0	0	2570
		9:40:52	4	0.6	2528
		9:51:52	15	1.8	2444
2	Tandem End-Dump [Dump Time 3.5 minutes]	10:21:58	0	0	2570
		10:25:58	4	1.2	2486
		10:28:58	7	2.0	2430
		10:31:58	10	3.0	2360
		10:35:58	14	3.5	2325
		10:41:58	20	3.8	2304
3	Hopper Bottom [Dump Time 1.5 minutes]	11:07:48	0	0	2570
		11:12:48	5	0.7	2521
		11:17:48	10	1.6	2458
		11:20:48	13	1.8	2444
		11:22:48	15	1.9	2437
4	Tandem End-Dump [Dump Time 3.5 minutes]	11:41:30	0	0	2570
		11:45:30	4	1.0	2500
		11:47:30	6	2.1	2423
		11:50:30	9	3.1	2353
		11:56:30	15	3.7	2311
		12:01:30	20	3.9	2297
5	Hopper Bottom [Dump Time 1.5 minutes]	12:33:30	0	0	2570
		12:37:30	4	1.5	2465
		12:40:30	7	2.3	2409
		12:44:30	11	2.8	2374
		12:48:30	15	3.2	2346
		12:53:30	20	3.4	2332
6	Tandem End-Dump [Dump Time 3.5 minutes]	2:13:00	0	0	2570
		2:14:30	1.5	1.8	2444
		2:15:30	2.5	3.6	2318
		2:16:30	3.5	4.8	2234
		2:18:00	5	6.3	2126
		2:21:00	8	7.4	2038
		2:27:00	14	8.3	1966

RECEIVING Study (Cont'd)

Test No.	Truck Description	Time	Elapsed Time [min.]	Static Pressure [inches water col.]	Airflow [cfm]
7	Hopper Bottom [Dump Time 1.5 minutes]	2:54:00	0	0	2570
		2:57:00	3	0.8	2514
		2:59:00	5	1.9	2437
		3:01:00	7	2.5	2395
		3:04:00	10	3.2	2346
		3:09:00	15	3.7	2311
		3:14:00	20	3.9	2297
8	Tandem End-Dump [Dump Time 3.5 minutes]	3:43:20	0	0	2570
		3:45:20	2	1.4	2472
		3:46:20	3	2.6	2388
		3:47:20	4	3.5	2325
		3:48:20	5	4.2	2276
		3:50:20	7	5.0	2220
		3:54:20	11	6.0	2150
9	Hopper Bottom [Dump Time 1.5 minutes]	4:03:20	20	6.7	2094
		4:33:30	0	0	2570
		4:36:30	3	1.1	2493
		4:40:30	7	2.0	2430
		4:41:30	Adjusted Kinks in Filter Bags		
		4:42:30	9	2.0	2430
		4:48:30	15	2.3	2409
10	Tandem End-Dump [Dump Time 3.5 minutes]	4:53:30	20	2.3	2409
		5:26:50	0	0	2570
		5:30:50	4	0.8	2514
		5:32:50	6	2.6	2388
		5:34:50	8	3.8	2304
		5:38:50	12	4.8	2234
		5:40:50	14	5.0	2220
5:44:50	18	5.4	2192		
5:46:50	20	5.4	2192		

10 [Continued]

Weighed Filter Bags; Shook Dust Down to Bottom of Bags; Remounted Bags and Continued Test for 20 minutes before opening the Dump Shed and Moving Truck. Purpose of this test extension was to demonstrate that there was essentially no airborne dust in suspension after the initial 20 minutes of evacuation.

5:50:00	20	4.0	2290
5:52:00	22	4.2	2276
5:53:00	Adjusted Kinks in Filter Bags		
5:54:00	24	3.2	2346
6:00:00	30	3.3	2339
6:10:00	40	3.5	2325

RECEIVING Study [Cont'd]

Tuesday, September 27, 1994

Weather: Sunny and Mild, Light Winds

Modified Dump Pit With Dust Control Baffles; 7.5 HP Rolles Centrifugal Blower w/ 13" ID Suction Pipe from Scaled Dump Shed; Blower Manifoldded to three 6 in. Dia. x 12 ft. High Eff. Bag Filters

Test No.	Truck Description	Time	Elapsed Time [min.]	Static Pressure [inches water col.]	Airflow [cfm]
11	Tandem End-Dump [Dump Time 3.5 minutes]	8:32:50	0	0	2570
		8:35:20	3	1.1	2493
		8:36:20	4	1.6	2458
		8:37:20	5	2.6	2388
		8:38:20	6	3.0	2360
		8:40:20	8	3.9	2297
		8:42:20	10	4.6	2248
		8:46:20	14	5.2	2206
8:52:20	20	5.7	2171		
12	Tandem End-Dump [Dump Time 3.5 minutes]	9:21:45	0	0	2570
		9:24:45	3	1.1	2493
		9:25:45	4	2.2	2416
		9:26:45	5	2.8	2374
		9:27:45	6	3.5	2325
		9:28:45	7	4.0	2290
		9:30:45	9	4.6	2248
		9:32:45	11	5.1	2213
9:37:45	16	5.4	2192		
9:41:45	20	5.7	2171		
13	Tandem End-Dump [Dump Time 3.5 minutes]	10:08:20	0	0	2570
		10:11:20	3	0.5	2535
		10:12:20	4	1.1	2493
		10:13:20	5	1.8	2444
		10:14:20	6	2.4	2402
		10:16:20	8	3.2	2346
		10:18:20	10	3.8	2304
		10:22:20	14	4.5	2255
10:28:20	20	5.0	2220		
14	Tandem End-Dump [Dump Time 3.5 minutes]	11:02:10	0	0	2570
		11:05:10	3	0.7	2521
		11:06:10	4	1.7	2451
		11:07:10	5	2.4	2402
		11:08:10	6	3.0	2360
		11:09:10	7	3.6	2318
		11:10:10	8	4.0	2290
		11:12:10	10	4.5	2255
11:16:10	14	5.2	2206		
11:22:10	20	5.8	2164		
15	Tandem End-Dump [Dump Time 3.5 minutes]	12:01:30	0	0	2570
		12:03:30	2	0.8	2514
		12:04:30	3	1.5	2465
		12:05:30	4	2.4	2402
		12:06:30	5	3.0	2360
		12:07:30	6	3.4	2332
		12:09:30	8	4.0	2290
		12:11:30	10	4.6	2248
12:15:30	12	5.2	2206		

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LOADOUT Study

Tuesday, September 27, 1994

Weather: Sunny and Mild, Light Winds

Side Draw Bin Downspout to Center of Drive over Dump Pit; 7.5 HP Rolfes Centrifugal Blower on 13" ID Suction Pipe from Sealed Dump Shed; Blower Outlet Manifolded to three 6 inch Dia. x 12 ft. High Efficiency Bag House Filters

Test No.	Truck Description	Time [min.]	Elapsed Time [min.]	Static Pressure [inches water col.]	Airflow [cfm]
16	Tandem End-Dump [Load Time 6.5 minutes]	1:25:40	0	0	2570
		1:28:40	3	0.2	2556
		1:30:40	5	0.6	2528
		1:32:40	7	0.7	2521
		1:36:40	11	0.8	2514
		1:40:40	15	0.8	2514
17	Tandem End-Dump [Load Time 6.5 minutes]	1:45:40	20	0.9	2507
		2:10:0	0	0.8	2514
		2:12:0	2	1.0	2500
		2:16:0	6	1.5	2465
		2:20:0	10	1.9	2437
		2:24:0	14	2.3	2409
18	Tandem End-Dump [Load Time 6.5 minutes]	2:30:0	20	2.5	2395
		2:53:20	0	0	2570
		2:56:20	3	0.1	2563
		2:58:20	5	0.4	2542
		3:04:20	11	0.7	2521
		3:08:20	15	0.7	2521
19	Tandem End-Dump [Load Time 6.5 minutes]	3:11:20	18	0.8	2514
		3:13:20	20	0.8	2514
		3:43:0	0	0.7	2521
		3:44:0	1	1.0	2500
		3:46:0	3	1.6	2458
		3:50:0	7	2.6	2388
20	Tandem End-Dump [Load Time 6.5 minutes]	3:54:0	11	3.4	2332
		3:58:0	15	3.7	2311
		4:03:0	20	3.8	2304
		4:30:20	0	1.0	2500
		4:32:20	2	1.2	2486
		4:36:20	6	2.0	2430
		4:40:20	10	2.7	2381
		4:44:20	14	2.9	2367
		4:48:20	18	3.1	2353
		4:50:20	20	3.1	2353

NOTES:

1. Tandem truck dump height started approx. 5 ft. and ended at about 2.5 ft. above dump pit grate.
2. Hopper bottom semi-trailer dump height was approx. 2 ft. above dump pit grate.
3. Discharge spout height above the tandem hoist truck bed was approximately 6 ft.

END OF Test Data on Airflow

DIX I-CONTINUED-AIRFLOW CALCULATIONS

	Time	Static Fan Pres	Fan Volume (CFM)	Airflow for Interval	Total Airflow	Average CFM
	0	0	2570			
	4	0.6	2528	10196		
Hopper Bottom #1	15	1.8	2444	27346	37542	2502.8
	0	0	2570			
	4	1.2	2486	10112		
	7	2	2430	7374		
	10	3	2360	7185		
	14	3.5	2325	9370		
End Dump #1	20	3.8	2304	13887	47928	2396.4
	0	0	2570			
	5	0.7	2521	12728		
	10	1.6	2458	12448		
	13	1.8	2444	7353		
Hopper Bottom #2	15	1.9	2437	4881	37409	2493.9
	0	0	2570			
	4	1	2500	10140		
	6	2.1	2423	4923		
	9	3.1	2353	7164		
	15	3.7	2311	13992		
End Dump #2	20	3.95	2294	11513	47732	2386.6
	0	0	2570			
	4	1.5	2465	10070		
	7	2.3	2409	7311		
	11	2.8	2374	9566		
	15	3.2	2346	9440		
Hopper Bottom #3	20	3.4	2332	11695	48082	2406.1
	0	0	2570			
	1.5	1.8	2444	3760.5		
	2.5	3.6	2318	2381		
	3.5	4.8	2234	2276		
	5	6.3	2126	3270		
	8	7.4	2038	6246		
	14	8.3	1966	12012		
End Dump #3	20	8.6	1942	11724	41670	2083.5
	0	0	2570			
	3	0.8	2514	7626		
	5	1.9	2437	4951		
	7	2.5	2395	4832		
	10	3.2	2346	7111.5		
	15	3.7	2311	11643		
Hopper Bottom #4	20	3.9	2297	11520	47683	2384.2
	0	0	2570			
	2	1.4	2472	5042		
	3	2.6	2388	2430		
	4	3.5	2325	2356.5		
	5	4.2	2276	2300.5		
	7	5	2220	4496		
	11	6	2150	8740		
End Dump #4	20	6.7	2094	19098	44463	2223.2

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PENDIX I-CONTINUED-AIRFLOW CALCULATIONS

	Time	Static Fan Pres	Airflow Volume (CFM)	Airflow Total for Airflow Interval	Average CFM
	0	0	2570		
	3	1.1	2493	7594.5	
	7	2	2430	9846	
	9	2	2430	4860	
	15	2.3	2409	14517	
opper Bottom #5	20	2.35	2405	12035	48853
					2442.6
	0	0	2570		
	4	0.8	2514	10168	
	6	2.6	2388	4902	
	8	3.8	2304	4692	
	12	4.8	2234	9076	
	14	5	2220	4454	
	18	5.4	2192	8824	
d Dump #5	20	5.4	2192	4384	46500
					2325.0
	20	4	2290		
	22	4.25	2272	4562	
	24	3.25	2342	4614	
	30	3.3	2339	14043	
tra Fan Time	40	3.5	2325	23320	46539
					2327.0
	0	0	2570		
	3	1.1	2493	7594.5	
	4	1.6	2458	2475.5	
	5	2.6	2388	2423	
	6	3	2360	2374	
	8	3.9	2297	4657	
	10	4.6	2248	4545	
	14	5.2	2206	8908	
ffle #1	20	5.7	2171	13131	46108
					2305.4
	0	0	2570		
	3	1.1	2493	7594.5	
	4	2.2	2416	2454.5	
	5	2.8	2374	2395	
	6	3.3	2325	2349.5	
	7	4	2290	2307.5	
	9	4.6	2248	4538	
	11	5.1	2213	4461	
	16	5.4	2192	11013	
ffle #2	20	5.7	2171	8726	45839
					2291.9
	0	0	2570		
	3	0.5	2535	7657.5	
	4	1.1	2493	2514	
	5	1.8	2444	2468.5	
	6	2.4	2402	2423	
	8	3.2	2346	4748	
	10	3.8	2304	4650	
	14	4.5	2255	9118	
ffle #3	20	5	2220	13425	47004
					2350.2
	0	0	2570		
	3	0.7	2521	7636.5	

APPENDIX I-CONTINUED-AIRFLOW CALCULATIONS

	Time	Static Fan Pres	Fan Volume (CFM)	Airflow for Interval	Total Airflow	Average CFM
	4	1.7	2451	2486		
	5	2.4	2402	2426.5		
	6	3	2360	2381		
	7	3.6	2318	2339		
	8	4	2290	2304		
	10	4.5	2255	4545		
	14	5.2	2206	8922		
Baffle #4	20	5.8	2164	13110	46150	2307.5
	0	0	2570			
	2	0.8	2514	5084		
	3	1.5	2465	2489.5		
	4	2.4	2402	2433.5		
	5	3	2360	2381		
	6	3.4	2332	2366		
	8	4	2290	4622		
	10	4.6	2248	4538		
	12	5.2	2206	4454		
Baffle #5	20	5.7	2171	17508	45856	2292.8
	0	0	2570			
	3	0.2	2556	7689		
	5	0.6	2528	5084		
	7	0.7	2521	5049		
	11	0.8	2514	10070		
	15	0.85	2510	10048		
Load-out #1	20	0.85	2510	12550	50490	2524.5
	0	0.8	2514			
	2	1	2500	5014		
	6	1.5	2465	9930		
	10	1.95	2434	9798		
	14	2.35	2405	9678		
Load-out #2	20	2.5	2395	14400	48820	2441.0
	0	0	2570			
	3	0.1	2563	7699.5		
	5	0.4	2542	5105		
	11	0.7	2521	15189		
	15	0.75	2517	10076		
	18	0.8	2514	7546.5		
Load-out #3	20	0.8	2514	5028	50644	2532.2
	0	0.7	2521			
	1	1	2500	2510.5		
	3	1.6	2458	4958		
	7	2.6	2388	9692		
	11	3.4	2332	9640		
	15	3.7	2311	9286		
ad	20	3.8	2304	11538	47424	2371.2
	0	1	2500			
	2	1.2	2486	4986		
	6	2	2430	9832		
	10	2.7	2381	9622		

APPENDIX I-CONTINUED-AIRFLOW CALCULATIONS

	Time	Static Fan Pres	Fan Volume (CFM)	Airflow Total for Airflow Interval	Average CFM
	14	2.9	2367	9496	
	18	3.1	2353	9440	
ad-out #5	20	3.1	2353	4706	48082 2404.1

AP. SIX 1-CONTINUED-AIRFLOW SUMMARY

	Hopper Bottom	End Dump	Baffle Loadout	
#1	37542	47928	46108	50490
#2	37409	47732	45839	48820
#3	48082	41670	47004	50644
#4	47683	44463	46150	47424
#5	48853	46500	45856	48082
Avg	43914	45658	46191	49092

Summary-Average CFM

	Hopper Bottom	End Dump	Baffle Loadout	
#1	2502.8	2396.4	2305.4	2524.5
#2	2493.9	2386.6	2291.9	2441.0
#3	2404.1	2083.5	2350.2	2532.2
#4	2384.2	2223.2	2307.5	2371.2
#5	2442.6	2325.0	2292.8	2404.1
AV	2445.5	2282.9	2309.6	2454.6

APPENDIX 2
DUST AND TRUCK WEIGHTS DATA SHEETS

Test type	Truck #	Truck Type	Filter bag data			Grain data				Calculated emissions			
			Filter bag tare (lbs)	Filter Bag net (lbs)	Net dust (lbs.)	Truck tare (lbs.)	Truck Gross (lbs)	Truck net (lbs)	Truck net tons	Airborne dust collected (lbs./ton)	Floor dust (total) (lbs./ton)	Floor Dust (lbs./ton)	
RECEIVING	1	Semi	Bag #1	4.248	4.295	0.047							
			Bag #2	4.194	4.346	0.152							
			Bag #3	4.123	4.227	0.104							
			Total			0.303	57620	22480	35140	17.57	0.0172	0.52363	0.0298
RECEIVING	2	Tandem	Bag #1	4.015	4.113	0.098							
			Bag #2	4.303	4.486	0.183							
			Bag #3	4.311	4.596	0.285							
			Total			0.566	55000	18260	36740	18.37	0.0308	0.90019	0.0490
RECEIVING	3	Semi	Bag #1	4.037	4.208	0.171							
			Bag #2	4.355	4.454	0.099							
			Bag #3	4.396	4.454	0.058							
			Total			0.328	56420	22500	33920	16.96	0.0193	0.60888	0.0359
RECEIVING	4	Tandem	Bag #1	4.057	4.296	0.239							
			Bag #2	4.364	4.521	0.157							
			Bag #3	4.427	4.512	0.085							
			Total			0.481	53620	18440	35180	17.59	0.0273	0.7025	0.0399
RECEIVING	5	Semi	Bag #1	4.112	4.265	0.153							
			Bag #2	4.38	4.491	0.111							
			Bag #3	4.443	4.5	0.057							
			Total			0.321	58040	22520	35520	17.76	0.0181	0.50563	0.0285
RECEIVING	6	Tandem	Bag #1	4.142	4.59	0.448							
			Bag #2	4.407	4.754	0.347							
			Bag #3	4.465	4.663	0.198							
			Total			0.993	55420	18460	36960	18.48	0.0537	0.77494	0.0419
RECEIVING	7	Semi	Bag #1	4.169	4.354	0.185							
			Bag #2	4.406	4.542	0.136							
			Bag #3	4.481	4.549	0.068							
			Total			0.389	58060	22520	35540	17.77	0.0219	0.77538	0.0436
RECEIVING	8	Tandem	Bag #1	4.213	4.368	0.155							
			Bag #2	4.433	4.718	0.285							
			Bag #3	4.49	4.831	0.341							
			Total			0.781	54800	18460	36340	18.17	0.0430	0.97756	0.0538
RECEIVING	9	Semi	Bag #1	4.201	4.257	0.056							
			Bag #2*	4.047	4.189	0.142							
			Bag #3	4.522	4.668	0.146							
			Total			0.344	58660	22520	36140	18.07	0.0190	0.60006	0.0332

APPENDIX 2

DUST AND TRUCK WEIGHTS DATA SHEETS

Test #	Truck #	Truck Type	Filter bag data			Grain data				Calculated emissions			
			Filter bag tare (lbs)	Filter Bag net (lbs)	Net dust (lbs.)	Truck tare (lbs.)	Truck Gross (lbs)	Truck net (lbs)	Truck net tons	Airborne dust collected (lbs./ton)	Floor dust (total)	Floor Dust (lbs./ton)	
1 RECEIVING 10	Tandem		Bag #1*	4.131	4.464	0.333							
			Bag #2	4.127	4.402	0.275							
			Bag #3	4.542	4.648	0.106							
			Total			0.714	54780	18480	36300	18.15	0.0393	1.07988	0.0595
			AVERAGE-SEMI			0.337	57760	22508	35252	17.626	0.01911743	0.60271	0.03420287
			AVERAGE-TANDEM			0.707	54724	18420	36304	18.152	0.03884235	0.88701	0.04883452
EXTRA FAN TIME			Bag #1	4.464	4.47	0.006							
			Bag #2	4.402	4.409	0.007							
			Bag #3	4.648	4.652	0.004							
			Total			0.017	54780	18480	36300	18.15	0.0009	NA	0.0000

6666

APPENDIX 2

DUST AND TRUCK WEIGHTS DATA SHEETS

Test type	Truck #	Truck Type	Filter bag data			Grain data			Calculated emissions			
			Filter bag tare (lbs)	Filter Bag net (lbs)	Net dust (lbs.)	Truck tare (lbs.)	Truck Gross (lbs)	Truck net (lbs)	Truck net tons	Airborne dust collected (lbs./ton)	Floor dust (total)	Floor Dust (lbs./ton)
BAFFELS	1	tandem	Bag #1	4.267	4.351	0.084						
			Bag #2	4.224	4.437	0.213						
			Bag #3	4.533	4.758	0.225						
			Total			0.522	55300	18500	36800	18.4	0.0284	0.43019
BAFFELS	2	tandem	Bag #1	4.263	4.367	0.104						
			Bag #2	4.263	4.491	0.228						
			Bag #3	4.495	4.761	0.266						
			Total			0.598	54840	18580	36260	18.13	0.0330	0.48931
BAFFELS	3	tandem	Bag #1	4.256	4.353	0.097						
			Bag #2	4.295	4.549	0.254						
			Bag #3	4.357	4.586	0.229						
			Total			0.58	56200	18520	37680	18.84	0.0308	0.3915
BAFFELS	4	tandem	Bag #1	4.29	4.38	0.09						
			Bag #2	4.346	4.597	0.251						
			Bag #3	4.465	4.674	0.209						
			Total			0.55	54660	18540	36120	18.06	0.0305	0.29288
BAFFELS	5	tandem	Bag #1*	4.137	4.272	0.135						
			Bag #2	4.304	4.522	0.218						
			Bag #3	4.541	4.774	0.233						
			Total			0.586	56360	18580	37780	18.89	0.0310	0.48538
AVERAGE-BAFFELS					0.5672	55472	18544	36928	18.464	0.03072298	0.41785	0.02261214
						BAFFEL EFFICIENCY			20.90%	52.89%		

APPENDIX 2
DUST AND TRUCK WEIGHTS DATA SHEETS

Test #	Truck #	Truck Type	Filter bag data			Grain data			Calculated emissions			
			Filter bag tare (lbs)	Filter Bag net (lbs)	Net dust (lbs.)	Truck tare (lbs.)	Truck Gross (lbs)	Truck net (lbs)	Truck net tons	Airborne dust collected (lbs./ton)	Floor dust (total)	Floor Dust (lbs./ton)
3 LOAD-OUT	1	tandem	Bag #1	4.213	4.22	0.007						
		tandem	Bag #2	4.324	4.357	0.033						
		tandem	Bag #3	4.568	4.62	0.052						
			Total			0.092	54540	18500	36040	18.02	0.0051	0.02206
3 LOAD-OUT	2	tandem	Bag #1	4.22	4.251	0.031						
		tandem	Bag #2	4.357	4.405	0.048						
		tandem	Bag #3	4.62	4.677	0.057						
			Total			0.136	56920	18540	38380	19.19	0.0071	0.05163
3 LOAD-OUT	3	tandem	Bag #1	4.188	4.258	0.07						
		tandem	Bag #2	4.334	4.383	0.049						
		tandem	Bag #3	4.608	4.627	0.019						
			Total			0.138	54480	18540	35940	17.97	0.0077	0.04263
3 LOAD-OUT	4	tandem	Bag #1	4.258	4.346	0.088						
		tandem	Bag #2	4.383	4.454	0.071						
		tandem	Bag #3	4.627	4.652	0.025						
			Total			0.184	55080	18540	36540	18.27	0.0101	0.16363
3 LOAD-OUT	5	tandem	Bag #1	4.264	4.355	0.091						
		tandem	Bag #2	4.377	4.476	0.099						
		tandem	Bag #3	4.596	4.639	0.043						
			Total			0.233	56620	18540	38080	19.04	0.0122	0.09094
AVERAGE-LOAD-OUT					0.1566	55528	18532	36996	18.498	0.0084361	0.07418	0.00400372

ENTR GRAIN INSPECTION OF
 ENID. OKLAHOMA 13700

PAGE 1 OF _____
 DATE 09/27/84

STIND NO: 11

ENT. #	TIME	CUSTOMER	LOCATION	TICKET	W.	NOTE	FM	BEAT	BOCM*	FM	SOUND	BRKN	TD*	FI*	TC*	DOC	TROT	NOVEN	TYPE
458-4AL	11:14 A.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	1116	.5	12.0	0.2						1.8	2.0		0.3		OUT	OFFICIAL
458-4AL	11:40 A.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	843	.4	12.0	0.3						2.2	2.5		0.3		OUT	OFFICIAL
458-4AL	1:40 P.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	734	.3	12.2	0.1						1.5	1.6		0.4		OUT	OFFICIAL
458-4AL	1:30 P.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	216	.2	12.0	0.4						1.4	1.9		0.4		OUT	OFFICIAL
5130	9:10 A.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	35	.7	11.8	0.4						1.4	1.9		0.3		OUT	OFFICIAL
5132	9:15 A.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	796	.7	11.9							1.2	1.2		0.2		OUT	OFFICIAL
682-255T		OKLAHOMA STATE UNIVERSITY	ALVA, OK	1511	.2	12.1	0.1						1.5	1.6		0.4		OUT	OFFICIAL
682-255T	1:00 P.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	671	.3	12.0	0.2						1.5	1.8		0.4		OUT	OFFICIAL
682-255T	4:25 P.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	110	.2	12.2	0.2						1.5	1.8		0.4		OUT	OFFICIAL
682-259T	10:05A.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	1611	.5	12.2	0.1						1.3	1.4		0.3		OUT	OFFICIAL

ITE
 IDE = 'S' FOR SAMPLE GRADE \ 'F' FOR FACTOR ONLY
 FM = 'MALTING' FOR BARLEY \ 'OHV, HVAC, HARD' FOR WHEAT
 D. = 'THIN' FOR BARLEY
 F1 = 'BLACK' FOR BARLEY \ 'SPLITS' FOR SOYBEANS \ 'CONTRAST CLASS' FOR WHEAT
 F2 = 'OTHER GRAIN' FOR 6R MLTG BARLEY \ 'WILD OATS' FOR 2R MLTG BARLEY
 F2 = 'WILD OATS' FOR OATS \ 'FM NOT WHEAT' FOR RYE \ 'DEHULLED' FOR SUNFLOWER
 F2 = 'BROKEN FM/OTHER' FOR SORGHUM \ 'SBOC' FOR SOYBEANS
 F2 = 'FM NOT WHEAT OR RYE' FOR TRITICALE \ 'WHEAT OF OTHER CLASSES' FOR WHEAT

ENID GRAIN INSPECTION CO
ENID, OKLAHOMA 73702

PAGE 1 OF _____
DATE 09/28/94

LISTING FOR: 111

IDENT. OF SAMPLE	CUSTOMER	LOCATION	TICKET
GRADE*	COMMENT	REMARK	
1. W. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12.	HEAT SOFM* FM SOUND BRN	CS* FL* FS* OOC PROT MOVEM	TYPE
OK 682-255T 100 A.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	1210
1 HARD RED WINTER WHEAT			
19.8 11.7 0.2	0.1	1.8 2.1	0.4 OUT OFFICIAL
OK 682-255T 10:50A.M	OKLAHOMA STATE UNIVERSITY	ALVA, OK	737
1 HARD RED WINTER WHEAT			
20.1 11.1		1.6 1.6	0.5 OUT OFFICIAL
OK 682-255T 11:40 A.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	70
1 HARD RED WINTER WHEAT			
20.0 11.0		1.9 1.9	0.5 OUT OFFICIAL
OK 682-255T 1:50 P.M	OKLAHOMA STATE UNIVERSITY	ALVA, OK	515&
1 HARD RED WINTER WHEAT			
20.9 11.7		1.2 1.2	0.3 OUT OFFICIAL
OK 682-255T 2:35 P.M	OKLAHOMA STATE UNIVERSITY	ALVA, OK	860
1 HARD RED WINTER WHEAT			
21.5 11.9 0.2	0.1	1.1 1.4	0.3 OUT OFFICIAL
OK 682-255T 3:20 P.M	OKLAHOMA STATE UNIVERSITY	ALVA, OK	1069
1 HARD RED WINTER WHEAT			
20.0 11.7 0.2	0.1	2.4 2.7	0.8 OUT OFFICIAL
OK 682-255T 4:10 P.M	OKLAHOMA STATE UNIVERSITY	ALVA, OK	949
1 HARD RED WINTER WHEAT			
20.3 11.0	0.1	1.7 1.8	0.6 OUT OFFICIAL
OK 682-255T 5:00 P.M	OKLAHOMA STATE UNIVERSITY	ALVA, OK	1373
1 HARD RED WINTER WHEAT			
21.2 12.1 0.2		1.3 1.5	0.3 OUT OFFICIAL
OK 682-255T 8:30A.M.	OKLAHOMA STATE UNIVERSITY	ALVA, OK	1461
1 HARD RED WINTER WHEAT			
19.9 12.1	0.1	1.6 1.7	0.4 OUT OFFICIAL
OK 682-255T 9:10 A.M	OKLAHOMA STATE UNIVERSITY	ALVA, OK	1425
1 HARD RED WINTER WHEAT			
19.9 12.1	0.1	1.6 1.7	0.4 OUT OFFICIAL

NOTE

- GRADE - S* FOR SAMPLE GRADE \ "F" FOR FACTOR ONLY
- OK = "MALTING" FOR BARLEY \ "DHV, HVAC, HARD" FOR WHEAT
- 1. = "THIN" FOR BARLEY
- F1 = "BLACK" FOR BARLEY \ "SPLITS" FOR SOYBEANS \ "CONTRAST CLASS" FOR WHEAT
- F2 = "OTHER GRAIN" FOR 6R MLTG BARLEY \ "WILD OATS" FOR 2R MLTG BARLEY
- F2 = "WILD OATS" FOR OATS \ "FM NOT WHEAT" FOR RYE \ "DEHULLED" FOR SUNFLOWER
- F2 = "BROKEN FM/OTHER" FOR SORGHUM \ "SBOC" FOR SOYBEANS
- F2 = "FM NOT WHEAT OR OATS"

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WHEELER BROTHERS GRAIN CO., INC.

Ph. 327-8141 410 SANTA FE, ALVA, OKLA.

No. 5141

MISCELLANEOUS

Customer's Name AIR Quality No 4

Address TANDEM

Commodity _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

54800 165 94

13460 05:04 PM 09 26 94

36740 lbs. Tare _____

605 lbs. Net _____

40 bu. Net @ _____

40 Per bu. Amt. _____

On _____

Off Weigher _____

Driver _____

No. 5144

MISCELLANEOUS

Customer's Name AIR Quality No 5

Address TANDEM

Commodity _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

54700 16 94

13460 04:27 PM 09 26 94

36300 lbs. Tare _____

605 lbs. Net _____

40 bu. Net @ _____

40 Per bu. Amt. _____

On _____

Off Weigher _____

WHEELER BROTHERS GRAIN CO., INC.
Ph. 327-8141 410 SANTA FE, ALVA, OKLA.

DATE 9-26

WHEELER BROTHERS GRAIN CO., INC.

Ph. 327-8141 410 SANTA FE, ALVA, OKLA.

No. 5132

MISCELLANEOUS

DATE 9-26

Customer's Name AIR Quality No 1

Address TANDEM

Commodity _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

55000

09:19 AM 09 26 94

13260

09:28 AM 09 26 94

36740

lbs. Net

612

bu. Net @ _____

Per bu. Amt. _____

On _____

Driver Off Weigher _____

WHEELER BROTHERS GRAIN CO., INC.

Ph. 327-8141 410 SANTA FE, ALVA, OKLA.

No. 5134

MISCELLANEOUS

DATE 9-26-94

Customer's Name AIR Quality No 2

Address TANDEM

Commodity _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

53620

09:23 AM 09 26 94

13440

09:26 AM 09 26 94

35150

lbs. Net

586

bu. Net @ _____

Per bu. Amt. _____

On _____

Driver Off Weigher _____

WHEELER BROTHERS GRAIN CO., INC.

Ph. 327-8141 410 SANTA FE, ALVA, OKLA.

No. 5138

MISCELLANEOUS

DATE 9-26

Customer's Name AIR Quality No 3

Address TANDEM

Commodity _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

55420

09:26 AM 09 26 94

13460

12:27 PM 09 26 94

lbs. Net

142
MISCELLANEOUS

WHEELER BROTHERS GRAIN CO., INC.

P.O. BOX 410 SANTA FE, ALVA, OKLA.

DATE 9-26-94Customer's Name Air Quality No 5 SEMI

Commodity _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

58660 lbs. Gross 09:47 AM 09 26 94

520 lbs. Tare 09:47 AM 09 26 94

6140 lbs. Net

bu. Net @ _____ Per bu. Amt. _____

On _____

Off Weigher _____

SOUTH SHIPS CEMENTS INC. (NO. DATA II-800-527-1418 1993

WHEELER BROTHERS GRAIN CO., INC.

P.O. BOX 410 SANTA FE, ALVA, OKLA.

No. 140

MISCELLANEOUS

DATE 9-26-94Customer's Name Air Quality No 4 SEMI

Address _____

Commodity _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

58060 lbs. Gross 09:50 AM 09 26 94

22520 lbs. Tare 09:50 AM 09 26 94

35540 lbs. Net

bu. Net @ _____ Per bu. Amt. _____

On _____

Driver _____ Off Weigher _____

SOUTH SHIPS CEMENTS INC. (NO. DATA II-800-527-1418 1993

No. 5130
MISCELLANEOUSWHEELER BROTHERS GRAIN CO., INC.
P.O. BOX 410 SANTA FE, ALVA, OKLA.DATE 9-26-94Customer's Name Air Quality No 1 SEMI

Address _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

57620 lbs. Gross 09 26 94

22460 lbs. Tare 09:49 AM 09 26 94

lbs. Net

bu. Net @ _____ Per bu. Amt. _____

On _____

Off Weigher _____

SOUTH SHIPS CEMENTS INC. (NO. DATA II-800-527-1418 1993

No. 5133
MISCELLANEOUSWHEELER BROTHERS GRAIN CO., INC.
P.O. BOX 410 SANTA FE, ALVA, OKLA.DATE 9-26-94Customer's Name Air Quality No 2 SEMI

Address _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

56420 lbs. Gross 09 26 94

22500 lbs. Tare 09:19 AM 09 26 94

lbs. Net

bu. Net @ _____ Per bu. Amt. _____

On _____

Off Weigher _____

SOUTH SHIPS CEMENTS INC. (NO. DATA II-800-527-1418 1993

No. 5137
MISCELLANEOUSWHEELER BROTHERS GRAIN CO., INC.
P.O. BOX 410 SANTA FE, ALVA, OKLA.DATE 9-26-94Customer's Name Air Quality No 3 SEMI

Address _____ Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

58040 lbs. Gross 09 26 94

lbs. Tare

22520 lbs. Net 11:48 AM 09 26 94

6073

SOUTH SHIPS CEMENTS INC. (NO. DATA II-800-527-1418 1993

WHEELER BROTHERS GRAIN CO., INC.
Ph. 227-0141 410 SANTA FE, ALVA, OKLA.

No. 5149

MISCELLANEOUS

DATE 9-27-94

Customer's Name Air Quality

Address Penland

No 1 Buggy

Commodity _____

Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

55300

lbs. Gross

19500

lbs. Tare

36800

lbs. Net

613

bu. Net @

Per bu. Amt.

Driver _____

On _____

Off Weigher _____

WHEELER BROTHERS GRAIN CO., INC.
Ph. 227-0141 410 SANTA FE, ALVA, OKLA.

No. 5150

MISCELLANEOUS

DATE 9-27-94

Customer's Name Air Quality

Address Penland

No 2 Buggy

Commodity _____

Test _____ Grade _____

Moist. _____ Dkg. _____

Remarks _____

54840

lbs. Gross

18580

lbs. Tare

36260

lbs. Net

604

bu. Net @

Per bu. Amt.

Driver _____

On _____

Off Weigher _____

WHEELER BROTHERS GRAIN CO., INC.

Ph. 227-0141 410 SANTA FE, ALVA, OKLA.

No. 5154

MISCELLANEOUS

DATE 9-27-94

Customer's Name Air Quality NO 5

Buggy

Address _____

Commodity _____

Test _____

Grade _____

Moist. _____

Dkg. _____

Remarks _____

56360

11:55 AM 07

lbs. Gross

18580

lbs. Tare

10:07 AM 09 27 94

37780

lbs. Net

629 4

bu. Net @

Per bu. Amt.

Driver _____

On _____

Off Weigher _____

WHEELER BROTHERS GRAIN CO., INC.

Ph. 227-0141 410 SANTA FE, ALVA, OKLA.

No. 5152

MISCELLANEOUS

DATE 9-27-94

Customer's Name Air Quality

No #4 Buggy

Address _____

Commodity _____

Test _____

Grade _____

Moist. _____

Dkg. _____

Remarks _____

lbs. Gross

11:19 AM 07 27 94

lbs. Tare

11:19 AM 09 27 94

36120

lbs. Net

602

bu. Net @

Per bu. Amt.

Driver _____

On _____

Off Weigher _____

OKL B114-25-000-11 YOU MUST USE STANDARD SCALES & METERS

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WHEELER BROTHERS GRAIN CO., INC.
PH. 327-0141 410 SANTA FE, ALVA, OKLA.

No. 5159
MISCELLANEOUS

DATE 9-27-94

Customer's Name air Quality No 4
Address See below

Commodity _____ Test _____ Grade _____
Moist. _____ Dkg. _____
Remarks _____

55080 03:59 PM 09 27 94
18540 03:47 PM 09 27 94
36540 lbs. Net
609 bu. Net @

Per bu. Amt. _____
Driver On Weigher

WHEELER BROTHERS GRAIN CO., INC.
PH. 327-0141 410 SANTA FE, ALVA, OKLA.

No. 5158

DATE 9-27-94

Customer's Name air Quality No 5
Address See below

Commodity _____ Test _____ Grade _____
Moist. _____ Dkg. _____
Remarks _____

20 05:14 PM 09 27 94
40 05:10 PM 09 27 94
60 lbs. Net
40 bu. Net @

Per bu. Amt. _____
Driver On Weigher

WHEELER BROTHERS GRAIN CO., INC.

No. 5156

PH. 327-0141 410 SANTA FE, ALVA, OKLA.

MISCELLANEOUS

DATE 9-27-94

Customer's Name Air Quality No 1
Address Load out

Commodity _____ Test _____ Grade _____
Moist. _____ Dkg. _____
Remarks _____

56540 03:59 PM 09 27 94
18500 03:47 PM 09 27 94
38040 lbs. Net
634- bu. Net @

Per bu. Amt. _____
Driver On Weigher

WHEELER BROTHERS GRAIN CO., INC.

No. 5158

PH. 327-0141 410 SANTA FE, ALVA, OKLA.

MISCELLANEOUS

DATE 9-27-94

Customer's Name Air Quality No 2
Address Load out

Commodity _____ Test _____ Grade _____
Moist. _____ Dkg. _____
Remarks _____

56920 03:59 PM 09 27 94
18540 03:47 PM 09 27 94
38380 lbs. Net
639 bu. Net @

Per bu. Amt. _____
Driver On Weigher

WHEELER BROTHERS GRAIN CO., INC.

No. 5157

PH. 327-0141 410 SANTA FE, ALVA, OKLA.

MISCELLANEOUS

DATE 9-27-94

Customer's Name Air Quality No 3
Address _____

Commodity _____ Test _____ Grade _____
Moist. _____ Dkg. _____
Remarks _____

54480 03:35 PM 09 27 94
18540 03:17 PM 09 27 94
35940 lbs. Net
_____ bu. Net @

Per bu. Amt. _____
Driver _____

Dust Emission Test Protocol

Objectives:

- I. Capture and measure the amount of grain dust emitted (per ton of grain handled) during the receiving process of a typical Oklahoma elevator.
- II. Capture the amount of grain dust emitted (per ton of grain handled) during the truck load-out process of a typical Oklahoma elevator.
- III. Measure the impact of dump-pit baffles on grain dust emissions from receiving operations.
- IV. Determine the impact of truck type (end-dump versus hopper bottomed) on dust emissions at receiving.

Secondary Objective

- I. Determine the particle size distribution and aerodynamic mean diameter of the grain dust captured.
Note-This information is not needed for the current sub-chapter. However it could be used to determine what proportion of the dust captured is too large to stay airborne i.e. an off premise adjustment. It could also be important for modeling PM-10 levels. The determination of aerodynamic mean diameter would be contingent on obtaining access to a cascade impactor, or other similar equipment which inertially separates particles, through contacts at D.E.Q. or other sources.

Dust Emission Test Protocol

Procedures

Objective I: Capture and measure the amount of grain dust emitted (per ton of grain handled) during the receiving process of a typical Oklahoma elevator.

1. Blowers and Airflow

A 7.5 h.p. centrifugal blower will be attached to a fabric bag filter. The blower will provide approximately 2,500 c.f.m. at the 2" w.c. static pressure which has been measured when the fan is run with the filter bags attached (see attached fan curve). This will allow for a complete air exchange of the dump shed in approximately 10 minutes. The blower will be started one minute before the grain unloading begins and run a sufficient amount of time to complete 1 1/2 to 2 air exchanges. During the test, manometer readings will be used to measure the differential pressure across the blower to calculate the actual airflow through the blowers. Two "man-cooler" fans (about 1/3 h.p.) will be placed inside the dump shed and operated during the test. The purpose of these fans is to ensure that all emitted dust particles which are light enough to become airborne under typical atmospheric conditions remains suspended during the time period required to evacuate the dust laden air from the dump shed. These fans should simulate typical wind conditions through a dump shed while still allowing the heavier particles which do not normally become airborne to settle out. A portable anemometer will be used to measure the air speed generated by the fans at various points in the dump shed.

2. Trucks

4-5 loads from typical end-dump grain trucks (2,400-3,000 bu.--144,000-180,000 lbs) and 4-5 loads from hopper-bottomed dump trucks (of similar size) will be unloaded in the enclosed dump shed. (This volume should generate a 90% confidence interval of +/-10% of the reported emission factor for each truck type.) The truck type (end-dump versus hopper bottomed) will be included with each weight recorded. Each truck will be weighed on the facility's commercial scale, which will have a current certification. The trucks will be weighed before and after unloading in order to determine the tare weight of the truck and actual weight of the grain unloaded. A grain probe will be used to obtain a representative sample of the grain in each truck. The samples will be graded in accordance with the USDA-Federal Grain Inspection Service Guidelines ("Inspecting Grain-Practical Procedures for Grain Handlers", U.S. Government Printing Office 517-013/46532, July 1991-Summarized in OSU Fact Sheet #223 (attached)). An aggregate emission factor (for the combination of truck types) will be calculated along with separate sub-factors for each truck type.

Note: Since the grain in the elevator bin is already a composite of many

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Procedures (Continued)

Note: Since the grain in the elevator bin is already a composite of many delivered loads, and one truck should provide a sufficient volume of dust to measure accurately on a laboratory scale, the only advantage of more multiple loads is to account for the variation in dust emitted between loads and increase the overall validity and repeatability of the test. The proposed volume is near the upper limit of the amount which can be unloaded into trucks without switching to a second grain bin which would introduce another source of variation.

3. Dump Shed

The concrete dump shed proposed for the test has a total volume of approximately 24,000 cu. ft., can be totally enclosed, and has removable dump-pit baffles (see diagrams). The dump-pit dust control baffles will be removed for the initial test (Objective I). The grain shed doors will be closed before unloading begins. All major inlets will be sealed with tape or sealant with the exception of the small cracks around the doors. These small gaps should provide inlet air without allowing any dust laden air to escape. The outlet air will be ducted through a sealed doorway on the side of the dump shed and will lead to the blower and fabric filter through a duct system. The primary air flow will travel around the doors, across and over the grain dump pit, and up to the outlet duct.

4. Fabric Air Filter

Three fabric bag filters will be used to capture grain dust entrained in the air. The filters will be emptied after every truck load, and a new tare weight will be established. Samples of the dust in the filters will be obtained for particle size analysis.

The fabric filters will be weighed on a scale provided by (and certified by) the Oklahoma Department of Agriculture, Weights and Measures Division. The scale has an accuracy of + or - .001 lbs. and is capable of weighing from 0-200 lbs. (AP-42 emission factors imply that 90 lbs. dust could be captured from the 300,000 of grain handled.

Procedures (Continued)

- II. Capture the amount of grain dust emitted (per ton of grain handled) during the truck load-out process of a typical Oklahoma elevator.

The same test procedures described in Objective I will be used to measure the amount of dust emitted when a typical grain truck is loaded within the enclosed dump shed. 4-5 grain trucks (2,400-3,000 bu.--144,000-180,000 lbs) will be loaded in the enclosed dump shed with circulating fans running. The emitted dust will be captured and weighed using the procedures previously described in Objective I.

Procedures (Continued)

Objective III. Measure the impact of dump-pit baffles on grain dust emissions from receiving operations.

The procedures described in Objective I will be conducted in a dump pit in which dust control baffles (see diagram) are installed. The test procedure described in Objective I will be repeated with the dump pit baffles allowed to function, but without the pneumatic air control system operating. The dump-pit baffle design, and the percentage of the dump-pit surface which is blocked by the baffles will be documented.

Note: There is no "standard" configuration for dump-pit baffles. The baffle systems which are in place in Oklahoma elevators were individually designed by various millwrights. The results of this test should provide a base-line efficiency estimate for baffles with a similar degree of surface area closure. More recently designed baffle systems may have a higher degree of blockage, and thus be more efficient than the baffles used in this test.

Objective IV. Determine the impact of truck type (end-dump versus hopper bottomed) on dust emissions at receiving.

The data collected in Objective I will be separated by truck type to determine separate emission factors for each truck type and the impact of truck type on dust emissions at receiving.

Note:

In order to provide additional insight into the total amount of dust which is present in the grain the amount of large grain dust particles and other material which settles out of the air stream and on to the floor will be collected and weighed. Samples of this material will be gathered and analyzed to determine the particle size distribution, including the percentage (by weight) of whole and broken grain kernels. Since much of the material gathered from the floor would be normally be recovered through standard OSHA mandated housekeeping procedures, the material gathered from the floor is not a measure of emitted dust. The documentation of the weight of this material is designed to further increase confidence in the test by placing an absolute upper amount on the amount of grain dust which could be emitted from a dump shed under any possible conditions.

Procedures (Continued)

Secondary Objective I. Determine the particle size distribution and aerodynamic mean diameter of the grain dust captured in objective II and III.

Representative samples will be obtained from the bag filters and floor sweepings after they are weighed in the procedures in Objectives I-IV. The particle size distribution will be determined by using a sonic sifter separator which uses a vertical oscillating column of air and a repetitive mechanical pulse to provide a precise particle separation. Other methods including dry sieve and wet sieve analysis, and the use of a cascade impactor or other equipment designed to inertially separate particles may be used to determine the effective mean aerodynamic diameter of the collected grain dust.

Attachments:

1. Dump shed diagram
2. Fan curve-George A. Rolfes Co. Fan #2075
3. Fabric filter manifold design
4. OSU Fact Sheet #223 "Practical Wheat Sampling and Grading Procedures"
5. Dump-pit dust control baffle diagram.

TOTAL DUMP SHED AIR
VOLUME \approx 24000 cf

58'

BOTH END DOORS
CLOSED WHILE
UNLOADING

23' AVE.

TUBE INLET \approx 8' HIGH
MOUNTED IN PLYWOOD
SEALED DOORWAY

DUMP PIT GRATE

18' AVE.

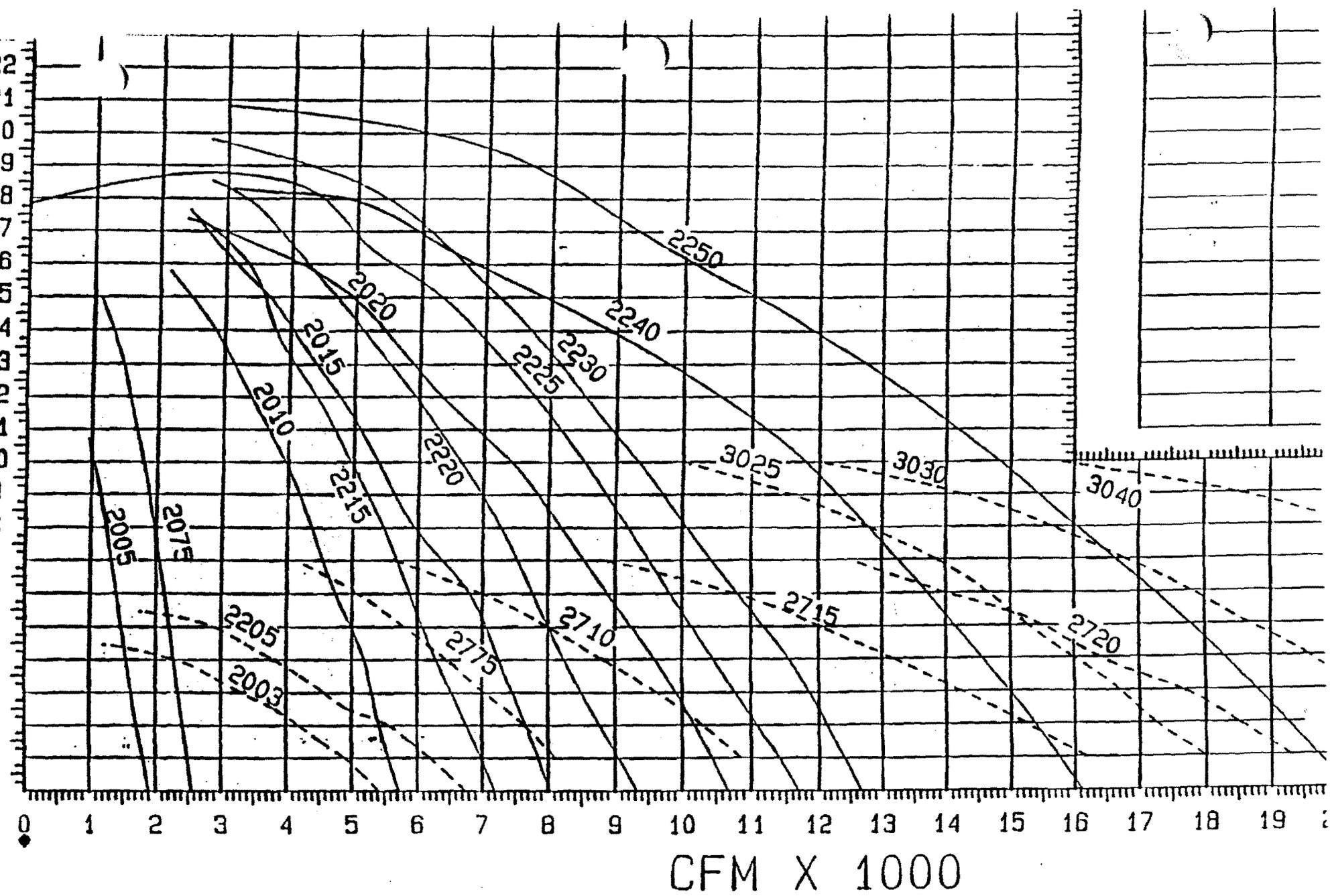
BLOWER AND MOTOR

- FABRIC FILTER ON BLOWER EXHAUST

* PREDICTED AIRFLOW PATTERN: UNDER DUMP SHED DOORS, OVER PIT AND UP INTO INLET TUBE

Small text at bottom left, possibly a scale or legend.

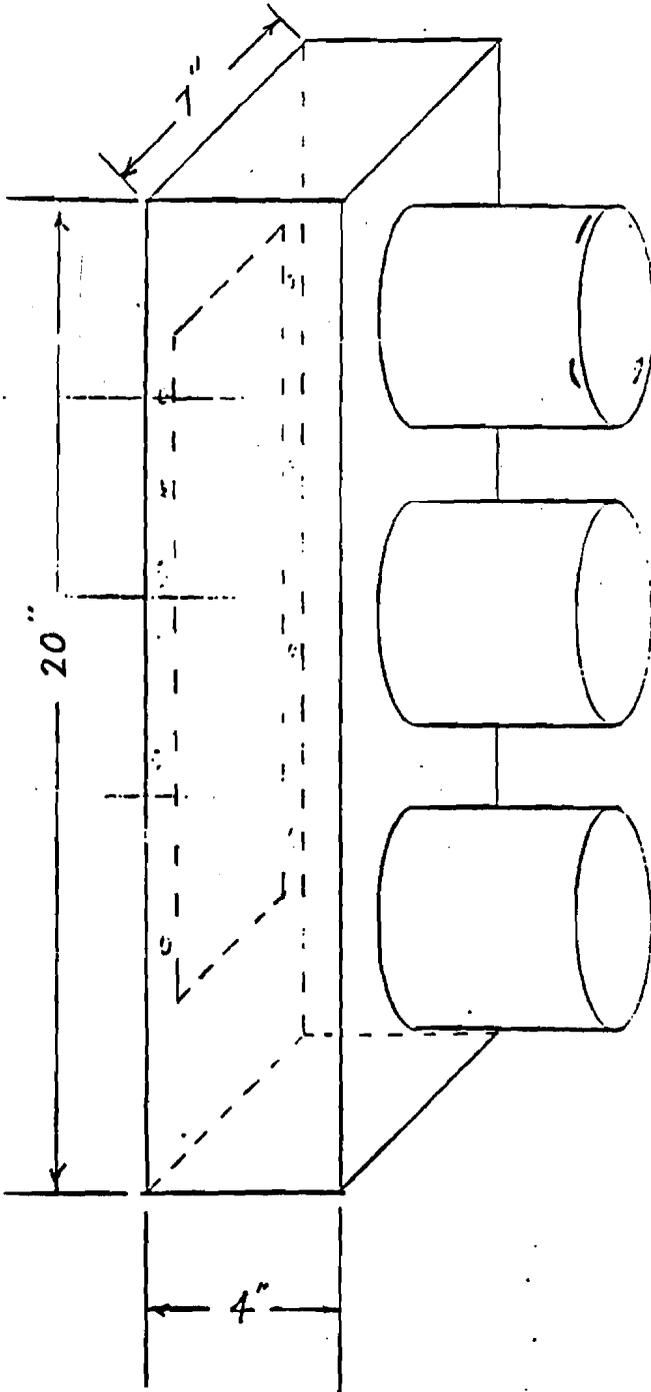




LEGEND
 1750 RPM -----
 3450 RPM _____

GEORGE A. ROLF
 ROLFES
 CENTRIFUGAL FAN CO.

6899



5 1/4" DIA. W/ RAISED
WELD BEAD IN
4 PLACES FOR CLAMP
ON 3 STEEL TUBES

USE 14 GA STEEL
FOR ALL OR SUITABLE
OTHER

100% RECYCLED PAPER
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Kohler Brand

PRACTICAL WHEAT SAMPLING AND HAND SIEVING PROCEDURES

Phil Kenkel
Extension Economist

Kim Anderson
Extension Economist

This publication provides practical procedures for sampling and grading wheat which can be used by producers, warehouse managers, and elevator managers. The procedures and portion sizes are based on the USDA Practical Procedures for Grain Handlers. The portions and hand sieving methods presented in this Current Report are not used by official grain inspectors licensed by the Federal Grain Inspection Service. Licensed graders must use larger portions and precision mechanical equipment that will provide the most accurate and most uniform results.

REPRESENTATIVE SAMPLE

Obtaining a representative grain sample is an essential part of grain inspection. Without a representative sample, the final grade will not reflect the true grade or value of the grain. In order for a sample to be considered representative, it must:

1. be obtained in accordance with recommended procedures;
2. be of the prescribed size (at least 1000 grams or approximately 1 1/4 quart); and
3. be handled securely, protected from manipulation, substitution, and careless handling.

The following pages explain the proper way to do probe sampling. Some of this information was taken from *Inspecting Grain-Practical Procedures for Grain Handlers*, Section 1, Sampling Grain.

Probe Sampling

A large percentage of grain, as it travels from the farm to the final consumer, is at one time or another sampled with a grain probe. Probe sampling is the only approved method for obtaining samples from stationary lots. If probe sampling is performed correctly, the samples drawn will consistently be representative.

The Equipment

1. Hand Probe

This standard piece of equipment, sometimes referred to as a trier, is constructed of brass or aluminum. Probes come in various sizes with standard lengths of 5, 6, 8, 10, and 12 feet. The type of carrier dictates which probe length should be used. There are two types of hand probes: compartmented probes in which slots in the outer tube match compartments in the inner tube and open throat probes in which the inner tube is open. Open-throat probes tend to draw more of their sample from the top portion of the grain, while compartmented probes draw a representative sample from each layer. All official grain probes are compartmented probes with a 1-3/8 inches diameter (outer tube).

Make sure the probe reaches the bottom of the carrier. A 5 or 6 ft. probe will be sufficient for most farm trucks while hopper-bottom carriers may require a longer (6, 8 or 10 ft.) probe.

2. Mechanical probe

There are two types of mechanical probes which are recommended for sampling stationary lots of grain in trucks, railcars, or other open-top carriers. The gravity-fill probe function is similar to compartmented hand probes except that after the compartment is filled it rotates to an inner tube where it is forced up by air. The core probe functions by forcing the sample up into the core as the probe is pushed down and then using air to transport the sample to the output point. A third type, the in-load suction probe which uses negative air pressure to suck the sample into the bottom of the probe, is not recommended since it tends to overestimate foreign material.

2. Sampling Canvas

Heavy canvas cloth or similar material can be used to display the sample from the compartmented probe. Another alternative is a short section of rain gutter, half section of pipe. The sampling canvas or other material should be at least 6 inches longer than the probe used to draw the sample. This size is necessary so that the grain from the entire length of each probe will not spill off the ends of the canvas. Sampling canvases must always be kept clean, dry, and free of holes.

3. Sampling Containers

Containers such as heavy cloth or canvas bags and metal buckets or plastic cans may be used to transport the sample to the inspection station. Sample containers should be free of all old grain, insects, and other waste material prior to use. Air-tight containers or bags lined with a polyethylene liner should be used to store grain to prevent loss of moisture and to protect the sample from adverse environmental conditions such as rain or humid weather.

General Procedures

Before sampling any carrier, record on your sample ticket the carrier's identification number. Visually examine the whole lot of grain. Take a handful of grain from several locations and check it for odor. Record any unusual conditions on your sample ticket. Next, spread your canvas and check to see that the probe and canvas are clean and dry. You are now ready to start sampling.

There are several ways to insert the probe into the grain. Regardless of which technique you use, the general rules are:

1. Insert the probe at a 10 degree angle from the vertical with the slots facing upward and completely closed. The 10 degree angle eases the resistance of the compacted grain against the probe while still allowing the probe to reach the bottom of the container. The slots must be kept closed until the probe is inserted as far as it will go. Otherwise, a disproportionate amount of grain from the top of the slot will fall into the probe compartments as it is being inserted. When sampling grain which contains sand or grit, insert the probe with the slots downward to avoid jamming it. After the probe is inserted, turn the slots upward before opening.

2. After the probe is fully inserted (with the slots facing upward), open the slots and move the probe up and down quickly in two short motions. Close the slots completely, grasp the probe by the outer tube, and withdraw it from the grain. Do not pull the probe by the wooden handle. This can result in the inner tube being pulled out of the outer tube. When this occurs, the probe must be emptied, reassembled, cleaned, and the area probed again.
3. Empty the probe onto the canvas and compare the grain from each depth of the probe for uniformity of kind, condition, and infestation. Also, compare the probe to others drawn from the same lot. If all probes and portions of probes are uniform with one another, they should be composited and placed in a sample bag along with a completed sample ticket. If the examination of the probes indicates that the lot of grain is made up of distinctly different parts in regard to condition (such as musty, sour, commercially objectionable foreign odor, or heating grain), the sampler must then draw a sample from each of the different parts, in addition to the sample that represents the carrier as a whole.
4. When transferring the grain from the canvas to the sampling bag, take care not to allow fine material to be blown from the canvas.

Where to Probe

Draw at least two samples from any truck or trailer that are 600 bushels or less. Larger lots of grain should be probed in 3 to 5 places. Recommended probe sites, which are shown in Figure 1, are anywhere in the carrier except the corners and the center of the load (which was directly underneath the loading spout). The probe sites should be varied between loads in a random manner. Elevators which routinely sample in the same location have found that bad grain seems to migrate to the areas in the load which are not sampled. Hopper bottomed carriers should be probed in the center of each hopper (Figure 2).

Figure 1. Sampling Sites-Truck or Trailer

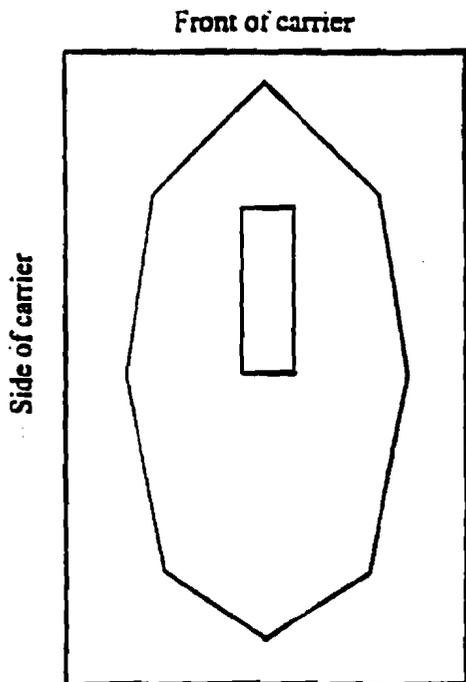
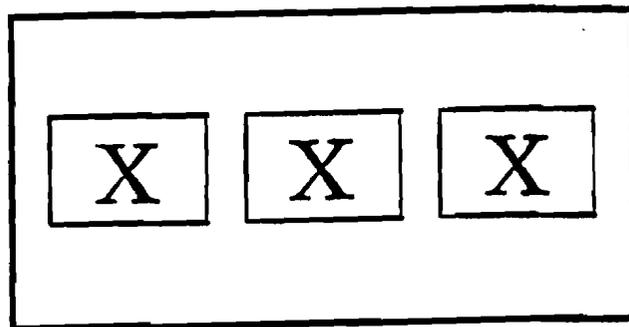


Figure 2. Sampling Sites-Hopper Bottomed Carriers



*Draw probe samples from the points marked with an X.
Avoid corners in the carrier floor.

INSPECTION PROCEDURES

The process of inspecting wheat begins when the sample is drawn and follows a prescribed path:

1. Obtain a representative sample of approximately 1,000 g.
2. Examine the sample for insect infestation, heating, or other harmful conditions.
3. Divide out a 250 g. portion (or the amount specified for your moisture meter) and determine the moisture content.
4. Recombine the 250 g. portion and test the entire sample for dockage.
5. Check for objectionable odor.
6. Determine the test weight.
7. Divide out a 250 g. sample and determine the percentage of shrunken and broken kernels (SBK).
8. Divide the sample into small portions for examination of foreign material (30 g.) and damaged kernels (15 g.)

STEP 1-OBTAIN A REPRESENTATIVE SAMPLE

Use the probing procedures described above, or a tailgate sampler to obtain a representative sample of approx. 1000 g.

STEP 2-INSECTS, AND HARMFUL CONDITIONS

The presence of two or more live insects injurious to stored grain causes the grain to be designated "infested", but does not affect the numerical grade. Heating is a condition common to grain which is spoiling and also causes the grain to be designated "U.S. Sample grade." Be careful not to confuse heating with sound grain which is warm due to storage in bins, railcars or other containers during hot weather. Other harmful substances which can cause the grain to be considered U.S. Sample grade include: castor beans, crotalaria seeds, glass, stones, and unknown foreign substances such as rock salt, fertilizer, or "pink wheat".

STEP 3-MOISTURE

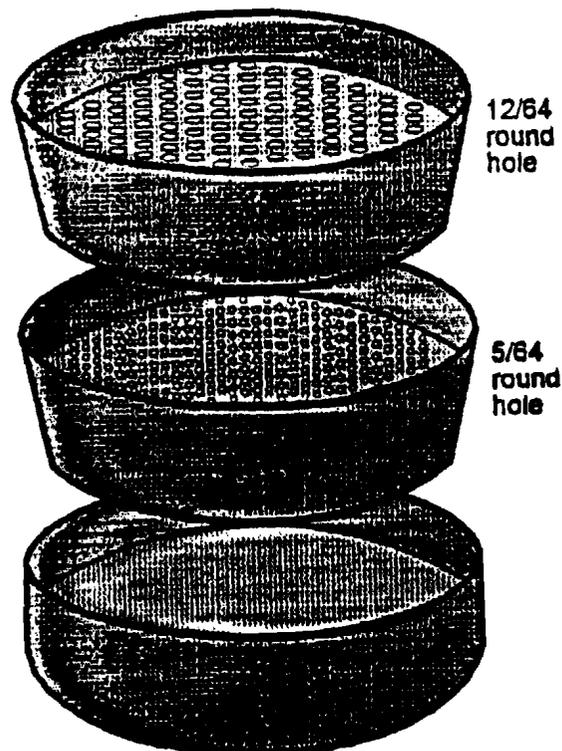
Moisture is an essential measure of wheat storability and value and should be determined prior to removing dockage. Moisture can be determined with any device which has been tested and approved by the Oklahoma Department of Agriculture. Moisture meters should be certified once a season and maintained in adherence with the manufacturer's recommendation. Many moisture meters (such as the Montomco) require that a specific weight sample be used. The use of an inexact sample weight will result in an inaccurate measure of moisture content. Additionally, some of the newer moisture meters also display an estimate of test weight. This test weight estimate cannot be legally used in determining grade since it is based on a small sample size (often 100 g. or less) and is made before the dockage is removed.

STEP 4-DETERMINATION OF DOCKAGE IN WHEAT USING HAND SIEVES

The entire sample (approximately 1000 g.) should be used to determine the level of dockage. Wheat dockage is certified to the nearest tenth percent (0.1%, 0.2%, 0.3% etc.). Dockage is weed seeds, weed stems, chaff, straw, grain other than wheat, sand, dirt, and any other material other than wheat, which can be removed readily from wheat by use of appropriate sieves. Following are the guide lines for hand sieving to determine dockage. (Elevators who use a one pint test weight kettle may determine use a smaller portion (500 g.) to determine dockage, provided there is sufficient dockage free wheat to overflow the kettle.)

1. Record the weight of sample used (approximately 1000 g.)
2. For sieving, assemble a 5/64 round-hole sieve on a bottom pan and then place a 12/64 round-hole sieve on top (Figure 3). Place approximately 1/3 of the sample at a time on top of sieve and shake vigorously until all of the wheat passes through the top sieve. Determine the percentage of dockage by combining and weighing all of the material which remained on top of the top sieve and which passed through the bottom sieve. The percentage is calculated by dividing the weight of the material on top of that passed through the sieves by the total sample weight.

Figure 3. Standard Hand-Sieve Set Up for HRW



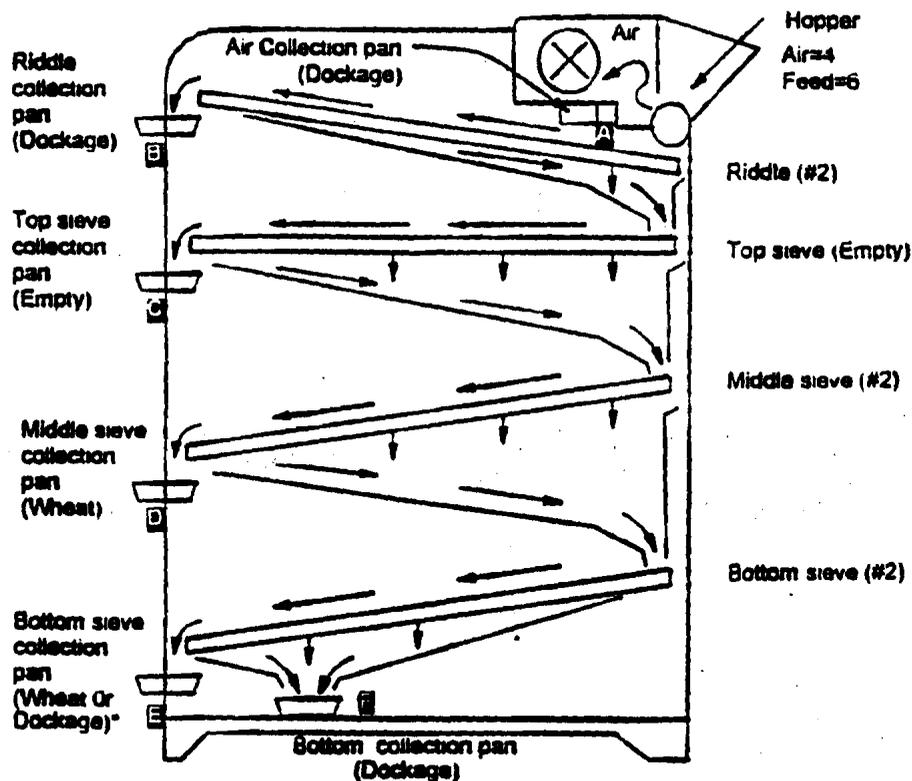
(Shake until all wheat goes through the top pan)

STEP 4-DETERMINATION OF DOCKAGE WITH A MECHANICAL DOCKAGE TESTER

1. Record the weight of sample used (approximately 1000 g.).
2. Clean the dockage tester, insert the appropriate sieves and riddle, and make adjustments recommended by the manufacturer which give results comparable to FGIS standard equipment (Figure 4).
3. Turn on the tester and pour the sample into the hopper.
4. After the sample has cleared the last sieve, turn the tester off.
5. Remove and weigh the dockage (Figure 4).

NOTE:IF THE SAMPLE CONTAINS MORE THAN .5% CHESS OR SIMILAR SEEDS IT MUST BE RUN USING SPECIAL CHESS PROCEDURES-REFER TO OSU FACT SHEET "GRADING CHEATY WHEAT".

Figure 4. Set Up Procedure for Carter Day Dockage Tester
Standard Procedure for HRW



*If the material in Pan E is 50% or more whole or broken kernels of wheat, it is added to the cleaned wheat in Pan D. If it is less than 50% wheat, it is considered dockage.

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STEP 5-CHECK FOR OBJECTIONABLE ODORS

Except for smut or garlic odors, wheat which has a musty sour or commercially objectionable foreign odor (COFO) is "U.S. Sample grade." Use the entire sample to determine odor. Fumigant or insecticide odors are not considered COFO if they dissipate after aerating the sample for 4 hours.

STEP 6-DETERMINING TEST WEIGHT

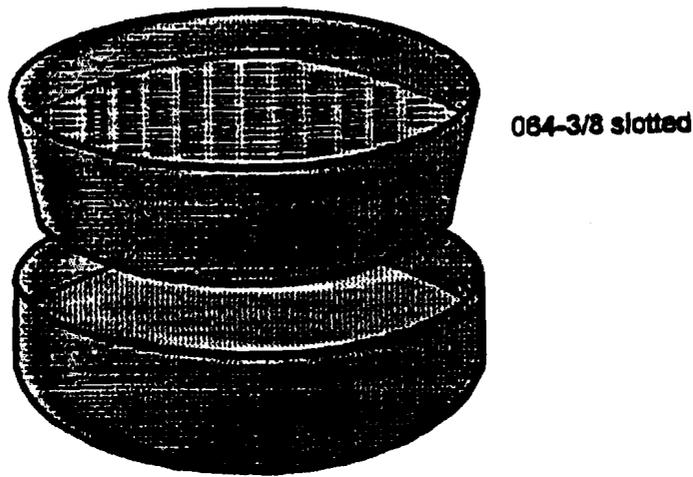
Test weight is a measure of the weight of grain required to fill a specific volume (pint, quart, or bushel). To determine test weight, pour the entire dockage free sample through a funnel into a kettle until the grain overflows the kettle. Level off the kettle making three, full-length, zigzag motions with a stoker. Test weight is determined by weighing the filled kettle on either a special beam scale, an electronic scale programmed to convert gram weight to test weight, or a standard laboratory scale. If a standard scale is used, the gram weight must be converted to test weight per bushel. (multiple the grams in a one quart kettle by .0705 to obtain the test weight in lbs./bu.)

STEP 7-DETERMINATION OF SHRUNKEN AND BROKEN KERNELS IN WHEAT USING HAND SIEVES.

Shrunken and broken kernels (S&B) affect the USDA Grade. If the sample is more than 3% S&B kernels, the USDA grade cannot be higher than USDA #2. Following is a procedure to determine the percent shrunken and broken kernels.

1. Divide out a representative dockage free portion of approximately 250 grams. Record the weight of the sample used.
2. Assemble an O64 by 3/8 slotted sieve on top of a bottom pan. The sieve should be held level in both hands directly in front of the body with the elbows close to the sides. The sieve should be held so that the grain will move lengthwise with the perforations. In a steady sieving motion, the sieve should be moved from right to left approximately 10 inches and returned from left to right 20 times (20 complete cycles). The material remaining in the slots should be returned to the wheat which remained on top of the sieve.
3. The material passing through the 0.064 x 3/8 inch sieve is weighed to determine the percentage of shrunken and broken kernels. The percent SBK is determined by dividing the weight of the sieved shrunken and broken kernels by the total weight of the sample sieved.

Figure 5. Standard Set Up Procedure for determining SBK in HRW.



STEP 8-FOREIGN MATERIAL AND DAMAGED KERNELS

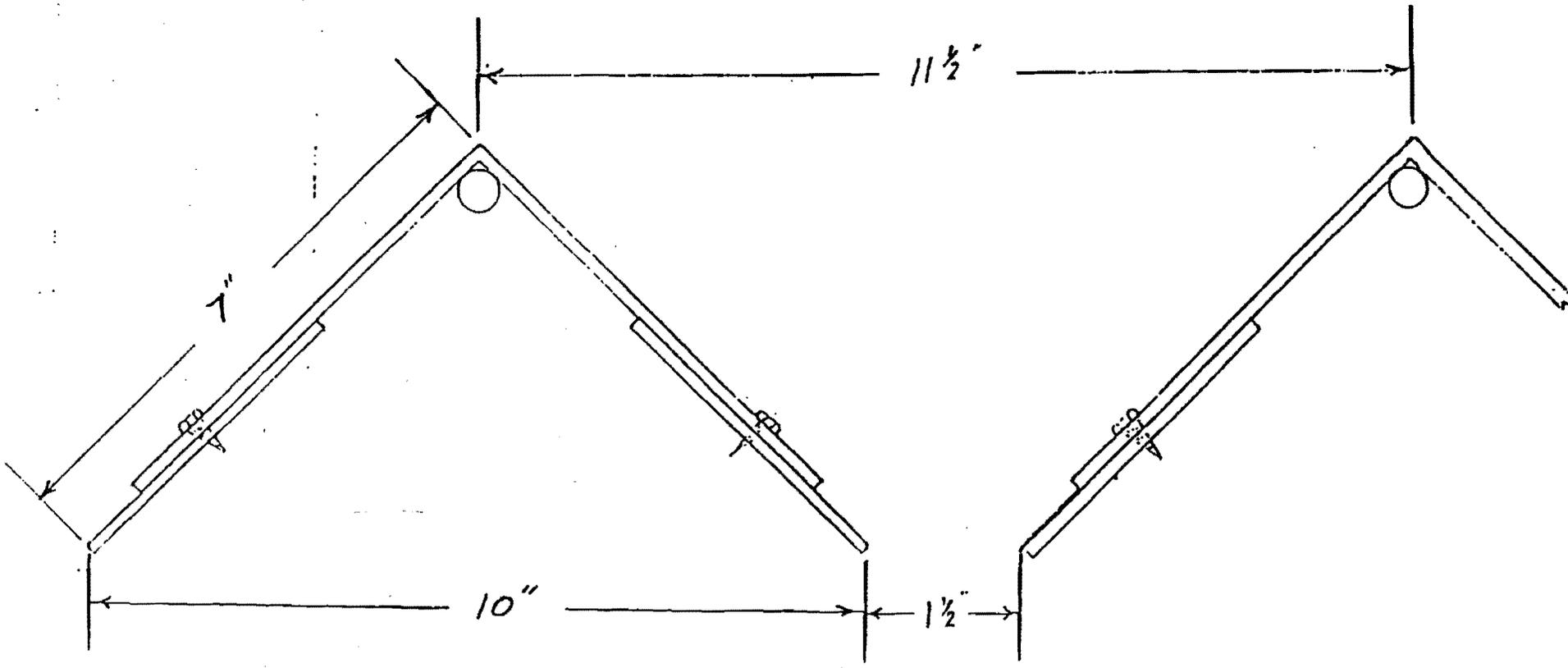
All material other than wheat that remains in the sample after the removal of dockage and shrunken and broken kernels is foreign material. The percentage of foreign material is determined by hand picking a representative 30 g. dockage and S&B free portion. The most common types of kernel damage are black tip fungus, germ, frost, heat, mold, scab, sprout, and insect damaged. The percentage of damaged kernels is determined by handpicking a 15 g. dockage and S&B free portion.

SUMMARY

It is important that grain handlers concentrate in determining the correct grade. Profit margins are too small to lose money because of improper grade determination. The procedures presented in this Current Report are not designed to produce official grades. The procedures should produce relatively accurate estimates of dockage, foreign material, damaged kernels, and other factors affecting grades and the value of the grain.

SHEELER BROS. ELEVATOR
ALVA, OK
Aug 23, 1994

BAFFLE DESIGN



DUMP PIT HAS 10 BAFFLES CONFIGURED AS SHOWN FOR
TOTAL OF 14.2% OPEN AREA.

MEMORANDUM

DATE: DECEMBER 9, 1994

TO: AIR QUALITY COUNCIL

THROUGH: LARRY BYRUM, DIRECTOR
AIR QUALITY DIVISION *LB*

FROM: *DP* DEBORAH PERRY
ENVIRONMENTAL ENGINEER

DISCUSSION OF GRAIN ELEVATOR DUST EMISSION STUDY RESULTS

Members of the Oklahoma Grain and Feed Association, OSU Division of Agricultural Sciences and Natural Resources and the Oklahoma Department of Environmental Quality met on September 26th and 27th in Alva, Oklahoma to observe and/or take part in the Grain Elevator Dust Emission Study. I believe that no one in attendance was particularly surprised by what we saw. We witnessed that dust emissions at grain elevators have been overstated by the emission factors found in the existing AP-42. This is the result we expected. The purpose was to try to accurately quantify emissions in order to gain an understanding of what emission factors should be used to represent true emissions from grain elevators.

I think there is general agreement that the data produced from this study is quite valuable for this purpose. The test results from the Grain Elevator Dust Emission Study have been through a preliminary review by the Air Quality staff and are continuing to be reviewed. The data will be evaluated considering several issues. For example, were the tests performed according to the protocol? Are there issues which effect the reliability and accuracy of emission factors which may not have been accounted for in the study? Is there other data available which should also be considered? We have arrived at some initial answers to these questions and some of them have led to additional questions and concerns.

It is the opinion of our staff that the test procedures were carried out in accordance with the protocol, with the exception of particle sizing of the collected dust. The protocol stated that dust collected from the floor sweepings and filter bags would be separated through a sonic sifter. OSU has a sonic sifter available, however, based on our conversations, it would be a very long process to perform on all samples. Additionally, this would not actually provide an analysis of aerodynamic mean diameter of the particles. OSU will retain these samples in case there is a need to analyze them at some point in the future.

We know that dust emissions will vary from different grain elevators, as well as over time at any individual elevator. There are many variables which can effect air emissions. This is the difficulty in developing a set of emission factors that will represent the industry as a whole. It is not conceivable to try to

account for all possible variations or scenarios. However, observations of the testing did reveal some issues that perhaps had not been identified or considered adequately when the protocol was being developed.

The grain which was used to conduct the study was not directly from the field. The grain was loaded out from a bin at the elevator, Thus, the grain had, at a minimum, gone through the receiving, elevating, and load out processes and possibly additional transfer or turning processes before being utilized in the study. There are two schools of thought regarding this issue. The first says that dust is generated through the movement of grain and thus previous handling should not be a significant factor. The other viewpoint is that a larger amount of dust will be generated from foreign material which is carried with the grain from the field. There is no data to support either. However, in the second case there will be the effects of both situations occurring simultaneously which might tend to generate more emissions.

EPA is in the process of revising the AP-42 section for grain elevators. In the draft version there is a discussion of the "wind-tunnel effect" created by receiving operations located inside a drive-through type of receiving shed. The narrative states that air blows through the receiving area at speeds greater than surrounding wind speeds. This effect was observed during the testing procedures. The protocol specified fans would be used to simulate typical air flows and keep smaller particles airborne. The fans were positioned such that air flow was circulating in a converging pattern, creating an area of turbulence, rather than a directional flow as would be created by winds. After the floors had been swept at the end of each test run, the doors were opened and a large gust of wind blew through the receiving area carrying visible dust with it. This raises the question that perhaps some dust which could have been emitted was not accounted for. Perhaps some of the dust which was swept up from the floor would have become airborne if the doors were open. There was also some dust which settled on the trucks and equipment which was not accounted for. This idea is further supported by the test data which shows that less than half the amount of dust was collected when the doors were left open. A particle size analysis of the test samples could possibly provide some insight regarding the likelihood of the particles becoming airborne.

Emissions were also observed during testing from the top of the headhouse. Elevator personnel explained that there three are emission points on the headhouse. Two were cyclone exhausts and another was some type of vent. At least two of these appeared to have visible emissions during the testing. It is uncertain the origin of these emissions, however, we must consider the possibility that these emissions could somehow effect the accuracy of the data.

An inconsistency was observed in the emissions from the truck loading (load out). The visible emissions from the process of loading the trucks from the bin via an outside spout appeared to be much greater than during the testing of the load out process which occurred inside the shed from a different spout. The height of the outside spout above the truck was approximately 5-7 feet, whereas the inside spout was only 1-2 feet above the truck. It seems that there are other factors such as drop height, wind exposure, and grain speed which may have a greater effect on the quantity of emissions generated during load out. These issues were not addressed by the study.

The results of the study were also sent to the EPA contractor (Midwest Research Institute) at their request to be considered with other available data when revising the new AP-42 section. EPA sent Air Quality a draft copy of the proposed revisions to AP-42 in June of this year. At that time they indicated that the section would be finalized in approximately 30 days. Since that time EPA has withdrawn that draft and is working with the National Grain and Feed Association and the states to obtain additional data to support a new AP-42 section. Air Quality will continue to review the study data, as well as any data which becomes available. A review of the June AP-42 draft revealed some additional issues which are also being considered.

The data provided in the June draft indicated there should be a distinction made between country and terminal elevators. This is based on test data that demonstrates much higher emission rates from terminal elevators. However, there is no clear definition given to determine whether an elevator is to be considered "country" or "terminal". An explanation is provided which states that a country elevator receives grain directly from the farmer, whereas the terminal elevator will receive a large portion of the grain handled from other elevators. A terminal elevator would also have the capacity to move grain at a faster rate than a country elevator.

The draft AP-42 contains emission factors for "headhouse and internal handling operations". The background document includes test results from uncontrolled operations, as well as some controlled by cyclones. Since these test results come from uncontrolled operations, it seems that some emissions may be attributable to operations which we are now considering to be totally enclosed and therefore not emission points.

The Air Quality Division is concerned that our actions taken regarding emission factors are not in conflict with final actions taken by EPA in AP-42. There are important issues which must be carefully considered. For example, if ODEQ adopts a set of emission factors for grain elevators which are lower than those approved by EPA, and these are used to permit sources as synthetic minors, EPA will have strong reason to question the permits. EPA is indicating

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that they want to review our synthetic minor permits, although it does not seem practical that they would review all synthetic minors. They have shown an interest in grain elevators and will likely look at some of these permits. They have the ability to reject or rewrite these permits if they feel they are inadequate. The fact that our Subchapter 24 contains emission factors will certainly draw EPA attention to this issue as well.

Our ability to write federally enforceable synthetic minor permits which are based on Subchapter 24 is dependent on obtaining EPA approval of Subchapter 24. Therefore, we believe it is very important to be consistent with the direction that EPA is going in developing the new AP-42. We are considering other possibilities for creating synthetic minor sources as well. Any facility can obtain a permit by complying with the existing rules. It may also be possible to permit sources under some type of generic "umbrella" permit. This would likely involve setting some criteria for inclusion and documentation or registration process. This would streamline the process for the industry and lighten the permit load on our staff. Another similar approach would involve revising Subchapter 24 such that it sets up certain criteria for synthetic minors, thus creating the "permit-by rule" concept.

All of the issues and concerns related to emission factors, synthetic minor permits, federal enforceability, Subchapter 24 and Title V are being carefully considered by our staff. These are issues of great concern to us as well as the industry. However, there are some disadvantages to rushing ahead with Subchapter 24 before carefully considering the best path. EPA has indicated that synthetic minor permits are due within the same time frames as are Title V permits. Therefore we have adequate time to evaluate this process carefully and make the best choices through continued cooperation of all concerned parties.

COMPARISON OF PM EMISSION FACTORS FOR GRAIN ELEVATORS
(lb/ton)

	AP-42	PROPOSED AP-42 ¹ (June 94 Draft)	OSU TEST RESULTS
RECEIVING	0.60	0.065 ²	0.029 ⁴
SHIPPING (LOAD OUT)	0.30	0.002 ³	0.0084

¹ The proposed AP-42 has been withdrawn for further study and testing. The results from the OSU study will be some of the data which will be considered for the new revision.

² This factor is only for wheat.

³ This factor is for rail car loading of unspecified grain with cyclones in place. An estimate of the uncontrolled emission factor could be obtained by back-calculating assuming an efficiency for the cyclones. A cyclone with an efficiency of 95% would give a factor of 0.04 lb/ton; a 90% cyclone efficiency gives 0.02 lb/ton. An efficiency of 75% gives 0.008 lb/ton. Examination of the reference data indicates a series of two primary cyclones and a third smaller cyclone in place for this testing which occurred in 1972.

⁴ This is the overall average of the results from both the end-dump and hopper bottom trucks.

UNIFORM PROCESS - Conceptual Basis

	TIER I	TIER II	TIER III
PUBLIC NOTICE= PUBLIC INPUT= APPROVAL=	Land Owner/Applicant Comments Technical Supervisor	+ Area Newspaper + Public Meeting + Division Director	+ Process Meeting + Administrative Hearing + Agency Director
New Sources facility not in operation - new permits	Very minor: a. Emissions b. Wastewater systems c. Commercial hazardous waste handling d. Water supply Very minor and minor: a. Commercial non-hazardous waste handling b. Non-commercial hazardous waste handling Authorization under General Permit	Minor: a. OPDES Discharge b. Emissions - new construction c. Emissions - operating (w/o construction) c. Commercial hazardous waste handling Major: a. Emissions - operating (w/ construction) b. Non-commercial waste handling facility Impoundments and septic tanks - industrial Municipal wastewater/ water supply systems	Major or facility wide: a. OPDES discharge b. Emissions - new construction c. Emissions - operating (w/o construction) d. Commercial hazardous waste handling e. Commercial non-hazardous waste handling
Existing Sources facility in operation - new permits	Very minor: a. Emissions construction and operating b. Wastewater systems c. Hazardous waste handling facility d. Non-hazardous waste handling facility e. Water supply Authorization under General Permit	Minor: a. OPDES Discharge b. Emissions - new construction c. Emissions - operating (w/o construction) d. Commercial hazardous waste handling Major: a. Emissions - operating (w/ construction) b. Non-commercial waste handling facility Impoundments and septic tanks - industrial Municipal wastewater/water supply systems	Major or facility wide: a. OPDES discharge b. Emissions - new construction c. Emissions - operating (w/o construction) d. Commercial hazardous waste handling e. Commercial non-hazardous waste handling
Existing Sources facility in operation - permit renewals and modifications	Minor or no modification to all emissions, discharge, wastewater systems, water supply, and waste handling facilities. Major modification to minor emissions, discharge, wastewater systems, water supply and waste handling facilities.	Major modifications: a. Major discharge b. Major or facility wide emissions c. Major commercial waste handling	Lateral expansion of major commercial waste handling facility
Plans and Certifications	Applicability determinations Single facility/source plan Hazardous or non-hazardous waste disposal Non-hazardous waste closure plans Certification	Multiple facility/source plans Hazardous waste closure plans	None

UNIFORM PROCESS - Conceptual Basis - Air Quality

PUBLIC NOTICE= PUBLIC INPUT= APPROVAL=	TIER I Land Owner/Applicant Comments Technical Supervisor	TIER II + Area Newspaper + Public Meeting + Division Director	TIER III + Process Meeting + Administrative Hearing + Agency Director
New Sources Facility not in operation - new permits	New construction - Very Minor Authorization - General Permit	New construction - Minor New operating with construction permit: a. Facility wide b. Major New General Permit	New construction - Major or facility wide
Existing Sources Facility in operation - new permits	New construction - Very Minor New operating - Very Minor or Minor Authorization - General Permit	New construction - Minor New operating with construction permit: a. Facility wide b. Major New General Permit	New construction - Major New operating without construction permit: a. Facility wide b. Major
Existing Sources Facility in operation - permit renewals and modifications	Minor or no modification: a. Construction - All b. Operating - All c. Relocation Major modification: a. Construction - Very Minor or Minor b. Operating - Very Minor or Minor	Major modification a. Construction - Facility wide or Major c. Operating - Facility wide or Major	None
Plans and Certifications	Applicability determination Emergency burn approval Asbestos removal/Demolition approval Lead-based paint certification	None	None

10701

UNIFORM PROCESS - Conceptual Basis - Waste Management

	TIER I	TIER II	TIER III
PUBLIC NOTICE= PUBLIC INPUT= APPROVAL=	Land Owner/Applicant Comments Technical Supervisor	+ Area Newspaper + Public Meeting + Division Director	+ Process Meeting + Administrative Hearing + Agency Director
New Sources Facility not in operation - new permits	Industrial X-ray XRF Instrument/NORM registration Very minor and minor non-commercial: a. Hazardous waste handling facility b. Non-hazardous waste handling facility Very minor commercial: a. Hazardous waste handling facility b. Non-hazardous waste handling facility	Major non-commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling Minor commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling Non-hazardous waste transfer stations Mobile recycling	Major commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling On-site BIFs treatment and disposal
Existing Sources Facility in operation - new permits	Industrial X-ray XRF Instrument/NORM registration Very minor and minor non-commercial: a. Hazardous waste handling facility b. Non-hazardous waste handling facility Very minor commercial: a. Hazardous waste handling facility b. Non-hazardous waste handling facility	Major non-commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling Minor commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling Non-hazardous waste transfer stations Mobile recycling	Major commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling On-site BIFs treatment and disposal
Existing Sources Facility in operation - permit renewals and modifications	Minor or no modifications: a. Hazardous waste handling facility - All b. Non-hazardous waste handling facility - All Major modifications: a. Commercial hazardous waste - Minor b. Non-commercial hazardous waste - All c. Non-hazardous waste - Minor	Major modifications: a. Commercial hazardous waste - Major b. Commercial non-hazardous waste - Major c. On-site BIFs treatment and disposal	Major commercial facilities - lateral expansion: a. Hazardous waste handling b. Non-hazardous waste handling
Plans and Certifications	Disposal approval: a. Non-hazardous waste disposal b. Emergency hazardous waste disposal c. Hazardous waste generator disposal plan d. Non-hazardous waste recharge well Non-hazardous waste closure plans Technical plan approval (ie., sampling plan) Hazardous waste transporter license	Hazardous waste transfer station Hazardous waste closure plans	None

UNIFORM PROCESS - Conceptual Basis - Water Quality

PUBLIC NOTICE= PUBLIC INPUT= APPROVAL=	TIER I Land Owner/Applicant Comments Technical Supervisor	TIER II + Area Newspaper + Public Meeting + Division Director	TIER III + Process Meeting + Administrative Hearing + Agency Director
New Sources Facility not in operation - new permits	Authorization-General Permit Pretreatment program Pretreatment impoundments Residential sewage Sewage impoundments (<5000 gpd) Residential water supply Public water supply-Minor	New construction: a. Municipalwastewater treatment b. Municipal water treatment c. Municipal wastewater retention New operating: a. Minor OPDES discharge b. Impoundments/tanks-industrial c. Land or sludge application	New major OPDES discharge
Existing Sources Facility in operation - new permits	Authorization-General Permit Pretreatment program Pretreatment impoundments Residential sewage Sewage impoundments (<5000 gpd) Residential water supply Public water supply-Minor	New construction: a. Municipalwastewater treatment b. Municipal water treatment c. Municipal wastewater retention New operating: a. Minor OPDES discharge b. Impoundments or septic tanks-industrial c. Land or sludge application New General Permit	New major OPDES discharge
Existing Sources Facility in operation - permit renewals and modifications	Minor or no modifications: a. Major/minor OPDES discharge b. Impoundments or septic tanks - All c. Land or sludge application d. General Permit Minor or major modification: a. Municipal wastewater treatment b. Water supply treatment c. Impoundments/septic tanks-industrial d. Sewer and water line extensions	Major modification: a. Major/minor OPDES discharge	None
Plans and Certifications	Impoundment closure plan Operator certification and renewal Septic tank installer certification Septic tank cleaner permit Areawide wastewater mgmt plan-minor mod Dredge and fill certification	Areawide wastewater mgmt plan-major mod Subdivision plat approval	None

6703

UNIFORM PROCESS - Conceptual Basis - Tier I

Public Notice = Landowner/Applicant
 Public Input = Comments
 Agency Approval = Technical Supervisor

	Air Quality Division	Waste Management Division	Water Quality Division
New Sources Facility not in operation- new permits	New construction - Very Minor Authorization - General Permit	Industrial X-ray XRF Instrument/NORM registration Very minor and minor non-commercial: a. Hazardous waste handling facility b. Non-hazardous waste handling facility Very minor commercial: a. Hazardous waste handling facility b. Non-hazardous waste handling facility	Authorization-General Permit Pretreatment program Pretreatment impoundments Residential sewage Sewage impoundments (<5000 gpd) Residential water supply Public water supply-Minor
Existing Sources Facility in operation- new permits	New construction - Very Minor New operating - Very Minor or Minor Authorization - General Permit	Industrial X-ray XRF Instrument/NORM registration Very minor and minor non-commercial: a. Hazardous waste handling facility b. Non-hazardous waste handling facility Very minor commercial: a. Hazardous waste handling facility b. Non-hazardous waste handling facility	Authorization-General Permit Pretreatment program Pretreatment impoundments Residential sewage Sewage impoundments (<5000 gpd) Residential water supply Public water supply-Minor
Existing Sources Facility in operation- permit renewals and modifications	Minor or no modification: a. Construction - All b. Operating - All c. Relocation Major modification: a. Construction - Very Minor or Minor b. Operating - Very Minor or Minor	Minor or no modifications: a. Hazardous waste handling facility - All b. Non-hazardous waste handling facility - All Major modifications: a. Commercial hazardous waste - Minor b. Non-commercial hazardous waste - All c. Non-hazardous waste - Minor	Minor or no modifications: a. Major/minor OPDES discharge b. Impoundments or septic tanks - All c. Land or sludge application d. General Permit Minor or major modification: a. Municipal wastewater treatment b. Water supply treatment c. Impoundments/septic tanks-industrial d. Sewer and water line extensions
Plans and Certifications	Applicability determination Emergency burn approval Asbestos removal/Demolition approval Lead-based paint certification	Disposal approval: a. Non-hazardous waste disposal b. Emergency hazardous waste disposal c. Hazardous waste generator disposal plan d. Non-hazardous waste recharge well Non-hazardous waste closure plans Technical plan approval (ie., sampling plan) Hazardous waste transporter license	Impoundment closure plan Operator certification and renewal Septic tank installer certification Septic tank cleaner permit Areawide wastewater mgmt plan-minor mod Dredge and fill certification

UNIFORM PROCESS - Conceptual Basis - Tier II

Public Notice = Landowner/Applicant + Area Newspaper
 Public Input = Comments + Public Meeting
 Agency Approval = Technical Supervisor + Division Director

	Air Quality Division	Waste Management Division	Water Quality Division
New Sources Facility not in operation - new permits	New construction - Minor New operating with construction permit: a. Facility wide b. Major New General Permit	Major non-commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling Minor commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling Non-hazardous waste transfer stations Mobile recycling	New construction: a. Municipal wastewater treatment b. Municipal water treatment c. Municipal wastewater retention New operating: a. Minor OPDES discharge b. Impoundments/tanks-industrial c. Land or sludge application
Existing Sources Facility in operation - new permits	New construction - Minor New operating with construction permit: a. Facility wide b. Major New General Permit	Major non-commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling Minor commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling Non-hazardous waste transfer stations Mobile recycling	New construction: a. Municipal wastewater treatment b. Municipal water treatment c. Municipal wastewater retention New operating: a. Minor OPDES discharge b. Impoundments or septic tanks-industrial c. Land or sludge application New General Permit
Existing Sources Facility in operation - permit renewals and modifications	Major modification a. Construction - Facility wide or Major c. Operating - Facility wide or Major	Major modifications: a. Commercial hazardous waste - Major b. Commercial non-hazardous waste - Major c. On-site BIFs treatment and disposal	Major modification: a. Major/minor OPDES discharge
Plans and Certifications	None	Hazardous waste transfer station Hazardous waste closure plans	Areawide wastewater mgmt plan-major mod Subdivision plat approval

6707

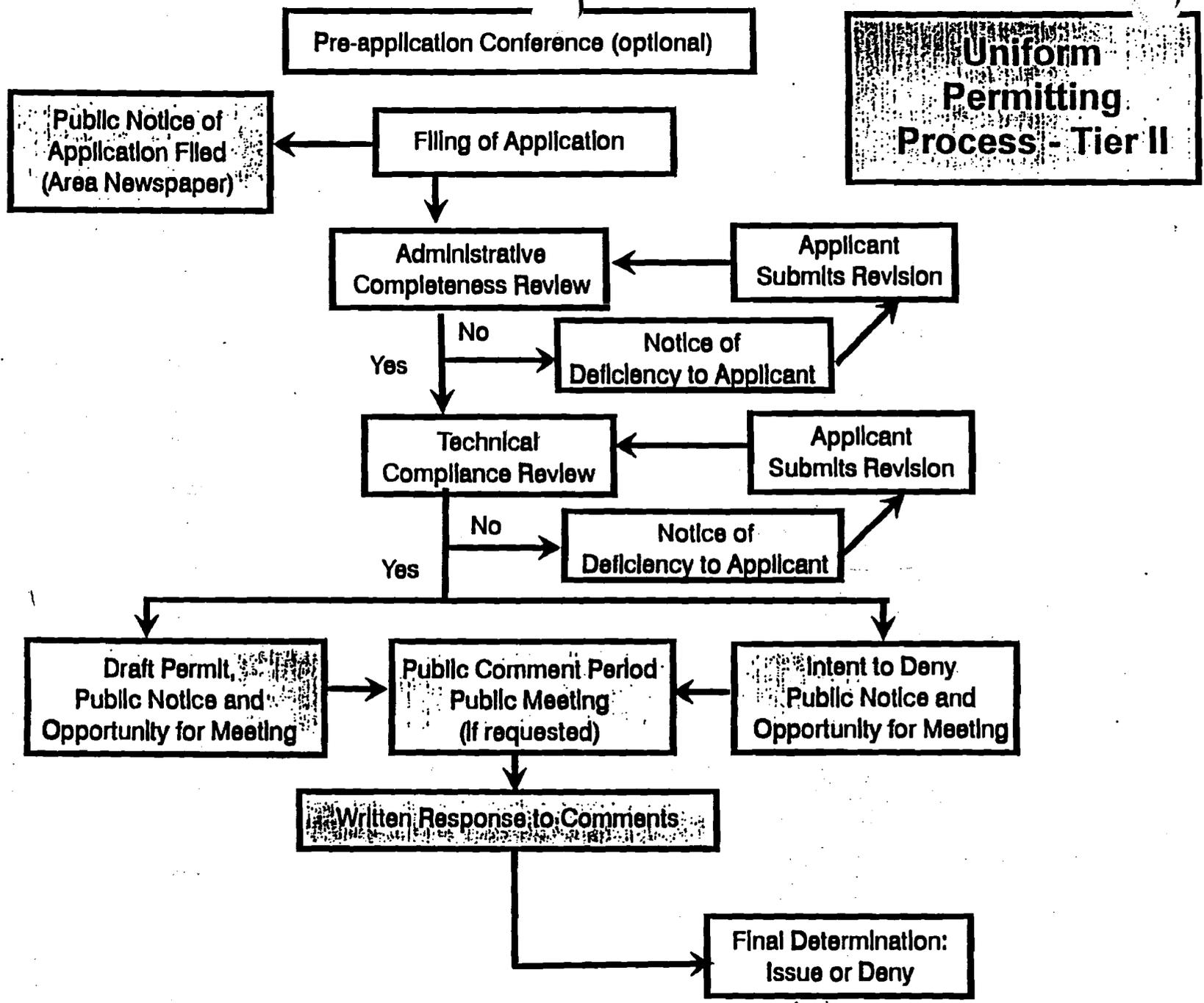
UNIFORM PROCESS - Conceptual Basis - Tier III

Public Notice = Landowner/Applicant + Area Newspaper + Process Meeting

Public Input = Comments + Public Meeting + Administrative Hearing

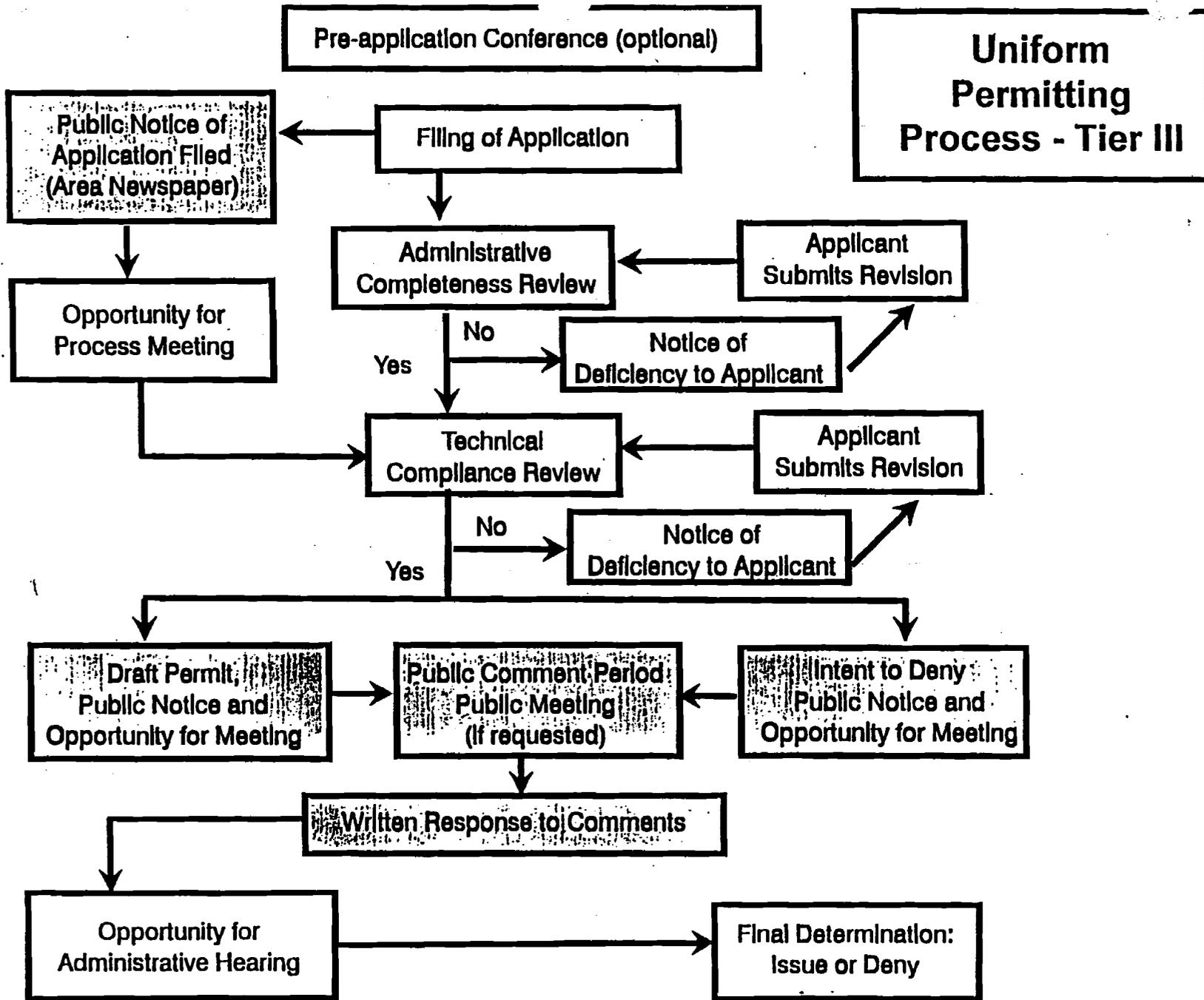
Agency Approval = Technical Supervisor + Division Director + Agency Director

	Air Quality Division	Waste Management Division	Water Quality Division
New Sources Facility not in operation - new permits	New construction - Major or facility wide	Major commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling On-site BIFs treatment and disposal	New major OPDES discharge
Existing Sources Facility in operation - new permits	New construction - Major New operating without construction permit: a. Facility wide b. Major	Major commercial facilities: a. Hazardous waste handling b. Non-hazardous waste handling On-site BIFs treatment and disposal	New major OPDES discharge
Existing Sources Facility in operation - permit renewals and modifications	None	Major commercial facilities - lateral expansion: a. Hazardous waste handling b. Non-hazardous waste handling	None
Plans and Certifications	None	None	None



Uniform Permitting Process - Tier II

6/10/07



Uniform Permitting Process - Tier III

Pre-application Conference (optional)

Public Notice of Application Filed (Area Newspaper)

Filing of Application

Opportunity for Process Meeting

Administrative Completeness Review

Applicant Submits Revision

Notice of Deficiency to Applicant

No

Yes

Technical Compliance Review

Applicant Submits Revision

Notice of Deficiency to Applicant

No

Yes

Draft Permit, Public Notice and Opportunity for Meeting

Public Comment Period Public Meeting (if requested)

Intent to Deny Public Notice and Opportunity for Meeting

Written Response to Comments

Opportunity for Administrative Hearing

Final Determination: Issue or Deny

OUTLINE FOR GRAIN DUST STUDY DISCUSSION

Members of the Oklahoma Grain and Feed Association, OSU Division of Agricultural Sciences and Natural Resources and the Oklahoma Department of Environmental Quality met on September 26th and 27th in Alva, Oklahoma to observe and/or take part in the Grain Elevator Dust Emission Study.

- no surprises, AP-42 overstated
- purpose was to try to accurately quantify emissions
- to gain an understanding of what emission factors should be used to represent true emissions from grain elevators
- general agreement that the data produced from this study is quite valuable for this purpose
- preliminary review by the Air Quality staff, review continuing
- several issues to consider:
 - 1-tests performed according to the protocol?
 - 2-issues which may not have been accounted for in the study?
 - 3-other data available which should also be considered?
- some initial answers to these questions and some additional questions and concerns
- staff's opinion that the test procedures in accordance with the protocol, with exception of particle sizing of collected dust

tests performed according to the protocol?

- protocol stated dust collected from floor sweepings and filter bags would be separated through a sonic sifter
 - very lengthy process
 - would not provide aerodynamic mean diameter
 - OSU will retain samples

issues which may not have been accounted for in the study?

- we know that dust emissions vary from different grain elevators, and over time at an individual elevator
 - many variables which can effect air emissions
 - difficult to develop set of emission factors that will represent the industry as a whole
 - cannot account for all possible scenarios
- observations did reveal some issues that had not been identified or considered adequately when the protocol was being developed

1-grain used was not directly from the field

- grain was loaded out from bin at the elevator
- grain went through the receiving, elevating, and load out processes and possibly additional transfer or turning processes before study

-two schools of thought regarding this issue

- no data to support either
- first says dust is generated through the movement of grain
 - previous handling would not be a significant factor
- second, says larger amount of dust will be generated from foreign material carried with grain from field
 - effects of both occurring simultaneously
 - tend to generate more emissions
 - test would not be representative

- farmer, terminal elevator will receive large portion from other elevators
- terminal elevator has capacity to move grain faster
- draft AP-42 contains emission factors for "headhouse and internal handling operations"
- test results from controlled (cyclones) and uncontrolled operations
 - some emissions may be attributable to operations we are now considering totally enclosed (not emission points)

Other AQD concerns

- concerned that our actions are not in conflict with final actions taken by EPA in AP-42
- if ODEQ adopts emission factors which are lower than those approved by EPA, and these are used to permit synthetic minors, EPA will have strong reason to question the permits
 - EPA wants to review our synthetic minor permits
 - they have interest in grain elevators and will likely look at some of these permits
 - EPA can reject or rewrite these permits
- emission factors in Subchapter 24 will draw EPA attention to issue
- AQD's ability to write federally enforceable synthetic minor permits based on Subchapter 24 depends on getting EPA approval
 - important to be consistent with EPA's direction in new AP-42
- considering other ways to create synthetic minor sources
 - 1-facility can obtain a permit under existing rules
 - 2-possibly some type of generic "umbrella" permit
 - would involve setting criteria for inclusion and documentation or registration process
 - would streamline process for the industry
 - would lighten the permit load on staff
 - 3-possibly revise Subchapter 24 to sets up criteria for synthetic minors ("permit-by rule" concept)

Grain Elevators and Grain Dust Management Options
Background Report Prepared for the Oklahoma Air Quality Council

Phil Kenkel
Extension Economist
Agricultural Economist

Ronald T. Noyes
P.E., Extension Agricultural Engineer
Agricultural Engineering and Biosystems

Introduction

The 1990 Federal Clean Air Act is necessitating state legislative bodies to enact regulations which are intended to reduce air emissions. These regulations and the interpretation of the 1990 Clean Air Act and related EPA regulations raise major environmental, economic, and technical issues. Grain handling firms are among the many industries which are being impacted by the air quality regulations. However, with respect to dust emissions, grain elevators are somewhat unique. Techniques, regulations, and standards designed for other industries do not necessarily represent efficient or practical solutions to the problem of managing grain elevator dust emissions. The purpose of this report is:

- (1) Describe the characteristics of grain dust;
- (2) Outline the processes within a typical grain elevator;
- (3) Identify emission points in a grain elevator; and
- (4) Identify options for managing and reducing grain dust emissions.

Grain Dust Characteristics

Grain dust is defined as solid particles which become airborne during grain handling. While wheat dust contains particles of soil picked up while combining, it is primarily wheat and plant material¹. According to a study conducted by Dr. C.R. Martin (USDA Grain Marketing Lab, Manhattan, Kansas), the major components of wheat dust are plant material carried over from harvesting, wheat hulls, outgrowths from the brush end of wheat kernels, and particles which are separated from the wheat kernel due to abrasion and impact during handling.

Grain dust has fairly large particular size with 70% to 99% being larger than 44 microns (Table 1). As the table also indicates, the particulate size of dust captured at various places in the elevator varies dramatically. The particle size distribution is important because it affects the potential for the dust to become airborne. According to an EPA report (Table AP-42, 11.2-1) at a typical wind speed of 10 miles/hr. particles larger than 100 microns are like to settle out within 20 to 30 ft., particles in the 30-100 micron range will settle within a few hundred feet while particles smaller than 30 microns will remain airborne.

Table 1
Sieve Analysis of Collected Grain Dust from Bag Filter Catches of a Well Controlled Grain Elevator (Midwest Research, 1974)

Size Range (microns)	Truck Rec.	RR Car Load Out	Corn Cleaner	Gallery Belt	Tunnel Belt	Head House
% < 44	2.00	0.57	0.57	31.94	0.52	11.71
% < 63	15.69	3.25	5.40	55.06	4.83	56.45
% < 177	80.92	54.43	57.65	77.93	58.75	89.48
% < 710	97.52	98.38	98.17	98.48	96.10	99.52
% < 1410	99.24	99.69	99.49	99.06	99.23	99.89

Wallin et al., 1992.

Wheat dust typically contains 8-12% protein and around 15% fiber (Table 1). The ash content (8-30%) is primarily due to the "soil" content. As Table 2 indicates, wheat dust (with the ash removed) has similar characteristics to the wheat grain although it typically has only around 75% as much protein and more fiber.

Table 1
Analysis of Wheat Dust from Commercial Grain Elevators

Moisture	Protein	Ash	Fat	Crude fiber	Starch
7%-13%	8%-12%	8%-29%	2%-3%	15%-17%	40%-56%

C.R. Martin: Characterization of Grain Dust Properties, ASAE Vol. 24, No. 3, 1981

Table 2
Analysis of Wheat Dust and Wheat Grain
(calculated on a 0% Ash, 14% Moisture Basis)

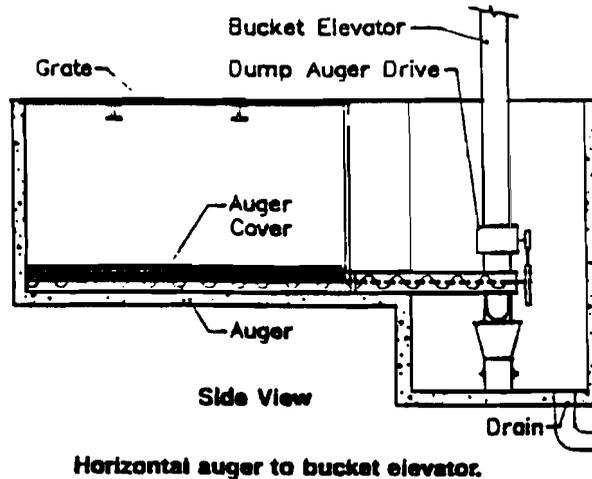
	Protein %	Fat %	Fiber %	Starch %
Wheat dust	10.9	2.5	16.4	54.5
Wheat grain	14.0	2.0	3.0	68.0

C.R. Martin: Characterization of Grain Dust Properties, ASAE Vol. 24, No. 3, 1981

Components of a Grain Elevator

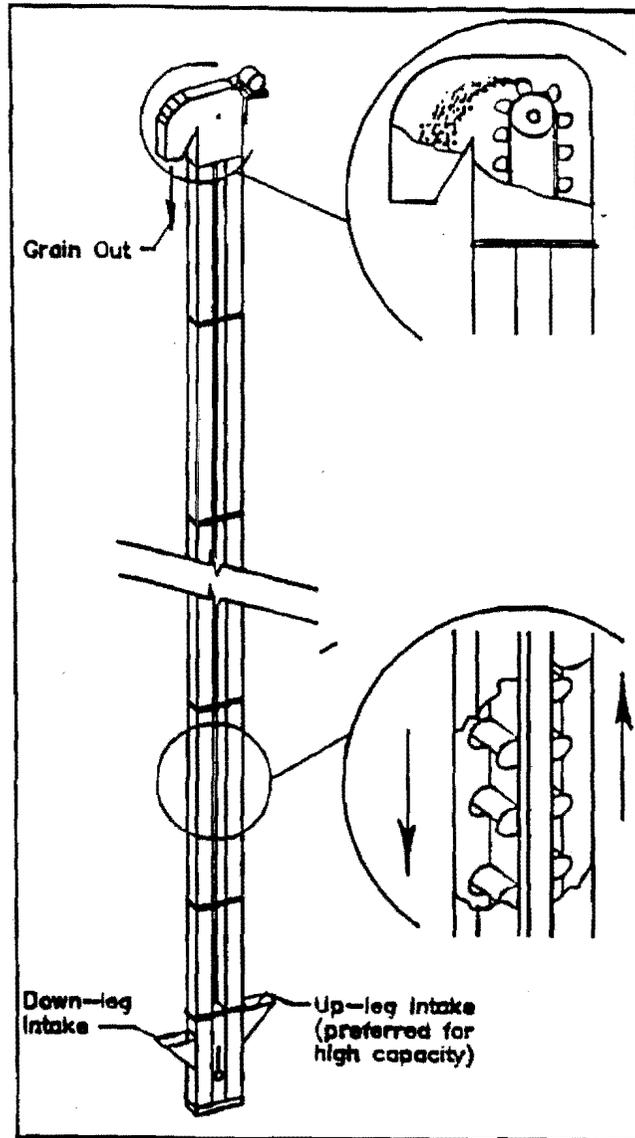
Commercial grain elevators encompass a variety of storage designs and conveying equipment. Major components include the receiving pit, elevating mechanism, distributors and/or conveyors, storage bins, and a truck and/or railcar load-out facility. Wheat is received at the dump-pit which, as its name implies, consists of a concrete or welded steel pit covered with a grate into which the trucks dump the wheat (Figure 1). A time and motion study conducted by OSU in 1993 indicated that during harvest trucks cycle through the dump-pit in country elevators at an average rate of one truck every 3 minutes.

Figure 1
Typical Dump-Pit



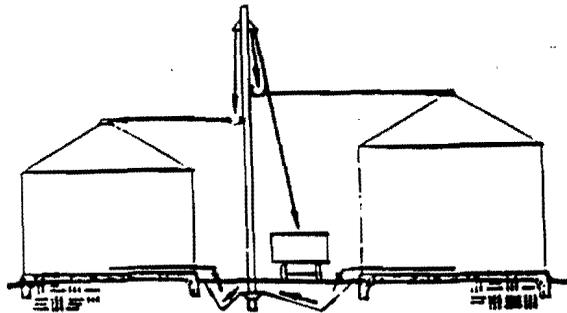
From the dump-pit the grain gravity flows or transported in an enclosed auger into the inlet hopper at the base (boot) of the bucket elevator which is also called a "leg" (Figure 2). The bucket elevator consists of a belt with plastic or metal cups. It is used to elevate the grain to the top of the elevator facility. The grain is discharged from the leg by gravity and centrifugal force at the top. From the top of the elevator leg the grain can either gravity-flow to the selected bin through enclosed distributors (Figure 3) or can feed into a horizontal conveyors from which it can be discharged into the desired bin (Figure 4). Horizontal conveyors can be either an enclosed screw conveyor, an enclosed drag conveyor or an unenclosed belt (called a gallery belt) which is used in some older, large concrete elevator. The gallery belt must be located inside an enclosed building to prevent moisture from entering the grain. According to a 1991 OSU survey, leg capacity in Oklahoma elevators range from 1,500 to 20,000 bu./hr. In addition, the survey indicates that a typical Oklahoma country elevator had a leg capacity of 5-6,000 bu./hr.

Figure 2
Bucket Elevator Leg

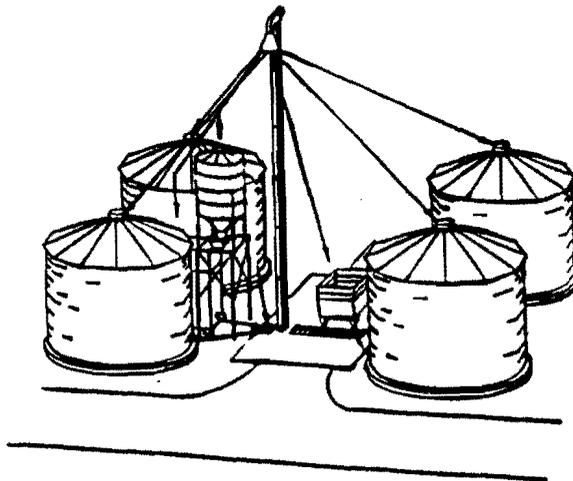


Bucket elevator schematic.

Figure 3
Gravity Distributors and Horizontal Conveyors on Steel Bins



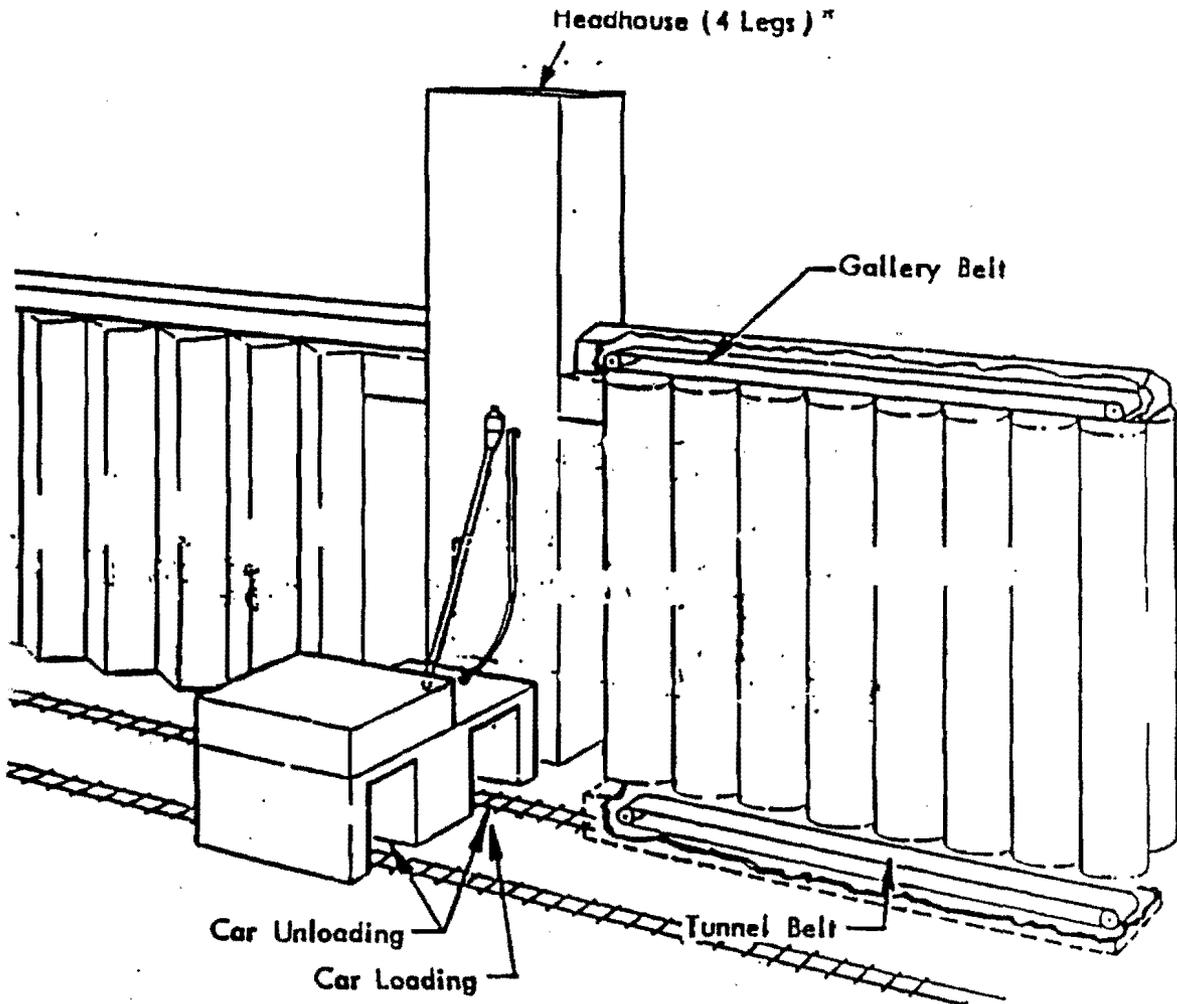
Bucket elevator with horizontal conveyors.



Bucket elevator with gravity spouts.

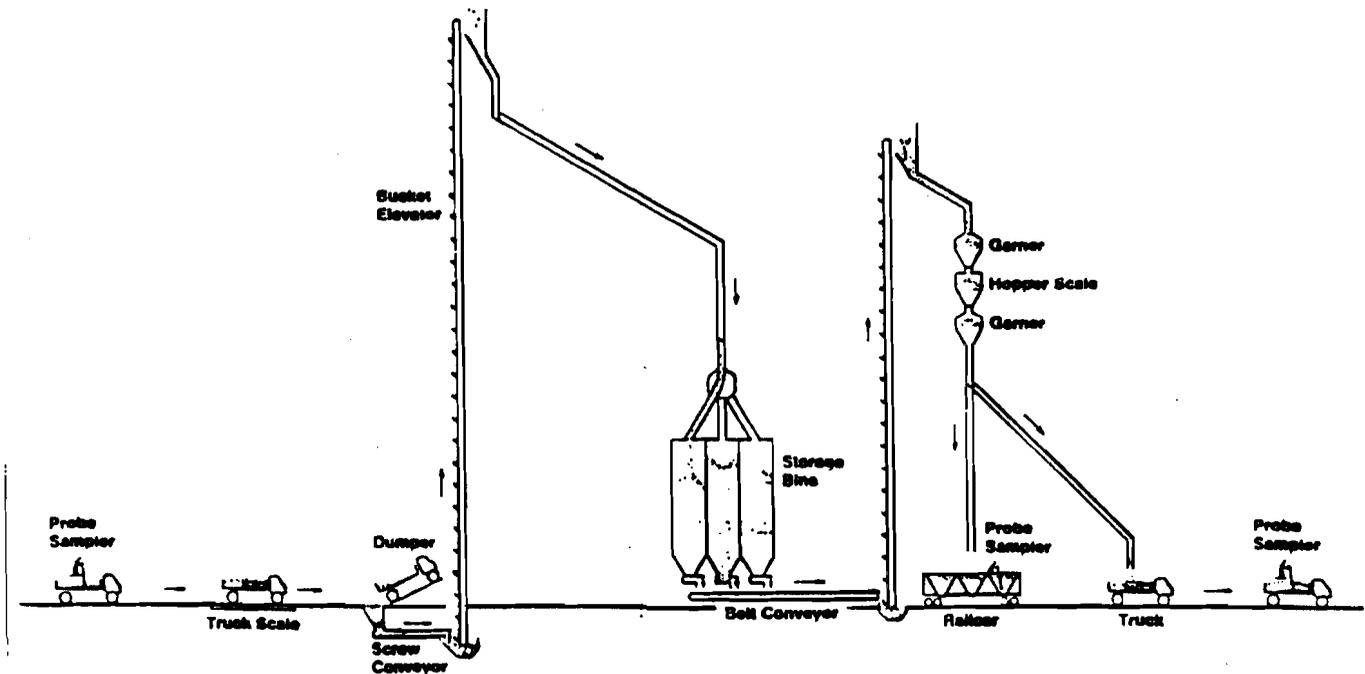
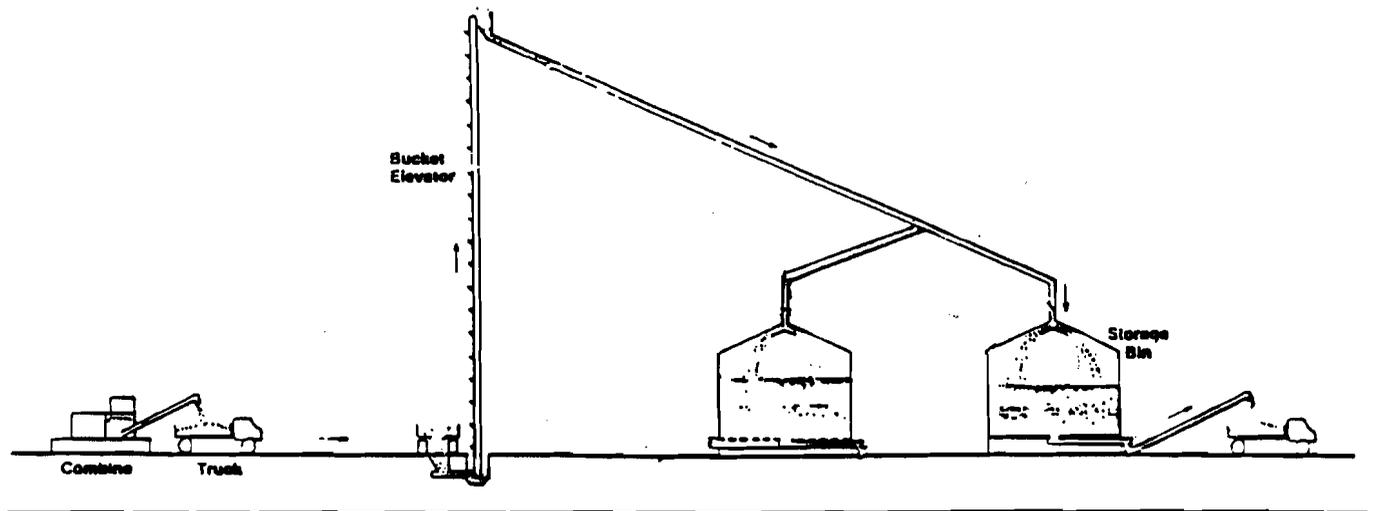
6-7-4

Figure 4
Concrete Elevator with Gallery Belt and Tunnel Belt



The two most common types of storage bins are round concrete silos and large round steel bins. Rectangular, flat steel storage is used less frequently. Approximately 35% of Oklahoma's rated storage capacity is concrete, 50% is round steel, and flat steel accounts for around 15%. However, due to the greater management costs of flat storage and excess capacity of concrete and steel storage capacity, most of the flat storage is idle or is being used for other purposes. A typical concrete silo would be 10-30' in diameter, 90-120' tall, and can hold 15,000 to 30,000 bushels. Round steel bins are typically 30-90' in diameter, 25-70' tall, and can hold 50,000 to 300,000 bushels. In all types of storage the grain is removed from the bottom of the bins. Because of the larger diameter, an enclosed auger is typically installed below a grated floor in steel bins which is used to transfer grain from the bin and convey it to the load-out point. Concrete bins typically empty by gravity, distributing the grain directly to the load-out point or to a horizontal conveyor (either an enclosed drag conveyor or an unenclosed belt called a tunnel belt. Grain may be re-elevated to an overhead bin to facilitate load-out (Figure 5).

Figure 5
Elevator Schematics of Gravity and Mechanical Unloading Systems



Processes in a Grain Elevator

The major processes in a commercial elevator include receiving, elevating, and load-out. Depending on the facility design, horizontal conveying at the top and/or bottom of the elevator may also be involved. In concrete facilities, (especially those without aeration equipment) the grain may also be "turned" to manage temperature and moisture and to blend or fumigate.

When grain is turned it is emptied from one silo, routed back into the leg, and emptied into another bin. Other processes such as seed wheat cleaners or feed grinding and mixing equipment may be incorporated into the same facility, but are independent functions from the grain elevator operation. Commercial grain elevators must be able to receive and load-out grain at high rates since, due to harvest and market conditions, their annual volume may be processed in a total time of 4-8 weeks or less. This process is followed by long periods of inactivity with loadout occurring periodically throughout the winter and spring. Many Oklahoma elevators could fill or empty their entire elevator in 100 hours or less of continuous operation and could elevate an amount several times greater than the total average Oklahoma's wheat crop if run year round. This high ratio of handling speed relative to storage capacity becomes an issues when the potential for dust emissions is based on the handling speed.

Dust Emission Points

Unlike other industries where the emission point may be obvious, such as a smoke stack or chimney, it is necessary to understand the grain elevator processes and technology in an elevator to define the potential points of grain dust emission. Wheat emits no dust unless it is disturbed. Wheat dust can be emitted when wheat is handled and when negative air (suction) is placed on the grain. However, many processes in an elevator are fully enclosed, semi-enclosed with pressure equalization vents, or are located in enclosed rooms within the facility. Therefore, inside the elevator, some or all the grain dust which is separated from the grain during a specific handling process may settle back into the grain stream or be retained in the facility where it is swept up during housekeeping operations. Most of the existing dust control devices in Oklahoma elevators were installed to allow the elevator to comply with OSHA and Federal Grain Handling Standards for grain dust within the elevator and/or to reduce housekeeping labor.

Attention has also focused on the small air pressure equalization vent which is located on the top of some legs, and vents on storage bins, and other equipment as possible emission points. However, these vents can serve either for air intake or air exhaust. The cups or buckets within a leg create "drag" on the air as they move so air moves by friction up the front side of the leg and down the back side of the leg. Since air is discharged with the grain into the enclosed distributor at the top of the leg, air has to be introduced into the leg somewhere else. Thus, under most conditions, air flows in to (and not out of) the equalization vent at the top of leg. Informal experiments at an Oklahoma elevator confirmed that the vent at the top of the elevator leg was typically intaking air. The points in a elevator which can most clearly be defined as emission points are the dump-pit, load-out point, and exhaust from any pneumatic system. However, even at these points, some of the larger grain dust particles (above 30 microns) may also settle to the ground without leaving the premises as suggested by EPA Table AP-42.

Difficulties in Estimating "Typical" Emission Levels

The characteristics of grain dust and grain elevator design have contributed to the

difficulty in understanding grain dust emission points and the amount of dust which is emitted at each point. One approach to determining the amounts of dust which are emitted during elevator processes is to place negative air (suction) at various points in the facility and capture the dust in fabric filters. The actual amount of negative pressure applied varies with the equipment and the extent to which the point in the elevator process is enclosed. Unfortunately, as negative air is applied, the amount of grain dust and material removed from the grain increases. At high enough levels, negative air velocity will pick up wheat kernels, which is the principle behind pneumatic conveying systems. The negative-air-filter test has the potential to underestimate emissions if the area is unenclosed and wind conditions are high or overestimate emissions if the process is enclosed and the air suction is drawing dust and/or kernel particles which would not have been emitted under neutral pressure. It is also impossible to define what portion of the dust collected in a negative air test would have fallen back into the grain stream or within the facility if it had not been captured.

Grain Dust Management Options

Management options to reduce grain dust emissions include reducing handling speeds, modifying grain handling equipment, modifying facilities to prevent dust from leaving the facility or grain stream, the use of oil additives, and mechanical dust collection systems. While numerous grain industry associations have opposed the addition of water to the grain due to food safety and marketing concerns, the use of water fogging systems away from the grain stream are an option for reducing dust emissions in the area around the dump-pit and load-out points.

Facility Modification

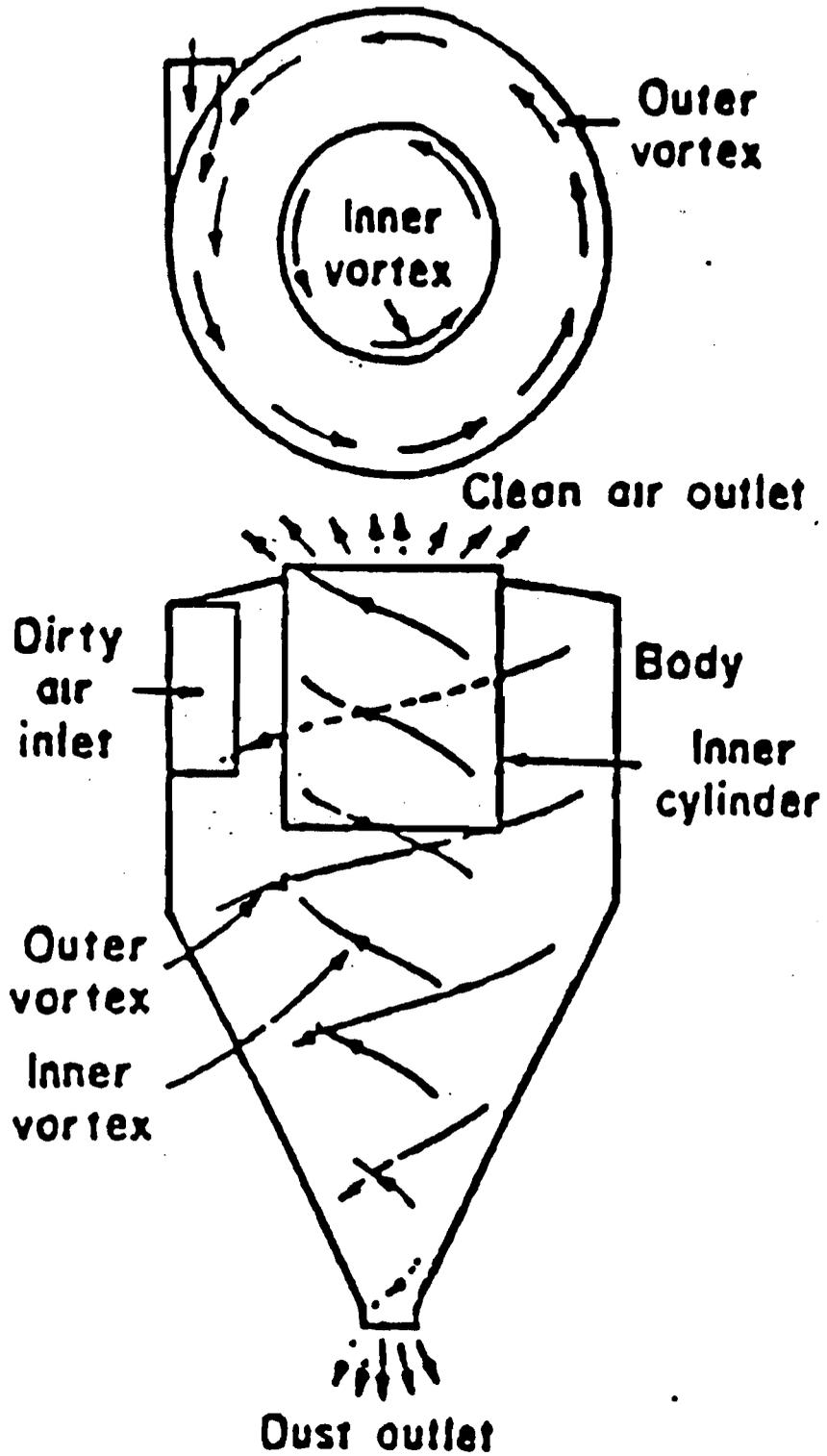
In general, increasing the rate at which grain is handled tends to increase dust emissions. Decreasing the total handling speed is often not a practical option since an elevator receives the majority of its annual volume during a short (2-3 week) period of time at harvest. Numerous surveys have shown that the speed of unloading is the most important factor which farmers consider when deciding which elevator to deliver their grain to. Enclosed conveyors are an option for reducing dust emissions. (Most elevators which have modified their conveying systems in the last 5-10 years have installed enclosed conveyors due advantages in worker safety, increased grain quality, reduced grain loss and reduced housekeeping labor.) When the distance and speed at which grain falls is a source of dust, a grain accumulation nozzle, or modifications to the distribution system can sometimes be used to slow the grain velocity without reducing throughput speed. Another physical modification which can, in some instances, reduce dust emissions are the installation of baffles on the grating of the dump-pit. While allowing the grain to fall through, the dump-pit air-baffles are designed to limit the amount of grain dust which leaves the pit. These systems are generally combined with a pneumatic dust control system in the dump pit. Because of the large surface area, the dump-pit area requires extremely high volume of negative air, which in many cases, exceeds the combined requirements for all other areas inside the elevator.

Mechanical Dust Control Systems

The two typical mechanical dust collection options involve drawing dust from a particular area of the elevator operation with negative air and routing the dust-laden air to either a cyclone separator or a fabric bag filter where the dust can be removed. Cyclone separators are cone-shaped devices which remove dust particles through centrifugal force (Figure 6). As particulate-laden air is forced into a downward spiral by the cyclones conical shape, centrifugal force causes the particles to move outward, collide with the outer wall, and slide to the bottom of the cyclone. Near the bottom of the cyclone the air-flow reverses its downward spiral and moves upward in an inner vortex. The cleaned air exits from the top of the cyclone and the dust falls from the bottom of the cyclone where it is typically reincorporated into the moving grain stream.

Cyclone separators are described by their dimensions. Two commonly used cyclones in the agricultural processing industry include the 2D-2D and the long-cone (1D-3D) cyclone. The dimensions refer to the length of the upper cylindrical portion and lower cone shaped portion, both expressed as a ratio of the diameter of the cylindrical portion. The long-conical (1D-3D) cyclone typically operates with a higher air velocity. The efficiency rating of a cyclone describes what portion, on average, of the dust particles which are pulled into the cyclone is captured by the device. Since the negative air systems which feeds into the cyclone sometimes pulls dust out of the grain which would not separate from the handling motion alone, the efficiency rating of the cyclone is only a rough indicator of the amount of dust which is not captured. An inefficient cyclone design using a high air volume to draw air from an unenclosed conveyor can actually cause dust emissions to increase since more grain dust is pulled from the grain. Any dust systems (which is less than 100% efficient) which is pulling air off of an enclosed conveyor will increase dust emissions since the dust would not otherwise leave the conveyor.

Figure 6
Schematic Diagram of Cyclone Separator



Fabric bag filters, often called bag-house filters, are large woven or felted bags into which particulate air is forced. A "cake" of dust is formed on the sides of the filter. Periodically, the dust cakes are vibrated off of the filter and are collected at the bottom of the device. The dust is can be reincorporated into the same lot of the grain or separated. Grain dust from bag-house filters is difficult to handle, must be stored in special facilities, and is typically sold as an animal feed ingredient.

Mechanical dust collections have several disadvantages. Some operations in a grain elevator such as the dump-pit or load-out occurs in unconfined areas where it is difficult to capture dust with a negative air system. Additionally, in some elevator designs, grain is weighed in overhead bins (Figure 5) before it is dropped into trucks or railcars. Since the market weight has already been determined, it is illegal to draw negative air (and remove dust and/or grain) at the load-out point. Additionally, dust control systems have both pros and cons with respect to worker safety. To the extent that they remove dust from inside the elevator, the systems improve working conditions and reduce the hazard of grain dust explosions in the elevator. However, because the systems concentrate grain dust, explosive mixtures can occur within the dust control system under some adverse conditions (Bartknecht, 1981). Because they are pneumatically linked to various areas within the elevator, dust control systems can become a source of fires and secondary grain dust explosions.

Dust control systems are also energy intensive and may require more energy than is required to move the grain (Lai, Martin and Miller, 1982) Capital costs for installation of these systems have been estimated at \$3-\$5 per cubic feet per minute (CFM) of air flow which amounts to between \$250,000 to \$1,000,000, depending on the size of the elevator (Maness, 1978). Installation costs for a single fan and cyclone collector for a country elevator are around \$20,000-\$40,000. While having higher efficiency ratings, bag-house filters are much more expensive (\$100,000-\$300,000) and have higher maintenance costs. If the grain dust is not reincorporated into the grain stream these systems have a hidden cost of additional weight loss "shrink", since otherwise salable material is being removed from the grain.

Oil Additives

A final management option for the control of grain dust is the addition of soybean oil or food grade mineral oil to the grain. The addition of small amounts of oil (.02% to .06% by weight) were shown to reduce dust emissions in wheat by 95% as measured by a high accuracy particle counter (Lai, Martin and Miller, 1982). The effectiveness of the oil was not reduced after the grain was stored for 3 months. However, the oil treatment was ineffective in the stages before the grain passed through the bucket elevator, which evidently played a role in mixing the oil into the grain. Oil systems cost around \$10,000 to install. The main disadvantage of oil is the cost (.5¢ to 1¢/bu.) and the flour millers' concerns over milling and baking quality. Initial laboratory tests of oil treated wheat revealed no adverse quality impacts. However, millers remained concerned that if oil treatments were used throughout the system, the same lot of grain could potentially be repetitively treated causing a reduction in milling and baking quality. A recent informal test at an Oklahoma elevator suggested that even wheat which has been treated

with oil may emit some visible dust when the elevator is equipped with a high-speed load-out system.

Summary

Wheat grain dust is primarily organic material from the wheat plant and kernel. When retained in the grain, in normal levels, wheat grain dust has nutritional and market value. Commercial grain elevators typically process most of their annual volume during a short period of time. Wheat grain dust is separated from the grain during handling operations and when negative air is applied. Therefore, most mechanical dust control systems increase the amount of dust which is separated from the grain. Since many operations in a grain elevator are enclosed or semi-enclosed, some portion of the grain dust which separates from the grain falls back into the grain stream or is captured within the premisses. Because of these factors, it has been difficult to determine how much grain dust is emitted by a typical elevator.

Grain dust management options include controlling the processing speed, physical modifications such as air baffles and grain nozzles, mechanical dust control systems, the use of oil treatments on the grain, and for some specific operations, the use of water fogs away from the grain stream. Many of these options involve significant investments, increased operating costs, and increased energy usage. Some of the alternatives also raise worker safety and food safety issues. Federal grain handling legislation also impacts how and where mechanical dust control systems can be used.

References

- Bartknecht, W. Explosions—course prevention protection Stronger-Verlang, New York, NY, 1981.
- Lai, Fang s., Charles R. Martin and Byron S. Miller. "Examining the Use of Additives to Control Grain Dust," Final Report Submitted to National Grain and Feed Association, June 28, 1982.
- Maness, J. E. "Practices and requirements of controlling grain dusts in grain elevators," Cereal Foods World 23:371, 1978.
- Martin, C. R. "Characterization of Grain Dust Properties" Transactions of the ASAE (Vol. 24, No. 3, pp. 738-742, 1981.
- Wallin, Gary. Mark Gibbs, Richard Hyde, Anna Rodriquez and Mike Wilson. "Emission Factors May Cost Agricultural Operations Big Bucks," paper #921039 of the 1992 ASAE Meetings, Charlotte, North Carolina, June 22-24, 1992.

Endnote

1. Hosney and Faubion (Storage of Cereal Grains and their Products (4th ed.), 1992) describe grain dust as follows (p. 34):
"An examination of grain dust under a microscope demonstrates that it is composed primarily of free starch granules and other small fragments of grain. These are produced by the forces generated during handling of the grain. Grain rubs against itself and its container and is abraded to form dust. When a kernel breaks during handling, starch granules are set free along with other small pieces of endosperm. The rough surface of the broken kernel is then subjected to much more abrasion during additional handling. The dust particles are small and fill the inter-grain voids,..."

SUPPLEMENTAL INFORMATION

COUNCIL MEETING

FEBRUARY 22, 1995

K. J. H. 7

GUIDANCE DOCUMENT

The following definitions and emission factors are to be used by the Grain, Feed, and Seed industry in the figuring of annual emissions and compliance with Subchapter 24.

Definitions:

"Dust Suppression Additives" means FDA or FGIS approved additives applied commercially for dust suppression. The dust suppression efficiencies of these additives is accepted to be 90% when applied at a proper application rate per manufacturer's recommendations or as approved by the director of the Air Quality Division."

"Fabric Filter" means any control device or system in which particulate matter is collected on a dust cake supported on either a woven or felted fabric that can demonstrate a particulate collection efficiency of not less than 95 percent."

"High Efficiency Cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90% collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D (95% collection efficiency for TSP).

"Loading-out hours of operation" means the hours calculated by dividing the cumulative total quantity loaded out for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the material loaded out. Actual leg capacity may be adjusted to more or less than 75% by individual facilities if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Medium Efficiency Cyclone" means any cyclone type collector less than 2D-2D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 1D-1D cyclone would exhibit a cylinder of 1 x D and a cone length of 1 x D. These cyclones shall be capable of demonstrating a collection efficiency of 75% for particulate matter.

"Receiving hours of operation" means hours calculated by dividing the cumulative total quantity received for a given time period by 75% of the rated leg capacity. This quotient is equivalent hours (not actual hours) of operation required to process the materials received. Actual leg capacity may be adjusted to more or less than 75% by individual facilities

if documentation supporting the proposed adjustment is submitted to and approved by the Director of the Air Quality Division.

"Throughput" means the pounds, tons, or bushels received by a facility added to the pounds, tons, or bushels loaded out from the facility during any time period of interest divided by two.

"Total hours of operation" means the sum of the receiving hours of operation and the loading out hours of operation. Actual hours may be less since receiving and loading-out operations may occur simultaneously.

Emissions calculations and opacity standards shall be as follows for the three classes of emissions:

Class I: Unloading (receiving) 0.053 lbs/ton
Loading (shipping) 0.011 lbs/ton
Refer to 252:100-24-4 for opacity limits

Class II: Emission Sources with Control Devices
AP-42 factors X (1 - EFF)
Refer to 252:100-24-4 for opacity limits.
EFF means fractional efficiency of control device.

Class III: Uncontrolled Vents
A. Pressurized - opacity limit only.
B. Non Pressurized - opacity limit only
Refer to 252:100-24-4 for opacity limits

OSU

DEPARTMENT OF AGRICULTURAL ECONOMICS

MEMORANDUM

DATE February 2, 1995

TO Debbie Perry FAX: 405-271-7508
Punk Bonner FAX: 405-271-1317
Oklahoma Department of Environmental Quality

FROM Phil Kenkel *PK*
Ron Noyes *RN*

SUBJECT Dust Study Summary and Proposed Emission Factors

We have attached a copy of the summary requested at the 1-4-95 grain industry taskforce meeting. The report summarizes the dust study results and provides a simple discussion of the calculation of the proposed emission factors. We have attempted to keep this report as simple as possible. It is intended as a supplement to our full report on the dust study which is referenced in this document.

Please let us know if you have any suggestions for other issues which should be summarized in this report. Otherwise, please forward it to the Air Quality Council members.

**Summary of OSU Grain Elevator Dust Emission Study
and
Proposed Grain Elevator Emission Factors
Report to Oklahoma Air Quality Council-February 2, 1995**

Phil Kenkel
Extension Economist-Agribusiness

Ron Noyes, P.E.
Extension Agricultural Engineer

Overview

This report is intended to summarize some of the key issues relating to estimating grain elevator dust emissions. It also provides a brief, non-technical, discussion of the design of the OSU Grain Elevator Dust Emission Study and the study's results. Proposed emission factors for grain elevator operations, based on the OSU study are also presented, and discussed. This report is intended as a supplement to the report on the results of the OSU study which was presented to the Oklahoma Department of Environmental Quality on October 21, 1994. Interested individuals are encouraged to refer to the report for full details of the results discussed in this summary.

Background

The 1990 Clean Air Act required state environmental agencies, including the Oklahoma Department of Environmental Quality (DEQ), to develop permit programs for a variety of industries, including the grain handling industry. This process involves the use of emission factors for grain elevator operations. The emission factors are an integral and important part of the permit process and are used in calculating a grain elevator's "potential to emit" airborne dust. Unless they obtain a minor source permit from the state regulatory authority, firms with a potential to emit over 100 tons/year are classified as major source polluters and fall under federal EPA permitting process.

The implementation of the permitting process in Oklahoma highlighted an urgent need for accurate emission factors which are representative of typical Oklahoma grain elevators. The only existing source of emission factors for grain elevators is EPA's AP-42 document. Examinations of the research methods used to develop the AP-42 estimates along with the analysis of other available data caused the Oklahoma Grain and Feed Association (OGFA) task

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force, Oklahoma DEQ representatives, and members of the Oklahoma Air Quality Council (AQC) to become concerned that the existing AP-42 emissions estimates were seriously flawed and overstated. (This same concern is being mirrored at the national level, as evidenced by negotiations between the National Grain and Feed Association and Federal EPA during a meeting in Raleigh, N.C. on Aug. 29, 1994.) The use of overstated emissions estimates would result in unnecessary operating restrictions, major investments in emission control equipment, and excessive annual emission fees.

Proposal for a Dust Emission Study

Due to the concern over the existing emission factors and the critical need for accurate data, a team of faculty from the OSU Division of Agricultural Sciences and Natural Resources proposed a grain dust emission study from which accurate, representative, and scientifically defensible emission factors could be developed. The study was formally proposed to the Oklahoma AQC and DEQ during a Grain and Feed Industry Committee meeting on May 31, 1994. The Oklahoma AQC and DEQ subsequently accepted the concept of a grain dust emission study. During the June 14th AQC meeting the Oklahoma DEQ, Oklahoma AQC, and grain industry task force agreed to the text for a grain industry subchapter of the Oklahoma Clean Air Act. The grain industry sub-chapter specified that the existing AP-42 emission estimates for receiving and loading would be used as interim values for a period not to exceed one year, during which time a grain dust emission study would be conducted to develop permanent emission factors. Sub-chapter 24 was formally passed by the AQC on June 14th, 1994 and subsequently passed by the DEQ Board on September 28, 1994. The final protocol for the grain dust emission study was submitted to the Oklahoma DEQ and AQC by the OSU faculty team on September 16, 1994. The protocol was reviewed by DEQ staff and formally accepted on September 20, 1994. The tests were conducted at Wheeler Brothers Elevator in Alva, OK on September 26-27, 1994.

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Overview of the Study Design

The OSU study was designed to provide a realistic estimate of dust emissions from receiving and load-out operations at a typical Oklahoma grain elevator. These operations are the primary potential sources of dust emissions since most other elevator handling processes involve enclosed conveying equipment, and/or are conducted inside an enclosed facility. The study had four components:

- (1) receiving-end dump truck,
- (2) receiving-hopper-bottom truck,
- (3) receiving-dump pit air baffle effectiveness, and
- (4) load out.

The receiving study was separated by truck type because the differences in height was expected to impact dust emissions. Truck type was not expected to significantly influence emissions during load-out operations.

The basic design of the emission test was to perform typical receiving and load-out operations in a totally enclosed dump shed and to evacuate all of the air in the shed through filter bags, capturing the airborne dust particles. The suction system used to capture grain dust was engineered to capture emitted grain dust while not artificially separating fine particles from the grain. Two high-volume propeller fans were used to keep all airborne dust in suspension until it could be evacuated through the filter bags.

The facility selected for the test is typical of many Oklahoma country elevators. Two truck types, a hopper-bottomed semi-trailer and an end-dump tandem axle truck, were used for the receiving tests. Most of the grain trucks delivering to Oklahoma elevators would be very similar to one of the two truck types used in the test. The unloading chute was approximately 2 feet above the top of the bed of the truck used for the load-out study. Unloading chute height varies somewhat between elevators. Most facilities are designed to minimize the open distance between the spout and the truck bed to limit that amount of grain lost (shrink) which occurs during loading. The dump pit dust control baffles used for the baffle efficiency test restricted 86% of the open area on the dump pit in their fully closed position.

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Key Issues Addressed

Airflow

The major criticism of some past grain dust emission studies was representing material removed from the grain by a pneumatic system as a measure of uncontrolled dust emissions from that handling point. In other words, the systems were aspirating fine particles from the grain, not measuring emitted dust. It is critical to design the airflow used in a dust control study to not unduly increase the amount of fine material separated from the grain stream while still capturing the particles which would normally become airborne. On the other hand, the airflow has to be sufficient to capture the airborne particles in a reasonable period of time, before they settle to the floor.

The airflow rates used in the OSU study was carefully engineered to address these issues. The airflow used was more than sufficient to capture airborne dust, while minimizing the extent to which the grain was artificially "aspirated". The centrifugal blower used in the test created a total air exchange in the dump shed in approximately 10 minutes. Because the inlet pipe was positioned close to the emission point, most of the airborne dust was captured in less than this period of time. Based on visible observation, the system removed most of the airborne dust within 3-4 minutes. The two high volume propeller fans were designed to keep all airborne particles in suspension until they could be evacuated through the filter bags. The actual air volume evacuated through the filter bags was carefully documented during the tests. The airflow rates indicate that the system moved an air volume equal to 150% to 200% of the total volume of the dump shed, providing further evidence that all airborne dust should have been captured.

Grain Quality

Grain used in an emission study should be representative of grain handled by typical grain elevators. Oklahoma grain elevators typically co-mingle grain received from a variety of sources. Some of the grain received will be straight from the farmer's combine, some will have been stored in on-farm storage and some may be shipped from other elevators. Handling grain creates additional dust due to the kernel to kernel and handling equipment abrasions. Dust may also be removed (emitted) during some handling processes. Grain quality also varies from year-to-year, and from farm to farm.

These considerations were addressed by officially sampling and grading each load of grain used in the emission test. Official grades were obtained with Federal Grain Inspection Service five year average grade data for Oklahoma. The comparison indicated that the grain used in the test was representative of grain handled by Oklahoma elevators.

Test Results

The OSU Grain Elevator Dust Emission Study measured dust emissions during receiving and load-out operations. For the receiving operation, dust emission estimates were obtained for both hopper-bottom trailers and end-dump trucks. The efficiency of dump-pit air baffles were also examined. The results of the test are summarized in Table 1.

Table 1 OSU Grain Elevator Dust Emission Study Summary of Results	
	Airborne Dust (lbs/ton of grain handled)
Receiving- Hopper-Bottom Semi Trailer	.019
Receiving-End Dump Truck	.039
Receiving-Overall Average	.029
Load-out	.008
Receiving-Dump Pit Dust Control Baffle Efficiency	21%

Floor Dust

Two supplemental tests were also conducted as part of the OSU Grain Dust Emission Study. Prior to opening the dump shed doors the floor was completely swept after each test and the amount of material recovered was carefully weighed and bagged. These measurements were not intended to reflect dust emissions since the test had been carefully designed to capture all

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airborne dust in the filter bag system. The amount of floor dust collected ranged from 50% to 178% of the airborne dust, depending on the operation and truck type. The load-out operation resulted in the lowest ratio of floor dust to airborne dust. The design of the dust capture system may have been partially responsible for the low ratio of floor dust captured during the load-out process. The suction inlet pipe was positioned directly in line with, and fairly close to the load-out spout. The air capture system may have been collecting both light, normally airborne, and heavier, not normally airborne, particles during the load-out tests.

The second supplemental study was designed to document the amount of "floor dust" normally recovered by elevator crews during OSHA mandated housekeeping procedures. This amount was determined by conducting the unloading operations with the doors open, sweeping the dump shed and weighing the amount of dust recovered. The material recovered during housekeeping procedures averaged 42% of the total floor dust. The results of these supplemental tests are provided in Table 2.

<p align="center">Table 2 OSU Grain Elevator Dust Emission Study Summary of Supplemental Tests</p>		
	Floor Dust (lbs/ton grain handled)	Housekeeping Adjustment* (lbs/ton grain handled)
Receiving-Hopper Bottom Semi Truck	.034	.015
Receiving-End Dump Truck	.049	.021
Receiving-Overall	.042	.018
Load-out	.004	.002
<p>*The housekeeping adjustment for the End-dump (.0208) was determined from four open door floor sweeping tests. The other adjustment factors were estimated using the same ratio (42.58%) of recovered floor dust to total floor dust.</p>		

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Proposed Emission Factors

The proposed emission factors were designed to provide state regulatory agency with easily defensible estimates of grain elevator dust emissions. The factors were created by adding the weight of the floor dust, less the amount recovered during housekeeping procedures, to the airborne dust captured. Adding the adjusted floor dust measurements to the airborne dust collected provides an absolute upper limit on dust emissions since the combined total represents all of the particles separated from the grain, both airborne and non-airborne. While probably overstating actual dust emissions, the proposed emission factors also counter any possible arguments over the airflow rates used in the test. If, despite the documentation to the contrary, it was assumed the airflow was insufficient to capture some airborne dust particles, those particles would have been measured in the floor dust and thus are still included in the emission estimates.

The proposed emission factors are provided in Table 3. The calculations can be illustrated by considering the case of the receiving study with the hopper bottom truck (first line of numbers in Table 3). The amount of airborne dust captured was .019 lbs/ton. An amount of material equal to .034 lbs./ton of grain unloaded was swept from the floor. Based on the supplemental test, conducted with the dump shed doors open, .015 lbs./ton is recovered in normal housekeeping. The proposed emission factor for the receiving operation with hopper bottom trucks is .038 lbs/ton (airborne dust + floor dust - housekeeping adjustment). In this case the proposed emission factor is 200% of actual airborne dust emissions. The calculations for the remaining emission factors follow an identical format.

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Table 3 OSU Grain Elevator Dust Emission Study Calculation of Proposed Emission Factors				
	Airborne (A)	Floor Dust (B)	Housekeeping Adjustment (C)	Proposed Emission Factors (A+B-C)
Receiving-Hopper Bottom	.019	.034	.015	.038
Receiving-End Dump	.039	.049	.021	.067
Receiving-Overall	.029	.042	.018	.053
Load-out*	.008	.004	.002	.011
Receiving-Dump Pit Dust Control Baffle Efficiency	21%	**	Not Applicable	21%
*Columns do not add to proposed emission factor due to rounding				
** The baffles were more effective in controlling floor dust (52% efficiency)				

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-25 Visible Emissions and Particulates

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-25 SIP Revision

CHAPTER 100: AIR POLLUTION CONTROL

SUBCHAPTER 25. ~~SMOKE, VISIBLE EMISSIONS AND PARTICULATES~~

Section

252:100-25-1. Purpose [AMENDED]

252:100-25-2. General prohibition [AMENDED]

252:100-25-2.1 Definitions [NEW]

252:100-25-3. ~~Smoke, visible emissions and particulates~~ Opacity limit [AMENDED]

252:100-25-4. Alternative for particulates [AMENDED]

252:100-25-5. Continuous emission monitoring for opacity [NEW]

252:100-25-1. Purpose

The purpose of this Subchapter is to control ~~the amount of smoke,~~ visible emissions and ~~particulates-particulate matter~~ from the operation of any air contaminant source.

252:100-25-2. General prohibition

(a) ~~No person owning, leasing, or controlling the operation of any air contaminant source shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the emission from said air contaminant source of such quantities of air contamination as will cause a condition of air pollution~~ No owner or operator of any air contaminant source shall allow emissions from said source so as to cause or contribute to air pollution.

(b) ~~All installations shall comply with this Subchapter upon and after February 1, 1984.~~

252:100-25-2.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

“One-hour period” means, for units with an operable Continuous Opacity Monitor (COM), any 60-minute period commencing on the hour.

“Opacity” means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

“Six-minute period” means, for units with an operable COM, any one of the ten equal parts of a one-hour period.

“Unit” means any piece of equipment that has the potential to emit air contaminants in the form of visible emissions.

252:100-25-3. ~~Smoke, visible emissions and particulates~~ Opacity limit

(a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.

(a)(b) ~~No person shall cause, suffer, allow, or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof of a shade or density exhibiting greater than twenty (20) percent equivalent 20% opacity~~ except for:

~~(b) Subsection 252:100-25-3(a) shall not apply to:~~

- ~~(1) Smoke or visible emissions emitted during the cleaning of a fire, the building of a new fire or the blowing of soot from boilers, or other short term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than 20 minutes in any 24-hour period. Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences which consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.~~
- (2) Smoke resulting from fires covered by the exceptions outlined in 252:100-13-7.
- (3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of 252:100-25-3(a).
- (4) Smoke generated due to a malfunction in a facility, ~~wherein~~ when the source of the fuel, ~~which in being burned produces~~ producing the smoke, is not under the direct and immediate control of the facility and ~~wherein~~ the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property upstream from the facility to the point of the fuel source.

(c) To determine compliance with this Section, opacity shall be read by either:

- (1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix, A).
- (2) A COM installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

252:100-25-4. Alternative for particulates

(a) ~~The 20 percent~~ 20% opacity limit as required under 252:100-25-3 may be increased, for particulates only, provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that:

- ~~(1) that the owner/operator~~ The owner or operator has installed air pollution control equipment to attempt to control both visible and particulate matter emissions to the limit required by applicable Subchapters;
- ~~(2)(2) that the~~ The pollution control equipment ~~so installed has been properly maintained, is in good working order and is operated so as to minimize emissions;~~
 - (A) Has been properly maintained.
 - (B) Is in good working order.
 - (C) Is operated to minimize emissions.
- ~~(3) that the~~ The installed control equipment does not, ~~in fact,~~ control opacity to the limit required in 252:100-25-3;
- ~~(4) that the owner/operator~~ The owner or operator has conducted stack test(s) using appropriate test methods as approved by the ~~Air Quality~~ Division to determine mass emissions at maximum allowed capacity and has determined such emissions meet all applicable particulate matter requirements (i.e., permit limit, rule limit, process limit); and,

- (5) ~~that the owner/operator conducts~~ The owner or operator has conducted detailed modeling and/or and other measures (e.g., monitoring) deemed necessary by the Executive Director (e.g., monitoring) to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m³ 24-hour PM-10 24-hour average at any point of impact or 1 ug/m³ PM-10 annual average at any point of impact.
- (b) Upon completion of the demonstration specified in (a) of this Section, the opacity allowed will be as based on the opacity read by an Oklahoma a Certified Visible Emission Evaluator at the time of the maximum operation stack test.
- (c) ~~All applications~~ Applications for an alternative under 252:100-25-4 will be submitted to the Director of Air Quality the Division for his review and recommendation to the Air Quality Council for final action.

252:100-25-5. Continuous emission monitoring for opacity

- (a) Continuous monitoring of opacity is required for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators in accordance with 40 CFR Part 51, Appendix P, which is hereby incorporated by reference as it existed on July 1, 1998.
- (b) Owners or operators of these emission sources shall:
- (1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity.
 - (2) Complete the installation and performance tests of such equipment and begin monitoring and recording by January 1, 2001.
- (c) This section shall not apply to:
- (1) Sources already subject to a new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act..
 - (2) Sources scheduled for retirement within 5 years after the effective date of this rule, provided adequate evidence and guarantees are available to show the source will cease operations prior to such date.
- (d) Alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. For example, the following alternative monitoring requirements may be used for natural gas-fired facilities that burn oil on an emergency basis only (including periodic system testing not to exceed 40 hours per calendar year):
- (1) A Certified Visible Emission Evaluator shall read visual emissions once per day when fuel oils are burned.
 - (2) Visual emissions readings shall be conducted in accordance with EPA Test Method 9 (40 CFR Part 60, Appendix A).
 - (3) Records of fuel oil burned (including type, amount, and duration burned) and visible emissions read shall be maintained for 2 years.

Oklahoma Register

Notices of Rulemaking Intent

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Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-304]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

Proposed rules:

252:100. Air Pollution Control

Subchapter 4. New Source Performance Standards

[NEW]

Summary:

A new Subchapter 4 is proposed for the purpose of establishing state standards for certain new or modified facilities in accordance with the authority delegated by the EPA under Section 111(c) of the federal Clean Air Act.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Monday, March 16, 1998, through Tuesday, April, 21, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, April 14, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, June 9, 1998 - 9:30 a.m. in Claremore (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, April 21, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rule will be available March 16, 1998, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #98-304; filed 2-20-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-305]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Proposed rules:

252:100. Air Pollution Control

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Summary:

The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act.

COMMENT PERIOD:

Monday, March 16, 1998, through Tuesday, April, 21, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, April 14, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, June 9, 1998 - 9:30 a.m. in Claremore (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, April 21, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air

Notices of Rulemaking Intent

Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rule will be available March 16, 1998, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #98-305; filed 2-20-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 200. HAZARDOUS WASTE MANAGEMENT

[OAR Docket #98-315]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT Rulemaking

Proposed rules:

252:200. Hazardous Waste Management [AMENDED]

Summary:

The proposed rule-rewrite for all of 252:200 is an initiative by the DEQ to simplify and clarify hazardous waste rules without making substantive changes.

AUTHORITY:

Environmental Quality Board and Hazardous Waste Management Council powers and duties, 27A O.S.Supp. 1997 §§ 2-2-101, 2-2-104, 2-2-201 and 2-7-106

COMMENT PERIOD:

Deliver or mail written comments to the contact person from March 16, 1998 through April 6, 1998. Oral comments may be made at the meeting of the Hazardous Waste Management Advisory Council, April 8, 1998 at 10:00 a.m. at a location to be determined in Tulsa, Oklahoma, or at the meeting of the Environmental Quality Board, June 9, 1998 in Claremore, Oklahoma at a time and place to be determined.

PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council April 8, 1998, at 10:00 a.m. at a location to be determined in Tulsa, Oklahoma

COPY OF PROPOSED RULE:

The proposed rule may be obtained from the contact person and reviewed at the Department of Environmental Quality, 1000 N.E. Tenth Street, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rule will be on file in Room 1214 of the Department of Environmental Quality, 1000 N.E. Tenth Street, Oklahoma City, Oklahoma and may be requested from the contact person.

CONTACT PERSON:

Jerry J. Sanger, (405) 271-5338, 1000 N.E. Tenth Street, Room 1204, Oklahoma City, Oklahoma, 73117-1212

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Number 232-0591.

[OAR Docket #98-315; filed 2-20-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 200. HAZARDOUS WASTE MANAGEMENT

[OAR Docket #98-315a]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY Rulemaking

Proposed Rules:

252:200-3. General Provisions [AMENDED]

Summary:

The proposed amendments to 252:200-3-2 in conjunction with proposed new 252:200-3-7 and federal regulations adds mercury-containing lamps to the state list of Universal Wastes.

AUTHORITY:

Environmental Quality Board and Hazardous Waste Management Council powers and duties, 27A O.S.Supp. 1997 §§ 2-2-101, 2-2-104, 2-2-201 and 2-7-106

COMMENT PERIOD:

Deliver or mail written comments to the contact person from March 16, 1998 through April 6, 1998. Oral comments may be made at the meeting of the Hazardous Waste Management Advisory Council, April 8, 1998 at 10:00 a.m. at a location to be determined in Tulsa, Oklahoma, or at the meeting of the Environmental Quality Board, June 9, 1998

Notices of Rulemaking Intent

COMMENT PERIOD:

Friday, May 15, 1998, through Tuesday, June 16, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, June 9, 1998. A hearing for these proposed rules is also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva, Oklahoma. (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, June 16, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Tulsa City-County Health Department (newly located at the northeast corner of 51st and 129th), 5051 South 129th East, Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available May 15, 1998, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247. The address and phone number for Ms. Bradley will change during May 1998. The exact date has not yet been determined. Before submitting any written comments, contact Ms. Bradley for the appropriate address.

ADDITIONAL INFORMATION:

The Air Quality Division will move in May 1998. The new address is Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City, Oklahoma, 73102. The Air Quality Division's new phone number will be (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #98-797; filed 4-24-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-798]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed rules:

252:100. Air Pollution Control

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Summary:

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Friday, May 15, 1998, through Tuesday, June 16, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, June 16, 1998, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rule will be available May 15, 1998, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247. The address and phone number for Ms. Buttram will change during May 1998. The exact date has not yet been determined. Before submitting any written comments, contact Ms. Buttram for the appropriate address.

ADDITIONAL INFORMATION:

This rule was originally scheduled for public hearing at the April 21, 1998, meeting of the Air Quality Council, which was cancelled for lack of a quorum. An updated version of the proposal, incorporating written comments received from the public, is now available.

The Air Quality Division will move in May 1998. The new address is Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City,

Oklahoma, 73102. The Air Quality Division's new phone number will be (405)702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #98-798; filed 4-24-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-799]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

Proposed rules:

- 252:100. Air Pollution Control
- Subchapter 4. New Source Performance Standards [NEW]

Summary:

A new Subchapter 4 is proposed for the purpose of establishing state standards for certain new or modified facilities in accordance with the authority delegated by the EPA under section 111(c) of the federal Clean Air Act.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Friday, May 15, 1998, through Tuesday, June 16, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, June 16, 1998, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rule will be available May 15, 1998, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247. The address and phone number for Ms. Martinez will change during May 1998. The exact date has not yet been determined. Before submitting any written

comments, contact Ms. Martinez for the appropriate address.

ADDITIONAL INFORMATION:

The Air Quality Division will move in May 1998. The new address is Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City, Oklahoma, 73102. The Air Quality Division's new phone number will be (405) 702-4100.

This rule was originally scheduled for public hearing at the April 21, 1998, meeting of the Air Quality Council, which was cancelled for lack of a quorum.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #98-799; filed 4-24-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 400. RADIATION MANAGEMENT**

[OAR Docket #98-789]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT Rulemaking.

Proposed rules:

- 252:400-1-1. Purpose [AMENDED]
- 252:400-1-3. Exemptions from the regulatory requirements [AMENDED]
- 252:400-1-4. General regulatory requirements [AMENDED]
- 252:400-1-5. Compliance required [NEW]
- 252:400-1-6. Incorporation statement [NEW]
- Subchapter 2. State Agreement Program [NEW]
- Subchapter 3. Registration of radiation machines, [AMENDED]
- Subchapter 4. Certification of industrial radiographers [NEW]
- Subchapter 5. Facility registration permitting and Fees [REVOKED]
- Subchapter 7. Authorization procedures [AMENDED]
- Subchapter 9. Standards for Protection Against Radiation [AMENDED]
- Subchapter 13. Industrial and Analytical X-Ray Equipment [AMENDED]
- Subchapter 14. Industrial Radiography [NEW]
- Subchapter 17. XRF Fluorescence Instruments Used for Lead-Based Paint Detection [AMENDED]
- Subchapter 21. Radionuclide NESHAPS [NEW]
- Appendices A through C [REVOKED]
- Appendix D. Acceptable surface contamination [REVOKED]
- Appendix E. Fee Schedule for Radiation Management [AMENDED]

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1216]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed rules:

252:100. Air Pollution Control

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke. Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Summary:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to Subchapter 7 will delete the lower limit of 5 tons per year for

Permit by Rule (PBR) facilities. This will allow the facilities with less than 5 tons per year emissions, which subject to new source performance standards (NSPS) national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/delete initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix I is proposed which contains PM-10 emission factors for PM grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix I requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 23 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Two substantive changes are proposed for

Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Room 101, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the version of Subchapter 25 that was the subject of the hearing on June 16, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1216; filed 6-25-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-1217]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

Proposed rules:

252:100, Air Pollution Control: Subchapter 47, Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

Summary:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must put a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1259]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED].

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

SUMMARY:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to

Subchapter 7 will delete the lower limit of 5 tons per year Permit by Rule (PBR) facilities. This will allow the facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/delete initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix L requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and

Notices of Rulemaking Intent

reformatting. Two substantive changes are proposed for Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to a previous version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

AN IDENTICAL NOTICE WAS PUBLISHED IN THE OKLAHOMA REGISTER ON JULY 15, 1998. AFTER PUBLICATION, THE COUNCIL MEETING LOCATION WAS CHANGED TO 4545 N. LINCOLN BLVD., BURGUNDY ROOM, OKLAHOMA CITY, OKLAHOMA. NO OTHER CHANGES WERE MADE TO THIS NOTICE.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1259; filed 7-9-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1260]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 47. Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

SUMMARY:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1358]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 8. Permits for Part 70 Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

SUMMARY:

In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a

PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no PBR has been written, the opportunity to apply for coverage under an applicable general permit. The Department also proposes to delete the definition for "Volatile Organic Solvents (VOS)," because the proposed changes to Subchapters 37 and 39 would exclude that term from the rules.

The Department is considering increases in the permit application fees in both Subchapters 7 and 8.

The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to both subchapters follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow such exceedances during one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. Other

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Notices of Rulemaking Intent

proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Three substantive changes are proposed for each Subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; a request dated April 21, 1997, from the Halogenated Solvents Industry Alliance, requesting that perchloroethylene be excluded from the definition of VOC; a request from Dow Corning that methylated siloxanes be excluded from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, that methyl acetate be excluded from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c). In addition, the Department is requesting comments on 252:100-39-47, Control of VOS Emissions from Aerospace Industries Coatings Operations. Options include (1) retain the present (ARACT) rule and enforce the emissions reduction plan specified therein; (2) repeal the present rule and promulgate new rules regulating specialty coatings; or (3) retain the present plan, promulgate new rules for specialty coatings, and allow the facility to choose which of the two they prefer. These options recognize that the new NESHAP for the aerospace industry controls VOC emissions except for specialty coatings. The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40

CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Tuesday, September 15, 1998, through Tuesday, October 20, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, October 13, 1998

Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 10, 1998 - 9:30 a.m. in Poteau (Location to be determined. See contact person)

PUBLIC HEARINGS:

Tuesday, October 20, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (Subchapters 5 and 8), Michelle Martinez (Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37, 39 and 41). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 7, 23, 24, 25, 37 and 39 that were the subject of a public hearing on August 18, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1358; filed 8-26-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-651]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 25. Smoke, Visible Emissions and Particulates
252:100-25-1 through 252:100-25-2 [AMENDED]
- 252:100-25-3. ~~Smoke, visible emissions and particulates~~ Opacity limit [AMENDED]
- 252:100-25-4 [AMENDED]
- 252:100-25-5. Continuous emission monitoring for opacity [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

May 15, 1998, through June 23, 1998; July 15, 1998, through August 18, 1998; and September 15, 1998 through October 20, 1998

Public hearing:

June 16, August 18; October 20, 1998; and November 10, 1998

Adoption:

November 10, 1998

Submitted to Governor:

November 18, 1998

Submitted to House:

November 18, 1998

Submitted to Senate:

November 18, 1998

Gubernatorial approval:

December 15, 1998

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 1999

Final adoption:

March 24, 1999

Effective:

June 1, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None for 100-25-1 through 100-25-4. Yes for 100-25-5

Incorporated standards:

40 CFR Part 51, Appendix P

Incorporating rule:

100-25-5

Availability:

The standards are available to the public for examination at the Department of Environmental Quality office at 707 N. Robinson, 4th Floor, Oklahoma City, OK

ANALYSIS:

The changes to Subchapter 25 simplify and clarify the rule. Also, they fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired

steam generators as specified in 40 CFR Part 51, Appendix P. Additionally, the rule would exempt from Appendix P requirements sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act from the State opacity standard, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. Other proposed amendments to Subchapter 25 were designed to simplify and clarify the rule.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on October 20, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma 73101-1677. (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 1999.

SUBCHAPTER 25. SMOKE, VISIBLE EMISSIONS AND PARTICULATES

252:100-25-1. Purpose

The purpose of this Subchapter is to control the ~~amount of smoke, visible emissions and particulates~~ particulate matter from the operation of any air contaminant source.

252:100-25-2. General prohibition

(a) ~~No person owning, leasing, or controlling the operation of any air contaminant source shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the emission from said air contaminant source of such quantities of air contamination as will cause a condition of air pollution. No owner or operator of any air contaminant source shall allow emissions from said source so as to cause or contribute to air pollution.~~

(b) All installations shall comply with this Subchapter upon and after February 1, 1984.

252:100-25-2.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"One-hour period" means, for units with an operable Continuous Opacity Monitor (COM), any 60-minute period commencing on the hour.

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Permanent Final Adoptions

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Six-minute period" means, for units with an operable COM, any one of the ten equal parts of a one-hour period.

"Unit" means any piece of equipment that has the potential to emit air contaminants in the form of visible emissions.

252:100-25-3. Smoke, visible emissions and particulates opacity limit

(a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.

(a)(b) No person shall cause, suffer, allow, or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof of a shade or density exhibiting greater than twenty (20) percent equivalent 20% opacity, except for:

(b) Subsection 252:100-25-3(a) shall not apply to:

(1) Smoke or visible emissions emitted during the cleaning of a fire, the building of a new fire or the blowing of soot from boilers, or other short-term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than 20 minutes in any 24-hour period. Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences which consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.

(2) Smoke resulting from fires covered by the exceptions outlined in 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of 252:100-25-3(a).

(4) Smoke generated due to a malfunction in a facility, wherein when the source of the fuel, which is being burned produces producing the smoke, is not under the direct and immediate control of the facility and wherein the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property upstream from the facility to the point of the fuel source.

(c) To determine compliance with this Section, opacity shall be read by either:

(1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).

(2) A COM installed, calibrated, operated and

maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

252:100-25-4. Alternative for particulates

(a) The 20 percent 20% opacity limit as required under 252:100-25-3 may be increased, for particulates only, provided that the owner/operator owner or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that:

(1) that the owner/operator The owner or operator has installed air pollution control equipment to attempt to control both visible and particulate matter emissions to the limit required by applicable Subchapters;

(2) that the The pollution control equipment so installed has been properly maintained, is in good working order and is operated so as to minimize emissions;

(A) Has been properly maintained.

(B) Is in good working order.

(C) Is operated to minimize emissions.

(3) that the The installed control equipment does not, in fact, control opacity to the limit required in 252:100-25-3;

(4) that the owner/operator The owner or operator has conducted stack test(s) using appropriate test methods as approved by the Air Quality Division to determine mass emissions at maximum allowed capacity and has determined such emissions meet all applicable particulate matter requirements (i.e., permit limit, rule limit, process limit); and,

(5) that the owner/operator conducts The owner or operator has conducted detailed modeling and/or and other measures (e.g., monitoring) deemed necessary by the Executive Director (e.g., monitoring) to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m³ 24-hour PM-10 24-hour average at any point of impact or 1 ug/m³ PM-10 annual average at any point of impact.

(b) Upon completion of the demonstration specified in (a) of this Section, the opacity allowed will be as based on the opacity read by an Oklahoma Certified Visible Emission Evaluator at the time of the maximum operation stack test.

(c) All applications Applications for an alternative under 252:100-25-4 will be submitted to the Director of Air Quality the Division for his review and recommendation to the Air Quality Council for final action.

252:100-25-5. Continuous emission monitoring for opacity

(a) Continuous monitoring of opacity is required for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators in accordance with 40 CFR Part 51, Appendix P, which is hereby incorporated by reference as it existed on July 1, 1998.

(b) Owners or operators of these emission sources shall:

(1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity.

(2) Complete the installation and performance tests of such equipment and begin monitoring and recording by January 1, 2001.

(c) This section shall not apply to:

(1) Sources already subject to a new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act.

(2) Sources scheduled for retirement within 5 years after the effective date of this rule, provided adequate evidence and guarantees are available to show the source will cease operations prior to such date.

(d) Alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEO and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. For example, the following alternative monitoring requirements may be used for natural gas-fired facilities that burn oil on an emergency basis only (including periodic system testing not to exceed 40 hours per calendar year):

(1) A Certified Visible Emission Evaluator shall read visual emissions once per day when fuel oils are burned.

(2) Visual emissions readings shall be conducted in accordance with EPA Test Method 9 (40 CFR Part 60, Appendix A).

(3) Records of fuel oil burned (including type, amount, and duration burned) and visible emissions read shall be maintained for 2 years.

[OAR Docket #99-651; filed 4-13-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-650]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants

Part 3. Hazardous Air Contaminants

252:100-41-15 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

September 15, 1998 through October 20, 1998

Public hearing:

October 20, 1998; and November 10, 1998

Adoption:

November 10, 1998

Submitted to Governor:

November 18, 1998

Submitted to House:

November 18, 1998

Submitted to Senate:

November 18, 1998

Gubernatorial approval:

December 15, 1998

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 1999

Final adoption:

March 24, 1999

Effective:

June 1, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

Incorporated standards:

The following Subparts of 40 CFR Part 63 are incorporated by reference in their entirety:

- (1) Subpart A
- (2) Subpart F
- (3) Subpart G
- (4) Subpart H
- (5) Subpart I
- (6) Subpart L
- (7) Subpart M
- (8) Subpart N
- (9) Subpart O
- (10) Subpart Q
- (11) Subpart R
- (12) Subpart S
- (13) Subpart T
- (14) Subpart U
- (15) Subpart W
- (16) Subpart X
- (17) Subpart Y
- (18) Subpart CC
- (19) Subpart DD
- (20) Subpart EE
- (21) Subpart GG
- (22) Subpart II
- (23) Subpart JJ
- (24) Subpart KK
- (25) Subpart LL
- (26) Subpart OO
- (27) Subpart PP
- (28) Subpart QQ
- (29) Subpart RR
- (30) Subpart VV
- (31) Subpart JJJ

The following Subparts of 40 CFR Part 61 are incorporated by reference in their entirety:

- (1) Subpart A
- (2) Subpart C
- (3) Subpart D
- (4) Subpart E
- (5) Subpart F
- (6) Subpart J

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Air Quality Council

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING

**AIR QUALITY COUNCIL
TUESDAY, APRIL 21, 1998**

9:30 A.M.

LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

BRIEFING AGENDA

1. **Call to Order** **Chairman**

2. **Division Director's Report** **Dyke**
Informational update of current events and AQD activities
 - Title V Update
 - Tribal Rule
 - DEQ Relocation
 - Other

3. **PUBLIC HEARING** **Buttram**
OAC 252:100-25 Smoke, Visible Emissions and Particulates
The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
Discussion by Council/Public

4. **PUBLIC HEARING** **Martinez**
OAC 252:100-4 New Source Performance Standards
Proposes a new subchapter, incorporating by reference 40 CFR Part 60, to establish State standards for certain new or modified facilities in accordance with the authority delegated by EPA under Section 111(c) of the CAA.
Discussion by Council/Public

5. **PUBLIC HEARING/INDIVIDUAL PROCEEDING** **Hoffman**
Weyerhaeuser Company is requesting termination of the Order issued by the Council on June 6, 1989, granting Weyerhaeuser's Valliant Facility an alternative opacity limit of 34 % for the black liquor recovery boiler.

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

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DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, APRIL 21, 1998
1:00 P.M.

LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

MEETING/HEARING AGENDA

1. **Call to Order** **Chairman**
2. **Roll Call** **Secretary**
3. **Approval of February 18, 1998 Minutes** **Chairman**
4. **PUBLIC HEARING** **Buttram**
OAC 252:100-25 Smoke, Visible Emissions and Particulates
The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department Proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Discussion by Council/Public; possible action by Council
5. **PUBLIC HEARING** **Martinez**
OAC 252:100-4 New Source Performance Standards
Proposes a new subchapter, incorporating by reference 40 CFR Part 60, to establish State standards for certain new or modified facilities in accordance with the authority delegated by EPA under Section 111(c) of the CAA. Discussion by Council/Public; possible action by Council
6. **PUBLIC HEARING/INDIVIDUAL PROCEEDING** **Hoffman**
Weyerhaeuser Company is requesting termination of the Order issued by the Council on June 6, 1989, granting Weyerhaeuser's Valliant Facility an alternative opacity limit of 34 % for the black liquor recovery boiler.
7. **New Business** **Chairman**
Discussion/consideration of subjects/business arising within the past 24 hours; possible action by Council.
8. **Adjournment** **Chairman**
Next Regular Meeting **TUESDAY, JUNE 16, 1998**
5051 South 129th East, Tulsa
(Northeast corner of 5th and 129th)

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 290-8247.

6769

April 1, 1998

MEMORANDUM

TO: Air Quality Council

FROM: David Dyke, Interim Division Director
Air Quality Division *DD*

SUBJECT: Modifications to Subchapter 25

Enclosed is a copy of the proposed draft modifications to Subchapter 25, Smoke, Visible Emissions and Particulates. Also enclosed is a copy of 40 CFR Part 51, Appendix P, which will be incorporated by reference in the rule. The rule will be brought to public hearing on April 21, 1998. The proposed modifications to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. In order to adequately respond to comments received, the staff will recommend that the hearing on this matter be carried on to the Council's June 16 meeting.

Enclosures: 2

TITLE 252 DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 25. SMOKE, VISIBLE EMISSIONS AND PARTICULATES

252:100-25-1. Purpose

The purpose of this Subchapter is to control the amount of smoke, visible emissions and particulates from the operation of any air contaminant source.

252:100-25-2. General prohibition; effective date

(a) ~~No person owning, leasing, or controlling the operation~~ owner or operator of any air contaminant source shall ~~willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the emission from said air contaminant source of such quantities of air contamination~~ permit smoke, visible emissions or particulates to be discharged from said source so as to as will cause a condition of air pollution.

(b) Effective February 1, 1984, Allall installations shall comply with this Subchapter ~~upon and after February 1, 1984.~~

252:100-25-3. ~~Smoke, visible emissions and particulates~~ Opacity limit

(a) No person shall ~~cause, suffer, allow, or permit~~ the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof of a shade or density greater than twenty (20) percent equivalent opacity.

(b) Subsection 252:100-25-3(a) shall not apply to:

(1) ~~Smoke or visible emissions emitted during the cleaning of a fire, the building of a new fire or the blowing of soot from boilers, or other short term occurrences, with a~~ the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than 20 minutes in any 24-hour period.

(2) Smoke resulting from fires covered by the exceptions outlined in 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of 252:100-25-3(a).

(4) Smoke generated due to a malfunction in a facility, ~~where in when~~ the source of the fuel, ~~which is being burned produces~~ producing the smoke, is not under the direct and immediate control of the facility and ~~wherein~~ the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property upstream from the facility to the point of the fuel source.

252:100-25-4. Alternative for particulates

DRAFT - March 18, 1998

(a) The 20 percent opacity limit as required under 252:100-25-3 may be increased, for particulates only, provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that:

(1) ~~that the~~The ~~owner/operator~~ owner or operator has installed air pollution control equipment to attempt to control both visible and particulate matter emissions to the limit required by applicable Subchapters.

(2) ~~that the~~The pollution control equipment ~~so installed has been properly maintained, is in good working order and is operated so as to minimize emissions,~~

(A) Has been properly maintained.

(B) Is in good working order.

(C) Is operated to minimize emissions.

(3) ~~that the~~The installed control equipment does not, ~~in fact,~~ control opacity to the limit required in 252:100-25-3.

(4) ~~that the~~The ~~owner/operator~~ owner or operator has conducted stack test(s) using appropriate test methods as approved by the Air Quality Division to determine mass emissions at maximum allowed capacity (i.e., permit limit, rule limit, process limit), ~~and,~~

(5) ~~that the~~The ~~owner/operator~~ owner or operator conducts detailed modeling and/or other measures deemed necessary by the Executive Director (e.g., monitoring) to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m³ 24-hour average at any point of impact or 1 ug/m³ annual average at any point of impact.

(b) Upon completion of the demonstration specified in (a) of this Section, the opacity allowed will be the opacity as read by an Oklahoma Certified Visible Emission Evaluator at the time of the maximum operation stack test.

(c) ~~All applications~~ Applications for an alternative under 252:100-24-4 will be submitted to the Director of Air Quality Division for his review and recommendation to the Air Quality Council for final action.

252:100-25-5. Continuous emission monitoring for opacity

(a) Continuous monitoring of opacity is required for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries in accordance with 40 CFR Part 51, Appendix P, which is hereby incorporated by reference as it existed on July 1, 1997.

(b) Owners or operators of these emission sources shall:

(1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity.

(2) Complete the installation and performance tests of such equipment and begin monitoring and recording within 18 months after promulgation of the rule.

(c) This section shall not apply to:

(1) Sources already subject to a new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111

of the Clean Air Act.

(2) Sources scheduled for retirement within 5 years after the effective date of this rule, provided adequate evidence and guarantees are available to show the source will cease operations prior to such date.

DRAFT - March 18, 1998

6777

The
April 21, 1998
meeting of the
Air Quality Council
was cancelled
for lack of a
quorum.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-798]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed rules:

252:100. Air Pollution Control
Subchapter 25. Smoke, Visible Emissions and
Particulates [AMENDED]

Summary:

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Friday, May 15, 1998, through Tuesday, June 16, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, June 16, 1998, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rule will be available May 15, 1998, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247. The address and phone number for Ms. Buttram will change during May 1998. The exact date has not yet been determined. Before submitting any written comments, contact Ms. Buttram for the appropriate address.

ADDITIONAL INFORMATION:

This rule was originally scheduled for public hearing at the April 21, 1998, meeting of the Air Quality Council, which was cancelled for lack of a quorum. An updated version of the proposal, incorporating written comments received from the public, is now available.

The Air Quality Division will move in May 1998. The new address is Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City,

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING

AIR QUALITY COUNCIL

TUESDAY, JUNE 16, 1998

9:30 A.M.

New Location – 5051 South 129th East
Tulsa, Oklahoma

BRIEFING AGENDA

1. Call to Order

2. Division Director's Report

Chairman
Dyke

Informational update of current events and AQD activities

- Title V Update
- Tribal Rule
- DEQ Relocation
- Other

3. PUBLIC HEARING

Buttram

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Discussion by Council/Public

4. PUBLIC HEARING

Martinez

OAC 252:100-4 New Source Performance Standards [NEW]

Proposes a new subchapter, incorporating by reference 40 CFR Part 60, to establish State standards for certain new or modified facilities in accordance with the authority delegated by EPA under Section 111(c) of the CAA. Discussion by Council/Public

5. PUBLIC HEARING

Bradley

OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills, that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.) Discussion by Council/Public

6. **INDIVIDUAL PROCEEDING**

Hoffman

Weyerhaeuser Company is requesting termination of the Order issued by the Council on June 6, 1989 granting Weyerhaeuser's Valliant Facility an alternative opacity limit of 34% for the black liquor recovery boiler.

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 702-4100.

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, JUNE 16, 1998

1:00 P.M.

New Location – 5051 South 129th East
Tulsa, Oklahoma

MEETING/HEARING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of February 18, 1998 Minutes Chairman
4. PUBLIC HEARING Buttram
OAC 252:100-25 Smoke, Visible Emissions and Particulates[AMENDED]
The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department Proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Discussion by Council/Public; possible action by Council
5. PUBLIC HEARING Martinez
OAC 252:100-4 New Source Performance Standards [NEW]
Proposes a new subchapter, incorporating by reference 40 CFR Part 60, to establish State standards for certain new or modified facilities in accordance with the authority delegated by EPA under Section 111(c) of the CAA. Discussion by Council/Public; possible action by Council
6. PUBLIC HEARING Bradley
OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills, that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.) Discussion by Council/Public; possible action by Council

7. **INDIVIDUAL PROCEEDING** **Hoffman**
Weyerhaeuser Company is requesting termination of the Order issued by the Council on June 6, 1989 granting Weyerhaeuser's Valliant Facility an alternative opacity limit of 34% for the black liquor recovery boiler.
8. **New Business** **Chairman**
Discussion/consideration of subjects/business arising within the past 24 hours; possible action by Council
9. **Adjournment** **Chairman**
Next Regular Meeting **TUESDAY, AUGUST 18, 1998**
DEQ Tower First Floor
707 North Robinson
Oklahoma City, OK

May 28, 1998

MEMORANDUM

TO: Air Quality Council

FROM: David Dyke, Interim Division Director
Air Quality Division 

SUBJECT: Modifications to Subchapter 25

Enclosed is a copy of the proposed draft modifications to Subchapter 25, Smoke, Visible Emissions and Particulates. Also enclosed is a copy of 40 CFR Part 51, Appendix P, which will be incorporated by reference in the rule. The rule will be brought to public hearing on June 16, 1998. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. In order to adequately respond to comments received, the staff will recommend that the hearing on this matter be carried on to the Council's August 18 meeting.

Enclosures: 2

TITLE 252 DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 25. SMOKE, VISIBLE EMISSIONS AND PARTICULATES

252:100-25-1. Purpose

The purpose of this Subchapter is to control ~~the amount of smoke,~~ visible emissions and ~~particulates~~ from the operation of any air contaminant source.

252:100-25-2. General prohibition

~~(a) No person owning, leasing, or controlling the operation owner or operator of any air contaminant source shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the emission from said air contaminant source of such quantities of air contamination allow visible emissions to be discharged from said source so as to as will cause or contribute to a condition of air pollution.~~

~~(b) All installations shall comply with this Subchapter upon and after February 1, 1984.~~

252:100-25-3. ~~Smoke, visible emissions and particulates~~ Opacity limit

(a) No person shall ~~cause, suffer, allow, or permit~~ allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof of a shade or density greater than twenty (20) percent equivalent opacity.

(b) Subsection 252:100-25-3(a) shall not apply to:

(1) ~~Smoke or visible~~ Visible emissions, the shade or density of which is greater than twenty (20) percent but not more than sixty (60) percent opacity, emitted during the cleaning of a fire, the building of a new fire or the blowing of soot from boilers, or other short term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than 20 minutes in any 24-hour period.

(2) Smoke resulting from fires covered by the exceptions outlined in 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of 252:100-25-3(a).

(4) Smoke generated due to a malfunction in a facility, where in when the source of the fuel, ~~which is being burned produces~~ producing the smoke, is not under the direct and immediate control of the facility and ~~wherein~~ the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property upstream from the facility to the point of the fuel source.

252:100-25-4. Alternative for particulates

(a) The 20 percent opacity limit as required under 252:100-25-3 may be increased, for particulates only, provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that:

(1) ~~that the~~The owner/operator ~~owner or operator~~ has installed air pollution control equipment to attempt to control both visible and particulate matter emissions to the limit required by applicable Subchapters, ~~and~~.

(2) ~~that the~~The pollution control equipment ~~so installed has been properly maintained, is in good working order and is operated so as to minimize emissions,~~

(A) Has been properly maintained.

(B) Is in good working order.

(C) Is operated to minimize emissions.

(3) ~~that the~~The installed control equipment does not, ~~in fact,~~ control opacity to the limit required in 252:100-25-3, ~~and~~.

(4) ~~that the~~The ~~owner/operator~~ owner or operator has conducted stack test(s) using appropriate test methods as approved by the Air Quality Division to determine mass emissions at maximum allowed capacity and has determined such emissions meet all applicable particulate matter requirements (i.e., permit limit, rule limit, process limit) ~~and~~.

(5) ~~that the~~The ~~owner/operator~~ owner or operator ~~has conducted~~ conducts detailed modeling and/or other measures deemed necessary by the Executive Director (e.g., monitoring) to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m³ PM-10 24-hour average at any point of impact or 1 ug/m³ PM-10 annual average at any point of impact.

(b) Upon completion of the demonstration specified in (a) of this Section, the opacity allowed will be based on the opacity as read by ~~an Oklahoma~~ a Certified Visible Emission Evaluator at the time of the maximum operation stack test.

(c) ~~All applications~~ Applications for an alternative under 252:100-25-4 will be submitted to the Director of Air Quality Division for his review and recommendation to the Air Quality Council for final action.

252:100-25-5. Continuous emission monitoring for opacity

(a) Continuous monitoring of opacity is required for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators in accordance with 40 CFR Part 51, Appendix P, which is hereby incorporated by reference as it existed on July 1, 1997.

(b) Owners or operators of these emission sources shall:

(1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity.

(2) Complete the installation and performance tests of such equipment and begin monitoring and recording within 18 months after promulgation of this section.

(c) This section shall not apply to:

(1) Sources already subject to a new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act.

(2) Sources scheduled for retirement within 5 years after the effective date of this rule, provided adequate evidence and guarantees are available to show the source will cease operations prior to such date.

(d) Alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. For example, the following alternative monitoring requirements may be used for natural gas-fired facilities that burn oil on an emergency basis only:

(1) A Certified Visible Emission Evaluator shall read visual emissions on a daily basis when fuel oils are burned.

(2) Visual emissions readings shall be conducted in accordance with EPA Reference Method 9.

(3) Daily records of the types of fuel burned and visible emissions read shall be maintained for two (2) years.

MINUTES
AIR QUALITY COUNCIL
June 16, 1998
5051 South 129th Street
Tulsa, OK

Council Members Present

William B. Breisch, Chairman
Gary Kilpatrick
Meribeth Slagell
Sharon Myers
David Branecky
Fred Grosz
Joel Wilson

Staff Present

David Dyke
Dennis Doughty
Scott Thomas
Barbara Hoffman
Ray Bishop
Linn Wainner
Michelle Martinez
Cheryl Bradley
Jeanette Buttram
Eddie Terrill
Myrna Bruce

Council Members Absent

Marilyn Andrews
Larry Canter

Guests Present

****see attached list**

PUBLIC MEETING

Notice of Public Meeting for June 16, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room and also at the old location. Due to location change and notice restraints, this meeting was changed to a Special Meeting because location change had not been made to Office of Secretary of State more than ten days prior to the meeting. The Regular Meeting was cancelled and a Special Meeting was set for the same date.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Ms. Myers - aye; Mr. Breisch - aye. Ms. Andrews and Dr. Canter were absent.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the February 18, 1998 Public Meeting/Hearings. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Ms. Myers - aye; Mr. Breisch - aye. Ms. Andrews and Dr. Canter were absent.

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [Amended]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position on this rule. Ms. Buttram advised Council that proposed changes to this rule were to simplify and clarify the rule and to fulfill an EPA State Implementation Plan (SIP) requirement concerning Continuous Emission Monitoring (CEM); specifically, to make the federal standards and SIP requirements compatible by incorporating by reference the federal opacity monitoring requirements for existing catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators as specified in 40CFR51, Appendix P. Ms. Buttram reviewed Appendix P of 40CFR Part 51 which contains the requirements for preparation, adoption, and submittal of state implementation plans that lists the minimum emission monitoring requirements for continuous emission monitoring and recording that each SIP must include. Ms. Buttram then reviewed the proposed changes and stated that staff's recommendation was to continue the hearing to the August 18, 1998 Council meeting. After discussion, Chairman Breisch asked for a motion and Ms. Myers made the second. Roll call was as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

PUBLIC HEARING

OAC 252:100-4 New Source Performance Standards [NEW]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who gave an overview of the new subchapter. Ms. Martinez pointed out that the new rule would incorporate by reference the federal new source performance standards (NSPS) as they existed on July 1, 1997. Ms. Martinez advised that it was staff's request that Council recommend this new rule to the Environmental Quality Board as a permanent and emergency rule.

After discussion, Chairman Breisch asked for motion. Motion was made by Mr. Kilpatrick that Council adopt the proposed new subchapter 4 for both emergency and permanent and recommend same for adoption by the Environmental Quality Board. Second was made by Ms. Slagell with roll call as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

PUBLIC HEARING

OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley to give staff recommendations on this rule. Ms. Bradley advised that this new rule would establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 10, 1991 and accepted waste after November 8, 1987. She pointed out that the rule will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines for MSW landfills. Ms. Bradley pointed out that the draft 111(d) Plan had been

presented to the Solid Waste Management Advisory Council at its April 16, 1998 hearing. It's members voted to support the Air Quality Council's approval of any rules necessary to complete Oklahoma's state 111(d) Plan.

After further discussion, Chairman Breisch entertained a motion to continue the hearing to Council's August 18 meeting. Ms. Myers made that motion with second made by Mr. Grosz. Roll call as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

INDIVIDUAL PROCEEDING -- WEYERHAEUSER

As hearing officer, David Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A Oklahoma Statutes. Mr. Dyke pointed out that the purpose of this individual proceeding was to respond to the request made by Weyerhaeuser Company for the termination of their alternate opacity limits granted by Council Order on June 6, 1989. Mr. Dyke called upon Barbara Hoffman to give staff position on this request.

Ms. Hoffman advised that on June 6, 1989, the Council granted Weyerhaeuser's request for an alternative opacity limit allowing the company's Valiant facility to have an opacity limit of 34%. Weyerhaeuser is at this time requesting that Order be terminated. Ms. Hoffman advised that staff supports the request and called upon Mike Woods, Weyerhaeuser, to explain why the alternative opacity limit is no longer needed. Following discussion, Chairman Breisch entertained motion to OK this termination. Mr. Branecky made motion to terminate this Order and second was made by Mr. Grosz. Roll call as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being August 18, 1998 at newly relocated DEQ Tower, 707 North Robinson, Room 101, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID R. DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

JUNE 16, 1998

	NAME / AFFILIATION	ADDRESS
1	RICK ROGERS / GLOBAL COMP. SERV.	10903 So. 8th E. AVE TULSA OK 74133
2	LARRY A. SECREST / Global Comp. Serv.	924 Brown Ave Stillwater OK 74075
3	David Emery Phillips Petroleum	12-AZ Phillips Bldg P.O. Box 1041 Hot Springs, AR 71913
4	MIKE WOOD Weyerhaeuser	
5	FRANK CONDON EQ BOARD	
6	Tom Digg EPA Region 6	1445 Ross Ave Dallas, TX 75202
7	Perry Friedrich / Grand River Dam Authority	PO Box 10 Chouteau OK 74401
8	Don Pugh / American Airlines	PO Box 582809, MD 5 TULSA, OK 74158-2
9	LARRY MOORE / WHIRLPOOL	7301 WHIRLPOOL DRIVE TULSA OK 74117
10	DUSTIN GIVENS : Steve Landers / Fort James	4901 Chandler Muskogee, 74451
11	GILL LUTON FORT JAMES	11
12	Frank Erwin - City of Tulsa	2445 S Jackson Ave
13	ROBERT A. ELLINGTON ARMSTRONG	4115 N. PERKINS, ST. LUKE
14	Pat Davenport / National Std.	3602 N. Perkins Rd St. Luke
15	Roger Farmer / Power Smith Cogen	2500 S. Council OK
16	Bruce Bawler / SINUSIL OIL CORP	PO BOX 910 TULSA, OK 74110
17	Roger Miner / BFT	1225 N 161 st E Ave Tulsa
18		

BRIEFING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 9:30 A.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

1. **Call to Order** Chairman
2. **Division Director's Report** Dyke
Informational update of current events and AQD activities

PUBLIC HEARINGS

3. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public
4. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
5. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public
6. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public

7. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
Discussion by Council/Public
8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
Discussion by Council/Public
9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
Discussion by Council/Public
10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
Discussion by Council/Public
11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
Discussion by Council/Public

HEARING/MEETING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 1:00 P.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

- | | | |
|----|---|-----------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Approval of June 16, 1998 Minutes | Chairman |
| 4. | Resolutions – Bill Fishback – Marilyn Andrews | |

PUBLIC HEARINGS

5. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public; possible action by Council
6. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
7. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public; possible action by Council
8. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public; possible action by Council

9. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
 The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
 Discussion by Council/Public; possible action by Council

10. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public; possible action by Council

11. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public; possible action by Council

12. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
 Discussion by Council/Public; possible action by Council

13. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
 Discussion by Council/Public; possible action by Council

14. **New Business** **Chairman**
 Discussion/consideration of subjects/business arising within the past 24 hours
 Possible action by Council

15. **Adjournment** **Chairman**
 Next Regular Meeting **TUESDAY, OCTOBER 20, 1998**
 Tulsa City-County Auditorium
 5051 South 129th East Tulsa OK

July 20, 1998

MEMORANDUM

TO: Air Quality Council

FROM: David Dyke, Interim Division Director
Air Quality Division *DD*

SUBJECT: Modifications to Subchapter 25

Enclosed in the council packet are a copy of the proposed draft modifications to Subchapter 25, Smoke, Visible Emissions and Particulates; a copy of 40 CFR Part 51, Appendix P; a rule impact statement; comments received from OG&E and Fort Howard; and a Summary of Comments and Staff's Responses. Originally Subchapter 25 was brought before the council on June 16, 1998. During that meeting staff recommended the rule be brought to public hearing on August 18, 1998. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Thus, 40 CFR Part 51, Appendix P, will be incorporated by reference in the rule. Additionally, Staff proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements.

Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. The revised time periods are consistent with the methods historically used by the Department for determining compliance with the opacity limits. These methods are now specified in a new subsection. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

Staff will suggest that the proposed rule be recommended to the Board for permanent adoption.

Enclosures: 6

6801

TITLE 252 DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 25. SMOKE, VISIBLE EMISSIONS AND PARTICULATES

252:100-25-1. Purpose

The purpose of this Subchapter is to control the amount of smoke, visible emissions and particulates particulate matter from the operation of any air contaminant source.

252:100-25-2. General prohibition

~~(a) No person owning, leasing, or controlling the operation owner or operator of any air contaminant source shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the emission from said air contaminant source of such quantities of air contamination allow emissions from said source so as to as will cause or contribute to a condition of air pollution.~~

~~(b) All installations shall comply with this Subchapter upon and after February 1, 1984.~~

252:100-25-3. ~~Smoke, visible emissions and particulates~~ Opacity limit

(a) No person shall ~~cause, suffer, allow, or permit the~~ discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof ~~of a shade or density exhibiting greater than twenty (20) percent~~ 20% equivalent opacity-except for:

~~(b) Subsection 252:100-25-3(a) shall not apply to:~~

~~(1) Smoke or visible emissions emitted during the cleaning of a fire, the building of a new fire or the blowing of soot from boilers, or other short term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than 20 minutes in any 24 hour period. Short term occurrences, which may consist of one six-minute period in any consecutive 60 minutes not to exceed three such periods in any consecutive 24 hours during which the average opacity of emissions may not exceed 60%.~~

~~(2) Smoke resulting from fires covered by the exceptions outlined in 252:100-13-7.~~

~~(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of 252:100-25-3(a).~~

~~(4) Smoke generated due to a malfunction in a facility, where in when the source of the fuel, which is being burned produces producing the smoke, is not under the direct and immediate control of the facility and wherein the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property upstream from the facility to the point of the~~

~~fuel source.~~

(b) To determine compliance with this Section, opacity shall be read by either:

(1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).

(2) A continuous opacity monitor installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

252:100-25-4. Alternative for particulates

(a) The 20% ~~percent~~ opacity limit as required under 252:100-25-3 may be increased, for particulates only, provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the Oklahoma Air Quality Council at public hearing that:

~~(1) that the~~The owner/operator owner or operator has installed air pollution control equipment to attempt to control both visible and particulate matter emissions to the limit required by applicable Subchapters.

~~(2) that the~~The pollution control equipment ~~so installed has been properly maintained, is in good working order and is operated so as to minimize emissions;~~

(A) Has been properly maintained.

(B) Is in good working order.

(C) Is operated to minimize emissions.

~~(3) that the~~The installed control equipment does not, in fact, control opacity to the limit required in 252:100-25-3.

~~(4) that the~~The owner/operator owner or operator has conducted stack test(s) using appropriate test methods as approved by the Air Quality Division to determine mass emissions at maximum allowed capacity and has determined such emissions meet all applicable particulate matter requirements (i.e., permit limit, rule limit, process limit) and.

~~(5) that the~~The owner/operator owner or operator has ~~conducted~~ conducted detailed modeling ~~and/or~~ and other measures (e.g., monitoring) deemed necessary by the Executive Director ~~(e.g., monitoring)~~ to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m³ PM-10 24-hour average at any point of impact or 1 ug/m³ PM-10 annual average at any point of impact.

(b) Upon completion of the demonstration specified in (a) of this Section, the opacity allowed will be based on the opacity as read by an ~~Oklahoma~~ a Certified Visible Emission Evaluator at the time of the maximum operation stack test.

~~(c) All applications~~ Applications for an alternative under 252:100-25-4 will be submitted to the Director of the Air Quality Division for ~~his~~ review and recommendation to the Air Quality Council for final action.

252:100-25-5. Continuous emission monitoring for opacity

(a) Continuous monitoring of opacity is required for fluid bed

catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators in accordance with 40 CFR Part 51, Appendix P, which is hereby incorporated by reference as it existed on July 1, 1997.

(b) Owners or operators of these emission sources shall:

(1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity.

(2) Complete the installation and performance tests of such equipment and begin monitoring and recording by January 1, 2001.

(c) This section shall not apply to:

(1) Sources already subject to a new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act.

(2) Sources scheduled for retirement within 5 years after the effective date of this rule, provided adequate evidence and guarantees are available to show the source will cease operations prior to such date.

(d) Alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. For example, the following alternative monitoring requirements may be used for natural gas-fired facilities that burn oil on an emergency basis only (including periodic system testing not to exceed 40 hours per calendar year):

(1) A Certified Visible Emission Evaluator shall read visual emissions once per day when fuel oils are burned.

(2) Visual emissions readings shall be conducted in accordance with EPA Test Method 9 (40 CFR Part 60, Appendix A).

(3) Records of fuel oil burned (including type, amount, and duration burned) and visible emissions read shall be maintained for 2 years.

SUBCHAPTER 25. ~~SMOKE~~, VISIBLE EMISSIONS AND PARTICULATES

252:100-25-1.	Purpose	1
252:100-25-2.	General prohibition	1
252:100-25-3.	Smoke, visible emissions and particulates <u>Opacity limit</u>	1
252:100-25-4.	Alternative for particulates	2
<u>252:100-25-5.</u>	<u>Continuous emission monitoring for opacity</u> . .	2

MINUTES

AIR QUALITY COUNCIL

AUGUST 18, 1998

Burgundy Room

4545 North Lincoln Boulevard

Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman

Sharon Myers

Fred Grosz

Gary Kilpatrick

Joel Wilson

David Branecky

Meribeth Slagell

Staff Present

David Dyke

Dennis Doughty

Scott Thomas

Barbara Hoffman

Ray Bishop

Linn Wainner

Michelle Martinez

Cheryl Bradley

Jeanette Buttram

Becky Mainord

Joyce Sheedy

Eddie Terrill

Myma Bruce

Guests Present

**see attached list

Council Members Absent

Larry Canter

PUBLIC MEETING

Notice of Public Meeting for August 18, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room and also at the DEQ Tower.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye. Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 16, 1998 Public Meeting/Hearings. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye; Mr. Breisch - aye.

PUBLIC HEARING

**OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills
[NEW]**

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley to give staff recommendations on this rule. Ms. Bradley advised that the rule was first considered by the Council on June 16, 1998 at which time the hearing was continued because EPA was in the process of amending the federal standards that are the basis for the draft rule. These amendments became effective August 17, 1998. Ms. Bradley stated that staff had made the revisions consistent with the amended federal regulations and addressed all comments received.

After discussion, Chairman Breisch entertained a motion to recommend adoption of this rule as emergency and permanent to the Environmental Quality Board at its September 15, 1998 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

State 111(d) Plan for Municipal Solid Waste Landfills

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley for staff position regarding this State Plan. Ms. Bradley pointed out the criteria for approval of a state plan and advised that Oklahoma's mechanism to implement this Plan is OAC252:100-47. Ms. Bradley related that although no Council action was necessary, the staff requests to hear comments from the Council members and the public regarding the State Plan.

See attached transcript.

PUBLIC HEARING

OAC 252:100 Air Pollution Control:

Appendix E, Primary Ambient Air Quality Standards [AMENDED]

Appendix F, Secondary Ambient Air Quality Standards [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who stated that the revisions to these appendices would be identical to the revised federal National Ambient Air Quality Standards (NAAQS) for particulate matter and ozone

announced by EPA in the July 18, 1997 *Federal Register*. Ms. Martinez pointed out that according to the Secretary of State's Rules on Rulemaking, an appendix cannot be amended; therefore, staff recommended that Council vote to revoke the old appendices and pass the new appendices as permanent.

After discussion, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality Board as a permanent rule at its September 15, 1998 meeting. Mr. Kilpatrick moved that Council revoke the existing rule and replace them with the new rules as presented. Second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out revisions made to date and advised that staff was recommending that the comment period be left open until August 24 after which staff would revise the rule based upon comments received from Council and public; and would bring again to the Council's October 20 meeting.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Ms. Slagell. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position on this rule. Ms. Buttram advised that the rule was presented to Council's June 16 meeting where changes to simplify and clarify the rule and to fulfill an EPA State Implementation Plan (SIP) requirement concerning Continuous Emission Monitoring (CEM) were proposed. Ms. Buttram advised that comments received have been addressed and incorporated into the current draft rule. Following discussion with new comments, staff

recommended that the hearing be continued on this rule to the October 20 meeting to allow time for further comments.

Mr. Breisch asked for a motion to continue the hearing. Mr. Wilson made the motion and Ms. Slagell made the second. Roll call was as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Becky Mainord who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out the changes made and stated that it was staff's recommendation to continue the hearing until Council's next meeting.

Following discussion, Mr. Breisch entertained a motion to continue this rule. Dr. Grosz made that motion with second made by Mr. Wilson. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that revisions were made to simplify the language according to the Agency's re-write/de-wrong initiative, the addition of a Permit By Rule section, and to add a new Appendix L which would include PM₁₀ emission factors for the Permit By Rule. Ms. Martinez pointed out that comments had been received and considered, and that staff's recommendation was to continue the hearing to the next meeting.

After discussion, Mr. Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Mr. Branecky. Roll call

as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the revisions are part of the Agency's re-write/de-wrong initiative and respond to industry requests to exempt acetone, perchloroethylene, and methylated siloxanes from being considered VOCs. She advised that staff held a workshop on July 7 requesting public input and comments. She said there are numerous changes to be made in language, format and with the three substantive changes, staff recommended that the rule be continued to the next meeting.

Mr. Breisch entertained a motion to continue this rule. Mr. Branecky made motion with second made by Mr. Kilpatrick. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that there were numerous revisions as part of the Agency's re-write/de-wrong initiative and also five substantive changes to be considered; therefore, staff would recommend that the hearing be continued.

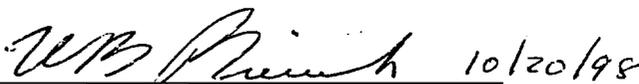
Mr. Breisch entertained a motion to continue this rule to the Council's October 20 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

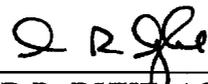
NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being October 20, 1998 at Tulsa City-County Health Department Auditorium, 5051 South 129th East, Tulsa, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.



WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL



DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

AUGUST 18, 1998

SIGN IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Pat Davenport	National Std. 3602 N. Perkins Rd.	Jethro
2. Bonnie McCall	Orlando Martin 2122 S. Yukon	Tulsa 582
3. Robert Eddington	ARMSTRONG ST. LLWATER	405-377-11
4. MICK COLE	DEQ EPA DALLAS	214 665
5. SANDRA RENNIE	EPA DALLAS	214 665 72
6. John Snow	5000 - HANOVER	Vokor
7. Flint Ruffin	Battlesville	918-336-3
8. Kathy Pursey	4608 S. Garnett, Ste 100	Tulsa 918-64
9. Nobby Simms	DEQ	
10. Eric Gorch	4608 S. Garnett Tulsa	918-641-07
11. Dave Pruitt	103 SW 4th Lawton OK 73501	580 581 3462
12. GRANT MARGURER	440 TERRACE NORMAN	73069
13. Bruce Lucas	103 SW 4th Lawton OK 73501	580 581-338
14. Robert Eddington	Kansas Pipeline Rt 2 Box 173 Pawnee Okla	91876
15. WILLIAM CLARK	^{SUNCO} P.O. Box 2039 TULSA, OK 74107	918-594-6
16. Mike Wood	Hot Springs, AR	501-624-85
17. Nancy Coleman	RSA, Norman	405 321 38
18. Bill Hibnik	MORIL, EDMOND	405-348-868
19. Kiki Tatum	OGFA	580-233-580
20. John Wheeler	Trinity Consultants	(972) 661-8100
21. Steve Landers	Ft. James, Ark	918 683-76
22. Gill Luten	"	"
23. Ruston Givens	"	"
24. Carol Baker	TAFB	736-7246
25. Andrew Livingston	Sinclair Oil Corp PO Box 970 Tulsa OK 74107	418-588-112



NAME/AFFILIATION	ADDRESS	TELEPHONE
26. <i>Bill Smith</i>	<i>DEQ 12-11</i>	
27.		
28.		
29.		
30.		
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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING/HEARING
AIR QUALITY COUNCIL

Tuesday October 20, 1998 1:00 p.m.
Tulsa City-County Health Department Auditorium
5051 South 129 East --- Tulsa, Oklahoma

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the August 18, 1998 Regular Meeting
4. CY99 Meeting Schedule
 - A. Discussion by Council
 - B. Possible action by Council
 - C. Roll call vote
5. OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
 - C. Roll call vote
6. OAC 272:100-7 Permits [AMENDED]
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
7. OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]
Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Becky Mainord
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

12. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

13. **NEW BUSINESS**
 - A. Discussion/consideration of subjects / business arising within the past 24 hours
 - B. Possible action by Council

14. **ADJOURNMENT – Next Regular Meeting** **TUESDAY, DECEMBER 15, 1998**
Lincoln Plaza Office Park - Burgundy Room 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 702-4100.

October 1, 1998

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director ^{E.T.}
Air Quality Division

SUBJECT: Modifications to Subchapter 25

Enclosed in the council packet are a copy of the proposed draft modifications to Subchapter 25, Smoke, Visible Emissions and Particulates; a copy of 40 CFR Part 51, Appendix P; a rule impact statement; and a Summary of Comments and Staff's Responses. Originally, Subchapter 25 was brought before the council on June 16 and August 18, 1998. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM) by incorporating by reference Appendix P of 40 CFR Part 51. The amended rule would require certain fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries to install CEMs. Additionally, Staff proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements.

Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources with and without continuous opacity monitors. A new subsection was added that contains methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

Staff will suggest that the proposed rule be recommended to the Board for permanent adoption.

Enclosures: 4

SUBCHAPTER 25. SMOKE , VISIBLE EMISSIONS AND PARTICULATES	2
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252:100-25-2. General prohibition	2
<u>252:100-25-2.1. Definitions</u>	2
252:100-25-3. Smoke, visible emissions and particulates <u>Opacity limit</u>	2
252:100-25-4. Alternative for particulates	3
252:100-25-5. <u>Continuous emission monitoring for</u> <u>opacity</u>	4

TITLE 252 DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 25. ~~SMOKE~~, VISIBLE EMISSIONS AND PARTICULATES

252:100-25-1. Purpose

The purpose of this Subchapter is to control ~~the amount of smoke,~~ visible emissions and particulates~~particulate matter~~ from the operation of any air contaminant source.

252:100-25-2. General prohibition

~~(a) No person owning, leasing, or controlling the operation~~ owner or operator of any air contaminant source shall ~~willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the emission from said air contaminant source of such quantities of air contamination~~ allow emissions from said source so as to ~~as will~~ cause or contribute to a condition of air pollution.

~~(b) All installations shall comply with this Subchapter upon and after February 1, 1984.~~

252:100-25-2.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"One-hour period" means, for units with an operable Continuous Opacity Monitor (COM), any 60-minute period commencing on the hour.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Six-minute period" means, for units with an operable COM, any one of the ten equal parts of a one-hour period.

"Unit" means any piece of equipment that has the potential to emit air contaminants in the form of visible emissions.

252:100-25-3. ~~Smoke, visible emissions and particulates~~ Opacity limit

(a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.

~~(a)(b) No person shall cause, suffer, allow, or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof of a shade or density exhibiting greater than twenty (20) percent~~ 20% equivalent opacity, except for:

~~(b) Subsection 252:100-25-3(a) shall not apply to:~~

~~(1) Smoke or visible emissions emitted during the cleaning of a fire, the building of a new fire or the blowing of soot from boilers, or other short term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty~~

~~(60) consecutive minutes and/or no more than 20 minutes in any 24 hour period. Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.~~

(2) Smoke resulting from fires covered by the exceptions outlined in 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of 252:100-25-3(a).

(4) Smoke generated due to a malfunction in a facility, ~~where in~~ when the source of the fuel, ~~which is being burned produces~~ producing the smoke, is not under the direct and immediate control of the facility and ~~wherein~~ the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property ~~upstream from the facility to the point of the fuel source.~~

(c) To determine compliance with this Section, opacity shall be read by either:

(1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).

(2) A COM installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

252:100-25-4. Alternative for particulates

(a) The ~~20 percent~~ opacity limit as required under 252:100-25-3 may be increased, for particulates only, provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the ~~Oklahoma~~ Air Quality Council at public hearing that:

~~(1) that the~~The owner/operator owner or operator has installed air pollution control equipment to attempt to control both visible and particulate matter emissions to the limit required by applicable Subchapters ~~7.~~

~~(2) that the~~The pollution control equipment ~~so~~ installed: ~~has been properly maintained, is in good working order and is operated so as to minimize emissions;~~

(A) Has been properly maintained.

(B) Is in good working order.

(C) Is operated to minimize emissions.

~~(3) that the~~The installed control equipment does not, ~~in fact,~~ control opacity to the limit required in 252:100-25-3 ~~7.~~

~~(4) that the~~The owner/operator owner or operator has conducted stack test(s) using appropriate test methods as approved by the Air Quality Division to determine mass emissions at maximum allowed capacity and has determined such emissions meet all

applicable particulate matter requirements (i.e., permit limit, rule limit, process limit), and,

~~(5) that the~~The owner/operator owner or operator has conducted detailed modeling ~~and/or~~and other measures ~~(e.g., monitoring)~~ (e.g., monitoring) deemed necessary by the Executive Director ~~(e.g., monitoring)~~ to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m³ PM-10 24-hour average at any point of impact or 1 ug/m³ PM-10 annual average at any point of impact.

(b) Upon completion of the demonstration specified in (a) of this Section, the opacity allowed will be based on the opacity as read by an ~~Oklahoma~~ a Certified Visible Emission Evaluator at the time of the maximum operation stack test.

~~(c) All applications~~ Applications for an alternative under 252:100-25-4 will be submitted to the Director of the Air Quality Division for ~~his~~ review and recommendation to the Air Quality Council for final action.

252:100-25-5. Continuous emission monitoring for opacity

(a) Continuous monitoring of opacity is required for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators in accordance with 40 CFR Part 51, Appendix P, which is hereby incorporated by reference as it existed on July 1, 1997.

(b) Owners or operators of these emission sources shall:

(1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity.

(2) Complete the installation and performance tests of such equipment and begin monitoring and recording by January 1, 2001.

(c) This section shall not apply to:

(1) Sources already subject to a new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act.

(2) Sources scheduled for retirement within 5 years after the effective date of this rule, provided adequate evidence and guarantees are available to show the source will cease operations prior to such date.

(d) Alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. For example, the following alternative monitoring requirements may be used for natural gas-fired facilities that burn oil on an emergency basis only (including periodic system testing not to exceed 40 hours per calendar year):

(1) A Certified Visible Emission Evaluator shall read visual emissions once per day when fuel oils are burned.

(2) Visual emissions readings shall be conducted in accordance with EPA Test Method 9 (40 CFR Part 60, Appendix A).

(3) Records of fuel oil burned (including type, amount, and

duration burned) and visible emissions read shall be maintained
for 2 years.

MINUTES

AIR QUALITY COUNCIL

OCTOBER 20, 1998

Tulsa City-County Health Department Auditorium
5051 South 129th Street East
Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce

Council Members Absent

Larry Canter
Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 20, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye. Mr. Kilpatrick, Ms. Slagell and Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 18, 1998 Public Meeting/Hearings. Motion was made by Mr. Wilson to approve the Minutes as presented and second to the motion was made by Dr. Grosz. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

1999 Meeting Schedule - Mr. Dyke presented Council with proposed scheduled for 1999 meetings with the suggestion that the December 21 date mentioned in the packet memo be changed to December 14. Ms. Myers made motion to accept the schedule as proposed: Wednesday, February 17, Tuesday, April 20, Tuesday, August 17, and Tuesday, December 14 at OKC, DEQ Multi-Purpose Room; with Tuesday, June 15 and October 19 at Tulsa, TCCHD Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out proposed revisions would modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits stating that actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of “de minimis facility.” Also, she stated that proposed revision would delete the lower limit of five tons per year for PBR facilities allowing those facilities with less than five tons per year emissions which are subject to NSPS or NESHAP to apply for a PBR instead of having to obtain an individual permit. Ms. Buttram advised that staff proposed that a new Part 9 be added that would outline the requirements necessary for a facility to qualify for a PBR. A third point she brought out was the proposed revision to delete the lower limit for general permits allowing facilities that may have less than 40 tons per year of emissions, but for which no PBR had been written, the opportunity to apply for coverage under an applicable general permit. Lastly, she added that the Department proposed to amend 252-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council’s October 20, 1998 meeting. Ms. Myers made that motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff’s position on this rule. Ms. Buttram pointed out that the proposed amendments would fulfill an EPA requirement concerning Continuous Emissions Monitoring proposing to incorporate by reference the Federal opacity monitoring requirements for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators as specified in 40 CFR 51, Appendix P. She noted that the Department proposed to exempt from Appendix P requirements for those sources already subject to a new source performance standard and for sources scheduled for retirement within five years after the

amended rule takes effect. Ms. Buttram added that the amended rule would also provide criteria for approval of alternative monitoring requirements with additional changes that would clarify how the opacity standard is determined.

Mr. Breisch asked for a motion to recommend the rule as proposed to the Environmental Quality Board for permanent adoption. Mr. Wilson made the motion with David Branecky making the second. Roll call was as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out that the proposed revisions add a new Permit by Rule section that would streamline the permitting process by creating a mechanism that eliminates the necessity for some cotton gins to obtain an individual air quality permit. Ms. Martinez added that additional changes would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Following discussion, Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Ms. Myers made the motion with second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who advised that the proposed revisions would simplify the language under the agency-wide re-right/de-wrong initiative and would add a new Permit by Rule section to streamline the permitting process by creating a mechanism that would eliminate the necessity for some grain elevators to obtain an individual air quality permit. Ms. Martinez added that a new Appendix L proposed would contain PM-10 emission factors for PBR grain elevators. Additional changes follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the

opacity standard allowing exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Mr. Breisch entertained a motion to recommend the rule to the Environmental Quality Board for permanent adoption at its November 10 meeting. Mr. Wilson made that motion with second made by Ms. Myers. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She then pointed out four substantive changes that were proposed for Subchapter 37 as well as Subchapter 39:

- 1) to change the definition of “volatile organic compounds (VOC)” per Council’s direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;
- 2) to remove of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a);
- 3) a change regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences; and
- 4) to add a new Part 9, Permit by Rule for Volatile Organic Liquid Storage and Loading Facilities.

Mr. Breisch entertained a motion to continue this rule to Council’s December meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She stated that one substantive change affects both Subchapters 39 and 37

which is to change the definition of "volatile organic compounds" per Council's direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;

In Subchapter 39, Dr. Sheedy pointed out the need for correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2) which would be a substantive change along with the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c).

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's December 15 meeting. Mr. Branecky made that motion with the second made by Mr. Wilson. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the proposed revisions would update the adoption by reference of 40 CFR Part 63 to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. She pointed out that the new standards are Subpart S – NESHAP for Pulp and Paper Production and Subpart LL – NESHAP for Aluminum Production Plants. The proposed revisions will also update the adoption by reference of the NESHAP as found in 40 CFR Part 61 (with the exception of Subparts B, H, I, K, Q, R, T, and W. and Appendices D and E which address radionuclides) to July 1, 1998. Dr. Sheedy advised the Council that these modifications were necessary to obtain EPA's delegation of authority to implement the federal hazardous air pollutant program in Oklahoma.

Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Mr. Wilson made that motion with the second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

**OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees
[AMENDED]**

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Shawna McWaters-Khalousi for staff recommendation. Ms. Khalousi advised that the Department is proposing to amend 252:100-5-2.2 to increase annual operating fees assessed to minor facilities; amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits; and amend 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. Ms. Khalousi stated that if was staff's recommendation that this rule be continued to Council's December 15 meeting.

Mr. Breisch entertained motion to continue these rules to the December meeting. Ms. Myers made the motion and second was made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes.

NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being December 15, 1998 at Lincoln Plaza Office Complex Burgundy Room, 4545 North Lincoln, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

OCTOBER 20, 1998

SIGN-IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Bonnie McGilbra	2122 S. Yukon Tulsa	583-392
2. John Snow HANOVER	1600 W VADAMENI	405-640-961
3. Carlos J. Nazario	Tinker AFB	405-734-70
4. Connie White	Tinker AFB	LL "
5. Rhonda Jeffries	ODEQ ROAT	(918) 488 889
6. HERB NEUMANN	"	"
7. Nadene Barton	CASE	481-0474
8. FRANK GANDON	EQ BOARD	
9. Carol Barker	Tinker AFB	736-7246
10. Perry Friedrich	GRNA Chouteau	476-8268
11. SANDRA RENNIE	EPA REGION 6	(214) 665-7367
12. Terry Thomas	" "	214-665-7160
13. Stanley M. Spruiell	" "	(214) 665-7212
14. Anne Schaefer	Tinker AFB	405.734.7071
15. Rose Williams	Tinker AFB	405.734.3002
16. Bruce Russell	DEQ	918 488 8885
17. Bill CLARK	Sun Co. TX.	918-594-63
18. JACK FLY	TULSA	918-488-8895
19. Deann Hughes	Cardinal Engineering	405-842-106
20. Dustin Givens	Fort James	918 683-767
21. Steve Landers	" " "	" " "
22. GERALD BUTCHER	W/FEC	405-247-434
23. Howard Ground	CSW	214-777-1711
24. Deborah Perm	Emercon	918-665-769
25. Joel Nelson	Boeing P.O. Box 592608 Tulsa, OK 74158	918-832-3215



NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Rick Tretna	Box 1307 Edw, OK 73712	580-233-580
27. Kim Warram	6545 So Meridian Ste 214	405 722 7
28. Ron Sobber	10830 East St ^{OKC} Tulsa	918 663 98
29. Edington	4115 N. Perkins Rd Stillwater	405-377-129
30. Dan Medley	1408 S Denver Tulsa	918-582
31. Don Pugh	American Airlines PO Box 582809, MD 508 Tulsa	74158 918-
32. Cathy Oshan	Mintech/Perma Fix 4608 S Garnett Tulsa	7446 641-
33. David Emery	12 AZ Phillips Building - Bartlesville	OK 741
34. Cheryl Bradley	DEQ AQD	
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100

Subchapters or Sections Involved – [new, amended or revoked]

-25 Smoke, Visible Emissions and Particulates [AMENDED]

On OCTOBER 20, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: 10-20-98

Chair or Designee

VOTING TO APPROVE:

William B. Breisch
David Branecky
Sharon Myers

Joel Wilson
Fred Grosz

ABSTAINING:

VOTING AGAINST:

ABSENT:

Larry Canter
Gary Kilpatrick
Meribeth Slagell

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, November 10, 1998
Kerr Country Mansion and Conference Center
1507 South McKenna
Poteau, Oklahoma

1. Call to Order - Herschel Roberts
2. Roll Call - Lynda Finch
3. Approval of Minutes of the September 15, 1998 Regular Meeting
4. **OAC 252:002 Procedures of the Department of Environmental Quality:**

Subchapter 17 of OAC 252:002 deals with the processing of citizen complaints received by the DEQ. The proposed amendment to Section 17-2 expands the definition of "enforcement action" to include a referral by a DEQ division to the Oklahoma Attorney General's Office, a district attorney's office, a state or federal law enforcement agency, or the DEQ's Environmental Crimes Investigation Team for investigation of possibly criminal environmental violations. Because criminal referral processes and criminal investigations typically are relatively involved and lengthy, this amendment is proposed to allow the DEQ to pursue possible criminal enforcement actions while still meeting agency complaint procedures and timelines.

Because this is an amendment to the procedural rules of the DEQ, it is not within the jurisdiction of an advisory council. Thus, the opportunity for public comment on this agenda item constitutes the rulemaking hearing on the proposal.

- A. Presentation – Jimmy Givens, DEQ General Counsel
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent adoption
5. **OAC 252:100 Air Pollution Control:**

Three sets of changes are proposed:

- The proposed revisions to Subchapters 23 (Cotton Gins) and 24 (Grain Elevators) simplify the language under the DEQ's "re-right/de-wrong" rules simplification initiative. It is also proposed to add a new Permit by Rule section to both subchapters. The Permit by Rule will streamline the permitting process by creating a mechanism that will eliminate the need for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains Particulate Matter (PM)-10 emission factors for Permit by Rule grain elevators. Additional changes to both subchapters track proposed amendments of Subchapter 25 concerning opacity.

- In addition to “re-right/de-wrong” simplification changes, the proposed revisions to Subchapter 25 (Smoke, Visible Emissions and Particulates) incorporate by reference the federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries, subject to certain exceptions. Additional changes include exempting sources subject to opacity standards promulgated under the Federal Clean Air Act from the state opacity standard, and clarifying how the opacity standard will be determined at sources that have Continuous Opacity Monitors and those that do not.
- The proposed revisions to Subchapter 41 (Control of Emission of Hazardous and Toxic Air Contaminants) update the adoption by reference of federal rules to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. The new standards relate to pulp and paper production and to aluminum production plants. The proposed revisions also update the adoption by reference of the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) to July 1, 1998, with certain exceptions.

These changes were recommended by the Air Quality Council at their meeting on October 20, 1998.

- A. Presentation - David Branecky, Air Quality Council member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) for permanent adoption

6. Consideration of the Environmental Quality Report:

The Oklahoma Environmental Quality Code requires the DEQ to prepare an Environmental Quality Report and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1st of each year. Contrary to the statutory title, the purpose of this report for a fairly small targeted audience is to outline the DEQ’s two-year needs for providing environmental services within its jurisdiction, and to reflect any new federal mandates and recommended statutory changes. The Environmental Quality Board is to review, amend and approve the report.

- A. Presentation – Mark Coleman, DEQ Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote

- 7. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)
- 8. Executive Director’s Report
- 9. Vote on 1999 Environmental Quality Board meeting dates
- 10. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 25. SMOKE, VISIBLE EMISSIONS AND PARTICULATES

252:100-25-1. Purpose

The purpose of this Subchapter is to control the amount of smoke, visible emissions and particulates particulate matter from the operation of any air contaminant source.

252:100-25-2. General prohibition

~~(a) No person owning, leasing, or controlling the operation of any air contaminant source shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the emission from said air contaminant source of such quantities of air contamination as will cause a condition of air pollution. No owner or operator of any air contaminant source shall allow emissions from said source so as to cause or contribute to air pollution.~~

~~(b) All installations shall comply with this Subchapter upon and after February 1, 1984.~~

252:100-25-2.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"One-hour period" means, for units with an operable Continuous Opacity Monitor (COM), any 60-minute period commencing on the hour.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Six-minute period" means, for units with an operable COM, any one of the ten equal parts of a one-hour period.

"Unit" means any piece of equipment that has the potential to emit air contaminants in the form of visible emissions.

252:100-25-3. ~~Smoke, visible emissions and particulates~~ Opacity limit

(a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.

~~(a)(b) No person shall cause, suffer, allow, or permit the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof of a shade or density exhibiting greater than twenty (20) percent equivalent 20% opacity, except for:~~

~~(b) Subsection 252:100 25 3(a) shall not apply to:~~

~~(1) Smoke or visible emissions emitted during the cleaning of a fire, the building of a new fire or the blowing of soot from boilers, or other short term occurrences, the shade or density of which is not greater than sixty (60) percent opacity for a period aggregating no more than five (5) minutes in any sixty (60) consecutive minutes and/or no more than 20 minutes in any~~

~~24 hour period.~~ Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences which consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.

(2) Smoke resulting from fires covered by the exceptions outlined in 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of 252:100-25-3(a).

(4) Smoke generated due to a malfunction in a facility, wherein when the source of the fuel, which is being burned produces producing the smoke, is not under the direct and immediate control of the facility and wherein the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property upstream from the facility to the point of the fuel source.

(c) To determine compliance with this Section, opacity shall be read by either:

(1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).

(2) A COM installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

252:100-25-4. Alternative for particulates

(a) The ~~20 percent~~ 20% opacity limit as required under 252:100-25-3 may be increased, for particulates only, provided that the ~~owner/operator~~ owner or operator demonstrates to the satisfaction of the ~~Oklahoma~~ Air Quality Council at public hearing that:

(1) ~~that the owner/operator~~ The owner or operator has installed air pollution control equipment to attempt to control both visible and particulate matter emissions to the limit required by applicable Subchapters.

(2) ~~that the~~ The pollution control equipment ~~so installed has been properly maintained, is in good working order and is operated so as to minimize emissions.~~

(A) Has been properly maintained.

(B) Is in good working order.

(C) Is operated to minimize emissions.

(3) ~~that the~~ The installed control equipment does not, in fact, control opacity to the limit required in 252:100-25-3.

(4) ~~that the owner/operator~~ The owner or operator has conducted stack test(s) using appropriate test methods as approved by the ~~Air Quality~~ Division to determine mass emissions at maximum allowed capacity and has determined such emissions meet all applicable particulate matter requirements (i.e., permit limit, rule limit, process limit) and.

(5) ~~that the owner/operator conducts~~The owner or operator has conducted detailed modeling and/or and other measures (e.g., monitoring) deemed necessary by the Executive Director (e.g., monitoring) to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m³ ~~24-hour~~PM-10 24-hour average at any point of impact or 1 ug/m³ PM-10 annual average at any point of impact.

(b) Upon completion of the demonstration specified in (a) of this Section, the opacity allowed will be ~~as based on the opacity~~based on the opacity read by an ~~Oklahoma~~Oklahoma Certified Visible Emission Evaluator at the time of the maximum operation stack test.

(c) ~~All applications~~Applications for an alternative under 252:100-25-4 will be submitted to the Director of ~~Air Quality~~the Division for ~~his~~ review and recommendation to the Air Quality Council for final action.

252:100-25-5. Continuous emission monitoring for opacity

(a) Continuous monitoring of opacity is required for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators in accordance with 40 CFR Part 51, Appendix P, which is hereby incorporated by reference as it existed on July 1, 1998.

(b) Owners or operators of these emission sources shall:

(1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity.

(2) Complete the installation and performance tests of such equipment and begin monitoring and recording by January 1, 2001.

(c) This section shall not apply to:

(1) Sources already subject to a new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act.

(2) Sources scheduled for retirement within 5 years after the effective date of this rule, provided adequate evidence and guarantees are available to show the source will cease operations prior to such date.

(d) Alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. For example, the following alternative monitoring requirements may be used for natural gas-fired facilities that burn oil on an emergency basis only (including periodic system testing not to exceed 40 hours per calendar year):

(1) A Certified Visible Emission Evaluator shall read visual emissions once per day when fuel oils are burned.

(2) Visual emissions readings shall be conducted in accordance with EPA Test Method 9 (40 CFR Part 60, Appendix A).

(3) Records of fuel oil burned (including type, amount, and duration burned) and visible emissions read shall be maintained for 2 years.

Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 25. SMOKE, VISIBLE EMISSIONS AND PARTICULATES

EXECUTIVE SUMMARY: The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emissions Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act from the State opacity standard, along with a clarification of how the opacity standard will be determined at sources that have Continuous Opacity Monitors (COMs) and how it will be determined at sources without COMs. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because no one federal rule corresponds to these rules.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: A comment from O.G.& E. was received requesting that the proposed rule be modified to include an exemption similar to that found in 40 CFR Part 75 for those units that are predominantly natural gas fired but do burn limited amounts of oil.

Response: According to 40 CFR 51, Appendix P, alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Therefore, an alternative monitoring requirement for natural gas-fired facilities that burn oil on an emergency basis only was added to the rule.

Comment: A second comment from O.G.& E. was received requesting additional language be added to the proposed language in section 252:100-25-5 for clarification purposes.

Response: Staff reviewed the proposed language from O.G.&E. and agreed to amend the language in 252:100-25-5(d), (d)(1), and (d)(3).

Comment: A comment from Fort James Corporation was received requesting that the opacity standard in OAC 252:100-25-3(a) and (b) be made consistent with NSPS requirements promulgated by the US EPA. The following language was suggested: For sources subject to a twenty (20) percent opacity standard provided in an applicable new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act, determining compliance with the twenty (20) percent equivalent opacity provided in this subsection shall be consistent with the method or manner provided in such new source performance standard.

Response: Staff has reviewed the proposed wording and determined it would not address facilities that have NSPS opacity requirements other than 20% or those that are not even affected by a NSPS. The original language in the rule was clarified and amended to allow the opacity to be based on a six-minute average, which will make it easier to determine compliance with the standard using NSPS Method 9. Also, Staff included a new subsection (252:100-25-3(b)) which outlines the methods for determining compliance with the opacity limits. These methods are consistent with those outlined in NSPS requirements.

Comment: A second comment from Fort James Corporation was received requesting staff add language to the rule which allows sources subject to a 20% equivalent opacity standard, provided in an applicable NSPS in 40 CFR Part 60, to determine compliance with the 20% equivalent opacity provided in Section 252:100-25-3(a) using the method or manner provided in such NSPS. Fort James is concerned that the opacity limits in permits will be a hybrid made from the most stringent portions of applicable NSPS and State standards. The company also believes this would create confusion among permit writers and source owners.

Response: Staff decided to add a section to the rule which will exempt sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act from the State opacity standard.

Comment: A comment made at the August 18, 1998, public hearing requested that the rule be revised to explain how compliance will be determined at facilities that have COMs.

Response: The terms "one-hour period" and "six-minute period" have been defined for facilities that have COMs, and a new sentence was added to 252:100-25-3(a) to explain how compliance with the rule will be determined at such facilities.

Comment: A comment was made during the October 20, 1998, public hearing regarding section 252:100-25-4(a)(3). The commentator wanted to know why we allow an alternative limit if installed control equipment does not control opacity to the limit required in 252:100-25-3.

Response: First, staff did not propose to make any substantive changes to this section. Also, the purpose of this section is to allow alternatives for owners or operators who are unable to meet the 20% opacity limit, but who have attempted to meet the standard by properly installing and maintaining control equipment. If the installed control equipment allowed the owner or operator to meet the opacity limit, there would be no need to request an alternative. The applicant for an alternative limit must perform modeling, meet all of the criteria contained in section 252:100-25-4(a), and obtain the approval of the Air Quality Council at public hearing. Staff feels this procedure is adequate to fulfill the needs of the owners or operators of industry and the concerns of the public.

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 25. SMOKE, VISIBLE EMISSIONS AND PARTICULATES

Council Meeting: April 21, 1998

(NOTE: The first comment from OG&E was for the draft rule to be presented to the council April 21, 1998, but the meeting was cancelled due to lack of quorum)

SUMMARY OF COMMENTS AND RESPONSES:

Comment Period: March 16, 1998 - April 21, 1998

Comment:

A comment from OG&E was received requesting that the proposed rule be modified to include an exemption similar to that found in 40 CFR Part 75 for those units that are predominantly natural gas fired but do burn limited amounts of oil.

Response:

According to 40 CFR Part 51, Appendix P, alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Therefore, an alternative monitoring requirement for natural gas-fired facilities that burn oil on an emergency basis only was added to the rule.

Council Meeting: June 16, 1998

SUMMARY OF COMMENTS AND RESPONSES:

Comment Period: May 15, 1998 - June 23, 1998

Comment:

A comment from OG&E was received requesting additional language be added to the proposed language in section 252:100-25-5 for clarification purposes.

Response:

Staff reviewed the proposed language from OG&E and agreed to clarify the language in 252:100-25-5(d), (d)(1), and (d)(3).

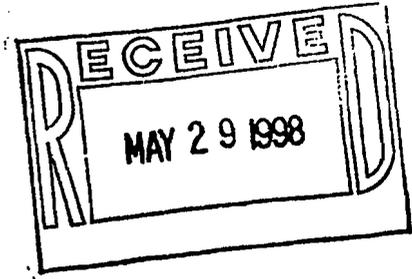
Comment:

A comment from Fort James Corporation was received requesting ODEQ make the opacity standard provided at OAC 252:100-25-3(a) and (b) consistent with NSPS requirements promulgated by the US EPA. They request we add the following language: For sources subject

to a twenty (20) percent opacity standard provided in an applicable new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act, determining compliance with the twenty (20) percent equivalent opacity provided in this subsection shall be consistent with the method or manner provided in such new source performance standard.

Response:

Staff has reviewed the proposed wording and determined it would not address facilities that have NSPS opacity requirements other than 20% or those that are not even affected by a NSPS. The original language in the rule was clarified and amended to allow the opacity to be based on a six-minute average. Also, Staff included a new subsection (252:100-25-3(b)) which outlines the methods for determining compliance with the opacity limits. These methods are consistent with those outlined in NSPS requirements.



May 28, 1998

OG&ETM
electric services

Ms. Jeanette Buttram
Oklahoma Department of Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

Dear Ms. Buttram:

Oklahoma Gas & Electric Company (OG&E) appreciates the opportunity to comment on the proposed revisions to OAC 252:100-25, Smoke Visible Emissions and Particulates. After reviewing the May 15, 1998 proposal, OG&E feels further clarification of the rule would be helpful and offers the following suggestions concerning Paragraph 5, Continuous Emission Monitoring for Opacity.

- The definition of emergency should be further defined to allow for periodic testing of the emergency fuel system. In order to maintain a system to be ready for operation when needed periodic testing is required;
- The wording "shall read visual emissions on a daily basis" under section (1) should be more clearly stated to reflect the intent to have the plume read once per day during the combustion of fuel oil;
- The wording "Daily records of fuel burned" under section (3) should be changed to record only those days in which fuel oils are burned. Other days would be presumed to have combusted natural gas. Also, in order to show compliance with the suggested allowance for periodic testing, wording should be added to section (3) to record not only the type of fuel oils burned but the amounts and the duration in which they were burned.

Based on the above OG&E suggests the following wording changes:

"Alternative monitoring different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case by case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. For example, the following alternative monitoring requirements may be used for natural gas-fired facilities that burn oil on an emergency basis only (including periodic system testing not to exceed forty (40) hours per calendar year):

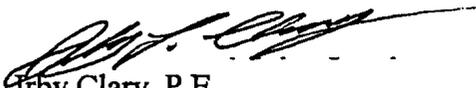
- (1) A Certified Visible Emission Evaluator shall read visual emissions once per day when fuel oils are burned.

Ms. Jeanette Buttram
OG&E Comments on OAC 2.100-25
May 28, 1998

- (2) Visual emissions readings shall be conducted in accordance with EPA Reference Method 9.
- (3) ~~Daily~~ Records of the types of fuel oil burned (including type, amount, and duration burned) and visible emissions read shall be maintained for two (2) years."

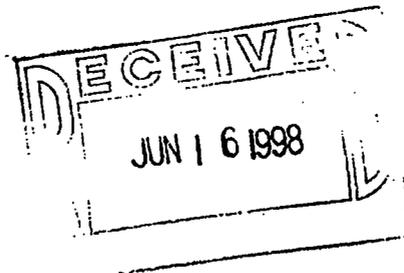
If you have any questions on the above, please call me at 553-3554.

Sincerely,


Kirby Clary, P.E.
Staff Chemist, QA Coordinator

Mark Reimer
Senior Counsel Environmental

June 9, 1998



FORT JAMES



Ms. Jeanette Buttram
Department of Environmental Quality
Air Quality Division
707 North Robinson, Suite 4100
P.O. Box 1677
Oklahoma City, OK., 73103-1677

Fort James Corporation
1650 Lake Cook Road
P O Box 89
Deerfield, IL 60015-0089

telephone 847 317 5326
facsimile 847 317 5456
email mark.reimer@fortjamesmail.com

RE: Proposed Changes to OAC sec. 252:100-25-3(a) and
(b); Air Pollution Control

Dear Ms. Buttram:

Fort James Operating Company ("Fort James" or the "Company") appreciates the opportunity to provide these comments to the Oklahoma Department of Environmental Quality ("ODEQ") in connection with the proposed amendments to OAC 252:100-25-3(a) and (b) concerning opacity emissions.

Fort James owns and operates a pulp and paper facility in Muskogee, Oklahoma. The facility includes an on-site power plant, which generates most of the steam and electrical needs of the facility. The power plant consists of, among other pieces of equipment, 3 fossil fuel fired boilers that are subject to certain federal new source performance standards ("NSPS") promulgated in 40 CFR Part 60.

Subpart D of 40 CFR Part 60 (an NSPS applicable to certain fossil fuel fired boilers) provides an opacity emission standard of 20% based on a six minute rolling average (except that one six-minute average per hour of up to 27% opacity need not be reported as an excess emission). It has never been entirely clear how the opacity standards set forth at OAC 252:100-25-3(a) and (b) comport with this (and other) NSPS opacity requirements. For instance, while the opacity standard in Subpart D is generally based on a six-minute average, OAC 252:100-25-3 provides exceptions to its opacity standard based on readings "for a period aggregating no more than five (5) minutes in any sixty (60)

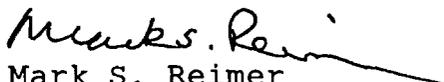
consecutive minutes and/or no more than 20 minutes in any 24-hour period."

We believe ODEQ should take this opportunity to make the opacity standard provided at OAC 252:100-25-3(a) and (b) consistent with NSPSs promulgated by US EPA. Accordingly, we request OAC 252:100-25-3(a) as proposed to be amended in the public notice package be further amended as follows:

"(a) No person shall allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof of a shade or density greater than twenty (20) percent equivalent opacity. For sources subject to a twenty (20) percent opacity standard provided in an applicable new source performance standard promulgated in 40 CFR Part 60 pursuant to section 111 of the Clean Air Act, determining compliance with the twenty (20) percent equivalent opacity provided in this subsection shall be consistent with the method or manner provided in such new source performance standard."

I understand, based on conversations with representatives from the Company's Muskogee facility, that this matter will not come before the Air Quality Council at its June 16, 1998 meeting. Rather, your office intends to continue to work on this rule package and perhaps bring it before the Council at its regularly scheduled August or October 1998 meeting. I look forward to working with you on this matter. If you have questions in the meantime, please feel free to contact me at 847/317-5326.

Sincerely,
Fort James Corporation


Mark S. Reimer
Senior Counsel

1
2 DEPARTMENT OF ENVIRONMENTAL QUALITY
3 AIR QUALITY DIVISION
4 STATE OF OKLAHOMA
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10 * * * * *
11 TRANSCRIPT OF PROCEEDINGS
12 APPROVAL OF FEBRUARY 18, 1998 MINUTES
13 AND PUBLIC HEARING OAC 252:100-25
14 SMOKE, VISIBLE EMISSIONS AND
15 PARTICULATES

16 HELD ON JUNE 16, 1998
17 AT 1:00 P.M.
18 AT 5051 SOUTH 129TH EAST
19 IN TULSA, OKLAHOMA
20 * * * * *

21 REPORTED BY: Christy A. Myers, CSR, #00310

22 MYERS REPORTING SERVICE (405) 721-

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1
2 MEMBERS OF THE COUNCIL
3

- 4 1. MR. KILPATRICK - MEMBER
5 2. MS. SLAGELL - MEMBER
6 3. MR. GROSZ - MEMBER
7 4. MS. MYERS - MEMBER
8 5. MR. BRANECKY - MEMBER
9 6. MR. WILSON - MEMBER
10 7. MR. BREISCH - CHAIRMAN
11 8. MR. DYKE - PROTOCOL OFFICER
12 9. MS. BRUCE - SECRETARY
13
14

15 PROCEEDINGS

16 MR. BREISCH: We will call this
17 session of the meeting to order. David
18 Dyke will act as Protocol Officer. David.

19 MR. DYKE: Okay. Roll call.

20 MS. BRUCE: Mr. Wilson.

21 MR. WILSON: Here.

22 MS. BRUCE: Mr. Branecky.

23 MR. BRANECKY: Here.

24 MS. BRUCE: Ms. Slagell.

25 MS. SLAGELL: Here.

26 MS. BRUCE: Mr. Kilpatrick.

27 MR. KILPATRICK: Here.

28 MS. BRUCE: Mr. Gross.

29 MS. GROSZ: Here.

30 MS. BRUCE: Ms. Myers.

1 MS. MYERS: Present.

2 MS. BRUCE: Mr. Breisch.

3 MR. BREISCH: Here.

4 MS. BRUCE: And for the record,
5 absent is Dr. Cantex, and Ms. Andrews.

6 MR. BREISCH: I'm sorry, I jumped
7 a little bit out of turn here. We have to
8 approve the Minutes before we go into the
9 public hearing. Point of order. Lets see,
10 we didn't have an agenda in the April -- we
11 had no Minutes, true? So, that's why it's
12 February. Okay. Need a motion to approve
13 the February Minutes.

14 MR. KILPATRICK: So move.

15 MR. BRANECKY: Second.

16 MR. BREISCH: A motion has been
17 made and seconded. Is there any additions
18 or comments to the Minutes? If not, Myrna,
19 call the roll.

20 MS. BRUCE: Mr. Wilson.

21 MR. WILSON: Aye.

22 MS. BRUCE: Mr. Branecky.

23 MR. BRANECKY: Aye.

24 MS. BRUCE: Ms. Slagell.

25 MS. SLAGELL: Aye.

26 MS. BRUCE: Mr. Kilpatrick.

27 MR. KILPATRICK: Aye.

28 MS. BRUCE: Mr. Gross.

29 MR. GROSZ: Aye.

30 MS. BRUCE: Ms. Myers.

1 MS. MYERS: Aye.

2 MS. BRUCE: Mr. Breisch.

3 MR. BREISCH: Aye.

4 MR. BREISCH: Now at this time,
5 I'll turn the meeting over to David Dyke
6 who will act as the Protocol Officer.

7 MR. DYKE: Ladies and gentlemen,
8 my name is David Dyke. I'm the Interim
9 Director of the Air Quality Division. As
10 such, I will act as the Protocol Officer
11 for this hearing.

12 This hearing is convened by the Air
13 Quality Council in compliance with the
14 Oklahoma Administrative Procedures Act, in
15 Title 40 of the Code of Federal
16 Regulations, Part 51, as well as the
17 Authority of Title 27A of the Oklahoma
18 Statutes.

19 The hearing was advertised in the
20 Oklahoma Register for the purpose of
21 receiving comments pertaining to the
22 proposed revisions to OAC 252:100-25,
23 Smoke, Visible Emissions and Particulates.
24 If you wish to make a statement, please
25 complete the form at the registration table
26 and you will be called upon at the
27 appropriate time.

28 At this time, I will call upon Ms.
29 Jeanette Buttram of the staff to give our
30 position. Ms. Buttram.

1 MS. BUTTRAM: bers of the
2 Council, ladies and gentlemen, proposed
3 changes to Subchapter 25 are brought to you
4 today in order to accomplish two tasks, to
5 simplify and Clarify the rule, and to
6 fulfill an EPA State Implementation Plan
7 requirement concerning Continuous Emission
8 Monitoring. Specifically, the department
9 proposes to incorporate by reference the
10 Federal opacity monitoring requirements for
11 existing Catalytic Cracking Unit Catalyst
12 Regenerators at Petroleum Refineries and
13 Fossil Fuel-Fired Steam Generators as
14 specified in 40 CFR 51, Appendix F.
15 According to EPA, this is necessary so that
16 State CEM requirements are compatible with
17 Federal Standards and SIP requirements.

18 Before we discuss the proposed
19 changes to Subchapter 25, I think it would
20 be useful to quickly review Appendix F.
21 Appendix F is located in you packet behind
22 the proposed Subchapter 25 rule. 40 CFR
23 Part 51 contains the "Requirements for
24 Preparation, Adoption, and Submittal of
25 Implementation Plans." It includes
26 Appendix F which lists the "Minimum
27 Emission Monitoring Requirements" for
28 continuous emission monitoring and
29 recording that each State Implementation
30 Plan must include.

5

1 The only source categories listed in
2 Appendix F that our proposed rule affects
3 are the Fluid Bed Catalytic Cracking Unit
4 Catalyst Regenerators at Petroleum
5 Refineries and Fossil Fuel-Fired Steam
6 Generators. Both have to meet certain size
7 requirements in order to be affected.

8 The other source categories and
9 parameters listed in Appendix F, other than
10 opacity, have already been addressed in our
11 rules or are not applicable to the State.
12 Appendix F requires that the owner or
13 operator of an existing emission source of
14 the two categories mentioned earlier,
15 install, calibrate, operate, and maintain
16 all monitoring equipment necessary for
17 continuously monitoring opacity; complete
18 the installation and performance tests of
19 such equipment and begin monitoring and
20 recording within 18 months of plan approval
21 or promulgation.

22 Appendix F allows States to include
23 provisions within their regulations to
24 grant exemptions from the monitoring
25 requirements. Those exemptions, which are
26 taken from a list in Appendix F, are listed
27 under our proposed rule as 252:100-25-5(c).
28 Appendix F allows States to approve
29 reasonable extensions of time provided
30 certain provisions are met. Appendix F

6

1 allows States to utilize different, but
2 equivalent, procedures and requirements for
3 continuous monitoring systems. However,
4 the rule must provide a description of such
5 alternative procedures for approval by the
6 Administrator.

7 Appendix F sets forth the minimum data
8 reporting requirements.

9 Before we discuss the proposed rule,
10 remember in the subchapter you will see
11 revisions that include strikeouts or
12 underlined text. The struck out text is
13 language we are proposing be deleted, and
14 the underlined text is proposed new
15 language.

16 Most of the proposed changes made to
17 the existing language of the rule were for
18 clarification and simplification purposes.
19 However, a couple of the sections need
20 additional discussion.

21 Section 252:100-25-3(b)(1),
22 originally, staff attempted to clarify this
23 section with the proposed language in the
24 draft rule, but soon found out that did not
25 occur. Therefore, after much discussion
26 and research staff had decided to develop
27 alternative language for this section.
28 However, the alternative language
29 represents a substantive change which will
30 be mentioned in the notice of rule making

7

1 intent to be published July 15th.

2 At this point, staff thinks the best
3 approach would be to, delete the language
4 in 252:100-25-3(b)(1) and, replace it with
5 the provision that visible emissions cannot
6 exceed 20 percent opacity except for, short
7 term occurrences, which may consist of one
8 six-minute period in any consecutive 60
9 minutes not to exceed three such periods in
10 any consecutive 24 hours during which the
11 average opacity of emissions may not exceed
12 60 percent. Add a new subsection for
13 compliance purposes which reads as follows:
14 to determine compliance with this section,
15 opacity shall be read by either, (1) A
16 Certified Visible Emission Evaluator using
17 Test Method 9 (40 CFR Part 60, Appendix A)
18 or, (2) A continuous opacity monitor
19 installed, calibrated, operated and
20 maintained in accordance with Performance
21 Specification 1 (40 CFR Part 60, Appendix
22 B).

23 Section 252:100-25-3(b)(4), starting
24 at the last struckout word 'wherein' staff
25 suggest 'upstream from the facility to the
26 point of the fuel source' be deleted.
27 Staff feels the point of hazard to life
28 and/or property should not be limited to
29 this one location.

30 Section 252:100-25-4(a)(5), staff

8

1 feels the type of particulates to which
2 this criteria applies be specified in the
3 rule and is considering using PM 10.

4 New section 252:100-25-5, this new
5 section was added to the rule to comply
6 with the EPA SIP requirement. Staff
7 proposes to incorporate by reference, 40
8 CFR Part 51, Appendix F, in relation to the
9 continuous monitoring of opacity at
10 existing fluid bed catalytic cracking unit
11 catalyst regenerators at petroleum
12 refineries and fossil fuel-fired steam
13 generators.

14 Section 252:100-25-5(b)(2),
15 currently the rule states the owners or
16 operators of these emission sources shall
17 complete the installation and performance
18 tests of such equipment and begin
19 monitoring and recording within 18 months
20 after promulgation of this section. Staff
21 is considering putting in an actual
22 compliance date in the rule. Since we
23 anticipate the rule will take effect July
24 1, 1999, the compliance date should be set
25 for January 1, 2001. This would be in line
26 with the rewrite dewrong initiative and
27 assist the regulated community.

28 During the first comment period for
29 the draft rule dated March 18, 1998, one
30 set of comments was received from OG&E

9

1 regarding the new section added. OG&E
2 request that section 252:100-25-5 be
3 modified to include an exemption similar to
4 that found in 40 CFR, Part 75 for those
5 units that are predominantly natural gas
6 fired but do burn limited amounts of oil.

7 After review staff determined OG&E
8 is unable to meet the exceptions listed in
9 Appendix F for fossil fuel-fired steam
10 generators since they burn oil or a mixture
11 of gas and oil and have a cyclone separator
12 for the removal of ash during the
13 combustion of oil. However, Appendix F
14 does allow the State, on a case-by-case
15 basis, to utilize different, but
16 equivalent, procedures and requirements for
17 continuous monitoring systems in the rule.
18 Therefore, under 252:100-25-5(d), staff
19 included proposed wording in the rule to
20 address alternative monitoring requirements
21 different from the provisions of Parts 1
22 through 5 of Appendix F. However, a
23 description of such alternative procedures
24 must also be submitted to EPA for approval.
25 During the second comment period for the
26 draft rule dated May 15, 1998, additional
27 comments were received from OG&E regarding
28 the proposed language from staff added to
29 the rule to address alternative monitoring
30 requirements.

10

1 The following are suggested changes
2 from OG&E. Under 252:100-25-5(d), suggest
3 we add the following language to the end of
4 the paragraph - including periodic system
5 testing not to exceed forty (40) hours per
6 calendar year. Under 252:100-25-5(d)(1)
7 suggest we delete "on a daily basis" and
8 change it to "once per day."

9 Under 252:100-25-5(d)(3), suggest we
10 change the wording to read "Records of fuel
11 oil burned (including type, amount and
12 duration burned) and visible emissions read
13 shall be maintained for two years."

14 Staff has reviewed the proposed
15 language from OG&E and agrees with the
16 changes. However, staff may have a couple
17 of minor changes to the proposed language
18 for clarification purposes. A letter was
19 received from EPA supporting the States
20 proposed incorporation by reference of 40
21 CFR Part 51, Appendix F, for opacity
22 monitoring. The letter also reaffirms the
23 States ability to provide for approval, on
24 a case-by-case basis, of alternative
25 monitoring requirements for affected
26 facilities. Finally, a representative from
27 EPA is here today to assist in answering
28 questions.

29 Staff suggest leaving the comment
30 period open until June 23, after which

11

1 staff will revise and re-propose the rule
2 based on staff suggestions discussed today
3 and comments received from the public and
4 council. Staff recommends the hearing be
5 continued to the next Council Meeting
6 August 18, 1998.

7 MR. DYKE: Any questions of Ms.
8 Buttram from the Council?

9 MS. MYERS: I've got one on the
10 Appendix. Under 3.9 of the Appendix, it's
11 talking about alternative procedures and
12 requirements. There are several examples
13 listed. Could we include some wording --
14 some examples that are followed but not
15 limited to these particular examples, so
16 that we have a little bit more flexibility
17 for considering other alternatives?

18 MS. BUTTRAM: I'm not sure I
19 understand your question, but these are
20 just examples that are given as saying
21 these are some examples.

22 MS. MYERS: Right. I would
23 suggest some language that says but not
24 limited to these specific examples. There
25 may be other alternatives that come up that
26 need to be considered and just not have it
27 limited to these examples. I don't know
28 what they might be. I think for
29 clarification it might not hurt to include,
30 but not limited to.

12

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1 MS. BUTTRAM at about the
2 language that we have already written for
3 252:100-25-5(d) where it talks about
4 alternative monitoring requirements. Then it
5 talks about getting approved by DEQ and
6 EPA. Would that satisfy your concerns?

7 MS. MYERS: It probably would. I
8 just want to be careful we don't get boxed
9 in with being limited to just those
10 examples that are given in that particular
11 part of the Appendix.

12 MS. BUTTRAM: This talks about on
13 a case-by-case basis, so it would give us
14 an opportunity to look at this. I believe
15 any changes in alternative monitoring
16 requirements that the State was to consider
17 would have to be approved by EPA, is that
18 not correct? Mr. Diggs?

19 MR. DIGGS: Yes. If like, the
20 Council approves an alternative monitoring
21 requirement then after your approval it, it
22 would be submitted down to EPA for approval
23 by EPA.

24 MR. DYKE: Please identify
25 yourself.

26 MR. DIGGS: Tom Diggs with EPA
27 Region 6.

28 MR. DYKE: Additional questions
29 of Ms. Buttram from the council? Questions
30 of Ms. Buttram from the audience? I have

13

1 n. Be here of oral comment from Tom Diggs,
2 US EPA, Region 6. Tom. No more questions
3 of Ms. Buttram from the Council?

4 MR. DIGGS: Mr. Chairman, Members
5 of the Council, members of the public, my
6 name is Tom Diggs, D-I-G-G-S. I'm with the
7 EPA Region 6 office in Dallas. And I very
8 much appreciate the opportunity of coming
9 before the Council to provide comments on
10 the proposal to incorporate into the
11 Oklahoma Regulations the Appendix F
12 Requirements for the opacity monitoring.
13 Appendix F identifies the minimum
14 requirements for Continuous Emission
15 Monitoring that the State Implementation
16 Plan doesn't contain. EPA Region 6, had
17 sent forth a letter of April 20, 1998, and
18 I would like share a copy of that for the
19 record. I should inform the Council, that
20 a copy of that was available in Council's
21 briefing package, as part of the Council
22 package. And I am here to say that EPA is
23 very pleased that the State is taken these
24 steps necessary to meet the Appendix F
25 requirements for opacity. The State has
26 moved forward in the past to meet the
27 Appendix F requirements, sulfur dioxide was
28 also a requirement in the past and that has
29 been satisfied. And with the adoption of
30 the opacity requirements that will probably

14

1 meet the requirements of Appendix F.

2 Several questions have come up to
3 the EPA Region 6 offices attention
4 regarding this rule, and these are being
5 addressed in the redraft that was
6 discussed. One is, can Alternative
7 Monitoring provisions apply, for example,
8 utility boilers that use natural gas and
9 fuel oil and fuel oil is only used on an
10 emergency basis, could an Alternative
11 Monitoring provision apply? And the answer
12 to that is, yes. The Section 6 of the
13 Appendix F, does allow for the State to
14 provide approval for Alternative Monitoring
15 requirements on a case-by-case basis. I
16 realize that this has been addressed in the
17 new language that has been added in, that
18 has been discussed as part of this public
19 hearing under 252:100-25-5-(d). We will
20 certainly be looking at this language
21 further at EPA Region 6. I feel the
22 approach being taken or identifying that it
23 would be the Alternative Procedure would be
24 approved by the Council and by EPA as an
25 acceptable approach. I do need to go back
26 talk with the legal counsel and the
27 representatives of the EPA. I appreciate
28 the Oklahoma Department of Environmental
29 Quality addressing that comment and
30 factoring it into the suggestions for the

15

1 redraft.

2 There was also a question that had
3 come up as to whether Appendix F in the
4 Compliance Assurance Monitoring rule are
5 compatible. And from our understanding our
6 compliance assurance monitoring rule does
7 not consent to Appendix F requirements, but
8 rather it is a gap-filling procedure to
9 cover where Appendix F does not. And in
10 the past EPA Region 6, has approved the
11 opacity requirements into our other State
12 Implementation Plans for the Region 6
13 States, and are very encouraged by the
14 approach that Oklahoma is putting forth to
15 adopt this, and I want to thank you for the
16 opportunity for providing comments. I am
17 open, if anyone has questions.

18 MR. DYKE: Questions from the
19 Council? Questions from the public of Mr.
20 Diggs? No questions from the Council? I
21 do not have a record of anyone else wishing
22 to make a comment on this matter. Is there
23 anyone in the audience who wishes to
24 comment on this particular rule making
25 today? Hearing none. I will have a motion
26 to continue this item to the August 18th
27 Meeting.

28 MR. BRANECKY: So move.

29 MS. MYERS: Seconded.

30 MR. BREISCH: We have a motion

16

1 and second to continue this hearing until
2 the August 18th Meeting. Any further
3 questions, comments? If not, Myrna call
4 the roll:

5 MS. BRUCE: Mr. Wilson.

6 MR. WILSON: Aye.

7 MS. BRUCE: Mr. Branecky.

8 MR. BRANECKY: Aye.

9 MS. BRUCE: Ms. Slagell.

10 MS. SLAGELL: Aye.

11 MS. BRUCE: Mr. Kilpatrick.

12 MR. KILPATRICK: Aye.

13 MS. BRUCE: Mr. Gross.

14 MR. GROSS: Aye.

15 MS. BRUCE: Ms. Myers.

16 MS. MYERS: Aye.

17 MS. BRUCE: Mr. Breisch.

18 MR. BREISCH: Aye.

19 (HEARING CONCLUDED)

20
21
22
23
24
25
26
27 CERTIFICATE

28 STATE OF OKLAHOMA)

29) ss:

30 COUNTY OF OKLAHOMA)

17

1
2
3 I, CHRISTY A. MYERS, Certified
4 Shorthand Reporter in and for the State of
5 Oklahoma, do hereby certify that the above
6 proceedings is the truth, the whole truth,
7 and nothing but the truth; and said
8 proceedings was taken by me in shorthand
9 and thereafter transcribed under my
10 direction; that said proceedings was taken
11 on the 16th day of June, 1998 at Tulsa,
12 Oklahoma, and that I am neither attorney
13 for nor relative of any of said parties,
14 nor otherwise interested in said
15 proceedings.

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand and official seal on this, the
18 6th day of July, 1998.

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

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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OAC 252:100-25, SMOKE VISIBLE EMISSIONS AND
PARTICULATES
HELD ON AUGUST 18, 1998
AT 1:00 P.M.
AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: Christy A. Myers, CER

MYERS REPORTING SERVICE
(405) 721-2882

COUNCIL MEMBERS

MS. SARON MYERS, MEMBER
DR. FRED GROSS, MEMBER
MR. GARY KILPATRICK, MEMBER
MR. JOEL WILSON, MEMBER
MR. DAVID BRANECKY, MEMBER
MS. MERIBETH SLAGELL, MEMBER
MR. BILL BRISCH, CHAIRMAN
MS. MYRNA BRUCE, SECRETARY

PROCEEDINGS

MR. DYER: Moving on to the next item on the Hearing Agenda, Item Number 9. This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, Title 40 of the Code of Federal Regulations, as well as the Authority of Title 37A of the Oklahoma Statutes.

This hearing was advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed new rule OAC 252:100-25, Smoke, Visible Emissions and Particulates. If you wish to make a statement, please complete the form at the registration table and you will be called upon at the appropriate time.

At this time I will call upon Ms. Jeanette Buttram to give the staff position on this rule.

MS. BUTTRAM: Previously, proposed changes to Subchapter 25 were presented at the June 16, 1998 Council meeting. The proposed changes to Subchapter 25 were originally made in order to simplify and clarify the rule, and fulfill an EPA State Implementation Plan requirement concerning Continuous Emission

Monitoring.

Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for existing Catalytic Cracking Unit Catalyst Regenerators at Petroleum Refineries and Fossil Fuel-Fired Steam Generators, as specified in 40 CFR 51, Appendix P. According to EPA, this is necessary so that the State CEM requirements are compatible with Federal Standards and SIP requirements.

During the last Council meeting, proposed changes to the May 15, 1998 draft rules were presented. Many of those changes are incorporated in the July 15, 1998 draft rule.

Regarding changes made to Section 252:100-25-3, section 252:100-25-3(b)(1) was renumbered 252:100-25-3(a)(1). Staff deleted the original language in 252:100-25-3(b)(1) and replaced it with the provision that visible emissions cannot exceed 20 percent opacity except for: short term occurrences, which may consist of one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours during which the average opacity of emissions may not exceed 60 percent.

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1 A new subsection for compliance
2 purposes, Section 252:100-25(b), was added
3 to the rules, which reads as follows: To
4 determine compliance with this Section,
5 opacity shall be read by either: (1) A
6 Certified Visible Emission Evaluator using
7 Test Method 9 (40 CFR Part 60, Appendix A)
8 or (2) A continuous opacity monitor
9 installed, calibrated, operated and
10 maintained in accordance with Performance
11 Specification 1 (40 CFR Part 60, Appendix
12 B).

13 In Section 252:100-25-4(a)(5), staff
14 inserted PM-10 to clarify the type of
15 particulates to which this criteria
16 applies.

17 In Section 252:100-25-5(b)(2), the
18 date January 1, 2001, was included in the
19 rule to specify the compliance date of the
20 new section. This would be in line with
21 the rewrite dewrong initiative and assist
22 the regulated community.

23 Comments were received and staff's
24 responses to the rule changes made, and the
25 comments and responses are attached to the
26 Subchapter 25 that we have on the table.

27 Comments were received from OG&E
28 requesting clarification of the proposed
29 new language in Section 252:100-25-5(d).
30 Staff agreed with the comments and made the

5

1 proposed changes.

2 Comments were received from Fort
3 James regarding proposed changes to
4 252:100-25-3(a) and (b). Fort James
5 believes the rule should be written to be
6 consistent with NSPS promulgated by the
7 EPA, specifically for sources subject to a
8 20 percent opacity standard, and proposed
9 language to that effect.

10 Staff reviewed the proposed wording
11 and determined it would not address
12 facilities that have NSPS opacity
13 requirements other than 20 percent, or
14 those that are not even affected by a NSPS.
15 The original language in the rule was
16 clarified and amended to allow the opacity
17 to be based on a six-minute average. Also,
18 Staff included a new subsection (252:100-
19 25-3(b)), which outlines the methods for
20 determining compliance with the opacity
21 limits. These methods are consistent with
22 those outlined in NSPS requirements.

23 Last Thursday, August 13, 1998, a
24 second set of comments was received from
25 Fort James. Again, Fort James suggest we
26 add language to the rule which allows
27 sources subject to a 20 percent equivalent
28 opacity standard, provided in an applicable
29 NSPS in 40 CFR Part 60, to determine
30 compliance with the 20 percent equivalent

6

1 opacity provided in Section 252:100-25-
2 3(a), using the method or manner provided
3 in such NSPS. Currently Fort James feels
4 the opacity limits in permits will be a
5 hybrid made from the most stringent
6 portions of each standard. They also feel
7 this would create confusion among permit
8 writers and source owners.

9 Staff reviewed the proposed wording
10 and does not recommend that it be
11 incorporated into the rule. The general
12 policy followed by the permit writers is to
13 identify both the opacity requirements in
14 the permit if that facility is subject to
15 NSPS, as well as the state rule. The
16 permit writer would not choose permit
17 conditions from each and shape it into one
18 permit condition. The most stringent rule
19 would be identified as the permit condition
20 to follow, and in most cases that would be
21 the NSPS.

22 MR. WILSON: I have a question.
23 Did the staff determine that compliance
24 with NSPS or 40 CFR Part 60 specification
25 (1) would meet the intent of compliance
26 with the state's opacity regulations?

27 MS. BUTTRAM: Well, they added
28 that as a compliance -- for compliance
29 purposes. Is that -- that's the new
30 section that we added, (b). If I

7

1 understand your question correctly, we
2 added the new section to determine
3 compliance with this section.

4 MR. WILSON: Yeah. I'm not sure
5 how to word my question. I have a
6 question, I'm not sure how to word it.

7 MR. KILPATRICK: If I understood
8 your question, you are asking if you follow
9 specification (1) and how that says to do
10 continuous opacity monitoring, would that
11 be consistent with the requirement under A
12 1, the 60 minutes and all that?

13 MR. WILSON: That's correct, yes.
14 Maybe another way would be to say if you
15 complied with the NSPS requirement for
16 installing, calibrating, operating and
17 maintaining, and opacity SIMS, would you
18 also then be in compliance with state
19 regulations listed in 252:100-25-3(a)(1)?

20 MR. BRANECKY: No. Because
21 Appendix B of 40 CFR Part 60 does not have
22 any opacity limits in it. That's in the
23 applicable subpart, Subpart D. Appendix B
24 just has to do with the operation and
25 maintenance and the calibration of the
26 monitoring.

27 MR. KILPATRICK: What is the
28 method? Not the opacity, what is the
29 method?

30 MR. WILSON: What I'm saying is

8

1 if you comply with your NSPS and this
2 particular requirement here found in
3 252:100-25-3(a), excuse me, (b) (2), would
4 you meet the state requirements for --
5 would that satisfy compliance with the
6 state requirements found in the first part
7 under --

8 MR. BRAMECKY: If you complied
9 with your applicable subpart (d), or
10 whatever subpart where the opacity limit is
11 contained, in addition to the Appendix D
12 where the monitoring method is contained.
13 Those two combined, will that meet this
14 section.

15 MR. WILSON: Yeah.

16 MS. HOFFMAN: Excuse me, I'm
17 Barbara Hoffman, Staff Attorney. It seems
18 to me we put that in there so you would
19 know how to determine compliance with the
20 opacity standard. You can use either
21 method 9 or COM based on the CFR Part 60.
22 Do you understand what I'm saying?

23 MR. WILSON: Yes.

24 MS. HOFFMAN: You use one of
25 those methods to determine compliance.

26 MR. WILSON: Right. If I had a
27 source subject difference, an NSPS which
28 had an opacity requirement, of course, I
29 would have to comply with 40 CFR 60,
30 Appendix B, specification 1. But I would

9

1 also have to comply with the language which
2 refers to the six minute period in any
3 consecutive 60 minutes, and three such
4 periods in any consecutive 24 hours, which
5 is state regulations. Okay. And in
6 review, the comments that Fort James had
7 submitted, the staff, if I understood you
8 right, recommended that there was no
9 overlap in that -- in the regulations.

10 MS. BUTTRAM: I should probably
11 clarify that to say that -- not as an
12 excuse, but the letter came in late and it
13 did not give us adequate time to really
14 check with everybody that we needed to
15 check with. And I think some of the
16 information that we got may not have been
17 complete. And so, in order to come up with
18 -- we took what we had and came up with the
19 recommendation to keep the rule as is,
20 because we didn't see a problem with the
21 rule. And so, we can only go by the amount
22 of time we had to gather the information we
23 got, and that's -- so the responses I have
24 is what I was able to get during that
25 limited time.

26 MR. WILSON: And the comments
27 that Fort James submitted suggested that
28 they felt that they were being subjected to
29 a hybrid opacity standard, which included
30 the most stringent parts of the NSPS and

10

1 the state regulations.

2 MS. BUTTRAM: True.

3 MR. WILSON: Is that true?

4 MS. BUTTRAM: Well, again, to my
5 understanding I have heard it both ways,
6 but I have heard that that could be
7 possible, also.

8 MS. SHREDDY: I'm Joyce Shedy
9 with the Air Quality Division. They would
10 be subject to both rules. And in theory,
11 it's not a hybridized rule. But in
12 practice, what would happen is that indeed
13 they could have one excursion of up to 27
14 percent, if they were going to comply with
15 both rules.

16 MR. WILSON: So, you are
17 recognizing that the sources subject to
18 NSPS are facing two sets of opacity
19 regulations to comply with?

20 MS. SHREDDY: In some cases.
21 Well, they all will. In many cases, the
22 differences are such that complying with
23 one will comply with the -- the more
24 stringent will comply with both. In this
25 particular case, it just doesn't work out
26 because of the difference in the number of
27 excursions you can have.

28 MR. WILSON: And from what I've
29 heard, the staff feels like the NSPS
30 requirement is the more stringent of the

11

1 two standards?

2 MS. SHREDDY: Well, it is insofar
3 as you can only go up to 27 percent. But
4 it isn't insofar as you can have three
5 excursions there, but only one -- so it's a
6 trade-off. You can have one 60 percent or
7 three 27 percents. Which is the most
8 stringent?

9 MR. WILSON: Who will determine
10 that?

11 MS. BUTTRAM: I'm not sure.
12 Larry, did you have a comment?

13 MR. DYER: Larry, identify
14 yourself, please.

15 MR. BYRUM: Larry Byrum,
16 concerned citizen. Did you not say earlier
17 that you were going to ask that this be
18 continued, this particular portion of this
19 regulation?

20 MS. BUTTRAM: Yes. During the --
21 during the briefing I did say that.

22 MR. BYRUM: I guess my
23 observation would be that this is probably
24 something that needs to be looked at in
25 more detail, worked out during the interim
26 between the two. I would think that would
27 be the solution that you are looking for.
28 I didn't -- I have not seen the letters of
29 comment, but I'm sure there is a common
30 ground that can be worked out. And I know

12

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1 how difficult it is to sit here today and
2 try to come up with all the particular
3 MSFS's and try to apply all of those. My
4 suggestion would be that you continue the
5 hearing and review the particular cases.
6 There may be two or three that have to be
7 handled, and if you try to do it on the
8 fly, we'll only get one or two of those
9 corrected. That would be my suggestion to
10 you.

11 MS. MYERS: This rule doesn't
12 have any kind of immediate implication, it
13 just has to be passed; is that correct?

14 MS. BUTTRAM: That's correct.

15 MR. DYKE: Mr. Chairman, if I
16 could, I do have notice from Fort James
17 that they would like to make a comment.
18 And before we dismiss Ms. Buttram, all
19 together, if I could call on Mr. Landers to
20 make his comments and then we'll see if
21 there is any other questions after that.
22 Is that, okay? Mr. Landers?

23 MR. LANDERS: I am Steve Landers
24 with Fort James Operating Company in
25 Muskogee. I thank the Council for this
26 opportunity to comment. Fort James has
27 submitted comments on two separate
28 occasions. I would just like to emphasize
29 and clarify a couple of items concerning
30 the comments. And some of that has been

13

1 seen already the confusion that will come
2 out of not only being subject to two
3 different standards, but having to comply
4 with two different limits concurrently.
5 It's a bit confusing to permit writers,
6 inspectors, attorney/clients, not to
7 mention our own operations policy.

8 Secondly, I would like to say that
9 Fort James -- to clarify, we're not
10 opposing a higher opacity limit. We're
11 suggesting that compliance with an
12 applicable MSFS that has the same 20
13 percent opacity limit would be compliance
14 with the subsection. And those that are
15 not subject to an MSFS would therefore be
16 subject to 252:100-25-3(a)(1). Likewise,
17 those that have an opacity limit in their
18 MSFS is higher than 20 percent.

19 MR. DYKE: Any questions of Mr.
20 Landers from the Council? Any questions of
21 Mr. Landers from the public?

22 MR. FISHBACK: My name is Bill
23 Fishback. I sympathize completely with the
24 situation that this industry finds
25 themselves in with what may be conflicting
26 or overlapping regulations. What I would
27 do -- what I would recommend to the Council
28 is that they request the staff to take this
29 opportunity between now and the next
30 Council meeting, to see if there are

14

1 revisions to the state opacity rule that
2 could be changed, that would eliminate
3 these inconsistencies. I am kind of like
4 Larry, I'm not sure we can sit here today
5 and do that, and make sure we cover all the
6 bases. I think that should be the goal,
7 one consistent set of regulations;

8 As Dr. Sheedy said earlier, the
9 issue here really is that there is no way
10 to say that one rule is more stringent than
11 the other, because both rules have two
12 conditions. They don't just have one
13 condition. If the only condition in a rule
14 was opacity, it would be real easy to say
15 one is 20 and one is 30, therefore one is
16 more stringent. But because there are two
17 conditions in the rule, you have this gray
18 area where in certain cases one is more
19 stringent based on one of the requirements,
20 and the other one is more stringent based
21 on the other. So, I think the continuance
22 is an ideal opportunity. And if this rule
23 is able to be revised so that it can
24 eliminate the inconsistencies with the
25 federal rule, that would be great.

26 I believe in Oklahoma we have, if
27 not a statute, like is present in Texas,
28 but I believe we have a directive that says
29 that in general we don't want to have
30 regulations that are more stringent than

15

1 federal regulations because of the idea of
2 discouraging industry from relocating here
3 and all of that. I see Barbara shaking her
4 head, maybe it's not a statute, but at
5 least that's the sense of how regulations
6 are prepared. Would you not agree?

7 MS. HOFFMAN: I would not agree.

8 MR. FISHBACK: Okay.

9 MS. HOFFMAN: The statute says
10 that if our rule -- if we're going to
11 propose a rule more stringent than the
12 federal rule, then we have to explain why
13 in our rule impact statement. But they are
14 not really economically -- what's it
15 called, an economic benefit?

16 MR. FISHBACK: Yeah, there needs
17 to be a justification.

18 MS. HOFFMAN: But only with
19 respect to hazardous air pollutants does it
20 say that we're supposed to adopt the
21 national standard rather than our own.

22 But if I could speak just a little
23 more on this, Bill. What I'm curious about
24 is, you know, I've talked to some of our
25 folks who have been in the Air Quality
26 Division for some time, and they have never
27 had a problem in enforcing the two
28 standards that we're talking about. Our
29 own hazardous standard and this particular
30 MSFS. And so what I'm curious about before

16

1 we actually delve into changing our rules,
2 as I understand this rule is a part of our
3 state implementation plan. If we're going
4 to change it in that respect, then we're
5 going to have to get EPA's approval. So,
6 we want to be very careful if we're really
7 going to mess with the substantive part of
8 this rule. So, I'm curious if industry can
9 tell us if there have ever been any actual
10 conflicts in trying to comply with both
11 rules?

12 MR. LANDERS: I would say you are
13 right. There hasn't been a conflict in the
14 past because the state rule, as it exists
15 now, is if an aggregate amount of 300
16 seconds in an hour, over 20 percent, you're
17 in violation. That will come true before a
18 six minute average exceedance would come
19 true. The same thing with the 20 minute
20 average versus the recurrences in a 24
21 hour -- in a 24 hour period based on a six
22 minute average. The aggregates will always
23 come through before the average. And
24 therefore, in the rule there, would be no
25 question as to which one is more strict.
26 In the state rule, the aggregate will come
27 through before the average has.

28 MS. BUTTRAM: For clarification
29 purposes, is the deletion of aggregate in
30 the rule the problem? If that was to go

17

1 back in, would that --

2 MR. LANDERS: No, six minute
3 average is great. We like that part. That
4 is much more consistent with NSPS. And
5 again, the issue is the going back and
6 forth as to which is more stringent, given
7 a certain situation. I would like to
8 apologize if our comments were late.

9 MR. DYER: Any additional
10 questions of Ms. Buttram or Mr. Landers
11 from the Council?

12 MR. CHAIRMAN: Yeah, I've got a
13 question. How is the staff going to
14 approach the solution in that you are not
15 going to change the NSPS?

16 MS. BUTTRAM: Would you like me
17 to answer that?

18 MS. HOFFMAN: Sure.

19 MS. BUTTRAM: Staff has -- we've
20 talked about how we need to talk with
21 industry and look at our rule as far as
22 whether it needs to be modified to be maybe
23 more in -- together with the NSPS
24 requirements when it does come to that
25 opacity, those opacity requirements. But
26 other than that, I don't -- we haven't
27 really discussed it in further detail.

28 MR. BRANCKCY: You might want --
29 if you have an NSPS that takes care of the
30 concern, then let the NSPS do it. But if

18

1 there is a gap that some people may fall
2 through, then maybe the state rule can fill
3 in that gap and not overlap, but just have
4 it as a means of catching those people that
5 may fall under an NSPS and need some type
6 of control.

7 MR. CHAIRMAN: Well, you could
8 create that language right now. In fact, I
9 think you did in our briefing session this
10 morning.

11 MR. BRANCKCY: In lieu of the
12 NSPS, then this applies. But if there is
13 an NSPS that applies to you, then that's
14 what you've got to meet.

15 MR. CHAIRMAN: But, that's why I
16 asked --

17 MR. BRANCKCY: There is maybe
18 more to it than that.

19 DR. SHEDDY: This is Joyce Shеды
20 again. What about in the few cases -- I
21 think there are only a few, where the NSPS
22 has an opacity that is higher than the 20
23 percent. Like they are 30 -- was it 30
24 percent?

25 MS. BUTTRAM: Right. Fossil Fuel
26 Fire and Cracking Unit at 30 percent.

27 DR. SHEDDY: Would we go to the
28 30 percent because it's an NSPS, or would
29 we hold them to our 20 percent. Would that
30 be a problem with the relaxation of the

19

1 SIP?

2 MR. CHAIRMAN: Well, you would go
3 to NSPS. Right?

4 MR. BRANCKCY: What are we trying
5 to do with this regulation?

6 MR. DOUGHTY: Mr. Chairman, if I
7 may. If I may make a comment. My name is
8 Dennis Doughty. The staff started out with
9 the intent of clarifying what we had.
10 There was no intent of relaxing or changing
11 any standards that have been in existence
12 now for 25 or 30 years. And it's not fair
13 to shoot at the staff on something that
14 came up rather late.

15 So, if there is conflicts with
16 industry on NSPS, I suggest that they make
17 them clear to staff, that we put them
18 together, and come back next time and see
19 if we can't resolve them. I don't think we
20 can do it here, unless you want to pass it
21 like it's been proposed.

22 If there are some real issues and
23 real conflicts and problems, it would
24 probably be best if industry could tell us
25 exactly what they are so the staff can work
26 on them.

27 MR. BRANCKCY: Well, it's not my
28 intent and I didn't think I was shooting at
29 the staff, hopefully we're trying to work
30 through this. I think -- I'm with O&E.

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1 and I would be more than willing to sit
2 down and discuss it with you guys and help
3 you guys work through it.

4 MR. KILPATRICK: I would make the
5 comment that I'm not sure that in the short
6 time we're allowed, if our purpose is to
7 try to go ahead and get this body of
8 regulations revised, and realizing that
9 this language is going to pass through two
10 or three of the regulations, that we may
11 have to go ahead and revise them for the
12 purpose of clarity. And then if we want to
13 consider whether we're going to change the
14 fundamental principles of opacity
15 regulation, that may have to be done as a
16 second regulatory matter. Not try to mix
17 these two issues together and try to solve
18 them all at one time.

19 MS. BUTTRAM: I better not
20 comment on that one. I just -- in fairness
21 to Fort James, we did receive their first
22 comments, but the second letter is pretty
23 much what, I think, showed their true
24 concern about a mixture having both rules
25 applying. So, we really weren't able to
26 address that issue for this Council
27 meeting.

28 MR. CHAIRMAN: I think we should
29 continue this until October and give you a
30 chance to look at it.

21

1 I have no problem with continuing
2 it. And my -- my question was simply that
3 the solution in my mind was with what David
4 Branecky said this morning. If it's NSPS,
5 it's NSPS. If it's not, we've got a
6 regulation to cover it. That's why I asked
7 the staff how were they going to solve
8 this. It seems to me they are going to
9 come back and solve it just like that.
10 But, you know, again I have no problem with
11 continuing it. I wasn't, Dennis, coming
12 down on the staff.

13 MR. DOUGHTY: I wasn't saying you
14 were.

15 MR. BYRUM: This is Larry Byrum
16 again. I guess, looking at it from
17 experience, that I would say what is being
18 proposed here is an additional substantive
19 change that you need to get commented on.
20 I'm sure EPA would have comment if you take
21 the opacity rule and say that if you -- if
22 NSPS -- if you meet the NSPS requirement,
23 meet the opacity for Oklahoma, I'm sure EPA
24 would have comments on that as to whether
25 or not we are relaxing an existing rule. I
26 think we need to give that an opportunity
27 to get that all out into the system. I
28 agree with what David said, that that may
29 very well be the solution that you come up
30 with. But again, trying to do it all --

22

1 trying to remember all the NSPS
2 requirements off the top of our head in
3 this setting is -- I don't know anyone here
4 that can remember all of it. It might be
5 best if we sit down with the industry and
6 the staff and work through this.

7 MR. DYER: Any other questions or
8 comments of Ms. Buttram from the Council?
9 From the public? Thank you.

10 MS. BUTTRAM: Do you want to hear
11 the staff's recommendation?

12 MR. DYER: Sure.

13 MS. BUTTRAM: Staff recommends
14 that the comment period be left open until
15 August 24th. Staff recommends the rule be
16 considered again at the next Council
17 meeting on October 20th, 1998.

18 MR. DYER: Any additional
19 comments?

20 MR. BYRUM: Just one. August
21 24th is a fairly close time frame that you
22 are asking people to get together. When is
23 the latest date that you would be able to
24 close your comment period to be able for
25 this to be worked on?

26 MS. BUTTRAM: Well, the problem
27 is the notice has to be turned in on August
28 26th. Any substantive change has to be
29 listed in the notice. We could come up
30 with -- we can override that in if we meet

23

1 and come up with something that we think
2 we're going to be changing and putting in
3 the notice, but it's going to affect that
4 section. And then we can continue to meet
5 after the notice is turned in, because it's
6 not going to be published for a while after
7 that. And after it's published, then
8 that's when no more changes can be made,
9 pending, made to the rule.

10 MR. BYRUM: So, what you are
11 saying is the first meeting needs to occur
12 very quickly?

13 MS. BUTTRAM: Yes.

14 MR. DYER: Yes, sir?

15 MR. LEW: Gill Lew, Fort James.

16 Did I understand that you are going to
17 leave the comment period open until next
18 Monday?

19 MS. BUTTRAM: Like I just
20 explained, we have to follow procedures.
21 And so we have to turn in a notice by
22 August 26th. In that notice we have to
23 list any change that we have made to the
24 rule. So, we have to meet before then in
25 order to determine -- to get an idea of
26 what we're going to put in the notice. But
27 then we can meet after that again to make
28 the actual changes. We just have to be
29 able to meet and say this is what we're
30 looking at. After the meeting, we might

24

1 decide not to change the rule, or we may
 2 decide to change the rule. So, those are
 3 things we have to look at before the notice
 4 is turned in.
 5 MR. LEW: I would just like to
 6 say that we would be more than happy to
 7 work with you.
 8 MS. BUTTRAM: Okay.
 9 MR. DYKE: Anything else of Ms.
 10 Buttram on this matter?
 11 MR. CHAIRMAN: I'll entertain a
 12 motion we continue this hearing.
 13 MR. WILSON: So moved.
 14 MS. SLAGELL: Second.
 15 MR. CHAIRMAN: I've got a motion
 16 and a second. Any other comments or
 17 questions?
 18 MR. BRANECKY: Do we want to,
 19 with the understanding that in the interim
 20 that these meetings will be held. Is that
 21 necessary?
 22 MR. CHAIRMAN: That's the
 23 understanding. I don't know that it needs
 24 to be in the motion.
 25 MR. BRANECKY: Okay, that's fine.
 26 MR. CHAIRMAN: Myrna, call the
 27 roll.
 28 MS. BRUCE: Ms. Myers?
 29 MS. MYERS: Aye.
 30 MS. BRUCE: Dr. Gross?

25

1 DR. GROSS: Aye.
 2 MS. BRUCE: Mr. Kilpatrick?
 3 MR. KILPATRICK: Aye.
 4 MS. BRUCE: Mr. Wilson?
 5 MR. WILSON: Aye.
 6 MS. BRUCE: Mr. Branecky?
 7 MR. BRANECKY: Aye.
 8 MS. BRUCE: Ms. Slagell?
 9 MS. SLAGELL: Aye.
 10 MS. BRUCE: Mr. Breisch?
 11 MR. BREISCH: Aye.

(HEARING CONCLUDED)

30

26

1 C E R T I F I C A T E
 2 STATE OF OKLAHOMA)
 3) ss:
 4 COUNTY OF OKLAHOMA)
 5
 6
 7 I, CHRISTY A. MYERS, Certified
 8 Shorthand Reporter in and for the State of
 9 Oklahoma, do hereby certify that the above
 10 proceedings is the truth, the whole truth,
 11 and nothing but the truth; and said
 12 proceedings was taken by me in shorthand
 13 and thereafter transcribed under my
 14 direction; that said proceedings was taken
 15 on the 11th day of August, 1998 at Oklahoma
 16 City, Oklahoma; and that I am neither
 17 attorney for nor relative of any of said
 18 parties, nor otherwise interested in said
 19 proceedings.
 20 IN WITNESS WHEREOF, I have hereunto
 21 set my hand and official seal on this, the
 22 ___ day of ____, 1998.
 23
 24
 25
 26
 27 CHRISTY A. MYERS, C.S.R.
 28 Certificate No. 00310
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DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF PUBLIC HEARING OAC 252:100-25
SMOKE, VISIBLE EMISSIONS AND PARTICULATES
HELD ON OCTOBER 20, 1998, AT 1:00 P.M.
AT TULSA CITY-COUNTY
HEALTH DEPARTMENT AUDITORIUM
IN TULSA, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE

(405) 721-2882

MEMBERS OF THE COUNCIL

1. MR. KILPATRICK - MEMBER
2. MS. SLAGELL - MEMBER
3. MR. WILSON - MEMBER
4. MS. MYERS - MEMBER
5. MR. BRANECKY - MEMBER
6. DR. CANTER - VICE CHAIRMAN
7. DR. GROSZ - MEMBER
8. MR. BRETSCH - CHAIRMAN
9. MR. DYKE - PROTOCOL OFFICER
10. MS. BRUCE - SECRETARY

PROCEEDINGS

MR. DYKE: Now the next item on the agenda, Item Number 7, OAC 252:100-25.

I am David Dyke, the Assistant Director of the Air Quality Division. I will act as the Protocol Officer on this hearing.

The hearing was convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, applicable State Statutes and Title 46 of the Code of Federal Regulations.

This hearing was advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed new rule, OAC 252:100-25, Smoke, Visible Emissions and Particulates.

If you wish to make a comment or statement, please complete the form at the registration table and you will be called upon.

At this time, I will call upon Ms. Jeanette Buttram, to give the staff position.

MS. BUTTRAM: Members of the Council, ladies and gentlemen, previously proposed changes to Subchapter 25 were presented at the June 16th and August 18th, 1998, Council meetings. The proposed changes to Subchapter 25 were made in order to simplify and clarify the rule, fulfill an EPA State Implementation Plan requirement by incorporating by reference the Federal opacity monitoring requirements, as specified in 40

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Certified shorthand reporter

CFR 51, Appendix P, for existing Catalytic Cracking Unit Catalyst Regenerators at Petroleum Refineries and Fossil Fuel-Fired Steam Generators.

During the Council meeting held August 18th, 1998, comments regarding the proposed change to 252:100-25-3, were discussed and it was decided to further address these concerns brought up by Fort James, concerning conflicting federal standards.

As a result, the following changes have been proposed: Page 2, Section 252:100-25-2.1, add a new definitions section. Page 2, Section 252:100-25-3(a), exempt sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act. Page 3, Section 252:100-25-3(a)(1), clarify how the opacity standard will be determined at sources with Continuous Opacity Monitors operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B). Page 3, Section 252:100-25-3(a)(1), clarify how the opacity standard will be determined at sources without Continuous Opacity Monitors. Page 3, Section 252:100-25-3(c), provide methods for determining compliance with the opacity limits.

Staff recommends two additional changes not shown on the draft rule. On page 4, under Section 252:100-25-5(a), staff recommends the date July 1st, 1997, be changed to July 1st, 1998. On page 3 and 4, for simplification purposes,

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change Air Quality Division to Division.

Comments were received from Fort James, along with EPA, supporting these proposed changes to Subchapter 25, which I will enter into the record.

Staff suggests that the proposed rule be recommended to the Environmental Quality Board for permanent adoption.

MR. DYKE: Questions and discussion from the Council?

MS. MYERS: Jeanette, on the very first part under the general prohibition, where it says no owner or operator of any air contaminant source shall allow emissions. Should that be excess emissions? You have permitted limits on your emissions. Should it be excess emissions?

MS. BUTTRAM: No. Because if you refer to the definition for air pollution, then that will explain what the - what air pollution is and it talks about insufficient quantities and of such characteristics that tend to be a remaining interest and so that takes care of that.

MS. MYERS: Okay, thank you.

MR. DYKE: Additional questions from the Council? Questions or discussion from the public? Does anyone wish to speak?

MS. MEDLEY: I have a question or comment. On 252:100-25-4, Alternative for Particulates, it says in the first paragraph -- basically it says that there can be an

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increase for particulates, only provided that the owner/operator demonstrates to the satisfaction of the Air Quality Council at public meeting. Then it lists these three items, four items, there may be five here. Anyway, number 1 and 2, I comprehend with a, b, c. And number 3, it says, quote, possibly owner/operator gets an increase in particulates if they had been stopped appropriately, does not control opacity to the limit required. And I have a problem with that. If their control equipment doesn't do it to the limit as required, and the equipment doesn't, then why should we allow them to get an exceedance from our Council? Just so they continue operating?

MS. BUTTRAM: I'd have to refer that to someone who is involved with permit sources.

MR. DYKE: Barbara Hoffman.

MS. HOFFMAN: My name is Barbara Hoffman, I'm the staff attorney.

MR. DYKE: Could you come up, Barbara.

MS. HOFFMAN: What?

MR. DYKE: Please, could you come forward for the court reporter? Thanks.

THE REPORTER: I'm sorry. Thanks.

MS. HOFFMAN: First of all, let me tell you that we have not made any substantive changes to this rule, okay.

So, the changes in 25-4 are merely just some wording changes

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that hopefully will streamline it a little bit, but the actual rule does not change. And the reason why it says that the installed control equipment does not control opacity to the limit required, if their controlled equipment could control opacity to the limit required, we wouldn't need the alternative limit. So, we have to make them --

MS. MEDLEY: Where do you get the other alternative? Up here, whether they actually get control if they still want additional particulates in 1, 2, 3. In 1 and 2, but in 3, you are actually stating the installed control equipment does not. And yes, this may already have been a rule, but the reason I bring it up, anytime you don't see these rules (inaudible) changes are made (inaudible) we don't have all the rules to go and read from this in our office, so, you know, this sometime is our only time to comment on any rule, whether it's been changed or not.

MS. HOFFMAN: The owner/operator that wants an alternative for opacity has to meet all of those listed items.

First of all, they have to show they attempted to control the opacity, that their equipment is in good working order, and then third is, but it still doesn't meet the limit. And if it still doesn't meet the limit after that, plus a few more and 5, but if they get to that point, then they can prove to us that they meet the alternative opacity limit.

MS. MEDLEY: Thank you.

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MR. DYKE: Additional comments or questions from the public? Additional comments or questions from the Council? Mr. Breisch?

MR. BREISCH: I'll entertain a motion that we recommend this for permanent passage by the DEQ Board.

DR. GROSZ: So moved.

MR. BRANECKY: Second.

MR. BREISCH: Motion has been made and seconded that we pass this on to the DEQ Board for adoption. Myrna.

MS. BRUCE: Mr. Branecky.

MR. BRANECKY: Aye.

MS. BRUCE: Ms. Myers.

MS. MYERS: Aye.

MS. BRUCE: Mr. Wilson.

MR. WILSON: Aye.

MS. BRUCE: Dr. Gross.

DR. GROSZ: Aye.

MS. BRUCE: Mr. Breisch.

MR. BREISCH: Aye.

(PROCEEDINGS CONCLUDED)

C E R T I F I C A T E

STATE OF OKLAHOMA)

Christy A. Myers
Certified Shorthand Reporter

1 COUNTY OF OKLAHOMA) ss:

2 I, CHRISTY A. MYERS, Certified Shorthand Reporter in
3 and for the State of Oklahoma, do hereby certify that the above
4 proceedings are the truth; the whole truth, and nothing but the
5 truth, in the proceedings aforesaid; that the foregoing
6 proceeding was taken by me in shorthand and thereafter
7 transcribed under my direction; that said proceedings was taken
8 on the 20th day of October, 1998, at Tulsa, Oklahoma; and that
9 I am neither attorney for nor relative of any of said parties,
10 nor otherwise interested in said proceedings.

11 IN WITNESS WHEREOF, I have hereunto set my hand and
12 official seal on this, the 4th day of November, 1998.

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

Christy A. Myers
Certified Shorthand Reporter

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-29 Control of Fugitive Dust

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-29 SIP Revision

CHAPTER 100: AIR POLLUTION CONTROL

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

Section

252:100-29-2. ~~Prohibitions~~ General provisions [AMENDED]

252:100-29-3. Precautions required in maintenance or nonattainment areas [AMENDED]

252:100-29-5. Variance [REVOKED]

252:100-29-2. ~~Prohibitions~~ General provisions

~~(a) General provisions. No person shall cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being air-borne, or wind-borne or to operate or maintain or cause to be operated or maintained, any premise, open area, right-of-way, storage pile of materials, vehicle, or construction, alteration, demolition or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind or air, or susceptible to being wind-borne or air-borne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.~~

~~(a) Prohibitions. No person shall cause or allow any fugitive dust source to be operated, or any substances to be handled, transported or stored, or any structure constructed, altered, or demolished to the extent that such operation or activity may enable fugitive dust to become airborne and result in air pollution, without taking reasonable precautions to minimize or prevent pollution.~~

~~(b) Emission boundaries. No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties, or cause air quality standards to be exceeded, or interfere with the maintenance of air quality standards.~~

~~(b) Reasonable precautions. Reasonable precautions include, but are not limited to, those actions set forth below at 252:100-29-3(1) through (6).~~

~~(c) Emission boundaries.~~

~~(1) No person shall cause or allow the discharge of any visible fugitive dust emissions beyond the property line of the property on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties. If the DEQ determines that this rule has been violated, the owner or operator of the fugitive dust emissions source or sources shall implement controls, subject to economic and technological feasibility, to prevent future violations.~~

~~(2) No persons shall cause or allow the discharge of any visible fugitive dust emissions beyond the property line of the property on which the emissions originate in such a manner as to cause air quality standards to be exceeded or interfere with the maintenance of air quality standards.~~

252:100-29-3. Precautions required in maintenance or nonattainment areas

As of the adoption of this Subchapter, in areas designated as Air Quality Maintenance Areas or Nonattainment Areas for ~~particulates~~ particulate matter, the ~~Executive~~ Director shall require specific reasonable precautions ~~and that~~ may include, but shall not be limited to, the following:

- (1) The use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, driveways and parking lots or the clearing of land for commercial, industrial, or residential development;
- (2) The application of water or suitable chemicals or some other covering on materials stockpiles, and other surfaces ~~which that~~ can create air-borne dusts under normal conditions;
- (3) The installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials or the use of water sprays or other acceptable measures to suppress the dust emission during handling. Adequate containment methods shall be employed during sandblasting or other similar operations;
- (4) The covering or wetting ~~when in motion,~~ of open-bodied trucks, trailers, or railroad ~~ear cars when~~ transporting dusty materials in areas where the general public must have access ~~which can create air-borne particulate matter;~~
- (5) The removal as necessary from paved street and parking surfaces of ~~earth or other material which~~ materials that have a tendency to become airborne; ~~and/or.~~
- (6) ~~the~~ The planting and maintenance of vegetative ground cover as necessary.

252:100-29-5. Variance [REVOKED]

~~Uses of potential variance from this Subchapter are subject to review, approval, and/or denial of the requested variance by the Air Quality Council.~~

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exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) clarify that de minimis emissions increases do not require construction permits, but that additions of equipment that are subject to NSPS or NESHAP would. The changes in section 5(d)(1)(A) clarify that BACT is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting requirements. A substantive change is proposed for the definition of "major stationary source" in section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The changes to section 52 were adopted in 1989 but were accidentally excluded during codification of the rules.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on June 14, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by June 7, 2000. Oral comments may be made at the June 14, 2000 hearing and at the Environmental Quality Board hearing on August 29, 2000, in Durant, Oklahoma.

PUBLIC HEARINGS:

Wednesday, June 14, 2000 - 9:00 a.m. hearing, 707 North Greenwood, Room 150, OSU at Tulsa, Tulsa, OK.

Scheduled before the Environmental Quality Board at 9:30 a.m. on August 29, 2000, Durant, OK, (exact location to be announced).

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100,

Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Joyce Sheedy, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-793; filed 4-25-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-794]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

✓ Subchapter 29. Control of Fugitive Dust [AMENDED]
SUMMARY:

The proposed changes to Subchapter 29 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. A substantive change is included which would make the rule more enforceable by deleting the qualification that the fugitive dust be emitted to such an extent as to be classified as air pollution, before precautions are required. The proposed revocation of 252:100-29-5, Variance, is due to its redundancy with the Clean Air Act at 27A O.S.Supp. § 2-5-109.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services,

revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on June 14, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by June 7, 2000. Oral comments may be made at the June 14, 2000 hearing and at the Environmental Quality Board hearing on August 29, 2000, in Durant, Oklahoma.

PUBLIC HEARINGS:

Wednesday, June 14, 2000 - 9:00 a.m. hearing, 707 North Greenwood, Room 150, OSU at Tulsa, Tulsa, OK.

Scheduled before the Environmental Quality Board at 9:30 a.m. on August 29, 2000, Durant, OK, (exact location to be announced).

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Leon Ashford, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-794; filed 4-25-00]

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-2181]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 6. Permitting [REVOKED]

Subchapter 8. Permits for Part 70 Sources [AMENDED]

Subchapter 29. Control of Fugitive Dust [AMENDED]

Subchapter 31. Control of Emission of Sulfur Compounds [AMENDED]

SUMMARY:

It is proposed that Subchapter 6 be revoked in its entirety. This action fulfills the Department's goal of eliminating redundant or unnecessary language through the re-right/de-wrong process. The rule is for the most part a summary of the permit programs contained in Subchapters 7 and 8, and a restatement of Oklahoma statutes on permitting. Only a few portions of the rule contain substantive language that will be placed into Subchapter 8. Revocation of the rule will have no effect on permit actions.

The proposed changes to Subchapter 8 would amend sections 1-1, 1-4, 1-5, 1-7, 2, 3, 4, 5, 6, 7, 8, 31, 33, 51, and 52. The changes correct errors, clarify language, add paragraphs that had previously been adopted but not codified, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) clarify that de minimis emissions increases do not require construction permits, but that additions of equipment that are subject to NESHAP would. The changes in section 5(d)(1)(A) clarify that BACT is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting

requirements. A substantive change is proposed for the definition of "major stationary source" in section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The definitions of "reconstruction" and "resource recovery facility" in section 51 would be deleted since those terms are not used in Part 9. The changes to section 52 were adopted in 1989 but were accidentally excluded during codification of the rules.

The proposed changes to Subchapter 29 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The provisions 252:100-29-2(a) and (b) will be combined to require reasonable precautions to control any visible fugitive dust emissions beyond the property line on which the emissions originate if such emissions interfere with the use of adjacent properties, cause air quality standards to be exceeded, or interfere with the maintenance of air quality standards. The proposed revocation of 252:100-29-5, Variance, is due to its redundancy with the Clean Air Act at 27A O.S.Supp. 1999 § 2-5-109.

The proposed changes to Subchapter 31 are primarily to simplify language, clarify requirements, and remove redundant requirements or language as part of the agency-wide re-right/de-wrong initiative. New definitions of the terms "existing source" or "existing equipment" and "new source" or "new equipment" clearly identify the effective date for each industry affected by the rule. Section 252:100-31-3 regarding performance testing is revoked, since performance testing is covered in Subchapter 43. In section 252:100-31-12(a) the use of an annual arithmetic mean is revoked. Section 252:100-31-25(c)(3) regarding emission monitoring is revoked, since emission monitoring is covered in Subchapter 45. Section 252:100-31-15(b) and those portions of 252:100-31-12(b) and 252:100-31-13(b) which identify the requirements to prove a violation are recommended for deletion, since 252:100-45-5 allows the use of any credible evidence to determine a violation. Sections, subsections, and paragraphs will also be moved to facilitate use of the rule. Six substantive revisions are also proposed. (1) Revoke 252:100-31-14(c) regarding the testing procedures for ambient hydrogen sulfide, as the listed procedures are out of date and will be replaced with

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sampling and test methods in Subchapter 43. (2) Delete 252:100-31-25(a) pertaining to new sulfuric acid plants since it is identical to the NSPS, 40 CFR 60 Subpart H, except for the opacity limit and the averaging time. The differences between the federal and state standards are minimal, and the state rule was intended to reflect the federal standard. (3) The averaging time for ambient hydrogen sulfide concentration from existing equipment in 252:100-31-14(a) is changed from 30 minutes to one hour to match the averaging time for ambient hydrogen sulfide concentrations from new equipment. (4) Section 252:100-31-25(c) covering new gas sweetening and sulfur recovery plants, and Section 252:100-31-26 covering hydrogen sulfide from petroleum and natural gas processes will be combined and rewritten to make clear which sources are subject to the standard. The sources subject to the hydrogen sulfide standard are more narrowly drawn to cover only sweetening plants and sulfur recovery units. Other processes referenced in the sulfur dioxide standard are limited to petroleum refinery processes, consistent with the intent of the rule. (5) Section 252:100-31-26(a), the hydrogen sulfide standard for new petroleum and natural gas processes contains several changes: (a) the standard has been changed from a combination equipment and emission standard to a more straightforward emission standard; (b) the exception for pipeline quality sweetened gas was moved to 252:100-31-26(b)(1) and changed to an emission based exception; and (c) an exception to the required exhaust stack is provided based on modeling. (6) Several subsections of the rule require a maximum average testing period. Because it is unclear what is a maximum average, all subsections will be changed to a time-based average.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment; construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on August 16, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by August 9, 2000. Oral comments may be made at the August 16, 2000 hearing and at the Environmental Quality Board hearing on November 14, 2000, in Hooker, Oklahoma.

PUBLIC HEARINGS:

Wednesday, August 16, 2000 - 9:00 a.m. hearing, Pioneer Technology Center, Education Business Center, 2101 North Ash Street, Ponca City, OK.

Scheduled before the Environmental Quality Board at 9:30 a.m. on November 14, 2000, Hooker, OK, (exact location to be announced).

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102; and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (SC 6), Joyce Sheedy (SC 8 and SC 31), and Cheryl Bradley (SC 29), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-2181; filed 6-23-00]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 25. ENTRIES AND DECLARATIONS

[OAR Docket #00-2183]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

325:25-1-30.1. Naming/engaging of riders [NEW]

SUMMARY:

The new rule proposed to Chapter 25 is being proposed to prevent problems of rider changes on races programs, and the adoption of this proposed new rule would be consistent with rules of other racing jurisdictions.

AUTHORITY:

Title 3A O.S. §204(A); Oklahoma Horse Racing Commission

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday August 7, 2000, at the following

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The proposed changes to Subchapter 7 consist of the addition of Sections 60.3, 60.4, and 60.5. Proposed Section 60.3 references the permit by rule for VOC storage and loading facilities which is located in OAC 252:100-37-41 and 42, and proposed Section 60.4 references the permit by rule for particulate matter facilities, which is located in OAC 252:100-19-13. The addition of these two sections to Subchapter 7 is not a substantive change. Section 60.5 is the proposed permit by rule for natural gas compression facilities. This Section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule. The Oklahoma Clean Air Act, at 27A O.S.Supp. § 2-5-112, requires the Department to implement a comprehensive permitting program covering all emission sources. The proposed permit by rule reduces obstacles which have kept natural gas compression facilities from entering the permit program by providing additional flexibility and lower fees than would otherwise be required for these sources under Subchapter 7 permit requirements.

Changes are being proposed for Sections 15 and 16 of Subchapter 41. The proposed amendment to OAC 252:100-41-15 would incorporate by reference the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR 63 that have been promulgated by the EPA from July 1, 1999, through July 1, 2000. These are Subparts EEE, OOO, RRR and VVV. The DEQ is also proposing to update to July 1, 2000, the incorporation by reference in OAC 252:100-41-16 of the National Emission Standards for Hazardous Air Pollutants (NESHAP) found in 40 CFR 61.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on October 18, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by October 11, 2000. Oral comments may be made at the October 18, 2000 hearing and the Environmental Quality Board hearing on November 14, 2000, in Hooker, Oklahoma.

PUBLIC HEARINGS:

Wednesday, October 18, 2000 - 9:00 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board at 9:30 a.m. on November 14, 2000, Hooker, OK, (exact location to be announced).

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division of DEQ and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

CONTACT PERSON:

Please send written comments to Michelle Martinez (SC 4), Joyce Sheedy (SC 7), and Cheryl Bradley (SC 41), Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-2278; filed 8-25-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-2279]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Permits for Minor Facilities
Part 1. General Provisions
252:100-7-2 [AMENDED]
Subchapter 29. Control of Fugitive Dust
252:100-29-2 [AMENDED]
252:100-29-3 [AMENDED]
252:100-29-5 [REVOKED]
Subchapter 31. Control of Emission of Sulfur Compounds
Part 1. General Provisions
252:100-31-2 [AMENDED]
252:100-31-3 [REVOKED]
252:100-31-7 [NEW]
Part 3. Existing Equipment Standards
252:100-31-12 [AMENDED AND RENUMBERED]

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252:100-31-13 [AMENDED]
252:100-31-14 [AMENDED AND RENUMBERED]
252:100-31-15 [AMENDED]
252:100-31-16 [NEW]
Part 5. New Equipment Standards
252:100-31-25 [AMENDED]
252:100-31-26 [AMENDED]
252:100-31-27 [NEW]
252:100-31-28 [NEW]

SUMMARY:

The proposed changes to Subchapter 7, Section 252:100-7-2, are primarily to satisfy the agency-wide re-right/de-wrong initiative. As part of this initiative Subchapter 6, Permitting, is recommended for revocation. Three substantive provisions of Subchapter 6: Sections 252:100-6-50(b), 252:100-6-50(b)(2) and 252:100-6-50(e), will be moved into Subchapter 7, at Section 252:100-7-2. These three provisions require that: all applications be signed by the applicant; the signature on the application constitutes an implied agreement that the applicant shall be responsible for assuring construction or operation, as applicable, in accordance with the application and OAC 252:100; and, it is the applicant's duty to supplement or correct the application after becoming aware of such failure or incorrect submittal.

The proposed changes to Subchapter 29 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The provisions of OAC 252:100-29-2 would be divided into Paragraphs (a), (b) and (c) instead of (a) and (b). The examples of reasonable precautions in Paragraph (a) would be deleted, and a new Paragraph (b), Reasonable precautions, added. The existing Subparagraph (b), Emission boundaries, would be renumbered OAC 252:100-29-2(c) and divided into Subparagraphs (c)(1) and (2). The word "visible" would be deleted from the phrase "visible fugitive dust emissions", wherever it appears, in Paragraph (2)(c). Subparagraph (c)(1) would include requirements for fugitive dust emissions that damage or interfere with the use of adjacent properties, and Subparagraph (c)(2) would include the requirements for fugitive dust emissions that cause air quality standards to be exceeded or interfere with the maintenance of air quality standards. The provision for the DEQ to require the owner or operator of a fugitive dust emissions source to implement economically and technologically feasible controls, when those emissions damage or interfere with the use of adjacent property, would be added to Subparagraph (c)(1). The proposed revocation of OAC 252:100-29-5, Variance, is due to its redundancy with the Clean Air Act at 27A O.S. Supp. 1999 § 2-5-109.

The proposed changes to Subchapter 31 are primarily to simplify language, clarify requirements, and remove redundant requirements or language as part of the agency-wide re-right/de-wrong initiative. New definitions of the terms "existing source" or "existing equipment" and

"new source" or "new equipment" clearly identify effective date for each industry affected by the rule. Section 252:100-31-3 regarding performance testing is revoked, since performance testing is covered in Subchapter 43. In section 252:100-31-12(a) the use of an annual arithmetic mean is revoked. Section 252:100-31-25(c)(3) regarding emission monitoring is revoked, since emission monitoring is covered in Subchapter 45. Section 252:100-31-15(b) and those portions of 252:100-31-12(b) and 252:100-31-13(b) which identify the requirements to prove a violation are recommended for deletion, since 252:100-45-5 allows the use of any credible evidence to determine a violation. Other recommended changes are to move and combine Section, subsections, and paragraphs to facilitate use of the rule. Five substantive revisions are also proposed. (1) Revoke 252:100-31-14(c) regarding the testing procedures for ambient hydrogen sulfide, as the listed procedures are out of date and will be replaced with sampling and test methods in Subchapter 43. (2) Delete 252:100-31-25(a) pertaining to new sulfuric acid plants since it is identical to the NSPS, 40 CFR 60 Subpart H, except for the opacity limit and the averaging time. The differences between the federal and state standards are minimal, and the state rule was intended to reflect the federal standard. (3) The averaging time for ambient hydrogen sulfide concentration from existing equipment in 252:100-31-14(a) is changed from 30 min to one hour to match the averaging time for ambient hydrogen sulfide concentrations from new equipment. (4) Section 252:100-31-26(a), the hydrogen sulfide standard for new petroleum and natural gas processes contains several changes: (a) the standard has been changed from a combination equipment and emission standard to a more straightforward emission standard; (b) the exception for pipeline quality sweetened gas was moved to 252:100-31-26(b)(1) and changed to an emission based exception; and (c) an exception to the required exhaust stack is provided based on modeling. (5) Several subsections of the rule require a maximum average testing period. Because it is unclear what is a maximum average, all subsections will be changed to a time-based average.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on October 18, 2000. To be thoroughly considered

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staff prior to the hearing, written comments should be submitted to the contact person by October 11, 2000. Oral comments may be made at the October 18, 2000 hearing and at the Environmental Quality Board hearing on November 14, 2000, in Hooker, Oklahoma.

PUBLIC HEARINGS:

Wednesday, October 18, 2000 - 9:00 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board at 9:30 a.m. on November 14, 2000, Hooker, OK, (exact location to be announced).

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division of DEQ and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (SC 7), Joyce Sheedy (SC 31), and Cheryl Bradley (SC 29), Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-2279; filed 8-25-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 622. PRETREATMENT FOR CENTRAL TREATMENT TRUSTS [REVOKED]

[OAR Docket #00-2281]

RULEMAKING ACTION:

Notice of proposed PERMANANT rulemaking
PROPOSED RULES:

Chapter 622. Pretreatment for Central Treatment Trusts [REVOKED]

SUMMARY:

This rule making is part of the "re-right/de-wrong" process to remove unenforceable rules and quotations of state statutes, simplify existing language, and delete phase in language since the date has no past. Since many changes were necessary this chapter will be revoked and the replaced

by the new Chapter 623, Pretreatment for Central Treatment Trusts.

AUTHORITY:

Environmental Quality Board; 27A O.S. 1999, §§ 2-2-101, 2-2-201 and 2-9-104

REQUEST FOR COMMENTS:

N/A

COMMENT PERIOD:

Oral comments may be made at the meeting of the Water Quality Management Advisory Council, October 10, 2000. Written comments may be delivered or mailed to the contact person from September 15, 2000, through October 10, 2000.

PUBLIC HEARINGS:

Before the Water Quality Management Advisory Council Meeting on October 10, 2000, at 1:00 P.M. at the Oklahoma City Office of the Department of Environmental Quality, Multi-Purpose Room, 707 N. Robinson, Oklahoma City, Oklahoma 73101. Before the Environmental Quality Board on November 14, 2000, at 9:30 a.m. in Hooker, Oklahoma.

COPY OF PROPOSED RULE:

The proposed rule may be obtained from the contact person or reviewed at the Department of Environmental Quality.

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rule will be on file at the Department of Environmental Quality and may be requested from the contact person.

CONTACT PERSON:

Contact Shellie Chard at shellie.chard@deqmail.state.ok.us or (405) 702-8100 (phone) or 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing. For hearing impaired, the TDD/Relay Number is 1-800-722-0353 for TDD machine use only.

[OAR Docket #00-2281; filed 8-25-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 623. PRETREATMENT FOR CENTRAL TREATMENT TRUSTS [NEW]

[OAR Docket #00-2282]

RULEMAKING ACTION:

Notice of proposed PERMANANT rulemaking

6887

Permanent Final Adoptions

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 2000, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

DATES:

Comment period:

March 15, 2000 through April 19, 2000

Public hearing:

April 19, 2000

June 20, 2000

Adoption:

June 20, 2000

Submitted to Governor:

June 29, 2000

Submitted to House:

June 29, 2000

Submitted to Senate:

June 29, 2000

Gubernatorial approval:

July 24, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2001

Final adoption:

March 27, 2001

Effective:

June 1, 2001

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 17. Incinerators

Part 3. Incinerators

252:100-17-2 [AMENDED]

252:100-17-5 [AMENDED]

252:100-17-5.1 [NEW]

Gubernatorial approval:

July 24, 2000

Register publication:

17 Ok Reg 3353

Docket number:

00-2280

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The DEQ is proposing amendments to 252:100-17, Part 3, Incinerators. Section 2 of the Part would be amended to remove references to an effective date, and Section 252:100-5(3) would be deleted. A new Section 252:100-17-5.1, Alternative incinerator design requirements, would be added to authorize the Division Director to approve incinerator designs that do not meet the requirements specified in 252:100-17-5 if those incinerators can meet all other applicable requirements.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2001:

SUBCHAPTER 17. INCINERATORS

PART 3. INCINERATORS

~~252:100-17-2. Effective date; applicability Applicability
This Part became effective on July 21, 1971 and applies to incinerators not subject to New Source Performance Standards (NSPS) or any other Parts in this Subchapter.~~

~~252:100-17-5. Incinerator design requirements
An incinerator ~~under subject to~~ this Part must have:
(1) A primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.
(2) A secondary burner that shall be used when necessary to eliminate smoke.
(3) ~~A design that can be demonstrated to the DEQ to be effective in accordance with the provisions of this Subchapter. The burden of proof shall rest upon the owner of the proposed incinerator.~~~~

252:100-17-5.1. Alternative incinerator design requirements

The Director may approve an incinerator design that does not meet the design requirements in 252:100-17-5 if the owner of the proposed incinerator demonstrates to the DEQ that the incinerator can comply with all other applicable requirements.

[OAR Docket #01-751; filed 4-23-01]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #01-747]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 29. Control of Fugitive Dust

252:100-29-2 [AMENDED]

252:100-29-3 [AMENDED]

252:100-29-5 [REVOKED]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 2000, §§ 2-2-101, 2-2-201 and 2-5-101 *et seq.*

DATES:

Comment period:

May 15, 2000, through June 14, 2000

July 17, 2000, through August 16, 2000

September 15, 2000, through October 18, 2000
November 14, 2000

Public hearing:

June 14, 2000
August 16, 2000
October 18, 2000
November 14, 2000

Adoption:

November 14, 2000

Submitted to Governor:

November 21, 2000

Submitted to House:

November 21, 2000

Submitted to Senate:

November 21, 2000

Gubernatorial approval:

January 2, 2001

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2001

Final adoption:

March 27, 2001

Effective:

June 1, 2001

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed amendments to Subchapter 29, Control of Fugitive Dust, will clarify and simplify the language as part of the agency-wide re-right/de-wrong initiative. The existing provisions of OAC 252:100-29-2 would be divided into Paragraphs (a), (b) and (c) instead of (a) and (b). A new Paragraphs (b) sets forth examples of reasonable precautions to minimize pollution from fugitive dust. The existing Paragraph (b), Emission boundaries, is renumbered OAC 252:100-29-2(c) and divided into Subparagraphs (c)(1) and (2). Subparagraph (c)(1) sets forth requirements and identifies remedies for fugitive dust emissions that damage or interfere with the use of adjacent properties, and Subparagraph (c)(2) sets forth requirements for fugitive dust emissions that cause air quality standards to be exceeded or interfere with maintenance of air quality standards. Remedies for violation of Subparagraph (c)(1) are limited to requiring the owner or operator to implement economically and technologically feasible controls. Remedies for violation of Subparagraph (c)(2) are not so limited. The proposed revocation of OAC 252:100-29-5, Variance, is due to its redundancy with the Clean Air Act at 27A O.S.Supp. 1999 § 2-5-109.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2001:

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

252:100-29-2. Prohibitions-General provisions

~~(a) General provisions. No person shall cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being air borne, or wind borne or to operate or maintain or cause to be operated or maintained, any premise, open area, right-of-way, storage pile of materials, vehicle, or construction, alteration, demolition or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind or air, or susceptible to being wind borne or air borne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.~~
Prohibitions. No person shall cause or allow any fugitive dust source to be operated, or any substances to be handled, transported or stored, or any structure constructed, altered, or demolished to the extent that such operation or activity may enable fugitive dust to become airborne and result in air pollution, without taking reasonable precautions to minimize or prevent pollution.

~~(b) Emission boundaries. No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties, or cause air quality standards to be exceeded, or interfere with the maintenance of air quality standards.~~

(b) Reasonable precautions. Reasonable precautions include, but are not limited to, those actions set forth below at OAC 252:100-29-3(1) through (6).

(c) Emission boundaries.

(1) No person shall cause or allow the discharge of any visible fugitive dust emissions beyond the property line of the property on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties. If the DEQ determines that this rule has been violated, the owner or operator of the fugitive dust emissions source or sources shall implement controls, subject to economic and technological feasibility, to prevent future violations.

(2) No persons shall cause or allow the discharge of any visible fugitive dust emissions beyond the property line of the property on which the emissions originate in such a manner as to cause air quality standards to be exceeded or interfere with the maintenance of air quality standards.

252:100-29-3. Precautions required in maintenance or nonattainment areas

As of the adoption of this Subchapter, in areas designated as Air Quality Maintenance Areas or Nonattainment Areas for particulates-particulate matter the Executive Director shall require specific reasonable precautions and that may include, but shall not be limited to, the following:

Permanent Final Adoptions

- (1) ~~The~~ use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, driveways and parking lots or the clearing of land for commercial, industrial, or residential development;
- (2) ~~The~~ application of water or suitable chemicals or some other covering on materials stockpiles, and other surfaces ~~which that~~ can create air-borne dusts under normal conditions;
- (3) ~~The~~ installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials or the use of water sprays or other acceptable measures to suppress ~~the~~ dust emission during handling. Adequate containment methods shall be employed during sandblasting or other similar operations;
- (4) ~~The~~ covering or wetting ~~when in motion, of~~ open-bodied trucks, trailers, or railroad ~~car cars~~ when transporting dusty materials in areas where the general public must have access which can create air-borne particulate matter;
- (5) ~~The~~ removal as necessary from paved street and parking surfaces of ~~earth or other material which materials that~~ have a tendency to become airborne; ~~and/or.~~
- (6) ~~the~~ ~~The~~ planting and maintenance of vegetative ground cover as necessary.

252:100-29-5. Variance [REVOKED]

~~Uses of potential variance from this Subchapter are subject to review, approval, and/or denial of the requested variance by the Air Quality Council.~~

[OAR Docket #01-747; filed 4-23-01]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #01-752]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 33. Control of Emission of Nitrogen Oxides

[AMENDED]

252:100-33-1.1 [NEW]

252:100-33-1.2 [NEW]

252:100-33-2 [AMENDED]

252:100-33-3 [REVOKED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 2000, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

January 15, 2000, through February 16, 2000

March 15, 2000, through April 19, 2000

Public hearing:

February 16, 2000

April 19, 2000

June 30, 2000

Adoption:

June 20, 2000

Submitted to Governor:

June 29, 2000

Submitted to House:

June 29, 2000

Submitted to Senate:

June 29, 2000

Gubernatorial approval:

July 24, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2001

Final adoption:

March 27, 2001

Effective:

June 1, 2001

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed revisions are to simplify and clarify requirements and to remove redundant requirements as part of the agency-wide re-right/de-wrong initiative. No substantive changes are proposed.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

No substantive changes were made to this rule.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 794-6800

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2001:

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

252:100-33-1.1. Definitions

The following terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"New fuel-burning equipment" means any fuel-burning equipment, with the exception of gas turbines, that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions, and any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

"Three-hour average" means the arithmetic average of

6891

Air Quality Council

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
9:00 A.M.
Wednesday, June 14, 2000
OSU @ Tulsa
700 North Greenwood
Tiered Lecture Hall (North Hall 150)

1. Call to Order – David Branecky
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the April 19, 2000 Regular Meeting
4. **PUBLIC RULEMAKING HEARINGS**

A. OAC 252:3-5 Air Quality Advisory Council Hearings [NEW]
Appendix B Style of Request for Hearing [NEW]

The proposed addition to Chapter 3 would establish Council procedures for individual proceedings on enforcement matters and requests for variance. A new Appendix B would be added.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

B. OAC 252:100-7 PERMITS FOR MINOR FACILITIES [AMENDED]

The proposed changes to SC7 consist of the addition of sections 60.3, 60.4, and 60.5. Proposed sections 60.3 and 60.4 reference the existing permits by rule for VOC storage and loading facilities and particulate matter facilities, respectively. Section 60.5 is the proposed permit by rule for natural gas compression facilities.

1. Presentation – Barbara Hoffman
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption -

C. OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

The proposed changes to SC 8 would amend sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 8, 31, 33, and 52. The changes correct errors, clarify language, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. A substantive change is also proposed for the definition of "major stationary source" in section 31.

1. Presentation – Barbara Hoffman
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

D. OAC 252:100-29 Control of Fugitive Dust [AMENDED]

The proposed changes would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. A substantive change is included which would make the rule more enforceable by deleting the qualification that the fugitive dust be emitted to such an extent as to be classified as air pollution, before precautions are required.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

5. Division Director's Report – David Dyke

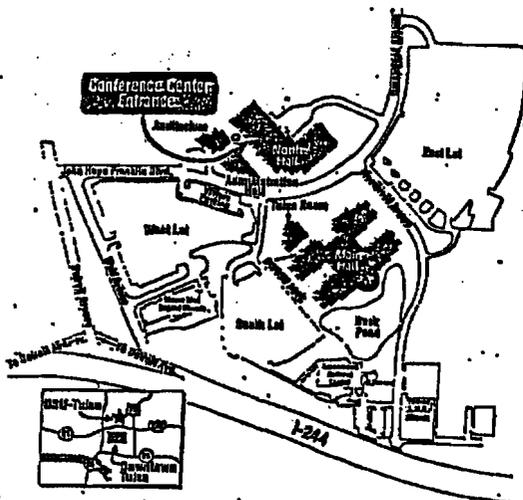
6. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

7. Adjournment – Next Regular Meeting

Date and Time: August 16, 2000 @ 9:00 a.m.

**Place: Pioneer Technology Center
Education Business Center
2101 North Ash Street
Ponca City, OK 74601.**

Lunch Break, if necessary



How to get to OSU-Tulsa

700 North Greenwood Ave. • Tulsa, Oklahoma 74106 • (918) 584-8000

Welcome to OSU-Tulsa. If this is your first visit, simply look for the highway you will be using and follow the corresponding instructions.

Turner Turnpike from Oklahoma City and west
From I-44, exit 73 North (Bartlesville). When you reach the downtown area, stay in the center lane and follow the signs for I-244 East (Joplin). Exit Cincinnati/Detroit Avenue. Go to the second light, turn left onto Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

SH-64/51 (Broken Arrow Expressway)
From the EA Expressway, exit at 73 North (Bartlesville). Move to the far left lane. Take the I-244 West exit. Then take the next exit, Cincinnati/Detroit Avenue. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

I-244 (Crawtown Expressway from the east)
Follow I-244 West to downtown Tulsa. When the highway splits, stay in the lane marked I-244 West (OKC). Take the next exit, Cincinnati/Detroit Avenue. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

US-75 (Cross the north)
Follow US-75 South to I-244 West (OKC). Take the next exit, Cincinnati/Detroit Avenue. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

**OSU
TULSA**

June 1, 2000

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director ^{ET}
Air Quality Division _{10/2}

Re: Modifications to Subchapter 29

Enclosed is a copy of the proposed amendments to OAC 252:100-29, Control of Fugitive Dust. The changes simplify and clarify Subchapter 29 as part of the agency-wide re-right/de-wrong initiative. One substantive change is proposed that would make the rule more enforceable by deleting the qualification that the fugitive dust be emitted to such an extent as to be classified as air pollution, before precautions are required. Also, OAC 252:100-29-5, Variance, would be revoked due to its redundancy with the Clean Air Act at 27A O.S. Supp. 1999 § 2-5-109.

If no comments are received during the comment period or at the hearing, staff will ask the Council to recommend the proposed rule to the Environmental Quality Board for permanent adoption.

Enclosures: 2

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

252:100-29-1. Purpose

The purpose of this Subchapter is to control the release of fugitive dust into the air by any operation or action.

252:100-29-2. Prohibitions

(a) General provisions. No person shall cause or ~~permit~~ allow the emission of fugitive dust into the ambient air without taking reasonable precautions. Reasonable precautions shall include wetting, oiling, covering, applying chemicals, shielding, vacuuming, or any other appropriate measures. ~~the handling, transporting or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being air borne, or wind borne or to operate or maintain or cause to be operated or maintained, any premise, open area, right of way, storage pile of materials, vehicle, or construction, alteration, demolition or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind or air, or susceptible to being wind borne or air borne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.~~

(b) Emission boundaries. No person shall cause or ~~permit~~ allow the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties, or cause air quality standards to be exceeded, or interfere with the maintenance of air quality standards.

252:100-29-3. Precautions required in maintenance or nonattainment areas

As of the adoption of this Subchapter, in areas designated as Air Quality Maintenance Areas or Nonattainment Areas for particulate matter, the ~~Executive~~ Director shall require specific reasonable precautions ~~and that~~ may include, but shall not be limited to, the following:

(1) The use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, driveways and parking lots or, the clearing of land for commercial, industrial, or residential development.

(2) The application of water or suitable chemicals or some other covering on materials stockpiles, and other surfaces ~~which that~~ can create air-borne dusts under normal conditions.

(3) The installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials or the use of water sprays or other acceptable measures to suppress ~~the~~ dust emission during handling. Adequate containment methods shall be employed during sandblasting or other similar operations.

(4) The covering or wetting ~~when in motion,~~ of open-bodied trucks, trailers, or railroad ~~ear~~cars when transporting dusty

materials in areas where the general public must have access ~~which can create air borne particulate matter,~~

(5) ~~The~~ removal as necessary from paved street and parking surfaces of earth or other material ~~materials~~ ~~which~~ ~~that~~ have a tendency to become airborne, and/or.

(6) ~~The~~ planting and maintenance of vegetative ground cover as necessary.

252:100-29-4. Exception for agricultural purposes

Section 252:100-29-3 shall not apply to the clearing or preparation of land used solely for agricultural purposes. For the purpose of this Subchapter "agricultural purposes" shall be limited to the raising of livestock or crops for food or fiber.

252:100-29-5. Variance [REVOKED]

~~Uses of potential variance from this Subchapter are subject to review, approval, and/or denial of the requested variance by the Air Quality Council.~~

MINUTES
AIR QUALITY COUNCIL
JUNE 14, 2000
OSU @ TULSA Room 150
Tulsa, Oklahoma

Council Members Present

David Branecky, Chairman
William B. Breisch
Fred Grosz
Gary Kilpatrick
Rick Treeman
Joel Wilson

Council Members Absent

Sharon Myers, Vice-Chair
Larry Canter
Leo Fallon

Staff Present

David Dyke
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Pam Dizikes

Guests Present

**see attached list

Staff Present

Cheryl Bradley
Myrna Bruce

Notice of Public Meeting for April 19, 2000 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors to the OSU Tulsa Auditorium entrance and on the entrance doors of the DEQ Central Office in Oklahoma City.

Call to Order - Mr. Branecky, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye. Mr. Fallon, Ms. Myers, and Dr. Canter did not attend.

Approval of Minutes - Mr. Branecky entertained a motion to approve the Minutes of the April 19, 2000 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Mr. Wilson. Roll call: Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Breisch - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 through 2-5-101 - 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-3-5

Air Quality Advisory Council Hearings

Appendix B Style of Request for Hearing

Ms. Bradley advised that the proposal established procedures for individual proceedings on enforcement matters and requests for variances. Ms. Bradley pointed out minor changes that staff recommended and advised that there had been no written comments on the proposal.

Ms. Bradley stated that staff recommended emergency adoption of the rule. Following discussion, Mr. Branecky called for a motion to recommend the proposal dated June 12 to the Environmental Quality Board for emergency and permanent approval. Mr. Kilpatrick made the motion and Dr. Grosz made the second. Roll call: Mr. Wilson – aye; Mr. Treeman - abstain; Mr. Breisch – aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky – aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100- 7

Permits for Minor Facilities

Ms. Barbara Hoffman was called upon to provide staff's recommendation of proposed rule. Ms. Hoffman stated that this rule was brought before the Council the first time on April 19 and that a workgroup had met on May 24. She then advised Council of the changes suggested by staff. She stated that no written comments had been received but it was anticipated that there would be comments from the industry group forthcoming; therefore, it was recommended that this rule be continued to the August Council meeting. Ms. Hoffman called for comments and advised that the industry contact for comments was Joel Howard who could be reached at 405 720 5500 or joelhoward@marathonoil.com. With no comments or questions, Mr. Branecky called for motion to continue the rule to the August meeting. Mr. Breisch made the motion and second was made by Dr. Grosz. Roll call: Mr. Wilson – aye; Mr. Treeman - abstain; Mr. Breisch – aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky – aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100- 8

Permits for Part 70 Sources

Ms. Barbara Hoffman was called upon to provide staff's recommendations for this proposed rule. Ms. Hoffman pointed out all changes proposed in the Agenda Packet and a June 13, 2000 draft that was a handout. She advised that no comments had been received and suggested that the rule be recommended to the Board for emergency and permanent adoption.

Following a considerable amount of discussion and comments, it was decided that the rule should be continued to the August meeting. Mr. Branecky called for a motion. Mr. Wilson made motion to continue and second was made by Mr. Kilpatrick. Roll call: Mr. Wilson – aye; Mr. Treeman - abstain; Mr. Breisch – aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky – aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING
OAC 252:100-29
Control of Fugitive Dust

Ms. Cheryl Bradley was called upon for staff recommendations. She stated that proposed changes were to simplify and clarify language according to the agency-wide re-right/de-wrong initiative and pointed out the changes proposed. She entered into the record written comments received from Fort James Corporation and from EPA Region 6 Air Planning Section. Ms. Bradley then referred to a handout of a new draft dated June 13, 2000. She discussed the changes made in that proposal. Ms. Bradley stated that since comments had been received which would result in recommended changes to the rule, it was staff's recommendation to continue the rule to the August Council meeting.

Comments and suggestions for changes were taken from Council and audience. Mr. Branecky then called for a motion to continue until August. Dr. Grosz made the motion and Mr. Kilpatrick made the second. Roll call: Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Breisch - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

DIVISION DIRECTOR'S REPORT - Mr. Dyke made several announcements including the fact that this had been Barbara Hoffman's final meeting and that we would be moving to New Hampshire.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be August 16 at 9:00 a.m. at the Pioneer Technology Center in Ponca City, OK.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

David Branecky, Chairman
Air Quality Council

J. Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
June 14, 2000

Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Perry Friedrich GRDA	PO Box 10 Choctaw 74337	(918) 476-8268
2. Preston Batula	Member Compressor Co 3805 Douglas Ave	915 899 5214
3. Howard Ground CSW	PO Box 660164 Dallas 75202	214 777-1711
4. FRANK GANDON	EQ BOARD	
5. Mike Wood	P.O. Box 10660; Hot Springs, AR 71902	501-624-8569
6. Kirk Rutter (Borins)	P.O. Box 582809 Tulsa, OK	(918) 932-3178
7. Julia Brewer	321 N. Harvey OKC	405 553 439
8. LAUREN MOORE - WHIRLPOOL	7301 WHIRLPOOL DRIVE TULSA 74117	918 274 6122
9. Pat Davenport N-S	3602 N. Perkins Rd Stillwater	405/377505
10. Steve Landers Ft. James	4901 Chandler, Muskogee, OK	918-683-76
11. CLYDE JONES	P.O. Box 579 Bartlesville 74003	918/336 116
12. Madeline Burtin	CASE 6609 E 86th PL	74133
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AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
9:00 A.M.
Wednesday, August 16, 2000
Pioneer Technology Center
Education Business Center
2101 North Ash Street Ponca City, OK 74601

1. Call to Order – David Branecky
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the June 14, 2000 Regular Meeting
4. **PUBLIC RULEMAKING HEARINGS**

A. OAC 252:100-6 Permitting [REVOKED]

It is proposed that SC 6 be revoked in its entirety. This action fulfills the Department's goal of eliminating redundant or unnecessary language through the re-right/de-wrong process. The rule is for the most part a summary of the permit programs contained in SC 7 and SC 8 and a restatement of Oklahoma statutes on permitting. Only a few portions of the rule contain substantive language that will be placed into SC 8. Revocation of the rule will have no effect on permit actions.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

B. OAC 252:100-7 PERMITS FOR MINOR FACILITIES [AMENDED]

The proposed changes to SC7 consist of the addition of sections 60.3, 60.4, and 60.5. Proposed sections 60.3 and 60.4 reference the existing permits by rule for VOC storage and loading facilities and particulate matter facilities, respectively. Section 60.5 is the proposed permit by rule for natural gas compression facilities. This section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

C. OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

The proposed changes to SC 8 would amend sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 8, 31, 33, 51 and 52. The changes correct errors, clarify language, add and delete definitions, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) make clear which modifications to Part 70 sources require construction permits. A substantive change is proposed for the definition of "major stationary source" in section 31.

1. Presentation – Pam Dizikes
2. Questions and discussion by Council / Public

3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

D. OAC 252:100-29 Control of Fugitive Dust [AMENDED]

The proposed changes would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The modifying word 'visible' is deleted from the term fugitive dust. Substantive changes are proposed to clarify when and what precautions are required to minimize or prevent pollution and to clarify what corrective measures are required in the event that fugitive dust is discharged beyond the property line.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

E. OAC 252:100-31 Control of Emission of Sulfur Compounds [AMENDED]

The proposed changes to SC 31 are primarily to simplify language, clarify requirements, and remove redundant requirements, or language as part of the agency-wide re-right/de-wrong initiative. New definitions of the terms "existing source" or "existing equipment" and "new source" or "new equipment" clearly identify the effective date for each industry affected by the rule. Proposed substantive changes are: to revoke 31-14(c) regarding the testing procedures for ambient hydrogen sulfide; to delete 31-25(a) pertaining to new sulfuric acid plants; to change the averaging time for ambient hydrogen sulfide concentration from existing equipment in 31-14(a); to combine 31-25(c) and 31-26 to make clear which sources are subject to the standard; to make several changes in 26(a) such as to change the standard from a combination equipment and emission standard to a more straightforward emission standard; the exception for pipeline quality sweetened gas was moved to 226(b)(1) and changed to an emission based exception; and exception to the required exhaust stack is provided based on modeling; and all subsections will be changed to a time-based average because it is unclear what is a maximum average.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

5. Division Director's Report – Eddie Terrill

- 6. New Business --** Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

7. Adjournment – Next Regular Meeting

Date and Time: October 18, 2000 @ 9:00 a.m.

Place: Department of Environmental Quality Multi-Purpose Room, First Floor
707 North Robinson, Oklahoma City, OK

Lunch Break, if necessary

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 702-4100.

August 2, 2000

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director ^{CT}
Air Quality Division

Re: Modifications to Subchapter 29

Enclosed is a copy of the proposed amendments to OAC 252:100-29, Control of Fugitive Dust. The changes simplify and clarify Subchapter 29 as part of the agency-wide re-right/de-wrong initiative. Most of the proposed changes affect OAC 252:100-29-2. The existing provisions of Section 2 would be divided into Paragraphs (a), (b) and (c) instead of (a) and (b). The examples of reasonable precautions in Paragraph (a) would be deleted, and a new Paragraph (b), Reasonable precautions, added. The existing Subparagraph (b), Emission boundaries, would be renumbered OAC 252:100-29-2(c) and divided into Subparagraphs (c)(1) and (2). The word "visible" would be deleted from the phrase "visible fugitive dust emissions", wherever it appears, in Paragraph 2(c). Subparagraph (c)(1) would include requirements for fugitive dust emissions that damage or interfere with the use of adjacent properties, and Subparagraph (c)(2) would include the requirements for fugitive dust emissions that cause air quality standards to be exceeded or interfere with the maintenance of air quality standards. The provision for the DEQ to require the owner or operator of a fugitive dust emissions source to implement economically and technologically feasible controls, when those emissions damage or interfere with the use of adjacent property, would be added to Subparagraph (c)(1). In addition, OAC 252:100-29-5, Variance, would be revoked due to its redundancy with the Clean Air Act at 27A O. S. Supp. 1999 § 2-5-109.

The Air Quality Council first considered changes to this Subchapter at its June 14, 2000, hearing in Tulsa, Oklahoma. During that hearing, Howard "Bud" Ground, Central and Southwest Services, Inc., and Perry Friedrich, Grand River Dam Authority, commented on the June 13, 2000 draft of the proposed rules. Staff has received no additional written comments.

Since most fugitive dust violations are identified as the result of investigating environmental complaints, staff from DEQ's Air Quality Division, Environmental Complaints and Local Services, and Regional Office at Tulsa collaborated in preparing these revised draft rules.

All commentators pointed out the potential subjectivity in determining what constitutes "reasonable precautions". Staff has added a new Paragraph (b), Reasonable precautions, to Section 2 to better define them. Also, Subparagraph (c)(1) states that reasonable cautions to control fugitive dust emissions, that damage or interfere with the use of adjacent properties, are subject to economic and technological feasibility.

Both industry representatives objected to the phrase "or will be violated", in the second sentence of Section 2. This phrase was removed from Subparagraph 2(c)(1).

Also, the word "visible" was removed from the phrase "visible fugitive dust emissions" because it presents a hindrance to the DEQ when working cases involving fugitive dust that is emitted at night or is not visible using Method 22.

The notice of rulemaking intent, that was filed with Office of Administrative Rules on June 23, 2000, and published in the *Oklahoma Register* on July 17, 2000, did not cover all the recommended changes; therefore, staff suggests that the Council continue the hearing on the proposed rule until its next meeting on October 18, 2000.

Enclosures: 2

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

Section

- 252:100-29-1. Purpose
- 252:100-29-2. Prohibitions [AMENDED]
- 252:100-29-3. Precautions required in maintenance or nonattainment areas [AMENDED]
- 252:100-29-4. Exception for agricultural purposes
- 252:100-29-5. Variance [REVOKED]

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

252:100-29-1. Purpose

The purpose of this Subchapter is to control the release of fugitive dust into the air by any operation or action.

252:100-29-2.—Prohibitions General provisions

~~(a) General provisions. No person shall cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being air borne, or wind borne or to operate or maintain or cause to be operated or maintained, any premise, open area, right of way, storage pile of materials, vehicle, or construction, alteration, demolition or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind or air, or susceptible to being wind borne or air borne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.~~

(a) Prohibitions. No person shall cause or allow any fugitive dust source to be operated, or any substances to be handled, transported or stored, or any structure constructed, altered, or demolished to the extent that such operation or activity may enable fugitive dust to become airborne and result in air pollution, without taking reasonable precautions to minimize or prevent pollution.

(b) Reasonable precautions. Reasonable precautions include, but are not limited to, those actions set forth below at 252:100-29-3(1) through (6).

~~(b) Emission boundaries. No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties, or cause air quality standards to be exceeded, or interfere with the maintenance of air quality standards.~~

(c) Emission boundaries.

- (1) No person shall cause or allow the discharge of any fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties. If the DEQ determines that this rule has been violated, the owner or operator of the fugitive dust emissions source or sources shall implement controls, subject to economic and technical feasibility, to prevent future violations.

(2) No persons shall cause or allow the discharge of any fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to cause air quality standards to be exceeded or interfere with the maintenance of air quality standards.

252:100-29-3. Precautions required in maintenance or nonattainment areas

As of the adoption of this Subchapter, in areas designated as Air Quality Maintenance Areas or Nonattainment Areas for particulate matter, the ~~Executive~~ Director shall require specific reasonable precautions ~~and that~~ may include, but shall not be limited to, the following:

- (1) The use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, driveways and parking lots or the clearing of land for commercial, industrial, or residential development~~;~~
- (2) The application of water or suitable chemicals or some other covering on materials stockpiles~~;~~ and other surfaces ~~which that~~ can create air-borne dusts under normal conditions~~;~~
- (3) The installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials or the use of water sprays or other acceptable measures to suppress ~~the~~ dust emission during handling. Adequate containment methods shall be employed during sandblasting or other similar operations~~;~~
- (4) The covering or wetting ~~when in motion,~~ of open-bodied trucks, trailers, or railroad ~~cars~~ cars when transporting dusty materials in areas where the general public must have access ~~which can create air borne particulate matter;~~
- (5) The removal as necessary from paved street and parking surfaces of ~~earth or other material~~ materials ~~which that~~ have a tendency to become airborne~~;~~ ~~and/or~~
- (6) ~~The~~ the planting and maintenance of vegetative ground cover as necessary.

252:100-29-4. Exception for agricultural purposes

Section 252:100-29-3 shall not apply to the clearing or preparation of land used solely for agricultural purposes. For the purpose of this Subchapter "agricultural purposes" shall be limited to the raising of livestock or crops for food or fiber.

252:100-29-5. Variance [REVOKED]

~~Uses of potential variance from this Subchapter are subject to review, approval, and/or denial of the requested variance by the Air Quality Council.~~

MINUTES
AIR QUALITY COUNCIL
AUGUST 19, 2000
Pioneer Technology Center
Ponca City, Oklahoma

Council Members Present

David Branecky, Chairman
Sharon Myers, Vice-Chair
William B. Breisch
Fred Grosz
Gary Kilpatrick
Joel Wilson

Council Members Absent

Larry Canter
Leo Fallon

Staff Present

Eddie Terrill
David Dyke
Scott Thomas
Dawson Lasseter
Pam Dizikes
Dennis Doughty

Guests Present

**see attached list

Staff Present

Cheryl Bradley
Jeanette Buttram
Myrna Bruce
Beverly Botchlet-Smith

Notice of Public Meeting for August 17, 2000 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted on the entrance doors at Pioneer Technology Center and on the entrance doors of the DEQ Central Office in Oklahoma City.

Call to Order - Mr. Branecky, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

Approval of Minutes - Mr. Branecky entertained a motion to approve the Minutes of the June 14, 2000 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Mr. Wilson. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 through 2-5-101 - 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-6

PERMITTING

Ms. Jeanette Buttram advised Council that staff's request for revocation of Subchapter (SC) 6 contributed to the Department's goal of eliminating redundant or unnecessary language through the re-right/de-wrong process. She stated that SC 6 mostly summarizes the permit program in SC 7 and SC 8 and restates Oklahoma statutes on permitting. She pointed out the substantive language that would be placed into SCs 7 and 8. These portions that would be moved are: Section 252:100-6-50(b), 252:100-6-50(b)(2), and 252:100-6-50(e) to SC 7

under Section 252:100-7-2, requirement for permits for minor facilities. Also, in SC 6, the language in Section 252:100-6-50(e), was moved to 252:100-8-5(b). Currently 252:100-8-5(b) references the language in 252:100-6-50(e). Ms. Buttram related that the revocation of SC 6 would have no effect on permit actions and asked that Council recommend it for revocation to the Environmental Quality Board.

In response to a question from Council, Ms. Buttram advised that staff felt that for future clarity it would be better to revoke the rule in its entirety and move the substantive sections. She added that both SC 6 and SC 7 would be presented to the Board at the same time for approval. Ms. Myers asked for clarification that the revocation of this rule would not leave any exposure until the changes had been made to SC 7 or SC 8 to which Ms. Buttram advised that the rule would not become effective until next year. Mr. Branecky then called for a motion to recommend the proposal for revocation to the Environmental Quality Board (EQB). Mr. Breisch made the motion and Mr. Wilson made the second. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-7

Permits for Minor Facilities

Dr. Joyce Sheedy was called upon to provide staff's recommendation of proposed rule. Dr. Sheedy stated that this rule had been before the Council on April 19 and June 14 and that a workgroup had met on May 24. Dr. Sheedy stated that the main purpose for the revision is to add Section 60-5 to SC 7 to provide a permit by rule covering natural gas compression facilities with actual emissions of less than 40 tons per year. She stated that it was decided to take the opportunity, while the rule was open, to reference the permit by rule (PBR) for volatile organic liquid storage and loading facilities in Section 40 and 42 of SC 37 and the PBR for particulate matter facilities in Section 13 of SC 29.

Dr. Sheedy entered into the record a letter from EPA Region 6 dated August 14; and a letter and comments dated August 4, 2000 from Michael H. Bernard, Mid-Continent Oil and Gas Association representing the industry members of the work group. Dr. Sheedy added that there would be further meetings with staff and industry; therefore, staff's recommendation was that the Council continue the hearing to the October meeting. Mr. Branecky called for that motion which was made by Ms. Myers and the second was made by Mr. Kilpatrick. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING
OAC 252:100- 8
Permits for Part 70 Sources

Ms. Pam Dizikes was called upon to provide staff's recommendations for this proposed rule. Ms. Dizikes pointed out that SC 8 covering permits for Part 70 sources had already been through the re-right/de-wrong process; but that since that time errors and inconsistencies needed to be resolved. Those were mainly in respect as to when construction permits are required for Part 70 sources. Ms. Dizikes pointed out the substantive changes that would be discussed. She advised that no comments had been received and suggested that the rule be recommended to the EQB for emergency and permanent adoption.

Mr. Tom Blachley requested that the rule be revisited because he stated that there had never been a resolution to the issue as to how/when a well becomes a major source stating that there are times when they would not know until after the well was perforated. Mr. Terrill stated that these issues would be discussed with a group of the effected people at which time this rule could be re-opened for hearing. Mr. Branecky then called for a motion. Mr. Kilpatrick moved that Council recommend this rule as amended to the EQB for emergency and permanent approval. Dr. Grosz made the second. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING
OAC 252:100-29
Control of Fugitive Dust

Ms. Cheryl Bradley was called upon for staff recommendations. She stated that proposed changes were to simplify and clarify language according to the agency-wide re-right/de-wrong initiative noting that the rule had been before the Council on June 14. She entered into the record written comments received from EPA Region 6 Air Planning Section dated August 11, 2000. Ms. Bradley stated that since comments had been received which would result in recommended changes to the rule, it was staff's recommendation to continue the rule to the October meeting.

Mr. Terrill asked for feedback regarding removing the word "visible" from the term "visible fugitive dust emissions". After hearing the comments from Council and audience, Mr. Branecky asked that any further comments be sent to DEQ prior to Council's next meeting. Ms. Myers made a motion to continue the hearing until October. Mr. Wilson made the second. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-31

Control Of Emissions of Sulfur Compounds

Dr. Joyce Sheedy advised Council that revisions to this subchapter were proposed to simplify and clarify language according to the agency-wide re-right/de-wrong initiative. She hoped that that staff's intention to rearrange the material might make the rule to be in a more logical order. She pointed out the substantive changes proposed. Dr. Sheedy entered into the record comments received from Michael Graves of Hall, Estill, Hardwick, Gable, Golden & Nelson dated March 24, 2000; comments from Stephen E. Landers of Fort James dated August 11, 2000; and comments from Tom Diggs of EPA Region VI dated August 11, 2000. Dr. Sheedy then advised that the staff recommended that the hearing be continued to October and advised that a workgroup session would be set up to discuss the revisions.

Mr. Wilson stated that there would be a workgroup meeting on September 8 at the McKinney-Stringer Office. Mr. Terrill pointed out that the rule would not be revised just to meet the re-right/de-wrong legislative mandate, but that meaningful changes would be made to make the rule easier to interpret and apply.

Ms. Myers moved to continue the hearing to the October meeting and Dr. Grosz seconded that motion. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

DIVISION DIRECTOR'S REPORT Mr. Terrill gave an update on activities and called upon Ms. Beverly Botchlet-Smith who gave a report of Central States Air Resource Agencies (CenSARA) activities. Mr. Dawson Lasseter, Program Manager Permits Section, also provided an update. Mr. Scott Thomas, Program Manager Rules and Planning Section, provided an update on recent ozone values experienced in Oklahoma.

NEW BUSINESS None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be on October 18 at the DEQ offices in Oklahoma City.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

David Branecky, Chairman
Air Quality Council

J. Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
August 16, 2000

Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. DON WHITNEY	TRINITY CONSULTANTS	(405) 228-3292
2. JOHN WHEELER	TRINITY CONSULTANTS	(972) 661-8100
3. Joel Howard	Marathon Oil	(405) 720-5500
4. JACK BROWN	MARATHON OIL	(405) 720-5532
5. Preston Butala	Hammer Company	715 699 5214
6. Paige Taber	Marathon Oil	405 720 5690
7. Darla K. Bierig	Marathon Oil Co.	(405) 720-5589
8. Julia Bevers	OGIE	405 553 3439
9. Dawson Lassiter	DEQ	405-702-4185
10. Don Shandy	McKinney + Stringer	405-272-1940
11. Howard Ground	AEP	214-777-1711
12. MARK GIPSON	AEP	214.777.2278
13. FRANK GANDON	ER BOARD	
14. Mike Wood	Weyerhaeuser	501-624-8569
15. GARY SMITH	ATKINS BENHAM (RSA)	817-640-6402
16. SYLVIA PRATT	NEWKIRK	580 362-2513
17. Pat Davenport	National Standard	405/377-5050
18. Glenn Hall	Conoco	281-293-5762
19. Tom Blachly	Envir. Consulting Services	918-523-9301
20. Terry Lyhane	A+k-i-n-s-Benham	405-701-3138
21. Deborah Perry	Atkins Benham (RSA)	918 496 0059
22.		
23.		
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AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
9:00 A.M.
Wednesday, October 18, 2000
DEQ Multi-Purpose Room – 1st Floor
707 North Robinson
Oklahoma City, OK 73102

1. **Call to Order – David Branecky**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the August 16, 2000 Regular Meeting**
4. **CY 2001 Meeting Schedule**
 - A. **Discussion by Council**
5. **PUBLIC RULEMAKING HEARINGS**
 - A. **OAC 252:100-4 NEW SOURCE PERFORMANCE STANDARDS [AMENDED]**

The proposed changes to SC 4 will update the incorporations by reference of the federal NSPS from July 1, 1999 to July 1, 2000 per agreement with EPA. Previously incorporated NSPS that have been amended by the EPA since July 1, 1999 are Subpart Db, Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units and Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills. Changes were also made to Appendix A, Part 60 Test Methods including corrections to test methods 2F, 2G, and 2H, and a new method 5I was added.

 1. Presentation –Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote for emergency and permanent adoption
 - B. **OAC 252:100-7-2 PERMITS FOR MINOR FACILITIES [AMENDED]**

The proposed changes to Section 252:100-7 are primarily to satisfy the agency-wide re-right/de-wrong initiative. As part of this initiative Subchapter 6, Permitting, is recommended for revocation. Three substantive provisions of SC 6 will be moved to SC 7 at Section 2. These three provisions require that: all applications be signed by the applicant; the signature on the application constitutes an implied agreement that the applicant shall be responsible for assuring construction or operation, as applicable, in accordance with the application; and it is the applicant's duty to supplement or correct the application after becoming aware of such failure or incorrect submittal.

 1. Presentation –Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote for permanent adoption

C. OAC 252:100-7 PERMITS FOR MINOR FACILITIES [AMENDED]

Part 9, Sections 60-3-60.5 Permits by Rule [NEW]

The proposed changes to SC 7 consist of the addition of sections 60.3, 60.4, and 60.5. Proposed sections 60.3 and 60.4 reference the existing permits by rule for VOC storage and loading facilities and particulate matter facilities, respectively. Section 60.5 is the proposed permit by rule for natural gas compression facilities. This section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule. The proposed permit by rule reduces obstacles which have kept natural gas compression facilities from entering the permit program by providing additional flexibility and lower fees than would otherwise be required for these sources under SC 7 permit requirements.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote for permanent adoption

D. OAC 252:100-29 Control of Fugitive Dust [AMENDED]

The proposed changes would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The modifying word ‘visible’ is deleted from the term “visible fugitive dust emissions”. Substantive changes are proposed to clarify when and what precautions are required to minimize or prevent pollution and to clarify what corrective measures are required in the event that fugitive dust is discharged beyond the property line.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote for permanent adoption

E. OAC 252:100-31 Control of Emission of Sulfur Compounds [AMENDED]

The proposed changes to SC 31 are primarily to simplify language, clarify requirements, and remove redundant requirements or language as part of the agency-wide re-right/de-wrong initiative. New definitions of the terms “existing source” or “existing equipment” and “new source” or “new equipment” clearly identify the effective date for each industry affected by the rule. Proposed substantive changes are: to revoke 31-14(c) regarding the testing procedures for ambient hydrogen sulfide; to delete 31-25(a) pertaining to new sulfuric acid plants; to change the averaging time for ambient hydrogen sulfide concentration from existing equipment in 31-14(a); to combine 31-25(c) and 31-26 to make clear which sources are subject to the standard; to make several changes in 26(a) such as to change the standard from a combination equipment and emission standard to a more straightforward emission standard; the exception for pipeline quality sweetened gas was moved to 226(b)(1) and changed to an emission based exception; an exception to the required exhaust stack is provided based on modeling; and all subsections will be changed to a time-based average because it is unclear what is a maximum average.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote for permanent adoption

F. OAC 252:100-41 Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [AMENDED]

The proposed amendment to SC 41-15 would incorporate by reference the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR 63 that have been promulgated by the EPA from July 1 1999 through July 1, 2000. These are Subparts EEE, OOO, RRR and VVV. The DEQ is also proposing to update to July 1, 2000 the incorporation by reference in 252:100-41-16 of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) found in 40 CFR 61.

1. Presentation –Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote for emergency and permanent adoption

Division Director's Report – Eddie Terrill

New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

Adjournment Next Regular Meeting December 13, 2000 @ 9:00 a.m.

Place: Department of Environmental Quality

Multi-Purpose Room, First Floor 707 North Robinson, Oklahoma City, OK

NEW ON OUR WEB Council action taken at this meeting will be posted on our website.

OPEN FORUM Following these hearings, the Air Quality Division will host an open forum for the regulated community and the general public to answer any questions that might be of interest. Depending on the regular Council meeting agenda, the forum will likely begin after lunch at 1:00 p.m. in the Multi-Purpose room on the 1st floor of the DEQ building. The forum panel will consist of staff members from all of the sections within the Division, including compliance/enforcement, permits, monitoring, technical resources, and administration. Come prepared to ask anything and everything you might have wanted to know about how we do business.

October 3, 2000

MEMORANDUM

TO: Air Quality Council
FROM: Eddie Terrill, Director ^{CA}
Air Quality Division
Re: Modifications to Subchapter 29

Enclosed is a copy of the proposed amendments to OAC 252:100-29, Control of Fugitive Dust. The changes simplify and clarify Subchapter 29 as part of the agency-wide re-right/de-wrong initiative. Most of the proposed changes affect OAC 252:100-29-2. The existing provisions of Section 2 would be divided into Paragraphs (a), (b) and (c) instead of (a) and (b). The examples of reasonable precautions in Paragraph (a) would be deleted, and a new Paragraph (b), Reasonable precautions, added. The existing Subparagraph (b), Emission boundaries, would be renumbered OAC 252:100-29-2(c) and divided into Subparagraphs (c)(1) and (2). The word "visible" would be deleted from the phrase "visible fugitive dust emissions", wherever it appears, in Paragraph 2(c). Subparagraph (c)(1) would include requirements for fugitive dust emissions that damage or interfere with the use of adjacent properties, and Subparagraph (c)(2) would include the requirements for fugitive dust emissions that cause air quality standards to be exceeded or interfere with the maintenance of air quality standards. The provision for the DEQ to require the owner or operator of a fugitive dust emissions source to implement economically and technologically feasible controls, when those emissions damage or interfere with the use of adjacent property, would be added to Subparagraph (c)(1). In addition, OAC 252:100-29-5, Variance, would be revoked due to its redundancy with the Clean Air Act at 27A O. S. Supp. 1999 § 2-5-109.

The Air Quality Council considered changes to this Subchapter at its June 14 and August 16 meetings. At hearing in August, most comments addressed the proposed deletion of the word "visible" from the phrase "visible fugitive dust emissions". The Council heard comments supporting and opposing the change. In order to continue the discussion on this proposed change, the notice of rulemaking intent, published in the *Oklahoma Register* on September 15, included the proposed deletion. Staff has received no additional comments since the August hearing.

If no compelling reasons arise before or during the upcoming Air Quality Council hearing, staff will propose that the word "visible" be retained in the phrase "visible fugitive dust emissions" and suggest that the proposed rules be recommended to the Environmental Quality Board for emergency and permanent adoption.

Enclosures: 2

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

Section

- 252:100-29-1. Purpose
- 252:100-29-2. Prohibitions [AMENDED]
- 252:100-29-3. Precautions required in maintenance or nonattainment areas [AMENDED]
- 252:100-29-4. Exception for agricultural purposes
- 252:100-29-5. Variance [REVOKED]

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

252:100-29-1. Purpose

The purpose of this Subchapter is to control the release of fugitive dust into the air by any operation or action.

252:100-29-2.—~~Prohibitions~~ General provisions

~~(a) General provisions. No person shall cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being air borne, or wind borne or to operate or maintain or cause to be operated or maintained, any premise, open area, right of way, storage pile of materials, vehicle, or construction, alteration, demolition or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind or air, or susceptible to being wind borne or air borne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.~~

(a) Prohibitions. No person shall cause or allow any fugitive dust source to be operated, or any substances to be handled, transported or stored, or any structure constructed, altered, or demolished to the extent that such operation or activity may enable fugitive dust to become airborne and result in air pollution, without taking reasonable precautions to minimize or prevent pollution.

(b) Reasonable precautions. Reasonable precautions include, but are not limited to, those actions set forth below at 252:100-29-3(1) through (6).

~~(b) Emission boundaries. No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties, or cause air quality standards to be exceeded, or interfere with the maintenance of air quality standards.~~

(c) Emission boundaries.

(1) No person shall cause or allow the discharge of any fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties. If the DEQ determines that this rule has been violated, the owner or operator of the fugitive dust emissions source or sources shall implement controls, subject to economic and technological feasibility, to prevent future violations.

(2) No persons shall cause or allow the discharge of any fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to cause air quality standards to be exceeded or interfere with the maintenance of air quality standards.

252:100-29-3. Precautions required in maintenance or nonattainment areas

As of the adoption of this Subchapter, in areas designated as Air Quality Maintenance Areas or Nonattainment Areas for particulate matter, the ~~Executive Director~~ shall require specific reasonable precautions ~~and that~~ may include, but shall not be limited to, the following:

- (1) The use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, driveways and parking lots or the clearing of land for commercial, industrial, or residential development.
- (2) The application of water or suitable chemicals or some other covering on materials stockpiles, and other surfaces ~~which that~~ can create air-borne dusts under normal conditions.
- (3) The installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials or the use of water sprays or other acceptable measures to suppress ~~the~~ dust emission during handling. Adequate containment methods shall be employed during sandblasting or other similar operations.
- (4) The covering or wetting ~~when in motion,~~ of open-bodied trucks, trailers, or railroad ~~earcars~~ when transporting dusty materials in areas where the general public must have access ~~which can create air borne particulate matter.~~
- (5) The removal as necessary from paved street and parking surfaces of ~~earth or other material~~ materials ~~which that~~ have a tendency to become airborne, ~~and/or.~~
- (6) ~~The~~ the planting and maintenance of vegetative ground cover as necessary.

252:100-29-4. Exception for agricultural purposes

Section 252:100-29-3 shall not apply to the clearing or preparation of land used solely for agricultural purposes. For the purpose of this Subchapter "agricultural purposes" shall be limited to the raising of livestock or crops for food or fiber.

252:100-29-5. Variance [REVOKED]

~~Uses of potential variance from this Subchapter are subject to review, approval, and/or denial of the requested variance by the Air Quality Council.~~

MINUTES
AIR QUALITY COUNCIL
OCTOBER 18, 2000
Oklahoma City, Oklahoma

Council Members Present

David Branecky, Chairman
Sharon Myers, Vice-Chair
William B. Breisch
Leo Fallon
Fred Grosz
Rick Treeman
Joel Wilson

Council Members Absent

Gary Kilpatrick

Staff Present

Eddie Terrill
David Dyke
Scott Thomas
Dawson Lasseter
Pam Dizikes
Dennis Doughty

Guests Present

**see attached list

Staff Present

Cheryl Bradley
Jeanette Buttram
Joyce Sheedy
Michelle Martinez
Myrna Bruce

Notice of Public Meeting for October 18, 2000 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted on the entrance doors at of the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting.

Call to Order - Chairman Branecky, called the meeting to order at 9:00 a.m. and roll call was taken by Ms. Bruce as follows: Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - aye; Mr. Branecky - aye. Mr. Kilpatrick was not in attendance.

Approval of Minutes - Mr. Branecky entertained a motion to approve the Minutes of the August 16, 2000 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Ms. Myers. Roll call: Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Branecky - aye.

CY 2001 Meeting Schedule - Mr. Terrill listed staff's recommended dates for next year's meetings on February 21, April 18, June 20, August 15, October 17, and December 19. He pointed out that his preference was to keep the February meeting in Oklahoma City due to the Legislative session and the December meeting in-house as a matter of convenience for the staff. Ms. Myers asked that the April meeting be held in Ada so that the Environmental Science Department at East Central University could participate; and for the October meeting to be held in Broken Bow due to area interests in the Weyerhaeuser facilities. Mr. Breisch wanted at least two meetings in Tulsa due to the nonattainment issues and Mr. Fallon suggested returning to Lawton in 2002.

Dr. Grosz moved to hold meetings on the dates recommended with February and December in Oklahoma City, April in Ada, June and August in Tulsa and Broken Bow in October. The second was made by Ms. Myers. Roll call: Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Branecky - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 through 2-5-101 - 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-4 NEW SOURCE PERFORMANCE STANDARDS

Ms. Michelle Martinez advised Council of the agreement with the EPA for DEQ to incorporate by reference annually any new or amended New Source Performance Standards (NSPS) in Subchapter (SC) 4. Staff's proposal would update the federal NSPS from July 1, 1999 to July 1, 2000. She added that adoption as an emergency rule would allow the amended rules to take effect earlier than June 1, 2001 and enable persons subject to the NSPS to work with the state rather than the EPA. She requested that Council recommend the rule to the Environmental Quality Board for both emergency and permanent adoption.

Mr. Breisch made that motion and the second was made by Dr. Grosz. Roll call: Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100- 7-2 Permits for Minor Facilities

Ms. Jeanette Buttram pointed out that during the August 16th meeting, Council voted to recommend Subchapter (SC) 6 to the Environmental Quality Board for revocation. Ms. Buttram added that SC 6 was a summary of the permitting process in SC 7 and SC 8 and a restatement of Oklahoma Statutes on permitting. She pointed out that a few portions of the rule contained substantive language that was placed into SC 8 and approved at the August 16th Council meeting. She advised that SC 6 contained permit application information that needed to be placed into SC 7; therefore Sections 252:100-6-50(b), -50-(b)(2), and -6-50(e), was moved to 272:100-7-2. She indicated that language was added to SC 7 that would clarify the rule. She asked that the proposed rule be recommended for permanent adoption to the Environmental Quality Board at its November 14 meeting. She reminded Council that SC 6 would go to the Board at the same time.

Ms. Myers made motion to recommend this proposal to the Board for permanent adoption. Second was made by Mr. Fallon. Roll Call --- Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-7 Permits for Minor Facilities Part 9, Sections 60-3.5 - 60.5 Permits by Rule

Dr. Joyce Sheedy, representing staff, stated that proposed revisions to Part 9 of SC 7 add a permit by rule for natural gas compression facilities. Proposals were brought before the Council the first time on April 19, 2000; continued to June 14 and August 16th and then to October 18. She advised that comments had been received from Mid-Continent Oil and Gas Association representing the industry. These comments, dated August 4 and received on August 7, were too late to be addressed at the August Council meeting. She advised that the industry workgroup met on September 1, 8, and 18. Dr. Sheedy detailed the issues deriving from these meetings. She advised that there were still unresolved issues, thus staff's recommendation was that Council continue this hearing to its December 13 meeting.

Mr. Eddie Terrill asked for discussion regarding the possibility of raising the de minimus level in order to better get a handle on the regulation of this specific industry. He advised that staff would provide additional information and a proposal for the de minimus level at Council's December meeting.

Mr. Breisch made motion to continue the hearing to December 13. Mr. Wilson made the second. Roll Call -- Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-29 Control of Fugitive Dust

Ms. Cheryl Bradley was called upon to present staff recommendations. She stated that proposed changes were to simplify and clarify language according to the agency-wide re-right/de-wrong initiative. She advised that this rule had previously been before the Council in June and in August and that no additional written comments had been received. After pointing out the proposed revisions, Ms. Bradley said that staff was requesting that Council recommend the rule to the Environmental Quality Board for permanent adoption.

Following discussion, Mr. Wilson recommended that the rule as proposed be forwarded to the Board for adoption. Mr. Fallon made the second. Roll Call -- Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-31 Control Of Emissions of Sulfur Compounds

Dr. Joyce Sheedy advised Council that revisions to this subchapter were to simplify and clarify language according to the agency-wide re-right/de-wrong initiative and had been brought before the Council the first time in August. She pointed out that the workgroup had met several times but that no official comments had been received. Dr. Sheedy then suggested that Council continue the hearing to the December meeting.

Mr. Wilson provided an update on the workgroup meetings, which were held on September 8, and another on October 3. Speaking for the workgroup, he added that he supported the continuance of the hearing to December.

Ms. Myers moved to continue the hearing to the December meeting and Dr. Grosz seconded that motion. Roll Call -- Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-41

Control Of Emissions of Hazardous Air Pollutants and Toxic Air Contaminants

Ms. Cheryl Bradley was again called upon. She advised that staff's proposed changes were part of the continuing process of keeping DEQ's Title III and Title V program current with EPA's evolving program. She pointed out that the incorporation by reference of Part 61 National Emission Standards for Hazardous Air Pollutants in Section 15(a) would be updated to July 1, 2000. She added that proposed amendments to Section 15(b) would incorporate by reference specific new and amended Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants promulgated by EPA between July 1, 1999 and July 1, 2000. The new MACT standards to be added were OOO, RRR, and VVV. Ms. Bradley advised that no comments had been received and it was staff's suggestion that Council recommend the rule to the Environmental Quality Board for both emergency and permanent adoption.

Mr. Wilson moved to pass the rule to the Environmental Quality Board with the second made by Ms. Myers. Roll Call --- Dr. Grosz - aye; Mr. Fallon - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

DIVISION DIRECTOR'S REPORT - Mr. Terrill updated Council and audience on the ozone attainment status in Tulsa advising that there would be an upcoming Senate Committee meeting in Oklahoma City to discuss the usage of an exceptional events clause to and their effects on Air Quality. He commented that he and Mr. Dyke had attended a meeting with CenSARA states and EPA Region VI where Mr. John Seitz was a speaker.

Mr. Terrill invited everyone to attend the open forum in the afternoon where staff would be available to answer any questions. He also bid farewell to Mr. Dennis Doughty who would be retiring after 18 years of service.

Mr. Dyke advised that the Council's Finance Committee would be meeting in November and advised that the current CPI for fees is \$18.10 for Title V and \$17.12 for non-Title V sources.

NEW BUSINESS None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be on December 13 at the DEQ offices in Oklahoma City.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

David Branecky, Chairman
Air Quality Council

J. Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
October 18, 2000

Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. JON WHITNEY	TRINITY CONSULTANTS	(405) 228-3292
2. FRANK CONDON	EQ BOARD	
3. CLYDE JONES/ZCA	Box 579 Bartlesville 74005	918/336-7100
4. RICKY PEARCE	MCKINNEY + STRINGER	405/272-3124
5. Pat Lynch	801 NE 13 th OKC	405-271-2070
6. Bonnie McGillbray	2122 S Yukon Tulsa	918-583-3925
7. Jim Warram	100 N. MUSTARD Rd. OKC	405-324-3809
8. Bob Kellogg	OKC	735-0808
9. DUSTIN GIVENS	Fort James	
10. Steve Landers	Fort James	
11. Pat Davenport	National Standard Stillwater	
12. Karen Jayne	DEQ	
13. Mike Wood	Weyerhaeuser	
14. Kim Warram	OGE	553 3297
15. Jan Tave	Amazon Corp	616 2598
16. Julia Bowers	OGE - OKC	553-3439
17. Deborah Perry	Atkins Benham (RSA)	918 496-0059
18. Mark Gibson	ARP-P20	405.841.1333
19. Glenn Travis	Shubco	918 594-6572
20. Kirk Rutter	Boeing	918 832-3174
21.		
22.		
23.		
24.		
25.		

THE AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION
TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title: OAC: 252:100-29
Control of Fugitive Dust [AMENDED]

On October 18, 2000 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Sec. 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

X permanent [take effect after legislative review]
 emergency [temporary, to take effect upon approval by the Governor because of time]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,


Chair or Designee:

Date Signed: 10-18-00

VOTING TO APPROVE:

Fred Grosz David Branecky
Leo Fallon
William B. Breisch
Sharon Myers
Joel Wilson

ABSTAINING:

Rick Treeman

VOTING AGAINST:

ABSENT:

Gary Kilpatrick

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, November 14, 2000
American Legion Hall
113 North Swem
Hooker, Oklahoma

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the August 29, 2000 Regular Meeting
4. **Rulemaking -- OAC 252:205 Hazardous Waste Management**
Two sets of changes are proposed:
 - The proposed amendments to 252:205-3-2 are clarifying and corrective. First, they delineate those non-delegable hazardous waste regulatory duties that remain with the U.S. Environmental Protection Agency, rather than being administered by the DEQ hazardous waste management program. Second, they correct errors and clarify requirements found in the adopted-by-reference portions of the July 1, 1999, version of Title 40 of the Code of Federal Regulations.
 - The purpose of the proposed amendments to 252:205-7-1, 7-3 and 21-3 is to revoke superseded hazardous waste transporter rules. The rules were superseded by legislation passed during the 2000 legislative session that transferred transporter registration responsibility from the DEQ to the Oklahoma Corporation Commission.
 - A. Presentation – Jody Reinhart, Hazardous Waste Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on emergency* adoption of amendments to 252:205-3-2, and on permanent and emergency* adoption of amendments to 252:205-7-1, 7-3 and 21-3
5. **Rulemaking -- OAC 252:001, 002, 003 and 004 Rules of Practice and Procedure**
The proposed new Chapter 4 (Rules of Practice and Procedure) is a product of DEQ's re-right/de-wrong process. It represents a comprehensive and integrated rewrite of existing Chapter 1 (Procedures of the Environmental Quality Board), Chapter 2 (Procedures of the DEQ) and Chapter 3 (Procedures of the Environmental Quality Councils), in an effort to make the procedures easier to follow. Among the changes are: reorganization into more logical arrangements; language simplification; elimination of duplicative rules; updating of statutory citations; and deletion of statutory language. Chapter 4 also includes rules recommended by the Air Quality Council, which address hearings before that council. Chapters 1, 2 and 3 are proposed for revocation, subject to the adoption of proposed Chapter 4.
 - A. Presentation – Jimmy Givens, DEQ General Counsel
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption of Chapter 4 and permanent revocation of Chapters 1, 2 and 3

6. **Rulemaking— OAC 252:100 Air Pollution Control**

Six sets of changes are proposed:

- The amendments to Subchapter 4, New Source Performance Standards, update the incorporations by reference of the federal NSPS from July 1, 1999, to July 1, 2000.
- The proposed revocation of Subchapter 6, Permitting, is part of DEQ's effort to eliminate redundant or unnecessary language through its re-right/de-wrong process. Subchapter 6 is largely a summary of the permit programs contained in Subchapters 7 and 8, and a restatement of Oklahoma statutes on permitting. Only a few portions of the rule contain substantive language, and those portions will be placed into Subchapters 7 and 8.
- The proposed changes to Subchapter 7, Permits for Minor Facilities, also derive from the re-right/de-wrong initiative. In connection with the proposed revocation of Subchapter 6 (see above), three substantive provisions of Subchapter 6, relating to the requirement for and the implications of the signing of a permit application, are moved into Section 252:100-7-2.
- The proposed revisions to Subchapter 8, Permits for Part 70 Sources, generally correct errors or omissions, clarify language, and specify fee categories for construction permit authorizations and modifications. Other amendments include clarification of construction permit and best available control technology (BACT) requirements, slight modification of the reporting time for excess emissions caused by emergencies or upsets, and modification of the definition of "major stationary source" as it relates to charge rates of municipal incinerators. The incorporation by reference of 40 CFR 63.41, 63.43, and 63.44 is updated to July 1, 2000.
- Proposed amendments to Subchapter 29, Control of Fugitive Dust, clarify and simplify language as part of the re-right/de-wrong initiative. Substantive changes are proposed to clarify the precautions required to minimize or prevent pollution and the corrective measures required if fugitive dust is discharged beyond the property line.
- The proposed revisions to Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants, update the adoption by reference of specific National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR Part 61, and the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR Part 63. The new adoption-by-reference date would be July 1, 2000.
 - A. Presentation— David Branecky, Air Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption of amendments to Subchapters 6, 7, and 8, on permanent and emergency* adoption of amendments to Subchapters 4 and 41, and on emergency* adoption of amendments to Sections 252:100-8-1.7 and 252:100-8-4

7. **Rulemaking— OAC 252:622 and 623 Pretreatment for Central Treatment Trusts**

This rulemaking is part of the re-right/de-wrong process to eliminate outdated and unenforceable rules and simplify existing language. The changes are extensive enough that it is proposed that Chapter 622 be revoked and replaced by new Chapter 623.

- A. Presentation— Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption and revocation

8. **Rulemaking -- OAC 252:625 and 626 Public Water Supply Construction Standards**

This rule making is part of the re-right/de-wrong process to eliminate outdated and unenforceable rules and simplify existing language. The changes are extensive enough that it is proposed that Chapter 625 be revoked and replaced by new Chapter 626. The new chapter includes construction standards for technology that has been developed since the last revision of the rules.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption and revocation

9. **Rulemaking -- OAC 252:645 Septage Tank Cleaners**

The majority of the changes in this rulemaking were done to reorganize, simplify and clarify the rules as part of DEQ's re-right/de-wrong process. However, there are a few substantive changes. These include specifying the amount of lime that must be added per volume of septage before application, designating phosphorus as a limiting factor in the amount of septage that may be applied, and increasing the minimum distance of a land application site from a public water supply well. The rulemaking also requires that applicants for a permit to land apply septage be licensed to pump and haul septage.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption of amendments

10. **Rulemaking -- OAC 252:652 Underground Injection Control**

The purpose of the proposed amendments is to make the underground injection control rules correspond with recent statutory changes which clarify jurisdictional responsibilities between the DEQ and other state agencies, and to update the incorporation by reference of new federal underground injection well regulations to allow the state program to retain its "primacy" status with the U.S. Environmental Protection Agency.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on emergency* adoption of amendments

11. **Consideration of the Environmental Quality Report**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an "Oklahoma Environmental Quality Report" and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1st of each year. The statutorily prescribed purposes of this report are to outline the DEQ's two-year needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- A. Presentation – Steve Thompson, DEQ Deputy Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on approval

12. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)
13. Executive Director's Report
14. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until June of 2001.

SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

252:100-29-2. Prohibitions-General provisions

~~(a) General provisions. No person shall cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being air borne, or wind borne or to operate or maintain or cause to be operated or maintained, any premise, open area, right of way, storage pile of materials, vehicle, or construction, alteration, demolition or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind or air, or susceptible to being wind-borne or air borne that would be classified as air pollution without taking reasonable precautions or measures to minimize atmospheric pollution.~~ Prohibitions. No person shall cause or allow any fugitive dust source to be operated, or any substances to be handled, transported or stored, or any structure constructed, altered, or demolished to the extent that such operation or activity may enable fugitive dust to become airborne and result in air pollution, without taking reasonable precautions to minimize or prevent pollution.

~~(b) Emission boundaries. No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties, or cause air quality standards to be exceeded, or interfere with the maintenance of air quality standards.~~

(b) Reasonable precautions. Reasonable precautions include, but are not limited to, those actions set forth below at OAC 252:100-29-3(1) through (6).

(c) Emission boundaries.

(1) No person shall cause or allow the discharge of any visible fugitive dust emissions beyond the property line of the property on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties. If the DEQ determines that this rule has been violated, the owner or operator of the fugitive dust emissions source or sources shall implement controls, subject to economic and technological feasibility, to prevent future violations.

(2) No persons shall cause or allow the discharge of any visible fugitive dust emissions beyond the property line of the property on which the emissions originate in such a manner as to cause air quality standards to be exceeded or interfere with the maintenance of air quality standards.

252:100-29-3. Precautions required in maintenance or nonattainment areas

As of the adoption of this Subchapter, in areas designated as Air Quality Maintenance Areas or Nonattainment Areas for particulate matter, the Executive Director shall require specific reasonable precautions and that may include, but shall not be limited to, the following:

(1) The use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, driveways and parking lots or the clearing of land for commercial, industrial, or residential development;—.

(2) The application of water or suitable chemicals or some other covering on materials stockpiles, and other surfaces ~~which~~ that can create air-borne dusts under normal conditions;—.

(3) The installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials or the use of water sprays or other acceptable measures to suppress the dust emission during handling. Adequate containment methods shall be employed during sandblasting or other similar operations;—.

(4) The covering or wetting ~~when in motion,~~ of open-bodied trucks, trailers, or railroad ~~car~~ cars ~~when~~ transporting dusty materials in areas where the general public must have access ~~which can create air borne particulate matter;~~—.

(5) The removal as necessary from paved street and parking surfaces of ~~earth or other material which~~ materials that have a tendency to become airborne; ~~and/or~~—.

(6) ~~the~~ The planting and maintenance of vegetative ground cover as necessary.

252:100-29-5. Variance [REVOKED]

~~Uses of potential variance from this Subchapter are subject to review, approval, and/or denial of the requested variance by the Air Quality Council.~~

Additional Comments

TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

EXECUTIVE SUMMARY:

The proposed amendments to Subchapter 29, Control of Fugitive Dust, will clarify and simplify the language as part of the agency-wide re-right/de-wrong initiative. The existing provisions of OAC 252:100-29-2 would be divided into Paragraphs (a), (b) and (c) instead of (a) and (b). A new Paragraphs (b) sets forth examples of reasonable precautions to minimize pollution from fugitive dust. The existing Paragraph (b), Emission boundaries, is renumbered OAC 252:100-29-2(c) and divided into Subparagraphs (c)(1) and (2). Subparagraph (c)(1) sets forth requirements and identifies remedies for fugitive dust emissions that damage or interfere with the use of adjacent properties, and Subparagraph (c)(2) sets forth requirements for fugitive dust emissions that cause air quality standards to be exceeded or interfere with maintenance of air quality standards. Remedies for violation of Subparagraph (c)(1) are limited to requiring the owner or operator to implement economically and technologically feasible controls. Remedies for violation of Subparagraph (c)(2) are not so limited. The proposed revocation of OAC 252:100-29-5, Variance, is due to its redundancy with the Clean Air Act at 27A O.S.Supp. 1999 § 2-5-109.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

See attached.

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 29. CONTROL OF FUGITIVE DUST

Response to comments of Mr. Stephen E. Landers, Fort James Corporation, dated June 5, 2000

1. 252:100-29-2(a)

Comment: The proposed amendment to OAC 252:100-29-2(a) would require precautions for any source of fugitive dust, no matter how small. Routine grounds maintenance such as mowing may require precautions; whereas, the current rule requires precautions only for fugitive dust "classified as air pollution".

Response: Subsection 2(a) was rewritten to require reasonable precautions to control fugitive dust that results in air pollution.

Response to comments of Mr. Howard Ground, Central and Southwest Services, and Mr. Perry Friedrich, Grand River Dam Authority, stated on June 14, 2000

2. 252:100-29-2 (June 13, 2000 draft)

Comment: The phrase "or will be violated" in the second sentence of this section makes the requirement too subjective.

Response: This provision was removed.

Response to comment of Mr. Don Shandy, McKinney, Stringer, and Webster, stated on August 16, 2000

3. 252:100-29-2(c)(1) and (2)

Comment: Disagreed with the proposed deletion of the word "visible" from the phrase "visible fugitive dust emissions" because it would result in the removal of an objective standard. The change is unnecessary because the DEQ has authority under the statutes to address any issue related to air pollution.

Response: The word "visible" has been retained so there is no change in the existing language.

Response to comment of Sylvia Pratt stated on August 16, 2000

4. 252:100-29-2(c)(1) and (2)

Comment: Removal of the word "visible" from the phrase "visible fugitive dust emissions" might give DEQ the authority to enforce this rule when fugitive dust emissions are not seen during a DEQ inspection.

Response: The word "visible" has been retained. While this may limit the DEQ's ability to base enforcement actions on this rule, the DEQ has much broader authority to control air pollution. The Oklahoma Clean Air Act empowers the DEQ with the legal authority to take such action as may be necessary to abate air pollution. Removal of the word "visible" does not affect this authority.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

TRANSCRIPT OF PROCEEDINGS

OAC 252:100-29

CONTROL OF FUGITIVE DUST [AMENDED]
HELD ON JUNE 14, 2000, AT 9:00 A.M.
OKLAHOMA STATE UNIVERSITY AT TULSA
TIERED LECTURE HALL (NORTH HALL 150)
700 NORTH GREENWOOD
IN TULSA, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, C.S.R.

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1 COUNCIL MEMBERS

2

3 David Branecky, Chairman

4 Sharon Myers, Vice-Chair

5 Rick Treeman, Member

6 Joel Wilson, Member

7 Fred Grosz, Member

8 Gary Kilpatrick, Member

9 Leo Fallon, Member

10 Bill Breisch, Member

11 Eddie Terrill, Director

12 David Dyke, Protocol Officer

13 Myrna Bruce, Secretary

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1 2-5-109.

2 Notice of the proposed permanent

3 rulemaking was published in the Oklahoma

4 Register on May 15th, 2000. This is the

5 first hearing on the proposed amendments.

6 Staff received written comments from

7 Stephen E. Landers, Senior Process

8 Engineer, Fort James Corporation and Thomas

9 H. Diggs, Chief Analysis and the Air

10 Planning Section, USEPA Region 6, regarding

11 the proposed substantive change to OAC

12 252:100-29-2(a). I would like to enter

13 both letters into the hearing record. As

14 requested by the Council, copies of these

15 letters were faxed to each of you on

16 Friday. I hope you received the fax.

17 Mr. Diggs' letter was dated June

18 7th, 2000, and was received by the Air

19 Quality Division on June 9th, 2000, and

20 supports the proposed change to Section

21 2(a) because it removes the qualification

22 that dust must be classified as air

23 pollution before precautions are taken and

24 actually strengthens the State

25 Implementation Plan.

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6 PROCEEDINGS

7 MR. DYKE: The next item on the

8 agenda today is Item 4D, OAC 252:100-29,

9 Control of Fugitive Dust. I call on Cheryl

10 Bradley.

11 MS. BRADLEY: Mr. Chairman,

12 Members of the Council, ladies and

13 gentlemen, the proposed changes to

14 Subchapter 29 will simplify and clarify the

15 subchapter as part of the agency-wide re-

16 right/de-wrong initiative. A substantive

17 change is included which would make the

18 rule more enforceable by deleting the

19 qualifications that the fugitive dust be

20 emitted to such an extent as to be

21 classified as air pollution, before

22 precautions are required. The proposed

23 revocation of OAC 252:100-29-5, Variance,

24 is due to its redundancy with the Oklahoma

25 Clean Air Act at 27A O.S. Supplement 1999

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1 Mr. Landers', however, speaking for

2 his company and industry, in a letter that

3 was dated June 5th, 2000, and received by

4 the Air Quality Division on June 8th,

5 states, as proposed, however, 252:100-29-

6 2(a), would require precautions for any

7 source of fugitive dust, no matter how

8 small. For instance, routine grounds

9 maintenance such as mowing may require

10 precautions, whereas the current rule,

11 albeit vague, requires precautions only for

12 fugitive dust classified as air pollution.

13 Not every source of fugitive dust is, nor

14 should it be, subject to regulation or

15 enforcement. There needs to be a

16 triggering mechanism that trips regulations

17 and/or enforcement.

18 Staff agrees that the section as

19 proposed is unclear regarding when

20 reasonable precautions are necessary.

21 Therefore, we are proposing the revision, a

22 copy of which was provided to the Council

23 and is available on the table at the back

24 of the room, the date on that is June 13th.

25 In that proposal, staff combines the

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1 provisions in paragraphs 2(a) and 2(b) and
 2 requires reasonable precautions to control
 3 fugitive dust emissions if those emissions
 4 cause specific adverse effects beyond the
 5 property line of a facility. As revised,
 6 Section 2 would read as follows: 252:100-
 7 29-2, Prohibitions. No person shall cause
 8 or allow the discharge of any visible
 9 fugitive dust emissions beyond the property
 10 line on which emissions originate in such a
 11 manner as to damage or to interfere with
 12 the use of adjacent properties, cause air
 13 quality standards to be exceeded, or
 14 interfere with the maintenance of air
 15 quality standards. If the DEQ determines
 16 that this rule has been or will be
 17 violated, the owner or operator of the
 18 facility shall take reasonable precautions
 19 to prevent future violations. Reasonable
 20 precautions include wetting, oiling,
 21 covering, applying chemicals, shielding,
 22 vacuuming, or any other appropriate
 23 measures.
 24 Ft. James worked with us on the
 25 revisions in this language and they were

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1 those examples out altogether and just take
 2 reasonable precautions to prevent future
 3 violations. I certainly don't want to
 4 encourage a practice that would be in
 5 conflict with some other rule within the
 6 agency.
 7 MR. TREEMAN: I guess one other
 8 thing I would add, though, is this is
 9 looking at more than just road dust.
 10 Fugitives could be from storage piles and
 11 stock piles and there are certain things
 12 you do to the oil and that you put in the
 13 piles that aren't subject to the inclement
 14 -- you know, the outside weather.
 15 MS. BRADLEY: This is Cheryl
 16 Bradley again. Within the language of the
 17 next section, that refers to the
 18 application of suitable chemicals and that
 19 might, if in fact we kept the language,
 20 could be used as opposed to oiling or
 21 applying -- it would be suitable applying
 22 of chemicals, then there would be a
 23 qualification, in a sense that it needed to
 24 fit the application.
 25 MR. KILPATRICK: But Cheryl,

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1 provided a copy of the revision and support
 2 the recommended changes.
 3 After the discussions on the
 4 revisions, it has come to my attention
 5 there may be a question as to whether or
 6 not the statement about the reasonable
 7 precautions is clear. In the last sentence
 8 are still appropriate. They originally
 9 passed that in the early '70s and the
 10 specific one in question is oiling. Staff
 11 would encourage of whether those should be
 12 revised or corrected in some way or just
 13 language added.
 14 Since comments were received that
 15 resulted in recommended changes to the
 16 proposed rules, staff suggests that the
 17 Council continue the hearing on these
 18 proposed amendments until the next Air
 19 Quality Council meeting.
 20 MR. DYKE: Questions from the
 21 Council?
 22 MR. BRANECKY: Well, I would
 23 certainly be concerned about oiling, as far
 24 as any runoff concerns, stormwater runoff.
 25 I don't see any problem with just leaving

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1 those precautions listed there apply only
 2 to certain areas?
 3 MS. BRADLEY: Those precautions
 4 would only apply to sources of fugitive
 5 dust. Stock piles, coal piles, other
 6 material piles could actually be sources of
 7 fugitive dust.
 8 MR. DYKE: Is there anyone
 9 wishing to speak on this rule today?
 10 MR. GROUND: My name is Howard
 11 Brown with Central and Southwest. The new
 12 language that was added, if the DEQ
 13 determines that this rule has been or will
 14 be violated, how is the DEQ going to
 15 determine if this has been violated in the
 16 past or will be violated in the future?
 17 MS. BRADLEY: The HazMat has been
 18 primarily handled on the basis of complaint
 19 and investigation. We would use modeling
 20 and permit application information. There
 21 may be other circumstances that I'm not
 22 aware of.
 23 MR. GROUND: So if we have a
 24 complainant, that you go out there and they
 25 have dust on their vehicle or in their

1 house, are you going to take that as a
2 violation that we violated this?

3 MS. BRADLEY: We would do a
4 thorough investigation as to the source of
5 the potential fugitive dust. In some
6 cases, it will be obvious that the source
7 would have been from the facility because
8 the material is not available for -- or at
9 least not found anywhere else. In other
10 cases, it's not quite as clear and there is
11 still an element of subjectivity here. It
12 is hard to remove from this particular
13 rule.

14 MR. GROUND: And that's my point,
15 is it's extremely subjective when you are
16 going to go out and evaluate in the past
17 based on fugitive dust that maybe -- that
18 may come somewhere other than from
19 hindsight that could or may or may not have
20 been caused from that facility. I've been
21 in situations like this where a person has
22 tried to claim that it's caused from the
23 facility when it actually wasn't. In that
24 case, you actually determined that it
25 wasn't, but I can't say in either case

1 way or the other. So the sentence being
2 talked about, if the DEQ determines that's
3 it's been violated in the past, it's just
4 kind of stating the obvious fact that the
5 law says you shall not create dust. If
6 someone complains, an investigation is
7 going to be done and a determination is
8 going to be made whether or not they think
9 the complaint was right or not. Am I
10 misunderstanding something? I mean, it
11 will be in the past. I mean, it may not --
12 if it's not ongoing, still I think the DEQ
13 will have to -- or the agency will have to
14 go out and look at it and make some
15 determination, do we think the complainant
16 is right or not right?

17 MR. GROUND: I'll respond if
18 you're wanting a response.

19 MR. KILPATRICK: I'm trying to
20 understand where --

21 MR. GROUND: My response is that
22 DEQ going out and looking at dust on
23 someone's car does not necessarily mean
24 that that dust came from my facility.

25 MR. KILPATRICK: I agree with

1 they're going to go back and say in the
2 past that this would be in the past without
3 actually observing the violation.

4 MS. BRADLEY: Well, I'm not --
5 this particular rule is part of the State
6 Implementation Plan. It is the primary
7 (inaudible) specific application for
8 control of particulates. It would be
9 difficulty to eliminate all such activity
10 because we're not specifically identifying
11 processes and sources, and I don't have, at
12 present, a suggestion to remove and answer
13 -- answer your question and assure you that
14 we won't have to investigate each case.
15 But we try to be conscientious and diligent
16 and try to do a fair evaluation in the
17 investigation and determination of a
18 complaint.

19 MR. KILPATRICK: I think, if I
20 read this right, the rule says and the old
21 rule said, too, no person shall cause or
22 discharge, and full stop. Now, obviously
23 if somebody complains that dust has been
24 raised, an investigation is going to be
25 done and the agency is going to decide one

1 that.

2 MR. GROUND: If it's not observed
3 as a visible emissions leaving the property
4 line of my facility, then dust on someone
5 else's car at another location does not
6 mean it came from me, even though this
7 person may say it came from me.

8 MR. KILPATRICK: I would agree
9 with that. I don't know the investigation
10 procedures and the law that the agency
11 uses, but if I had a lot of witnesses that
12 said I saw this pile sitting on your
13 property and they all swore that during
14 this storm it was blowing over onto these
15 houses and yes, maybe the agency didn't
16 actually see it happen, I would assume that
17 that would be evidence that could be used
18 to support the finding, yes, that dust, we
19 believe, came from the property and would
20 make a determination and say you violated
21 the rule.

22 MR. GROUND: I guess part of the
23 question is, it has to cause damage,
24 interfere with the use of, or interfere
25 with the maintenance of the National

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1 Ambient Air Quality Standards?
2 MR. KILPATRICK: That would --
3 MR. GROUND: It's not dust. It
4 has to actually -- the violation actually
5 has to prove it does those things. And in
6 most cases I've ever seen it's a nuisance
7 complaint because to prove it's damaged
8 because you have dust on your vehicle,
9 (inaudible) and the interference with the
10 National Ambient Air Quality Standards and
11 that's done beforehand, not as an instance
12 of high wind or whatever it might be.
13 MS. BRADLEY: That is true, but
14 it would still be applicable to de minimis
15 facilities which are not subject to
16 permitting review.
17 MR. GROUND: I would state that
18 if you are going to look at this as a has
19 been or will be, it's going to be extremely
20 subjective and I don't see how you can
21 prove that.
22 MR. KILPATRICK: I guess the
23 point I'm making is that if you strike out
24 that sentence that you're talking about,
25 strike out the predicate, if the DEQ

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1 determines that this rule has been or will
2 be violated, drop that out, nothing
3 changes.
4 MR. GROUND: I agree with that.
5 MR. KILPATRICK: That is the
6 process. If you have the rule, it says,
7 thou shall not create dust, if somebody
8 complains you've created dust, they will do
9 an investigation and they will make a
10 determination. This is stating nothing
11 more than fact.
12 MR. GROUND: I completely agree
13 with that, it shouldn't be in there, --
14 it's giving the DEQ something to look at
15 that they're not going to be able to prove.
16 MS. BRADLEY: Well, I think Mr.
17 Kilpatrick was saying that's a restatement
18 of the first premise that there is a
19 prohibition of creating fugitive dust that
20 goes beyond the property line and does
21 those three things, interferes with the use
22 of adjacent properties, violates the
23 Ambient Air Quality Standards, or threatens
24 maintenance of an air quality maintenance
25 area. So I think what Mr. Kilpatrick is

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1 saying is it's superfluous and if you
2 strike it, it would not -- he's saying the
3 intent of that particular section would not
4 be changed at all.
5 MR. KILPATRICK: I guess what I'm
6 saying is I don't understand what you're
7 suggesting be changed. Like I say, if you
8 took that out, nothing has changed.
9 MR. GROUND: Well, I would agree
10 to strike the entire -- those two
11 sentences.
12 MR. KILPATRICK: So you want to
13 take out that you have to take reasonable
14 precautions?
15 MR. GROUND: It's already
16 included. Well, in the next section it's
17 included. That's included in my permit.
18 MR. KILPATRICK: But that
19 wouldn't apply to a lot of people that
20 don't have permits. This is, I assume, was
21 written basically as a nuisance regulation?
22 I mean, it's not intended necessarily for
23 people who have permits. It's intended to
24 protect all of us from our neighbors
25 creating a nuisance on our property.

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1 MS. WARRAM: I have a question.
2 Kim Warram with OG&E. My question pertains
3 to 29-4, I'm curious as to why they're
4 exempted and what's the basis for that
5 exemption (inaudible, several people
6 talking at the same time).
7 MS. BRADLEY: The exemption for
8 that particular section went through the
9 hearing process in the early 1970s and
10 (inaudible). So it was a special category
11 for the Council at the time being needed to
12 grant (inaudible).
13 MR. DYKE: We're not making any
14 recommended changes to that section?
15 MS. BRADLEY: No, we are not.
16 And this is part of the plan, the state
17 plan for control of particulates, that was
18 approved under SIPs and this exception was
19 satisfactory to EPA.
20 MR. DYKE: Harry.
21 MR. FREDERICK: I'm Harry
22 Frederick with Grand River Dam Authority
23 and I share some of Mr. Ground's concerns
24 about the statement you were just talking
25 about and I would -- especially the part

1 with the rule being violated. There seems
2 to a lot of subjectivity. The possibility
3 exists there that a field person could have
4 the leeway to cause a great deal of money
5 to be spent based on that subjective
6 evaluation. I would even go one step
7 further and say that that being in there,
8 (inaudible) what we said a while ago if we
9 struck that it wouldn't change it, and the
10 determination that it will be violated even
11 after the what the agency has determined
12 were reasonable precautions and we're
13 getting into a whole new area there beyond
14 what's considered reasonable precautions by
15 DEQ may not be considered -- or vice-versa
16 -- has taken reasonable precautions to
17 prevent dust, dust has not yet occurred but
18 the inspector says yes, based on my
19 observation, based on my experience, and
20 based on something, it will occur at some
21 point. So I think his concern about that.

22 MR. KILPATRICK: Well, I guess I
23 have a different thought. When I first
24 read that clause, I assumed that it was in
25 there to provide some protection to

1 him a grace period. It said reasonable
2 precautions don't happen until after DEQ
3 has made a determination.

4 MR. DYKE: Let me put Rhonda on
5 the spot. Rhonda, do you see that this
6 wording is going to change the way you go
7 about investigating the fugitive dust or
8 proving your case, when you have a dust
9 violation?

10 MS. JEFFRIES: Rhonda Jeffries
11 with the Regional Office in Tulsa. In the
12 past, fugitive dust complaints has been
13 investigated based on the basis of whether
14 or not the inspector themselves have
15 actually seen a violation. Normally, at a
16 facility you have one incidence, whether
17 it's a dust problem, it's going to happen
18 again and again and again, so these things
19 are actually based more on the inspector
20 and it is a field person that will make the
21 determination. Unfortunately, it does say
22 reasonable and that does make it difficult
23 for me as an enforcement person, what's
24 reasonable. What's reasonable to me is not
25 going to be reasonable to the facility.

1 industry or the violator in that he
2 couldn't be fined or cited until the DEQ
3 had determined he had actually done
4 something. So his past sins were basically
5 forgiven and he was only being determined
6 that in the future if you continue to have
7 that activity that caused the dust, he had
8 to take reasonable precautions. Maybe I'm
9 wrong in my assumption, I assumed that was
10 the purpose of putting that in there, is
11 that it gave some grace. You have a
12 complainant that basically says well, so
13 what, what you did in the past, you've got
14 this now that allows you that DEQ has to
15 make a determination first, before you have
16 to implement reasonable precautions. You
17 could write the rule to say that you must
18 have reasonable precautions at all times
19 and then if there is a complaint, the
20 agency can come out and fine you for that
21 past sin, because you haven't implemented
22 reasonable precautions at the very
23 beginning. So I view this language as
24 being a protection, not something the other
25 way. It will protect the violator, it gave

1 It's probably going to have another opinion
2 as far as the complainant is concerned. So
3 I do think this rule is very difficult for
4 me to enforce from my standpoint.

5 MR. DYKE: Just as it is today?

6 MR. KILPATRICK: Well, explain to
7 me, what rights does the agency have to --
8 if you go out there and someone is
9 obviously creating dust and you don't think
10 they are doing reasonable things to correct
11 it, can you issue a fine? What are the
12 bounds of what can be done to try to bring
13 that person into compliance with the law?

14 MS. JEFFRIES: In actuality, you
15 would have to be listed as a high priority
16 violator before this agency will actually
17 issue a fine or a (inaudible) violator,
18 someone who completely will not cooperate
19 towards compliance, this rule doesn't say
20 there won't be dust, all it says is that
21 the facility will take reasonable
22 precaution. There is always going to be
23 dust from certain types of operations, and
24 quarries would be one type of that kind of
25 operation. It doesn't say that there won't

1 be any dust, it says you will do something
 2 to prevent dust.
 3 MR. DYKE: Excuse me. We do
 4 issue notices of violations.
 5 MR. KILPATRICK: But do we end up
 6 actually collecting anything?
 7 MR. DYKE: I don't think we --
 8 most of them, no.
 9 MS. JEFFRIES: To my knowledge,
 10 we have not.
 11 MR. DYKE: But we have reasonable
 12 success at getting something changed or
 13 some kind of control, watering of things
 14 and control equipment installed. Nadine?
 15 MS. BARTON: Nadine Barton with
 16 CASE, and I just have to say one thing on
 17 behalf of the citizens of adjacent property
 18 owners that would be impacted by this, that
 19 this is important that they have something
 20 for those that live near kilns or landfills
 21 or quarries where in their normal process
 22 that dust is generated, to at least have
 23 some avenue to where they could complain if
 24 they are not using proper controls. And
 25 also, I would have to address the Superfund

1 to be a violation. Okay, so based on that,
 2 the will be violated part of -- DEQ will
 3 determine that it will be violated? So if
 4 they determine that there could be damage
 5 or it could interfere with the use of
 6 adjacent properties, but even if it's not,
 7 it looks like it could be a violation that
 8 in the past it wouldn't have been
 9 necessarily, based on a field person's
 10 interpretation. And I don't know how
 11 that's carried out? How do you determine
 12 if there's actually an interference with
 13 use of adjacent properties? It's almost
 14 like if there is potential damage, these
 15 things could be built in here.
 16 MS. JEFFRIES: That's where the
 17 rule directly goes back to nuisance law.
 18 We have a real difficult time enforcing
 19 that.
 20 MS. HOFFMAN: The point is, we
 21 can't do anything we can't prove. So if we
 22 can't prove that it's going to interfere
 23 with them, that won't apply. Really the
 24 reason it was written that way "will be
 25 violated" is if we have a particular

1 site up in Pitcher where they have the chat
 2 piles and they are moving that stuff around
 3 where dust is created, and that is a
 4 violation of the Clean Air Act, because of
 5 the lead and the contaminants in there.
 6 And I know of instances where they are
 7 moving that stuff around and putting it on
 8 county roads and complaints have been made,
 9 not to be disrespectful to this body of
 10 DEQ, but that has been overlooked. So it's
 11 important that we have something in place
 12 here.
 13 MR. DYKE: Debbie Perry.
 14 MS. PERRY: I have one thing for
 15 clarification. On these, there are these
 16 three criteria, a violation exists when
 17 (inaudible) originate in such a manner as
 18 to damage or interfere, those three
 19 criteria. Do they have to all three exist
 20 or is it a violation for any one of those?
 21 MS. BRADLEY: For any one of
 22 those.
 23 MS. PERRY: That was my
 24 understanding in the past, but I've been
 25 hearing that all three had to occur for it

1 (inaudible) and it shows that it's being --
 2 that the standards are being violated or
 3 it's very close to being violated, we've
 4 got a source right next to it so we know
 5 who to go to. Or let's say a source comes
 6 in with a permit application and we have
 7 them do modeling and the modeling shows
 8 that's going to happen, then we're saying
 9 that this standard will be violated, you
 10 can see, we have some sort of proof of
 11 that.
 12 Folks, we have to have proof to do
 13 things. We don't just, you know, we can't
 14 just pull these things out of thin air, you
 15 know. If we don't and you appeal it, then
 16 we lose, okay. So we have to keep in mind
 17 that even though some of this sounds
 18 subjective, that's true, but if -- but we
 19 have to have some basis for the finding of
 20 a violation and then the Court would have
 21 to agree with us. So please don't --
 22 please don't think we're out there doing
 23 things willy-nilly and that we don't have
 24 any kind of standard that we don't have to
 25 meet.

1 Also, I would just like to say that
 2 the language that's not underlined there,
 3 that already exists, okay? And I think
 4 that's very difficult language to meet. I
 5 think it's very difficult for us to prove
 6 that dust is damaging or interfering with
 7 the use of adjacent properties, I think
 8 it's very difficult for us to prove that
 9 particular sources are violating air
 10 quality standards. I'm not sure what the
 11 problem is here, because I think that this
 12 particular rule is very difficult for us to
 13 enforce the way it's written, and we
 14 haven't changed that. All we've said is if
 15 we do indeed find that there could be these
 16 violations, then we will take reasonable
 17 precautions and I don't see a problem.
 18 MR. BRANECKY: I would encourage,
 19 since we're not going to act on this today,
 20 we're going to continue this, we've got
 21 until the next meeting in August to work
 22 some of these things out, I would encourage
 23 industry to get with Cheryl and work
 24 something out that would be agreeable
 25 before the next meeting.

1 DR. GROSZ: I move that we
 2 postpone this until the August meeting?
 3 MR. BRANECKY: I have a motion.
 4 Do I have a second?
 5 MR. KILPATRICK: Second.
 6 MR. BRANECKY: A motion and a
 7 second. Any other discussion? Myrna,
 8 please call the roll.
 9 MS. BRUCE: Mr. Wilson.
 10 MR. WILSON: Aye.
 11 MS. BRUCE: Mr. Treeman.
 12 MR. TREEMAN: I abstain.
 13 MS. BRUCE: Mr. Breisch.
 14 MR. BREISCH: Yes.
 15 MS. BRUCE: Mr. Kilpatrick.
 16 MR. KILPATRICK: Aye.
 17 MS. BRUCE: Dr. Grosz.
 18 DR. GROSZ: Yes.
 19 MS. BRUCE: Mr. Branecky.
 20 MR. BRANECKY: Yes.

(PROCEEDINGS CONCLUDED)

1 MR. DYKE: Any additional
 2 comments on this particular rule at this
 3 time?
 4 MS. BARTON: Are you getting
 5 ready to adjourn?
 6 MR. DYKE: The hearing portion.
 7 MS. BARTON: I think this needs
 8 to be in the hearing portion.
 9 MR. BRANECKY: Pertaining to this
 10 rule?
 11 MS. BARTON: Pertaining to the
 12 whole thing. I would just like to thank
 13 Barbara Hoffman and I would like it to be
 14 in the hearing, since this is her last
 15 official work on all of these procedures,
 16 thank you, Barbara, for all of your work,
 17 for all the preparation of these rules and
 18 regulations, you couldn't pay me to have
 19 your job. Thank you.
 20 MS. HOFFMAN: Thank you.
 21 MR. DYKE: Thank you, Nadine.
 22 MR. BRANECKY: We have a
 23 recommendation from staff that this rule be
 24 continued until the August meeting, so I'm
 25 ready to entertain a motion.

1
 2
 3 CERTIFICATE
 4 STATE OF OKLAHOMA)
 5 COUNTY OF OKLAHOMA) ss:
 6 I, CHRISTY A. MYERS, Certified
 7 Shorthand Reporter in and for the State of
 8 Oklahoma, do hereby certify that the above
 9 proceedings is the truth, the whole truth,
 10 and nothing but the truth; that the
 11 foregoing proceedings were taken by me in
 12 shorthand and thereafter transcribed under
 13 my direction; that said proceedings were
 14 taken on the 14th day of June, 2000, at
 15 Lawton, Oklahoma; and that I am neither
 16 attorney for nor relative of any of said
 17 parties, nor otherwise interested in said
 18 action.
 19 IN WITNESS WHEREOF, I have hereunto
 20 set my hand and official seal on this, the
 21 11th day of July, 2000.
 22
 23 CHRISTY A. MYERS, C.S.R.
 24 Certificate No. 00310
 25

DEPARTMENT OF ENVIRONMENTAL QUALITY.

AIR QUALITY DIVISION

STATE OF OKLAHOMA

COPY

TRANSCRIPT OF PROCEEDINGS

OAC 252:100-29

AIR QUALITY COUNCIL HEARINGS

CONTROL OF FUGITIVE DUST

[AMENDED]

HELD ON AUGUST 16, 2000

AT 9:00 A.M.

PIONEER TECHNOLOGY CENTER

EDUCATION BUSINESS CENTER

2101 NORTH ASH STREET

PONCA CITY, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, C.S.R.

6961

- 1 COUNCIL MEMBERS
- 2
- 3 David Branecky, Chairman
- 4 Sharon Myers, Vice-Chair
- 5 Rick Treeman, Member
- 6 Joel Wilson, Member
- 7 Fred Grosz, Member
- 8 Gary Kilpatrick, Member
- 9 Leo Fallon, Member
- 10 Bill Breisch, Member
- 11 Eddie Terrill, Director
- 12 David Dyke, Protocol Officer
- 13 Myrna Bruce, Secretary

1 into the record.
 2 All comments pointed out the
 3 potential subjectivity in determining what
 4 constitutes reasonable precautions. Staff
 5 added a new paragraph (b), reasonable
 6 precautions, to Section 2 to better define
 7 them. Also, Subparagraph (c)(1) states
 8 that reasonable precautions to control
 9 fugitive dust emissions, that damage or
 10 interfere with the use of adjacent
 11 properties, are subject to economic and
 12 technological feasibility.

13 Two commentors objected to the
 14 phrase "or will be violated" in the second
 15 sentence of Section 2 of the June 13th
 16 draft rule. The phrase was removed from
 17 subparagraph 2(c)(1).

18 Also, staff proposes removal of the
 19 word "visible" from the phrase "visible
 20 fugitive dust emissions" because of the
 21 inherent limitations in detection methods.

22 The notice of rulemaking intent
 23 filed in June did not cover all the
 24 recommended substantive changes; therefore
 25 staff suggests that the Council continue

1 PROCEEDINGS
 2 MR. DYKE: The next item on the
 3 hearing agenda today is Item Number 4D, OAC
 4 252:100-29, Control of Fugitive Dust. Item
 5 4D, Subchapter 29, Control of Fugitive
 6 Dust. I'll call on staff member, Cheryl
 7 Bradley.
 8 MS. BRADLEY: Good morning, Mr.
 9 Chairman, Members of the Council, ladies
 10 and gentlemen. The proposed changes to
 11 Subchapter 29 will simplify and clarify the
 12 subchapter as part of the agency-wide re-
 13 wright/de-wrong initiative. Notice of the
 14 proposed rulemaking was published in the
 15 Oklahoma Register on July 17th. The Air
 16 Quality Council first considered changes to
 17 Subchapter 29 at its June 14th meeting in
 18 Tulsa. Comments were received during the
 19 hearing. Only EPA's Analysis and Inventory
 20 Section submitted comments since the last
 21 hearing, in a letter dated August 11th,
 22 2000, and received August 14th. Mr. Thomas
 23 Diggs of EPA, Chief of the Air Planning
 24 Section, stated EPA supports the proposed
 25 changes. I would like to enter this letter

1 the hearing on the proposed rule until its
 2 next meeting in October.

3 MR. BRANECKY: What you are
 4 saying, Ms. Bradley, is we cannot pass
 5 this?

6 MS. BRADLEY: I don't believe it
 7 would be in our best interest, yes.

8 MR. DYKE: Questions from the
 9 Council?

10 MS. MYERS: I think there is some
 11 confusion in some of the language under
 12 Section 2(c) (1) and (2), when it's talking
 13 about emissions beyond the property line on
 14 which the emissions originate. Are they
 15 originating on that property line or are
 16 they originating on the property itself, or
 17 are they coming across the street from
 18 somebody else and blowing back across it?
 19 It's confusing to me to read it.

20 MS. BRADLEY: So a double
 21 dependent clause situation. It was our
 22 intent that we are dealing with fugitive
 23 dust emissions that cross the property
 24 line.

25 MS. MYERS: I think I understand

1 the intent.

2 MS. BRADLEY: Right.

3 MS. MYERS: But it's very
4 confusing to try to read it to make heads
5 or tails out of it on what you're going to
6 do and why.

7 MS. BRADLEY: Did you have any
8 suggestion here?

9 MS. MYERS: No, but I will.

10 MS. BRADLEY: I propose that we
11 continue working on it.

12 MS. MYERS: That was my thought
13 on it, Cheryl.

14 MS. BRADLEY: Okay.

15 MS. MYERS: One of the other
16 questions I have under 3(2), what is
17 normal? It's talking about airborne dust
18 under normal conditions. I challenge that
19 in Oklahoma. Normal is the wind blowing,
20 and you are going to have dust generated,

21 whether it's off of dirt roads that runs
22 beside the facility or whether it's on the
23 facility. That one is real ambiguous to
24 me.

25 MR. DYKE: Is there anyone

1 wishing to speak on this rule? Questions
2 at this point? Any further questions or
3 comments from the Council?

4 MS. MYERS: I make a motion that
5 we continue this until the October hearing.

6 MR. TERRILL: Could I ask a
7 question first?

8 MR. MYERS: Sure.

9 MR. TERRILL: Did anybody have a
10 problem with us taking out visible? Is
11 nobody going to comment on that? I would
12 like to get some feedback about that. It's
13 a fairly substantial change and we've
14 kicked that around in-house, and I'm not
15 sure which is better. We don't have -- if
16 you haven't really noticed that, you need
17 to think about it before we come back next
18 time and pass this rule. But I don't know
19 what's better, to have visible in there or
20 not. We're struggling with that in-house.
21 So if there is anyone out there that's
22 going to be affected by this rule, you
23 better look at it because it's somewhat
24 different than we've done in the past.

25 MR. WILSON: Eddie, I'll register

1 my concern about the word "visible" being
2 taken out, for the record.

3 MS. BRADLEY: Since I didn't
4 include our logic on this, I anticipated we
5 would have some discussion and I really
6 didn't want to slant it one way or the
7 other. We had a meeting in-house of our
8 enforcement staff, as well as,
9 environmental complaints and local services
10 unit. There are limitations in the method
11 that we've currently used, Method 25.
12 Specifically, certain very finely divided
13 particles that are non-reflective in
14 nature, are not visible, using that method.
15 So it has created a problem in trying to
16 pursue an enforcement action or actually --
17 there was a controversy, is there fugitive
18 dust or not. You can see it on surfaces,
19 but yet we could not see it leaving the
20 property.

21 Also, we have a circumstance, what
22 if those emissions originate at night? For
23 one thing, it's difficult to get an
24 inspector there. And I was given a
25 scenario that maybe they can shine the

1 carlights in a certain way. It's just not
2 possible to see it if the problem is
3 occurring at night. So that was the logic
4 that staff presented to me in having the
5 word "visible". So those were the
6 circumstances where it created a problem
7 for us and as Mr. Terrill mentioned, we
8 certainly would like to know what's the
9 other side of the issue. I would like to
10 get some feedback on that.

11 MS. MYERS: From my understanding
12 of all your visible emissions observations,
13 whether it be method 22 or method 9, it
14 certainly involves a positioning of the sun
15 that we would have to be able to see.

16 MR. TERRILL: You can get
17 certified to do visible emissions at night.
18 The problem with it is it's very expensive
19 and there is only certain places in the
20 United States that you can get that. We
21 just never have been able to justify doing
22 it. We've had a couple of people in the
23 past that's certified to read VEs at night,
24 they've left, and because of the expense
25 we've just never had them recertified. So

1 we try to deal with it where we don't have
2 to get ourselves in a situation where we
3 don't have to deal with those emissions at
4 night.

5 My concern about this rule is we
6 need to be able to address situations that
7 are definite public health problems that
8 are going to affect people living around a
9 site that's creating a problem. I don't
10 want to get in a position where we have to
11 referee neighbor disputes or we have to
12 referee business disputes. Because there
13 are certain nuisance dust issues -- if a
14 facility is doing all they can do, there
15 may be zoning problems we can't do anything
16 about, and I don't want to get ourselves in
17 a position where we can't -- if we've got a
18 rule, we need to be able to understand it,
19 the regulated communities to understand it,
20 and we're going to enforce it. So that's
21 the reason I want to make sure we're clear
22 about visible or not, how are we going to
23 enforce that, what everything means so when
24 we come out and finally pass this rule,
25 everybody understands what it means,

1 because we're going to enforce it.

2 MR. SHANDY: If I could make a
3 comment. My name is Don Shandy. I'm a
4 little concerned with the omission of that
5 language because it (inaudible) objective
6 standard. And I think the Department has
7 the authority under the statutes to address
8 any issue related to air pollution. So I
9 think the authority is still there, even if
10 you don't go out and observe, for example,
11 at night and you can't see it. You go out
12 there the next day and you see somebody is
13 being dusted, even if you can't do a VE, or
14 it happened at night, you could still
15 address the problem. I mean, the authority
16 is there. I agree with what Eddie is
17 saying. If you omit that language, I think
18 you are really throwing that door open to
19 see the agency get pulled into more of a
20 refereeing role that you are referring to,
21 between neighbors that for whatever reason
22 cannot get along. So I'm very hesitant to
23 remove, what I see now, as an objective
24 standard that people can look at.

25 MS. BRADLEY: Staff also added

1 some additional language, because we did
2 foresee getting caught in the middle and
3 really not having any means to reach a
4 compromise. If you'll notice, we did add
5 that controls would be required under those
6 circumstances but they would be subject to
7 economic and technical feasibility, which
8 we do not have a test now. But that's not
9 a perfect solution because there is no
10 definitive test for visibility. But I just
11 wanted to make the statement, that's what
12 our thinking was in recommending that
13 language.

14 MS. PRATT: Sylvia Pratt, again.
15 On this issue, I am acquainted with a woman
16 that lives somewhere south of the Norman
17 area, there's either a perlite or
18 vermiculite factory down there that that
19 neighbors have had problems with for years,
20 and years and years. They've had problems
21 with this -- they think they've had
22 problems with fugitive emissions for years
23 and every time they've come to the DEQ
24 about what they perceived as a problem, DEQ
25 has told them that they don't have any

1 visual emissions at night, and since they
2 can't see them actually coming out of
3 there, they can't do anything about them.
4 So I'm wondering if the removal of the word
5 "visible" might give the DEQ the authority
6 to help these people out in this situation.
7 I figure if there is one situation like
8 that, there are probably more. So the
9 question is, are we here to protect the
10 corporations or are we here to protect air
11 quality. And which way, the language in or
12 the language out, which would better serve
13 air quality? And, you know, just looking
14 at it on the surface, it looks like
15 removing the word "visible" might help some
16 of these people who are having -- have been
17 having problems for years.

18 MR. KILPATRICK: I would ask the
19 question, Eddie, are you aware of this
20 situation?

21 MR. TERRILL: Very much so.

22 MR. KILPATRICK: Has our response
23 been that we don't have --

24 MR. TERRILL: No. Our response
25 has been we've done portable sampling,

1 we've done fixed sampling with our high-
 2 volume samplers. The problem with this is
 3 a zoning issue, pure and simple. It's too
 4 close to the neighborhood and a little bit
 5 of this stuff goes a long ways. I think we
 6 can address -- I'm not sure if "visible"
 7 was out, we could address this any better
 8 one way or the other. Because the way
 9 their permit is written, they can't have
 10 any emissions leave the building. If a
 11 fugitive -- if you can see it, that's a
 12 violation, whether it's day or night, it
 13 doesn't make any difference. And we know
 14 because of where this is, periodically if
 15 they have an upset or a malfunction, it's
 16 going to dust that neighborhood. And we've
 17 struggled with that. I don't know what we
 18 can do differently, even if it was visible
 19 out of the regulation, to help these
 20 people. The facility, for the most part --
 21 it was a bad facility when we first got
 22 involved. They just weren't doing good
 23 housekeeping. The housekeeping, with this
 24 facility, is the major issue, anyway.
 25 They've got to be conscious of what they're

1 doing and how they handle the material,
 2 because it's just like talcum powder. I
 3 mean, it just goes everywhere if it spills.
 4 And it's a minor source. I think it's got
 5 10 or 15 tons a year of emissions and we
 6 probably spend more time with that minor
 7 source than we do with some of our major
 8 sources. We do keep an eye on them. But
 9 she does bring up a good point, we don't
 10 lose that. I don't want to lose anything
 11 that would allow us to do our job, which is
 12 to protect the public health. I'm glad you
 13 brought that point up because those are the
 14 kind of things we need to think about as we
 15 look at this rule.
 16 MR. WILSON: Eddie, does removal
 17 of the word "visible" enable the DEQ to
 18 treat this matter any differently?
 19 MR. TERRILL: The matter at hand?
 20 MR. WILSON: Yes.
 21 MR. TERRILL: We've kicked that
 22 around in-house whether or not it would
 23 provide us a better tool to handle it and
 24 we're about at a 50-50 split. I mean, if
 25 that wasn't in there -- we know -- you can

1 go out there and look and you can tell
 2 where they've had a problem. The question
 3 is, how can you address that or can you
 4 address it in the rules to fix it to where
 5 it doesn't happen. The proximity of this
 6 industry or this business to the
 7 neighborhood as such, they can have any
 8 kind of a slight problem that would still
 9 be within their permit limits and any other
 10 limits that's going to affect people in the
 11 backside of this neighborhood. And it kind
 12 of comes and goes. We haven't had a lot of
 13 complaints relative to this situation
 14 except for one or two people who don't even
 15 live in the neighborhood. But we've met
 16 with the city council on this. I mean,
 17 this is -- we met with them just about a
 18 month and a half ago, two months ago, three
 19 months ago, and they've hired an outside
 20 consultant to take a look at what we've
 21 done to see if we've missed anything. I
 22 don't know that we would get anything one
 23 way or the other if "visible" is in there
 24 or not, because we would still treat the
 25 facility in the same manner that we have in

1 the past.
 2 MR. WILSON: Well, it seems to me
 3 that at some point in time, this dust has
 4 to be visible. And if it's deposition on a
 5 car surface or windows that sooner or
 6 later, it's visible. And my problem with
 7 the word visible is that if you don't have
 8 it in there, then it includes what is
 9 invisible. To tell you the truth, I don't
 10 know how to deal with that.
 11 MR. DOUGHTY: Eddie, let me
 12 address -- I think his question was, would
 13 this help us at this facility? I've been
 14 involved with the enforcement on this
 15 facility since, I don't know, five, six,
 16 seven, eight years. We've been after them
 17 under two or three different orders,
 18 consent orders, and we fined them something
 19 like \$3,500.00 one time and \$1,500.00
 20 another time, there is a NSPS standard that
 21 applies to that facility, they have a
 22 visible emission of seven percent. EPA has
 23 allowed them to crank it down to three
 24 percent in lieu of doing a stack test. We
 25 have required them to do everything that I

1 know of that is reasonable to get that
2 facility into compliance. Under our
3 consent order, we require them to go in and
4 do house cleaning, they cleaned all the
5 rafters. There are no visibles allowed
6 from that building except from the stack,
7 three percent. They sweep down and wash
8 down their driveways, they put on bag
9 houses. If we would shut them down, then
10 we would have no emissions. But short of
11 that, I don't know what else we could
12 require them to do that they could
13 economically do.

14 Now, granted, I'm not an engineer, I
15 don't know everything they can do, but I do
16 know that they have done a tremendous
17 amount out there. You can go out there and
18 look at the facility, we don't see anything
19 when we go out. Granted, they also bring
20 trucks in that load and unload there.
21 Occasionally they'll have a spill or a hose
22 will come off. Short of not -- of
23 prohibiting any kind of upsets or any kind
24 of emissions or anything, I'm not aware and
25 I don't know if the staff is aware of

1 anything else that we can do.
2 MR. SHANDY: If I could make a
3 comment, Don Shandy again. I agree that
4 this is a valid comment back here. Again,
5 I'm very hesitant to get away from some
6 objective standard that people could look
7 at. Getting back to the fact that the
8 Department already has the authority -- in
9 the Department's defense, I've had to deal
10 with an issue like this where I literally
11 had an inspector who couldn't see any
12 visible emissions but brought a piece of
13 tape and said are these fibers coming from
14 this plant? And if they are, this is a
15 condition of air pollution, even though
16 they couldn't see them. And I've had to
17 bang heads with Dennis and consent orders
18 so, again, the authority is there. I think
19 we're getting on a slippery slope if you
20 move away from that objective standard
21 because, again, the statutory authority is
22 with the Department and I know for a fact
23 that the Department has used that authority
24 in the past, even though I may raise my
25 hand and say no VEs, no VEs, you can't do

1 this. And it was Mr. Doughty that pointed
2 me right square to the statute and said, do
3 you want to argue about it now? And I
4 shouted and said, no. So there is the
5 authority to address the question.

6 MR. BREISCH: Dennis?

7 MR. DOUGHTY: Yes.

8 MR. BREISCH: Are there laws or
9 is there law outside our rules that might
10 take over in a case like this? A nuisance
11 law or something?

12 MR. DOUGHTY: Certainly. We have
13 a nuisance law in the State of Oklahoma
14 that any, I believe, any public official or
15 public officer has the ability to pursue,
16 such as your attorney general, all of the
17 cities, to my knowledge, have the ability
18 and the authority to enforce nuisance,
19 particularly, public nuisance statutes.
20 Part of the problem you get into is to get
21 a city to spend the money and the time that
22 it takes to prove and prosecute a nuisance.
23 I mean, that's a legal decision they have
24 to make with their attorney. If it's
25 feasible for them to pursue something like

1 this. I wouldn't, you know, I wouldn't
2 propose to make that determination for
3 them, that's something they have to make.
4 But yes, the answer is there is a state
5 statute that allows pursuing a public
6 nuisance.

7 Public nuisance, of course, affects
8 more than just one individual. If you only
9 have one individual, then that's probably
10 not a public nuisance. It would be a
11 private nuisance and then they have a
12 private right to do that.

13 But it's been my experience that
14 private individuals don't want to spend
15 their money to file these lawsuits, they
16 want somebody in the state to do it for
17 them. So I guess that answers your
18 question.

19 And what Mr. Shandy was talking
20 about is under one of our other rules, we
21 have a rule that says something to the
22 effect that you shall not allow any
23 material to be admitted that would cause a
24 nuisance or, basically, would accomplish
25 the same thing that we're proposing here.

1 So there is the authority in one of the
2 other rules and that's what we've pursued
3 against his client. In the case of his
4 client, the proof that the material came
5 from that facility is not particularly
6 difficult. In some instances, proving that
7 the material is causing the problem came
8 directly and 100 percent from that
9 particular facility, may be another matter.

10 MS. PRATT: I did have one
11 question, just for my own clarity. When
12 we're talking visible emissions, are we
13 talking visible airborne emissions or are
14 you talking about when there is powder on
15 top of a car or something like that?

16 MS. BRADLEY: Therein lies the
17 problem. Although the rule doesn't
18 specifically state that, I believe I
19 misspoke in referencing Method 25.
20 Actually Method 22, it was our practice to
21 use the best available method for
22 determining if it was fugitive dust. And
23 it required an inspector to see dust
24 leaving the property, so it had to be seen.
25 If there are other methods that might be

1 employed, which we have, if the material is
2 unique to the facility, then there should
3 be a direct link between the material that
4 left the property and that facility.

5 However, let's say it's a quarry and you
6 have similar material on the road or on
7 another surface, that material would not
8 necessarily be as unique and it would be
9 much more difficult for us to say it
10 originated from practices at the facility
11 and it was truly impacting the continuous
12 properties.

13 MS. MYERS: And you are
14 absolutely correct on that. I work in a
15 cement plant. We have a block plant next
16 to us that makes concrete blocks. They
17 don't have dust collectors on their silo,
18 they blow material out. They've got an
19 unpaved parking area that the trucks go in
20 and out, but if there is a complaint from
21 the neighborhood, it's always our fault.
22 We have a stack. They know what our
23 production is when, truly, it's our
24 neighbor. So it gets into a problem of
25 trying to say, what dust came from that

1 facility. And even the dirt roads in the
2 Ada area around our facility stir up more
3 dust than we do most of the time. But if
4 there is any dust that's airborne in the
5 Ada area, even if it's east of Ada, and
6 we're on the west side, then it becomes a
7 problem.

8 MR. WILSON: So it sounds to me
9 like we're talking about the definition of
10 visible being as determined when the dust
11 is airborne?

12 MS. BRADLEY: That is correct.

13 MS. MYERS: Well, if that
14 standard stays in there, then you have some
15 directional guidance as well. If you're
16 seeing the dust blow from that property to
17 that neighborhood, then you have some kind
18 of conclusion using that standard.

19 MS. BRADLEY: Yes, and not by
20 eliminating -- we don't want to get into a
21 position of doing particle analysis. It
22 has to say that these are your particles
23 because they are like other materials that
24 you are using. We don't -- it's very
25 expensive and to my knowledge, we may not

1 be capable of doing it in-house. We don't
2 want to go that far, when there is a
3 question of a source.

4 MR. DYKE: I think what Dennis
5 said is this is not the only rule that we
6 can apply to this situation, but that's the
7 way we have applied this particular rule.

8 MS. PRATT: One last comment.
9 After speaking with people that live in
10 this area, they've written me for some
11 strange reason. Time after time, you know,
12 they have felt nobody will take the trouble
13 to complain anymore because they're not
14 getting any -- they don't feel like they're
15 getting any resolutions on their
16 complaints, they feel like they're wasting
17 their time. So that may be why your
18 complaints are going down.

19 MR. DYKE: Anything further from
20 the public on this particular rule? From
21 Council?

22 MR. BRANECKY: Well, it sounds to
23 me like we've got plenty of thought from
24 the discussion we've had today, things to
25 be thinking about. If you have comments,

1 please get those to DEQ prior to our next
 2 meeting or come to our next meeting for
 3 further discussion. From what I
 4 understand, we're really unable to pass
 5 this today. And I think before this
 6 discussion got started, Ms. Myers made a
 7 motion to continue and we got a little
 8 sidetracked. So we do have a motion to
 9 continue. I'm looking for a second to that
 10 motion.

11 MR. WILSON: I'll second.
 12 MR. BRANECKY: I've got a motion
 13 to continue this to the next meeting and a
 14 second. Is there any further discussion by
 15 the Council?

16 MS. BRUCE: Mr. Wilson.
 17 MR. WILSON: Yes.
 18 MS. BRUCE: Dr. Grosz.
 19 DR. GROSZ: Yes.
 20 MS. BRUCE: Mr. Kilpatrick.
 21 MR. KILPATRICK: Yes.
 22 MS. BRUCE: Mr. Breisch.
 23 MR. BREISCH: Aye.
 24 MS. BRUCE: Ms. Myers.
 25 MS. MYERS: Yes.

1
 2 CERTIFICATE
 3 STATE OF OKLAHOMA)
 4 COUNTY OF OKLAHOMA) ss:
 5 I, CHRISTY A. MYERS, Certified
 6 Shorthand Reporter in and for the State of
 7 Oklahoma, do hereby certify that the above
 8 proceedings is the truth, the whole truth,
 9 and nothing but the truth; that the
 10 foregoing proceedings were taken by me in
 11 shorthand and thereafter transcribed under
 12 my direction; that said proceedings were
 13 taken on the 16th day of August, 2000, at
 14 Ponca City, Oklahoma; and that I am neither
 15 attorney for nor relative of any of said
 16 parties, nor otherwise interested in said
 17 action.
 18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 11th day of September, 2000.

21
 22 CHRISTY A. MYERS, C.S.R.
 23 Certificate No. 00310
 24
 25

1 MS. BRUCE: Mr. Branecky.
 2 MR. BRANECKY: Aye.
 3
 4 (PROCEEDINGS CONCLUDED)
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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

TRANSCRIPT OF PROCEEDINGS
OAC 252:100-29
AIR QUALITY COUNCIL HEARINGS
CONTROL OF FUGITIVE DUST
[AMENDED]
HELD ON OCTOBER 18, 2000
AT 9:00 A.M.
AT THE DEQ MULTI-PURPOSE ROOM
707 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, C.S.R.

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1 COUNCIL MEMBERS
 2
 3 David Branecky, Chairman
 4 Sharon Myers, Vice-Chair
 5 Rick Treeman, Member
 6 Joel Wilson, Member
 7 Fred Grosz, Member
 8 Gary Kilpatrick, Member
 9 Leo Fallon, Member
 10 Bill Breisch, Member
 11 Eddie Terrill, Director
 12 David Dyke, Protocol Officer
 13 Myrna Bruce, Secretary
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1 (c)(1) would include requirements
 2 for fugitive dust emissions that damage or
 3 interfere with the use of adjacent
 4 properties and Subparagraph (c)(2) would
 5 include the requirements for fugitive dust
 6 emissions that cause air quality standards
 7 to be exceeded or interfere with the
 8 maintenance of air quality standards. The
 9 provision for the DEQ to require the owner
 10 or operator of a fugitive dust emissions
 11 source to implement economically and
 12 technologically feasible controls, when
 13 those emissions damage or interfere with
 14 the use of adjacent property, would be
 15 added to Subparagraph (c)(1). The proposed
 16 revocation of OAC 252:100-29-5, Variance,
 17 is due to its redundancy with the Clean Air
 18 Act at 27A O.S. Supplement 1999 Section 2-
 19 5-109.
 20 Notice for today's hearing was
 21 published in the Oklahoma Register on
 22 September 15th. This is the third hearing
 23 on amendments to Subchapter 29.
 24 Staff has received no additional
 25 comments on the proposed rules since the

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1 PROCEEDINGS
 2 MR. DYKE: The next item on the
 3 agenda is 5D, OAC 252:100-29, Control of
 4 Fugitive Dust. I'll call on staff member,
 5 Cheryl Bradley.
 6 MS. BRADLEY: Good morning. Mr.
 7 Chairman, Members of the Council, ladies
 8 and gentlemen, the proposed amendments to
 9 Subchapter 29, Control of Fugitive Dust,
 10 will clarify and simplify the language as
 11 part of the agency-wide re-right/de-wrong
 12 initiative. The existing provisions of OAC
 13 252:100-29-2 would be divided into
 14 Paragraphs (a) (b) and (c) instead of (a)
 15 and (b). The examples of reasonable
 16 precautions in Paragraph (a) would be
 17 deleted and a new Paragraph (b), Reasonable
 18 Precautions, added. The existing
 19 Subparagraph (b), Emissions Boundaries,
 20 would be renumbered OAC 252:100-29-2(c) and
 21 divided into Subparagraphs (c)(1) and (2).
 22 It has been proposed that the word
 23 "visible" would be deleted from the phrase
 24 "visible fugitive dust emissions", wherever
 25 it appears in Paragraph 2(c). Subparagraph

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1 last hearing, but will suggest changes
 2 to the September 15th, 2000, draft of the
 3 rule. These changes are included in the
 4 draft dated October 13th, 2000. Copies
 5 have been distributed to the Council and
 6 additional copies are available on the
 7 sign-in table.
 8 After careful consideration of the
 9 comments received at the last Council
 10 meeting and the absence of any compelling
 11 reasons to proceed with the deletion of the
 12 word "visible" from the phrase "visible
 13 fugitive dust emissions" in Paragraphs OAC
 14 252:100-29-2(c)(1) and (c)(2), staff
 15 suggests that the word visible be retained.
 16 Also, staff proposes two additional changes
 17 to Paragraphs (c)(1) and (c)(2) to make
 18 them more understandable. The phrase "of
 19 the property" should be added after the
 20 words "beyond the property line".
 21 Staff suggests that the proposed
 22 rules be recommended to the Environmental
 23 Quality Board for permanent adoption.
 24 MR. DYKE: Questions and
 25 discussion from the Council?

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1 MR. BRANECKY: In the packet I've
 2 got, that was given to me, the last
 3 sentence says for emergency and permanent.
 4 Are we just permanent or emergency?
 5 MS. BRADLEY: Only permanent.
 6 MR. DYKE: Any questions or
 7 comments from the public? Bob?
 8 MR. KELLOGG: My name is Bob
 9 Kellogg. I just have a question. I
 10 apologize for being so late into this
 11 particular rule, but as I read the
 12 prohibitions in Paragraph (a) and the
 13 prohibitions in Paragraph (c), I'm trying
 14 to understand how they apply. By reading
 15 Paragraph (a), it seems to say, "No air
 16 pollution will be created anywhere". And
 17 then Paragraph (c)(1) indicates that
 18 neither can it go off-site, but if it does
 19 go off-site, controls can be implemented
 20 subject to economic and technological
 21 feasibility. But if it violates an air
 22 quality standard, there is no limitation on
 23 the amount of expenditure that's needed to
 24 constitute a reasonable benefit. So I'm
 25 not sure I understand the difference

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1 between (c)(1) and (2) and how it pertains
 2 to Paragraph (a).
 3 My other question is in regard to
 4 Rule 29-3. This proposes to strike the
 5 word "executive". I'm wondering if this
 6 then would refer to the Director of the Air
 7 Quality Division -- to you, Eddie, or if
 8 this still would require something by Mark
 9 Coleman, the Executive Director. Thanks.
 10 I'll wait to hear your response.
 11 MS. BRADLEY: I'll begin with
 12 your last comment, Mr. Kellogg. It would,
 13 in fact, refer to the Air Quality Division
 14 Director, who at this time is Eddie
 15 Terrill, as opposed to the Executive
 16 Director. This is to make it consistent
 17 with the overall re-write/de-wrong actions
 18 that we have taken so far in the other
 19 subchapters.
 20 With regards to 100-29-2(c), I
 21 believe your understanding is correct. If,
 22 in fact, a person -- well, I'll begin with
 23 (a), the prohibitions, the intent is to
 24 require all sources of fugitive dust to be
 25 handled in a proper manner to prevent

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1 fugitive dust or air pollution. We do not
 2 require controls until it crosses the
 3 emission boundary -- the property boundary.
 4 And then (c)(1), if it creates a
 5 nuisance, then there is an economic and
 6 technological feasibility test for those
 7 controls. If, however, it violates an air
 8 quality standard, these fugitive dust
 9 emissions result in an air quality standard
 10 violation, we are not allowed to put that
 11 same economic and technological feasibility
 12 control check. That is consistent with
 13 federal standards.
 14 MR. BRANECKY: So, Ms. Bradley,
 15 you're saying if I have an operation on my
 16 facility that creates some dust and the
 17 dust stays on my facility, if I don't do
 18 anything to prohibit that dust from
 19 becoming airborne, I'm in violation of this
 20 rule?
 21 MS. BRADLEY: As to -- you're in
 22 violation, potentially in violation of
 23 Section (a). Whether we would take any
 24 action, since it's not crossing the
 25 boundary -- and typically our inspections

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1 - our investigators determine if the
 2 emissions cross the boundary to initiate a
 3 complaint, then I don't think that there
 4 would be any action taken by our agency,
 5 unless such fugitive dust resulted in water
 6 pollution. So there could be an action
 7 where the dust would then be carried off
 8 with surface water runoff. That would be a
 9 different type of complaint, entirely.
 10 MR. BRANECKY: But technically I
 11 would be in violation of this rule?
 12 MS. BRADLEY: Yes, technically,
 13 you would be violation. After speaking
 14 with our counsel, she pointed out that our
 15 agency's role is to minimize pollution
 16 wherever possible. And the original rule
 17 did include a prohibition requiring some
 18 control of fugitive dust or just to
 19 minimize the amount of pollution that would
 20 be potentially in the atmosphere. But as a
 21 means for enforcing it, we have implemented
 22 the Paragraph (c), and that would truly be
 23 the means that I think we would see any
 24 enforcement actions taken.
 25 MR. BRANECKY: Is there a

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1 definition of air pollution?
2 MS. BRADLEY: Yes, there is in
3 the Clean Air Act and it's very broad, I
4 believe.

5 MS. DIZIKES: May I read it for
6 you from the Clean Air Act?

7 MR. DYKE: Please identify
8 yourself.

9 MS. DIZIKES: I'm Pam Dizikes,
10 and I'm counsel. This is in section --
11 27A, Section 2-5-104(3).

12 MS. MYERS: Pam, could you speak
13 up, please?

14 MS. DIZIKES: I'll try.

15 MS. MYERS: Microphone,
16 microphone.

17 MR. TERRILL: Thank you, Sharon.

18 MS. DIZIKES: Let me designate
19 the section again. It is 27A of the
20 Oklahoma Statutes, Section 2-5-104, and
21 it's number 3, and the definition of air
22 pollution. "Air pollution means the
23 presence in the outdoor atmosphere of one
24 or more air contaminants in sufficient
25 quantities and of such characteristics and

1 but I think we would have difficulty
2 getting EPA to approve that, because
3 they're going to say that's probably a
4 relaxation of the SIP. And as a practical
5 matter, I would prefer just to leave it as
6 it is, because we're not going to enforce
7 it anyway unless it leaves the property
8 line. But your point is well taken.

9 MR. DYKE: Howard, do you have
10 comments?

11 MR. GROUND: My name is Howard
12 Ground. I'm speaking on behalf of the
13 Public Service Company -- company of
14 American Electric and Power. I just want
15 to say, I appreciate the work you've done.
16 I think it's come a long way to clarify
17 from my comments that were presented in
18 June or July -- June meeting. I think
19 you've done a very good job. I know it's
20 hard to make them completely clear to
21 everyone, but I think this has gone a long
22 way. I really appreciate the work you have
23 done.

24 MR. DYKE: Thank you.

25 MR. BREISCH: David, are we

1 duration as tend to be or may be injurious
2 to human, plant, or animal life or to
3 property or which interfere with the
4 comfortable enjoyment of life and property,
5 excluding, however, all conditions
6 pertaining to employer/employee relations.

7 MR. TERRILL: And as a practical
8 matter, I'm not aware of us in any instance
9 enforcing this rule on any situation that
10 leaves the property line. That's just a
11 practical matter.

12 MR. BRANECKY: Well, I guess I
13 can understand that, but we're all going to
14 be gone one day and somebody may pick this
15 up and start enforcing it to the letter of
16 the law and then what's going to happen?

17 MR. TERRILL: You know, truly
18 what's going to happen?

19 MR. BRANECKY: You and I won't
20 care.

21 MR. TERRILL: They'll go the
22 Legislature and complain and we'll change
23 it. I mean, that would be stupid for us to
24 do that. I mean, that's just not common
25 sense. I understand what you're saying,

1 saying that fugitive dust if it becomes
2 airborne, and be a pollutant within the
3 site, would not be regulated?

4 MR. BRANECKY: If I have a
5 facility that has fugitive dust that stayed
6 on my property, I would be in violation of
7 this rule.

8 MR. BREISCH: I'm sorry, you
9 might be right, I just didn't read it like
10 that.

11 MR. BRANECKY: It says, "No
12 person shall cause or allow any fugitive
13 dust -- source to be operated or any
14 substances to be handled, transported, or
15 stored, or any structure constructed,
16 altered, with the knowledge (Reading from
17 the rules) to the extent that such
18 operation or activity may enable fugitive
19 dust to become airborne and result in air
20 pollution without taking reasonable
21 precautions to minimize or prevent
22 pollution".

23 It doesn't say anything about
24 visible, it doesn't say anything about
25 where, it doesn't have to go off the

1 property, it doesn't say that. So anywhere
 2 you can do that, whether it's visible or
 3 not, if it causes fugitive dust or air
 4 pollution, then you're in violation.
 5 MR. WILSON: What would we lose
 6 if we just took out (a)?
 7 MR. TERRILL: I don't know. But
 8 if we're going to take it out, we're going
 9 to have to continue it, because I don't
 10 want to risk losing something we haven't
 11 thought through.
 12 MS. BEAVERS: I'm Julia Beavers
 13 with OG&E. I'm an industrial hygienist, so
 14 my question is on this, on the property and
 15 air pollution, it sounds like, for
 16 employees on a property -- which are not
 17 covered or they're excluded from air
 18 pollution definition, but they are covered
 19 under OSHA rules -- DEQ levels are lower
 20 than employee exposure levels, so relative
 21 to the employer, you might not be exceeding
 22 the hazard but then an employee could feel
 23 like you are over the environmental level
 24 and still have a complaint. Am I making
 25 sense?

1 MS. BRADLEY: It is my
 2 understanding that the intent is to
 3 encourage best management practices for any
 4 potential fugitive dust source, hence we
 5 had the prohibitions in (a). The
 6 determination, if we have a violation and
 7 it presents a public nuisance or a
 8 potential violation of the air quality
 9 standards, are addressed in (c). I would
 10 like to see a retention in some manner of a
 11 requirement or encouragement, if nothing
 12 less, for best management practices for the
 13 control of fugitive dust, on property or
 14 off property. I think that was the
 15 original intent of the rule. If the
 16 Council feels that it is not feasible, we
 17 can certainly rewrite that. But I do
 18 believe that was the intent.
 19 MR. TERRILL: I would also say I
 20 would be a little bit cautious about
 21 changing this until we know for sure what's
 22 going to happen with our PM fine situation.
 23 We think we'll be okay relative to that,
 24 but it's still out and the data is a little
 25 bit sketchy. We may have a PM problem, as

1 Because they complain then to DEQ
 2 and (inaudible) maintaining the OSHA
 3 limits.
 4 MR. BRANECKY: So you're saying
 5 you could be in compliance with OSHA but be
 6 in violation of this rule?
 7 MS. BEAVERS: Right. They
 8 wouldn't be employees then, would they be
 9 public?
 10 DR. SHEEDY: Excuse me, Joyce
 11 Sheedy. The definition does exclude all
 12 conditions pertaining to employer/employee
 13 relations. So if you worked for OG&E, for
 14 instance, then this would exclude any
 15 problems you might have with OG&E about the
 16 Federal --
 17 MS. BEAVERS: Okay. Probably
 18 during a work day they would be considered
 19 employees.
 20 DR. SHEEDY: Yes. And I think
 21 we're assuming that the public isn't
 22 generally just running rampant over your
 23 property.
 24 MR. DYKE: Cheryl, you might need
 25 to come to the microphone. Sorry.

1 well. If we do, that's going to create a
 2 whole new ballgame relative to fugitive
 3 dust. So you might want to think about
 4 that, as well.
 5 MR. DYKE: Bob Kellogg.
 6 MR. KELLOGG: Thank you, David.
 7 Cheryl, your comment raised another
 8 question in my mind, and Eddie's, too. If
 9 Paragraph (a) is not going to be enforced,
 10 why would you want to adopt a rule that you
 11 don't intend to enforce?
 12 And second, the distinction in
 13 Paragraph (c) about off-site air
 14 contaminants. Paragraph 1 deals with --
 15 and you called it, Cheryl, a public
 16 nuisance? And Paragraph 2 deals with
 17 violation of an air quality standard. I
 18 always thought that the DEQ regulated
 19 violations of the Air Quality Standard and
 20 follows the Air Quality Standards. And
 21 Paragraph 1 would suggest that you're
 22 getting involved with nuisance matters, not
 23 just air quality standard violations.
 24 And furthermore, it wouldn't be a
 25 public nuisance, necessarily, put a private

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1 nuisance. And so the way I read the words
2 is that anything that interferes with the
3 use adjacent properties. And how would
4 that be determined? And it seems to me --
5 I wonder as a private litigator, if I would
6 first have to go the DEQ and get a finding
7 that it was a violation of this rule to
8 determine it was a private nuisance before
9 I went to the courthouse.

10 So it's a little bit confusing to me
11 from that perspective. I would be more
12 than happy to work with the staff and the
13 Council in future action on this rule, if
14 that was your desire.

15 But I'm a little confused about
16 getting involved in the nuisance arena,
17 that is not necessarily a violation of an
18 air quality standard. Thank you.

19 MR. DYKE: Pam, we're going to
20 need you at the microphone.

21 MS. DIZIKES: Bob, we're trying
22 to use this particular Subchapter 29 as
23 somewhat of a continuum. Your questions
24 about nuisance, first of all, I believe
25 that the remedies we have are additional to

1 nuisance laws, they are not a limitation on
2 nuisance laws.

3 In Subsection (a), what we're
4 calling the Best Management Practices
5 Section, you might note that the
6 prohibitions that are established, unlike a
7 nuisance standard, do not include any type
8 of injunctive relief, any kind of stopping
9 the activity itself, but are merely an
10 enabler so that the Department can require
11 certain reasonable precautions to be taken.
12 We can't tell people to stop, but to try to
13 minimize operations at their site that will
14 cause dust.

15 It's been mentioned to me, as well,
16 that the current rules do not provide any
17 specific regulation for particles of
18 greater than 10 micron size. Anything
19 larger than PM10 is not specifically
20 addressed. So this is the one way that the
21 Department can address those types of
22 problems at a site. I believe that our
23 inspectors feel that it's fairly important
24 if they see a dusting condition at a
25 property, to be able to require that

1 precautions are taken to minimize the dust,
2 and that's all that is enabled through
3 Subparagraph (a). It is through
4 Subparagraph (b) where we're talking about
5 the actual standards and the violation of
6 Air Quality Rules where we move into our
7 ability to actually stop the condition, and
8 there, we're talking about crossing a
9 property line.

10 MS. MYERS: Pam, excuse me, I
11 think you mentioned in the first part of
12 your response to Mr. Kellogg, minimizing
13 operations. I think you actually meant
14 minimize generation of dust.

15 MS. DIZIKES: Minimize generation
16 of dust. You are right.

17 MS. MYERS: Thank you.

18 MS. DIZIKES: Bob, is that a
19 sufficient explanation?

20 MR. KELLOGG: Well, I understand
21 what you're saying but I'm still concerned
22 that DEQ would be getting involved in
23 nuisance actions that are not violations of
24 the air pollution standards. And I don't
25 know if that is a change from the existing

1 rule. I can't really tell.

2 MS. DIZIKES: Bob, this is not a
3 change from the existing rule.

4 MR. TERRILL: No. Let me address
5 that. I'm a little bit surprised that Mr.
6 Kellogg doesn't know this. We've been
7 doing this for 25 years, and I can tell you
8 that we're going to be very resistant in
9 changing this portion of the rule because
10 we do -- just because you don't bust the
11 NAAQS doesn't mean you're not creating a
12 public health problem. We get a lot of
13 complaints that are justifiable that we
14 need to address under this rule. I think
15 the environmental community would need to
16 know that we're looking at doing away with
17 this before we relax that. So I would be
18 very opposed to changing this portion of
19 the rule, since we've been doing it, as far
20 as I know, for 25 years or longer.

21 DR. SHEEDY: This is Joyce
22 Sheedy. I do believe, as you said, Eddie,
23 we use Section (a). I can think of one or
24 two companies where we have used that to
25 require some housekeeping that would keep

1 their dust off of other peoples' property,
 2 although, you might not see it leave.
 3 MR. DYKE: Yes, ma'am.
 4 MS. PERRY: Debra Perry,
 5 (inaudible) Environmental. I have a
 6 concern, too, that Mr. Branecky raised
 7 about if you have a source of fugitive dust
 8 on your site and you don't take precautions
 9 to control them, that could be considered a
 10 violation. And then when I heard Eddie say
 11 -- and Cheryl, that we're not going to
 12 enforce on that unless it is an off-
 13 property problem, or there is a nuisance
 14 off-property. My concern is, facilities
 15 who are now having to certify compliance
 16 that are Title V, and they're in compliance
 17 with all applicable requirements, they
 18 don't have -- there's nothing in there that
 19 says what the state is not going to enforce
 20 on it. So if that's a violation, anytime
 21 they generate fugitive dust on site, if
 22 they don't control it, it's a violation.
 23 They would have to certify on Title V that
 24 they are not in compliance with that rule
 25 to really be fully certifying accurately.

1 (a) there, first of all, the rule says that
 2 this dust may cause pollution. So one of
 3 the things we're going to have to show is
 4 that whatever source of dust we have here
 5 may be a source of air pollution. I
 6 visualize this as a situation perhaps in
 7 the middle of a city, like, Lawton or close
 8 to Lawton, or someplace that may be close
 9 to a NAAQS violation, where without
 10 actually getting a violation of the NAAQS
 11 we could allege that there was a problem
 12 with your dust and we need you to take
 13 these reasonable precautions.
 14 The second kicker here is reasonable
 15 precautions, and that we can't just require
 16 anything to be done to abate this
 17 pollution, seeing as how there is no actual
 18 violation of the NAAQS. I've seen
 19 facilities way out in the middle of nowhere
 20 that had a big plume of dust coming up, and
 21 it's not leaving the property line, there
 22 is no NAAQS violation or even potential
 23 violation off of the property line. So
 24 whether we could even require reasonable
 25 precautions in that situation I think is

1 So, I guess that's my concern.
 2 DR. SHEEDY: Perhaps reasonable
 3 precaution in some cases would be nothing.
 4 Because it's not causing any damage, it's
 5 not hurting people off-property, or
 6 property off-property, or other property.
 7 So perhaps reasonable precaution in those
 8 cases would be virtually, no action.
 9 MR. DYKE: Yes, ma'am, go ahead.
 10 MS. PERRY: I guess that's not
 11 one of the options listed -- not limited to
 12 those.
 13 DR. SHEEDY: Yeah, I think that's
 14 correct. You would say what's reasonable
 15 based on cost and based on damage, and
 16 whether it's getting off-property, being a
 17 nuisance or some other thing, I would
 18 assume.
 19 MR. DYKE: Dennis.
 20 MR. DOUGHTY: Would you like for
 21 me to address this from another
 22 perspective? My name is Dennis Doughty,
 23 legal counsel for the Air Quality Division.
 24 Let me tell you how I think this would be
 25 interpreted and enforced. Under Section

1 certainly in doubt. So I don't think that
 2 you can assume that you're going to be in
 3 violation simply because you're creating
 4 some fugitive dust.
 5 On the emission boundaries here, to
 6 me this says that -- and I'm not sure I
 7 want to use the word nuisance, although
 8 that's fairly descriptive, I'm not sure the
 9 elements of a public or private nuisance
 10 would require the same proof that this
 11 (c)(1) would require. But we have to be
 12 able to see these visible emissions and we
 13 have to be able to prove that they are
 14 interfering with the neighbors. And then
 15 we can only require those controls that are
 16 economically feasible. So it doesn't mean
 17 that we're going to shut somebody down,
 18 simply because they're creating some dust.
 19 The (c)(2) to me says that if you're a
 20 facility that's causing a violation of the
 21 NAAQS, we can stop it. And I think that's
 22 important because if you can't go against a
 23 facility that you know is violating the
 24 NAAQS, the next step is that you have to
 25 deal with EPA and then that you have a

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1 NAAQS violation. EPA then requires you to
 2 go in and put controls on all of the
 3 sources in that particular area. So this
 4 would, in effect, allow us to sort of nip
 5 this thing in the bud without having to
 6 implement the nonattainment provisions,
 7 going against all the people who create the
 8 fugitive dust in that particular area.
 9 That's the way I see this thing operating.
 10 MR. DYKE: Thanks, Dennis. Kim.
 11 MS. WARRAM: I have a comment.
 12 Kim Warram with OG&E. I totally agree with
 13 Dennis in his analysis of the
 14 interpretation. But there is one
 15 precaution that facilities should be aware
 16 of, and that is, that if you are in a
 17 situation where you have to show that you
 18 are in compliance with the NAAQS, it
 19 typically begins at the property boundary,
 20 when you do modeling, it's the off-site
 21 impact. Unless, or until a facility has a
 22 road that allows public access through
 23 their property, and then the modeling
 24 begins at that road, on your property. So
 25 that's just a precaution for facilities.

1 MS. BRUCE: Mr. Branecky.
 2 MR. BRANECKY: Yes.
 3
 4 (PROCEEDINGS CONCLUDED)
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1 MR. DYKE: Thank you. Anything
 2 further from the public? Discussion, or
 3 questions from the Council?
 4 MR. BRANECKY: Now, it's time to
 5 decide what we want to do. I'll entertain
 6 a motion.
 7 MR. WILSON: David, I'll make a
 8 motion that we pass this thing as per the
 9 October 13th, 2000 draft.
 10 MR. FALLON: I'll second that.
 11 MR. BRANECKY: I have a motion
 12 and a second. Any further discussion by
 13 the Council? Myrna.
 14 MS. BRUCE: Dr. Grosz.
 15 DR. GROSZ: Aye.
 16 MS. BRUCE: Mr. Fallon.
 17 MR. FALLON: Yes.
 18 MS. BRUCE: Mr. Breisch.
 19 MR. BREISCH: Yes.
 20 MS. BRUCE: Ms. Myers.
 21 MS. MYERS: Aye.
 22 MS. BRUCE: Mr. Wilson.
 23 MR. WILSON: Aye.
 24 MS. BRUCE: Mr. Treeman.
 25 MR. TREEMAN: Abstain.

1
 2 CERTIFICATE
 3 STATE OF OKLAHOMA)
 4 COUNTY OF OKLAHOMA) ss:
 5 I, CHRISTY A. MYERS, Certified
 6 Shorthand Reporter in and for the State of
 7 Oklahoma, do hereby certify that the above
 8 proceedings is the truth, the whole truth,
 9 and nothing but the truth; that the
 10 foregoing proceedings were taken by me in
 11 shorthand and thereafter transcribed under
 12 my direction; that said proceedings were
 13 taken on the 18th day of October, 2000, at
 14 Oklahoma City, Oklahoma; and that I am
 15 neither attorney for nor relative of any of
 16 said parties, nor otherwise interested in
 17 said action.
 18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 30th day of October, 2000.
 21
 22 CHRISTY A. MYERS, C.S.R.
 23 Certificate No. 00310
 24
 25

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

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

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-31 SIP Revision

CHAPTER 100: AIR POLLUTION CONTROL

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

Section

252:100-31-25. Sulfur oxides [AMENDED]

PART 5. NEW EQUIPMENT STANDARDS

252:100-31-25. Sulfur oxides

(a) Sulfuric acid plants.

(1) Emission limit.

(A) A person operating a new sulfuric acid plant shall not cause, suffer, or allow the discharge into the atmosphere of:

(i) sulfur dioxide in the effluent in excess of four (4) pounds per ton of 100 percent sulfuric acid produced (2 kg per metric ton), maximum two-hour average;

(ii) sulfuric acid mist which is in excess of 0.15 pound per ton of 100 percent sulfuric acid produced (75 grams per metric ton), maximum two-hour average, expressed in H_2SO_4 ; or

(iii) a visible emission equivalent to an opacity of five (5) percent.

(B) These emission limits shall apply to only those sulfuric acid plants producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans or acid sludge.

(2) Emission monitoring.

(A) All sulfuric acid plants regulated under this subsection shall have installed, calibrated, maintained and operated, an instrument for continuously monitoring and recording emissions of sulfur dioxide. The instrument installed and used pursuant to this subsection shall be calibrated following the Oklahoma test procedure requirements using the performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(B) The owner or operator of any sulfuric acid plant subject to provisions of this paragraph shall maintain a file of all measurements required including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurement, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(b) Fuel-burning equipment.

(1) Emission limit.

(A) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new gas fuel-burning equipment in excess of 0.2 pound per million BTU heat input (0.36 gram per million gram-calories), maximum three-hour average.

(B) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new liquid fuel-burning equipment

in excess of 0.8 pound per million BTU heat input (1.4 grams per million gram-calories), maximum three-hour average.

(C) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new solid fuel-burning equipment in excess of 1.2 pounds per million BTU heat input (2.20 grams per million gram-calories), maximum three-hour average.

(D) If a solid fuel sampling and analysis method is used to determine emission compliance, averaging time will be determined on a 24 hour basis.

(E) Where different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration unless a secondary fuel is used in de minimis quantities (less than 5% of total BTU input annually).

Compliance shall be determined using the formula (effective July 1, 1972),

$$(y(.80) + z(1.2)) / y + z$$

where y is the percent of total heat input derived from liquid fuel and z is the percent of total heat input derived from solid fuel.

(2) Emission and fuel monitoring.

(A) There shall be installed, calibrated, maintained, and operated, in any new fuel-burning equipment with a rated heat input of 250 million BTU/hr. or more emission monitoring instruments as follows:

(i) a photoelectric or other type smoke detector and recorder, except where gaseous fuel is the only fuel burned; and,

(ii) an instrument for continuously monitoring and recording sulfur dioxide emissions, except where gaseous fuel containing less than 0.1 percent sulfur is the only fuel burned or a solid fuel sampling and analysis method is used to determine emission compliance.

(B) Instruments installed and used for monitoring shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(C) The sulfur content of solid fuels as burned shall be determined in accordance with previous methods as approved by the Executive Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

(D) The owner or operator of any fuel-burning equipment with a rated heat input of 250 million BTU/hr. or over shall maintain a file of all measurements required in subparagraphs (A), (B), or (C) of this paragraph, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two (2) years following the date of such measurements, and made available for inspection by the Air Quality Division or its representatives during normal business hours.

(c) Gas sweetening and sulfur recovery plants.

(1) Natural gas processing.

(A) As specified in 252:100-31-26(a)(1)(B), a new gas sweetening plant is allowed direct oxidation of hydrogen sulfide to sulfur dioxide without a prior sulfur removal step when the exhaust gas contains no more than 100 pounds per hour of sulfur dioxide. When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than this allowed emission but less than or equal to

5.0 long tons per day (LT/D) of sulfur, a sulfur dioxide emission reduction efficiency of at least 75.0 percent shall be achieved by means of a sulfur recovery facility prior to the discharge of gases from the system.

(B) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 5.0 LT/D but less than or equal to 150 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 92.34 (X^{0.00774})$$

where Z is the minimum emission reduction efficiency required at all times and X is the sulfur feed rate, i.e., the hydrogen sulfide in the acid gas from the sweetening unit, expressed as long tons per day of sulfur rounded to one decimal place.

(C) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 150 LT/D but less than or equal to 1500 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 88.78 (X^{0.0156})$$

where Z and X are defined as in (B) of this subsection.

(D) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 1500 LT/D, a minimum sulfur dioxide reduction efficiency of 99.5 percent shall be required.

(2) **Other processes.** The emission of sulfur oxides, calculated as sulfur dioxide, from a new sulfur recovery plant operating in conjunction with other processes is limited to 20 pounds per ton of sulfur processed, maximum two-hour average rates consistent with the emission reduction efficiencies calculated based on equivalent sulfur feed rate in long tons per day (LT/D) in the same manner as for natural gas processing in (c) (1) of this section.

(3) **Emission monitoring.** For facilities regulated under this subsection emission monitoring may be required as determined by the Executive Director in accordance with Subchapter 45 of this Chapter.

(d) **Nonferrous smelters.**

(1) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from new nonferrous smelters is restricted according to the following equations as a maximum two-hour average, where X equals total sulfur fed to smelter (lb/hr) and Y equals sulfur dioxide emissions (lb/hr):

(A) Copper Smelters: $Y = 0.2 (X)$

(B) Zinc Smelters: $Y = 0.564 (X^{0.85})$

(C) Lead Smelters: $Y = 0.98 (X^{0.77})$

(2) **Emission monitoring.**

(A) All new nonferrous smelters regulated under this subsection shall have installed, calibrated, maintained and operated an instrument for continuously monitoring and recording emissions of sulfur dioxide following performance

specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new nonferrous smelter subject to provisions of this subparagraph shall maintain a file of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(e) **Paper pulp mill.**

(1) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new paper pulp mill shall not exceed eighteen pounds per air-dried ton of pulp produced, maximum two-hour average.

(2) **Emission monitoring.**

(A) All new paper pulp mills shall have installed, calibrated, maintained and operated instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas-cleaning equipment and other locations as required by the Executive Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95 percent and be accurate within +20 percent and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new paper pulp mill subject to provisions of this subparagraph shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

Oklahoma Register

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed Rules: OAC 252:100-24, Control of Emissions from Grain Elevators [NEW]; OAC 252:100-31, Control of Emissions of Sulfur Compounds [AMENDED].

Summary: Subchapter 252:100-24 would subject all new and existing grain facilities to state permitting requirements, and establish industry-specific emission and control standards. Industry proposals would include seed, feed, and milling operations.

The intent of the revision in 252:100-31 is to resolve any discrepancies and inequities as applied to all sulfur recovery units in the state, and to provide that emissions standards are consistent with, and not more stringent than the New Source Performance Standards.

AUTHORITY: Environmental Quality Board; 27A O.S.Supp. 1993, § 2-5-106 (Laws 1993, c. 145, § 43).

COMMENT PERIOD: Written comments will be accepted prior to and during the regularly scheduled meeting of the Oklahoma Air Quality Council. The meeting will be held Tuesday, June 14, 1994, in the Brown Room, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd, Oklahoma City 73105. Briefing at 9:30 AM; meeting and hearing at 1:00 PM. Oral comments will be accepted during the hearing; written comments on the permit provisions may be mailed to the contact person listed below.

PUBLIC HEARINGS: Tuesday, June 14, in the Brown Room of the Lincoln Plaza Office Complex, as above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Division, Suite 250 of the Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105.

RULE IMPACT STATEMENT: A rule impact statement will be prepared, prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division, at the above address.

CONTACT PERSON: (405) 271-5220, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd, Oklahoma City 73105.

Contact person for Subchapter 252:100-24 - Mr. Doyle McWhirter.

Contact person for Subchapter 252:100-31 - Dr. Joyce Sheedy.

[Okla. Reg. 94-601; filed April 8, 1994]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL



INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.
Proposed Rules: OAC 252:100-31, Control of Emissions of Sulfur Compounds; and OAC 252:100-8, Operating Permits (Part 70) [AMENDED].

Summary: The intent of the revision to Subchapter 31 is to resolve any discrepancies and inequities as applied to all sulfur recovery units in the state, and to provide that emissions standards are consistent with, and not more stringent than the New Source Performance Standards. The result would be a relaxation of standards applicable to new sulfur recovery plants operated in conjunction with processes other than natural gas processing.

The revision to Subchapter 8 has two parts. The first incorporates by reference 40 CFR Part 72, the Federal rules regarding acid rain permits. The second revision is to adjust the fees for Part 70 sources. Part 70 sources are proposed to be subject to these new fee requirements on January 1, 1995. The owners or operator of a Part 70 source will be required to pay annual fees that are sufficient to cover the Part 70 program costs.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, § 2-5-106.

COMMENT PERIOD: Written comments will be accepted prior to and during the regularly scheduled meeting of the Oklahoma Air Quality Council. The meeting will be held Tuesday, August 9, 1994, in the Auditorium, Tulsa City-County Health Department, 4616 E. 15th St., Tulsa, 74112. Briefing at 9:30 AM; meeting and hearing at 1:00 PM. Oral comments will be accepted during the hearing; written comments on the proposed change may be mailed to Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, OK 73105, c/o Dr. Joyce Sheedy for on Subchapter 31, or c/o Mr. Scott Thomas for Subchapter 8.

PUBLIC HEARINGS: Tuesday, August 9, in the Tulsa City-County Health Department Auditorium, as above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Division, Suite 250 of the Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105.

RULE IMPACT STATEMENT: A rule impact statement will be prepared, prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division, at the above address.

CONTACT PERSON: Subchapter 31: Dr. Joyce Sheedy (405) 271-5220.
Subchapter 8: Mr. Scott Thomas (405) 271-5220.

{Okla. Reg. 94-1103; filed June 9, 1994}

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.

Proposed Rules: OAC 252:100-31, Control of Emissions of Sulfur Compounds [AMENDED]

Summary: The intent of the revision is to resolve any discrepancies and inequities as applied to all new sulfur recovery units in the State. The result would be a relaxation of standards applicable to new sulfur recovery plants operated in conjunction with processes other than natural gas processing.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-2-101; 2-5-1-1 et seq.

COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Program or may, before November 30, 1994, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Wednesday, November 30, 1994, Council and Court Room, City of Stroud, Administration Building, 220 W. Second Street, Stroud, OK.

PUBLIC HEARINGS: Wednesday, November 30, 1994, at 9:30 a.m., in Stroud, Oklahoma, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, OK 73105-3483.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Service at the above address.

CONTACT PERSON: Mr. Scott Thomas, (405) 271-5220.

ADDITIONAL INFORMATION: These rules were recommended by the Air Quality Council pursuant to public hearings on June 14, and August 9, 1994.

[Okla. Reg. 94-1401; filed October 6, 1994]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

RULE MAKING ACTION: PERMANENT final adoption.

RULES: OAC 252:100-31, Control of Emissions of Sulfur Compounds
252:100-31-25. Sulfur oxides [AMENDED]

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993,
§§ 2-2-101, 2-5-101 et seq.

DATES:

Comment period: October 6, 1994 through November 30, 1994.

Public hearing: November 30, 1994.

Adoption: November 30, 1994.

Submitted to Governor: December 9, 1994.

Submitted to House: December 9, 1994.

Submitted Senate: December 9, 1994.

Gubernatorial approval: January 5, 1995.

Legislative approval: Failure of the Legislature to disapprove
the rules resulted in approval on March 29, 1995.

Final adoption: March 29, 1995.

Effective: July 1, 1995.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules: OAC 252:100-31, Control of Emissions of Sulfur
Compounds, 252:100-31-25. Sulfur oxides [AMENDED].

Gubernatorial approval: January 5, 1995.

Register publication: 12 Ok Reg 739.

Docket number: 95-4.

INCORPORATIONS BY REFERENCE: None

ANALYSIS: The intent of this revision is to resolve any
discrepancies and inequities as applied to all new sulfur recovery
units in the State. The result would be a relaxation of standards
applicable to new sulfur recovery plants operated in conjunction
with other processing.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

The revision to Subchapter 31 provides for the emissions standards
to be consistent with, and not more stringent than the Federal
Standards. The Air Quality Council recommended the permanent
adoption of this revision at their meeting on August 9, 1994. The
Air Quality Council began receiving comments on this new rule on
June 9, 1994, and also considered this rule in a public meeting on
June 14, 1994. CONTACT PERSON: Mr. Scott Thomas, DEQ Air Quality
Division, Suite 250, Lincoln Plaza Office Complex, 4545 N. Lincoln
Blvd. Oklahoma City, Oklahoma 73105. (405) 271-5220

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE
CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION
308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 1995.

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS
PART 5. NEW EQUIPMENT STANDARDS

252:100-31-25. Sulfur oxides

(a) Sulfuric acid plants.

(1) Emission limit.

(A) A person operating a new sulfuric acid plant shall not
cause, suffer, or allow the discharge into the atmosphere of:

(i) sulfur dioxide in the effluent in excess of four (4)
pounds per ton of 100 percent sulfuric acid produced (2 kg
per metric ton), maximum two-hour average;

(ii) sulfuric acid mist which is in excess of 0.15 pound
per ton of 100 percent sulfuric acid produced (75 grams
per metric ton), maximum two-hour average, expressed as
H₂SO₄; or

(iii) a visible emission equivalent to an opacity of five
(5) percent.

(B) These emission limits shall apply to only those sulfuric
acid plants producing sulfuric acid by the contact process by
burning elemental sulfur, alkylation acid, hydrogen sulfide,
organic sulfides and mercaptans or acid sludge.

(2) Emission monitoring.

(A) All sulfuric acid plants regulated under this subsection
shall have installed, calibrated, maintained and operated, an
instrument for continuously monitoring and recording emissions
of sulfur dioxide. The instrument installed and used pursuant
to this subsection shall be calibrated following the Oklahoma
test procedure requirements using the performance
specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(B) The owner or operator of any sulfuric acid plant subject
to provisions of this paragraph shall maintain a file of all
measurements required including compliance status records and
excess emissions measurements. These records and measurements
shall be retained for at least two years following the date of
such measurement, and made available for inspection by the Air
Quality Division or its representative during normal
business hours.

(b) Fuel-burning equipment.

(1) Emission limit.

(A) No person shall cause, suffer or allow the discharge into
the atmosphere of sulfur oxides measured as sulfur dioxide
from new gas fuel-burning equipment in excess of 0.2 pound per
million BTU heat input (0.36 gram per million gram-calories),
maximum three-hour average.

(B) No person shall cause, suffer or allow the discharge into
the atmosphere of sulfur oxides measured as sulfur dioxide
from new liquid fuel-burning equipment in excess of 0.8 pound
per million BTU heat input (1.4 grams per million
gram-calories), maximum three-hour average.

(C) No person shall cause, suffer or allow the discharge into
the atmosphere of sulfur oxides measured as sulfur dioxide
from new solid fuel-burning equipment in excess of 1.2 pounds

per million BTU heat input (2.20 grams per million gram-calories), maximum three-hour average.

(D) If a solid fuel sampling and analysis method is used to determine emission compliance, averaging time will be determined on a 24 hour basis.

(E) Where different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration unless a secondary fuel is used in de minimis quantities (less than 5% of total BTU input annually). Compliance shall be determined using the formula (effective July 1, 1972),

$$(y(.80) + z(1.2)) / y + z$$

where y is the percent of total heat input derived from liquid fuel and z is the percent of total heat input derived from solid fuel.

(2) Emission and fuel monitoring.

(A) There shall be installed, calibrated, maintained, and operated, in any new fuel-burning equipment with a rated heat input of 250 million BTU/hr. or more emission monitoring instruments as follows:

(i) a photoelectric or other type smoke detector and recorder, except where gaseous fuel is the only fuel burned; and,

(ii) an instrument for continuously monitoring and recording sulfur dioxide emissions, except where gaseous fuel containing less than 0.1 percent sulfur is the only fuel burned or a solid fuel sampling and analysis method is used to determine emission compliance.

(B) Instruments installed and used for monitoring shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(C) The sulfur content of solid fuels as burned shall be determined in accordance with previous methods as approved by the Executive Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

(D) The owner or operator of any fuel-burning equipment with a rated heat input of 250 million BTU/hr. or over shall maintain a file of all measurements required in subparagraphs (A), (B), or (C) of this paragraph, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two

(2) years following the date of such measurements, and made available for inspection by the Air Quality Division or its representatives during normal business hours.

(c) Gas sweetening and sulfur recovery plants.

(1) Natural gas processing.

(A) As specified in 252:100-31-26(a)(1)(B), a new gas sweetening plant is allowed direct oxidation of hydrogen sulfide to sulfur dioxide without a prior sulfur removal step when the exhaust gas contains no more than 100 pounds per hour of sulfur dioxide. When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than this

allowed emission but less than or equal to 5.0 long tons per day (LT/D) of sulfur, a sulfur dioxide emission reduction efficiency of at least 75.0 percent shall be achieved by means of a sulfur recovery facility prior to the discharge of gases from the system.

(B) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 5.0 LT/D but less than or equal to 150 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 92.34 (X^{0.00774})$$

where Z is the minimum emission reduction efficiency required at all times and X is the sulfur feed rate, i.e., the hydrogen sulfide in the acid gas from the sweetening unit, expressed as long tons per day of sulfur rounded to one decimal place.

(C) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 150 LT/D but less than or equal to 1500 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 88.78 (X^{0.0134})$$

where Z and X are defined as in (B) of this subsection.

(D) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 1500 LT/D, a minimum sulfur dioxide reduction efficiency of 99.5 percent shall be required.

(2) Other processes. The emission of sulfur oxides, calculated as sulfur dioxide, from a new sulfur recovery plant operating in conjunction with other processes is limited to ~~20 pounds per ton of sulfur processed, maximum two-hour averages consistent with the emission reduction efficiencies calculated based on equivalent sulfur feed rate in long tons per day (LT/D) in the same manner as for natural gas processing in (c) (1) of this section.~~

(3) Emission monitoring. For facilities regulated under this subsection emission monitoring may be required as determined by the Executive Director in accordance with Subchapter 45 of this Chapter.

(d) Nonferrous smelters.

(1) Emission limit. The emission of sulfur oxides, calculated as sulfur dioxide, from new nonferrous smelters is restricted according to the following equations as a maximum two-hour average, where X equals total sulfur fed to smelter (lb/hr) and Y equals sulfur dioxide emissions (lb/hr):

- (A) Copper Smelters: $Y = 0.2 (X)$
- (B) Zinc Smelters: $Y = 0.564 (X^{0.05})$
- (C) Lead Smelters: $Y = 0.98 (X^{0.17})$

(2) Emission monitoring.

(A) All new nonferrous smelters regulated under this subsection shall have installed, calibrated, maintained and

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operated an instrument for continuously monitoring and recording emissions of sulfur dioxide following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new nonferrous smelter subject to provisions of this subparagraph shall maintain a file of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(e) Paper pulp mill.

(1) Emission limit. The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new paper pulp mill shall not exceed eighteen pounds per air-dried ton of pulp produced, maximum two-hour average.

(2) Emission monitoring.

(A) All new paper pulp mills shall have installed, calibrated, maintained and operated instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas-cleaning equipment and other locations as required by the Executive Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95 percent and be accurate within +20 percent and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new paper pulp mill subject to provisions of this subparagraph shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

[Okla. Reg. 95-614; filed April 26, 1995]

Air Quality Council

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: June 14, 1994, 9:30 A.M.
Lincoln Plaza Office Complex
BROWN ROOM
4545 N. Lincoln Boulevard
Oklahoma City, OK

BRIEFING

1. **Call to Order** **Chairman**

2. **Division Director's Report** **Director**
 Informational - An update of current events
 and AQS activities
 - A. **Title V status - Contractor -**
 Legislation - Staffing - Other
 1. **Discussion by Council/Public**

3. **Public Rulemaking Hearings - (Briefing)**
 - A. **OAC 252:100-24** **McWhirter**
 Control of Emissions From Grain Elevators
 1. **Discussion by Council/Public**

 - B. **OAC 252:100-31** **Thomas/Sheedy**
 Control of Emissions of Sulfur Compounds
 1. **Discussion by Council/Public**

4. **Adjournment**
 The meeting reconvenes at 1:00 P.M.

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5226.

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: **June 14, 1994, 1:00 P.M.**
 Lincoln Plaza Office Complex
 BROWN ROOM
 4545 North Lincoln Boulevard
 Oklahoma City, OK

HEARING/MEETING

- | | |
|--|----------------------|
| 1. Call to Order | Chairman |
| 2. Roll Call | Secretary |
| 3. Public Rulemaking Hearings | |
| A. OAC 252:100-24 | McWhirter |
| Control of Emissions From Grain Elevators | |
| 1. Discussion by the Council/Public | |
| 2. Possible action by Council to recommend | |
| to DEQ Board for Adoption | |
| B. OAC 252:100-31 | Thomas/Sheedy |
| Control of Emissions of Sulfur Compounds | |
| 1. Discussion by Council/Public | |
| 4. Approval of Minutes of April 12, 1994 | Chairman |
| 5. New Business | Chairman |
| Discussion/consideration of subjects/business | |
| arising within the past 24 hours. | |
| 6. ADJOURNMENT | Chairman |
| Next meeting - August 9, 1994 | |
| Tulsa City County Health Department | |
| AUDITORIUM | |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

MEMORANDUM

DATE: June 3, 1994

TO: AIR QUALITY COUNCIL

FROM: Scott Thomas, Program Director
Analysis and Inventory Section
AIR QUALITY DIVISION *ST*

SUBJECT: SUGGESTED REVISIONS TO OAC 252:100-31
CONTROL OF EMISSIONS OF SULFUR COMPOUNDS

Please find enclosed the staff's suggested revisions to Oklahoma Air Pollution Control Rule, "Control of Emissions of Sulfur Compounds". The proposed changes are being made to Section 25(c)(2) of the rule (see page 3) and are indicated by underlining new language and striking out existing language.

Also enclosed is a memo from Dr. Joyce Sheedy to Larry Byrum briefly explaining the rationale for the proposed change. This revision has been advertised to be brought to the public hearing before the Council at its June 14 meeting.

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

MEMORANDUM DATE: March 24, 1994

TO: Larry D. Byrum, Director
 Air Quality Division

FROM: Joyce D. Sheedy, Ph. D.
 Acting Director
 Permits and Compliance Section

SUBJ: OAC 252:100-31, Control of Emission of Sulfur Compounds

It has been pointed out that facilities have been unable to comply with OAC 252:100-31-25(c) (2) which sets limit for sulfur dioxide from a new sulfur recovery plant operating in conjunction with other processes. At least two companies have gone through the onerous process of obtaining the alternative emissions reductions permits provided for in Subchapter 11.

It is possible that this problem could be solved if section (c) (2) were changed to read as follows:

(2) Other processes. The emission of sulfur oxides, calculated as sulfur dioxide, from a new sulfur recovery plant operating in conjunction with other processes is limited to rates consistent with the emission reduction efficiencies calculated based on equivalent sulfur feed rate in long tons per day (LT/D) in the same manner as for natural gas processing in section (c) (1) above.

In reality this may not represent a significant relaxation of the rule, since most sulfur recovery plants operating in conjunction with other processes must be permitted by the alternative emissions standard which results in essentially equivalent emissions limits.

Please let me know if you think the suggested language has any merit.

**SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS
PART 1. GENERAL PROVISIONS**

252:100-31-1. Purpose

The purpose of this Subchapter is to control emissions of sulfur compounds from stationary sources in order to prevent the Oklahoma Air Quality Standard from being exceeded and insure that degradation of the present level of air quality in Oklahoma does not occur.

252:100-31-2. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Black liquor solids" means the dry weight of the solids which enter the recovery furnace in the black liquor.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), below tank(s), chip steamer(s), and condenser(s).

"Existing source" means an air contaminant source which is in being on the effective date of the applicable section.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp(black liquor).

"New installation (source or equipment)" means an air contaminant source which is not in being on the effective date of the applicable section and any existing source which is altered, replaced, or rebuilt after the effective date of the rules such that the amount of air contaminant emissions is increased.

"Recovery furnace" means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct contact furnace.

"Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.

"Total reduced sulfur" is the sum of the compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

252:100-31-3. Performance testing

Testing to determine whether emission standards set in this Subchapter are met shall be conducted by the source following 40 CFR Part 60, Appendix A, Test Methods.

PART 3. EXISTING EQUIPMENT STANDARDS

252:100-31-12. Sulfur oxides

(a) **Standard.** No person shall cause, let, suffer or allow any emission of sulfur dioxide from existing equipment which results in an ambient air concentration of sulfur dioxide at any given point in excess of 1300 $\mu\text{g}/\text{m}^3$ (0.50 ppm) in a five (5) minute period of any hour, a one (1) hour average exposure of 1200 $\mu\text{g}/\text{m}^3$ (0.46 ppm), a three (3) hour average exposure of 650 $\mu\text{g}/\text{m}^3$ (0.25 ppm), or a 24-hour average exposure of 130 $\mu\text{g}/\text{m}^3$ (0.05 ppm) of sulfur dioxide contributed from any one source or an annual arithmetic mean of 80 $\mu\text{g}/\text{m}^3$ (0.03 ppm). These limitations shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration is controlled by the person responsible for such emission.

(b) **Determination of violation.** Violations of 252:100-31-12(a) may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration by the use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-12(a) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these same procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-12(a).

252:100-31-13. Sulfuric acid mist

After January 10, 1979, no person shall cause, let, or allow emissions of sulfuric acid mist from any existing sulfuric acid plant in an amount greater than 0.5 pound of sulfuric acid mist per ton of acid produced (250 grams per metric ton) the production being expressed as 100 percent sulfuric acid (H_2SO_4).

252:100-31-14. Hydrogen sulfide

(a) **Standard.** No person shall cause, let, suffer, or allow any emission of hydrogen sulfide from any source which results in an ambient air concentration of hydrogen sulfide at any given point of 0.1 ppm for a 30-minute period. This standard shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the point of any such concentration is controlled by the person responsible for such emission.

(b) **Determination of violation.** Violation of 252:100-31-14(a) may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration by the use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-14(a) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these same procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-14(a).

(c) **Testing procedures.** Testing procedures for ambient air concentration of hydrogen sulfide shall use either of the following:

- (1) Paper Tape Method, American Iron and Steel Institute (A.I.S.I.) type sampler with lead acetate impregnated paper tape;
- (2) Methylene Blue Colorimetric Method; or,
- (3) other methods acceptable to the Executive Director.

252:100-31-15. Total reduced sulfur

(a) **Standard.** After November 15, 1985, all affected facilities shall limit emissions of total reduced sulfur released during the Kraft pulping operation, to those listed in this Section or have an approved plan which is to be submitted to the Director by May 15, 1984. Approval of all such plans shall reside with the Air Quality Council and in no case shall the time frame for compliance exceed May 9, 1989.

(1) The applicable limits are:

(A) Forty (40) parts per million (ppm) of total reduced sulfur measured as hydrogen sulfide on a dry basis and on a 12-hour average, converted to eight (8) volume percent oxygen from any recovery furnace;

(B) Forty (40) parts per million of total reduced sulfur measured as hydrogen sulfide on a dry basis and on a 12-hour average, corrected to ten (10) volume percent oxygen from any lime kiln; and,

(C) 0.016 gram of total reduced sulfur measured as hydrogen sulfide per kilogram of black liquor solids for a 12-hour average from any smelt dissolving tank.

(2) Non-condensable gases from all evaporators and digesters shall be efficiently incinerated or otherwise treated to limit emissions to less than five (5) ppm by volume on a dry basis.

(b) **Determination of violation.** Violation of 252:100-31-15(a) may be determined by the Executive Director by use of appropriate material balances, continuous emission monitoring data, and/or emission factors. Stack sampling conducted by the source will be required to demonstrate compliance, following 40 CFR Part 60, Appendix A, Test Methods.

(c) **Continuous emission monitoring.**

(1) Existing sources listed below are required to monitor emissions as described.

(A) **Fossil fuel-fired steam generators.** Continuous monitoring of sulfur dioxide emissions is required for fossil fuel-fired steam generators where the source utilizes an air pollution abatement operation to make a significant reduction in the emissions of sulfur dioxide. Continuous monitoring of oxygen or carbon dioxide is required where it is necessary to convert sulfur dioxide monitoring results.

(B) **Sulfuric acid plants.** Continuous monitoring of sulfur dioxide is required for sulfuric acid plants required to limit emissions by the applicable requirements of this Subchapter where the production capacity is greater than 300 tons per day expressed as 100% acid except where the conversion of sulfuric acid is utilized as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(2) Required monitoring systems will be installed, calibrated, maintained, and operated in accordance with 40 CFR 60, Appendix B.

(3) Required monitoring systems will be installed, calibrated, maintained, and operated in accordance with 40 CFR 51, Appendix P, hereby incorporated by reference.

PART 5. NEW EQUIPMENT STANDARDS

252:100-31-25. Sulfur oxides

(a) **Sulfuric acid plants.**

(1) **Emission limit.**

(A) A person operating a new sulfuric acid plant shall not cause, suffer, or allow the discharge into the atmosphere of:

(i) Sulfur dioxide in the effluent in excess of four (4) pounds per ton of 100 percent sulfuric acid produced (2 kg per metric ton), maximum two-hour average;

(ii) Sulfuric acid mist which is in excess of 0.15 pound per ton of 100 percent sulfuric acid produced (75 grams per metric ton), maximum two-hour average, expressed in H₂SO₄; or

(iii) A visible emission equivalent to an opacity of five (5) percent.

(B) These emission limits shall apply to only those sulfuric acid plants producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans or acid sludge.

(2) **Emission monitoring.**

(A) All sulfuric acid plants regulated under this subsection shall have installed, calibrated, maintained and operated, an instrument for continuously monitoring and recording emissions of sulfur dioxide. The instrument installed and used pursuant to this subsection shall be calibrated following the Oklahoma test procedure requirements using the performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(B) The owner or operator of any sulfuric acid plant subject to provisions of this paragraph shall maintain a file of all measurements required including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurement, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(b) Fuel-burning equipment.

(1) Emission limit.

(A) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new gas fuel-burning equipment in excess of 0.2 pound per million BTU heat input (0.36 gram per million gram-calories), maximum three-hour average.

(B) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new liquid fuel-burning equipment in excess of 0.8 pound per million BTU heat input (1.4 grams per million gram-calories), maximum three-hour average.

(C) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new solid fuel-burning equipment in excess of 1.2 pounds per million BTU heat input (2.20 grams per million gram-calories), maximum three-hour average.

(D) If a solid fuel sampling and analysis method is used to determine emission compliance, averaging time will be determined on a 24 hour basis.

(E) Where different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration unless a secondary fuel is used in de minimis quantities (less than 5% of total BTU input annually). Compliance shall be determined using the formula (effective July 1, 1972),

$$(y(.80) + z(1.2)) / y + z$$

where y is the percent of total heat input derived from liquid fuel and z is the percent of total heat input derived from solid fuel.

(2) Emission and fuel monitoring.

(A) There shall be installed, calibrated, maintained, and operated, in any new fuel-burning equipment with a rated heat input of 250 million BTU/hr. or more emission monitoring instruments as follows:

(i) a photoelectric or other type smoke detector and recorder, except where gaseous fuel is the only fuel burned; and,

(ii) an instrument for continuously monitoring and recording sulfur dioxide emissions, except where gaseous fuel containing less than 0.1 percent sulfur is the only fuel burned or a solid fuel sampling and analysis method is used to determine emission compliance.

(B) Instruments installed and used for monitoring shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(C) The sulfur content of solid fuels as burned shall be determined in accordance with previous methods as approved by the Executive Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

(D) The owner or operator of any fuel-burning equipment with a rated heat input of 250 million BTU/hr. or over shall maintain a file of all measurements required in subparagraphs (A), (B), or (C) of this paragraph, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two (2) years following the date of such measurements, and made available for inspection by the Air Quality Division or its representatives during normal business hours.

(c) Gas sweetening and sulfur recovery plants.

(1) Natural gas processing.

(A) As specified in 252:100-31-26(a)(1)(B), a new gas sweetening plant is allowed direct oxidation of hydrogen sulfide to sulfur dioxide without a prior sulfur removal step when the exhaust gas contains no more than 100 pounds per hour of sulfur dioxide. When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than this allowed emission but less than or equal to 5.0 long tons per day (LT/D) of sulfur, a sulfur dioxide emission reduction efficiency of at least 75.0 percent shall be achieved by means of a sulfur recovery facility prior to the discharge of gases from the system.

(B) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 5.0 LT/D but less than or equal to 150 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 92.34 (X^{0.00774})$$

where Z is the minimum emission reduction efficiency required at all times and X is the sulfur feed rate, i.e., the hydrogen sulfide in the acid gas from the sweetening unit, expressed as long tons per day of sulfur rounded to one decimal place.

(C) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 150 LT/D but less than or equal to 1500 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 88.78 (X^{0.0156})$$

where Z and X are defined as in (B) of this subsection.

(D) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 1500 LT/D, a minimum sulfur dioxide reduction efficiency of 99.5 percent shall be required.

(2) Other processes. The emission of sulfur oxides, calculated as sulfur dioxide, from a new sulfur recovery plant operating in conjunction with other processes is limited to 20 pounds per ton of sulfur processed, maximum two-hour average rates consistent with the emission reduction efficiencies calculated based on equivalent sulfur feed rate in long tons per day (LT/D) in the same manner as for natural gas processing in section (c)(1) above.

(3) Emission monitoring. For facilities regulated under this subsection emission monitoring may be required as determined by the Executive Director in accordance with Subchapter 45 of this Chapter.

(d) Nonferrous smelters.

(1) Emission limit. The emission of sulfur oxides, calculated as sulfur dioxide, from new nonferrous smelters is restricted according to the following equations as a maximum two-hour average, where X equals

total sulfur fed to smelter (lb/hr) and Y equals sulfur dioxide emissions (lb/hr):

- (A) Copper Smelters: $Y = 0.2 (X)$
- (B) Zinc Smelters: $Y = 0.564 (X^{0.86})$
- (C) Lead Smelters: $Y = 0.98 (X^{0.77})$

(2) **Emission monitoring.**

(A) All new nonferrous smelters regulated under this subsection shall have installed, calibrated, maintained and operated an instrument for continuously monitoring and recording emissions of sulfur dioxide following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new nonferrous smelter subject to provisions of this subparagraph shall maintain a file of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(e) **Paper pulp mill.**

(1) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new paper pulp mill shall not exceed eighteen pounds per air-dried ton of pulp produced, maximum two-hour average.

(2) **Emission monitoring.**

(A) All new paper pulp mills shall have installed, calibrated, maintained and operated instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas-cleaning equipment and other locations as required by the Executive Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95 percent and be accurate within +20 percent and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new paper pulp mill subject to provisions of this subparagraph shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

252:100-31-26. Hydrogen sulfide

(a) **Petroleum and natural gas processes.**

(1) **Emission limit.**

(A) No person shall cause, suffer, or allow the discharge into the atmosphere of hydrogen sulfide from any new petroleum or natural gas process equipment without removal of the hydrogen sulfide from the exhaust gas or oxidizing it to sulfur dioxide in a system which insures at all times complete combustion of the hydrogen sulfide, with the exhaust gas then being emitted from a stack at least 50 feet in height. Efficiency of these removal or oxidation systems shall not allow to be emitted more than 0.3 pound per hour of hydrogen sulfide as a two-hour maximum, with a maximum efficiency required of 95 percent of the hydrogen sulfide in the exhaust gas. This subparagraph does not apply to pipeline quality sweetened gas.

(B) Direct oxidation of hydrogen sulfide to sulfur oxides without a prior removal step meeting emission limits of 252:100-31-25(c)(1) is not allowed for any system which would allow discharge of more than 100 pounds per hour of sulfur oxides expressed as sulfur dioxide, maximum two-hour average.

(2) **Emission monitoring.**

(A) All new petroleum and natural gas processing facilities regulated under this subsection shall have installed, calibrated, maintained and operated an alarm system which will signal noncombustion of the gas.

(B) All new petroleum and natural gas processing facilities regulated under this section shall demonstrate compliance with the ambient air limits of 252:100-31-12(a) using either dispersion modeling or ambient air measurements.

(b) **Other processes.**

(1) **Standard.** No person shall cause, let, suffer, or allow any emission of hydrogen sulfide from any source which results in an ambient air concentration of hydrogen sulfide at any given point of 0.1 ppm for a one-hour period. This standard shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration is controlled by the person responsible for such emission.

(2) **Determination of violation.** Violations of this Section may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration, or use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-26(b)(1) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-26(b)(1).

AIR QUALITY COUNCIL

Minutes

June 14, 1994

1:00 p.m.

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Larry Canter, Ph.D., Vice Chairman
Gary A. Kilpatrick
Mary Tillman
J.W. (Bill) Fishback
Michael Hughes

Staff Present

Larry Byrum
Doyle McWhirter
Dennis Doughty
Scott Thomas
Myrna Bruce

Council Members Absent

Pierre Taron
Meribeth Slagell
Kathryn Hinkle

Guests Present

(See attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the basement entrance, first floor entrance at the Oklahoma State Department of Health building, the entrance door of the meeting room at the Lincoln Plaza location, and the entrance to the Air Quality Division.

Call to Order - Mr. Breisch called the meeting to order and roll call was taken. Members not in attendance were Ms. Slagell, Ms. Hinkle, and Mayor Taron. Mr. Breisch turned the meeting over to Mr. Byrum, who acted as protocol officer for Public Rulemaking Hearing OAC 252:100-24 Control of Emissions From Grain Elevators.

Mr. Doyle McWhirter presented the staff comments concerning this rule entitled "Particulate Matter Emissions from Grain, Feed, or Seed Operations." Mr. McWhirter advised that a committee made up of Air Quality Division staff members, Air Quality Council members, and Oklahoma grain and feed representatives reached an agreement after having met on three occasions to discuss and draft proposed subchapter 24.

Mr. McWhirter suggested that certain changes discussed in the briefing be added to the rule. The recommended changes are shown as underlined and deleted language in the copy of the rule attached as part of these Minutes. The recommended changes are denoted on pages 2, 5 and 6. With the inclusion of these changes, Mr.

McWhirter recommended the Council forward this rule to the Department of Environmental Quality Board for adoption.

Mr. Breisch entertained a motion to recommend adoption of this rule to the Department of Environmental Quality Board. Mr. Fishback made the motion as stated by Mr. Breisch with second by Ms. Tillman. Roll call as follows: Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - absent; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - absent; Mayor Taron - absent; Ms. Tillman - aye; Mr. Breisch - aye.

Mr. Gary Kilpatrick asked to place in the record a thank you to the industry, to the staff, and to the Council members, particularly Bill Fishback who chaired the committee, for the hard work done to resolve this issue. Dr. Hughes added an appreciation to Doyle McWhirter and Debbie Perry for the amount of emphasis and time devoted to this issue and to all the members of industry who participated and endured Council questioning and for allowing Council members to see the grain operations.

On behalf of the industry, Mr. Joe Hampton, Oklahoma Grain and Feed Association, gave a special thank you to the members of the Council who served on the committee, especially Mr. Fishback, and to members of the staff, especially Doyle and Debbie, for all the work put into this effort.

The next item on the agenda was public rulemaking hearing for OAC 252:100-31 Control of Emissions of Sulfur Compounds. Mr. Byrum acted as protocol officer and called up Mr. Scott Thomas and Dr. Joyce Sheedy to give the staff proposal on a suggested revision to this rule. Mr. Thomas recommended that the hearing be continued to the Council's August 9, 1994 meeting in Tulsa for the purpose of receiving as many comments as possible from all interested parties and from EPA. Dr. Sheedy provided technical information and answered questions from the audience and Council.

Chairman Breisch entertained a motion to continue the hearing until the next regular Council meeting as per the recommendation from staff. Mr. Kilpatrick made the motion as stated with second by Dr. Hughes. Roll call as follows: Dr. Canter - aye; Mr. Fishback - abstain; Ms. Hinkle - absent; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - absent; Mayor Taron - absent; Ms. Tillman - aye; Mr. Breisch - aye.

Approval of Minutes - Chairman Breisch reconvened the meeting and requested a motion for the approval of the Minutes of the April 12 meeting. In discussion, it was found on page 3, the words "of fugitive dust" needed to be added; and on page 2 change 'Dr.' Kilpatrick to "Mr." Ms. Tillman made the motion to approve the minutes as corrected with second by Dr. Hughes. Roll call as follows: Dr. Canter - aye; Mr. Fishback - aye; Ms. Hinkle - absent; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - absent; Mayor Taron - absent; Ms. Tillman - aye; Mr. Breisch - aye.

Other Business - No new business from staff. Mr. Tom Lay from audience discussed his interest in the TB&A contract stating that he was making an appearance on behalf of the Environmental Federation of Oklahoma in support of the draft study and pointed out that it was evidenced that the staff put a lot of hard work into the report.

Next Meeting - The next regular meeting will be held August 9, 1994 at the Auditorium, City-County Health Department, Tulsa, OK.

Meeting adjourned with a unanimous roll call vote.

William B. Breisch, Chairman
Air Quality Council

Larry D. Byrum, Director
Air Quality Division

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

June 14, 1994

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Tom Lay	EFO	201 Nabe 105 Ken 286 609 Okla City OK 73102	YES
2 David Fairbanks	Stillwater Mills	Stillwater, OK	NO
3 Nelson Brunsing	Chapman	" "	OK
4 Dan Kent	Triangle Corp. Law. Co.	Enid, OK	
5 Kyle Arthur	DEQ/CAP/SBAP	OKC	NO
6 Alden Simmons	DEQ/CAP/SBAP	OKC	NO
7 Pat Hargrave	OKLA Corp. Council	ENID	NO
8 Mary Young	Mustang Fuel	OKC	NO
9 Dick Reed	Dexter Tire	OKC	NO
10 Alan Dove	Western Gas	OKC	NO
11 Randy Ward	AGD	OKC	NO
12 Beverly Smith	AGD	OKC	NO
13 Mike Mahony	OGFA	Wagon	
13 Val Freeman	OGFA	Enid	
14 Ray Bishop	TCCHB	Tulsa	NO
15 Howard Howard	PSO	PO Box 201 Tulsa	NO
16 James Laska	OCCIDOC	OKC	NO
17 Phil Menkegen II	OGFA	ENID	
18 Joe W. Houghton	OGFA	"	
19 Gary Collins	AMC	Catoosa	NO

- 20 Dave Schmitt Charles M. & Wks PoBox 66 Perry OK MO
- 21 Susan E. Hardy AGD
- 22 Dale Whiting AGD
- 23 Bill Mace AGD
- 24 Kathy J. Martin CAP/ODEQ
- 25 John P. Taylor Okla. Resources Assoc.
- 26 Davian Taylor ODEQ
- 27 Tim H. Stanner CCHDOC OK MO
- 28 Terry Johnson TEC-AN 3535 NW 58th SUITE 470E OKC T3112
- 29 David Brantley OG & E P.O. Box 321 OKC 73101
- 30 Frank Gordon ER Board
- 31 Ami Quark E-Qu, Inc. OKC
- 32 Susie King Ponoco 201 G3RD St. 879-4872
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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: August 9, 1994, 9:30 A.M.
(Moved from TCCHD Auditorium to Fairgrounds)
Tulsa Fairgrounds Gate 12
Exposition Center Cafeteria
4600 East 21st Street
TULSA, OKLAHOMA

BRIEFING

- | | |
|---|-----------------|
| 1. Call to Order | Chairman |
| 2. Division Director's Report
Informational - An update of current events
and AQD activities | Director |
| A. TB&A Report - Title V status
Legislation - Staffing - Other | |
| 1. Discussion by Council/Public | |
| 3. Public Rulemaking Hearings - (Briefing) | |
| A. OAC 252:100-31
Control of Emissions of Sulfur Compounds | Sheedy |
| 1. Discussion by Council/Public | |
| B. OAC 252:100-8 Operating Permits (Part 72)
Acid Rain | Sheedy |
| 1. Discussion by Council/Public | |
| C. OAC 252:100-8 Operating Permits (Part 70)
Fee Requirements | Thomas |
| 1. Discussion by Council/Public | |

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 271-5220.

MEMORANDUM

DATE: July 27, 1994

TO: AIR QUALITY COUNCIL

FROM:  Joyce Sheedy
Air Permits and Compliance Section

Scott Thomas *ST*
Analysis and Inventory Section

SUBJECT: REVISIONS TO OAC 252:100-31
CONTROL OF EMISSIONS OF SULFUR COMPOUNDS

Please find enclosed the staff's suggested revision to Oklahoma Air Pollution Control Rule OAC 252:100-31 "Control of Emissions of Sulfur Compounds". As you are aware, the June 14, 1994 hearing on this matter is to be continued at the Council's August 9th meeting.

Also enclosed is a copy of the testimony presented at the June 14 hearing as well as a copy of written comments from interested parties received as of the date of this memo. It is our understanding that EPA is preparing comments on this matter which will be presented at the hearing.

Informal discussions with their staff indicate no major problem areas.

**SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS
PART 1. GENERAL PROVISIONS****252:100-31-1. Purpose**

The purpose of this Subchapter is to control emissions of sulfur compounds from stationary sources in order to prevent the Oklahoma Air Quality Standard from being exceeded and insure that degradation of the present level of air quality in Oklahoma does not occur.

252:100-31-2. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Black liquor solids" means the dry weight of the solids which enter the recovery furnace in the black liquor.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), below tank(s), chip steamer(s), and condenser(s).

"Existing source" means an air contaminant source which is in being on the effective date of the applicable section.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp(black liquor).

"New installation (source or equipment)" means an air contaminant source which is not in being on the effective date of the applicable section and any existing source which is altered, replaced, or rebuilt after the effective date of the rules such that the amount of air contaminant emissions is increased.

"Recovery furnace" means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct contact furnace.

"Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.

"Total reduced sulfur" is the sum of the compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

252:100-31-3. Performance testing

Testing to determine whether emission standards set in this Subchapter are met shall be conducted by the source following 40 CFR Part 60, Appendix A, Test Methods.

PART 3. EXISTING EQUIPMENT STANDARDS**252:100-31-12. Sulfur oxides**

(a) **Standard.** No person shall cause, let, suffer or allow any emission of sulfur dioxide from existing equipment which results in an ambient air concentration of sulfur dioxide at any given point in excess of 1300 $\mu\text{g}/\text{m}^3$ (0.50 ppm) in a five (5) minute period of any hour, a one (1) hour average exposure of 1200 $\mu\text{g}/\text{m}^3$ (0.46 ppm), a three (3) hour average exposure of 650 $\mu\text{g}/\text{m}^3$ (0.25 ppm), or a 24-hour average exposure of 130 $\mu\text{g}/\text{m}^3$ (0.05 ppm) of sulfur dioxide contributed from any one source or an annual arithmetic mean of 80 $\mu\text{g}/\text{m}^3$ (0.03 ppm). These limitations shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration is controlled by the person responsible for such emission.

(b) **Determination of violation.** Violations of 252:100-31-12(a) may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration by the use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-12(a) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these same procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-12(a).

252:100-31-13. Sulfuric acid mist

After January 10, 1979, no person shall cause, let, or allow emissions of sulfuric acid mist from any existing sulfuric acid plant in an amount greater than 0.5 pound of sulfuric acid mist per ton of acid produced (250 grams per metric ton) the production being expressed as 100 percent sulfuric acid (H_2SO_4).

252:100-31-14. Hydrogen sulfide

(a) **Standard.** No person shall cause, let, suffer, or allow any emission of hydrogen sulfide from any source which results in an ambient air concentration of hydrogen sulfide at any given point of 0.1 ppm for a 30-minute period. This standard shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the point of any such concentration is controlled by the person responsible for such emission.

(b) **Determination of violation.** Violation of 252:100-31-14(a) may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration by the use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-14(a) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these same procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-14(a).

(c) **Testing procedures.** Testing procedures for ambient air concentration of hydrogen sulfide shall use either of the following:

- (1) Paper Tape Method, American Iron and Steel Institute (A.I.S.I.) type sampler with lead acetate impregnated paper tape;
- (2) Methylene Blue Colorimetric Method; or,
- (3) other methods acceptable to the Executive Director.

252:100-31-15. Total reduced sulfur

(a) **Standard.** After November 15, 1985, all affected facilities shall limit emissions of total reduced sulfur released during the Kraft pulping operation, to those listed in this Section or have an approved plan which is to be submitted to the Director by May 15, 1984. Approval of all such plans shall reside with the Air Quality Council and in no case shall the time frame for compliance exceed May 9, 1989.

(1) The applicable limits are:

(A) Forty (40) parts per million (ppm) of total reduced sulfur measured as hydrogen sulfide on a dry basis and on a 12-hour average, converted to eight (8) volume percent oxygen from any recovery furnace;

(B) Forty (40) parts per million of total reduced sulfur measured as hydrogen sulfide on a dry basis and on a 12-hour average, corrected to ten (10) volume percent oxygen from any lime kiln; and,

(C) 0.016 gram of total reduced sulfur measured as hydrogen sulfide per kilogram of black liquor solids for a 12-hour average from any smelt dissolving tank.

(2) Non-condensable gases from all evaporators and digesters shall be efficiently incinerated or otherwise treated to limit emissions to less than five (5) ppm by volume on a dry basis.

(b) **Determination of violation.** Violation of 252:100-31-15(a) may be determined by the Executive Director by use of appropriate material balances, continuous emission monitoring data, and/or emission factors. Stack sampling conducted by the source will be required to demonstrate compliance, following 40 CFR Part 60, Appendix A, Test Methods.

(c) **Continuous emission monitoring.**

(1) Existing sources listed below are required to monitor emissions as described.

(A) **Fossil fuel-fired steam generators.** Continuous monitoring of sulfur dioxide emissions is required for fossil fuel-fired steam generators where the source utilizes an air pollution abatement operation to make a significant reduction in the emissions of sulfur dioxide. Continuous monitoring of oxygen or carbon dioxide is required where it is necessary to convert sulfur dioxide monitoring results.

(B) **Sulfuric acid plants.** Continuous monitoring of sulfur dioxide is required for sulfuric acid plants required to limit emissions by the applicable requirements of this Subchapter where the production capacity is greater than 300 tons per day expressed as 100% acid except where the conversion of sulfuric acid is utilized as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(2) Required monitoring systems will be installed, calibrated, maintained, and operated in accordance with 40 CFR 60, Appendix B.

(3) Required monitoring systems will be installed, calibrated, maintained, and operated in accordance with 40 CFR 51, Appendix P, hereby incorporated by reference.

PART 5. NEW EQUIPMENT STANDARDS

252:100-31-25. Sulfur oxides

(a) **Sulfuric acid plants.**

(1) **Emission limit.**

(A) A person operating a new sulfuric acid plant shall not cause, suffer, or allow the discharge into the atmosphere of:

(i) Sulfur dioxide in the effluent in excess of four (4) pounds per ton of 100 percent sulfuric acid produced (2 kg per metric ton), maximum two-hour average;

(ii) Sulfuric acid mist which is in excess of 0.15 pound per ton of 100 percent sulfuric acid produced (75 grams per metric ton), maximum two-hour average, expressed in H_2SO_4 ; or

(iii) A visible emission equivalent to an opacity of five (5) percent.

(B) These emission limits shall apply to only those sulfuric acid plants producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans or acid sludge.

(2) **Emission monitoring.**

(A) All sulfuric acid plants regulated under this subsection shall have installed, calibrated, maintained and operated, an instrument for continuously monitoring and recording emissions of sulfur dioxide. The instrument installed and used pursuant to this subsection shall be calibrated following the Oklahoma test procedure requirements using the performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(B) The owner or operator of any sulfuric acid plant subject to provisions of this paragraph shall maintain a file of all measurements required including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurement, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(b) Fuel-burning equipment.

(1) Emission limit.

(A) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new gas fuel-burning equipment in excess of 0.2 pound per million BTU heat input (0.36 gram per million gram-calories), maximum three-hour average.

(B) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new liquid fuel-burning equipment in excess of 0.8 pound per million BTU heat input (1.4 grams per million gram-calories), maximum three-hour average.

(C) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new solid fuel-burning equipment in excess of 1.2 pounds per million BTU heat input (2.20 grams per million gram-calories), maximum three-hour average.

(D) If a solid fuel sampling and analysis method is used to determine emission compliance, averaging time will be determined on a 24 hour basis.

(E) Where different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration unless a secondary fuel is used in de minimis quantities (less than 5% of total BTU input annually). Compliance shall be determined using the formula (effective July 1, 1972),

$$(y(.80) + z(1.2)) / y + z$$

where y is the percent of total heat input derived from liquid fuel and z is the percent of total heat input derived from solid fuel.

(2) Emission and fuel monitoring.

(A) There shall be installed, calibrated, maintained, and operated, in any new fuel-burning equipment with a rated heat input of 250 million BTU/hr. or more emission monitoring instruments as follows:

(i) a photoelectric or other type smoke detector and recorder, except where gaseous fuel is the only fuel burned; and,

(ii) an instrument for continuously monitoring and recording sulfur dioxide emissions, except where gaseous fuel containing less than 0.1 percent sulfur is the only fuel burned or a solid fuel sampling and analysis method is used to determine emission compliance.

(B) Instruments installed and used for monitoring shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(C) The sulfur content of solid fuels as burned shall be determined in accordance with previous methods as approved by the Executive Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

(D) The owner or operator of any fuel-burning equipment with a rated heat input of 250 million BTU/hr. or over shall maintain a file of all measurements required in subparagraphs (A), (B), or (C) of this paragraph, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two (2) years following the date of such measurements, and made available for inspection by the Air Quality Division or its representatives during normal business hours.

(c) Gas sweetening and sulfur recovery plants.

(1) Natural gas processing.

(A) As specified in 252:100-31-26(a)(1)(B), a new gas sweetening plant is allowed direct oxidation of hydrogen sulfide to sulfur dioxide without a prior sulfur removal step when the exhaust gas contains no more than 100 pounds per hour of sulfur dioxide. When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than this allowed emission but less than or equal to 5.0 long tons per day (LT/D) of sulfur, a sulfur dioxide emission reduction efficiency of at least 75.0 percent shall be achieved by means of a sulfur recovery facility prior to the discharge of gases from the system.

(B) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 5.0 LT/D but less than or equal to 150 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 92.34 (X^{0.00774})$$

where Z is the minimum emission reduction efficiency required at all times and X is the sulfur feed rate, i.e., the hydrogen sulfide in the acid gas from the sweetening unit, expressed as long tons per day of sulfur rounded to one decimal place.

(C) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 150 LT/D but less than or equal to 1500 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 88.78 (X^{0.0158})$$

where Z and X are defined as in (B) of this subsection.

(D) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 1500 LT/D, a minimum sulfur dioxide reduction efficiency of 99.5 percent shall be required.

(2) Other processes. The emission of sulfur oxides, calculated as sulfur dioxide, from a new sulfur recovery plant operating in conjunction with other processes is limited to 20 pounds per ton of sulfur processed, maximum two-hour average rates consistent with the emission reduction efficiencies calculated based on equivalent sulfur feed rate in long tons per day (LT/D) in the same manner as for natural gas processing in section (c)(1) above.

(3) Emission monitoring. For facilities regulated under this subsection emission monitoring may be required as determined by the Executive Director in accordance with Subchapter 45 of this Chapter.

(d) Nonferrous smelters.

(1) Emission limit. The emission of sulfur oxides, calculated as sulfur dioxide, from new nonferrous smelters is restricted according to the following equations as a maximum two-hour average, where X equals

total sulfur fed to smelter (lb/hr) and Y equals sulfur dioxide emissions (lb/hr).:

- (A) Copper Smelters: $Y = 0.2 (X)$
 (B) Zinc Smelters: $Y = 0.564 (X^{0.86})$
 (C) Lead Smelters: $Y = 0.98 (X^{0.77})$

(2) Emission monitoring.

(A) All new nonferrous smelters regulated under this subsection shall have installed, calibrated, maintained and operated an instrument for continuously monitoring and recording emissions of sulfur dioxide following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new nonferrous smelter subject to provisions of this subparagraph shall maintain a file of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(e) Paper pulp mill.

(1) Emission limit. The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new paper pulp mill shall not exceed eighteen pounds per air-dried ton of pulp produced, maximum two-hour average.

(2) Emission monitoring.

(A) All new paper pulp mills shall have installed, calibrated, maintained and operated instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas-cleaning equipment and other locations as required by the Executive Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95 percent and be accurate within +20 percent and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new paper pulp mill subject to provisions of this subparagraph shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

252:100-31-26. Hydrogen sulfide

(a) Petroleum and natural gas processes.

(1) Emission limit.

(A) No person shall cause, suffer, or allow the discharge into the atmosphere of hydrogen sulfide from any new petroleum or natural gas process equipment without removal of the hydrogen sulfide from the exhaust gas or oxidizing it to sulfur dioxide in a system which insures at all times complete combustion of the hydrogen sulfide, with the exhaust gas then being emitted from a stack at least 50 feet in height. Efficiency of these removal or oxidation systems shall not allow to be emitted more than 0.3 pound per hour of hydrogen sulfide as a two-hour maximum, with a maximum efficiency required of 95 percent of the hydrogen sulfide in the exhaust gas. This subparagraph does not apply to pipeline quality sweetened gas.

(B) Direct oxidation of hydrogen sulfide to sulfur oxides without a prior removal step meeting emission limits of 252:100-31-25(c)(1) is not allowed for any system which would allow discharge of more than 100 pounds per hour of sulfur oxides expressed as sulfur dioxide, maximum two-hour average.

(2) Emission monitoring.

(A) All new petroleum and natural gas processing facilities regulated under this subsection shall have installed, calibrated, maintained and operated an alarm system which will signal noncombustion of the gas.

(B) All new petroleum and natural gas processing facilities regulated under this Section shall demonstrate compliance with the ambient air limits of 252:100-31-12(a) using either dispersion modeling or ambient air measurements.

(b) Other processes.

(1) Standard. No person shall cause, let, suffer, or allow any emission of hydrogen sulfide from any source which results in an ambient air concentration of hydrogen sulfide at any given point of 0.1 ppm for a one-hour period. This standard shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration is controlled by the person responsible for such emission.

(2) Determination of violation. Violations of this Section may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration, or use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-26(b)(1) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-26(b)(1).

AIR QUALITY COUNCIL

Minutes

August 9, 1994

1:00 p.m.

**OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
TULSA FAIRGROUNDS CAFETERIA**

TULSA, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Meribeth Slagell
Gary A. Kilpatrick
Mary Tillman
Michael Hughes
Kathryn Hinkle
Bill Fishback

Council Members Absent

Pierre Taron
Larry Canter

Staff Present

Larry Byrum
Doyle McWhirter
Dennis Doughty
Scott Thomas
Joyce Sheedy
Myrna Bruce

Guests Present

(See attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the Fairgrounds Cafeteria as well as the City County Health Department Auditorium and at the Air Quality Division in Oklahoma City.

Call to Order - Mr. Breisch called the meeting to order and roll call was taken. Members not in attendance were Dr. Canter and Mayor Taron.

Mr. Byrum, as protocol officer convened the Public Rulemaking Hearing OAC 252:100-31 Control of Emissions From Sulfur Compounds.

Dr. Joyce Sheedy, Acting Program Director of Permits and Compliance Section entered the rule into the record and presented staff comments stating proposed changes to OAC 252:100-31-25(C)(2) regarding Sulfur Dioxide emissions from refinery sulfur recovery

units. In briefing the Council, Dr. Sheedy pointed out that the requirements of refineries to meet standards set out in the rule is unduly burdensome and the procedures are complicated, therefore, it is prudent to amend the rule to avoid the necessity for an alternative emission reduction permit.

Dr. Sheedy presented two letters of comment for the record: one from Kerr-McGee supporting the proposed change and one from EPA Region VI expressing concerns regarding possible effects of this change on the State Implementation Plan.

Staff recommended that Council submit the proposed revision to the Department of Environmental Quality Board as an Emergency and Permanent Rule.

Mr. Breisch entertained a motion to recommend adoption of this rule to the Department of Environmental Quality (DEQ) Board. Mr. Kilpatrick made the motion to recommend this rule to the DEQ Board as Permanent and Emergency with second by Dr. Hughes. Roll call as follows: Mr. Fishback - abstain; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Ms. Tillman - aye; Mr. Breisch - aye.

As protocol officer, Mr. Byrum convened the Public Rulemaking Hearing for OAC 252:100-8 Operating Permits Part 72 Acid Rain.

Mr. Scott Thomas, Program Director, Analysis and Inventory Section, presented staff comments and entered into the record a letter from Mr. Gerald Fontenot, Branch Chief of the Air Programs Branch, Region VI EPA. The letter included comments from the Acid Rain Division of EPA headquarters. In briefing, Mr. Thomas pointed out that in order to retain its approval status for the submittal, Oklahoma must provide adequate legal authority through incorporation by reference to the Code of Federal Regulations Part 72 of the Federal Acid Rain Regulations or adopt its own regulations based on EPA's model. If Oklahoma does not submit these elements, it will be subject to sanctions and the Plan would be subject to disapproval. According to Mr. Thomas, EPA has indicated no problems with the proposed language. The staff entered a copy of the proposed changes to the rule and recommended (1) that this provision be presented to the Oklahoma Department of Environmental Quality Board for adoption as an Emergency and Permanent Rule or (2) continue this Hearing to the next meeting.

Mr. Don Whitney, Engineering Staff, Air Quality Division answered questions of Council and explained the permitting process, the reporting processes, and the enhanced monitoring processes.

Mr. Howard Ground, Environmental Manager of Public Service Company of Oklahoma, commented that PSO had no opposition to incorporating the federal rules into the Oklahoma regulations.

Mr. Breisch reiterated that the staff recommended these proposed

changes be forwarded to the Department of Environmental Quality Board as a permanent and emergency rule. The motion was made by Mr. Bill Fishback with second by Gary Kilpatrick. Roll call as follows: Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Ms. Tillman - aye; Mr. Breisch - aye.

As protocol officer, Mr. Byrum convened a Public Rulemaking Hearing regarding OAC 252:100-8 Operating Permits Part 70 Fee Requirements.

Mr. Scott Thomas presented staff position proposing that the fee be effective January 1, 1995 for Part 70 sources; that these sources no longer be subject to the current \$10/ton fee specified in subchapter 7; and that the fee be adjusted each year by the Consumer Price Index using calendar year 1994 as the base line. The staff also recommended that this Hearing be continued to the next meeting to allow for public participation and comments and to receive comments from EPA Region VI.

Mr. Kilpatrick questioned the intent of using the \$15.19 amount as recommended by Theodore Barry & Associates (TB&A). Mr. Thomas advised that staff recommended Council use the TB&A study figure of \$15.19 but the proposal sent to EPA Region VI would show that the total fee was representative of a higher number because of additional fees and charges required by the permit rule.

Mr. Kilpatrick suggested that the word "recognized" in the next to the last line of the proposed change be dropped as legislation authorized that a management study by a recognized consultant be done.

Mr. Kilpatrick also suggested that the word "presumptive" be dropped from (b)(iii) and from the definitions because the real fee is being calculated, not the presumptive fee.

Mr. David Branecky, Regulatory Coordinator for OG&E, commented that OG&E supports a good air quality program in Oklahoma, but wanted the Council to consider the fact that the TB&A Report is just a study showing a fee determination of \$15.19, and was not a set amount that could not be changed.

There was further discussion between Mr. Branecky, Council, and staff regarding accounting procedures for carryover amounts and accounting procedures for the Title V program.

The Chairman stated that the staff recommended continuing this meeting to the regular October meeting and asked the Council to continue their consultant committee to talk with the staff concerning accounting issues, etc.

Ms. Tillman moved to continue this hearing with the understanding that Council would continue the committee discussions with staff to answer questions regarding the TB&A report.

Mr. Kilpatrick made the second with roll call as follows: Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Approval of Minutes - Chairman Breisch reconvened the regular meeting and requested a motion for the approval of Minutes of the June 14 meeting. Ms. Tillman moved to accept the Minutes with second by Dr. Kilpatrick. Roll call as follows: Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - abstain; Ms. Tillman - aye; Mr. Breisch - aye.

Other Business - Mr. Byrum pointed out that in reviewing the Minutes and tape recording of the last meeting, it was found that the Feed and Grain rule was not adopted as an Emergency Rule in addition to a Permanent Rule which was the intention of the committee, staff and industry. The implication being that if it is adopted as an Emergency Rule it can go into effect almost immediately. Otherwise, it will have to wait until the Legislature is back in session and the rule will go into effect after the Legislative Session. If not adopted as an emergency, the rule would be effective approximately 30 days before the expiration date that was included in the rule. Mr. Byrum recommended to the Council that this rule be adopted as Permanent and Emergency.

Mr. Fishback added that in working with the staff on this issue, he believed it was everyone's consensus that this rule should go into effect as soon as possible to allow industry to develop their Title V strategy. Mr. Fishback made the motion to recommend that the DEQ Board adopt OAC 252:100-24 as an Emergency Rule as well as a Permanent Rule.

Mr. Kilpatrick stated that he also participated in the meetings and it was discussed that the rule should go into effect immediately, agreed with Mr. Fishback, and made a second to the motion.

With the motion made and seconded with verification by committee, roll call was taken as follows: Mr. Fishback - aye; Ms. Hinkle - aye; Dr. Hughes - aye; Mr. Kilpatrick - aye; Ms. Slagell - abstain; Ms. Tillman - aye; Mr. Breisch - aye.

With no further business, the next meeting was discussed. Mr. Byrum projected sufficient business for a two-day meeting in October, adjourning on Tuesday, October 11 and continuing on Wednesday, October 12. He added that a significant amount of time would be taken on the Title V fee rule and other items to be brought before the Council, therefore, with the Council's concurrence, the staff would like to move forward with plans for a two-day meeting. Because the Oklahoma Register advertising deadline was August 8, the rule was advertised for these dates, but that in no way binds the Council to that action. Mr. Byrum stated that the most efficient way to handle a two-day meeting would be to have the regular Briefing on Tuesday and follow with the Hearings

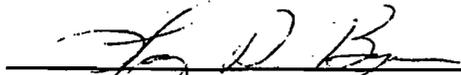
and Meetings with no other Briefing.

Next Meeting - The next regular meeting will be held October 11 and 12 as discussed in the Brown Room at Lincoln Plaza Office Complex in Oklahoma City, OK.

Meeting adjourned with a unanimous roll call vote.

 10/11/94

William B. Breisch, Chairman
Air Quality Council

 10/11/94

Larry D. Byrum, Director
Air Quality Division

AIR QUALITY COUNCIL

Public Hearing and Meeting

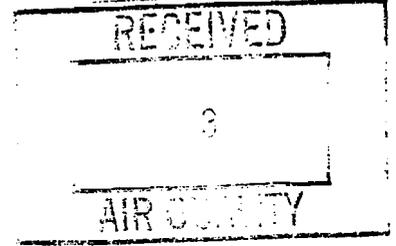
Attendance Record

August 9, 1994

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Denny Stottlemire	Safety-Klean Corp	16319 E Marshall Tulsa, OK 74116	NO
2 Dave Cox	TCCHD	4616 E 15 Tulsa, OK 74112	NO
3 FRANKIE WOOD-Black	Phillips PET	94-E BARTLESVILLE 74006	NO
4 CLYDE JONES	ZCA	PO Box 579 BARTLESVILLE 74005	NO
5 DONALD FERRY	YELCO, D.O. of METRO	OKMULGEE 1200 W 20 th	NO
6 RON SOBER	RFS CONSULTING, INC	10830 E 45 th ST STE 202 TULSA 74146	
7 TERRI Holleman	RFS Consulting, Inc	10830 E. 45th St. Tulsa 74146	NO
8 ERNIE D. Smith	Air Quality DEQ	4545 N Lincoln Suite 250 OKC OK 73105	
9 Beverly Botchlet-Smith	Air Quality DEQ	4545 N Lincoln Str 250 OKC 73105	
10			
11 Regina Broughton	"	"	"
12 Shawna McWhorter Khalouzi	"	"	"
13 Jim SIECK	EXPLORER PIPELINE	6846 So Center Tulsa 74136	
13 Howard Ground	PSO	P.O. Box 201 Tulsa 74102	
14 John McElroy		4870 S. Lewis Suite 203 Tulsa 74105	
15 Madeline Beaton CASE		6609 E 86 th Pl. Tulsa 74133	
16 Joel Nelson	Rockwell	P.O. Box 582808 Tulsa, OK 74158	
17 Bice Mace	DEQ		
18 FRANK CARSON	DEQ BOARD		
19 Donald Whaley	FORSITE Corp.	1505 Elm St. 14th Floor Dallas, Tx 75201	NO

- 20 Nelson Brensing - The Oklawaha -
- 21 Joe Frost Rogers Galvanizing Co
- 22 J. S. Hill Agricultural Minerals
- 23 P. H. Hill Agricultural Minerals
- 24 HERB NEUMANN ODEQ - TULSA
- 25 Teresa Sellers AMERICAN AIRLINES
- 26 Paul Steele Conoco Inc. P.O. Box 1267
Ponca City, OK 74602-1267
- 27 Jim Andrew Electronic Chemicals 520 W 21st Tulsa 74110
- 28 Charles Kilby " " "
- 29 Ann Hall OK Nat Gas 100 W 5th Tulsa OK 74109
- 30 Linn W. Wainner CCHDCC 921 NE 23rd, OK City, OK 73105
- 31 Jess Walrath Weyerhaeuser Hot Springs AR
- 32 Jim Barnett EFO 201 Rust Skew #600 CRE
73102
- 33 Rod Offord Hollman Longholz 10 East 3rd Tulsa
- 34 Mike Morcin Hollman Longholz - 10 E. 3rd Tulsa
- 35 Richard Carson Wilson Consulting Group 7335 S. Lewis St 210 Tulsa
- 36 Deborah Perry DEQ
- 37 Kathy J. Martin ODEQ/CAP 405-271-1400
- 38 Jack W. Walling TCCHD
- 39 David Branecky OGE/E P.O. Box 321 OKC
- 40 Mary S. Cleveland TCCHD 918 744-1000
- 41 DON WHITNEY AQD 405 271-5220
- 42 Joel D. Rich Sinclair Oil 918-588-1116
- 43 Joyce W. Smedley AQD 405-271-5220
- 44 Michelle Schupp SUN 918 586 7683
- 45
- 46

Myrna Bruce



RECOMMENDATION
TO THE
ENVIRONMENTAL QUALITY BOARD
FROM THE
AIR QUALITY COUNCIL

The members of this Council, acting pursuant to the authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, Section 2-2-201, by roll call vote, make formal recommendation to the Environmental Quality Board that the rules specified below be adopted as permanent rules.

OAC 252:100-31-25 (c) (2)
CONTROL OF EMISSIONS OF SULFUR COMPOUNDS

Prior to making this recommendation, this Council considered the rules and comments received thereon and determined, to the best of its knowledge, that all requirements of the Oklahoma Administrative Procedures Act applicable to this rulemaking have been followed.

With the understanding that such changes shall not invalidate this recommendation, this Council authorizes the Department staff to make any amendments approved by the Council, appropriate corrections of typographical errors, additions and deletions indicated by strikeout/underline, and formatting as required by the Office of Administrative Rules.

Respectfully,

W B Pruitt

Chair or Designee

Signed this 9th day of AUGUST, 1994.

APPROVE

DISAPPROVE

- 1. Kathryn Hinkle
- 2. Michael Hughes
- 3. Mary Tillman
- 4. Gary Kilpatrick
- 5. Meribeth Slagell
- 6. William B. Breisch

- 1. _____
- 2. _____
- 3. _____
- 4. _____

ABSTAIN

- 1. Bill Fishback
- 2. _____
- 3. _____
- 4. _____

ABSENT

- 1. Larry Canter
- 2. Pierre Taron

- 3. _____
- 4. _____

Attached: Recommended rules
F:\wpdata\legal\mail\ac-recm.rul

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: November 30, 1994 Stroud, Oklahoma
Council and Court Room, Administration Building

1. **Call to Order - Roger Miner**
2. **Roll Call - Lynda Finch**
3. **Approval of Minutes of the September 28, 1994 Regular Meeting**
4. **Consideration of Amendments to Procedures of the DEQ 252:002 subchapter 17, relating to complaint processing**
 - A. **Presentation of Proposed Rules - Larry McKee**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**
5. **Consideration of Amendments to Air Pollution Rules 252:100 subchapter 8, relating to acid rain**
 - A. **Presentation of Proposed Rules - Larry Byrum**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**
6. **Consideration of Amendments to Air Pollution Rules 252:100 subchapter 8, relating to operating permits**
 - A. **Presentation of Proposed Rules - Larry Byrum**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**
7. **Consideration of Amendments to Air Pollution Rules 252:100 subchapter 31, relating to control of emission of sulfur compounds**
 - A. **Presentation of Proposed Rules - Larry Byrum**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**
8. **Consideration of Amendments to Air Pollution Rules 252:100 subchapter 45, relating to monitoring of emissions**
 - A. **Presentation of Proposed Rules - Larry Byrum**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**
9. **Consideration of Amendments to Industrial Wastewater Systems Rules Rule 252:615-3-4, relating to permit fees**
 - A. **Presentation of Proposed Rules - Lowell Hobbs**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**

10. **Consideration of Amendments to Non-Industrial Impoundment Rules
Rule 252:620-1-5, relating to fees**
 - A. **Presentation of Proposed Rules - Lowell Hobbs**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**

11. **Consideration of Amendments to Sludge & Land Application of Wastewater Rules
Chapter 252:647, relating to incorporating EPA rules, permit filing, fees,
prohibitions and exclusions**
 - A. **Presentation of Proposed Rules - Lowell Hobbs**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**

12. **Consideration of Amendments to Discharges - OPDES (NPDES) Rules
Chapter 252:605, relating to definitions, Appendices E & F (stormwater permit
dates) and Appendix G (fees)**
 - A. **Presentation of Proposed Rules - Lowell Hobbs**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**

13. **Consideration of Finding of Emergency for Agenda Items ⁵⁻ 4-12**
 - A. **Presentation - Mark Coleman**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**

14. **Consideration of 1995 Environmental Quality Board Regular Meeting Schedule**
 - A. **Presentation - Mark Coleman**
 - B. **Questions and Discussion by Board**
 - C. **Questions and Discussion by Public**
 - D. **Discussion by Board**
 - E. **Roll Call Vote**

15. **Selection of Location for Next Forum**

16. **New Business (any matter not known about, or which could not have been
reasonably foreseen prior to the time of posting of agenda)**

17. **Executive Director's Report**

18. **Calendar of Events**

19. **Adjournment**

Attachments (rulemaking preamble pages)

**Should you have a disability and need an accommodation, please notify our Department
three days in advance at 271-8056. TDD number 232-0591.**

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS
PART 5. NEW EQUIPMENT STANDARDS

252:100-31-25. Sulfur oxides

(a) Sulfuric acid plants.

(1) Emission limit.

(A) A person operating a new sulfuric acid plant shall not cause, suffer, or allow the discharge into the atmosphere of:

(i) sulfur dioxide in the effluent in excess of four (4) pounds per ton of 100 percent sulfuric acid produced (2 kg per metric ton), maximum two-hour average;

(ii) sulfuric acid mist which is in excess of 0.15 pound per ton of 100 percent sulfuric acid produced (75 grams per metric ton), maximum two-hour average, expressed in H_2SO_4 ; or

(iii) a visible emission equivalent to an opacity of five (5) percent.

(B) These emission limits shall apply to only those sulfuric acid plants producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans or acid sludge.

(2) Emission monitoring.

(A) All sulfuric acid plants regulated under this subsection shall have installed, calibrated, maintained and operated, an instrument for continuously monitoring and recording emissions of sulfur dioxide. The instrument installed and used pursuant to this subsection shall be calibrated following the Oklahoma test procedure requirements using the performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(B) The owner or operator of any sulfuric acid plant subject to provisions of this paragraph shall maintain a file of all measurements required including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurement, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(b) Fuel-burning equipment.

(1) Emission limit.

(A) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new gas fuel-burning equipment in excess of 0.2 pound per million BTU heat input (0.36 gram per million gram-calories), maximum three-hour average.

(B) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new liquid fuel-burning equipment in excess of 0.8 pound per million BTU heat input (1.4 grams per million gram-calories), maximum three-hour average.

(C) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new solid fuel-burning equipment in excess of 1.2 pounds

per million BTU heat input (2.20 grams per million gram-calories), maximum three-hour average.

(D) If a solid fuel sampling and analysis method is used to determine emission compliance, averaging time will be determined on a 24 hour basis.

(E) Where different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration unless a secondary fuel is used in de minimis quantities (less than 5% of total BTU input annually). Compliance shall be determined using the formula (effective July 1, 1972),

$$(y(.80) + z(1.2)) / y + z$$

where y is the percent of total heat input derived from liquid fuel and z is the percent of total heat input derived from solid fuel.

(2) **Emission and fuel monitoring.**

(A) There shall be installed, calibrated, maintained, and operated, in any new fuel-burning equipment with a rated heat input of 250 million BTU/hr. or more emission monitoring instruments as follows:

(i) a photoelectric or other type smoke detector and recorder, except where gaseous fuel is the only fuel burned; and,

(ii) an instrument for continuously monitoring and recording sulfur dioxide emissions, except where gaseous fuel containing less than 0.1 percent sulfur is the only fuel burned or a solid fuel sampling and analysis method is used to determine emission compliance.

(B) Instruments installed and used for monitoring shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(C) The sulfur content of solid fuels as burned shall be determined in accordance with previous methods as approved by the Executive Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

(D) The owner or operator of any fuel-burning equipment with a rated heat input of 250 million BTU/hr. or over shall maintain a file of all measurements required in subparagraphs (A), (B), or (C) of this paragraph, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two (2) years following the date of such measurements, and made available for inspection by the Air Quality Division or its representatives during normal business hours.

(c) **Gas sweetening and sulfur recovery plants.**

(1) **Natural gas processing.**

(A) As specified in 252:100-31-26(a)(1)(B), a new gas sweetening plant is allowed direct oxidation of hydrogen sulfide to sulfur dioxide without a prior sulfur removal step when the exhaust gas contains no more than 100 pounds per hour of sulfur dioxide. When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than this

allowed emission but less than or equal to 5.0 long tons per day (LT/D) of sulfur, a sulfur dioxide emission reduction efficiency of at least 75.0 percent shall be achieved by means of a sulfur recovery facility prior to the discharge of gases from the system.

(B) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 5.0 LT/D but less than or equal to 150 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 92.34 (X^{0.00774})$$

where Z is the minimum emission reduction efficiency required at all times and X is the sulfur feed rate, i.e., the hydrogen sulfide in the acid gas from the sweetening unit, expressed as long tons per day of sulfur rounded to one decimal place.

(C) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 150 LT/D but less than or equal to 1500 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 88.78 (X^{0.0156})$$

where Z and X are defined as in (B) of this subsection.

(D) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 1500 LT/D, a minimum sulfur dioxide reduction efficiency of 99.5 percent shall be required.

(2) **Other processes.** The emission of sulfur oxides, calculated as sulfur dioxide, from a new sulfur recovery plant operating in conjunction with other processes is limited to ~~20 pounds per ton of sulfur processed, maximum two hour average rates consistent with the emission reduction efficiencies calculated based on equivalent sulfur feed rate in long tons per day (LT/D) in the same manner as for natural gas processing in (c) (1) of this section.~~

(3) **Emission monitoring.** For facilities regulated under this subsection emission monitoring may be required as determined by the Executive Director in accordance with Subchapter 45 of this Chapter.

(d) **Nonferrous smelters.**

(1) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from new nonferrous smelters is restricted according to the following equations as a maximum two-hour average, where X equals total sulfur fed to smelter (lb/hr) and Y equals sulfur dioxide emissions (lb/hr):

(A) Copper Smelters: $Y = 0.2 (X)$

(B) Zinc Smelters: $Y = 0.564 (X^{0.85})$

(C) Lead Smelters: $Y = 0.98 (X^{0.77})$

(2) **Emission monitoring.**

(A) All new nonferrous smelters regulated under this subsection shall have installed, calibrated, maintained and

operated an instrument for continuously monitoring and recording emissions of sulfur dioxide following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new nonferrous smelter subject to provisions of this subparagraph shall maintain a file of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

(e) **Paper pulp mill.**

(1) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new paper pulp mill shall not exceed eighteen pounds per air-dried ton of pulp produced, maximum two-hour average.

(2) **Emission monitoring.**

(A) All new paper pulp mills shall have installed, calibrated, maintained and operated instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas-cleaning equipment and other locations as required by the Executive Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95 percent and be accurate within +20 percent and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new paper pulp mill subject to provisions of this subparagraph shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

Additional Comments

*Rules as presented to 10 EQ Board
12/30/94*

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

EXECUTIVE SUMMARY:

The intent of the revision to OAC 252:100-31-25 (c) (2) is to resolve any discrepancies and inequities as applied to all new sulfur recovery units in the state, and to provide that emissions standards are consistent with, and not more stringent than the New Source Performance Standards. The result would be a relaxation of standards applicable to new sulfur recovery plants operated in conjunction with processes other than natural gas processing.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

The revision to Subchapter 31 provides for the emissions standards to be consistent with, and not more stringent than the Federal Standards.

COMMENTS AND RESPONSES:

Comment: A letter received from EPA expressed concern regarding possible effects of the change to the State Implementation Plan, (SIP). They commented that it was their understanding that the regulation revision might be interpreted to cause a relaxation of the requirements of the State Implementation Plan, but that existing operating permits or newly issued permits would require the source to demonstrate that it would not cause a violation of the National Ambient Air Quality Standards (NAAQS). The concern was for the potential violation of the sulfur NAAQS. If their understanding was correct, they wanted the information stated in the hearing narrative that the standard would not be jeopardized.

Response: In accordance with EPA's concerns, the staff entered into the hearing record that any permit for a source subject to 31-25 (c) (2) or the modification of an existing permit to allow a source to comply with the new requirements would require the source to demonstrate compliance with the National Ambient Air Quality Standards (NAAQS), which is a normal part of the permit review process. No source is allowed to cause or contribute to exceeding the NAAQS. Sources may be required to demonstrate this by appropriate means, such as dispersion modeling.

Comment: A letter from a petroleum refiner was submitted that supported the proposed changes.

Scott / [redacted] Joyce



KERR-MCGEE

POST OFFICE BOX 305 • WYNNEWOOD, OKLAHOMA 73098

AIR QUALITY

July 14, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Larry Byrum, Director
Oklahoma State Department of Health
Air Quality Division
4545 N. Lincoln Blvd.
Oklahoma City, OK 73105-3483

Re: Comments on the Draft Copy to
Oklahoma Air Pollution Control Rule
OAC 252:100-31

Dear Mr. Byrum;

Per your July 1, 1994 letter requesting comments to the proposed revisions to Oklahoma Air Pollution Control Rule OAC 252:100-31 "Control of Emissions of Sulfur Compounds", please be advised that Kerr-McGee Refining Corporation supports the proposed change as underlined in paragraph C2 in the draft copy sent to us. We appreciate you sending a copy of the proposed rule change to KMRC and giving us the opportunity to comment on it.

If we can be of any further assistance on this issue, please contact me at (405)665-6600.

Sincerely,

Kerr-McGee Refining Corporation

DGP
SIC *G.L. Lorimor*

G.L. Lorimor
Refinery Manager.

0091DGP.fea



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

AUG 05 1994

Mr. Larry D. Byrum
Chief
Air Quality Program
Oklahoma Department of
Environmental Quality
4545 North Lincoln Boulevard, Suite 250
Oklahoma City, OK 73105-3483

RE: Air Pollution Control Rule OAC 252:100-31, "Control of Emissions of Sulfur Compounds"

Dear Mr. Byrum:

Thank you for your recent letter requesting our comments on proposed revisions to Oklahoma Air Pollution Control Rule OAC 252:100-31, "Control of Emissions of Sulfur Compounds." This revision is scheduled to be discussed at the Oklahoma Air Quality Control Council on August 9, 1994, and is a continuation of the discussion on this issue from a previous Council meeting.

On July 27, 1994, Mr. James Davis and I participated in a conference call with Dr. Joyce Sheedy and Mr. Scott Thomas of your staff regarding this issue. As a result of this conference call, it is our understanding that the regulation revision may cause a relaxation of the requirements in the State Implementation Plan (SIP), but that existing operating permits or newly issued permits would require that the source demonstrate that it would not cause a violation of the National Ambient Air Quality Standards (NAAQS). In this case, the concern would be a potential violation of the sulfur NAAQS. If our understanding is correct, we would like this information stated for the record in the SIP narrative or other documentation included in the SIP.

We appreciate the opportunity to give you our comments. If you have any questions, please call me or James Davis of my staff at (214) 655-7214.

Sincerely yours,

A handwritten signature in cursive script that reads "Thomas H. Diggs".

Thomas H. Diggs
Chief
Planning Section (6T-AP)

BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

COPY

* * * * *

HEARING BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
ON PROPOSED RULE OAC 252:100-31
AT 4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

* * * * *

COUNCIL MEMBERS PRESENT:

Mr. Bill Breisch, Chairman
Dr. Michael Hughes
Ms. Mary Tillman
Dr. Larry Canter
Mr. Gary Kilpatrick
Mr. Bill Fishback

ALSO PRESENT:

Mr. Larry Byrum, Protocol Officer
Ms. Myrna Bruce, Secretary of Council

Reported by:

Christina L. Stevens, CSR
PRIDE REPORTING SERVICES
2601 N.W. Expressway, Suite 103E
Oklahoma City, OK 73112
(405) 843-6498

INCIDENTS OF COMMISSION MEETING

	<u>PAGE</u>
MOTION TO CONTINUE BY MR. KILPATRICK	07
SECONDED BY DR. HUGHES	07
ROLL CALL VOTE	07

June 14, 1994
Oklahoma City, Oklahoma
1:50 o'clock p.m.

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THE CHAIRMAN: Next item, Item B: Control of Emissions of Sulfur Compounds. Larry, you're still acting as protocol officer.

MR. BYRUM: For the record, I will read my statement again. Ladies and gentlemen, my name is Larry Byrum. I'm director of the air quality division. As such, I will act as protocol officer for this hearing. This hearing is convened by the air quality council in compliance with the Oklahoma Administrative Procedures Act and Title 40 of the Code of Federal Regulations part 51 as well as authority of Title 63 of the Oklahoma Statutes, section 1-1801 and following. This hearing was advertised in the Oklahoma Register for the purposes of receiving comments pertaining to the proposed revisions of the sulfur rule. It's Rule 252:100-31. If you wish to make a statement concerning this rule, please complete the form at the registration table, and at the appropriate time, I will call upon you.

At this time, I will call upon Mr. Scott Thomas and Dr. Joyce Sheedy to give the staff proposals on these proposed changes. Mr. Thomas.

MR. THOMAS: Ladies and gentlemen, Mr. Chairman,

1 members of the council, my name is Scott Thomas. I'm
2 representing the staff of the air quality division of the
3 Oklahoma Department of Environmental Quality. I'm presently
4 serving as program director of analysis and inventory section of
5 the division.

6 The staff today is currently proposing a suggested
7 revision to Oklahoma Air Pollution Control Rule 252:100-31
8 entitled, "Control of Emission of Sulfur Compounds." The
9 proposed changes are being made to section 25 (c) (2) of the rule
10 and are indicated by underlining and striking out notations.
11 Notice of today's hearing was advertised in the May 2, 1994,
12 issue of the Oklahoma Register. Copies of the proposed rule are
13 available for the audience and public today and are a part of
14 the council packets. The proposed changes are shown on page 3
15 of the existing rule.

16 The suggested new language for 25 (c) (2) is as follows:
17 "Other processes. The emission of sulfur oxides, calculated as
18 sulfur dioxide, from a new sulfur recovery plant operating in
19 conjunction with other processes is limited to rates consistent
20 with the emission reduction efficiencies calculated based on
21 equivalent sulfur feed rates in long tons per day in the same
22 manner as for natural gas processing in section (c) (1) above."

23 It has come to our attention that it has been in many
24 cases economically unfeasible for the facilities to comply with
25 the emission limitations specified in this section. And in

1 order to more readily comply with our rules, the facilities
2 could opt to seek an alternative emission reduction permit under
3 subchapter 11 of our rules, and then this permit would have to
4 be submitted to EPA as a source specific state implementation
5 plan revision.

6 As many of the council will remember, the Conoco
7 Refinery in Ponca City went through this process a few years
8 ago. This is a time-consuming and fairly complicated process
9 for all those involved, including the staff, the company, the
10 EPA, and the council. It resulted in Conoco basically meeting
11 the emission limitations associated with the natural gas
12 requirements in the existing rule. We would hope that this
13 proposed revision would allow for simplification in the
14 processing of such new permits or new units in the future.

15 We are also recommending that the hearing today be
16 continued on to the council's August 9th meeting in Tulsa. We
17 feel this is necessary so we can receive as many comments as
18 possible, allow time for us to gain additional information so
19 that the staff and the council can make the appropriate
20 decisions, and we intend to make a special effort to notify the
21 facilities involved. We are especially interested in receiving
22 comments from EPA as to the proposal's approvability as this may
23 appear as a relaxation in an omission limitation. We earnestly
24 solicit comments from all interested parties.

25 At this time, I would like to turn the podium over to

1 Dr. Joyce Sheedy. She is acting head of our permit and
2 compliance section, so she can address some of the other aspects
3 of this proposal. Joyce.

4 MS. SHEEDY: Thank you, Scott. The main differences we
5 expect to find in sulfur reduction between petroleum refineries
6 and natural gas facilities is a greater concentration of
7 hydrogen sulfide in the gas streams at a refinery and that
8 sulfur reduction units may need to have a larger capacity at a
9 refinery. However, in our experience, most refinery SRUs have
10 been designed to be less than 20 long tons per day to avoid
11 applicability to the Federal New Source Performance Standards 40
12 CFR 60, subpart J. Currently, there are sweetening units in the
13 state at natural gas facilities that have capacities of 14 or 15
14 long tons per day, so size is not -- probably not going to be
15 that much of an issue.

16 The additional capital cost required to meet 31.25
17 (c)(2) seems an unfair economic burden to place on refineries
18 and may discourage the installation of SRUs. Our current rule
19 is somewhat more stringent than the Federal NSPS subpart J
20 standards. The utilization of SRUs does result in a reduction
21 of SO2 that can be quite significant, and it will continue to do
22 so if they are allowed to meet the same limits required for
23 natural gas facilities.

24 Scott and I are now ready to -- available to answer any
25 questions you may have regarding this proposed amendment.

1 MR. BYRUM: Questions from the council?

2 (No response.)

3 MR. BYRUM: Questions from the audience?

4 (No response.)

5 MR. BYRUM: Mr. Chairman, I hear no questions.

6 THE CHAIRMAN: It's been recommended that we continue
7 this hearing until our next regular meeting. If that's the
8 desire of the council, I need a motion.

9 MR. KILPATRICK: I so move.

10 DR. HUGHES: Second.

11 THE CHAIRMAN: I got a motion and a second that this
12 item be continued until our next regular meeting. If there is
13 no further discussion, call the roll.

14 MS. BRUCE: Dr. Hughes.

15 DR. HUGHES: Yes.

16 MS. BRUCE: Ms. Tillman.

17 MS. TILLMAN: Yes.

18 MS. BRUCE: Dr. Canter.

19 DR. CANTER: Yes.

20 MS. BRUCE: Mr. Kilpatrick.

21 MR. KILPATRICK: Yes.

22 MS. BRUCE: Mr. Fishback.

23 MR. FISHBACK: Abstain.

24 MS. BRUCE: Mr. Breisch.

25 MR. BREISCH: Yes.

1 THE CHAIRMAN: This concludes the public hearings. We
2 will take a short break while the court reporter gets her
3 equipment together, and then we will continue our hearings.

4 (The meeting concluded at 2:00 o'clock p.m.)

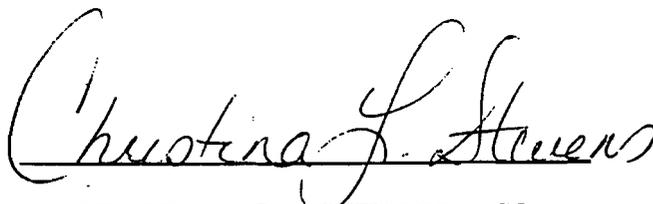
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I, CHRISTINA L. STEVENS, CSR, having been duly appointed as Official Court Reporter herein, do hereby certify that the foregoing pages number from 1 to 8, inclusive, constitute a full, true, and accurate transcript of all the proceedings had in the above matter, all done to the best of my skill and ability.

DATED the 21st day of June, 1994.



CHRISTINA L. STEVENS, CSR

Official Court Reporter
Michigan Certified Reporter
Exp. Date: December 31, 1994
Certificate No. 4177

BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

* * * * *

HEARING BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL
ON THE PUBLIC RULE MAKING PROPOSAL
CONTROL OF EMISSIONS OF SULFUR COMPOUNDS
HELD ON AUGUST 9, 1994
AT TULSA, OKLAHOMA
* * * * *

ORIGINAL

COUNCIL MEMBERS PRESENT:

Mr. Bill Breisch, Chairman
Dr. Michael Hughes
Ms. Meribeth Slagell
Mr. Bill Fishback
Ms. Kathryn Hinkle
Mr. Gary Kilpatrick
Ms. Mary Tillman

Also Present:

Mr. Larry Byrum, Protocol Officer
Ms. Myrna Bruce, Secretary of Council

Reported by:

Gayla Chronic, CSR, RPR
PRIDE REPORTING SERVICES
2601 N.W. Expressway, Suite 103E
Oklahoma City, OK 73112
(405) 843-6498

I N D E X

INCIDENTS OF MEETING:

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Roll Call	3
Motion by Mr. Kilpatrick	11
Second by Dr. Hughes	11
Roll Call	11

Oklahoma City, OK

August 9, 1994

1:00 o'clock p.m.

* * * * *

1 THE CHAIRMAN: Let's call this session of the
2 meeting to order.

3 Myrna, will you call the roll.

4 THE SECRETARY: Mr. Fishback.

5 MR. FISHBACK: Here.

6 THE SECRETARY: Ms. Hinkle.

7 MR. HINKLE: Here.

8 THE SECRETARY: Dr. Hughes.

9 DR. HUGHES: Here.

10 THE SECRETARY: Ms. Tillman.

11 MS. TILLMAN: Here.

12 THE SECRETARY: Mr. Kilpatrick.

13 MR. KILPATRICK: Here.

14 THE SECRETARY: Ms. Slagell.

15 MS. SLAGELL: Here.

16 THE SECRETARY: Mr. Breisch.

17 MR. BREISCH: Here.

18 THE CHAIRMAN: Next is the public rule making
19 part of the session. Larry Byrum will act as protocol
20 officer. Larry?

21 MR. BYRUM: Ladies and gentlemen: My name is

1 Larry Byrum. I am the Director of the Air Quality
2 Division. As such I will act as protocol officer for
3 this hearing. I will inform you this hearing is
4 convened by the Air Quantity Council in compliance with
5 the Oklahoma Administrative Procedures Act and Title 40
6 of the Code of Federal Regulations Part 51, as well as
7 the authority of Title 63 of the Oklahoma Statutes,
8 Section 5-1801 et al. This hearing was advertised in
9 the Oklahoma Register for purposes of receiving comments
10 for the proposed revision of Oklahoma Administrative
11 Code 252:100-31, Control of Emissions of Sulfur
12 Compounds.

13 If you wish to make a statement in regards to
14 this issue, there are forms at the sign-in table at the
15 back of the room. If you will please fill out one of
16 these forms, we'll call on you at the appropriate time.

17 At this time we would like to call upon
18 Dr. Joyce Sheedy to give the staff position on the
19 proposed change.

20 Dr. Sheedy?

21 DR. SHEEDY: Mr. Chairman, members of the
22 Council, ladies and gentlemen: My name is Joyce Sheedy.
23 I am presently serving as acting program director of
24 permits and compliance Section of the Air Quality
25 Service, Air Quality Division.

1 We are proposing changes as shown on page 3 of
2 the Oklahoma Air Pollution Control Rule
3 252:100-31.25(c)(2), regarding sulfur dioxide emissions
4 from refineries, sulfur recovery units. I'm not going
5 to read the rule to you, but I am going to ask that it
6 be made part of the record.

7 Essentially, the change limits sulfur dioxide
8 emissions from new sulfur recovery plants at refineries
9 to rates consistent with the emission reductions
10 efficiencies required for the natural gas processing in
11 Section (c)(1) of the same rule.

12 In the past, companies proposing to add sulfur
13 recovery units at refineries have opted to seek an
14 alternative emission permit under subchapter 11 of our
15 rules, citing the additional capital cost required to
16 meet the rule as unduly burdensome.

17 As many of the Council may recall, a few years
18 ago Conoco chose to apply for an alternative emission
19 reduction permit for the installation of a SRU unit at
20 their Ponca City plant. This procedure is complicated
21 and time-consuming for all of those involved: the
22 Council, the air quality staff, the company, and EPA.

23 Conoco was allowed to comply with essentially
24 the emission limits set in subchapter 31 for natural gas
25 sweetening processes. Since the result of this exercise

1 has been essentially to allow refineries that are used
2 to meet the limits set for natural gas units, it seem
3 prudent to amend the rule and thus avoid the necessity
4 for an alternative emission reduction permit.

5 The main difference we expect to see in sulfur
6 reduction limits between petroleum refineries and
7 natural gas facilities is a greater concentration of
8 hydrogen sulfide perhaps in the refinery process stream
9 and possibly for one-year path (sic) in the extra SRUs
10 in refineries.

11 However, in our experience, most refinery SRUs
12 are designed to be less than 20 long tons per day,
13 basically to avoid becoming subject to NSPS subpart J
14 for refineries. There are natural gas facilities in the
15 state that have sweetening units 14 to 15 long tons per
16 day, so the capacity of the units may not be that
17 different after all.

18 The additional capital costs required to meet
19 31.25(c)(2) seems an unfair economical burden to place
20 on refineries and may actually discourage the
21 installation of SRUs. Our existing rule is more
22 stringent than the federal NSPS subpart J. It should be
23 noted that the utilization of SRUs result in a reduction
24 of sulfur dioxide that can be quite significant, and
25 this reduction would occur if the refinery SRUs are

1 allowed to meet the same standards required for natural
2 gas facilities. That would still be a considerable
3 reduction in sulfur dioxide.

4 Since the Council meeting in June, the Air
5 Quality Division has received two letters of comment
6 regarding the proposed change to 31.25(c)(2), which I
7 wish to make part of the record.

8 The Council has been provided copies of these
9 letters. One letter was from Kerr-McGee, supporting the
10 proposed change, and one was from region 6 of the USEPA
11 expressing concerns regarding possible effects of this
12 change on this state implementation plan. And I've been
13 asked to read this letter into the record, and I will do
14 that as quickly as I can.

15 The letter is to Mr. Larry D. Byrum, Chief, Air
16 Quality Progam, Oklahoma Department of Environmental
17 Quality, 4545 North Lincoln Boulevard, Suite 250,
18 Oklahoma City, Oklahoma, 73105-3483.

19 RE: Air Pollution Control Rule OAC 252:100-31,
20 Control of Emissions of Sulfur Compounds.

21 "Dear Mr. Byrum: Thank you for your recent
22 letter requesting our comments on proposed revisions to
23 the Oklahoma Air Pollution Control Rule, OAC 252:100-31,
24 Control of Emissions of Sulfur Compounds. This revision
25 is scheduled to be discussed at the Oklahoma Air Quality

1 Council on August 9, 1994, and it is a continuation of
2 the discussion on this issue from a previously Council
3 meeting.

4 "On July 27, 1994, Mr. James Davis and I
5 participated in a conference call with Dr. Joyce Sheedy
6 and Mr. Scott Thomas of your staff, regarding this
7 issue. As a result of this conference call, it is our
8 understanding the regulation revision may cause a
9 relaxation of the requirements in the State
10 Implementation Plan, parenthesis, S-I-P, close
11 parenthesis, but that existing operating permits or
12 newly issued permits would require that the source
13 demonstrate that it would not cause a violation of the
14 national Ambient Air Quality Standards (NAAQS). In this
15 case, the concern would be a potential violation of the
16 sulfur NAAQS. If our understanding is correct, we would
17 like this information stated for the record in the SIP
18 narrative or other documentation included in the SIP.

19 "We appreciate the opportunity to give you our
20 comments. If you have any questions, please call me or
21 James Davis of my staff at 214-655-7214.

22 "Sincerely yours, Thomas H. Diggs, Chief,
23 Planning Section 6T-AP."

24 It was not our intention that any existing --
25 one of their concerns in our telephone conversation was

1 that we might be relaxing an existing permit condition
2 on an existing unit. I don't believe that we have a
3 unit that has this permit condition placed on it because
4 of this rule, but it would not be our intention to do
5 that. If a company wanted to change an existing permit
6 condition, they would have to go through our normal
7 process, and that would include that we would be looking
8 at NAAQS OR any other standards to see that we would not
9 be violating it.

10 So in response to EPA's comments, any permit
11 for source subject to 31.25(c)(2) are the modification
12 of an existing permit to allow a source to comply with
13 the new requirements. The proposed requirements would
14 be required to demonstrate compliance with the National
15 Ambient Air Quality Standards. This is a normal part of
16 our permit review process.

17 No source is allowed to cause or contribute to
18 the exceeding The National Ambient Air Quality Standard.
19 Sources may be required to demonstrate this by
20 appropriate means, such as disbursing modeling.

21 The staff recommends that the proposed
22 revision -- the staff recommends the proposed
23 revision -- let me try that again.

24 The staff recommends that the Air Quality
25 Council submit the proposed revision to the DEQ Board

1 and for approval as both an emergency and permanent
2 rule.

3 If there are any questions I would be glad to
4 try to answer them now.

5 MR. BYRUM: Questions for Joyce?

6 MR. KILPATRICK: Joyce, have you all done --
7 we may have asked this at the last meeting; I can't
8 remember. At, say, for instance, 20 tons, just an
9 assumed plan, what's the difference in efficiency
10 between using the formula which we are approving and the
11 old regulation?

12 MS. SHEEDY: David, I believe you've done that,
13 haven't you? Yes. Let me have David answer that. He's
14 going to be more fluent than I am.

15 MR. BYRUM: State your name and who you are,
16 for the record.

17 MR. SCHUTZ: Yes, I am David Schutz, Senior
18 Environmental Engineer for Air Quality Division.

19 Question was at a 20 ton --

20 MR. KILPATRICK: I just picked 20.

21 MR. SCHUTZ: Okay. At a 20-long-ton-per-day
22 process capacity, the new regulation would require
23 approximately a 95 percent recovery. The existing
24 regulation would require a flat 99.5 percent recovery
25 regardless of size.

1 MR. BYRUM: Other questions for Dr. Sheedy?

2 (No response.)

3 MR. BYRUM: I have no slips with anyone wishing
4 to speak to this subject.

5 Any other questions for Joyce?

6 Thank you, Dr. Sheedy.

7 MS. SHEEDY: Thank you.

8 THE CHAIRMAN: I need a motion from the Council
9 to recommend this to the DEQ Board, I guess with
10 emergency permit.

11 MR. KILPATRICK: I'll so move.

12 DR. HUGHES: Second.

13 THE CHAIRMAN: I've got a motion and a second
14 to recommend this to the DEQ Board. Any further
15 questions, comments?

16 Call roll.

17 THE SECRETARY: Mr. Fishback.

18 MR. FISHBACK: Abstain.

19 THE SECRETARY: Ms. Hinkle.

20 MR. HINKLE: Aye.

21 THE SECRETARY: Dr. Hughes.

22 DR. HUGHES: Aye.

23 THE SECRETARY: Miss Tillman?

24 MS. TILLMAN: Aye.

25 THE SECRETARY: Mr. Kilpatrick.

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MR. KILPATRICK: Aye.

THE SECRETARY: Ms. Slagell.

MS. SLAGELL: Aye.

THE SECRETARY: Mr. Breisch.

MR. BREISCH: Aye.

(The hearing on this matter was concluded.)

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I, GAYLA CHRONIC, CSR, RPR, having been duly appointed as Official Court Reporter herein, do hereby certify that the foregoing pages number from 3 to 12, inclusive, constitute a full, true, and accurate transcript of all the proceedings had in the above matter, all done to the best of my skill and ability.

DATED the 7th day of September, 1994.

Gayla Chronic

GAYLA CHRONIC, CSR, RPR

Gayla S. Chronic
Oklahoma Certified Court Reporter
Certificate Number 01127
Exp. Date: December 31, 1994

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-33 Control of Emission of Nitrogen Oxides

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OAC 252:100-33 SIP Revision

CHAPTER 100: AIR POLLUTION CONTROL

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

Section

252:100-33-1. Purpose

252:100-33-1.1. Definitions [NEW]

252:100-33-1.2. Applicability [NEW]

252:100-33-2. Emission limits [AMENDED]

252:100-33-3. Performance testing [REVOKED]

252:100-33-1. Purpose

The purpose of this Subchapter is to control the emission of nitrogen oxides from stationary sources to prevent the Oklahoma air quality standards from being exceeded and insure that the present level of air quality in Oklahoma is not degraded.

252:100-33-1.1. Definitions [NEW]

The following terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

“New fuel-burning equipment” means any fuel-burning equipment, with the exception of gas turbines, that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions, and any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

“Three-hour average” means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

252:100-33-1.2. Applicability [NEW]

This Subchapter applies to new fuel-burning equipment that meets both of the following criteria.

- (1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.
- (2) The equipment burns solid fossil, gas, or liquid fuel.

252:100-33-2. Emission limits

(a) Fuel combustion.

~~(1) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new gas-fired fuel-burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.20 pound per million BTUs (0.36 gram per million gram-calorie) heat input, two hour maximum.~~

~~(2) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new liquid-fired fuel-burning equipment with a rated heat input of 50 million~~

BTUs per hour or more, in excess of 0.30 pound per million BTUs (0.54 gram per million gram calorie) heat input, two-hour maximum.

~~(3) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new solid fossil fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.70 pound per million BTUs (1.26 gram per million gram calorie) heat input, two-hour maximum.~~

(a) **Gas-fired fuel burning equipment.** Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new gas-fired fuel-burning equipment shall not exceed 0.20 lb/MMBtu (0.86 ng/J) heat input, three-hour average.

(b) **Nitric acid plant.**

~~(1) No person shall cause, suffer or allow emissions of nitrogen oxides, calculated as nitrogen dioxide, from new nitric acid plants, in excess of 3.0 pounds per ton (1.5 kg/metric ton) of 100 percent acid produced, two-hour maximum.~~

~~(2) No person shall cause, suffer or allow to be discharged into the atmosphere from new nitric acid plants any visible emissions which exhibit 10 percent opacity, or greater.~~

(b) **Liquid-fired fuel-burning equipment.** Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new liquid-fired fuel-burning equipment shall not exceed 0.30 lb/MMBtu (129 ng/J) heat input, three-hour average.

(c) **Solid fossil fuel-burning equipment.** Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new solid fossil fuel-burning equipment shall not exceed 0.70 lb/MMBtu (300 ng/J) heat input, three-hour average.

252:100-33-3. Performance testing [REVOKED]

~~—Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

Oklahoma Register

Notices of Rulemaking Intent

COMMENT PERIOD:

The comment period for the proposed amendments to Subchapter 15 was November 15 through December 14, 1999.

PUBLIC HEARINGS:

Previously held before the Air Quality Council on December 14, 1999. However, additional oral comments may be made at the meeting of the Environmental Quality Board, Friday, February 25, 2000 - 9:30 a.m., at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

On December 14, 1999, the Air Quality Council recommended the proposed amendments to Subchapter 15 be recommended for adoption by the Environmental Quality Board at their meeting on February 25, 2000.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1640; filed 12-30-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1631]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]
Subchapter 33. Control of Emission of Nitrogen Oxides [AMENDED]

SUMMARY:

The proposed changes to Subchapter 9 include substantive changes such as requiring that any written report or notice submitted for excess emissions contain a certification of truth, accuracy and completeness. Additional demonstration requirements for malfunctions, and startup/shutdown were added under proposed section 252:100-9-3-2, Demonstration of cause. These requirements, which owners and operators must meet to be exempt from compliance with applicable standards, include placing the burden on the owner or operator of proving that excess emissions occurring more than 1.5 percent of a process's operation time in a calendar quarter are not indicative of inadequate design, operation, or maintenance. Language was added to explain that compliance with this subchapter will not exempt sources from complying with any applicable federal requirement.

The proposed changes to Subchapter 33 are to simplify and clarify requirements and to remove redundant requirements. This is part of the agency-wide re-right/de-wrong initiative. No substantive changes are proposed.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1999, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on February 16, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by February 9, 2000. Oral comments may be made at the February 16, 2000 hearing and at the February 25, 2000 hearing.

PUBLIC HEARINGS:

Wednesday, February 16, 2000 - 9:00 a.m. hearing, in Tulsa, Oklahoma (exact location to be announced).

Scheduled before the Environmental Quality Board February 25, 2000, at 9:30 a.m. at the Department of Environmental Quality, Multi-purpose room, 707 N. Robinson, Oklahoma City, OK.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current

Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (252:100-9) and Joyce Sheedy (252:100-33), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 9 was brought to public hearing on June 15, August 24, October 19 and December 14, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1631; filed 12-27-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-1638]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 13. Prohibition of Open Burning [AMENDED]

SUMMARY:

The proposed changes to Subchapter 5 are designed to allow the agency to bill annual operating fees on a flexible schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language clarifies that an owner/operator of a facility must report quantifiable excess emissions on their annual emission inventory. Substantive changes include requiring all inventories to be submitted prior to March 1 and providing up to a 60-day extension upon request and good cause shown. It allows fee payers five years after payment is made to notify the DEQ that they overpaid and receive credit for such overpayment, and reduces to six months after inventories are due or submitted the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the method used to calculate the facility's emissions for fee calculation purposes.

The proposed changes to Subchapter 13 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for

allowed open burning into a new section. A few substantial changes were made, such as adding definitions "domestic refuse" and "land clearing operation," along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. New language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. Existing language on open-pit incinerators was expanded and now prohibits accepting any material owned by other persons and from transporting any material to the property where the open-pit incinerator is located in order to burn the material.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, Section 2-2-101; and Oklahoma Clean Air Act Section 2-5-101, *et. seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional service revenue loss, or other costs expected to be incurred by particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

The comment period for the proposed amendments to Subchapters 5 and 13 were September 15 through October 19, 1999, and November 15 through December 14, 1999.

PUBLIC HEARINGS:

Previously held before the Air Quality Council on October 19 and December 14, 1999. However, additional oral comments may be made at the meeting of the Environmental Quality Board, Friday, February 25, 2000 - 9:30 a.m., at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for additional information.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-340; filed 2-24-00]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #00-341]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]

Subchapter 11. Alternative Emissions Reductions Permits [AMENDED]

Subchapter 33. Control of Emission of Nitrogen Oxides [AMENDED]

SUMMARY:

The proposed amendments to Subchapter 9 include substantive changes such as adding definitions for "bypass," "regulated air pollutant," "technological limitation," and "working day," and requiring that a certification of truth, accuracy and completeness be submitted with any written report. Additional demonstration requirements for malfunctions and startups/shutdowns were added under proposed section 252:100-9-3.3, Demonstration of cause. Owners and operators must meet these requirements in order to be exempt from compliance with air emission limitations established in permits, rules, and orders of the DEQ. Language has been proposed to allow sources in an industry to request exemption from the applicable rules and regulations when air emissions from the industry cannot meet the applicable rules and regulations due to a technological limitation. Also, language has been proposed to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement. In addition, it has been proposed that excess emissions occurring more than 1.5 percent of a process's operation time in a calendar quarter may be indicative of inadequate design, operation, or maintenance, and the DEQ may initiate further investigation to determine if that is so. Prior notice to the DEQ by facilities of maintenance activities has been proposed to be deleted from the rule. Finally, proposed language would clarify that even if a facility has made a demonstration of cause so as to be exempt from compliance from an applicable requirement, the DEQ still has the authority to order corrective action or

to require a cessation of activities if the emissions would cause a condition of air pollution.

The proposed amendments to Subchapter 11 will clarify and simplify the language as a part of the agency-wide re-right/de-wrong initiative. No substantive changes are being made to the Subchapter.

The proposed changes to Subchapter 33 are to primarily to simplify and clarify requirements and to remove redundant requirements as part of the agency-wide re-right/de-wrong initiative. Staff is also considering the following revisions: addition of language to make clear whether the rule applies to municipal waste incinerators subject to Subchapter 17; clarification or deletion of the term "two-hour maximum" in 252:100-33-2; and exemption of sources that are subject to nitrogen oxide standards contained in 40 CFR 60 Subparts D, Da, Db, or Dc, if the standards in these Subparts are as stringent as those contained in Subchapter 33. Some of the additional revisions being considered by staff may be substantive in nature.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. Supp. 1999, §§ 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, et seq.

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on April 19, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by April 12, 2000. Oral comments may be made at the April 19, 2000 hearing and at the Environmental Quality Board hearing on June 20, 2000, in Tulsa, Oklahoma.

PUBLIC HEARINGS:

Wednesday, April 19, 2000 - 9:00 a.m. hearing, 4500 W. Lee Blvd, Room 301, Lawton Great Plains Technology Center, Lawton, OK.

Scheduled before the Environmental Quality Board at 9:30 a.m. on June 20, 2000 at the University Center at Tulsa, 700 N. Greenwood Ave., Tulsa, OK 74106.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

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Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (Subchapter 9), Michelle Martinez (Subchapter 11), Joyce Sheedy (Subchapter 33), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 9 was brought to public hearing on June 15, 1999, August 24, 1999, October 19, 1999, December 14, 1999 and February 16, 2000.

Subchapter 33 was brought to public hearing on February 16, 2000.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-341; filed 2-24-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 510. MUNICIPAL SOLID WASTE LANDFILLS

[OAR Docket #00-331]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 510. Municipal Solid Waste Landfills
[AMENDED]

SUMMARY:

The revisions to Chapter 510 are the result of the DEQ's re-right/de-wrong process to eliminate unneeded or outdated rules, to implement new rules based on statutory requirements, and to make other minor modifications for clarification and standardization.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and the Oklahoma Solid Waste Management Act, 27A O.S.Supp. 1999, § 2-10-101 et seq.

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Deliver or mail written comments to the contact person from March 16, 2000 through April 5, 2000.

PUBLIC HEARINGS:

Before the Solid Waste Management Advisory Council at 9:00 a.m. on April 13, 2000 at the Norman Public Library, 225 N. Webster Ave., Norman, OK, 73069. Before the Environmental Quality Board at 9:30 a.m. on June 20, 2000 at the University Center of Tulsa, 700 N. Greenwood Ave., Tulsa, OK 74106.

COPY OF PROPOSED RULE:

The proposed rules, a copy of the proposed modifications and a table summarizing the changes for Chapter 510 may be obtained from the contact person or at the DEQ website at www.deq.state.ok.us/waste/index.html.

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rules may be obtained from the contact person, or at the DEQ website at www.deq.state.ok.us/waste/index.html.

CONTACT PERSONS:

Contact Jon Roberts at jon.roberts@deqmail.state.ok.us or (405) 702-5100 (phone) or 702-5101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #00-331; filed 2-24-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 520. SOLID WASTE MANAGEMENT

[OAR Docket #00-332]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 520. Solid Waste Management [AMENDED]

SUMMARY:

The revisions to Chapter 520 are the result of the DEQ's re-right/de-wrong process to eliminate unneeded or outdated rules, to implement new rules based on statutory requirements, and to make other minor modifications for clarification and standardization.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and the Oklahoma Solid Waste Management Act, 27A O.S.Supp. 1999, § 2-10-101 et seq.

Permanent Final Adoptions

- (1) The use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, driveways and parking lots or the clearing of land for commercial, industrial, or residential development;
- (2) The application of water or suitable chemicals or some other covering on materials stockpiles, and other surfaces which ~~that~~ can create air-borne dusts under normal conditions;
- (3) The installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials or the use of water sprays or other acceptable measures to suppress the dust emission during handling. Adequate containment methods shall be employed during sandblasting or other similar operations;
- (4) The covering or wetting when in motion, of open-bodied trucks, trailers, or railroad ear cars when transporting dusty materials in areas where the general public must have access which can create air-borne particulate matter;
- (5) The removal as necessary from paved street and parking surfaces of earth or other material which materials that have a tendency to become airborne; and/or,
- (6) ~~the~~ The planting and maintenance of vegetative ground cover as necessary.

252:100-29-5. Variance [REVOKED]

~~Uses of potential variance from this Subchapter are subject to review, approval, and/or denial of the requested variance by the Air Quality Council.~~

[OAR Docket #01-747; filed 4-23-01]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #01-752]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 33. Control of Emission of Nitrogen Oxides

[AMENDED]

252:100-33-1.1 [NEW]

252:100-33-1.2 [NEW]

252:100-33-2 [AMENDED]

252:100-33-3 [REVOKED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 2000, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

January 15, 2000, through February 16, 2000

March 15, 2000, through April 19, 2000

Public hearing:

February 16, 2000

April 19, 2000

June 30, 2000

Adoption:

June 20, 2000

Submitted to Governor:

June 29, 2000

Submitted to House:

June 29, 2000

Submitted to Senate:

June 29, 2000

Gubernatorial approval:

July 24, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2001

Final adoption:

March 27, 2001

Effective:

June 1, 2001

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed revisions are to simplify and clarify requirements and to remove redundant requirements as part of the agency-wide re-right/de-wrong initiative. No substantive changes are proposed.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

No substantive changes were made to this rule.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 794-6800

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2001:

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

252:100-33-1.1. Definitions

The following terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"New fuel-burning equipment" means any fuel-burning equipment, with the exception of gas turbines, that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions, and any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

"Three-hour average" means the arithmetic average of

sampling results or continuous emission monitoring data from three contiguous one-hour periods.

252:100-33-1.2. Applicability

This Subchapter applies to new fuel-burning equipment that meets both of the following criteria.

- (1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.
- (2) The equipment burns solid fossil gas or liquid fuel.

252:100-33-2. Emission limits

(a) Fuel combustion.

- (1) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new gas-fired fuel-burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.20 pound per million BTUs (0.36 gram per million gram-calorie) heat input, two-hour maximum.
- (2) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new liquid-fired fuel-burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.30 pound per million BTUs (0.54 gram per million gram-calorie) heat input, two-hour maximum.
- (3) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new solid fossil fuel-burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.70 pound per million BTUs (1.26 gram per million gram-calorie) heat input, two-hour maximum.

(a) Gas-fired fuel-burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new gas-fired fuel-burning equipment shall not exceed 0.20 lb/MMBtu (86 ng/l) heat input, three-hour average.

(b) Nitric acid plant.

- (1) No person shall cause, suffer or allow emissions of nitrogen oxides, calculated as nitrogen dioxide, from new nitric acid plants, in excess of 3.0 pounds per ton (1.5 kg/metric ton) of 100 percent acid produced, two-hour maximum.
- (2) No person shall cause, suffer or allow to be discharged into the atmosphere from new nitric acid plants any visible emissions which exhibit 10 percent opacity, or greater.

(b) Liquid-fired fuel-burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new liquid-fired fuel-burning equipment shall not exceed 0.30 lb/MMBtu (129 ng/l) heat input, three-hour average.

(c) Solid fossil fuel-burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new solid fossil fuel-burning equipment shall not exceed 0.70 lb/MMBtu (300 ng/l) heat input, three-hour average.

252:100-33-3. Performance testing [REVOKED]

Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by

procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.

[OAR Docket #01-752; filed 4-23-01]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #01-764]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 41. . . Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants
Part 3. Hazardous Air Pollutants
252:100-41-15 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 2000, §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*

DATES:

Comment period:

September 15, 2000, through October 18, 2000

November 14, 2000

Public hearing:

October 18, 2000

November 14, 2000

Adoption:

November 14, 2000

Submitted to Governor:

November 21, 2000

Submitted to House:

November 21, 2000

Submitted to Senate:

November 21, 2000

Gubernatorial approval:

January 2, 2001

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2001

Final adoption:

March 27, 2001

Effective:

June 1, 2001

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants
Part 3. Hazardous Air Pollutants
252:100-41-15 [AMENDED]

Gubernatorial approval:

January 2, 2001

Register publication:

18 Ok Reg 641

Docket number:

01-84

Air Quality Council

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
9:00 A.M.
Wednesday, February 16, 2000
OSU at Tulsa Conference Center Auditorium
700 N. Greenwood
Tulsa, Oklahoma 74106

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. CY 2000 Election of Officers
 - A. Discussion by Council
 - B. Roll call vote
4. Approval of Minutes of the December 14, 1999 Regular Meeting.
5. Public Rulemaking Hearings

A. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include the requirement that any written report or notice submitted for excess emissions contain a certification of truth, accuracy and completeness. Additional demonstration requirements for malfunctions, and startup/shutdown were added under proposed section 252:100-9-3-2, Demonstration of cause. These requirements, which owners and operators must meet to be exempt from compliance with applicable standards, include placing the burden on the owner or operator of proving that excess emissions occurring more than 1.5 percent of a process's operation time in a calendar quarter are not indicative of inadequate design, operation, or maintenance. Language was added to explain that compliance with this subchapter will not exempt sources from complying with any applicable federal requirement. Language was also added to require reasonable steps be taken to minimize the impact of excess emissions without requiring the use or installation of additional stand-by or redundant pollution control equipment not otherwise required.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

B. OAC 252:100-33 Control of Emission of Nitrogen Oxides [AMENDED]

Proposal would simplify and clarify requirements and remove redundant requirements under the agency-wide re-right/de-wrong initiative. The language in 252:100-33-2(a)(1), (2), and (3) was simplified. OAC 252:100-33-2(b) which sets standards for nitric acid plants was deleted. NSPS 40 CFR 60, Subpart G, sets federal standards of performance for nitric acid plants. The federal standards apply to each nitric acid production unit in nitric acid plants that commenced construction or modification after August 17, 1971. The federal standards are as stringent as those contained in 252:100-33-2(b). Since 252:100-33-2(b) became effective after

August 17, 1971 and applies only to new sources, the federal standards cover the same facilities. The NSPS standard for nitric acid plants has been incorporated by reference in 252:100-4 making 252:100-33-2(b) redundant. OAC 252:100-33-3 which provides for performance testing of the equipment covered by Subchapter 33 was revoked. Performance testing requirements are contained in 252:100-43 making this section redundant. No substantive changes were proposed.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

6. Division Director's Report – Eddie Terrill

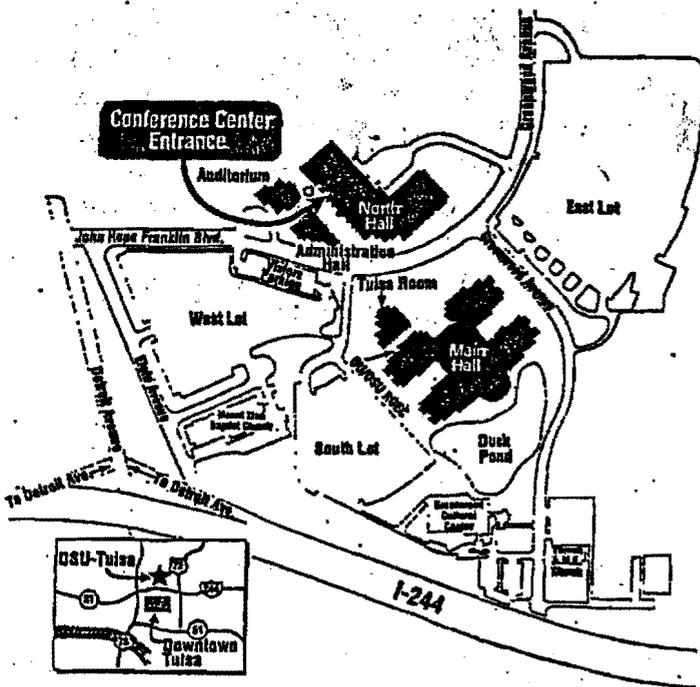
7. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

8. Adjournment – Next Regular Meeting

Date and Time: April 19, 2000 @ 9:00 a.m.

Place: Lawton Great Plains Technology Center
4500 West Lee Blvd., Room 301
Lawton, Oklahoma

Lunch Break, if necessary



How to get to OSU-Tulsa

706 North Greenwood Ave. • Tulsa, Oklahoma 74106 • (918) 594-8000

Welcome to OSU-Tulsa. If this is your first visit, simply look for the highway you will be using and follow the corresponding instructions.

Turner Turnpike from Oklahoma City and west

From I-44, exit 75 North (Bartlesville). When you reach the downtown area, stay in the center lane and follow the signs for I-244 East (Joplin). Exit Cincinnati/Detroit Avenue. Go to the second light, turn left onto Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

SH-64/31 (Broken Arrow Expressway)

From the BA Expressway, exit at 75 North (Bartlesville). Move to the far left lane. Take the I-244 West exit. Then take the next exit, Cincinnati/Detroit Avenue. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

I-244 (Crosstown Expressway from the east)

Follow I-244 West to downtown Tulsa. When the highway splits, stay in the lane marked I-244 West (OKC). Take the next exit, Cincinnati/Detroit Avenue. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

US-75 (from the north)

Follow US-75 South to I-244 West (OKC). Take the next exit, Cincinnati/Detroit Avenue. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

OSU
TULSA

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 720-4100.

February 3, 2000

MEMORANDUM

TO: Air Quality Council CT
FROM: Eddie Terrill, Director
AIR QUALITY DIVISION
SUBJECT: Modifications to Subchapter 33

Enclosed is a copy of the proposed draft modifications to OAC 252:100-33 CONTROL OF EMISSION OF NITROGEN OXIDES that will be brought to public hearing on February 16, 2000. The proposed revisions to OAC 252:100-41-15 are for the purpose of clarification, simplification and the removal of redundant language as required by the agency-wide re-right/de-wrong initiative. The language in 252:100-33-2(a)(1), (2), and (3) was simplified. 252:100-33-2(b), which sets standards for nitric acid plants, was deleted. NSPS 40 CFR 60, Subpart G, sets federal standards of performance for nitric acid plants. The federal standards apply to each nitric acid production unit in nitric acid plants that commenced construction or modification after August 17, 1971. The federal standards are as stringent as those contained in 252:100-33-2(b). Since 252:100-33-2(b) became effective after August 17, 1971 and applies only to new sources, the federal standards cover the same facilities. The NSPS standard for nitric acid plants has been incorporated by reference in 252:100-4 making 252:100-33-2(b) redundant. 252:100-33-3, which provides for performance testing of the equipment covered by Subchapter 33, was revoked. Performance testing requirements are contained in 252:100-43 making this Subsection redundant. No substantive changes are proposed.

Since the proposed revision to Subchapter 33 contains no substantive changes and no comments have been received from the public to date, staff will suggest that the proposed rule be recommended to the Environmental Quality Board for permanent adoption.

Enclosure: 2

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

Section

252:100-33-1. Purpose

252:100-33-1.1. Applicability

252:100-33-2. Emission limits

252:100-33-3. Performance testing [REVOKED]

252:100-33-1. Purpose

~~— The purpose of this Subchapter is to control the emission of nitrogen oxides from stationary sources to prevent the Oklahoma air quality standards from being exceeded and insure that the present level of air quality in Oklahoma is not degraded. This Subchapter establishes limits to control the emissions of nitrogen oxides to the atmosphere from stationary sources.~~

252:100-33-1.1. Applicability

This Subchapter applies to new fuel-burning equipment with a rated heat input of 50×10^6 BTU/hr or greater.

252:100-33-2. Emission limits

~~(a) Fuel combustion Gas-fired fuel-burning equipment. —~~

~~(1) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new gas fired fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.20 pound per million BTUs (0.36 gram per million gram calorie) heat input, two hour maximum Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new gas-fired fuel-burning equipment shall not exceed $0.20 \text{ lb}/10^6 \text{ BTU}$ ($0.36 \text{ g}/10^6 \text{ g-cal}$) heat input, two-hour maximum.~~

~~(2) (b) Liquid-fired fuel-burning equipment. — No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new liquid fired fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.30 pound per million BTUs (0.54 gram per million gram calorie) heat input, two hour maximum Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new liquid-fired fuel-burning equipment shall not exceed $0.30 \text{ lb}/10^6 \text{ BTU}$ ($0.54 \text{ g}/10^6 \text{ g-cal}$) heat input, two-hour maximum.~~

~~(3) (c) Solid fossil fuel-burning equipment. — No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new solid fossil fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.70 pound per million BTUs (1.26 gram per million gram calorie) heat input, two hour maximum Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new solid fossil fuel-burning~~

equipment shall not exceed 0.70 lb/10⁶ BTU (1.26 g/10⁶ g-cal) heat input, two-hour maximum.

~~(b) Nitric acid plant.~~

~~(1) No person shall cause, suffer or allow emissions of nitrogen oxides, calculated as nitrogen dioxide, from new nitric acid plants, in excess of 3.0 pounds per ton (1.5 kg/metric ton) of 100 percent acid produced, two hour maximum.~~

~~(2) No person shall cause, suffer or allow to be discharged into the atmosphere from new nitric acid plants any visible emissions which exhibit 10 percent opacity, or greater.~~

252:100-33-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

MINUTES
AIR QUALITY COUNCIL
FEBRUARY 16, 2000

OSU at Tulsa
700 North Greenwood, Tulsa Oklahoma

Council Members Present

William B. Breisch, Chairman
Gary Kilpatrick
Leo Fallon
Rick Treeman
Joel Wilson
David Branecky
Sharon Myers

Council Members Absent

Larry Canter
Fred Grosz

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Rhonda Jeffries
Dawson Lasseter
Linn Wainner

Guests Present

**see attached list

Staff Present

Jeanette Buttram
Joyce Sheedy
Myrna Bruce

Notice of Public Meeting for February 16, 2000 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors to the OSU @ Tulsa Auditorium and at the Tulsa City-County Health Department.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Mr. Fallon - aye; Mr. Treeman - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Myers - aye; Mr. Breisch - aye. Dr. Canter and Dr. Grosz did not attend.

Election of Officers - Nominations were opened for the election of new officers for Calendar Year 2000. Mr. Wilson made motion to nominate David Branecky for Chair and Sharon Myers for Vice-Chair. Second was made by Mr. Kilpatrick. Roll call: Mr. Kilpatrick - aye; Mr. Fallon - aye; Mr. Treeman - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Myers - aye; Mr. Breisch - aye. Mr. Breisch passed the gavel to Mr. Branecky who thanked Mr. Breisch for the many years that he had served as Chair and for leading the Council through many long and difficult discussions.

Approval of Minutes - Mr. Branecky entertained a motion to approve the Minutes of the December 14, 1999 Public Meeting/Hearings. Motion was made by Mr. Wilson to approve the Minutes as presented and second was made by Mr. Fallon. Roll call as follows: Mr. Kilpatrick - aye; Mr. Fallon - aye; Mr. Treeman - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Myers - aye; Mr. Breisch - aye.

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 through 2-5-101 - 2-5-118.. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Mr. Terrill advised that at the December 14 Council meeting, it was decided that there would be a committee formed to look at this rule because of all of the comments that had been received. Mr. Terrill stated that the committee had met twice to develop language that would be satisfactory to both industry and the state. Mr. Terrill then asked Mr. Wilson, who chaired the committee, to give an update. Mr. Wilson said that the committee had met twice with the state and once with the stakeholders; and that it was in the interest of all to have a regulation that is very clear to understand. He announced that another meeting was planned on February 22 for the purpose of gathering as many comments as possible so that all interests could be satisfied.

Ms. Jeanette Buttram was then asked to brief the Council. Ms. Buttram stated that staff is continuing to revise the rule based on comments received. She advised that comments had been received from Power Smith Cogeneration, EPA, and Weyerhaeuser and entered those into the record.

Mr. Branecky interjected that Council would like to be able to approve this rule at the April meeting and asked that additional comments be sent in a timely manner. He continued that the rule, however, would not be passed until issues were resolved and Council was happy with it; but pointed out that the rule will have been before the Council for a year this April.

Ms. Sandra Rennie, Air Planning Section, EPA Region 6, stated that EPA found the January 2000 draft acceptable and advised that EPA staff would be available to work with the committee as they continue their discussions. Mr. Howard Ground, Central and Southwest, entered their "redlined version" of the draft into the record and advised that this version was also endorsed by Mid-Continent Oil and Gas Association. Mr. Wilson stated that the committee did not make changes to the existing SC 9, but instead revised the most recent version that mirrored the EPA guidance by taking the unattainable language and adding some reasonableness to it.

There was considerable discussion about when upcoming rule revisions would be announced to the public, when they would go before the Council, and the fact that, in future, there would be possible committees and workgroups for input.

Mr. Branecky called for a motion to continue this rule to the April meeting. Ms. Myers made the motion and second was made by Mr. Wilson. Roll call as follows: Mr. Kilpatrick - aye; Mr. Fallon - aye; Mr. Treeman - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Myers - aye; and Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-33

Control of Emission of Nitrogen Oxides [AMENDED]

Dr. Joyce Sheedy was called upon to give staff's recommendation of this rule. She stated that the revisions brought before the Council were non-substantive with the intent to be for clarification, simplification, and removal of redundant language to satisfy the Agency's re-right/de-wrong initiative. Dr. Sheedy then pointed out these changes.

Mr. Branecky had concerns that he felt should be clarified. These included adding a definition of "new" in 33-1.1; clarifying the term "two-hour maximum" in 33-2; and requiring compliance with the two-hour limits when NSPS requirement is a 3-hour rolling average. Following discussion about these changes, it was decided to continue this rule to the April meeting and Mr. Branecky called for a motion. Motion was made by Mr. Kilpatrick and second was by Mr. Fallon. Roll call as follows: Mr. Kilpatrick -aye; Mr. Fallon - aye; Mr. Treeman - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Myers - aye; and Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

DIVISION DIRECTOR'S REPORT - Mr. Scott Thomas gave a presentation on the Texas Plan for Control of Nitrous Oxides. Mr. Dawson Lasseter gave a presentation on the status of the Air Quality Permits Section.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be April 19, 2000 at 9:00 a.m. in the Great Plains Technology Center Seminar Room (Room 301), 4500 West Lee Boulevard.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

David Branecky, Chairman
Air Quality Council

J. Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting
Attendance Record

FEBRUARY 16, 2000

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Pat Vawter N-S	3602 N. Perkins Rd Stillwater	
2. Sandra Rennie	EPA Region 6, Dallas	(214) 665-7867
3. Howard Ground	CSW	214-777-1711
4. DUSTIN GIVENS	4901 Chandler Road, Muskogee	918/683-7671
5. STEVE LANDERS	4901 Chandler Rd., Muskogee	918/683-7671
6. Kirk Rutter (Boeing)	3330 W. Mingo Tulsa	918-832-3178
7. Lee Ford	CIREQ BOARD TULSA, OK	918-743-7007
8. Ray Berger	Ford Motor Plant Tulsa	918 254-5384
9. The Environmental Center	55500 Tulsa OK	918-254-5263
10. Robert Eldred	ARMSTRONG	405-377-1283
11. Don Whitney	TRINITY	405 228-3292
12. John Wheeler	Trinity	405 228-3292
13. Julia Beyers	OGE	405 5533439
14. Nathan Gartin	CASE	
15. Cary Collins	Terra	918 266 1511
16. Larry Moore	Whirlpool	918 274 6122
17. Mike Wood	Weyerhaeuser	
18. James Delingham	320 S. Boston, Tulsa	918 594-0569
19. Anne Denison	Williams Energy	918-573-3886
20. Deborah Kem	RSA	918 416 0059
21. Mike Peters	MES	405 / 272-1907
22. Annie McGilbert	4225 Yukon Tulsa	918 583-0393
23.		
24.		
25.		

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
9:00 A.M.
Wednesday, April 19, 2000
Lawton Great Plains Technology Center
4500 West Lee Blvd., Room 301
Lawton, Oklahoma

1. Call to Order— David Branecky
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the February 16, 2000 Regular Meeting
4. PUBLIC RULEMAKING HEARINGS

A. OAC 252:100-7 PERMITS FOR MINOR FACILITIES [AMENDED]

The proposed changes to SC7 consist of the addition of sections 60.3, 60.4, and 60.5. Proposed sections 60.3 and 60.4 reference the existing permits by rule for VOC storage and loading facilities and particulate matter facilities, respectively. Section 60.5 is the proposed permit by rule for natural gas compression facilities. This section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule.

1. Presentation – Dr. Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

B. OAC 252:100-9 EXCESS EMISSION AND MALFUNCTION REPORTING [AMENDED]

The proposed amendments to SC 9 include substantive changes such as adding new and amending existing definitions and requiring that a certification of truth, accuracy and completeness be submitted with any written report. Additional demonstration requirements for malfunctions and startups/shutdowns were added under proposed section 252:100-9-3.3, Demonstration of cause. New language sets forth the Division's interpretation that excess emissions occurring more than 1.5 percent of the time that a process operated in a calendar quarter may be indicative of inadequate design, operation, or maintenance, and the DEQ may initiate further investigation to determine if that is so. Prior notice to the DEQ by facilities of maintenance activities has been proposed to be deleted from the rule.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

C. OAC 252:100-11 ALTERNATIVE EMISSIONS REDUCTIONS PERMITS [AMENDED]

The proposed amendments to SC 11 will clarify and simplify the language as a part of the agency-wide re-right/de-wrong initiative. No substantive changes are being made to the Subchapter. This subchapter allows sources an alternative means for reducing the total burden of pollutants released into the atmosphere.

1. Presentation – Michelle Martinez
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

D. OAC 252:100-17 INCINERATORS [AMENDED]

The Department is proposing amendments to 252:100-17, Part 3, Incinerators. Section 2 of the Part would be amended to remove references to an effective date, and Section 5(3) would be deleted. A new Section 5.1, Alternative incinerator design requirements, would be added to clarify that the Division Director may approve incinerator designs that do not meet the requirements specified in 252:100-17-5.

1. Presentation - Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

E. OAC 252:100-33 CONTROL OF EMISSION OF NITROGEN OXIDES [AMENDED]

The proposed changes to Subchapter 33 are to primarily simplify and clarify requirements and to remove redundant requirements as part of the agency-wide re-right/de-wrong initiative.

1. Presentation - Dr. Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

5. Division Director's Report - Eddie Terrill

6. New Business - Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

7. Adjournment - Next Regular Meeting

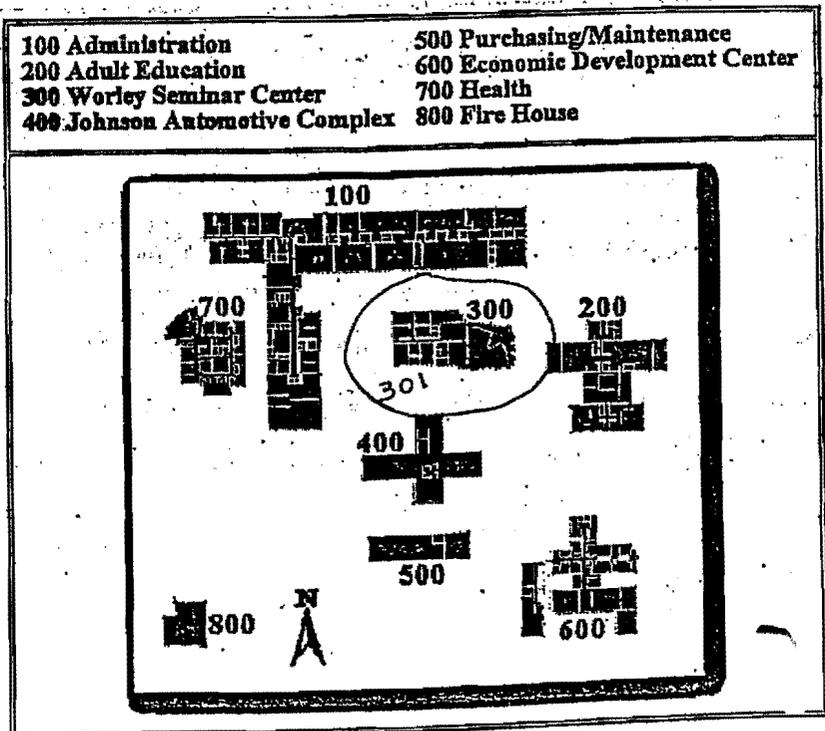
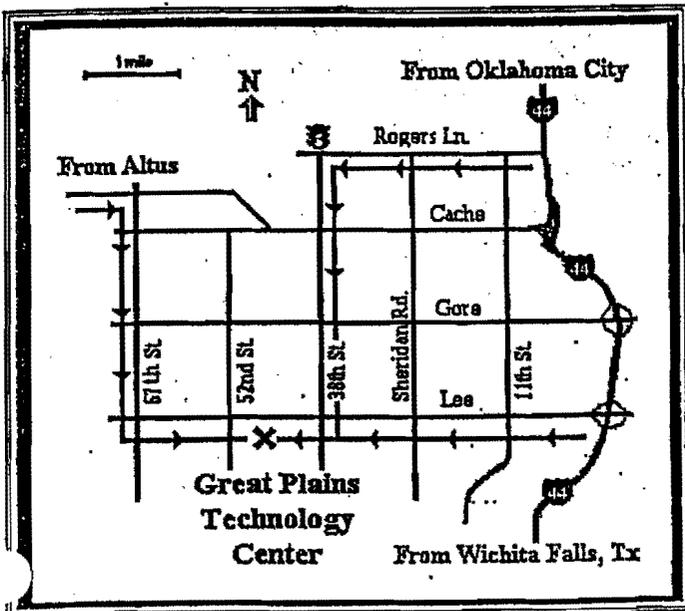
Date and Time: June 14, 2000 @ 9:00 a.m.

Place: OSU @ Tulsa North Hall Room 150

700 North Greenwood, Tulsa, OK

Lunch Break, if necessary

MAP TO GREAT PLAINS



Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 702-4100.

April 3, 2000

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director *ET for*
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 33

Enclosed is a copy of the proposed draft modifications to OAC 252:100-33 CONTROL OF EMISSION OF NITROGEN OXIDES. The proposed modifications were first brought to public hearing on February 16, 2000. The proposed revisions to OAC 252:100-33 are for the purpose of clarification, simplification and the removal of redundant language as required by the agency-wide re-right/de-wrong initiative. 252:100-1.1. Applicability was added to make it easier to determine which sources are subject to the rule. The language in 252:100-33-2(a)(1), (2), and (3) was simplified. 252:100-33-2(b), which sets standards for nitric acid plants, was deleted. NSPS 40 CFR 60, Subpart G, sets federal standards of performance for nitric acid plants. The federal standards apply to each nitric acid production unit in nitric acid plants that commenced construction or modification after August 17, 1971. The federal standards are as stringent as those contained in 252:100-33-2(b). Since 252:100-33-2(b) became effective after August 17, 1971, and applies only to new sources, the federal standards cover the same facilities. The NSPS standard for nitric acid plants has been incorporated by reference in 252:100-4 making 252:100-33-2(b) redundant. 252:100-33-3, which provides for performance testing of the equipment covered by Subchapter 33, was revoked. Performance testing requirements are contained in 252:100-43 making this Subsection redundant. No substantive changes are proposed. Comments made at the February 16, 2000 Air Quality Council meeting were given consideration in this proposed revision. Comments were received from Michael D. Graves of Hall, Estill, Hardwick, Gable, Golden & Nelson on March 27, 2000. A summary of those comments and staff responses is attached.

Since the proposed revision to Subchapter 33 contains no substantive changes and no written comments have been received from the public to date, Staff will suggest that the proposed rule be recommended to the Board for permanent adoption.

Enclosure: 3

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

Section

- 252:100-33-1. Purpose
- 252:100-33-1.1 Applicability
- 252:100-33-2. ~~Emission limits~~
- 252:100-33-3. Performance testing

252:100-33-1. Purpose

The purpose of this Subchapter is to control the emission of nitrogen oxides from stationary sources to prevent the Oklahoma air quality standards from being exceeded and insure that the present level of air quality in Oklahoma is not degraded.

252:100-33-1.1. Applicability

This Subchapter applies to new solid fossil, gas, and liquid fuel-burning equipment that meet both of the following criteria.

- (1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.
- (2) The fuel-burning equipment is new equipment that was not in being on February 14, 1972, or it is existing equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in air pollutant emissions.

252:100-33-2. ~~Emission limits~~

~~(a) Fuel combustion.~~

- ~~(1) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new gas fired fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.20 pound per million BTUs (0.36 gram per million gram calorie) heat input, two hour maximum.~~

(a) Gas-fired fuel burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new gas-fired fuel-burning equipment shall not exceed 0.20 lb/MMBtu (0.36 g/MMg-cal) heat input, maximum two-hour average.

- ~~(2) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new liquid fired fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of~~

~~0.30 pound per million BTUs (0.54 gram per million gram caloric) heat input, two hour maximum.~~

(b) Liquid-fired fuel-burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new liquid-fired fuel-burning equipment shall not exceed 0.30 lb/MMBtu (0.54 g/MMq-cal) heat input, maximum two-hour average.

~~(3) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new solid fossil fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.70 pound per million BTUs (1.26 gram per million gram caloric) heat input, two hour maximum.~~

(c) Solid fossil fuel-burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new solid fossil fuel-burning equipment shall not exceed 0.70 lb/MMBtu (1.26 g/MMq-cal) heat input, maximum two-hour average.

~~(b) Nitric acid plant.~~

~~(1) No person shall cause, suffer or allow emissions of nitrogen oxides, calculated as nitrogen dioxide, from new nitric acid plants, in excess of 3.0 pounds per ton (1.5 kg/metric ton) of 100 percent acid produced, two hour maximum.~~

~~(2) No person shall cause, suffer or allow to be discharged into the atmosphere from new nitric acid plants any visible emissions which exhibit 10 percent opacity, or greater.~~

252:100-33-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

MINUTES
AIR QUALITY COUNCIL
APRIL 19, 2000
Great Plains Technical Center
Lawton, Oklahoma

Council Members Present

David Branecky, Chairman
Gary Kilpatrick
Leo Fallon
Rick Treeman
Joel Wilson
Sharon Myers
Fred Grosz

Council Members Absent

William B. Breisch
Larry Canter

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Pam Dizikes

Guests Present

**see attached list

Staff Present

Jeanette Buttram
Joyce Sheedy
Michelle Martinez
Cheryl Bradley
Myrna Bruce

Notice of Public Meeting for April 19, 2000 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors to the Great Plains Technical Center and on the entrance doors of the DEQ Central Office in Oklahoma City.

Call to Order - Mr. Branecky, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye. Mr. Breisch and Dr. Canter did not attend.

Approval of Minutes - Mr. Branecky entertained a motion to approve the Minutes of the February 16, 2000 Public Meeting/Hearings. Motion was made by Mr. Fallon to approve the Minutes as presented and second was made by Dr. Grosz. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 through 2-5-101 - 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100- 7

Permits for Minor Facilities

Mr. Terrill advised that it had been agreed to form workgroups for rules that would be modified extensively or that would affect a large group of industrial sources so as to allow input into the process from those effected sources. He added that there seemed to be a misunderstanding regarding how and when workgroups would be formed. Mr. Terrill stated that it was never intended to form these workgroups without first having a formal public hearing. He invited

those who wanted to participate in the workgroup process to contact our office and watch our website for meeting information.

Dr. Joyce Sheedy stated that the proposed changes consist of the addition of sections 60.3 and 60.4, which are not substantive changes. Additionally, section 60.5 is the proposed permit by rule for natural gas compression facilities. This section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule.

Dr. Sheedy advised that comments had been received from Tom Blachley which she entered into the record. She stated that the staff recommended that this rule be continued to the next regular meeting.

Following discussion, Mr. Branecky asked for volunteers from the Council to participate in the workgroup sessions. Mr. Wilson and Mr. Kilpatrick volunteered. Then Mr. Branecky entertained a motion to continue the hearing on this rule to the next regular meeting. Ms. Myers made the motion and the second was made by Mr. Fallon. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram presented the staff recommendation advising that earlier versions of SC 9 were brought before the Council on June 15, August 24, October 19, December 14, 1999 and on February 16, 2000. She stated that there had been several meetings between staff and regulated community which produced the current version. She entered into the record comments received from Michael Graves of Hall, Estill, Hardwick, Gable, Golden & Nelson; Michael Bernard, President of Mid Continent Oil & Gas Association of Oklahoma; Tom Blachley; and from EPA Region VI. After describing proposed changes that had been made in response to the comments received, Ms. Buttram advised that it was staff's recommendation that this rule be forwarded to the Environmental Quality Board for permanent adoption.

Mr. Branecky called for motion for approval as discussed. Mr. Fallon make the motion with Mr. Kilpatrick seconding. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-11

Alternative Emissions Reductions Permits

Ms. Michelle Martinez was called to make the staff presentation for Subchapter 11. Ms. Martinez stated that the proposed changes followed the agency-wide re-right/de-wrong initiative to simplify and clarify the language with no substantive changes proposed. She pointed out the changes and related that comments had been received from EPA and from Mr. Tom Blachley which she entered into the record.

Following discussion, Mr. Branecky called for a motion to approve the rule with the changes as discussed and forward to the Environmental Quality Board for permanent adoption. Ms. Myers made the motion and second was made by Dr. Grosz. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-17

Incinerators

Ms. Cheryl Bradley advised that proposed modifications to Part 3 would allow the Air Quality Division to issue permits for the construction and operation of incinerators that meet all applicable requirements except multiple chamber design; and to remove the references to an effective date per the Administrative Rules on Rulemaking. Ms. Bradley further advised that proposal would clarify that the Division Director may approve incinerator designs that do not meet the requirements specified in Part 5.

Ms. Bradley entered a letter of comment from EPA Region VI into the record and recommended that the rule go forward to the Environmental Quality Board for permanent and emergency adoption.

Following discussion, Mr. Branecky called for a motion to forward the rule to the Board. Mr. Kilpatrick made the motion and Mr. Treeman made the second. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-33

Control of Emission of Nitrogen Oxides

Dr. Joyce Sheedy provided Council with staff recommendations pointing out revisions made since the February meeting. She remarked that written comments had been received from Michael Graves of Hall, Estill, Hardwick, Gable, Golden & Nelson; Tom Blachley; Gary Collins of Terra Nitrogen; and EPA Region VI. She entered these comments into the record. Dr. Sheedy advised that staff's suggestion was for Council to forward this rule to the Environmental Quality Board for permanent adoption.

Mr. Branecky called for a motion to forward this rule to the Environmental Quality Board with the changes suggested with the understanding that the DEQ would address the turbine issue not later than June, 2001 Council meeting. Mr. Fallon made the motion and the second was made by Dr. Grosz. Roll call: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

DIVISION DIRECTOR'S REPORT - Scott Thomas discussed the TexAQS 2000 air pollution research project stating that the study is being designed to improve understanding of the chemical and physical processes that control air pollutant formation in the greater Houston area and transport along the Gulf Coast of southeastern Texas and perhaps into neighboring states as well. He noted that measurements of gaseous, particulate and hazardous air pollutants will be made this summer throughout the eastern half of Texas and possibly portions of Oklahoma using both ground stations and aircraft. He stated that the Air Quality Division plans to participate in this study by sharing air quality data with the Texas Natural Resource Conservation Commission, and by supporting aircraft sampling activities in our State. Mr. Terrill added that \$50,000 has been set aside for collection of Oklahoma air quality data and remarked that the results of this study could prove to be invaluable in allowing us to better understand how ozone is formed and transported as well as what control strategies may be effective in the future.

Additionally, Mr. Terrill provided a brief summary of EPA's efforts to reinstate the 8-hour ozone standard by filing a petition with the U.S. Supreme Court over the D.C Circuit decision. He stated that while the enforceability of the standard is in question, EPA is going forward with the designation of areas that have not attained compliance with the 8-hour standard. He noted that Oklahoma may not submit to EPA any designations for our state as the final decision has yet to be made.

Ms. Myers presented the financial committee's update stating that she was pleased to report that the DEQ can now provide current financial information for planning activities.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be June 14, 2000 at 9:00 a.m. in Room 150 of the OSU Tulsa Campus located at 700 North Greenwood.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

David Branecky, Chairman
Air Quality Council

J. Eddie Terrill, Director
Air Quality Division



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

APRIL 19, 2000

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. FRANK CONDON	EQ BOARD	
2. Mike Peters	101 N. Robinson	405/272-1907
3. John Satterfield / C.H. GUERNEY	5335 N. GRAND BLVD OKC 73122	405/410-818F
4. Gary Coberly ASCOG	DUNCAN	580-292-0595
5. Blaine Smith ARCOG	P.O. Box 1547 Duncan, 73323	"
6. Stephen Henderson / Engox	515 Central Park Dr. Suite 1000	8405/530-7447
7. DON WHITNEY TRINITY	124 E. SHERIDAN OKC	228-3292
8. John Wheeler Trinity	124 E. Sheridan OKC	(405) 228-3292
9. Al Kirkes	1901 Lec Lawton	(580) 583 6352
10. Richard Atkins	315 SW 5th Room 107 St. Lawton	253-0535
11. Robert Bigham	Lawton Flamingo	580/581-3375
12. Tom Buckham	Reliant Energy 109 NW 50th OKC	(405) 556-2428
13. Kim Warren	OGE	553 3297
14. Jim Waucom	XEROX	324 3809
15. Dennis McDellie	Opden	583-3925
16. Cecil E. Powell	Mayor Canton	580-581-3301
17. A. Wayne Smith	City Council	581-3301
18. Will Anderson	Lawton Public Schools	(580) 357-6900
19. Ocho Bevers	OGE	405 553 3439
20.		
21.		
22.		
23.		
24.		
25.		

THE AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION
TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title:
OAC: 252:100-33
CONTROL OF EMISSIONS OF NITROGEN OXIDES [AMENDED]

On April 19, 2000 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Sec. 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

X permanent [take effect after legislative review]
_____ emergency [temporary, to take effect upon approval by the Governor because of time]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,

David Branecky
Chair or Designee:

Date Signed: 4/19/00

VOTING TO APPROVE:

Gary Kilpatrick Sharon Myers
Joel Wilson David Branecky
Fred Grosz
Rick Treeman
Leo Fallon

ABSTAINING:

VOTING AGAINST:

None

ABSENT:

William Breisch
Larry Canter

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, June 20, 2000
Oklahoma State University at Tulsa
700 N Greenwood
Oklahoma City, Oklahoma 73102

1. Call to Order – Cheryl Cohenour, Vice-Chair

2. Roll Call - Lynda Finch

3. Approval of Minutes of the February 25, 2000 Regular Meeting

4. Rulemaking – OAC 252:100 Air Pollution Control

Four sets of changes are proposed:

- Proposed amendments to Subchapter 9 (Excess Emission and Malfunction Reporting Requirements) include changes made as part of the DEQ's "re-right/de-wrong" effort to simplify its rules. The subchapter has been reorganized, typographical and grammatical errors have been corrected, and redundant language has been deleted. Additionally, some substantive changes were made. Among these are amendments relating to: definitions of *malfunction*, *bypass*, *regulated air pollutant*, *technological limitation* and *working day*; report certifications; demonstration requirements for emission limit exemptions; timing of excess emission reports; indicators of possible inadequate design, operation, or maintenance; and notice of maintenance activities.
- Proposed amendments to Subchapter 11 (Alternative Emissions Plans and Authorizations) are intended to clarify and simplify the language as part of the DEQ's "re-right/de-wrong" initiative.
- Proposed amendments to Subchapter 17 (Incinerators) include deletion of an outdated reference to an effective date. Language on design requirements is revised to authorize the Division Director to approve an incinerator design that does not meet the specific temperature and secondary burner requirements if the incinerator can meet all other applicable requirements. ϵ
- Proposed amendments to Subchapter 33 (Control of Emission of Nitrogen Oxides) are intended to clarify and simplify the language as part of the DEQ's "re-right/de-wrong" initiative.

A. Presentation – David Branecky, Air Quality Council Chair

B. Questions and discussion by the Board

C. Questions, comments and discussion by the public

D. Discussion by the Board

E. Roll call vote(s) on emergency and permanent adoption of amendments to Subchapter 17, and on permanent adoption of amendments to Subchapters 9, 11 and 33

5. Rulemaking – OAC 252:610 and 611 General Water Quality

Chapter 610 has been reviewed as part of the DEQ's "re-right/de-wrong" process of simplifying its rules. Language has been simplified and clarified, and rules deemed unenforceable have been removed. Because so many changes were identified, it is proposed that Chapter 610 be revoked and a new Chapter 611 created to replace it.

- A. Presentation-- Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption/revocation

6. Rulemaking-- OAC 252:620 and 621 Non-Industrial Impoundments and Land Application

Chapter 620 has been reviewed as part of the DEQ's "re-right/de-wrong" process of simplifying its rules. Language has been simplified and clarified, and rules deemed unenforceable have been removed. Because so many changes were identified, it is proposed that Chapter 620 be revoked and a new Chapter 621 created to replace it. Also, the requirements for the land application of non-industrial wastewater are moved from Chapter 647 to Chapter 621 because that activity is more closely related to impoundments than to biosolids.

- A. Presentation-- Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption/revocation

7. Rulemaking-- OAC 252:635 Reservoir Sanitation

Chapter 635 has been reviewed as part of the DEQ's "re-right/de-wrong" process of simplifying its rules. The DEQ has determined that all provisions contained in Chapter 635 appear in state statutes or other DEQ rules, so the DEQ is proposing that the chapter be revoked.

- A. Presentation-- Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent revocation

8. Rulemaking-- OAC 252:641 Individual and Small Public On-Site Sewage Disposal Systems

The proposed amendments authorize general permits for on-site sewage disposal systems, except for alternative systems, which will require individual permits subject to the Tier I permitting process. Certification for septic system installers will be a permit-by-rule process. Minor typographical corrections are also made.

- A. Presentation-- Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

9. Rulemaking-- OAC 252:002 Procedures of the DEQ

This proposed rulemaking removes on-site sewage disposal systems, except for alternative systems, from Tier I permitting requirements. This corresponds to changes concurrently proposed for Chapter 641, Individual and Small Public On-Site Sewage Disposal Systems, to establish permits for on-site sewage disposal systems as general permits.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

10. **Rulemaking -- OAC 252:647 and 648 Sludge and Land Application of Wastewater (Chapter 647), Land Application of Biosolids (Chapter 648)**

Chapter 647 has been reviewed as part of the DEQ's "re-right/de-wrong" process of simplifying its rules. Proposed changes include the deletion from Chapter 647 of rules for the land application of industrial wastewater and sludge because they were incorporated into Chapter 616 (Industrial Impoundments and Land Application) by Board action in February, and the deletion from Chapter 647 of rules for the land application of non-industrial wastewater because they are proposed for incorporation into Chapter 621 (Non-Industrial Impoundments and Land Application) (see agenda item 6). For the remaining rules on biosolids, Chapter 647 is revoked and replaced by Chapter 648.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption/revocation

11. **New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)**

12. **Executive Director's Report (including disclosure of employee financial interests as required by statute, and notification to the Board that no capital budget needs have been identified for State Fiscal Year 2002)**

13. **Adjournment**

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from Judy Duncan, giving an overview of the DEQ's State Environmental Laboratory.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until May or June of 2001.

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

252:100-33-1.1. Definitions

The following terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"New fuel-burning equipment" means any fuel-burning equipment, with the exception of gas turbines, that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions, and any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

"Three-hour average" means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

252:100-33-1.2. Applicability

This Subchapter applies to new fuel-burning equipment that meets both of the following criteria.

- (1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.
- (2) The equipment burns solid fossil, gas, or liquid fuel.

252:100-33-2. Emission limits

(a) Fuel combustion.

~~(1) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new gas fired fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.20 pound per million BTUs (0.36 gram per million gram calorie) heat input, two hour maximum.~~

~~(2) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new liquid fired fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.30 pound per million BTUs (0.54 gram per million gram calorie) heat input, two hour maximum.~~

~~(3) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new solid fossil fuel burning equipment with a rated heat input of 50 million BTUs per hour or more, in excess of 0.70 pound per million BTUs (1.26 gram per million gram calorie) heat input, two hour maximum.~~

(a) Gas-fired fuel-burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new gas-fired fuel-burning equipment shall not exceed 0.20 lb/MMBtu (86 ng/J) heat input, three-hour average.

(b) Nitric acid plant.

~~(1) No person shall cause, suffer or allow emissions of nitrogen oxides, calculated as nitrogen dioxide, from new nitric acid plants, in excess of 3.0 pounds per ton (1.5 kg/metric ton) of 100 percent acid produced, two hour maximum.~~

~~(2) No person shall cause, suffer or allow to be discharged into the atmosphere from new nitric acid plants any visible~~

~~emissions which exhibit 10 percent opacity, or greater.~~

(b) Liquid-fired fuel-burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new liquid-fired fuel-burning equipment shall not exceed 0.30 lb/MMBtu (129 ng/J) heat input, three-hour average.

(c) Solid fossil fuel-burning equipment. Nitrogen oxide emissions (calculated as nitrogen dioxide) from any new solid fossil fuel-burning equipment shall not exceed 0.70 lb/MMBtu (300 ng/J) heat input, three-hour average.

252:100-33-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

EXECUTIVE SUMMARY:

The proposed revisions to Subchapter 33 are to simplify and clarify requirements and to remove redundant requirements as part of the agency-wide re-right/de-wrong initiative. No substantive changes are proposed.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None of the changes that were made to this rule creates a difference from analogous federal rules.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required since no substantive changes are proposed.

SUMMARY OF COMMENTS AND RESPONSES:

Attached.

WRITTEN COMMENTS WITH STAFF RESPONSES

Hall, Estill, Hardwick, Gable, Golden & Nelson - letter dated March 24, 2000, signed by Michael D. Graves received on April 27, 2000

1. **COMMENT:** This Subchapter is more stringent with much broader applicability than the comparable federal standards. However, there has not been any justification for these broader, stricter standards.

RESPONSE: Since the purpose of the re-right/de-wrong program is to clarify, simplify and correct errors, no substantive changes to standards were proposed. The issue of broader applicability and more stringent standards was discussed and justified at public hearings in 1971 and 1972 prior to the original promulgation of the standards contained in Subchapter 33.

2. **COMMENT:** DEQ should simply adopt the federal NSPS Subparts for fuel-burning equipment. DEQ recommended deleting 252:100-33-2(b) containing standards for nitric acid plants because there is now a federal NSPS for this type of source and the same action should be taken with fuel-burning equipment.

RESPONSE: Staff proposed to delete 252:100-33-2(b) because the federal NSPS Subpart G covers the same sources covered by the State rule and is as stringent as the State rule, making the State rule unnecessary since the State has incorporated NSPS Subpart G by reference in 252:100-4. The NSPS standards that apply to fuel-burning equipment (such as Subparts D, Da, Db and GG) do not apply to all the sources that are covered by Subchapter 33 and in some instances the standards are not as stringent as those contained in Subchapter 33. As stated previously, these standards were justified at public meetings prior to promulgation in 1972. Also Staff questions the wisdom of relaxing nitrogen oxide standards at a time when some areas of the state are perilously close to exceeding the National Ambient Air Quality Standards for nitrogen oxides.

3. **COMMENT:** If there is a need for regulating sources that are not covered by the federal NSPS, the standards should be the same as those contained in the federal NSPS. For example if DEQ justifies regulating nitrogen oxides from fossil fuel-fired steam generators for units with heat input rates less than 250 million Btu/hr (the federal base for applicability) then the emission limits and averaging periods should conform with Subpart D.

RESPONSE: Staff believes that the need for covering sources not regulated by the federal NSPS and for setting standards that are more stringent than those in the NSPS was justified when the standards were originally promulgated and the proposed revisions have not changed those standards. Subchapter 33 applies to fuel-burning equipment with heat

input capacities greater than 50 million Btu/hr. Although NSPS Subpart D applies to sources that have heat input capacities greater than 250 million Btu/hr, Subpart Db sets standards for industrial-commercial-institutional steam generating units with heat input greater than 100 million Btu/hr and Subpart Dc sets standards for small industrial-commercial-institutional steam generating units that have maximum design heat input capacities of 10 million Btu/hr to 100 million Btu/hr. The standards for fuel-burning equipment set in Subchapter 33 are identical to those in Subpart D, except for sources fueled by certain types of coal. Part of the clarification of Subchapter 33 consists of changing the maximum-two hour average to a three-hour average. This is not considered to be substantive since in actual practice, due to the constraints of the performance tests for nitrogen oxides, the three hour average has been in use from the time the standards were promulgated.

4. **COMMENT:** Of particular concern is the apparent conflict between Subchapter 33 and the federal NSPS Subpart GG for gas turbines. Subchapter 33 applies to gas turbines, but the emission limitations and standards formats are not compatible. Since Subpart GG is designed specifically for stationary gas turbines and was developed after the State's standards which were designed for fossil fuel-fired steam generators, the DEQ should adopt Subpart GG in lieu of including stationary gas turbines in Subchapter 33.

RESPONSE: Subchapter 33 was not originally intended to apply to stationary gas turbines. However, when the definition of fuel-burning equipment was revised in 1977, gas turbines became subject to this rule. It is difficult to compare the standards contained in Subpart GG with those in Subchapter 33 except on a case by case basis. However, it appears that the standards in Subpart GG, at least for some turbines, are less stringent. Although some older turbines may have difficulty meeting the standards in Subchapter 33, it appears that modern turbines are capable of meeting these standards. Staff feels that the question of excluding turbines from Subchapter 33 or setting specific standards for turbines is beyond the scope of re-right/de-wrong and should be considered separately. Much more information and study needs to be done before any changes are made especially considering the potential ozone problems facing the State. This issue will be considered again in June, 2001. Staff would like to point out that the philosophy of those who originally set the standards for nitrogen oxides emissions was one of non-degradation. They believed that this principle was specifically set forth in the Federal Clean Air Act and that federal standards represented a minimum level, not a ceiling. EPA continues to maintain that NSPS represents minimum requirements. Staff is directed by the Oklahoma Clean Air Act to make recommendations to the Council with respect to rules and air pollution prevention and abatement. Staff would not be doing its duty if it recommended a relaxation of standards without sufficient justification for such action.

Comments from Tom Blachley received on April 7, 2000.

5. **COMMENT:** Mr. Blachley's comments consisted primarily of pointing out errors and suggesting format and language changes.

RESPONSE: The errors that were pointed out have been corrected and the language and formatting changes were given consideration in the final proposed revisions to the rule.

EPA Region 6 - letter from Tom Diggs dated April 13, 2000, received April 17, 2000.

6. **COMMENT:** EPA was in agreement with the proposed revisions to Subchapter 33 dated March 15, 2000, since the rule remains the same as the New Source Performance Standards.

Terra Nitrogen Corporation - letter dated April 18, 2000, signed by Gary Collins, received April 18, 2000, with attachment.

7. **COMMENT:** Terra Nitrogen Corporation requested that the Air Quality Council delay taking final action on the proposed revision until the question of applicability to gas turbines can be considered. If turbines continue to be subject to Subchapter 33, they requested a separate emission rate be promulgated in units of ppm by volume corrected to 15 percent oxygen and to ISO conditions as required by NSPS Subpart GG.

RESPONSE: As stated in response to comments contained in the letter from Hall, Estill, Hardwick, Gable, Golden & Nelson, Staff feels that this question is beyond the scope of re-right/de-wrong and should be considered as a separate issue. The time constraints placed on the completion of the re-right/de-wrong program do not allow for the type of research and evaluation that is necessary before any weakening of the nitrogen oxide standards can be proposed, especially in light of the potential ozone problems now facing the State. The Air Quality Council has instructed the Staff to bring this question before it again in June 2001.

8. **COMMENT:** Terra requested that the definition of new source be revised so that turbines in existence prior to July 1, 1977 are not subject to the rule.

RESPONSE: Staff agreed and this change has been made to the rule.

VERBAL COMMENTS RECEIVED AT THE FEBRUARY 16, 2000 HEARING

9. **COMMENT:** Ms. Nadine Barton with Citizens Action for a Safe Environment (CASE), was concerned that if the standards in Subchapter 33 for fuel-burning equipment applied to municipal waste combustors (incinerators) it might somehow result in less stringent NOx standards for these units than is now in place in Part 5 of Subchapter 17. Ms. Barton suggested that

language be added to the applicability section exempting municipal waste combustors from Subchapter 33.

RESPONSE: Municipal waste combustors (MWC) that supply steam or useable heat are by definition fuel-burning equipment. If such a source meets the applicability criteria for Subchapter 33, it would be subject to the Subchapter. In order to be subject to Subchapter 33, the MWC would have to have a heat input capacity of 50 MMBtu or greater and be fired by gas fuel, liquid fuel, or solid fossil fuel. Since MWC are fueled by solid waste, it is not necessary to specifically exclude MWCs from Subchapter 33. In a rule that addresses sources as varied as fuel-burning equipment, it is not possible to list everything that is subject to the rule or to list everything that isn't subject to the rule. Therefore, staff proposed at the next hearing applicability criteria in Section 1.1 for determining whether or not a source is subject to the rule.

10. **COMMENT:** Howard Ground with Central and South West felt that the two-hour maximum contained in 252:100-33-2(a)(1), (2), and (3) is a compliance determination of a two-hour maximum of emission rates and is not an average of anything. It is a one time test showing compliance with the standard.

RESPONSE: Council records make clear that the two-hour maximum was not intended to be a one time test showing compliance with the standard. In researching Council records after the hearing, staff discovered that this same subject was brought up at the March 17, 1987, Council meeting regarding sulfur limits for fuel-burning equipment in Subchapter 31. At that meeting, and in a memo dated December 19, 1986 to the Council, Air Quality staff recommended that the change from a two-hour averaging time to a three-hour averaging time be made for practical reasons, since a stack test to determine compliance consists of three one-hour runs, so that a three hour average is already in effect. The same is true for the averaging time in Subchapter 33, and at the next Council meeting staff recommended and the Council agreed that the two-hour maximum be changed to a three-hour average.

11. **COMMENT:** Don Whitney with Trinity Consultants pointed out that Subchapter 33 sets standards for NOx emissions from gas-fired fuel burning equipment, liquid-fired fuel burning equipment, and solid fossil fuel burning equipment, which would seem to exclude wood or other types of solid fuel from the standards, and questioned whether the word "fossil" should be left in the rule.

RESPONSE: Since it was not our intention to make substantive changes to the rule, this subject goes beyond the scope of the intended revisions. At the time the rule was first promulgated, coal was probably the only solid fuel considered. Staff feels that it requires further study and should be taken up at another time.

VERBAL COMMENTS RECEIVED AT THE APRIL 19, 2000 HEARING

12. **COMMENT:** Mike Peters with the law firm of McKinney and Stringer pointed out that when Subchapter 33 was promulgated in 1972, Subchapter 33 was intended for fuel-burning equipment and turbines by definition, at that time, were not fuel-burning equipment. When the definition of fuel-burning equipment was revised in 1977, it included turbines. There was public comment at that time, questioning the ability of turbines to meet the standards. The only remedy for such turbines at this time is to obtain an alternative standard under Subchapter 11. The federal NSPS Subpart GG sets standards for gas turbines. Due to the differences in units, it is difficult to compare the standards in Subchapter 33 with those in Subpart GG, but for one particular turbine, the State standards were three times as stringent as the federal NSPS. The State should consider exempting turbines from Subchapter 33.

RESPONSE: The Council record from the time when the definition of fuel-burning equipment was changed in 1977 makes it clear that gas turbines were included as fuel-burning equipment and would be subject to the rules that regulated such equipment. Although it is difficult to compare the State standards with those in NSPS Subpart GG, staff feels that those in the subpart are in many cases much less stringent than the Standards in Subchapter 33 and to exempt turbines from this rule would be weakening the standard. Staff is reluctant to propose a relaxation of those standards at a time when the possibility of ozone nonattainment looms in the not too distant future. This subject is beyond the scope of the re-right/de-wrong program, and staff proposes that it be studied at a later date. More hard data is needed concerning the ability of turbines built after July 1, 1977, to meet the standards contained in Subchapter 33. The gathering of such data will require more time than is available for the completion of the re-right/de-wrong program. This subject will be brought before the Council again by June 2001.

13. **COMMENT:** Mike Peters proposed that all turbines in existence before July 1, 1977, not just simple cycle turbines, be exempt from Subchapter 33.

RESPONSE: Staff agrees and the rule was changed at the hearing to exclude gas turbines in existence on or before July 1, 1977, from the requirements of Subchapter 33.

HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON

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March 24, 2000

Barbara Hoffman, Esquire
Oklahoma Department of Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, OK 73101-1677

RE: Comments on proposed OAC 252:100, Subchapter 33, NOx.

Dear Barbara:

Thank you for the opportunity to submit comments on the proposed revision to Subchapter 31 of the Oklahoma Air Quality regulations. It is obvious that a great deal of work has gone into the proposal and we commend the effort to improve Oklahoma regulations. During our review, we noted several items which we believe could be improved and have prepared comments on those items. We ask that these comments be included in the formal rule-making record.

Please distribute these comments to the appropriate staff people for their input. I will be calling you next week to arrange a meeting with you and appropriate DEQ staff to review our comments.

As a part of its air "re-write" project, DEQ has republished Subchapter 33, Control of Emission of Nitrogen Oxides. This Subchapter is more stringent with much broader applicability than the comparable federal standards. However, we have not seen any justification from DEQ to substantiate the need for these broader and stricter standards. For this subchapter, in particular, the fact that the Oklahoma regulations incorporate by reference the federal NSPS standards is meaningless. It appears to us that Oklahoma looked at the 1974 federal Subpart D, decided to apply it to much smaller sources and has since declined to acknowledge the standards devised by the federal program in Subpart Db or Subpart GG.

Barbara Hoffman, Esq.
March 24, 2000
Page 2

As a threshold issue, we propose that DEQ revise its proposal by simply adopting the federal NSPS. In its Subchapter 33 proposal, DEQ recommends deleting the previous OAC 252:100-33-2(b) Nitric acid plants because there is now a federal NSPS for this type of source. We believe that this is the correct course for DEQ to follow in all instances. Oklahoma businesses are experienced in complying with federal standards, and DEQ has not submitted for public comment any justification for stricter standards.

In the event that DEQ substantiates the need for regulating sources which are not covered by the federal NSPS rules, then DEQ should at least make its rules consistent with the federal standards rather than different or more stringent than those standards. For example, if DEQ justifies regulating NOx from fossil-fuel fired steam generators for units with heat input rate less than 250 MMBTU/hour (the federal base for applicability) then the emission limitations and averaging periods should conform with Subpart D.

Of particular concern is the apparent conflict between the Oklahoma Subchapter 33 and the federal NSPS Subpart GG. By its terms, Subchapter 33 appears to apply to those sources which are covered by the federal Subpart GG. However, the emission limitation and standards formats are not compatible. Federal Subpart GG is specifically designed for Stationary Gas Turbines, and was developed after the State's standards, which were designed for Fossil-Fuel fired steam generators. A later specific regulatory program should prevail over an earlier general one, and DEQ should specifically adopt Subpart GG in lieu of including stationary gas turbines in Subchapter 33.

Finally, should DEQ justify the need for regulating sources not subject to federal NSPS, we see no reason for the "maximum two-hour average" emission limitation in OAC 252:100-33-2. This averaging period differs, for no known reason, from comparable portions of the federal NSPS, such as Subpart Db's 30 day rolling average. Even nonattainment areas (and Oklahoma has no nonattainment areas), such as Beaumont, Texas, use a 24-hour average. Therefore, we recommend conforming the Oklahoma standards to the federal NSPS.

Again, thank you for the opportunity to submit these comments for the record. I look forward to going over these items with you. If you have any question, please feel free to call.

Sincerely,



Michael D. Graves

xc: Dirk Morris
Gary Collins
Lonnie Colvalt

**RESPONSE TO WRITTEN COMMENTS FROM THE PUBLIC AND
INDUSTRY SUBCHAPTER 33**

Below is a summation of written comments along with staff responses regarding the proposed revisions to Subchapter 33. This includes only those comments that were received prior to the mailing of the Air Quality Council packets for the April 19, 2000, meeting.

HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON LETTER (dated 3/24/00, signed by Michael D. Graves):

1. **COMMENT:** This Subchapter is more stringent with much broader applicability than the comparable federal standards. However, we have not seen any justification from DEQ to substantiate the need for these broader and stricter standards.
RESPONSE: The purpose of the "re-right/de-wrong" program is to clarify, simplify and correct errors, not to make substantive changes to the standards. Thus, we have not proposed any substantive changes to the existing standards in Subchapter 33. The concern that the State rule would cover more sources than the federal standards was expressed in a letter from the Mid Continent Oil & Gas Association dated October 30, 1971. The Association proposed that the regulation be changed to include only units above 250 MMBtu/hr. heat input and provided a correlation of NOx emissions versus gross heat input. This correlation was referenced from Mills, J. L. et al., "Emissions of Oxides of Nitrogen from Stationary Sources in Los Angeles County," Reports No. 3 and No. 4, 1961. The staff of the DEQ's predecessor agency compared the Mills correlation to the proposed state regulations and concluded that smaller units could meet the regulations easier than larger units. In a letter dated August 10, 1972, to Mr. Ronald Barbaro, P.E., staff wrote that ". . . Regulation No. 18 is similar to the nitrogen oxide standard set in the Federal "New Source Performance Criteria." However, the lower limit is set at 50 million BTU/hr. input rather than the 250 million BTU/hr. value of the federal criteria. This is based on the information obtained that the smaller units are already very close to meeting this limit." It is evident that staff felt that, based on the data submitted, there was no reason to exclude smaller units from the rule or to increase the emission limits for such units. The records cited are available to the public in the Air Quality Division office.

2. **COMMENT:** We propose that DEQ revise its proposal by simply adopting the federal NSPS. In its Subchapter 33 proposal, DEQ recommends deleting the previous OAC 252:100-33-2(b) Nitric acid plants because there is now a federal NSPS for this type of source. We believe that this is the correct course for DEQ to follow in all instances. Oklahoma businesses are experienced in complying with federal standards, and DEQ has not submitted for public comment any justification for stricter standards.

RESPONSE: Staff proposed to revoke OAC 252:100-33-2(b) because the federal NSPS for nitric acid plants covers the same sources covered by the State

rule and is as stringent as the State rule, making the State rule unnecessary. This revocation does not change the standard that new nitric acid plants must meet. Revoking the rest of the rule would make the standards for new fuel-burning equipment less stringent in some cases than they are now. Given the advances in technology since 1971 and our State's potential problems in meeting the ozone standards, relaxing our emission limits does not appear to be justifiable at this time. If such justification exists, it has not been presented to staff.

- 3. COMMENT:** If DEQ substantiates the need for regulating sources which are not covered by the federal NSPS rules, then DEQ should at least make its rules consistent with the federal standards rather than different or more stringent than those standards. For example, if DEQ justifies regulating NOx from fossil fuel-fired steam generators for units with heat input rates less than 250 MMBtu/hour (the federal base for applicability) then the emission limitations and averaging periods should conform with Subpart D.

RESPONSE: See the response to Comment 1. This rule is part of the State Implementation Plan (SIP); therefore, relaxing it would require justification, especially in light of the State's potential problems in meeting the ozone standards. Achieving consistency with federal rules is not by itself sufficient justification.

- 4. COMMENT:** Of particular concern is the apparent conflict between Subchapter 33 and the federal NSPS Subpart GG. By its terms, Subchapter 33 appears to apply to those sources which are covered by the federal Subpart GG. However, the emission limitation and standards formats are not compatible. Federal Subpart GG is specifically designed for Stationary Gas Turbines, and was developed after the State's standards, which were designed for the fossil fuel-fired steam generators. A later specific regulatory program should prevail over an earlier general one, and DEQ should specifically adopt Subpart GG in lieu of including stationary gas turbines in Subchapter 33.

RESPONSE: Subchapter 33 was not originally intended to apply to simple cycle gas turbines. The rule applied to fuel-burning equipment, and the definition of fuel-burning equipment in effect at that time excluded these turbines. However, combined gas turbine-steam turbine units and conventional steam turbine-generating units were covered. (Letter from John H. Stallings dated February 23, 1972, to Louis S. Gea, P.E., Tippet & Gee) Staff believes that any change to the NOx standards for fuel-burning equipment would require more study and is beyond the scope of the "re-right/de-wrong" program. If such a change is desired, the necessary research could be undertaken and a work group formed, with the objective of determining whether a change needs to be made and, if so, what that change should be.

- 5. COMMENT:** Should DEQ justify the need for regulating sources not subject to federal NSPS, we see no reason for the "maximum two-hour average" emission limitation in OAC 252:100-33-2. This averaging period differs for no known reason, from comparable portions of the federal NSPS, such as Subpart Db's 30-day rolling

average. Even nonattainment (and Oklahoma has no nonattainment areas), areas such as Beaumont, Texas, use a 24-hour average. Therefore, we recommend conforming the Oklahoma standards to the federal NSPS.

RESPONSE: Although Subpart Db has a 30-day rolling average, Subpart D still retains a 3-hour average. This issue was brought up in 1987 regarding Subchapter 31, which regulates the emissions of sulfur compounds. At the March 17, 1987, Council meeting, a request was made that plants built after September 1978 be allowed a 30-day rolling average instead of a two or three-hour average. Grant Marburger responded for staff by stating that "... changing from a short term to a long term is a fairly major consideration that we are not prepared to recommend at this time" A request was also made to change the two-hour averaging time to a three-hour averaging time. Mr. Marburger recommended that this change be made "... for practical reasons. A stack test to determine compliance takes three hours, so three hours is in effect anyway" In a memorandum to the Council dated December 19, 1986, Mr. Marburger stated, "It was suggested this should be changed to conform with federal NSPS standards which allow a longer period for certain categories. Plants built after September 1978 (Subpart Da) are allowed a 30-day rolling average but these plants are also required to install SO₂ abatement equipment." Although the rule in question was Subchapter 31, staff believes the reasoning holds true for Subchapter 33 as well. At the April 19, 2000 Council meeting, staff will recommend that the two-hour averaging time be changed to three hours.

As an overall comment, staff would like to point out that the philosophy of those who originally wrote the NO_x rule and set the limitations was one of non-degradation. They believed that this principle was specifically set forth in the Federal Clean Air Act and that it had particularly strong support from Congress and the citizens of Oklahoma. They believed that the federal standards represented a minimum level, not a ceiling. EPA today asserts that the NSPS represents minimum requirements. Staff is directed by the Oklahoma Clean Air Act to make recommendations to the Council with respect to rules and air pollution *prevention and abatement*. Staff would not be doing its duty if it recommended a relaxation of standards without sufficient justification for such action.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

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TRANSCRIPT OF PROCEEDINGS
OF 252:100-33, CONTROL OF EMISSION OF
NITROGEN OXIDES
HELD ON FEBRUARY 16, 2000, AT 9:00 A.M.
IN TULSA, OKLAHOMA

* * * * *

REPORTED BY: CHRISTY A. MYERS, C.S.R.

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3 COUNCIL MEMBERS</p> <p>4</p> <p>5</p> <p>6 Joel Wilson - Member</p> <p>7 David Branecky - Chairman</p> <p>8 Sharon Myers - Vice-Chairman</p> <p>9 Rick Treeman - Member</p> <p>10 Leo Fallon - Member</p> <p>11 Gary Kilpatrick - Member</p> <p>12 Bill Breisch - Member</p> <p>13 David Dyke - Protocol Officer</p> <p>14 Eddie Terrill - Director</p> <p>15 Myrna Bruce - Secretary</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 primarily just to state up front that this</p> <p>2 is applicable to sources, fuel burning</p> <p>3 equipment that have a rated heat input of</p> <p>4 50 million BTU or more.</p> <p>5 Then on page 1, as well, 252:100-33-</p> <p>6 2(a)(1)(2) and (3), the emission limits</p> <p>7 section was revised to simplify the</p> <p>8 language and to remove redundant language.</p> <p>9 On page 2, Section 2(b), the staff</p> <p>10 proposes to delete this subsection covering</p> <p>11 nitric acid plants. The NSPS 40 CFR 60</p> <p>12 Subpart G sets federal standards and</p> <p>13 performance for nitric acid plants. The</p> <p>14 federal standards applies to each nitric</p> <p>15 acid production unit in a nitric acid plant</p> <p>16 that commenced construction on modification</p> <p>17 after August 17, 1971. The federal</p> <p>18 standards are as stringent as those</p> <p>19 contained in the state rule. I believe</p> <p>20 they are pretty much identical. Since the</p> <p>21 state rule, Subchapter 33 became effective</p> <p>22 after August 17, 1971, and applies only to</p> <p>23 new sources, the federal rule covers the</p> <p>24 same facilities that the state rule</p> <p>25 covered. So we think that this section of</p>
<p style="text-align: right;">Page 3</p> <p>1 PROCEEDINGS</p> <p>2 MR. DYKE: The next item on the</p> <p>3 agenda is the item listed as Item 5B, OAC</p> <p>4 252:100-33, Control of Emission of Nitrogen</p> <p>5 Oxides. At this time, I would like to call</p> <p>6 on staff member, Joyce Sheedy.</p> <p>7 DR. SHEEDY: Mr. Chairman,</p> <p>8 Members of the Council, ladies and</p> <p>9 gentlemen, the proposed revisions to</p> <p>10 Subchapter 33, Control of Emissions of</p> <p>11 Nitrogen Oxides, are for clarification,</p> <p>12 simplification, and removal of redundant</p> <p>13 language as required by the agency-wide</p> <p>14 rewrite/dewrong program. We have not</p> <p>15 proposed any substantive change in this</p> <p>16 modification.</p> <p>17 Staff proposes the following</p> <p>18 nonsubstantive changes. On page 1,</p> <p>19 252:100-33-1, the purpose statement was</p> <p>20 written for simplification and</p> <p>21 clarification and removal of redundant</p> <p>22 language.</p> <p>23 Also on page 1, we've added a new</p> <p>24 Section, 1.1, Applicability. And this is</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 our rule is redundant and we deleted it.</p> <p>2 On page 2, 252:100-33-3, the staff</p> <p>3 proposes to revoke this section which sets</p> <p>4 forth requirements for performance testing.</p> <p>5 Performance testing requirements are</p> <p>6 contained in Subchapter 43, making this</p> <p>7 section redundant. Since the proposed</p> <p>8 revisions to Subchapter 33 contains no</p> <p>9 substantive changes, staff had planned to</p> <p>10 propose to -- to suggest that this rule be</p> <p>11 recommended to the Board for permanent</p> <p>12 adoption. However, we have had a verbal</p> <p>13 comment from OG&E. Would you like to -- is</p> <p>14 this the appropriate time?</p> <p>15 MR. BRANECKY: Yes, I have three</p> <p>16 concerns and I apologize for getting these</p> <p>17 concerns to you guys so late. In 33-1.1,</p> <p>18 Applicability, my question was, what is</p> <p>19 new? I think we need some language in</p> <p>20 there defining "new". What facility</p> <p>21 constructed after such-and-such a date</p> <p>22 should be applicable to this -- this</p> <p>23 chapter should apply to it. The way it's</p> <p>24 written now I don't know if I'm a new</p> <p>25 source or not.</p>

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1 DR. SHEEDY: Right.
 2 MR. BRANECKY: I think that would
 3 be helpful. The second question is in 33-
 4 2, both (a), (b), and (c), we've got at the
 5 last part of the paragraph that says 2-hour
 6 maximum. What is a 2-hour maximum? I had
 7 a real hard time understanding what a 2-
 8 hour maximum is. So I think that needs to
 9 be further clarified and defined.
 10 And finally -- and this applies to,
 11 at least, to OG&E and the coal fired
 12 boilers that we have are subject to NSPS
 13 Subpart (d). In Subpart (d), the limits
 14 are identical to what are listed here in
 15 Section 2, as far as the numerical numbers,
 16 of .2, .3 and .7 pounds per million BTU.
 17 But the averaging time of compliance
 18 demonstration in NSPS is a 3-hour rolling
 19 average. So I guess my concern is I'm
 20 going to have to -- even though the numbers
 21 are the same, I'm going to have to track a
 22 3-hour average to show compliance with NSPS
 23 and then turn around and do the same thing
 24 with a 2-hour maximum, whatever it is, to
 25 show compliance. Is that necessary? Can

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1 replaced or rebuilt after February 14,
 2 1972, resulting in the increase in
 3 emissions of nitrogen oxides.
 4 MR. WILSON: Is it possible to
 5 have a statement in there that says
 6 compliance with NSPS Subpart (d), is
 7 compliance with Subchapter 33?
 8 DR. SHEEDY: We've looked into
 9 that. The other comment about the 2-hour
 10 maximum and what it meant, I talked to the
 11 engineers, the permit engineers. And they
 12 say that historically and currently they
 13 consider that 2-hour maximum to be a 2-hour
 14 maximum average. So it is an average. Now
 15 the problem comes up that a 3-hour rolling
 16 average is less stringent than a 2-hour
 17 maximum average.
 18 MR. WILSON: So you would be
 19 lessening the stringency?
 20 DR. SHEEDY: Lessening the
 21 stringency of the rule. I'm not sure if
 22 it's possible that the NSPS could be
 23 satisfied by the 2-hour average limit.
 24 MS. MYERS: How do you determine
 25 the 2-hour maximum average?

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1 we combine the two or say if you are
 2 subject to NSPS, this rule doesn't apply?
 3 I guess I'm trying to simplify it, and I
 4 don't know if it applies to anybody else or
 5 if anybody else in this room has the same
 6 concerns about trying to show compliance
 7 with the same number, but two different
 8 ways. Those are my questions.
 9 DR. SHEEDY: We have looked into
 10 this some since we spoke to you last week.
 11 And we agree that an effective date,
 12 although we can't call it an effective
 13 date, would be helpful in this regulation.
 14 And we have put together some language that
 15 we think will meet that purpose. If you
 16 would like, I can read that to you.
 17 The Applicability Section, 33-1.1
 18 would say, this subchapter applies to fuel-
 19 burning equipment that meets both of the
 20 following criteria: 1) the fuel-burning
 21 equipment has a rated heat input of 50
 22 million BTU per hour or greater. 2) Fuel-
 23 burning equipment is new equipment that was
 24 not in being on February 14, 1972, or it is
 25 existing equipment that was altered,

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1 MR. BRANECKY: What's a maximum
 2 average?
 3 DR. SHEEDY: I asked them how
 4 they were doing it. I think they've been
 5 looking at it as a rolling average, but I -
 6 -
 7 MR. BRANECKY: Just an average?
 8 DR. SHEEDY: Just an average.
 9 But that may need some more discussion. I
 10 suppose it could be a block average, and
 11 then the next 2 hours, and the next 2
 12 hours, instead of these 2 hours and then
 13 shift over one in those 2 hours,
 14 MR. BRANECKY: Well, I guess I'm
 15 confused between a maximum average and an
 16 average.
 17 DR. SHEEDY: I can't see that
 18 there is a difference.
 19 MR. WILSON: The real question
 20 here is how you do that average. Are you
 21 talking about a 2-hour period of time,
 22 whereby that 2-hour period would be maxed
 23 after the last, you know, after the one-
 24 hundredth twentieth minute --
 25 DR. SHEEDY: Yes.

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1 MR. WILSON: -- then it starts
2 again? Or do you roll that average -- how
3 many 2-hour periods are there in 24 hours?
4 DR. SHEEDY: 12.
5 MR. WILSON: You would think
6 there would be 12.
7 DR. SHEEDY: You would.
8 MR. WILSON: It could be a lot
9 more than 12.
10 DR. SHEEDY: Well, if you rolled
11 the average, yes.
12 MR. WILSON: Correct.
13 DR. SHEEDY: Yes.
14 MR. WILSON: Which one is this
15 regulation?
16 DR. SHEEDY: This regulation does
17 not -- the permit staff indicated to me
18 that they were thinking of it as a 2-hour
19 rolling average.
20 MR. WILSON: But is there --
21 DR. SHEEDY: But it does not say
22 and it didn't say --
23 MR. WILSON: My suggestion there
24 is to make it very clear. Whatever is
25 intended, make it clear so there is no

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1 question about it.
2 DR. SHEEDY: Whether or not it's
3 rolling or block?
4 MR. WILSON: Whichever one,
5 right.
6 MR. BRANECKY: I guess I would
7 still like to know, are you firm that if we
8 change this to a 3-hour, as stated here,
9 subject to the NSPS, that it's not
10 applicable?
11 DR. SHEEDY: Well, if we're
12 talking a 2-hour rolling average versus a
13 3-hour rolling average, then I think is a
14 relaxation. If we're talking a 2-hour
15 block versus 3-hour rolling, I'm not sure.
16 And I don't know when we say -- when we're
17 comparing a 2-hour rolling and a 3-hour
18 rolling, just how much real impact it has.
19 MR. BRANECKY: What are we
20 gaining?
21 DR. SHEEDY: I haven't, to this
22 point --
23 MR. BRANECKY: I'm just trying to
24 think --
25 DR. SHEEDY: I don't have numbers

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1 to say if you had -- if your emissions were
2 this over a day, what's the difference in
3 your 3-hour rolling average and a 2-hour
4 rolling, or a 2-hour block.
5 MR. BRANECKY: We have continuous
6 monitors on our stacks, monitoring
7 continuously the NOx and calculating a 3-
8 hour average, rolling average, to show
9 compliance with NSPS. And we've had to go
10 back in and reprogram that software to look
11 at that 2-hour rolling average. Unless
12 there is some good advantage to doing that,
13 I would really rather not do that.
14 DR. SHEEDY: That's -- it looks
15 to me if we want to relax the rule, which
16 that apparently may be, then we need to
17 look at what this relaxation would do
18 against some accurate numbers of showing
19 the 2-hour and 3-hour.
20 MR. WILSON: How is compliance
21 demonstrated with these limits, currently?
22 What would the state require? A one time
23 stack test, an annual stack test?
24 DR. SHEEDY: Let's see, on these
25 big power plants they have -- of course,

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1 there is a one time stack test. But now
2 with the acid rain, they have -- what do
3 you call those?
4 MR. BRANECKY: Continuous
5 emission monitoring?
6 DR. SHEEDY: Yes. And then,
7 isn't there some kind of rad --
8 MR. BRANECKY: Rad test.
9 DR. SHEEDY: That's just a
10 verification if the monitoring is operating
11 properly.
12 MR. WILSON: Yes.
13 DR. SHEEDY: And, of course, they
14 have continuous emission monitors and keep
15 those records. Do you send those to us or
16 just have them on-site?
17 MR. BRANECKY: We upload our data
18 to EPA.
19 DR. SHEEDY: And as the concerns,
20 making the statement that if you're subject
21 to NSPS Subpart (d), you wouldn't be
22 subject to this rule, it's not quite as
23 simple as that. The standards are the
24 same, but (d) has some written (INAUDIBLE)
25 that the state doesn't have. So it

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1 wouldn't be as straightforward as that.
2 MR. WILSON: Is it the state's
3 intent to be more stringent than Subpart
4 (d)?
5 DR. SHEEDY: Well, Subpart (d) in
6 some places will say it's .7 pounds per
7 million BTU unless it's coal that came from
8 North Dakota, South Dakota or Montana, you
9 know, that kind of exception throughout.
10 Which none are as straightforward as one
11 would hope.
12 MR. BRANECKY: Did this predate
13 the NSPS Rules?
14 DR. SHEEDY: No. I think the
15 NSPS rule was just before this in '71, yes.
16 I don't think this one was done until '72.
17 MR. WILSON: If the source is in
18 excess of these limits, how many possible
19 violations would there be in a 24-hour
20 period?,
21 DR. SHEEDY: You are going to
22 need to ask someone who specializes in this
23 because I don't really know. Anybody?
24 MR. BRANECKY: If it's a block
25 average, you would have 12.

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1 DR. SHEEDY: You would have 12.
2 If it's a rolling average, it's 24.
3 MR. BRANECKY: But if it's a
4 rolling, you've got 24.
5 MR. WILSON: So under NSPS, how
6 many would there be?
7 MR. BRANECKY: It would be 24.
8 MR. DYKE: Just a moment. If you
9 are going to speak, we need your name.
10 MR. COLLINS: Gary Collins.
11 MR. DYKE: You need to come up to
12 the microphone, also.
13 MR. COLLINS: Gary Collins with
14 Terra. It depends on what subpart, whether
15 it's (d) -- (d) (a), (d)(b), (d)(c), (c),
16 also. Because Subpart (d) is different
17 then Subpart (d)(b), as far as a rolling
18 average.
19 DR. SHEEDY: Yes.
20 MR. COLLINS: And (d)(b) has a 30
21 day rolling average.
22 DR. SHEEDY: Exactly.
23 MR. COLLINS: And there is quite
24 a bit of difference between (d) and say
25 (d)(b). This is not a new regulation, this

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1 is a state rule. So whatever we've been
2 doing previous I would think would
3 continue.
4 DR. SHEEDY: This rule doesn't
5 make any change in that.
6 MR. COLLINS: Right.
7 DR. SHEEDY: The modifications
8 that we suggested don't make any changes in
9 the status quo, really. Whatever was a
10 violation before would still be a violation
11 under this rule.
12 MR. COLLINS: The way we've
13 always looked at it, we've always kept our
14 subpart or NSPS records like in NSPS says
15 to keep those in the rolling average basis.
16 But we look at the state rule as any 2
17 hours. It's not a rolling 2 hours, it's
18 not kicking off, it's not a 30 day rolling
19 average, it's not kicking off the
20 (INAUDIBLE). It's any -- you pick 2 hours,
21 any 2 hours, the maximum emissions from
22 those 2 hours have to be below the
23 standard.
24 DR. SHEEDY: Isn't that a rolling
25 2 hours?

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1 MR. WILSON: Any continuous 2
2 hours?
3 MR. COLLINS: Right. A rolling
4 average actually tells you how many data
5 points you can use within that period, like
6 you were saying.
7 MR. WILSON: So this -- does this
8 add a burden to you to comply with both 33
9 and Subchapter (d)?
10 MR. COLLINS: It does for Subpart
11 (d)(b) boilers, definitely, yes. If you
12 have to comply with this regulation, it's
13 more stringent than the 30 day rolling
14 average.
15 DR. SHEEDY: Yes, it is. I
16 particularly look at (d) because OG&E's
17 coal fired power plants, were all (d). But
18 as you say, (d)(a), (d)(b), and (d)(c) are
19 all different and have a different filings
20 on averaging time.
21 MR. WILSON: Subpart (d) are also
22 in most other testing requirements like the
23 Appendix F requirements. So you couldn't
24 just say compliance with (d) meets
25 compliance with this or vice-versa.

1 DR. SHEEDY: It's not quite as
2 simple as that.
3 MR. WILSON: My thought here is
4 if the state does not intend for this to be
5 more stringent than Subpart (d), let's make
6 that change. And let's get EPA involved in
7 discussions if that's at all possible. If
8 it is intended to be more stringent, then
9 so be it.
10 DR. SHEEDY: It's somewhat
11 difficult to determine exactly what the
12 intent was at that time. I know when this
13 was written, apparently, the people working
14 on it weren't aware of the federal
15 standards and I'm not sure why the
16 difference in the averaging time came
17 about. But if EPA considers it a
18 relaxation, then we would need them to buy
19 in on a change.
20 MR. DYKE: Any other comments?
21 Thank you. Any other questions? We have
22 some people wishing to comment on this
23 rule. Would you like to move to that at
24 this point?
25 MR. BRANECKY: Yes.

1 MR. DYKE: Nadine Barton.
2 Nadine, do you want to go first? Nadine
3 Barton.
4 MS. BARTON: I have a question of
5 Joyce before she leaves. Nadine Barton
6 with CASE, Citizens Action for a Safe
7 Environment. Does this rule also apply to,
8 like, Ogden Martin with their stacks?
9 DR. SHEEDY: It applies to --
10 well, Ogden Martin is an incinerator,
11 right?
12 MS. BARTON: Correct.
13 DR. SHEEDY: Not all incinerators
14 are considered to be fuel-burning
15 equipment. I think for an incinerator to
16 be fuel-burning, it would have to be using
17 the heat for some practical purpose, like
18 generation of electricity or whatever. So
19 if it's not fuel-burning, then this would
20 not apply to them. It applies only to
21 fuel-burning equipment that has a heat
22 input of 50 million BTU's per hour or
23 greater.
24 MS. BARTON: I don't know what
25 their BTU output is.

1 DR. SHEEDY: I'm not sure what it
2 is, either.
3 MS. BARTON: I just wondered if
4 that would affect them, because of their
5 steam generation for Sun.
6 DR. SHEEDY: It's my
7 understanding that if you're an incinerator
8 but you're making steam and you are selling
9 it, that it can probably be considered as
10 fuel-burning equipment. Now, I don't know
11 the size of their units, if they're 50
12 million BTU and above.
13 MS. BARTON: I would just caution
14 staff here because, you know, we have this
15 concern, as the citizens with them over
16 there, that a less stringent of stack
17 testing does not manifest and they can come
18 under this. So you need to be really
19 careful about that. Because I think -- do
20 you remember last year when we went through
21 this and EPA was here and we talked about
22 the averaging of their stacking and their
23 stack testing and all that? Please be
24 careful with that.
25 My other question has to deal with,

1 is that for each stack, if they have two
2 stacks, or is that an average of the two
3 that we're talking about here?
4 DR. SHEEDY: I believe it's for
5 each unit.
6 MS. BARTON: Thank you.
7 MR. BRANECKY: Let me say that
8 I'm not advocating anything less stringent,
9 but if a 2-hour average, rolling average,
10 is the same as a 3-hour, it just doesn't
11 make sense to have to report it two
12 different ways. And that's what I would
13 like to get clarified. If we can simplify
14 this by just having one reporting process
15 for averaging time, that would be helpful.
16 MR. GROUND: I'm Howard Ground
17 with Central and South West and I have a
18 few comments regarding this. I would like
19 to say, first of all, I think this is --
20 our Subpart (d) is much more stringent than
21 what this is. My interpretation of this is
22 this is a compliance determination of a 2-
23 hour maximum of your emission rates. It's
24 not an average of anything. It's not a 2-
25 hour rolling, it's not a 2-hour block, it's

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1 not a 12 times per day, this is a 2-hour
2 maximum compliance determination. And we
3 can determine this, and we're showing one
4 time. And that's how you can show -- this
5 doesn't have -- excuse me?
6 DR. SHEEDY: What does that mean,
7 a 2-hour maximum?
8 MR. GROUND: You run and you show
9 that for 2 hours you can be below your .7
10 pounds. So what we're doing right now is
11 on a 3-hour rolling average, which is much
12 more stringent than what this is under
13 Subpart (d).
14 DR. SHEEDY: So --
15 MR. GROUND: This doesn't give
16 any kind of averaging, any kind of a per
17 day, per month, per year, any time. So I
18 think any talk about making this anything
19 else is making it more stringent. But I
20 think what we have under NSPS is much more
21 stringent.
22 MR. BRANECKY: So what you are
23 saying is when we build a unit we do a
24 performance test to show compliance.
25 MR. GROUND: To show compliance.

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1 MR. BRANECKY: And that one time
2 test shows compliance with this?
3 MR. GROUND: That's right. And I
4 think if you look at it, if you go back to
5 1970 or whatever when they were building,
6 that's how they show compliance in this
7 subchapter. Just in light of that, I think
8 any talk of any kind of an average is just
9 adding into this what has never been in
10 there. I've never really had any inspector
11 question it, so I can't tell you what they
12 think. They've never questioned whether we
13 comply with this, because we complied with
14 NSPS.
15 MR. WILSON: But you don't see
16 any chances, I guess mathematically, that
17 you could be in violation under this 2 hour
18 maximum, and not in violation with NSPS?
19 MR. GROUND: For our company, no.
20 We're much lower than this, as far as our
21 compliance determination.
22 MR. WILSON: So mathematically it
23 would be impossible to be in violation of
24 this.
25 MR. GROUND: If you ran up to

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1 this limit, .7, then that could be true.
2 But we're almost half of that for our
3 determination.
4 MR. BRANECKY: But theoretically,
5 you could exceed the 2-hour and still meet
6 the 3-hour, is that what you're saying? Is
7 that what you're asking?
8 MR. WILSON: I think it's
9 mathematically possible.
10 MR. KILPATRICK: But even -- the
11 question I hear him saying is that you --
12 once you satisfy -- his understanding of
13 this is, once you satisfy this one time,
14 it's a one time determination, it's not an
15 ongoing requirement.
16 MR. BRANECKY: I guess maybe
17 that's what we need to get clarified.
18 MR. KILPATRICK: It's not clear
19 from reading this what the intent is.
20 MR. GROUND: It is not. And if
21 you'll look at NSPS as written in Subpart
22 (d), which if they could prove that they
23 are below the .7, they don't have to
24 monitor. So that's the original compliance
25 determination that they can meet the

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1 standard -- actually a certain amount below
2 the standard, then they didn't have to
3 monitor for NOx. So that's one comment.
4 The other comment, as far as the --
5 I had a lot of, I guess, exactly the same
6 comments or questions that David had -- Mr.
7 Branecky. First of all, being considered
8 new fuel-burning equipment. I guess I
9 agree it's for anything after that date,
10 and I didn't know what that date was until
11 I read in the description this morning.
12 But in your description of the change, I
13 think there is -- or I can see one problem
14 in your number 2. You said units that are
15 in being at the time of -- well, that's not
16 the standard language.
17 DR. SHEEDY: There is a
18 definition of in being in Subchapter 1.
19 MR. GROUND: In Subchapter 1,
20 well, I believe in this subchapter they
21 actually talk about commence construction.
22 DR. SHEEDY: Yes. But in this
23 subchapter originally, let's see, it said -
24 - they just talk about new -- previously it
25 said any new, for instance, gas fired fuel-

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1 burning equipment. So if you go over into
2 Subchapter 1 and look up new equipment or
3 new source, that will say that it is new
4 installation, source, or equipment means
5 that air contaminant source which is not in
6 being on the effective date of these
7 regulations. And any existing source,
8 which was altered, replaced or rebuilt
9 after the effective date of regulation,
10 substantive amount of air contaminant
11 emissions is increased.

12 So again, you go to the definition
13 of in being, in order to understand what
14 new source installation means. And in
15 being is also in Subchapter 1, and it means
16 as used in the definitions of new
17 installation and existing source that an
18 owner or operator has undertaken a
19 continuous program, construction or
20 modification or the owner/operator has
21 entered into a binding agreement or
22 contractual obligation to undertake and
23 complete within a reasonable time a
24 continuous program, construction or
25 modification prior to the compliance date

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1 for installation of the applicable
2 regulation. So we do define, in being.

3 MR. GROUND: Okay. I'll withdraw
4 that. That's all I have.

5 MR. WILSON: I wanted to respond
6 to Nadine's question. The definition of
7 fuel-burning equipment in Subchapter 1,
8 means any one or more boilers, furnaces,
9 gas turbines or other combustion devices
10 and all pertinent thereto used to convert
11 fuel or waste to use for heat or power.

12 MS. BARTON: Thank you.

13 MR. WILSON: You're welcome.

14 DR. SHEEDY: So an incinerator
15 could be fuel-burning equipment if it's
16 converting usable waste to --

17 MS. MYERS: If it meets the
18 criteria for heat input per hour.

19 DR. SHEEDY: Yes. The heat input
20 criteria also has to come into play for
21 Subchapter 33.

22 MR. WILSON: It would appear to
23 be applicable under the new applicability
24 language. However, underneath the emission
25 limit language, it is not included.

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1 Because it's not gas fired, it's not liquid
2 fired, it's not solid fossil fuel fired.

3 So there doesn't appear to be any emission
4 limits in this subchapter applicable to
5 waste incinerator. And if that's what's
6 intended, then perhaps the applicability
7 section needs to spell out which fuel-
8 burning equipment is subject to these
9 limitations. If it is intended to apply to
10 waste incinerators, then I feel like there
11 needs to be an emission -- an individual
12 emission limit paragraph that would apply
13 to that facility. I'm sure that facility
14 could probably comment on that.

15 MR. DYKE: Barbara. I'm sorry,
16 Sharon, go ahead.

17 MS. HOFFMAN: Let me just say
18 something real quickly. I'm Barbara
19 Hoffman, staff attorney for DEQ. We have
20 an entire subchapter that deals with
21 municipal waste combustors, so they have
22 NOx requirements in Subchapter 17. So they
23 are fully covered.

24 MR. WILSON: It's not the state's
25 intention to include them in this

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1 subchapter?

2 MS. HOFFMAN: Exactly.

3 MR. WILSON: I still think that
4 clarification might need to exist.

5 DR. SHEEDY: Well, yes.

6 MR. WILSON: Unless you read this
7 thing and you say well, okay, I don't fall
8 under (a), I don't fall under (b), I don't
9 fall under (c), so if I don't fall under
10 (a) (b) or (c), then I'm in good shape on
11 this one.

12 DR. SHEEDY: The fuel-burning
13 equipment was rewritten in 1977, which is a
14 number of years after 33 was written, and
15 33 has really only had one change since
16 it's inception.

17 MS. MYERS: I've got a question
18 based on what Howard said. Is this
19 subchapter primarily to demonstrate
20 compliance -- a one time compliance
21 demonstration on this 2-hour maximum, or is
22 this something that's supposed to apply on
23 a regular compliance basis? It's not
24 clear.

25 DR. SHEEDY: It's supposed to --

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1 if it's just for a 2-hour maximum at the
2 beginning of the plant's operation. No,
3 I'm sure it was meant to -- that you were
4 meant to comply with these limits
5 throughout the operation of the plant.
6 MR. BRANECKY: Well, under NSPS,
7 as far as I understand, compliance
8 demonstration for NSPS is the one time
9 performance test.
10 DR. SHEEDY: Yes, compliance
11 demonstration, yes.
12 MR. BRANECKY: Excess emissions
13 are determined by the 3-hour rolling
14 average. Compliance is not determined by
15 the 3-hour rolling average, it's determined
16 by the one time stack test. So I think in
17 looking at it now, I tend to agree with Mr.
18 Ground, that this was intended to be a one
19 time compliance test to show that you met
20 the standard.
21 DR. SHEEDY: You mean then after
22 that you don't have to comply with .2
23 pounds per hour --
24 MR. BRANECKY: Well, the intent
25 is if you show compliance and when you do,

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1 your test is running as high as you can on
2 heat input, you go flat out, and if you
3 meet your standard at that point, then at
4 any other time you operate, you're going to
5 meet the standard. If you're showing
6 compliance at maximum load, if you do that,
7 you're okay.
8 DR. SHEEDY: Hasn't EPA changed
9 the rules so that continuous emission
10 monitoring results can be used to show
11 excess or violations?
12 MS. MYERS: We're talking about
13 two different things. We're talking about
14 compliance tests and we're talking about
15 performance tests, and talking about
16 emissions compliance.
17 DR. SHEEDY: I can see what
18 you're saying, but I think that plants
19 don't always operate as efficiently all the
20 time as they do during testing, sometimes.
21 So I find it difficult to believe that we
22 only intended that they have to meet .2
23 pounds per hour for gas fuel-fired
24 equipment during compliance testing.
25 MR. BRANECKY: Is there any way

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1 you can go back and search your records to
2 find the intent?
3 DR. SHEEDY: I've looked at the
4 records I could find, and I'll look at them
5 again. But I didn't see anything that I
6 could tell that it's over it's compliance
7 or not.
8 MR. WILSON: I guess with all the
9 uncertainty around how compliance is going
10 to be demonstrated and how this 2-hour
11 maximum is going to be interpreted, that
12 there be -- I'm suggesting there be some
13 clarity written in the rule around this.
14 It's one of those rules where 25 years ago
15 people just thought well, 2-hour maximum,
16 that means whatever it means to me is
17 right.
18 DR. SHEEDY: Yes.
19 MR. WILSON: And it's not the
20 case, anymore.
21 MS. MYERS: We certainly want to
22 get a rule that's understood by the
23 regulated community as well as the
24 communities around us, as far as our
25 regulators.

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1 DR. SHEEDY: Well, that is the
2 purpose of this rewrite/dewrong.
3 MR. DYKE: Don.
4 MR. WHITNEY: I'm Don Whitney
5 from Trinity Consultants. Another point of
6 clarification that perhaps should be looked
7 for is on solid fossil fuels. This might
8 be a land mine for future interpretations,
9 but fossil fuel is in there but it's not
10 directed to gases or liquid fuels. And I
11 wonder if that is intentional to be
12 referring to coal only or would that, in
13 other words, just excuse wood or fire chips
14 or some other kind of solid fuel. Do we
15 really need the word fossil in there.
16 DR. SHEEDY: Good question.
17 Historically it said fossil, but whether
18 that still should be the case -- and then
19 we wouldn't consider wood chips or any
20 other solid fuels, I don't know. At that
21 point, coal is probably the only solid fuel
22 that is routinely used (inaudible).
23 MR. DYKE: Joyce, do you have any
24 other areas that you wish to cover before
25 we make a recommendation to continue? Just

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1 a moment. Nadine?
2 MS. BARTON: I would just like to
3 make one more comment, if I could, before
4 you close this. Nadine Barton, Citizens
5 Action for a Safe Environment. I would
6 like to recommend -- I have to go back to
7 my concern of a pending loophole and what
8 we talked about, Mr. Wilson, earlier.
9 Maybe a simple sentence that this does not
10 apply to municipal waste, solid waste
11 incinerators be inserted in that so there
12 is no way that that can be misinterpreted,
13 since we do have that whole long section
14 that does apply to that. I just don't want
15 to have any loophole found by any attorney
16 that could be used to that benefit. And
17 the other thing is when you are considering
18 the 2 or the 3-hour averaging, please, I
19 know that EPA -- I've made a formal comment
20 on your new standards. And our concern
21 here in Tulsa is our combined new NOx
22 emissions that is going to be coming into
23 our air shed. And I would like to request
24 that when you are formulating this formula,
25 that you just take the new standards, the

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1 new sources that are coming within the
2 Tulsa air shed, add them together, and see
3 if by your testing whether the 2 or the 3-
4 hour is more stringent or less stringent,
5 because this is just the beginning. I
6 would like to recommend that you have the
7 more stringent because the more we are
8 going to be loaded, the worse our air is
9 going to become. Thank you.
10 MR. BRANECKY: Nadine, I would
11 like to point out something that I think
12 mostly of the new sources coming in are
13 well below this standard, their PSD
14 sources, going through PSD review, they
15 have to put on the best control technology
16 which brings in much less than even the .2
17 MS. BARTON: I understand that
18 and respect that. However, when you look
19 at the combined NOx that's being added to
20 what we have, right now it doesn't matter
21 whether they have the best technology
22 available or not, it's still going to push
23 us up to approximately 3,700 new tons
24 annually from them and we can't afford
25 another drop in our bucket. So I would

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1 just like to have staff look at that and
2 just take our sources here in our air shed
3 and look at it and see what you come up
4 with. Thank you.
5 MR. DYKE: Joyce, in light of the
6 comments today, would recommend this be
7 continued to the next Council meeting?
8 DR. SHEEDY: Yes.
9 MR. DYKE: Is there anyone else
10 wishing to speak on this rule this morning?
11 Additional questions or comments from the
12 Council? I didn't mean to cut anybody off.
13 Mr. Chairman.
14 MR. BRANECKY: We have a
15 recommendation from staff that this Rule
16 Subchapter 33 be carried over to the April
17 Council Meeting. Do I have a motion?
18 MR. KILPATRICK: So moved.
19 MR. FALLON: Second.
20 MR. BRANECKY: We have a motion
21 and a second that Subchapter 33 be carried
22 over to the April Council Meeting. Myrna,
23 call the roll, please.
24 MS. BRUCE: Mr. Kilpatrick.
25 MR. KILPATRICK: Aye.

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1 MS. BRUCE: Mr. Fallon.
2 MR. FALLON: Yes.
3 MS. BRUCE: Mr. Treeman.
4 MR. TREEMAN: Yes.
5 MS. BRUCE: Mr. Wilson.
6 MR. WILSON: Yes.
7 MS. BRUCE: Mr. Branecky.
8 MR. BRANECKY: Yes.
9 MS. BRUCE: Ms. Myers.
10 MS. MYERS: Yes.
11 MS. BRUCE: Mr. Breisch.
12 MR. BREISCH: Yes.
13 MR. DYKE: I believe that closes
14 the hearing portion of our meeting this
15 morning.
16
17 (PROCEEDINGS CONCLUDED)
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C E R T I F I C A T E

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2
3 STATE OF OKLAHOMA)
4 COUNTY OF OKLAHOMA) ss:
5 I, CHRISTY A. MYERS, Certified
6 Shorthand Reporter in and for the State of
7 Oklahoma, do hereby certify that the above
8 proceedings is the truth, the whole truth,
9 and nothing but the truth; that the
10 foregoing proceedings were taken by me in
11 shorthand and thereafter transcribed under
12 my direction; that said proceedings were
13 taken on the 16th day of February, 2000, at
14 Tulsa, Oklahoma; and that I am neither
15 attorney for nor relative of any of said
16 parties, nor otherwise interested in said
17 action.
18 IN WITNESS WHEREOF, I have hereunto
19 set my hand and official seal on this, the
20 7th day of March, 2000.
21
22 CHRISTY A. MYERS, C.S.R.
23 Certificate No. 00310
24
25

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

ORIGINAL

TRANSCRIPT OF PROCEEDING ON
RULE HEARING OAC 252:100-33,
CONTROL OF EMISSION OF NITROGEN OXIDES
HELD ON APRIL 19, 2000
AT 9:00 A.M.
AT THE GREAT PLAINS TECHNOLOGY CENTER
IN LAWTON, OKLAHOMA

25 REPORTED BY: CHRISTY A. MYERS, C.S.R.

1 COUNCIL MEMBERS

2 David Branecky, Chairman

3 Sharon Myers, Vice-Chair

4 Rick Treeman, Member

5 Joel Wilson, Member

6 Fred Grosz, Member

7 Gary Kilpatrick, Member

8 Leo Fallon, Member

9 Bill Breisch, Member

10 Eddie Terrill, Director

11 David Dyke, Protocol Officer

12 Myrna Bruce, Secretary

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1 everything that is subject or to list
2 everything that isn't subject. Therefore,
3 applicability criteria are being proposed
4 in Section 1.1 for determining whether or
5 not a source is subject to the rule. If
6 the source is subject to more than one rule
7 that regulates the same pollutant, then the
8 source must comply with the most stringent
9 requirements.

10 Staff has made the following changes
11 to the rule since the February meeting.

12 Staff proposes to return the
13 proposed statement in Section 1 on page 1
14 to its original language, which on further
15 consideration seems to express the purpose
16 more clearly than the revised language.

17 Staff has revised the applicability
18 Section 252:100-33-1.1, on page 1, to make
19 it easier to determine if a source is
20 subject to the rule. Since staff has
21 proposed to delete the subsection on nitric
22 acid plants, the only sources covered by
23 the rule will be fuel-burning equipment.

24 We have received written comments
25 from Michael Graves of Hall, Estill,

1 Hardwick, Gable, Golden and Wilson, from
2 Tom Blachley, from Gary Collins of Terra,
3 and from EPA.

4 Written comments were received on
5 March 27th from Hall, Estill, Hardwick,
6 Gable, Golden & Nelson, dated March 24th
7 and signed by Michael Graves. A copy of
8 that letter, as well as the summary of the
9 comments and the staff's responses, are
10 included in the Council packet and are
11 available at this meeting and we want them
12 to be part of the record.

13 One of their primary concerns
14 appears to be that the subchapter is more
15 stringent and has a much broader
16 applicability than comparable federal
17 standards such as NSPS Subparts D, Db, and
18 GG, and that the DEQ has offered no
19 justification to substantiate the need for
20 broader and stricter standards.

21 The proposed revisions before us
22 today are results of the re-right/de-wrong
23 program. The purpose of that program is to
24 clarify, simplify and correct errors.
25 Staff proposed no substantive changes to

1 the standards and, therefore, did not
2 include justifications for the standards
3 that were already in place. Such
4 justifications were presented when these
5 standards went through the rulemaking
6 process before they were promulgated and
7 these records are available at the Air
8 Quality Division office.

9 The commentor was also particularly
10 concerned with the apparent conflict
11 between Subchapter 33 and the federal NSPS
12 Subpart GG that set standards for turbines.
13 They proposed that Subpart GG, which is
14 specifically designed for stationary gas
15 turbines and was developed by the federal
16 government after the state's standards, be
17 used to regulate turbines in lieu of
18 Subchapter 33.

19 Staff believes that any change to
20 the rule that would exempt turbines or
21 revise the standards for turbines is beyond
22 the scope of the re-right/de-wrong program
23 and requires additional research that needs
24 more time than is available if we are to
25 meet the re-right/de-wrong deadline.

1 The commentor also recommended that
2 the maximum two-hour average emission
3 limitation in Section 2 conform to the
4 federal NSPS.

5 Since preparing the proposed revised
6 Subchapter 33 that is in the Council
7 packet, staff has discovered that this same
8 subject was brought up in the March 17,
9 1987, Council Meeting regarding sulfur
10 limits for fuel-burning equipment in
11 Subchapter 31. At that meeting and in a
12 memo dated December 19, 1986, to the
13 Council, Air Quality staff recommended that
14 the change from the two-hour averaging time
15 to a three-hour averaging time be made for
16 practical reasons, since a stack test to
17 determine compliance consists of three one-
18 hour runs, a three-hour average is already
19 essentially in effect. Staff feels that
20 the same is true for the averaging time in
21 Subchapter 33 and recommends that the two-
22 hour maximum be changed to a three-hour
23 average.

24 We also had written comments from
25 Tom Blachley. His comments were received

1 on April the 7th, so they are not included
2 in the Council packet, but they are
3 available here this morning and we would
4 like to, as I said earlier, make that part
5 of the record. In general, Mr. Blachley's
6 comments were nonsubstantive wording
7 changes and corrections. Staff has made
8 the corrections and some of the changes.

9 We have a comment that we received
10 yesterday, April the 18th, from Gary
11 Collins of Terra, and staff hasn't had an
12 opportunity to evaluate these comments or
13 respond to them, however, they are
14 concerned with the appropriateness of
15 covering turbines in Subchapter 33. We
16 would like that to be made a part of the
17 record.

18 I believe we also have comments from
19 EPA. I'm not certain what date we received
20 those. At that time, they were in support
21 of the changes in the subchapter as they
22 were when we sent them, to them.

23 Due to the comments and the
24 additional information that we received,
25 since the rule that was contained in the

1 Council packet was prepared, the staff
2 wishes to propose the following changes to
3 the rule.

4 We propose to add a new section, it
5 will be 252:100-33-1.1, Definitions. And
6 it would read: The following terms, when
7 used in this Subchapter, shall have the
8 following meaning, unless the context
9 clearly indicates otherwise.

10 New fuel-burning equipment means any
11 fuel-burning equipment, with the exception
12 of simple cycle gas turbines, that was not
13 in being on February 14th, 1972, or any
14 existing fuel-burning equipment that was
15 altered, replaced, or rebuilt after
16 February 14, 1972, resulting in an increase
17 in air pollutant emissions, and any simple
18 cycle gas turbine that was not in being on
19 July 1, 1977, or any existing simple cycle
20 gas turbine that was altered, replaced, or
21 rebuilt after July 1, 1977, resulting in an
22 increase in air pollutant emissions.

23 Three-hour average means the
24 arithmetic average of sampling results or
25 continuous emission monitoring data from

1 three continuous one-hour periods.

2 Then the applicability section we
3 would renumber 33-1.2, and what we would do
4 in the applicability section would be
5 changed to read, the equipment burns solid
6 fossil, gas or liquid fuel.

7 In Section 2, Emission Limits,
8 Subsection (a) under that section, we would
9 delete maximum and substitute three, for
10 two, on heat input three-hour average. We
11 would do the same thing in (b), which is
12 liquid-fired fuel-burning equipment, we
13 delete maximum, and substitute three, for
14 two, and again in (c) for solid fossil
15 fired fuel equipment.

16 We also had a request to change the
17 limit in parenthesis that is now in million
18 gram-calories to nanograms/per jewels,
19 since that is the units that's used in the
20 NSPS Subparts D, Da, Db, and Dc. So in
21 Subsection (a), we would change 0.36 gram
22 per million gram-calories to 86 nanograms
23 per jewels, which would be ng/J.

24 In (b), we would change 0.54 g/MMg-
25 cal to 129 ng/J, and in (c), we would

1 change that to 300 ng/J.

2 MR. DYKE: Joyce, would you go
3 through those again, please?

4 DR. SHEEDY: Yes. In (a), for
5 gas-fired fuel-burning equipment, the units
6 in parenthesis would be changed to 86 ng/J.
7 In (b), for liquid-fire fuel-burning
8 equipment, that would be changed to 129
9 ng/J. And in (c), it would be changed to
10 300 ng/J. I believe I got those correct if
11 no one disagrees.

12 That would be all the changes we
13 would suggest there. Other than perhaps
14 the two-hour average change to the three-
15 hour average, they are not substantive
16 changes.

17 The staff would suggest that the
18 proposed rule as we ask be amended, be
19 recommended to the Board for permanent
20 adoption. Staff feels that any exclusion
21 of turbines from Subchapter 33 or setting
22 special standards for turbines is beyond
23 the scope of the re-right/de-wrong program
24 and I think if the Council desires, should
25 be considered separately. As stated

1 before, more information is necessary on
2 the numbers of turbines involved and the
3 performance of modern turbines before a
4 decision can be made to relax NOx
5 standards, considering the potential
6 problems the state may have with ozone.
7 I'm sure we would want to set up a work
8 group to investigate that. Are there any
9 questions or comments?

10 MR. WILSON: I have a question.
11 I recall Terra Nitrogen coming before the
12 Council wanting an alternate reduction, and
13 I believe their arguments at the time were
14 that this turbine should not be subject to
15 Subchapter 33. Do you recall whether or
16 not there was statements made there by
17 staff or by Don Shandy, who I believe
18 testified on behalf of Terra Nitrogen, did
19 staff agree?

20 DR. SHEEDY: I wasn't at that
21 particular meeting. I have a letter from
22 John Stallings, which was a member of staff
23 back in 1972 or '74, in which he was
24 responding to an engineer. He said that
25 Subchapter 33, as written, was not intended

1 to apply to simple cycle gas turbines, but
2 did apply to combine cycles, you know,
3 where they combined with steam generators
4 or that sort of thing. And what has
5 happened in 1977, when the definition of
6 fuel-burning equipment was revised, that
7 revision brought turbines under the fuel-
8 burning equipment definition and therefore
9 made it subject to this rule. Now, it's
10 our understanding that the modern day
11 turbines can meet these standards, and I
12 know we are certainly -- we have been
13 writing permits for a number of power
14 generator turbines and they indicated that
15 they can meet this standard. Now whether
16 there's a generation of turbines that,
17 before the modern day turbines and after
18 they became subject, that have had problems
19 as Terra has, I don't know. We may need to
20 look into that to give them some relief. I
21 understand that they were very close to
22 meeting the standard. I believe I was told
23 the standard was .20 and they were at .22.
24 So I don't know that we would want to relax
25 our standard considerably to what EPA's

Christy A. Myers
Certified Shorthand Reporter

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1 standard is when they are very close.

2 MR. DYKE: I have noticed Mike
3 Peters is here and I think he has some
4 comments on this. It might be beneficial
5 to hear his comments now, then come back to
6 questions and to vote, if that's okay.

7 MR. PETERS: My name is Mike
8 Peters, I'm with the law firm of McKinney
9 and Stringer. I'm here on behalf of Terra
10 in support of the comments that were
11 submitted on April 18th, 2000. I apologize
12 for the lateness of those comments being
13 submitted, however, I wanted to address
14 some of the statements that Joyce has made.
15 There is some revisions to 252:100-33-1.1.
16 I don't have a copy of what you have. She
17 indicated that there is an applicability
18 date specified for simple cycle gas
19 turbines and it's July 1st, 1977. One of
20 the comments I would have, as Joyce
21 indicated, in 1972, Subchapter 33 became
22 initially effective. At that time, it was
23 only applicable to fuel-burning equipment
24 that was used for indirect heating
25 purposes. I don't believe that is limited

1 to simple cycle gas turbines. I don't know
2 if that would be inclusive of any turbine.

3 DR.. SHEEDY: Well, I think what
4 the letter may have indicated is that
5 combined cycle gas turbines are subject,
6 but I'm not certain if what they meant when
7 they went beyond that was the part that was
8 subject, was the other part. You know, not
9 the turbine but the steam generator or
10 something.

11 MR. PETERS: Okay. So based on
12 the definition in regulation number 3, now
13 Subchapter 1?

14 DR. SHEEDY: Yes.

15 MR. PETERS: Of fuel-burning
16 equipment in 1972, it was only combustion
17 equipment that was used for purposes of
18 indirect heating. I would argue that
19 excludes all turbines, not only simple
20 cycle turbines. That's my comment
21 regarding this new language that is
22 proposed here, and I think it ought not be
23 limited to simple cycle gas turbines but to
24 all gas turbines.

25 And I won't go through all of our

1 comments, but I think Mr. Wilson has asked
2 a question about the statements that were
3 made in 1999 when Terra did come before the
4 Air Quality Council and asked for an
5 alternate emissions reductions plan, and we
6 did, and it was granted. We weren't asking
7 for an exemption or exclusion from
8 Subchapter 33 or from the NSPS. The Terra
9 turbine is not subject to the NSPS. It is
10 excluded from NSPS. However, what we were
11 trying to indicate to the Council is that
12 the turbine -- the emission limit in
13 Subchapter 33 is over three times more
14 stringent as applied to this turbine than
15 Subchapter 33. And one of the things, if
16 you look back in the rulemaking, it appears
17 to me that when 33 was initially adopted in
18 1972, it was primarily applicable to
19 boilers. And the purpose for the rule is
20 to install that and preserve the National
21 Ambient Air Quality Standards and to -- or
22 have new sources installed as best new
23 sources available for control technology.

24 Then they go into a discussion --
25 there are currently available control

1 technology for existing equipment, but
2 there is no discussion about turbines.

3 At the Council Meetings prior to the
4 definitional change that occurred in 1977,
5 there was a comment submitted by the public
6 that said turbines cannot meet this
7 standard. And then later on there was a
8 comment submitted at the second Air Quality
9 Council Meeting in February of 1977, I
10 believe, and there was a comment submitted
11 by the Oklahoma City County Health
12 Department that requested the Council not
13 take action on the change in the
14 definitions because they were unaware of
15 the impacts that all the change in fuel-
16 burning equipment would have in regard to
17 all the regulations, one of those being
18 regulation number 18 which is now
19 Subchapter 33.

20 As far as I can tell, after
21 reviewing DEQ's rulemaking development
22 package, I cannot find whether there has
23 been a response to the comments or concerns
24 previously by the Council or the Air
25 Quality Division as it regards the

1 application of Subchapter 33 to turbines.
2 And the reason why Terra did come to the
3 Air Quality Council was that their turbine,
4 existing turbine, although it generally
5 meets the Subchapter 33 NOx requirement,
6 there are certain occasions where they are
7 a little over or very close to exceeding
8 the limit, and that is the reason why we
9 requested an alternative emission reduction
10 plan. If it has not already been done, I
11 would like to enter it into the record, the
12 comments.

13 DR. SHEEDY: What we wanted to
14 say about this is that there may be a
15 problem that certain periods of time the
16 best technology for turbines may not have
17 allowed those turbines to consistently meet
18 the standard. But if turbines -- if modern
19 turbines now can meet those standards, I
20 don't know that we would really want to
21 relax those standards, and thereby allow
22 new turbines to come in, which are dirtier
23 when we could have cleaner ones. But if we
24 have existing turbines, that have a problem
25 because the best technology that was

1 available when they were built and put in
2 can't meet this standard, then we need to
3 look into that and maybe make a special
4 (inaudible) standard for them that they can
5 meet. But I don't know that we want to
6 relax our standard to the point of the NSPS
7 standard, if that isn't really necessary.
8 The NSPS standard, as EPA has told us many
9 times, represents a minimal requirement and
10 not necessarily the maximum that should or
11 can be done.

12 MR. WILSON: The gas turbines got
13 included because of the definition of fuel-
14 burning equipment; is that correct?

15 DR. SHEEDY: Because that
16 definition was changed, yes.

17 MR. WILSON: Has the state done
18 any historical examination to determine
19 whether or not they intended gas turbines
20 to be regulated by Subchapter 33?

21 DR. SHEEDY: When Subchapter 33
22 was first put in place, I don't believe
23 that turbines in general were considered to
24 be fuel-burning equipment. As I said,
25 there was one letter from John Stallings on

1 the subject in which he said definitely,
2 that simple cycle gas turbines were not
3 meant to be included, that certain combined
4 cycles, combined with steam generation -- I
5 can get the letter, but I don't have it in
6 my package right here, were included. But
7 as I recall, the NOx standard only applies
8 to the steam generating. Does that make
9 sense? I've gone beyond my technical
10 knowledge.

11 MR. WILSON: Maybe a better way
12 to put this would be that there is an
13 oversight that occurred some time ago,
14 apparently, where gas turbines got included
15 in this regulation and they were never
16 intended to be included in this regulation;
17 is that not true?

18 DR. SHEEDY: I don't think that's
19 totally true. Yes, go ahead, Barbara. I
20 agree, I don't think that's the case.

21 MS. HOFFMAN: The record from
22 when they changed the definition, makes it
23 very clear -- in fact, the definition
24 actually specifically includes gas
25 turbines.

1 DR. SHEEDY: Yes.

2 MS. HOFFMAN: So they knew they
3 were going to be including gas turbines in
4 Subchapter 31, which has that term of
5 sulfuric oxide and also it's in Subchapter
6 33, nitrous oxide. So they knew they were
7 doing that and they understood all the
8 ramifications. They knew that they were
9 including gas turbines.

10 MR. WILSON: And that was written
11 in when, Barbara, what time?

12 MS. HOFFMAN: That took effect
13 July 1st, 1977.

14 MR. WILSON: And it impacted
15 existing gas turbines?

16 MS. HOFFMAN: No, because --

17 (Loud sound)

18 MR. WILSON: Barbara, that sound
19 meant that your answer was wrong.

20 DR. SHEEDY: Subchapter 33 is for
21 new equipment only, because it doesn't have
22 any sections for existing equipment.

23 MR. WILSON: Okay.

24 DR. SHEEDY: It would be new
25 equipment.

1 MR. TERRILL: Let me interject
2 something here, if I could. I think that
3 part of the reason that we're on the record
4 this morning goes back to when Terra made
5 their original request for this alternate
6 compliance scenario, because when we went
7 back and looked at the records, we found
8 out that a lot of the discussions went on
9 in the morning, when they weren't taped and
10 didn't have good records, and that's part
11 of the reason why we're doing this format
12 like we are today.

13 Let me address the situation of how
14 we're going to get to this issue of gas
15 turbines. I think that Joyce is probably
16 right, we do need to do a work group on
17 this, but I don't think now is the time to
18 do it. Because what this will probably
19 mean, since it's my understanding that this
20 rule is part of our EPA approved SIP, and
21 this is very likely to be looked upon as a
22 relaxation of that, I don't think they are
23 going to approve it and I don't think we
24 want to take this down there as a SIP
25 change until we know for sure what's going

1 to happen with the eight-hour ozone
2 standard. Because I think all that needs
3 to be -- let's assume that the eight-hour
4 ozone standard is approved or the decision
5 is overturned at the Supreme Court level
6 and we end up with a .08 standard, and we
7 have nonattainment areas in Tulsa and
8 Oklahoma City, at that time we'll be
9 looking at all of our rules and all of our
10 attainment strategies and this would be
11 part of it. I don't think we want to have
12 something down there that's going to relax
13 it when we may have to make up those
14 somewhere else. I do think we need to look
15 at it, but I don't think now is the time to
16 do it until -- I think we need to treat
17 this issue with the gas turbines as a
18 separate issue from our re-right/de-wrong
19 process. Because I don't want to commit
20 the staff for an extra work group right now
21 since I've got the PBR for natural gas
22 compressors plus 41 is going to be one that
23 we need to address, plus we're going to
24 have to look at possible staff for
25 attainment demonstrations, and we just

1 don't have enough to have three or four
2 work groups plus that going on. We will
3 look at it. I think you bring up a good
4 point, and we will convene a work group. I
5 just would prefer to wait until we know
6 what the standard is going to be and then
7 address that, at that time, as possibly an
8 overall attainment strategy or a separate
9 issue if we're able to stay in attainment.

10 MR. WILSON: So it's my
11 understanding that we've got many, many gas
12 turbines in this state that are meeting .2?

13 DR. SHEEDY: I didn't say that.
14 I think what I -- I don't know. What I do
15 know is that we are writing permits and
16 this is for -- these only cover gas
17 turbines that are 50 million BTU and
18 greater.

19 MR. BAUKHAM: To put that in
20 perspective, I need a little help.

21 MR. DYKE: Excuse me. Identify
22 yourself, please.

23 MR. BAUKHAM: I'm Tom Baukham
24 from Reliant Energy. I just have a basic
25 question. I'm trying to get that size in

1 perspective there and I am struggling to
2 relate to what 50 million BTU per hour is.
3 How about in terms of even a power plant in
4 megawatts, can you relate that to anything?
5 I don't know.

6 DR. SHEEDY: I don't know what 50
7 million is in megawatts. I'm sorry.

8 MR. PETERS: But that brings up
9 an important point. If it was meant for
10 boilers originally and it hasn't been
11 changed, the standard is written in pounds
12 per MMBTUs, as applied to turbines, that's
13 a little bit unwieldy. Pounds per BTUs, at
14 weight, we would prefer Subpart GG in the
15 New Source Performance Standard based on
16 parts per million, which is on volume basis
17 for turbines, specifically.

18 DR. SHEEDY: I think it's really
19 hard to make an across the board
20 conversion. I think you almost might have
21 to go turbine-by-turbine to compare. And
22 I've been told in some cases that certainly
23 the NSPS is much more generous than our .2.

24 MR. PETERS: But to answer your
25 question, Mr. Wilson, we are aware that

1 there is at least one turbine that has
2 issues with Subchapter 33. There are
3 numerous turbines located in the State of
4 Oklahoma.

5 DR. SHEEDY: That we just don't
6 know about. And what I did say -- what I
7 understand from our permit section is that
8 we are -- we permitted several new turbine
9 power generators and these, of course, are
10 new modern turbines and they indicate that
11 they can meet these standards and can even
12 do better, I believe, than these standards.
13 Of course, it looks like the technology --
14 modern technology may be able to meet these
15 standards. I don't know if we tested any,
16 they hadn't been built yet, but that's what
17 their applications indicated.

18 MR. WILSON: So the only avenue
19 of relief would be for those folks that
20 couldn't, is to apply for the alternative
21 emission reduction plan or get a new gas
22 turbine?

23 DR. SHEEDY: At this point, yes,
24 I guess so.

25 MR. WILSON: Where else in the

1 regulations, in the state regulations, do
2 we see the state intending to create
3 standards three times below the NSPS limit?

4 DR. SHEEDY: I believe we have
5 standards perhaps in the federal regs that
6 -- in Subchapter 31 there are standards, I
7 don't know that they're NSPS Standards, but
8 there are certainly Ambient Air Standards
9 that are about half of what the NAAQS is.
10 And at the time, the philosophy of people
11 who wrote these rules in the first place
12 was, that the Clean Air Act more or less
13 required them to keep areas of pure air,
14 clean and therefore they -- instead of
15 using NAAQS, since our air was much
16 cleaner, in that case they used a number
17 that was closer to what our air really was,
18 because they felt that was the philosophy
19 under the requirement of the federal Clean
20 Air Act.

21 So Joel, I'm not sure that right now
22 I can quote that we were lower on the
23 NSPS, I will have to do some checking to
24 see. We are lower on some of the NOx
25 standards for fuel-burning, we are lower in

1 some cases than D. Subpart D is where they
2 allow more -- a larger standard for certain
3 types of fuel. I believe they allow -- for
4 solid fuel, I believe they allow a greater
5 standard for lignite mined in North Dakota,
6 South Dakota, or Montana.

7 So there are places where our rule
8 is and has always been more stringent than
9 the NSPS, in that case.

10 MR. BRANECKY: Any other
11 comments? Joel, are you still thinking?

12 MR. WILSON: The Subchapter 33
13 language in 1977 -- that came about in
14 1977, impacted turbines built before that
15 date. That is not --

16 DR. SHEEDY: Actually, I don't
17 think the language was in Subchapter 33.

18 MR. PETERS: There was no change
19 to Subchapter 33 -- there was no change to
20 the definition and comments filed that said
21 we need to determine the impact of the
22 definitional change and I can't find where
23 that concern has ever been addressed.
24 There was a statement by the Council at
25 that time, if problems did occur in the

1 future, we would address those problems at
2 that time.

3 DR. SHEEDY: Thank you, very
4 much.

5 MR. PETERS: Yes, ma'am.

6 (Discussion between Council Members.)

7 MR. BRANECKY: Any other
8 comments on this issue at this point? I've
9 got a couple of other comments.

10 MR. WILSON: David, I guess I'm
11 confused. I mean, I hate to pass this
12 thing being confused. I'm not -- I don't
13 guess I've got a thorough understanding of
14 what the issue is all about here. I
15 understand that our state's regulations are
16 very stringent as they apply apparently to
17 gas turbines. I understand that the state
18 feels that new turbines can meet this
19 standard, this strict -- that modern
20 turbines can meet this old standard. Isn't
21 that correct?

22 DR. SHEEDY: Yes, that's our
23 understanding from the permits we've been
24 getting in. Now, the old standard was not
25 set for turbines. But yes, we've been told

1 that modern turbines can meet it. That's
2 why we need to separate this issue from the
3 re-right/de-wrong and get into this in more
4 depth on the technical aspect of can they
5 meet it, when were they able to meet it,
6 was there a time period after they became
7 subject that it was not possible for them
8 to meet it, and do we need to give them
9 some relief for the turbines that were
10 installed during that time period? That's
11 going to take some study.

12 MR. WILSON: That's the
13 question, isn't it? There is a period of
14 time whereby turbines were installed that
15 did not have the ability to meet this
16 stringent standard?

17 DR. SHEEDY: There may be a time
18 period when even with the best technology
19 they had at that time, they might not have
20 been able to meet this. And that's what we
21 need to investigate in the case and what
22 that time period is, and what they can
23 meet. Because as Eddie pointed out, if
24 we're going to go into a nonattainment
25 problem with ozone, if this happens, then

1 we don't want to relax requirements beyond
2 what's necessary.

3 MR. WILSON: What kind of
4 performance testing do you require here?

5 DR. SHEEDY: Let's see.
6 Performance testing is suppose to require
7 generally the -- which subchapter is it
8 that's performance testing? 43, 45?

9 MR. WILSON: You don't require
10 any CEMs? I guess on the turbines subject
11 to NSPS, GG, D, and Db, there is a
12 requirement to install CEMs?

13 DR. SHEEDY: I believe so.
14 Certainly on D, Da and Db.

15 MR. WILSON: And to monitor NOx
16 emissions based upon a BTU per hour?

17 DR. SHEEDY: I believe that's
18 correct for D, Da, Db. I believe Dc
19 doesn't have a NOx limit.

20 MR. WILSON: Okay.

21 DR. SHEEDY: But the other three,
22 I believe, yes, you're correct, they call
23 it nanograms pounds per million BTU.

24 MR. WILSON: So a large new
25 turbine would also install CEMs?

1 DR. SHEEDY: I think that's
2 required by GG, isn't it?

3 MR. PETERS: Let me correct
4 something.

5 DR. SHEEDY: Okay. Go ahead.

6 MR. PETERS: GG is turbines Da,
7 Db, Dc --

8 DR. SHEEDY: Right.

9 MR. PETERS: -- are getting into
10 boilers. The question is about turbines,
11 and that's not measured on a pounds per
12 MMBTU basis.

13 DR. SHEEDY: Right. Da, Db, they
14 are, but turbines are not, as Mike pointed
15 out, they are not controlled by NSPS.
16 Turbines under GG, I think -- are they
17 parts per million?

18 MR. PETERS: Parts per million.

19 MR. DYKE: We have someone from
20 EPA here.

21 MR. SHAR: My name is Alan Shar,
22 I work with the Air Quality Planning
23 Section with EPA Region 6 in Dallas. As a
24 former permit writer, 40 Subpart 6, and
25 Subpart GG has NO2 emission standards and

1 parts per million -- and based on your
2 stack emission, we can simply convert that
3 to pounds per hour, tons per year, and
4 pounds per million BTU. So the conversion
5 is irrelevant. It's manual calculations.

6 DR. SHEEDY: Yes, but it's by
7 turbine-by-turbine.

8 MR. SHAR: Yes, it would be each
9 turbine. NSPS is technology based.

10 DR. SHEEDY: Yes. It's hard to
11 compare across the board, and make an
12 across the board pounds per million BTU for
13 turbines; isn't it?

14 MR. SHAR: That's the dilemma
15 your work group has to look at.

16 DR. SHEEDY: Exactly.

17 MR. WILSON: Does NSPS Subpart GG
18 require the installation of a CEMs?

19 MR. SHAR: For the larger units,
20 yes.

21 MR. WILSON: For larger units?

22 MR. SHAR: NSPS goes by date of
23 installation, date of manufacture,
24 modification date and the size of the unit.

25 MR. WILSON: Okay.

1 MR. PETERS: NSPS Subpart GG,
2 your performance testing is under ISO for
3 every 15 percent oxygen; is that correct?

4 MR. SHAR: 40 CFR Subpart Dc also
5 requires testing on their -- test number 7
6 which is ISO (inaudible).

7 MR. PETERS: Right, but I'm
8 talking about specifically for turbines as
9 applied under Subchapter 33, there is no
10 correlation or no correction in ISO
11 conditions for 15 percent oxygen which
12 would result in a more stringent emission
13 standard for turbines. And under the
14 federal standards they allow you to correct
15 your ISO conditions with 15 percent of
16 oxygen.

17 MR. SHAR: There are two
18 (inaudible) under Subpart GG.

19 MR. PETERS: Correction. It's
20 based on ISO conditions and (inaudible).

21 MR. SHAR: It's based on the
22 nitrogen content of the fuel, that's why
23 they allow you to (inaudible).

24 MR. BRANECKY: I guess I'm almost
25 to the point where we could probably be

1 here all day arguing this. I think I'd
2 like to maybe get a sense on where we want
3 to go with this thing. It seems to be a
4 big issue that needs to be resolved and my
5 understanding from DEQ, Air Quality, they
6 agree that this issue needs to be
7 addressed, but their concern is that we get
8 this rule through the re-right/de-wrong
9 process and then maybe come back and
10 address this issue at a later date.

11 MR. TERRILL: That's right
12 because, again, if we're going to address
13 the larger issue of the turbines, and
14 that's probably going to be -- if we grant
15 the relief that it looks like is being
16 requested, then that's going to be looked
17 at as a relaxation of our existing rule and
18 that's probably going to require set offs -
19 - offsets somewhere else, if we send it
20 down as a SIP revision. And until we know
21 what's going to happen with our attainment
22 status, I don't think we want to do that.
23 I don't think they'll approve it. I think
24 we need to look at this in the context of
25 whatever the attainment situation is in six

1 months, a year, whenever that's addressed.
2 We'll commit to look at it as soon as we've
3 got clarification as to what the ozone
4 standard is going to be. But I'm just not
5 willing to do that right now because I
6 think we'll be wasting our time and the
7 staff's time by looking at it before we
8 know what our standard is going to be.

9 DR. SHEEDY: I think we're going
10 to have to have some hard justification
11 changes.

12 MR. TERRILL: I agree. So I
13 guess the question becomes, do you want to
14 re-right/de-wrong the rule or do you want
15 to wait and not do anything until we can
16 address the rule as a whole?

17 MR. KILPATRICK: I think we ought
18 to re-right/de-wrong somehow with the
19 Council stating that the rule will be
20 addressed again as soon as the ozone
21 attainment is resolved or else say, brought
22 back to the Council at least within a year,
23 just for discussion on what we should do,
24 if we haven't had any resolution.

25 MR. TERRILL: Yes, and I think

1 that's clearly stated in the record. I
2 mean, that's our commitment and we will do
3 that.

4 MR. PETERS: With regard to the
5 proposed rule, then I would restate my
6 comment that under 252:100-33-1.1,
7 definition of fuel-burning equipment, it
8 talks about any simple cycle gas turbine
9 that was not in being on July 1st, 1977. I
10 don't think that should be limited to
11 simple cycle, I think that should be any
12 gas turbine because they were not
13 previously regulated before 1977 and I
14 don't know -- the letter that Joyce has
15 referred to previously, I don't think that
16 was an effective rule, but I'm going by the
17 definition of fuel-burning equipment that
18 was modified in 1972.

19 So I would suggest that the term
20 simple cycle be stricken from that
21 language.

22 MR. BRANECKY: There is two
23 places -- it's mentioned in both instance.

24 MR. PETERS: Yes, in both
25 instances.

1 DR. SHEEDY: They're both in the
2 definition section. That's the only place
3 where we mention simple cycle; isn't it?

4 MR. PETERS: Yes, ma'am.

5 MR. BRANECKY: Is that agreeable
6 with staff?

7 DR. SHEEDY: I think that's
8 agreeable.

9 MR. BRANECKY: Okay.

10 DR. SHEEDY: Its intent was not
11 absolutely crystal clear. It did say
12 simple cycle definitely not included,
13 combined cycle was included, but the
14 meaning beyond that may not have been for
15 turbines but what is combined with --
16 emissions that are combined with may be
17 what's included. It was fuzzy to me. So I
18 don't have a problem with that if the
19 Council doesn't.

20 MR. BRANECKY: Okay. I had
21 another question and it's on the re-
22 right/de-wrong, on 33-2 on page 2, you go
23 (a)(1), and this is the way it's numbered,
24 and then you go (a)(2), and then you go
25 (b)(3). Should that not be (b)(1)?

1 (a)(1), (a)(2), (b)(3). Then a little
2 further down, you go (c) and then you go
3 back to (b) in my version.

4 DR. SHEEDY: Down at the bottom
5 of page 1 --

6 MR. BRANECKY: In 33-2. You've
7 got (a)(1).

8 DR. SHEEDY: In the new section,
9 33-2, and then we have (a). We don't have
10 (a)(1), actually.

11 MR. BRANECKY: So you've got a
12 different one than I've got? 4/17 is the
13 date on mine. Am I looking at the wrong
14 one?

15 DR. SHEEDY: That doesn't look
16 quit the same. We took out fuel
17 combustion, (a), the original (a), fuel
18 combustion, we took that out because it's
19 all fuel combustion. And then under that
20 there should be (a), gas fired fuel-
21 burning, (b), liquid fire fuel-burning
22 equipment and (c), solid fossil fuel-
23 burning equipment.

24 MR. BRANECKY: Then you go back
25 to (b) in mine.

1 MR. KILPATRICK: The markouts
2 didn't get made on the handout we got?

3 DR. SHEEDY: We have a printer
4 that for some reason doesn't recognize the
5 markouts, so they must have printed it on
6 that. I'm sorry.

7 MR. BRANECKY: The 4/17 version
8 that I'm looking at, is that not a good
9 version?

10 MR. KILPATRICK: That's not a
11 good version. You have to compare to what
12 was in the book. You can see the markouts
13 there of what gets marked out.

14 DR. SHEEDY: I'm sorry, David, I
15 didn't get a chance to look at those. It
16 ought to look like is this. See, it didn't
17 have (a). I am so sorry, as I said, it
18 confused me. One of the printers, for some
19 reason, doesn't recognize the markouts.

20 MS. MYERS: It makes a
21 difference.

22 DR. SHEEDY: I'm really sorry, I
23 didn't realize -- most people don't know to
24 look for that, because I didn't.

25 (Discussion between Council Members)

1 MR. BRANECKY: Do we have this
2 one at all?

3 DR. SHEEDY: You had it, but you
4 don't have the appropriate markouts. I did
5 not realize that you did not have the
6 markouts. No wonder it was a problem.

7 (Discussion between Council Members)

8 MR. BRANECKY: I think we're back
9 on track. One other question I had, Joyce,
10 under the definition of new fuel-burning
11 equipment, if I had replaced a burner or
12 something that increased my CO2 or CO but
13 didn't increase my NOx, that would subject
14 me to this? You don't specify NOx
15 emissions, you say air pollutant emissions.
16 So any increase in any pollutant emissions
17 --

18 DR. SHEEDY: I think you'd need
19 to have a NOx emission increase --

20 MS. MYERS: That's not clear.

21 MR. BRANECKY: It says in air
22 pollutant emissions, which is anything.

23 DR. SHEEDY: We may want to put
24 nitrogen oxide, or NOx emission because I
25 can't see -- I believe that's the way we

1 would word it. NSPS (inaudible) can't do
2 it another way.

3 MR. BRANECKY: That probably
4 needs to be added in there, I would think.
5 An increase in --

6 DR. SHEEDY: Did you write that
7 on -- you've got the copy.

8 MR. BRANECKY: That's right. You
9 can have it back.

10 DR. SHEEDY: Thank you. I do
11 apologize for that error. Let me see if
12 our computer geniuses can't fix that
13 printer. They can probably change some
14 little thing on it and it will be okay. So
15 David, that would be new fuel-burning
16 equipment where it says --

17 MR. BRANECKY: Resulting in an
18 increase in air pollutant emissions will
19 result in an increase in nitrogen oxide
20 emissions.

21 DR. SHEEDY: Yes, okay. Any
22 others?

23 MR. BRANECKY: That's all I have.

24 DR. SHEEDY: We have an agreement
25 on the changes, I hope.

1 MS. MYERS: Joyce, have the
2 limits that were included when you changed
3 to nanograms per jewel, were those NSPS
4 limits?

5 DR. SHEEDY: Yes. Those NSPS
6 limits you can find them in Subpart D.
7 That's where I found them. If anyone wants
8 to double check to make sure I got the
9 right ones -- I tried to be very careful on
10 that. I didn't convert them myself, I
11 copied them.

12 MR. DYKE: Is there anyone else
13 wishing to speak on this rule? Additional
14 questions or comments from the Council?

15 MR. TREEMAN: So you are wanting
16 to pass this the way it is with the
17 commitment on the record to revisit it
18 within a year to address some of the
19 comments on the turbines; is that correct?

20 MR. TERRILL: We'll bring it back
21 within a year to either ask that we be
22 given additional time because the standard
23 hadn't been resolved or to announce that
24 we're going to form a committee to look at
25 it. One or the other will happen. I just

1 don't have a sense -- we'll talk about it
2 after the hearing as to what the status of
3 the standard and the appeal and all that.
4 But, yes, until we know what the standard
5 is, I really don't want to address that
6 issue, but once that's resolved, we will
7 definitely address the turbine issue.

8 MR. BRANECKY: I guess it's our
9 turn now, whether we would like to pass
10 this regulation with the changes that were
11 suggested today, understanding that DEQ
12 will address the turbine issue at a later
13 date or we can continue this to the next
14 meeting, if you would like.

15 MR. FALLON: The later date being
16 not later than the June meeting of the year
17 2001? Can you put sort of a limit on it?

18 MR. BRANECKY: We can put that on
19 the record.

20 MR. FALLON: I think that would
21 be preferable.

22 THE REPORTER: No later than June
23 of 2000?

24 MR. FALLON: The June meeting of
25 2001.

1 THE REPORTER: Thank you.

2 MR. BRANECKY: Are you putting
3 that in the form of a motion?

4 MR. FALLON: I would be happy to.

5 MR. BRANECKY: That we would pass
6 this with the changes we made today --

7 MR. FALLON: With the
8 recommended changes addressing the turbine
9 issue once there is a court decision, but
10 to address it not later than the June
11 meeting of 2001.

12 MR. BRANECKY: I have a motion.
13 Do I have a second?

14 DR. GROSZ: Second.

15 MR. BRANECKY: I've got a motion
16 and a second. Any further discussion by
17 the Council? Myrna.

18 MS. BRUCE: Mr. Kilpatrick.

19 MR. KILPATRICK: Aye.

20 MS. BRUCE: Mr. Wilson.

21 MR. WILSON: Nay.

22 MS. BRUCE: Dr. Grosz.

23 DR. GROSZ: Aye.

24 MS. BRUCE: Mr. Treeman.

25 MR. TREEMAN: Yes.

1 MS. BRUCE: Mr. Fallon.
2 MR. FALLON: Yes.
3 MS. BRUCE: Ms. Myers.
4 MS. MYERS: Yes.
5 MS. BRUCE: Mr. Branecky.
6 MR. BRANECKY: Aye.

7
8 (PROCEEDINGS CONCLUDED)
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C E R T I F I C A T E

STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth, in the proceedings aforesaid; that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 19th day of April, 2000, at Lawton, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 7th day of May, 2000.

Christy Myers

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

CHRISTY MYERS
Oklahoma Certified Shorthand Reporter
Certificate No. 00310
Exp. Date: December 31, 2000

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-35 Control of Emission of Carbon Monoxide

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OAC 252:100-35 SIP Revision

CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

Section

- 252:100-35-1. Purpose [AMENDED]
252:100-35-1.1 Definitions [NEW]
252:100-35-2. Emission limits [AMENDED]
252:100-35-3 Performance Testing [REVOKED]

252:100-35-1. Purpose

The purpose of this Subchapter is to control emissions of carbon monoxide from stationary sources to prevent the Oklahoma Air Quality Standard from being exceeded and ~~insure~~ensure that the present level of air quality in Oklahoma is not degraded.

252:100-35-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Existing source” means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being on July 1, 1972, and not modified thereafter so as to increase the emission of carbon monoxide.

“New source” means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being after July 1, 1972.

252:100-35-2. Emission limits

(a) **Existing sources.** ~~The emission of carbon monoxide from any existing foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except stationary engines source located in, or significantly impacting~~ (i.e., 500 ug/m³ on an 8 hour average) on a nonattainment area for carbon monoxide shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to complete secondary combustion. Existing equipment subject to this Subchapter must meet the emission limitations as expeditiously as practicable, but no later than ~~December 31, 1982.~~3 years after nonattainment designation by the Administrator.

(b) **New sources.** ~~The emission of carbon monoxide from any new foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except stationary engines source shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to secondary combustion.~~

252:100-35-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated~~

~~federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

Oklahoma Register

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1259]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]
- Subchapter 19. Particulate Matter Emissions from Fuel-Burning Equipment [AMENDED]
- Subchapter 21. Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]
- Subchapter 27. Particulate Matter Emissions from Industrial and Other Processes and Operations [AMENDED]
- ✓ Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]
- Appendix C. Particulate Matter Emissions Limits for Fuel-Burning Equipment [REVOKED]
- Appendix C. Particulate Matter Emissions Limits for Fuel-Burning Equipment [NEW]
- Appendix D. Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]
- Appendix D. Particulate Matter Emission Limits for Wood-Waste Fuel-Burning Equipment [NEW]

SUMMARY:

The proposed changes to Subchapter 9 include correction of typographical and grammatical errors and deletion of redundant language. Also, the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Substantive changes to the rule include narrowing the scope of the rule to minor facilities only. New language is proposed for 252:100-9-4(b) to insure that any excess emissions occurring during maintenance procedures which were not accounted for in the report submitted pursuant to 252:100-9-4(a) will be reported according to the provisions of 252:100-9-5. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation. The new language establishes a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5 percent of the process's operation time, whichever is greater, in a

rolling quarter. The burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

Subchapters 19, 21, and 27 are being revised at the same time because they are interrelated and deal with Particulate Matter (PM) emissions. 252:100-19, Particulate Matter Emissions From Fuel-Burning Equipment, complements Subchapter 27, Particulate Matter Emissions from Industrial and Other Processes, and both are being revised as part of the re-right/de-wrong process. In addition, a Permit by Rule for particulate matter sources is being proposed for Subchapter 27. The proposed changes will also merge the requirements of Subchapter 21, Particulate Matter Emissions from Wood-Waste Burning Equipment, into Subchapter 19 and revoke Subchapter 21. It is also being proposed that both Appendix C, Particulate Matter Emission Limits for Fuel-Burning Equipment, and Appendix D, Particulate Matter Emission Limits for Wood-Waste Burning Equipment, be revoked in favor of two new non-graphical appendices.

The proposed changes to Subchapter 35 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The scope of the Subchapter was narrowed to specific sources that are the primary contributors of carbon monoxide emissions. It is often impossible for small sources to achieve a 93% reduction in carbon monoxide emissions as required by the rule without increasing other emissions. Specific changes include the addition of the definitions "existing source" and "new source," along with the addition of the effective date of the rule. Also, Section 35-3, Performance Testing, was revoked because the Air Quality Division is given the authority to request this testing in the Oklahoma Clean Air Act and performance testing requirements are already provided for in Subchapters 8 and 43.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on August 24, 1999. Oral comments may be made at the August 24, 1999, hearing, and at the September 28, 1999 hearing.

PUBLIC HEARINGS:

Notices of Rulemaking Intent

Tuesday, August 24, 1999 - 9:30 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board on Tuesday, September 28, 1999, 9:30 a.m., Braman, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (252:100-9), Max Price (252:100-19, 252:100-21, 252:100-27, and Appendices C and D), Michelle Martinez (252:100-35), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 9 was heard for the first time at the June 15, 1999, Council meeting.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1259; filed 7-20-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1260]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 17. Incinerators
- Part 7. Hospital, Medical and Infectious Waste Incinerators [NEW]
- Appendix M. Emission Limits for Hospital, Medical and Infectious Waste Incinerators [NEW]

SUMMARY:

The addition of 252:100-17, Part 7, Hospital, Medical and Infectious Waste Incinerators (HMIWI), is proposed to establish state emission standards and other enforceable requirements for existing HMIWI. Also, a new Appendix M is proposed which contains emission limits for HMIWI. These rules, together with an emission inventory, schedule of compliance, emission data, record of public hearings and legal analysis, will comprise Oklahoma's State 111(d)/129 Plan, which is also available for public inspection and comment. An HMIWI is defined as any device that combusts any amount of medical/infectious waste or hospital waste. Any HMIWI for which construction commenced on or before June 20, 1996, will be subject to the new rule. These proposed rules will be the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for HMIWI (40 CFR 60 Subpart Ce). The new Part 7 incorporates by reference sections of the New Source Performance Standards for HMIWI (40 CFR 60 Subpart Ec). In addition to establishing emission standards for certain regulated pollutants, the new rule will establish requirements for HMIWI operator training and qualifications, waste management plans, and testing and monitoring of pollutants and operating parameters.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments on the proposed rules and State 111(d)/129 Plan will be accepted prior to and at the hearing on August 24, 1999. Oral comments may be made at the August 24, 1999, hearing and at the September 28, 1999, hearing.

PUBLIC HEARINGS:

Tuesday, August 24, 1999 - 9:30 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Also scheduled before the Environmental Quality Board on Tuesday, September 28, 1999, 9:30 a.m., Braman, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

Copies of the rules and the State 111(d)/129 Plan for HMIWI are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Cheryl Bradley, Department of Environmental Quality, Air Quality

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1302]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

Subchapter 4. New Source Performance Standards [AMENDED]

Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

Subchapter 47. Control of Emissions from Existing Municipal Solid Waste Landfills [AMENDED]

SUMMARY:

The Department is proposing to amend Subchapter 4 to update the incorporations by reference of the federal NSPS from July 1, 1997, to July 1, 1999. Previously incorporated NSPS subparts that have been amended by the U.S. Environmental Protection Agency (EPA) since July 1, 1997 are: AA, AAa, Da, Db, Eb, and WWW. In addition, a new Subpart Ec has been added to the NSPS. Also, Subpart Ce was added to 252:100-4-5 as an exception.

The proposed changes to Subchapter 35 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The scope of the Subchapter would be narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Other changes include the addition of the definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". Also, Section 35-3, Performance Testing, would be revoked because performance testing requirements are already provided for in Subchapters 8 and 43.

Changes are being proposed for sections 15 and 16 of Subchapter 41. The proposed amendments to 252:100-41-15 would incorporate by reference the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR 63 that have been promulgated by the EPA from July 1, 1998, through July 1, 1999. These are Subparts HH, SS, TT, UU, WW, YY, CCC, DDD, EEE, GGG, HHH, III, LLL, MMM,

NNN, PPP, TTT, and XXX. The DEQ is also proposing to update to July 1, 1999, the incorporation by reference in 252:100-41-16 of the National Emission Standards for Hazardous Air Pollutants (NESHAP) found in 40 CFR 61. Other minor revisions are proposed to Sections 15 and 16 to clarify, simplify and correct these sections as required by statute.

The Department is proposing to amend Subchapter 47 to update the incorporation by reference of 40 CFR 60.751 through 60.759 to July 1, 1999.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on October 19, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by October 12, 1999. Oral comments may be made at the October 19, 1999, hearing and at the November 16, 1999, hearing.

PUBLIC HEARINGS:

Tuesday, October 19, 1999 - 9:00 a.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma.

Scheduled before the Environmental Quality Board on Tuesday, November 16, 1999, 9:30 a.m., McAlester, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current

Notices of Rulemaking Intent

Events and Issues, or copies may be obtained from Myrna [unclear] by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (252:100-4, 252:100-35), Joyce Sheedy (252:100-41), Cheryl Bradley (252:100-47). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 35 was brought to public hearing on August 24, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1302; filed 8-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1303]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]

Subchapter 13. Prohibition of Open Burning [AMENDED]

Subchapter 19. Particulate Matter Emissions from Fuel-Burning Equipment [AMENDED]

Subchapter 21. Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

Subchapter 27. Particulate Matter Emissions from Industrial and Other Processes and Operations [REVOKED]

Appendix C. Particulate Matter Emission Limits for Fuel-Burning Equipment [REVOKED]

Appendix C. Particulate Matter Emission Limits for Fuel-Burning Equipment [NEW]

Appendix D. Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]

Appendix D. Particulate Matter Emission Limits for Wood-Waste Fuel-Burning Equipment [NEW]

JMMARY:

The proposed changes to Subchapter 5 are designed to allow the agency to bill annual operating fees on a flexible

schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language also requires an owner or operator of a facility to report excess emissions on their annual emission inventory. Substantive changes include requiring inventories to be submitted one month earlier than presently required, allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment, and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.

The proposed changes to Subchapter 9 include correction of typographical and grammatical errors and deletion of redundant language. Also, the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Substantive changes to the rule include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation. The new language establishes a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5 percent of the process's operation time, whichever is greater, in a 3 month period. The burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

The proposed changes to Subchapter 13 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. A few substantive changes were made such as adding definitions for "domestic refuse" and "landclearing operation" and a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were moved to a new section. The rule is proposed to be amended to require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 90 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee. Also, hazardous materials may not be burned in an open-pit incinerator unless prior written approval has been obtained from both the local fire chief and the DEQ.

Subchapters 19, 21 and 27 all deal with particulate matter (PM) emissions. The proposed changes will merge the requirements of Subchapter 21 and Subchapter 27 into Subchapter 19. Subchapters 21 and 27 will then be revoked.

Permanent Final Adoptions

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-637]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 35. Control of Emission of Carbon Monoxide
- 252:100-35-1 [AMENDED]
- 252:100-35-1.1 [NEW]
- 252:100-35-2 [AMENDED]
- 252:100-35-3 [REVOKED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

- August 2, 1999 through August 24, 1999
- September 15, 1999 through October 19, 1999

Public hearing:

- August 24, 1999
- October 19, 1999
- November 16, 1999

Adoption:

- November 16, 1999

Submitted to Governor:

- November 29, 1999

Submitted to House:

- November 29, 1999

Submitted to Senate:

- November 29, 1999

Gubernatorial approval:

- January 7, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2000

Final adoption:

- March 29, 2000

Effective:

- June 1, 2000

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]
- 252:100-35-1 [AMENDED]
- 252:100-35-1.1 [NEW]
- 252:100-35-2 [AMENDED]
- 252:100-35-3 [REVOKED]

Gubernatorial approval:

- January 5, 2000

Register publication:

- 17 Ok Reg 879

Docket number:

- 00-328

INCORPORATIONS BY REFERENCE:

- None

ANALYSIS:

The proposed changes to Subchapter 35 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The scope of the Subchapter would be narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Other changes include the addition of the definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". Also, Section 35-3, Performance Testing, would be revoked because performance testing requirements are already provided for in subchapters 8 and 43.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Michelle Martinez, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2000.

SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

252:100-35-1. Purpose

The purpose of this Subchapter is to control emissions of carbon monoxide from stationary sources to prevent the Oklahoma Air Quality Standard from being exceeded and ~~insure~~ ensure that the present level of air quality in Oklahoma is not degraded.

252:100-35-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Existing source" means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being on July 1, 1972, and not modified thereafter so as to increase the emission of carbon monoxide.

"New source" means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being after July 1, 1972.

252:100-35-2. Emission limits

(a) Existing sources. The emission of carbon monoxide from any existing foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except, stationary engines, source located in, or significantly impacting (i.e., 500 ug/m³ on an 8-hour average) on a nonattainment area for carbon monoxide shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be

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May 1 2000

considered equivalent to complete secondary combustion. Existing equipment subject to this Subchapter must meet the emission limitations as expeditiously as practicable, but no later than ~~December 31, 1982, 3 years after nonattainment designation by the Administrator.~~

(b) ~~New sources.~~ The emission of carbon monoxide from any new ~~foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except stationary engines source~~ shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to secondary combustion.

252:100-35-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

[OAR Docket #00-637; filed 4-5-00]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #00-638]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [AMENDED]
Part 3. Hazardous Air Contaminants Pollutants
252:100-41-15 [AMENDED]
252:100-41-16 [AMENDED]

AUTHORITY:
Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-2-201 and 2-5-101, et seq.

DATES:
Comment period:
September 15, 1999, through October 19, 1999

Public hearing:
October 19, 1999 and November 16, 1999

Adoption:
November 16, 1999

Submitted to Governor:
November 29, 1999

Submitted to House:
November 29, 1999

Submitted to Senate:
November 29, 1999

Gubernatorial approval:
January 7, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules results in approval on March 29, 2000

Final adoption:

March 29, 2000

Effective:

June 1, 2000

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 41. Control of Emission of Hazardous Pollutants and Toxic Air Contaminants [AMENDED]

Part 3. Hazardous Air Contaminants Pollutants

252:100-41-15 [AMENDED]

252:100-41-16 [AMENDED]

Gubernatorial approval:

January 5, 2000

Register publication:

17 Ok Reg 880

Docket number:

00-329

INCORPORATIONS BY REFERENCE:

Incorporated standards:

The following Subparts of 40 CFR Part 63 are incorporated in their entirety:

- (1) Subpart A
- (2) Subpart F
- (3) Subpart G
- (4) Subpart H
- (5) Subpart I
- (6) Subpart L
- (7) Subpart M
- (8) Subpart N
- (9) Subpart O
- (10) Subpart Q
- (11) Subpart R
- (12) Subpart S
- (13) Subpart T
- (14) Subpart U
- (15) Subpart W
- (16) Subpart X
- (17) Subpart Y
- (18) Subpart CC
- (19) Subpart DD
- (20) Subpart EE
- (21) Subpart GG
- (22) Subpart HH
- (23) Subpart II
- (24) Subpart JJ
- (25) Subpart KK
- (26) Subpart LL
- (27) Subpart OO
- (28) Subpart PP
- (29) Subpart QQ
- (30) Subpart RR
- (31) Subpart SS
- (32) Subpart TT
- (33) Subpart UU
- (34) Subpart VV
- (35) Subpart WW
- (36) Subpart YY

Air Quality Council

FAXED

7/21 @ 10:53

FAX TRANSMITTAL 1 page
TO: Darlena Adams FROM ODEQ
FAX # 521-3771 AQD 702-4100
Phone 521-3049 FAX 702-4101

NOTICE OF MEETING

(Special, Emergency, Cancelled, Continued, Reconvened, or Rescheduled Meeting)

TO BE FILED IN THE OFFICE OF SECRETARY OF STATE

Room 101 State Capitol
2300 North Lincoln Boulevard
Oklahoma City, OK 73105-4897

COPY

RE: HB 1416 of 1st Reg. Sess. of 36th Okla. Leg.

DATE: July 20, 1999

STATE PUBLIC BODY: AIR QUALITY COUNCIL

ADDRESS: 707 North Robinson, P O Box 1677, OKC 73101-1677

TELEPHONE: 405 702-4100

DATE TIME PLACE

MEETING RELOCATION _____

MEETING RELOCATION: _____

SPECIAL MEETING: _____

EMERGENCY MEETING: _____

CANCELLED MEETING: _____

RECONVENED OR CONTINUED MEETING: _____

RESCHEDULED REGULAR MEETING: Aug 17 meeting date changed to August 24, 1999 @ 9:30 a.m.

REMARKS: Air Quality Council voted on a format change at its June 15 meeting. It was decided that our Hearing Sessions would begin at 9:30 a.m. instead of at 1:00 p.m. and that there would be no Briefing Session. This time change applies to the remainder of our 1999 meetings which are August 24, October 19 and December 14.

NAME OF PERSON REPORTING DATE Eddie Terrill

TITLE Director, Air Quality Division
Department of Environmental Quality

SIGNATURE *Eddie Terrill*

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AMENDED AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
* HEARING/MEETING
* 9:30 A.M.
** Tuesday, August 24, 1999
Multipurpose Room
707 North Robinson, Oklahoma City, OK

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the June 15, 1999 Regular Meeting
4. PUBLIC RULEMAKING HEARINGS

- A. **OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative. Substantive changes include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation.
1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- B. **OAC 252:100-17 Part 7 Hospital, Medical, and Infectious Waste Incinerators (HMIWI) Appendix M Emission Limits for HMIWI [NEW]**
Proposal would establish state emission standards and other enforceable requirements for existing HMIWI. A new Appendix M contains emissions limits for HMIWI. Continued from June 15, 1999 Air Quality Council meeting.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent and emergency adoption
- C. **State 111(d) /129 Plan for Hospital/Medical/Infectious Waste Incinerators (HMIWI)**
The proposed State 111(d) /129 Plan outlines Oklahoma's program to implement the emissions guidelines for hospital/medical/infectious waste incinerators. Federal regulations (40 CFR 60 Subparts B and Ce) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Council approval is not required.
- D. **OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED] Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED] Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and add provisions from Subchapter 21. In addition, the graphic in Appendix C would be replaced by a table.
1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

E. OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]

Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]

Proposal would merge requirements into Subchapter 19 and revoke Subchapter 21. In addition, the graphic in Appendix D would be replaced by a table.

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

F. OAC 252:100-27 Particulate Matter Emissions from Industrial and Other Processes and Operations [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative; and add a Permit by Rule for particulate matter sources.

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

G. OAC 252:100-35 Control of Emission of Carbon Monoxide [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative; and narrow the scope to specific sources that are the primary emitters of carbon monoxide.

1. Presentation – Michelle Martinez
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

5. Division Director's Report – Eddie Terrill

6. New Business (any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda)

7. Adjournment – Next Regular Meeting

Tuesday, October 19, 1999
Tulsa City-County Auditorium
5051 South 129 Street East Avenue
Tulsa, OK

*** Council decided at its June 15 meeting to change the format structure for future meetings. HEARINGS WILL BEGIN AT 9:30 WITH NO BRIEFING SESSION IN THE MORNING.**

****An error was made in publication of our Notice in the July 15 *Oklahoma Register*. This error necessitated the rescheduling of the August 17 meeting in order to stay on track in getting rules to the Environmental Board.**

Lunch Break, if necessary

August 9, 1999

MEMORANDUM

To: Air Quality Council

FROM: Eddie Terrill, Division Director *ET*
Air Quality Division

SUBJECT: Proposed modifications to Subchapter 35

Enclosed is a copy of the proposed draft of Subchapter 35, Control of Emission of Carbon Monoxide. The proposed revisions will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative.

Also, after receiving staff comments, it was decided to narrow the scope of the Subchapter to specific sources that are the primary contributors of carbon monoxide emissions. It is often impossible for small sources to achieve a 93 % reduction in carbon monoxide emissions as required by the rule without increasing other emissions.

Specific changes include the addition of the definitions "existing source" and "new source", along with the addition of the effective date of the rule. Also, Section 35-3, Performance Testing, was revoked because the Air Quality Division is given the authority to request this testing in the Oklahoma Clean Air Act and performance testing requirements are already provided for in Subchapters 8 and 43.

Enclosures: 1

SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

Section

252:100-35-1. Purpose

252:100-35-1.1 Definitions

252:100-35-2. Emission limits

252:100-35-3. Performance testing [REVOKED]

252:100-35-1. Purpose

The purpose of this Subchapter is to control emissions of carbon monoxide from stationary sources to prevent the Oklahoma Air Quality Standard from being exceeded and insure that the present level of air quality in Oklahoma is not degraded.

252:100-35-1.1 Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Existing source" means any foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, catalytic reforming unit or petroleum coking unit, in being on July 1, 1972, and not modified thereafter so as to increase the emission of carbon monoxide.

"New source" means any foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, catalytic reforming unit or petroleum coking unit, which commenced construction after July 1, 1972.

252:100-35-2. Emission limits

(a) Existing sources. The emission of carbon monoxide from any existing ~~foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except, stationary engines,~~ source located in, or significantly impacting (i.e., 500 ug/m³ on an 8 hour average) on a nonattainment area for carbon monoxide shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to complete secondary combustion. Existing equipment subject to this Subchapter must meet the emission limitations as expeditiously as practicable, but no later than ~~December 31, 1982.~~ 3 years after nonattainment designation by the Administrator.

(b) New sources. The emission of carbon monoxide from any new ~~foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except stationary engines~~ source shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to secondary combustion.

252:100-35-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in~~

~~this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

MINUTES
AIR QUALITY COUNCIL
AUGUST 24, 1999
Department of Environmental Quality
Multi-Purpose Room

Council Members Present

William B. Breisch, Chairman
David Branecky
Leo Fallon
Fred Grosz
Gary Kilpatrick
Sharon Myers
Joel Wilson

Staff Present

Eddie Terrill
David Dyke
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Joyce Sheedy
Myrna Bruce

Council Members Absent

Larry Canter
Meribeth Slagell

Guests Present

**see attached list

Notice of Public Meeting for August 17, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. An error was made in publication of our Notice in the July 15 Oklahoma Register. This error necessitated the rescheduling of the meeting to August 24, 1999 in order to stay on track in getting rules to the Environmental Quality Board.

Agendas were posted at the entrance doors at DEQ.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye. Dr. Canter, and Ms. Slagell did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 15, 1999 Public Meeting/Hearings. Motion was made by Mr. Branecky to approve the Minutes as presented and second was made by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered into the hearing record the Hearing Agenda and the Oklahoma Register Notice.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Mr. Dyke called upon Ms. Jeanette Buttram who advised that this rule had been presented to Council on June 15, 1999. She stated that additional clarification of the rule was suggested due to verbal comments received from the public. Also, section 252:100-9-4 was amended and renumbered to 252:100-9-3.2. Section 252:100-9-5 was amended and renumbered to 252:100-9-3.1; and 252:100-9-6 was amended and renumbered to 252:100-0-3.2.

Written comments were received the day before the Council meeting from Mid-continent Oil and Gas Association of Oklahoma. Due to the time frame, staff did not have adequate time to review the comments in depth but some appeared to be directed towards changes proposed in the draft rule presented to the June Council meeting. After accepting comments and concerns from Council and audience, Ms. Buttram advised that it was staff's suggestion that Council recommend this rule as amended to the Environmental Quality Board as a permanent rule.

Due to discussion and further amendments to be made, Mr. Breisch entertained motion to continue the hearing to Council's October 19 meeting. Ms. Myers made that motion and the second was made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-17, Part 7

**Hospital, Medical and Infectious Waste Incinerators
Appendix M Emission Limits for HMIWI [NEW]**

Mr. Dyke called upon Ms. Cheryl Bradley who stated that the proposed rule had been presented to Council at its April 20 and June 15, 1999 meetings. She advised that staff was proposing an addition of a new Part 7 to the existing SC 17 which would establish state emission standards and other enforceable requirements for existing HMIWI; and a new Appendix M which contains emission limits for HMIWI. Ms. Bradley defined HMIWI as any device that combusts any amount of medical/infectious/hospital waste. She stated that any HMIWI for which construction commenced on or before June 20, 1996, would be subject to the new rule. Ms. Bradley added that these proposed rules would be included in Oklahoma's State 111(d)/129 Plan and would be the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for HMIWI (40 CFR 60 Subpart Ce). She further stated that the new Part 7 incorporates by reference sections of the New Source Performance Standards for HMIWI (40 CFR 60 Subpart Ec). She noted that in addition to establishing emission standards for certain regulated pollutants, the new rule would establish requirements for HMIWI operator training and qualifications, waste management plans, and testing and monitoring of pollutants and operating parameters.

Mr. Wilson made a motion that Council continue the hearing until after lunch in order to incorporate some changes in wording to 252:100-17-48. Mr. Branecky seconded that motion and all members agreed. Following the recess, Ms. Bradley proposed the addition of a new paragraph (c) and (d) in 252:100-17-48, and set forth the proposed language. With no further comments from Council or audience on the proposed language, Ms. Bradley advised that it was staff's suggestion that Council recommend adoption of this rule to the Environmental Quality Board at its September 28, 1999 meeting as both emergency and permanent rule. That motion was made by Mr. Wilson and the second by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

State 111(d)/129 Plan For Hospital/Medical/Infectious Waste Incinerators (HMIWI)

Mr. Dyke called upon Ms. Cheryl Bradley for staff presentation regarding the State Plan. Ms. Bradley advised that although Council approval of the Plan was not required because it is not a rulemaking action in

and of itself, staff wanted to hear comments that the Council or public might have on the proposal. Ms. Bradley advised that the State Plan would be the mechanism to implement the Emission Guidelines for hospital/medical/infectious waste incinerators. She pointed out the necessary steps that were required to develop the State Plan.

Due to the fact that the hearing on Subchapter 17 was continued to after lunch, Council moved to continue the hearing on the Plan also. Mr. Kilpatrick made the motion to continue the hearing until after the hearing on SC 17 and the second was made by Mr. Branecky. All members agreed. After reconvening, Council voted to forward the proposed State Plan to EPA Region 6. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

PUBLIC HEARING (COMBINED HEARINGS ON SC 19 AND SC 21)

OAC 252:100-19

Particulate Matter Emissions From Fuel-Burning Equipment [AMENDED]

Appendix C Particulate Matter Emissions Limits For Fuel Burning Equipment [REVOKED]

Appendix C Particulate Matter Emissions Limits For Fuel Burning Equipment [NEW]

OAC 252:100-21

Particulate Matter Emissions From Wood-Waste Burning Equipment [REVOKED]

Appendix D Particulate Matter Emission Limits For Wood-Waste Burning Equipment [REVOKED]

Appendix D Particulate Matter Emission Limits For Wood-Waste Burning Equipment [NEW]

Mr. Dyke opened the hearing advising that both SC 19 and SC 21 would be heard together as they are related items and called upon Mr. Max Price for the staff presentation. Mr. Price stated that these revisions would satisfy the Agency's re-right/de-wrong initiative and clarify and simplify the language of SC 19 and incorporate the requirements of SC 21. Mr. Price explained that staff would ask that SC 21 be revoked and that the graphical Appendices C and D be revoked in favor of two new tabular appendices. Mr. Price pointed out that comments had been received and that it was staff's recommendation that these proposals be continued until Council's next meeting in October. After further discussion by Council and members of the audience, Mr. Breisch entertained a motion to continue this item to the next regular meeting on October 19. Dr. Grosz made the motion and the second was made by Mr. Branecky. Roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-27

Particulate Matter Emissions From Industrial And Other Processes And Operations [AMENDED]

Mr. Dyke opened the next item and called upon Mr. Max Price to make staff presentation. Mr. Price advised that SC 27 compliments SC 19 and SC 21 and that these proposed changes would clarify and simplify language according to the Agency's re-right/de-wrong initiative. He reminded that Council had originally voted to send this subchapter to the Environmental Quality Board on April 20, 1999, however, some late comments prompted the withdrawal by the staff to make further refinements. He then pointed out the latest proposed changes.

Due to additional questions and comments from Council and members of the audience regarding the definition of wood-waste fuel, Mr. Breisch called for a motion to continue the hearing to the Council's October 19 meeting. Mr. Fallon made the motion and the second was made by Mr. Kilpatrick. Roll call

was taken as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-35

Control Of Emission Of Carbon Monoxide [AMENDED]

Mr. Dyke opened this item for consideration and called upon Ms. Michelle Martinez to make the staff presentation. Ms. Martinez discussed the proposed revisions stating that they would simplify and clarify the rule as a part of the agency-wide re-right/de-wrong initiative. Ms. Martinez added that the scope of the Subchapter was narrowed to specific sources that are the primary contributors of carbon monoxide emissions. She related that it is often impossible for small sources to achieve a 93% reduction in carbon monoxide emissions as required by the rule without increasing other emissions. She pointed out that specific changes include the addition of the definitions "existing source" and "new source" along with the addition of the effective date of the rule. Ms. Martinez added that Section 35-3, Performance Testing, was revoked because the Air Quality Division has been given the authority to request this testing in the Oklahoma Clean Air Act and performance testing requirements have already been provided for in SC 8 and in SC43. Ms. Martinez advised of comments that had been received stating that staff had not had sufficient time to consider these comments; and suggested that Council continue the hearing to its October meeting to allow further time. Ms. Myers made the motion to continue and Mr. Branecky made the second with roll call as follows: Mr. Wilson - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Fallon - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Breisch - aye.

NEW BUSINESS - It was decided that the October 19 regular meeting would begin at 9:00 a.m. due to the number of agenda items and would follow the same format of eliminating the briefing session and would start immediately with the hearings on record.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be October 19, 1999 in the Auditorium of the Tulsa City-County Health Department at 9:00 a.m.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

August 24, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. LEE MOODY	TRINITY CONSULTANTS 12801 N. CEN. - DALLAS, TX	972 661 8100
2. Shauna McWaters-Khabusi	DEQ-ADD	405-702-4100
3. Julia Bevers	OGE	405-553-3439
4. Glenn T. Davis	SUNOCO	918 594-6572
5. Bob Kellogg	OKC	405 235-0808
6. BILL FISHBACK	MID-CONTINENT OIL & GAS ASSOCIATION	405-348-2683
7. Tim Warren	CARDINE ENV. OKC	405 872 1066
8. Mike Wood	Hot Springs, AR	501-760-1634
9. Jeff Davenport	National Blvd. Stillwater, OK	405-377505
10. Vance McSpadden	5115 N. Western OKC	405 843-6625
11. Mark Walker	1800 Mid-America Tower 20 N. Broadway, OKC	405-235-7700
12. LeAnne Burnett	''	''
13. Ron Truelove	3700 W. Robinson, Suite 200 Norman, OK	405-321-3895
14. DEBORAH PEZAY	ENERGEN SERVICES-TUSA	918 665-7673
15. FRANK CONDON	EQ BOARD	
16. Rich Tetterton	OGE	580-233-5800
17. LARRY BYRUM	CONSATA	405-578-7577
18. DUSTIN GIVENS	Ft. James Muskogean, OK	918 683-7671
19. Steve Landers	Ft. James	918 683-7671
20. John Simon	YUKON OK	405-640-9610
21. Ken McDonald	Gemini	262-5710
22. DALE HAMPTON	Suite 225 119 N. Robinson	405-235-5620
23.		
24.		
25.		

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
* 9:00 A.M.
Tuesday, October 19, 1999
Tulsa City-County Auditorium
5051 South 129 Street East Avenue
Tulsa, Oklahoma

1. Call to Order – Bill Breisch
 2. Roll Call – Myrna Bruce
 3. CY 2000 Meeting Schedule
 4. A. Discussion by Council
 4. Approval of Minutes of the August 24, 1999 Regular Meeting
 5. Public Rulemaking Hearings
- A. **OAC 252:100-4 New Source Performance Standards**
Proposal would update the incorporations by reference of the federal NSPS from 7-1-97 to 7-1-99. Previously, incorporated NSPS subparts that have been amended by the USEPA since 7-1-97 are: AA, AAa, Da, Db, Eb, and WW. A new Subpart Ec has been added to the NSPS. Subpart Ce was added to 252:100-4-5 as an exception.
1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- B. **OAC 252:100- 5 Registration, Emission Inventory and Annual Operating Fees**
Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; requires an owner or operator of a facility to report excess emissions on their annual emission inventory; requires inventories to be submitted one month earlier than presently required allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.
1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- C. **OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation. The new language establishes a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5% of the process's operation time, whichever is greater, in a 3-month period. The burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.
1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- D. **OAC 252:100-13. Prohibition of Open Burning**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add certain definitions and notification requirements.
1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

- E. COMBINED**
OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]
OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]
OAC 252:100-27 Particulate Matter Emissions from Industrial and Other Processes and Operation [REVOKED]
Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]
Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]
 Proposal would merge requirements into SC 19 and revoke SC 21 and SC 27. SC 19, as proposed, would simplify the language under the agency-wide re-right/de-wrong initiative. Also a Permit by Rule for particulate matter facilities is being proposed for SC 19. The graphics in Appendices C and D would be replaced by two new tabular appendices.
1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- F. OAC 252:100-35 Control of Emission of Carbon Monoxide [AMENDED]**
 Proposal would simplify and clarify the language under the agency-wide re-right/de-wrong initiative; and narrow the scope to specific sources that are the primary emitters of carbon monoxide. Other changes include addition of definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". Also, Section 35-3 would be revoked because performance testing requirements are already provided for in SC 8 and SC 43.
1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- H. OAC 252:100-41 Sections 15 and 16, Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
 Proposal would simplify and clarify the language under the agency-wide re-right/de-wrong initiative. The proposed changes to section 15 would incorporate by reference the MACT standards for hazardous air pollutants in 40 CFR 63 promulgated by EPA from 7-1-98 through 7-1-99. The proposed changes to section 16 would update to 7-1-99 the NESHAP found in 40 CFR 61.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- I. OAC 252:100-47 Control of Emission from Existing Municipal Solid Waste Landfills [AMENDED]**
 Proposal would amend to update the incorporation by reference of 40 CFR 60.751 through 60.759 to 7-1-99.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
6. **Division Director's Report – Eddie Terrill**
 7. **New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.**
 8. **Adjournment – Next Regular Meeting**
 Tuesday, December 14, 1999 DEQ Multi-Purpose Room

* Council decided at its August 24 meeting to begin early due to the number of agenda items

Lunch Break, if necessary

October 1, 1999

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director
Air Quality Division

SUBJECT: Proposed modifications to Subchapter 35

Enclosed is a copy of the proposed draft of Subchapter 35, Control of Emission of Carbon Monoxide. The proposed revisions will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative.

Also, after receiving staff comments, it was decided to narrow the scope of the Subchapter to specific sources that are the primary contributors of carbon monoxide emissions. It is often impossible for small sources to achieve a 93% reduction in carbon monoxide emissions as required by the rule without increasing other emissions.

Specific changes include the addition of the definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". Also, Section 35-3, Performance Testing, would be revoked because performance testing requirements are already provided for in Subchapters 8 and 43.

Staff will suggest that the proposed rule be recommended to the Board for emergency and permanent adoption.

Enclosures: 6

SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

Section

252:100-35-1. Purpose

252:100-35-1.1 Definitions

252:100-35-2. Emission limits

252:100-35-3. Performance testing [REVOKED]

252:100-35-1. Purpose

The purpose of this Subchapter is to control emissions of carbon monoxide from stationary sources to prevent the Oklahoma Air Quality Standard from being exceeded and ~~insure~~ensure that the present level of air quality in Oklahoma is not degraded.

252:100-35-1.1 Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"existing source" means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being on July 1, 1972, and not modified thereafter so as to increase the emission of carbon monoxide.

"new source" means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being after July 1, 1972.

252:100-35-2. Emission limits

(a) **Existing sources.** The emission of carbon monoxide from any ~~existing foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except, stationary engines, source~~ located in, or significantly impacting (i.e., 500 ug/m³ on an 8-hour average) on a nonattainment area for carbon monoxide shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to complete secondary combustion. Existing equipment subject to this Subchapter must meet the emission limitations as expeditiously as practicable, but no later than ~~December 31, 1982. 3 years after nonattainment designation by the Administrator.~~

(b) **New sources.** The emission of carbon monoxide from any new ~~foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except stationary engines source~~ shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to secondary combustion.

252:100-35-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

MINUTES
AIR QUALITY COUNCIL
OCTOBER 19, 1999
Department of Environmental Quality
Tulsa City-County Health Department

Council Members Present

William B. Breisch, Chairman
David Branecky
Leo Fallon
Gary Kilpatrick
Sharon Myers
Joel Wilson

Staff Present

David Dyke
Dennis Dougherty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Eric Milligan
Myrna Bruce

Council Members Absent

Larry Canter
Fred Grosz
Meribeth Slagell

Guests Present

**see attached list

Notice of Public Meeting for October 19, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors at the Tulsa City-County Health Department.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye. Dr. Canter, and Dr. Grosz did not attend. Mr. Breisch announced that Ms. Slagell had offered her resignation to the Governor.

CY 2000 Meeting Schedule - Council was presented with dates emulating the past years of the third Tuesday in February, April, June, August, October, and December. There was discussion to change the day of week to Wednesday of these months which would accommodate both staff and Council. Council voted to continue this item to the December 14 meeting. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Branecky to approve the Minutes as presented and second was made by Mr. Kilpatrick. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-4

New Source Performance Standards [AMENDED]

Ms. Michelle Martinez made staff presentation advising Council that the proposed amendments to Subchapter 4 would update the incorporations by reference of the federal NSPS from July 1, 1997 to July 1, 1999. She pointed out that previously incorporated NSPS subparts that had been amended by the EPA since July 1, 1997 were: AA, AAa, Da, Db, Eb, and WWW. She advised that a new Subpart Ec had been added to the NSPS and that Subpart Ce was added to 252:100-4-5. She advised that this was the first time for the proposal to be considered, but staff's recommendation would be to request that the rule be sent to the Environmental Quality Board for permanent and emergency adoption. She pointed out that since the amendments update the incorporation by reference of new federal rules, adoption as an emergency would allow the amended rule to take effect earlier than June 1, 2000 and make state rules consistent with federal rules.

Mr. Breisch entertained motion to forward this rule to the Environmental Quality Board for both emergency and permanent adoption. Motion was made by Mr. Kilpatrick and second to the motion was by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-5

Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram made the staff presentation advising that the proposed changes to Subchapter 5 were designed to allow the agency to bill annual operating fees on a flexible schedule, and that the changes should also allow the fees to be based on the most recent emission data possible. Ms. Buttram advised that the proposed rule language would also require an owner or operator of a facility to report excess emissions on their annual emission inventory. Ms. Buttram pointed out that substantive changes included the requirement that inventories were to be submitted one month earlier than presently required which would allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment. That change would also reduce the period of time to six months in which either the DEQ or the facility owner or operator could challenge the data or methods used to calculate the facility's emissions.

Ms. Buttram advised that comments had been received from Fort James and EPA which were included in this proposal and that comments from Weyerhaeuser received the day before would be considered in the next draft of the rule; therefore, staff recommended that the rule be continued to the December meeting.

Comments and questions were discussed from Council members and the audience. Comments were heard from Stephen Landers of Ft. James; Mike Wood, Weyerhaeuser; Howard Ground, Central and Southwest; Bill Fishback; Mid-Continent Oil and Gas; Tom Bauckham, Reliant Energy; Gary Collins, Terra. Following discussion, Mr. Breisch entertained motion to continue

the rule to Council's December 14 meeting per staff recommendation. Motion to continue was made by Ms. Myers with the second made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram gave the staff presentation advising that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language and was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Ms. Buttram pointed out substantive changes to the rule which included narrowing the scope of the rule to minor facilities only. She advised that a new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation advising that the new language would establish a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5 % of the process's operation time, whichever is greater, in a three-month period. Ms. Buttram added that the burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

Ms. Buttram entered into the record comments received from Mid-Continent Oil and Gas Association and from EPA. She further advised that the EPA comments indicated that further changes might need to be made to the rule due to their recent review of Oklahoma's SIP. Ms. Buttram advised that due to these comments, staff recommendation would be to continue this rule to the December meeting to allow staff more time to review the EPA guidance document. Mr. Tom Diggs, EPA, was asked to explain that document in detail and accepted comments regarding same. Additional comments were made by Bill Fishback.

Mr. Breisch entertained motion to continue this rule to the December meeting. Motion was made by Mr. Branecky with the second by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Mr. Dyke again called upon Ms. Jeanette Buttram who advised that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She pointed out that such changes include consolidating the general conditions and requirements for allowed open burning into a new section; and that a few substantive changes were made such as adding definitions for "domestic refuse" and "land clearing operation" and a section on disaster relief procedures. Ms. Buttram continued stating

that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added and that the open-pit incinerator requirements were moved to a new section. She pointed out the proposal would require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 90 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee adding that hazardous materials may not be burned in an open-pit incinerator unless prior written approval has been obtained from both the local fire chief and the DEQ.

Ms. Buttram entered written comments from EPA and a letter from the City of Hobart into the record.

Following questions and discussion by Council, Mr. Breisch entertained motion to continue this rule to the December meeting. Motion was made by Ms. Myers with the second by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARINGS (COMBINED HEARINGS ON SC 19, SC 21, and SC 27)

OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]

OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

OAC 252:100-27 Matter Emissions from Industrial and Other Processes and Operation [REVOKED]

APPENDIX C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]

APPENDIX D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]

APPENDIX C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]

APPENDIX D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]

Mr. Dyke called upon Mr. Max Price to make the staff presentation regarding these combined rules. Mr. Price advised that Subchapters 19, 21, and 27 all deal with particulate matter (PM) emissions and that the proposed changes merged the requirements of Subchapter 21 and Subchapter 27 into Subchapter 19; then Subchapters 21 and 27 would be revoked. Mr. Price pointed out that Subchapter 19 as proposed would be simplified and clarified according to the agency-wide re-right/de-wrong initiative. He advised that a permit by rule for particulate matter facilities is being proposed for Subchapter 19. Mr. Price also advised that the proposal included that Appendix C and Appendix D would be revoked in favor of two new tabular appendices.

Mr. Mike Wood, Weyerhaeuser, commented regarding the definition of "wood fuel". After much discussion, motion was made to by Mr. Wilson to amend Subchapter 19 to include the wording "for any wood derived fuel as approved by the Division"; to revoke subchapters 21 and 27; to revoke both Appendix C and Appendix D in favor of tabular appendices; and to send the rules to the Environmental Quality Board in one package for adoption as a permanent rule. Mr. Kilpatrick seconded that motion. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-35

Control Of Emission Of Carbon Monoxide [AMENDED]

Mr. Dyke called upon Ms. Michelle Martinez to make staff presentation. Ms. Martinez stated that the proposed changes to Subchapter 35 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative; and that the scope of the Subchapter would be narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Ms. Martinez added that other changes included the addition of the definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". She further advised that Section 35-3, Performance Testing, would be revoked because performance testing requirements are already provided for in Subchapters 8 and 43.

Ms. Martinez advised that staff's recommendation was to send the rule to the Environmental Quality Board for adoption as permanent and emergency. Mr. Breisch entertained motion which was made by Mr. Fallon. The second was made by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-41 Sections 15 and 16

Control Of Emission Of Hazardous and Toxic Air Contaminants [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who advised that changes are being proposed for section 15 would incorporate by reference the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR 63 that have been promulgated by the EPA from July 1, 1998, through July 1, 1999. These are subparts HH, SS, TT, UU, WW, YY, CCC, DDD, EEE, GGG, HHH, III, LLL, MMM, NNN, PPP, TTT, and XXX. Ms. Bradley continued that the DEQ is also proposing to update to July 1, 1999 the incorporation by reference in 252:100-41-16 of the National Emission Standards for Hazardous Air Pollutants (NESHAP) found in 40 CFR 61. She added that other minor revisions are proposed to Section 15 and 16 to clarify, simplify and correct these sections as required by statute.

Ms. Bradley advised that staff's recommendation would be to send to the rule to the Environmental Quality Board for adoption as permanent and emergency rule. She advised that since the amendments update the incorporation by reference of new federal rules, adoption as an emergency rule would allow the amended rules to take effect earlier and minimize the lag time in making the state program consistent with the federal program. Mr. Breisch entertained motion which was made by Mr. Kilpatrick. The second was made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-47

Control of Emissions from Existing Municipal Solid Waste Landfills [AMENDED]

Mr. Dyke again called upon Ms. Cheryl Bradley who advised that the modifications to Subchapter 47 would update the incorporation by reference of 40 CFR 60.751 through 60.759 to July 1, 1999. She advised that one comment had been received from the EPA in support of the proposed amendments. She continued that it would be staff's recommendation to send to the rule to the Environmental Quality Board for permanent and emergency adoption as adoption as an emergency rule would allow the amended rule to take effect earlier than June 1, 2000 and thereby minimize confusion for regulated landfills. Mr. Breisch entertained motion which was made by Mr. Fallon. The second was made by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes

DIVISION DIRECTOR'S REPORT

Mr. Dyke announced that the Council representative for agriculture, Meribeth Slagell, had turned in her letter of resignation from the Council. Also, Scott Thomas stated that due to a recent remand of the revised ozone, PM-2.5 and PM-10, staff plans on bringing this matter to public hearing at the December Council.

NEW BUSINESS - It was decided that the next meeting would again begin at 9:00 a.m. due to the number of agenda items and would follow the same format.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be December 14, 1999 in the Multipurpose Room of the DEQ in Oklahoma City beginning at 9:00 a.m.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

October 19, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. John Snow	DAVIS	405-640-46
2. Howard Ground	CSW	214-777-1711
3. Tom Diegs	EPA R-6	214-665-7214
4. Terry Thomas	EPA R-6	214-665-716
5. FRANK LONDON	EQ BOARD	
6. Preston Botula	misc	915 522 1102
7. BILL FISHBACK	MOBIL ^{3424 CRIME REP} _{EMERSON, OK 73013}	405-348-8683
8. Bonnie M. Gilberg	2122 S. Yukon Tulsa	918- 272-0 ⁵⁸³⁻³⁹²⁵
9. Melody D Drummond	OSU	
10. TERRI Waltman	ENERCON	918-665-7693
11. Ron Sobier	RFS CONSULTING	918 663 9350
12. LE ANNE BURNETT	OKS 20 N. BROADWAY, OKC	405-239-661
13. ANNE SCHAEFER	TINKER AFB	405. 794. 7071
14. GERI HART	TINKER AFB	405. 784. 7071
15. Merle Fritz	Simclair Oil Corp	918 584 5025
16. Terrell Mitchell	Fort James	918 683 7671 x3
17. Perry Friedrich	GRDA - Chouteau	918 476-8268
18. Mike Wood	Weyerhaeuser	501-624-8569
19. Gill Luton	Fort James	918-683-7671 ext 3
20. Steve Landers	"	" " 48
21. Dustin Givens	"	" " 48
22. GARY COLLINS	TERRA	918 266 1511
23. David Minelli	TERRA	918 266 1511
24. Bill CLAREE	Sunoco	918-594-6368
25. Pat Davenport	National Std.	405/377-5050

Stillwater

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Kirk Rutter Boeing	3330 Mingo Tulsa,	(918) 832-3178
27. Jon Bexus MACTHON ALCO	2301 NW Expwy,	OKC,
28. Tom BAUCKHAM Reliant Energy	109 N.W. 50 th OKC	(405) 556-242
29. LEE PADEW ODEQ BOARD	P.O. Box 52072 TULSA	918-743-705
30. Rick Tuckman O&M	" " 1307 Erica	OK 73702
31. Dawson Lasseter / ODEQ	707 N Robinson OKC	702-4180
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-35

Subchapters or Sections Involved – [new, amended or revoked]

OAC 252:100-35 Control of Emission of Carbon Monoxide [AMENDED]

On October 19, 1999 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: October 19, 1999

Chair or Designee

VOTING TO APPROVE:

Joel Wilson
Leo Fallon
Sharon Myers
David Branecky
Gary Kilpatrick
William Breisch

VOTING AGAINST:

ABSTAINING:

ABSENT:

Larry Canter
Fred Grosz

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting:

9:30 a.m., Tuesday, November 16, 1998
Southeast Oklahoma Expo Complex
4500 West Highway 270
McAlester, Oklahoma

Should be 1999

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the September 28, 1999 Regular Meeting
4. **Rulemaking – OAC 252:100 Air Pollution Control:**

Several sets of changes are proposed:

- Subchapter 4 (New Source Performance Standards) is amended to update the incorporation by reference of the federal NSPS to July 1, 1999.
- Subchapters 19, 21 and 27 all deal with particulate matter (PM) emissions. The changes merge the requirements of Subchapter 21 and Subchapter 27 into Subchapter 19. Subchapters 21 and 27 will be revoked. Subchapter 19 as proposed is simplified and clarified according to the agency-wide “re-right/de-wrong” initiative. Also, a Permit by Rule for particulate matter facilities is being proposed for Subchapter 19. Both Appendix C and Appendix D are revoked in favor of two new tabular appendices.
- The changes to Subchapter 35 (Control of Emission of Carbon Monoxide) simplify and clarify the subchapter as a part of the agency-wide “re-right/de-wrong” initiative. The scope of the subchapter is narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Other changes include definitional revisions and the revocation of redundant performance testing requirements.
- The revisions to Subchapter 41 (Control of Emission of Hazardous and Toxic Air Contaminants) update the adoption by reference of federal rules to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1998 and July 1, 1999. The revisions also update the adoption by reference of the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) to July 1, 1999, with certain exceptions. Minor revisions are proposed to Sections 15 and 16 to clarify, simplify and correct those sections as required by statute.
- Subchapter 47 (Control of Emission from Existing Municipal Solid Waste Landfills) is amended to update the incorporation by reference of 40 CFR 60.751 through 60.759 to July 1, 1999.

- A. Presentation – David Branecky, Vice Chair, Air Quality Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption of all proposed amendments and on emergency adoption* of amendments to Subchapters 4, 35, 41 and 47

5. **Rulemaking – OAC 252:400 and 410 Radiation Management:**

This rulemaking proposal is part of the DEQ's “re-right/de-wrong” simplification and clarification of its existing rules. The changes are extensive enough that the DEQ believes it is simpler and more straightforward to revoke existing Chapter 400 and replace it with a new Chapter 410 than to amend Chapter 400. The rulemaking also supports Oklahoma's application to the Nuclear Regulatory Commission (NRC) for “State Agreement” status to shift regulation of source, byproduct and special nuclear material from the NRC to the DEQ. Additionally, the proposed rules include National Emission Standards for Hazardous Air Pollutants (NESHAP) for radionuclides.

- A. Presentation – Dr. David Gooden, Chair, Radiation Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

6. **Rulemaking -- OAC 252:002 Procedures of the Department of Environmental Quality:**

This rulemaking proposal supports Oklahoma's application to the Nuclear Regulatory Commission (NRC) for State Agreement status. It adds State Agreement licenses to DEQ tier classifications for radiation management permit applications and reflects changes corresponding to those made in connection with the DEQ's review and revision of Chapters 400/410, Radiation Management (see Item 7 above).

- A. Presentation-- Dr. David Gooden, Chair, Radiation Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

7. **Consideration of the Environmental Quality Report:**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an "Oklahoma Environmental Quality Report" and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1st of each year. Despite the statutory title, the statutorily designated purpose of this report is to outline the DEQ's two-year needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- A. Presentation-- Steve Thompson, DEQ Deputy Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on approval

- 8. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda).
- 9. Executive Director's Report, including response to request from the Board at their last meeting for additional DEQ budget information
- 10. Discussion of and vote on 2000 Environmental Quality Board regular meeting dates
- 11. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from the DEQ Water Quality Division about State Water Quality Standards implementation, the State "303(d)" (impaired waters) list, and related issues.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until May or June of 2000.

SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

252:100-35-1. Purpose

The purpose of this Subchapter is to control emissions of carbon monoxide from stationary sources to prevent the Oklahoma Air Quality Standard from being exceeded and ~~insure~~ ensure that the present level of air quality in Oklahoma is not degraded.

252:100-35-1.1 Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Existing source" means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being on July 1, 1972, and not modified thereafter so as to increase the emission of carbon monoxide.

"New source" means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being after July 1, 1972.

252:100-35-2. Emission limits

(a) Existing sources. The emission of carbon monoxide from any existing ~~foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except, stationary engines, source~~ located in, or significantly impacting (i.e., 500 ug/m³ on an 8-hour average) on a nonattainment area for carbon monoxide shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to complete secondary combustion. Existing equipment subject to this Subchapter must meet the emission limitations as expeditiously as practicable, but no later than ~~December 31, 1982.~~ 3 years after nonattainment designation by the Administrator.

(b) New sources. The emission of carbon monoxide from any new ~~foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except stationary engines source~~ shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to secondary combustion.

252:100-35-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

EXECUTIVE SUMMARY:

The proposed changes to Subchapter 35 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The scope of the Subchapter would be narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Other changes include the addition of the definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". Also, Section 35-3, Performance Testing, would be revoked because performance testing requirements are already provided for in Subchapters 8 and 43.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

See attached.

MCKINNEY & STRINGER LETTER

COMMENT: As previously promulgated, it is believed Subchapter 35 was intended to apply to petroleum or natural gas plant/processes and not plants/processes that use natural gas as a raw material. Please confirm whether Subchapter 35, as proposed to be amended, will apply to plants/processes that utilize natural gas as a raw material.

RESPONSE: As previously promulgated, "petroleum and natural gas processes" applied to process used in the processing of crude petroleum and/or natural gas into refined products, not to plants/processes that utilize natural gas as a raw material. As amended, Subchapter 35 would only apply to any foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, catalytic reforming unit or petroleum coking unit.

COMMENT: Please confirm whether or not the applicability of OAC 252:100-35-2(a) is limited to those sources which meet the definition of an "existing source" and are located in or significantly impacting on a nonattainment area for carbon monoxide. Further, please confirm whether or not the provisions of OAC 252:100-35-2(b) are applicable only to those sources which meet the definition of a "new source" and are located in or significantly impacting on a nonattainment area for carbon monoxide.

RESPONSE: OAC 252:100-35-2(a) only applies to those sources which meet the definition of an "existing source" and are located in or significantly impacting on a nonattainment area for carbon monoxide. OAC 252:100-35-2(b) applies to any "new source" as defined in OAC 252:100-35-1.1. The nonattainment area limitations in OAC 252:100-35-2(a) only apply to "existing sources."

CROWE & DUNLEVY LETTER

COMMENT: The proposed amended Subchapter 35 should clarify that this Subchapter is not intended to apply to secondary copper facilities. This revision is justified for several reasons. First, the revision recognizes the unique nature of secondary copper facilities. Second, the revision is consistent with the ODEQ's (and predecessor agencies') historic interpretation and application of Subchapter 35 recognizing that this Subchapter does not apply to secondary copper facilities. Third, the revision is consistent with the application of carbon monoxide ("CO") emissions standards promulgated by other states. Fourth, the revision maintains the status quo as to air quality and application of Subchapter 35. Fifth, the revision carries out the purposes of Subchapter 35.

RESPONSE: Staff concurs and is proposing to change "foundry cupola" to "gray iron cupola."

COMMENT: In Section 35-1.1 Definitions, we recommend that you make the definitions of existing source and new source consistent with each other by changing the definition of existing source to read, "...means any....constructed or in construction on July 1, 1972...."

RESPONSE: Staff agreed the definitions needed to be consistent and used the phrase "in being" in both existing and new source definitions. "In being" is defined in 252:100-1.

COMMENT: We are of the opinion that the revocation of Section 35-3, Performance Testing, will weaken the State Implementation Plan. Although performance testing is addressed in Subchapters 8 and 43, Subchapter 8 is not yet approved into the SIP and Chapter 43 only discusses the requirements for test procedures and who may conduct the tests. With the revocation of Section 35-3, testing of equipment that has emission standards set in Subchapter 35 would no longer be required. Therefore, we oppose revoking Section 35-3.

RESPONSE: The Oklahoma Clean Air Act gives DEQ the authority to require performance testing so staff doesn't feel that revoking Section 35-3 would weaken the SIP. Pursuant to the statutory authority, both Subchapter 7 and 8 authorize the DEQ to require performance testing before issuance of an operating permit.

AQC MEETING

COMMENT: A comment was made during the public hearing regarding what was meant by "modification" in the definition of "existing source." A clarification was requested on the definition of "modification" in Subchapter 1.

RESPONSE: Staff deferred to the definition of "modification" in Subchapter 1. It was also discussed that the definition could not be changed at this public hearing, but only after proper notice, which will be sometime next year.

August 13, 1999

WRITER'S DIRECT NUMBER 405/272-1907
PETERSM@MCKINNEYSTRINGER.COM
REPLY TO OKLAHOMA CITY OFFICE

VIA HAND DELIVERY

Ms. Michelle Martinez
Department of Environmental Quality
Air Quality Division
707 North Robinson
Oklahoma City, OK 73101-1677

Corporate Tower
101 North Robinson
Suite 1300
Oklahoma City, OK 73102

405.239.6444

405.239.7902

Mid-Continent Tower

401 South Boston

Suite 2100

Tulsa, OK 74103

918.582.3176

fax 918.582.1403

Re: Submittal of Written Comments
Proposed Revisions to OAC 252:100-35,
Control of Emission of Carbon Monoxide
Our File No. 30502-002

Dear Ms. Martinez:

Based upon the Notice of Proposed Rulemaking published in the Oklahoma Register, Volume 16-No. 19, dated August 2, 1999, regarding revisions to the above-referenced regulation as a part of the Department of Environmental Quality's ("DEQ") "re-right/de-wrong" process, the law firm of McKinney & Stringer, P.C., on behalf of Terra Nitrogen Corporation, respectfully submits the following written comments regarding such revisions and requests that such comments be considered prior to final promulgation of the referenced rule. Further, we respectfully request the DEQ provide a written response to such comments.

OAC 252:100-35 ("Subchapter 35"):

Pursuant to the revisions to OAC 252:100-35-2(a), reference to "or other petroleum or natural gas process, except stationary engines," as the same regards the applicability of Subchapter 35 to "existing sources," is proposed to be deleted.

COMMENT:

As previously promulgated, it is believed Subchapter 35 was intended to apply to petroleum or natural gas plants/processes and not plants/processes that use natural gas as a raw material. Please confirm whether Subchapter 35, as proposed to be amended, will apply to plants/processes that utilize natural gas as a raw material.

As further specified in OAC 252:100-35-2(a), Subchapter 35 is applicable only to those existing sources "... located in, or significantly impacting (*i.e.*, 500 ug/m³ on an 8-hour average) on a nonattainment area for carbon monoxide..." As

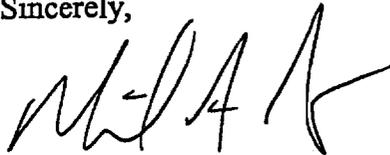
specified in OAC 252:100-35-2(b) the above limitation as to the applicability is not specified for new sources.

COMMENT:

Please confirm whether or not the applicability of OAC 252:100-35-2(a) is limited to those sources which meet the definition of an "existing source" and are located in or significantly impacting on a nonattainment area for carbon monoxide. Further, please confirm whether or not the provisions of OAC 252:100-35-2(b) are applicable only to those sources which meet the definition of a "new source" and are located in or significantly impacting on a nonattainment area for carbon monoxide.

Upon your receipt and review, please contact me should you have any question or need any further information regarding the above comments. Your assistance in this matter is greatly appreciated.

Sincerely,



MICHAEL A. PETERS
FOR THE FIRM

MAP/djp/359380

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August 19, 1999

Oklahoma Department of Environmental Quality
Air Quality Division
Michelle Martinez
707 North Robinson
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

RE: Proposed Amendments to OAC 252:100-35 ("Subchapter 35")

Dear Ms. Martinez,

Wolverine Tube, Inc. ("Wolverine") provides its comments to the proposed amended Subchapter 35. Wolverine also provides proposed language revisions to the Oklahoma Department of Environmental Quality's ("ODEQ") proposed amended Subchapter 35, consistent with Wolverine's comments. The revisions we propose are indicated in bold italics on the enclosure.

The proposed amended Subchapter 35 should clarify that this Subchapter is not intended to apply to secondary copper facilities. This revision is justified for several reasons. First, the revision recognizes the unique nature of secondary copper facilities. Second, the revision is consistent with the ODEQ's (and predecessor agencies') historic interpretation and application of Subchapter 35 recognizing that this Subchapter does not apply to secondary copper facilities. Third, the revision is consistent with the application of carbon monoxide ("CO") emissions standards promulgated by other states. Fourth, the revision maintains the status quo as to air quality and application of Subchapter 35. Fifth, the revision carries out the purposes of Subchapter 35.

I. The revision recognizes the unique nature of secondary copper facilities.

Wolverine is the only secondary copper facility in the State of Oklahoma. Wolverine is a copper tubing operation. Scrap copper, as opposed to metallic ore used in primary facilities, is melted in a furnace, cast into round copper billet, and then extruded into a base tube using a hydraulic press. The facility first started operations in 1974 pursuant to a construction permit issued by the Air Quality Service ("AQS") of the Oklahoma State Department of Health ("OSDH"). AQS issued an operating permit upon completion of plant construction (permit #74-117-O). All equipment located at the plant was installed under the original permits. Currently, the facility

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consists of one Asarco melt furnace and three annealing furnaces with atmospheric generators. The furnaces are all fired by natural gas.

Although the Asarco furnace and the annealing furnaces serve different purposes in the manufacturing process, they all use a reducing atmosphere. The melting furnace operates in oxygen deficient atmosphere in which oxygen is scavenged to prevent oxidation of the product. The annealing furnaces operate with gases generated by an Exogas generator to create a reducing atmosphere in which oxygen on the surface of copper tubing is removed prior to product shipment. Basically, both types of furnaces operate in a reducing atmosphere of carbon monoxide and hydrogen generated by the sub-stoichiometric combustion of natural gas. The combustion process typically generates a reducing atmosphere which consists of approximately 2% CO and 2% hydrogen with the balance being carbon dioxide and nitrogen. The whole point to using reducing atmospheres in the secondary copper processes is to remove oxygen which would either oxidize on the surface of the metal or be incorporated in the metal as oxides and degrade the product, whereas primary smelting processes inject oxygen to burn out the degrading constituents in the metal ores.

Secondary copper processing has always been different from other metal processing. Other metal processing, including primary copper processing and other secondary metal processing such as aluminum, do not have the operational constraints imposed by the oxidizing character of secondary copper. As a result, such facilities can operate at higher temperatures and in oxygen-rich environments which allow for higher levels of natural secondary combustion of CO in their stacks. Thus, the 93% CO secondary combustion level established by Subchapter 35 probably did not require these other metal processing facilities to reduce any CO emissions at their facilities. Such facilities merely continued operations as before the rule and easily satisfied the 93% requirement.

The 93% limit established by Subchapter 35 is not based upon any air standards and appears to be arbitrary. Wolverine has found no rules of other states that impose this 93% requirement. In fact, current ODEQ staff cannot identify the origin of the 93% or tie it to any particular concern. Instead, it appears that it was set at a time when the only metals processing in Oklahoma was primary metals, and as explained above, the 93% limit was merely a limit that the then existing industries could easily accomplish through normal operations.

When Subchapter 35 came into existence, no secondary copper facility existed in the State. Once Wolverine was built, no AQS or ODEQ permit writer or inspector over the 25 years since, until very recently, considered the secondary copper industry to be subject to the rule. The historical non-applicability was based on the design of the melting furnace compared to the definition of foundry cupola in OAC 252:100-1-3.

Wolverine's proposed revision takes the unique nature of the secondary copper industry into account, whereas the ODEQ's proposed amendment by itself does not. After discussions with

Oklahoma Department of Environmental Quality
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ODEQ, Wolverine understands that ODEQ agrees that Subchapter 35 does not apply to secondary copper facilities, and that ODEQ intends to propose a subsequent amendment to Subchapter 35 that clarifies that position.

II. The revision is consistent with the Department of Environmental Quality's historic interpretation and application of Subchapter 35 to secondary copper facilities.

The major pollutant of significance emitted from Wolverine are emissions of carbon monoxide. Wolverine is considered a major source of CO since emissions exceed 100 tons per year ("TPY"). Yet, over the twenty-five years of its operations, the ODEQ and its predecessor agencies have not considered secondary copper facilities to be subject to Subchapter 35.

A February 10, 1988 memo to the file from Glenn R. Diel, Environmental Specialist for the Oklahoma State Department of Health Air Quality Service stated that: "... the facility is in compliance with all applicable Oklahoma Clean Air Act regulations." On March 5, 1993, David Schutz, Environmental Engineer for the Oklahoma State Department of Health Air Quality Service wrote in a memorandum to the file:

The furnace is subject to NSPS and the following rules from OAC 310:300:

- Subchapter 7: permits
- Subchapter 19: fuel-burning equipment
- Subchapter 25: smoke, visible emissions, and particulates
- Subchapter 27: PM emissions from industrial and other processes
- Subchapter 31: sulfur compounds
- Subchapter 41: hazardous and toxic air pollutants

Mr. Schutz considered and rejected the applicability of Subchapter 35 for carbon monoxide:

Subchapter 35 for carbon monoxide is not applicable. The rule affects cupola, blast, and basic oxygen furnaces. The secondary copper furnace is not among the metallurgical processes regulated by Subchapter 35.

Again, on April 5, 1993, Mr. Schutz did not include Subchapter 35 in his list of air quality rules that applied to Wolverine, concluding that: "The facility is in compliance with the opacity limitation of OAC 310:200-25, the PM emissions limitation of Permit No. 74-117-0, and with the MAAC for copper."

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Oklahoma Department of Environmental Quality
Air Quality Service
August 19, 1999
Page 4

Regulators were quite aware that CO emitted from the secondary copper facility. On August 10, 1993, Ann Jayne, Supervisor of the Enforcement Section of the Department of Environmental Quality wrote in a letter to Wolverine that: "... the Air Quality Program requests that Wolverine Tube, Inc. submit a complete copy of all of the stack test reports, specifically carbon monoxide, performed during the week of March 1st, 1993, within 30 days of receipt of this letter."

Chuck Cornell, Compliance Unit Inspector for the Oklahoma Department of Environmental Quality Air Quality Division memorialized his August 30, 1995 air quality compliance inspection of Wolverine in a September 5, 1995 memo to the file. He concludes:

The facility is subject to OAC Subchapters 7, 19, 25, 27, 31 and 41.
No violations were noted at the time of the inspection.

Once again, a regulator acknowledged that Subchapter 35 did not apply to secondary copper facilities, when on November 26, 1996, Jeffrey A. Dye, of the Compliance Unit, wrote in a memo about his air quality compliance inspection of Wolverine Tube:

The major pollutant of significance emitted from Wolverine Tube, Inc. are emissions of carbon monoxide (CO). This source is considered a major source of CO since emissions exceeded 100 TPY for 1995. The facility is not subject to *New Source Performance Standards (NSPS)*. NSPS Subpart P, Standards of Performance for Primary Copper Smelters does not apply because operations at Wolverine Tube are secondary copper activities. There are no *NSPS Subparts* that apply to secondary copper processing. This facility is not subject to *NESHAPS* because no pollutants subject to regulations under *40 CFR 61* are emitted at this facility. This facility is considered an existing *PSD* major source for CO since emissions of CO exceed the *250 TPY* significance level. The emission points were installed before the date of the first *PSD* regulations. The facility is also subject to OAC Subchapters 7, 19, 25, 27, 31, and 41.

No visible emissions were noted from any of the points at this facility. The facility was in compliance with OAC 252:100-25, Smoke, Visible Emissions and Particulates. During the inspection, no fugitive dust was present on the roads around the facility or from the scrap copper storage area. This is in compliance with OAC 252:100-29, Control of Fugitive Dust.

At the time of the inspection, the facility appears to be in compliance.

Only recently has the ODEQ taken a different view of the applicability of Subchapter 35 to secondary copper facilities. In the last year the ODEQ took the position that the direct fired vertical shaft rotary furnace is subject to Subchapter 35. ODEQ referred Wolverine to the definition of "foundry cupola" found in OAC 252:100-1-3:

[A] shaft-type furnace used for the melting of metals usually consisting of, but not limited to, the furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas-cleaning devices and other auxiliaries. Shaft furnaces used for processing non-metallic materials are not included under this definition but are included in the definition of process equipment.

However, it is significant to note that shaft furnaces commonly refer to furnaces used in primary processes, and that "tuyeres" are oxygen lances used to mix molten material with oxygen by injecting oxygen in the molten ore to assist in burning off extraneous substances and purifying the ore. It appears obvious that the original drafters of Subchapter 35 were intending to regulate primary and some secondary metal operations other than secondary copper processes. The way regulators have historically viewed and used Subchapter 35 is consistent with the words used in the definitions.

Moreover, in their proposed amendment, ODEQ has specifically removed the term "or other petroleum or natural gas process except stationary engines" to be consistent with the intent and historical application of Subchapter 35. The ODEQ has realized that the 93% CO reduction does not make sense for all operations. Because this Subchapter is now being rewritten to address these issues, Wolverine believes that secondary copper facilities should be considered as well.

Similarly, Wolverine's proposed revision to the amended Subchapter 35 recognizes the historical view of the non-applicability of the regulation to the secondary copper industry. Wolverine believes that the historic view is the accurate view and should be incorporated into the Subchapter 35 amendment.

III. The revision is consistent with the application of CO emissions standards promulgated by other states.

OAC 252:100-35 (formerly Regulation 17) was adopted by the Oklahoma State Board of Health ("OSBH") on February 14, 1972 and implemented by the Oklahoma State Department of Health Air Quality Service. Regulation 17 was renumbered in 1981 to Regulation 3.6, and in 1991 the air quality rules were codified by the State. The OSDH code was "310" and the Air Pollution Control Regulations were assigned Chapter 200 (i.e., OAC Air Pollution Control, Title 310, Chapter 200-35). The Legislature reorganized the State's environmental programs by consolidating most of

these programs under a new agency referred to as the Oklahoma Department of Environmental Quality. As a result of this reorganization, the Air Pollution Control regulation for CO was recodified and referred to as OAC 252:100-35.

Subchapter 35 was adopted in Oklahoma as a part of the original State Implementation Plan ("SIP") to maintain attainment with the National Ambient Air quality Standards ("NAAQS"). Stationary sources regulated by this standard include foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas processes except stationary engines. See previous discussion of the definition of "Foundry Cupola" from OAC 252:100-1-3.

There are multiple definitions for regulated equipment. This is true for a cupola furnace. The accepted industry definition is:

Cupola furnace is used for reduction of copper-base alloy slag and residues. The residues charged have a recoverable metallic content of 25% to 30%. The balance of recoverable material consists of nonvolatile gangue, mainly silicates. In addition to the residues, coke and flux are charged into the furnace. The slag produced in the cupola is eliminated through a slag tap located slightly above the metal tap.

A thorough comparison of the definition of foundry cupola in the OAC to the process descriptions reveals a notable distinction between a typical cupola furnace intended to be regulated and a secondary copper melting furnace. Specifically, the OAC definition states that a cupola consists of several items including tuyeres, the lances used to blow air into the bottom of the furnace with the specific intent of oxygenating contaminant in the molten metal to form slag for removal. In the secondary copper process, tuyeres are not used and excess oxygen is intentionally kept out of the furnace. Thus, Wolverine believes that furnaces used for secondary copper processing are not the type intended to be regulated as "foundry cupolas."

Other states' regulation of CO emissions is consistent with this view. States such as Texas, Louisiana, and Kansas, among others, specifically recognize that the foundry cupolas regulated for CO emissions are gray iron foundry cupolas.

Texas

30 TAC § 119.3 Control Requirements for Iron Cupolas

No person shall emit a vent gas stream from any iron cupola into the atmosphere unless the vent gas stream is properly burned at a temperature equal to or greater than 1,300 degrees F (704 degrees C)

in an afterburner having a retention time of at least 1/4 of a second and having a steady flame that is not affected by the cupola charge and relights automatically if extinguished.

Louisiana

Title 33

Chapter 17. Control of Emissions of Carbon Monoxide (New Sources)

Subchapter B. Ferrous Metal Emissions

§ 1703. Ferrous Metal Emissions

No person shall emit the carbon monoxide gases generated during the operation of a gray iron cupola, blast furnace or basic oxygen steel furnace unless they are burned in a direct-flame afterburner or are controlled by other means as may be approved by the administrative authority.

Kansas

K.A.R. 28-19-24 Control of Carbon Monoxide Emissions

(A) No person shall cause or permit the emission of carbon monoxide gases generated during the operation of a grey iron cupola unless they are burned at 1300 degrees F for 0.3 seconds or greater in a direct-flame after burner or equivalent device as approved by the director.

(B) No person shall emit carbon monoxide waste gas stream from any catalyst regeneration of a petroleum cracking system, petroleum fluid coker, or other petroleum process into the atmosphere, unless the waste gas stream is burned at 1300 degrees F for 0.3 seconds or greater in a direct-flame afterburner or equivalent device as approved by the director.

(C) Installations and equipment existing on January 1, 1972, shall be exempt from the provisions of this regulation.

Wolverine's proposed revision to the proposed amendments to Subchapter 35 is consistent with the view taken by other states. By approving State Implementation Plans ("SIPs") which include the referenced regulations, Region 6 of the Environmental Protection Agency has implicitly accepted this view.

Oklahoma Department of Environmental Quality
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IV. The revision maintains the status quo and carries out the purposes of Subchapter 35.

Wolverine's CO emissions result in modeled ambient CO concentrations that satisfy and do not exceed the National Ambient Air Quality Standards for CO set in 1979. Wolverine's proposed revision would not change the model or the processes Wolverine uses.

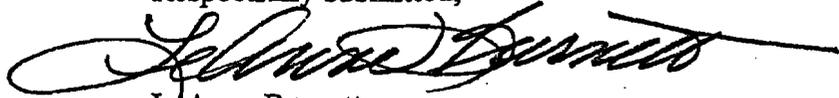
Wolverine's proposed revision would not cause the Oklahoma Air Quality Standard to be exceeded and would not degrade the present level of air quality in Oklahoma. Wolverine's proposed revision would maintain the status quo while carrying out the purposes of Subchapter 35:

. . . to prevent the Oklahoma Air Quality Standard from being exceeded and insure that the present level of air quality in Oklahoma is not degraded.

Conclusion

Wolverine understand that after reviewing the history of Subchapter 35 and like regulations from other states, ODEQ intends to propose a subsequent amendment to Subchapter 35 consistent with Wolverine's proposed revision. Wolverine urges the Department of Environmental Quality and the Air Quality Council to recommend the adoption of ODEQ's proposed amendment as revised by Wolverine's proposed revision.

Respectfully submitted,



LeAnne Burnett
For the Firm

Enclosure

cc: Barbara Hoffman

**PROPOSED CHANGES¹ TO
AMENDMENTS TO SUBCHAPTER 35
PROPOSED BY THE OKLAHOMA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

Section

252:100-35-1.	Purpose
<u>252:100-35-1.1</u>	<u>Definitions</u>
252:100-35-2.	Emission limits
252:100-35-3.	Performance testing [REVOKED]

252:100-35-1. Purpose

The purpose of this Subchapter is to control emissions of carbon monoxide from stationary sources to prevent the Oklahoma Air Quality Standard from being exceeded and insure that the present level of air quality in Oklahoma is not degraded.

252:100-35-1.1 Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Existing source" means any *gray iron foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, catalytic reforming unit or petroleum coking unit, in being on July 1, 1972 and not modified thereafter so as to increase the emission of carbon monoxide.*

"New source" means any *gray iron foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, catalytic reforming unit or petroleum coking unit, which commenced construction after July 1, 1972.*

252:100-35-2. Emission limits

(a) **Existing sources.** ~~The emission of carbon monoxide from any existing foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, catalytic reforming unit or petroleum coking unit, or other petroleum or natural gas process except, stationary engines, source located in, or significantly impacting (i.e., 500 ug/m³ on an 8 hour average) on a nonattainment area for carbon monoxide shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to complete secondary combustion. Existing equipment subject to this Subchapter must meet the emission limitations as expeditiously as practicable, but no later than December 31, 1982. 3 years after nonattainment designation by the Administrator.~~

(b) **New sources.** ~~The emission of carbon monoxide from any new foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, catalytic reforming unit or petroleum coking~~

¹ Changes are proposed by Wolverine Tube, Inc., 500 Wolverine Road, Shawnee, OK 74801. Wolverine Tube's proposed changes appear in bold italics.

~~unit, or other petroleum or natural gas process except, stationary engines source shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to secondary combustion.~~

252:100-35-3. Performance testing [REVOKED]

~~Testing of equipment to determine if emission standards set in this Subchapter are met shall be performed by procedures as accepted by the Executive Director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.~~

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TX 75202-2733

AUG 20 1999

Mr. Scott Thomas, Program Director
Analysis and Inventory Section
Air Quality Division
Oklahoma Department of Environmental Quality
707 North Robinson
Oklahoma City, OK 73101-1677

Dear Mr. Thomas:

Thank you for the opportunity to comment on rules proposed for Oklahoma Air Pollution Control rules as listed below.

Subchapter 9 Excess Emission and Malfunction Reporting Requirements
Subchapter 19 Particulate Matter Emissions from Fuel-Burning Equipment
Appendix C Particulate Matter Emission Limits for Fuel-Burning Equipment
Subchapter 21 Particulate Matter Emissions from Wood-Waste Burning Equipment
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment
Subchapter 27 Particulate Matter Emissions from Industrial and Other Processes and Operations
Subchapter 17, Part 7 Hospital, Medical and Infectious Waste Incinerators (HMIWI)
Appendix M Emission Limits for HMIWI
Subchapter 35 Control of Emission of Carbon Dioxide

The Agency previously commented on Subchapter 17, Part 7 in a letter dated April 15, 1999, and on Subchapter 9 in a letter dated June 11, 1999. More specific comments regarding Subchapter 9, Subchapter 19, Subchapter 27, and Subchapter 35 are included in the enclosure to this letter. The Permit by Rule provisions in Subchapter 27 are being reviewed by the Air Permitting Section, and comments, as appropriate, will be submitted under a separate cover letter.

We appreciate the opportunity to comment on the proposed rules prior to the public hearing on August 24, 1999. If you have any questions regarding EPA's comments, please feel free to contact me or Sandra Rennie at (214) 665-7367.

Sincerely yours,

A handwritten signature in black ink that reads "Thomas H. Diggs".

Thomas H. Diggs, Chief
Air Planning Section

Enclosure

cc: Ms. Joyce Sheedy
Oklahoma Department of Environmental Quality

Comments for August 24, 1999
Air Quality Council Meeting

Subchapter 9:

We have provided our comments on this subchapter before. In addition, we recommend the following clarifying change: Section 3.2(a) the phrase "not be considered a violation..." be changed to read "not be subject to penalty..." This change will make the proposed rule language consistent with the EPA's policy on excess emissions.

Subchapter 19:

We are of the opinion that Section 19-4 needs to specifically state, "Particulate emission limits in this Subchapter are not intended to replace any limit established under a federal program."

Subchapter 27

We are of the opinion that Section 27-1 needs to specifically state, "Particulate emission limits in this Subchapter are not intended to replace any limit established under a federal program." Furthermore, in Section 27-10(b)(2) substitute the term haul roads with the term unpaved roads.

Subchapter 35

In Section 35-1.1 Definitions, we recommend that you make the definitions of *existing source* and *new source* consistent with each other by changing the definition of *existing source* to read, "...means any....constructed or in construction on July 1, 1972...."

We are of the opinion that the revocation of Section 35-3, Performance Testing, will weaken the State Implementation Plan. Although performance testing is addressed in Subchapters 8 and 43, Subchapter 8 is not yet approved into the SIP, and Chapter 43 only discusses the requirements for test procedures and who may conduct the tests. With the revocation of Section 35-3, testing of equipment that has emission standards set in Subchapter 35 would no longer be required. Therefore, we oppose revoking Section 35-3.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE STATE OAC
252:100-35
CONTROL OF EMISSION OF CARBON MONOXIDE

[AMENDED]

HELD ON AUGUST 24, 1999

AT 9:30 A.M.

AT 707 NORTH ROBINSON

IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE

(405) 721-2882

Page 2

1
2 MEMBERS OF THE COUNCIL
3
4 1. DR. FRED GROSZ - MEMBER
5 2. MR. GARY KILPATRICK - MEMBER
6 3. MR. FALLON - MEMBER
7 4. MR. JOEL WILSON - MEMBER
8 5. MS. SHARON MYERS - MEMBER
9 6. MR. DAVID BRANECKY - MEMBER
10 7. DR. LARRY CANTER - VICE CHAIRMAN
11 8. MR. BILL BREISCH - CHAIRMAN
12 9. MS. MYRNA BRUCE - SECRETARY
13 10. MR. EDDIE TERRILL - DIRECTOR
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1 dates for those sources.
2 And in Section 35-2(a), under
3 Existing Sources, the date of December 31,
4 1982 was replaced with "three years after
5 nonattainment designation by the
6 Administrator" so that it will apply
7 anytime an area is designated nonattainment
8 for carbon monoxide.
9 Finally, Section 35-3, Performance
10 Testing, was revoked because the Air
11 Quality Division is given the authority to
12 request this testing in the Oklahoma Clean
13 Air Act, and performance testing
14 requirements are already provided for in
15 Subchapters 8 and 43.
16 Staff has received the following
17 written comments which I would like to
18 enter into the hearing record. A letter
19 was received on August 16, 1999 from
20 McKinney and Stringer on behalf of Terra
21 Nitrogen Corporation. In short, these
22 comments wanted the DEQ to determine if
23 Subchapter 35 applies to plants and
24 processes that utilize natural gas as a raw
25 material. Also, they requested whether

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1 PROCEEDINGS
2 MR. DYKE: The next item up for
3 public hearing this afternoon is Item G,
4 OAC 252:100-35, Control of Emission of
5 Carbon Monoxide. I'll call on staff member
6 Michelle Martinez for the presentation.
7 MS. MARTINEZ: Members of the
8 Council, ladies and gentlemen, my name is
9 Michelle Martinez. I work in the Rules and
10 Planning Unit of the Air Quality Division.
11 Today I will discuss the proposed revisions
12 of Subchapter 35, Control of Emission of
13 Carbon Monoxide. The proposed revisions
14 will simplify and clarify Subchapter 35 and
15 are as follows: It was decided to narrow
16 the scope of the subchapter to specific
17 sources that are primary emitters of carbon
18 monoxide, because it is often impossible
19 for small sources to achieve a ninety-three
20 percent reduction in carbon monoxide
21 emissions as required by the rule without
22 increasing other emissions.
23 Also, a new Section 35-1.1 was added
24 for the definitions "existing source" and
25 "new source", which include the compliance

Page 5

1 Section 35-2(a) and (b) applied to those
2 sources which meet the definitions of
3 "existing source" and "new source" located
4 in or significantly impacting on a
5 nonattainment area for CO.
6 Staff is in the process of preparing
7 written response to those comments as
8 requested by McKinney and Stringer, and
9 they will be addressed at the October 19
10 Council Meeting.
11 Comments from the EPA were received
12 on Friday, August 20 and a letter including
13 comments from Crowe and Dunlevy on Behalf
14 of Wolverine Tube, Inc were received on
15 Monday, August 23, 1999. Staff has not had
16 sufficient time to prepare a response to
17 these comments, so they will be addressed
18 during the October 19 meeting.
19 Staff asks that the Council continue
20 the hearing until the October 19 Council
21 Meeting to allow further consideration of
22 comments.
23 MR. DYKE: Any questions from the
24 Council of Ms. Martinez? I have notice
25 here that Mark Walker wishes to make some

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1 comments. Let's go ahead and do that now.
 2 MR. WALKER: Good afternoon,
 3 Members of the Council. I'm Mark Walker
 4 and I'm with Crowe and Dunlevy, appearing
 5 on behalf of Wolverine Tube, Inc which is a
 6 secondary copper facility in Shawnee. And
 7 we did file written comments on behalf of
 8 Wolverine and I think that they speak for
 9 themselves. I'm not going to add anything
 10 to that.
 11 It is our understanding though, that
 12 the Rules, staff has done their own
 13 independent investigation and intends to
 14 propose an Amended Subchapter 35 that
 15 should be published soon and would be under
 16 consideration at the October meeting. And
 17 based on our understanding of what those
 18 latest revisions will contain, we're in
 19 agreement and support of the staff's
 20 position under those latest revisions.
 21 We'll be back in October and be happy to
 22 discuss it further with you at that time.
 23 Thank you.
 24 MR. DYKE: Any questions of Mr.
 25 Walker? Questions?

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1 MR. BRANECKY: Under the
 2 definition of "existing source", the words
 3 "in being", I think that may need to be a
 4 little more clear. I'm not sure that
 5 construction has commenced and operation --
 6 or what does "in being" mean? I noticed in
 7 the definition of "new source" you state
 8 "which can commence construction after July
 9 1. So, what is meant by "in being"?
 10 MS. MARTINEZ: There is a
 11 definition in Subchapter 1 of "in being".
 12 MR. BRANECKY: Is there?
 13 MS. MARTINEZ: Would you like me
 14 to read it?
 15 MR. BRANECKY: Sure.
 16 MS. MARTINEZ: "In being" means
 17 as used in the definitions of new
 18 installation and existing source, means
 19 that an owner/operator has undertaken a
 20 continuous program of construction or
 21 modification or the owner/operator has
 22 entered into a binding agreement or
 23 contractual obligation to undertake and
 24 complete within a reasonable time a
 25 continuous program of construction or

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1 modification prior to the compliance state
 2 of installation application regulation. It
 3 should say applicable, yes.
 4 MR. BRANECKY: Okay. All right.
 5 MS. MARTINEZ: We probably --
 6 what we decided to do after your comment is
 7 use "in being" on both existing and new
 8 source where they will be consistent.
 9 MR. BRANECKY: Okay.
 10 MR. DYKE: Any additional
 11 questions from the Council? Any additional
 12 questions or comments from the audience?
 13 MR. BREISCH: If there is no more
 14 questions or comments, I'll entertain a
 15 motion to continue this item until the
 16 October 19 regular meeting.
 17 MS. MYERS: I so move.
 18 MR. BRANECKY: Second.
 19 MR. BREISCH: I've got a motion
 20 and a second to continue this item.
 21 Questions, comments? If not, Myrna, call
 22 the roll.
 23 MS. BRUCE: Mr. Wilson.
 24 MR. WILSON: Yes.
 25 MS. BRUCE: Ms. Myers.

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1 MS. MYERS: Aye.
 2 MS. BRUCE: Mr. Branecky.
 3 MR. BRANECKY: Yes.
 4 MS. BRUCE: Mr. Fallon.
 5 MR. FALLON: Aye.
 6 MS. BRUCE: Mr. Kilpatrick.
 7 MR. KILPATRICK: Aye.
 8 MS. BRUCE: Dr. Grosz.
 9 DR. GROSZ: Yes.
 10 MS. BRUCE: Mr. Breisch.
 11 MR. BREISCH: Aye.
 12 That finishes our rulemaking
 13 hearing.
 14
 15 (END OF PROCEEDINGS)
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DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS

**OF THE PUBLIC HEARING ON THE OAC 252:100-35
CONTROL OF EMISSIONS OF CARBON MONOXIDE**

HELD ON OCTOBER 19, 1999

AT 9:00 A.M.

AT THE TULSA CITY-COUNTY HEALTH DEPT.

5051 SOUTH 129TH EAST

IN TULSA, OKLAHOMA

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1
2 MEMBERS OF THE COUNCIL
3
4 1. MR. GARY KILPATRICK - MEMBER
5 2. MR. LEO FALLON - MEMBER
6 3. MR. JOEL WILSON - MEMBER
7 4. MS. SHARON MYERS - MEMBER
8 5. MR. DAVID BRANECKY - MEMBER
9 6. MR. BILL BREISCH - CHAIRMAN
10 7. MS. MYRNA BRUCE - SECRETARY
11 8. MR. DAVID DYKE - PROTOCOL OFFICER
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Page

1 replaced with "petroleum catalytic cracking
2 unit" and "petroleum catalytic reforming
3 unit" to maintain consistency with the
4 existing rule.
5 The term "foundry cupola" was
6 replaced with "gray iron cupola".
7 And in Section 35-2(a), under
8 Existing Sources, the date of December 31,
9 1982, was replaced with "3 years after
10 nonattainment designation by the
11 Administrator" so that it will apply
12 anytime an area is designated nonattainment
13 for carbon monoxide.
14 Finally, Section 35-3, Performance
15 Testing, was revoked because performance
16 testing requirements are already provided
17 for in Subchapters 8 and 43.
18 Comments were received on Monday,
19 October 18, 1999, from the EPA supporting
20 the amendments to Subchapter 35, which I
21 would like to enter into the record at this
22 time.
23 Comments were previously received
24 from McKinney & Stringer on behalf of Terra
25 Nitrogen. Crowe & Dunlevy, on behalf of

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1 PROCEEDINGS
2 MR. DYKE: The next item on the
3 agenda, Item 5F, OAC 252:100-35, Control of
4 Emission of Carbon Monoxide, Amended. I'll
5 call on staff member, Michelle Martinez.
6 MS. MARTINEZ: Members of the
7 Council, ladies and gentlemen, today staff
8 is proposing to amend Subchapter 35,
9 Control of Emission of Carbon Monoxide.
10 The proposed revisions will simplify and
11 clarify Subchapter 35 and are as follows:
12 It was decided to narrow the scope
13 of the subchapter to specific sources that
14 are the primary emitters of carbon
15 monoxide, because it is often impossible
16 for small sources to achieve a 93 percent
17 reduction in carbon monoxide emissions as
18 required by the rule, without increasing
19 other emissions.
20 Also, a new Section 35-1.1, was
21 added for the definitions "existing source"
22 and "new source", which include the
23 compliance dates for those sources.
24 The terms "catalytic cracking unit"
25 and "catalytic reforming unit" were

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1 Wolverine Tube and the EPA. Those comments
2 and staff's response have been included in
3 your council packet and copies are on the
4 table.
5 The notice for today's hearing was
6 published in the Oklahoma Register on
7 September 15, 1999. Subchapter 35 was also
8 brought to the Council for consideration on
9 October 19, 1999. There is a compelling
10 public interest in adopting this rule as an
11 emergency rule, which is that it will
12 directly impact the state's Title V
13 permitting process. Oklahoma is in the
14 midst of preparing and issuing its first
15 draft of Title V permits. To keep this
16 process moving forward and to aid both
17 permit writers and the effected companies
18 in interpreting and implementing this rule,
19 staff recommends that the changes to
20 Subchapter 35 be adopted as an emergency
21 rule as well as a permanent rule.
22 MR. DYKE: We have someone from
23 Wolverine Tube who wishes to comment.
24 Would you like to hear her comments before
25 your questions? Ms. Burnett.

1 MS. BURNETT: Thank you. I'm
2 LeAnne Burnett and I'm here today
3 representing Wolverine Tube. Wolverine
4 Tube is the only secondary copper facility
5 in Oklahoma. So I guess I'm speaking for
6 the secondary copper industry in Oklahoma,
7 because that's it.

8 We support the staff's revision to
9 Subchapter 35, in particular the change
10 from "foundry cupola" to "gray iron
11 cupola". We believe that that is a
12 clarification to the rule and nothing more.
13 And I believe that if you all have had a
14 chance to review the written comments that
15 we prepared on behalf of Wolverine, that
16 explains why we believe that the change is
17 merely a clarification. It is consistent
18 with the DEQ's historic application of this
19 rule in that it's never applied to the
20 secondary copper facility. It is also
21 consistent with the application for carbon
22 monoxide standards in other states. Other
23 states such as Texas and Louisiana have and
24 others have similar rules that all apply to
25 gray iron foundry cupolas or gray iron

1 cupolas.

2 And finally, I suppose that it
3 maintains the status quo because it is
4 simply a clarification. We would urge that
5 this rule be adopted as an emergency
6 measure because it does impact directly
7 Wolverine Tube's Title V Permitting
8 Application.

9 MR. DYKE: Any questions of Ms.
10 Martinez or Ms. Burnett from the Council?
11 Anyone else wishing to make comment on this
12 rule? Bill.

13 MR. FISHBACK: The question I
14 have is in the definition of "existing
15 source". It lists the units to which the
16 rule applies, and if they are in existence
17 or in being on July 1 of '72, and not
18 modified thereafter, so as to increase the
19 emissions of carbon monoxide.

20 There is an ongoing debate with New
21 Source Performance Standards as to what is
22 and what is not modification. And it is
23 certainly possible for units built prior to
24 '72 to have an increase in carbon monoxide
25 emissions without a physical change in the

1 method of operation or a modification in
2 the NSPS sense.
3 So I wanted to make sure that we
4 clarified, since it's not in this rule,
5 it's obviously going to have to be
6 defaulted to another rule what we mean by
7 modification there. Because, for example,
8 in fluid cat-crackers at petroleum
9 refineries, you can have an increase in
10 carbon monoxide just from a change in the
11 carbon content of the feed stock. No other
12 physical change, no change in the method of
13 operation, just a feed stock that has a
14 little more carbon in it, so it lays a
15 little more carbon down on the catalyst, so
16 when you burn it off you get a little more
17 carbon monoxide. Now, is that or is that
18 not -- is a change in feed stock quality,
19 is that or is that not a modification that
20 would trip this regulation? And that's
21 debated forever in New Source Performance
22 Standards.

23 EPA has taken the position, for
24 example, that SO2 emission increases from
25 refineries are modifications of the

1 equipment, even if the only reason for
2 those SO2 emission increases is because
3 there is more sulphur in the crude.
4 So this is a very important point
5 here and I don't believe there is any
6 intent in this rule one way or the other,
7 but I wanted to ask the staff and go on the
8 record as what do we mean in that
9 definition by the word modified? What are
10 we defaulting to there?

11 MS. MARTINEZ: We have a
12 definition in Subchapter 1 of modification
13 which we fall back on.

14 MR. FISHBACK: And what does it
15 say specifically -- right there?

16 MS. MARTINEZ: Uh-huh. ///

17 MR. FISHBACK: A physical change
18 or change in the method of operation. So
19 that's basically the NSPS definition, which
20 results in the emission of any air
21 pollutant not previously emitted or an
22 increase, right? Okay.

23 Now, we would be going down the same
24 path there because physical change or
25 change in the method of operation has been

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1 construed in some context by EPA change in
2 method of operation is change in the
3 quality of feed stock. So what does the
4 DEQ staff -- do they consider changing feed
5 stock quality a change in the method of
6 operation or not? That definition is clear
7 to me, but how is it being applied? You
8 don't know? Okay. There is a real risk in
9 that, and it's occurred over and over
10 again. I would love some clarity in the
11 definition of what modification is, I mean
12 I understand the words. And I may
13 interpret those words differently than
14 someone who is bringing an enforcement
15 action because I had an increase in carbon
16 monoxide because my cat-cracker feed got a
17 little bit heavier and had a little more
18 carbon in it. And I didn't spend a dime, I
19 just ran a different feed stock.
20 MR. WILSON: Bill, I share that
21 desire to have that definition of
22 modification. I don't think you are going
23 to get there during this Council meeting.
24 MR. FISHBACK: I would agree with
25 you on that.

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1 MS. MARTINEZ: Subchapter 1 is
2 due for rewrite/dewrong and it's one of the
3 last subchapters, so it will be sometime
4 next year.
5 MR. WILSON: I believe that this
6 definition does need some help because it
7 really tries to redefine what modification
8 is by saying, so as to increase the
9 emission of carbon monoxide. And so really
10 the definition that's offered here is
11 somewhat in conflict with the definition of
12 modification. And I would recommend that a
13 period be put after the word "thereafter"
14 and we will leave off the rest of that
15 sentence which reads, "so as to increase
16 the emission of carbon monoxide".
17 MS. HOFFMAN: Excuse me, Joel. I
18 believe that's -- what's in the definition
19 of modification is that there has to be an
20 increase in the emissions. Therefore, I
21 don't see any inconsistency between that
22 wording in Subchapter 35 and the definition
23 of modification in Subchapter 1.
24 MR. WILSON: Well, an existing
25 source under this definition would be any

Page

1 source that is modified after a certain
2 date, so as to increase the emission of
3 carbon monoxide. But I agree with what
4 you're saying.
5 MS. HOFFMAN: That was not
6 modified after July 1, 1972.
7 MR. WILSON: I'm sorry. Okay,
8 you are excluding modification?
9 MS. HOFFMAN: It would become a
10 new source.
11 MR. WILSON: Okay. I see what
12 you are saying. If the source was modified
13 after 1972, and its emissions of carbon
14 monoxide increased, it would no longer meet
15 the definition of existing source?
16 MS. HOFFMAN: Right.
17 MR. WILSON: But Mr. Fishback's
18 comments were accurate in that you are able
19 to increase carbon monoxide emissions
20 without a modification, as modifications
21 are defined in NSPS.
22 MR. KILPATRICK: How are you
23 interpreting the definition of
24 modification.
25 MR. WILSON: But I don't think --

Page 1

1 MR. KILPATRICK: Changing the
2 modification is to change to improve the
3 content or change the operating
4 modification. That's the problem. How do
5 you interpret that? EPA --
6
7
8
9 MR. FISHBACK: There is some --
10 this issue that we're discussing is
11 addressed in the definition of modification
12 in Subchapter 1, but it still has not
13 worked in all cases. It says the following
14 shall not be considered a change in method
15 of operation. And one of those things
16 that's not a change in method of operation
17 is change in fuel or raw material if the
18 unit was designed to handle it to begin
19 with. Now that would seem to protect you
20 from this issue of change in feed stock
21 quality.
22 But in their national refinery
23 enforcement initiative, EPA has targeted
24 refineries on the very issue of increased
25 SO2 emissions when the only reason is

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1 increase in sulphur content accrued. And
 2 you would think that this language would
 3 protect you against that. You didn't spend
 4 a dime on equipment, all you did was buy
 5 different quality crude. With the issue at
 6 hand here in Subchapter 35, you didn't
 7 spend a dime on your cat-cracker, you just
 8 fed it a feed stock with a little more
 9 carbon. You would think that would protect
 10 you, but I would really like to see the
 11 definition of modification expanded to say
 12 -- see it doesn't say. It says alternate
 13 fuels or raw materials that are different
 14 are okay, and maybe we ought to change that
 15 if we have the opportunity next year to say
 16 including changes in feed stock quality.
 17 MS. MYERS: I'm a little bit
 18 confused, Bill. This looks like Subchapter
 19 35 and you are trying to rewrite Subchapter
 20 1.
 21 MR. FISHBACK: That's the issue
 22 that she raised. We have the definition of
 23 modification in Subchapter 1 which
 24 Subchapter 35 relies on, but it doesn't
 25 offer the protection that we're seeking.

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1 So you are right, ultimately we've got to
 2 address this in Subchapter 1 apparently.
 3 MS. MYERS: We can't do that
 4 today.
 5 MR. FISHBACK: Can't do it today.
 6 But I just wanted to bring that up, that
 7 modification is a real tricky issue.
 8 MR. DYKE: Any other questions or
 9 comments?
 10 MR. KILPATRICK: I have a
 11 question on the definition of "existing
 12 source". The fifth line down, example
 13 (...reading from booklet...), is that the
 14 current standard -- carbon monoxide
 15 standard?
 16 MS. MARTINEZ: That language was
 17 not changed at all.
 18 MR. KILPATRICK: So that's the
 19 old standard?
 20 MS. MARTINEZ: Yes.
 21 MR. DYKE: Additional questions
 22 or comments from the Council?
 23 MR. BREISCH: I'll entertain a
 24 motion to recommend this to the Board for
 25 emergency permanent adoption.

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1 MR. BRANECKY: So moved.
 2 MR. FALLON: Second.
 3 MR. BREISCH: I've got motion and
 4 a second. Any further comments? Myrna,
 5 call the roll.
 6 MS. BRUCE: Mr. Wilson.
 7 MR. WILSON: Aye.
 8 MS. BRUCE: Mr. Fallon.
 9 MR. FALLON: Yes.
 10 MS. BRUCE: Ms. Myers.
 11 MS. MYERS: Aye.
 12 MS. BRUCE: Mr. Branecky.
 13 MR. BRANECKY: Yes.
 14 MS. BRUCE: Mr. Kilpatrick.
 15 MR. KILPATRICK: Aye.
 16 MS. BRUCE: Mr. Breisch.
 17 MR. BREISCH: Yes.
 18 (End of Proceedings)
 19
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 22
 23
 24
 25

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1 CERTIFICATE

2 STATE OF OKLAHOMA))
 3 COUNTY OF OKLAHOMA)) ss:

4
 5 I, CHRISTY A. MYERS, Certified
 6 Shorthand Reporter in and for the State of
 7 Oklahoma, do hereby certify that the above
 8 proceedings are the truth, the whole truth,
 9 and nothing but the truth, in the
 10 proceedings aforesaid; that the foregoing
 11 proceeding was taken by me in shorthand and
 12 thereafter transcribed under my direction;
 13 that said proceedings was taken on the 19th
 14 day of October, 1999, at Oklahoma City,
 15 Oklahoma; and that I am neither attorney
 16 for nor relative of any of said parties,
 17 nor otherwise interested in said
 18 proceedings.

19 IN WITNESS WHEREOF, I have hereunto
 20 set my hand and official seal on this, the
 21 1st day of November, 1999.
 22
 23
 24
 25

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

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-37 Control of Emission of Organic Materials

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-37 SIP Revision

SUBCHAPTER 37. CONTROL OF EMISSIONS OF ORGANIC MATERIALS

PART 1. GENERAL PROVISIONS

252:100-37-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration prevented.~~ The purpose of this Subchapter is to reduce the formation of ozone by controlling the emissions of volatile organic compounds (VOCs) from stationary sources.

252:100-37-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Acrylic**" means a chemical coating containing polymers or co-polymers of acrylic or substitute acrylic acid in combination with ~~suitable resinous modifiers and its~~. The primary mode of cure is solvent evaporation.

"**Alkyd primer**" means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional paint coating.

"**Custom product finishes**~~finish~~" means a proprietary chemical coating designed for a specific customer and ~~end-use~~.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~

"Drilling or production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

~~"Effluent water separator" means any tank, box, sump, or other container in which any material compound VOC floating on, or entrained in, or contained in water entering such tank, box, sump or other the container is physically separated and removed from such the water prior to outfall, drainage, or recovery of such~~ discharge of the water from the container.

"**Epoxy**" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. ~~Epoxies prime~~ The primary mode of cure involves a chemical reaction between the epoxy and the cross-linking agent.

"Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage vessels or automatic transfer facilities to pipelines or any other form of transportation.

~~"Maintenance finishes~~ finish" means a chemical coating ~~formulated to form a protection of that protects~~ a given substrate to adverse chemical or physical ~~condition~~ conditions.

"**Nitrocellulose lacquers**~~lacquer (NC lacquer)~~" means a chemical coating containing nitrocellulose and suitable resinous modifiers, ~~and whose~~. The primary mode of cure is solvent evaporation.

~~"Organic materials" means chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~

~~"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions:~~

~~(A) The bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled;~~

~~(B) The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel;~~

~~(C) The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel; or,~~

~~(D) other equivalent methods acceptable to the Executive Director.~~

~~"Vinyl" means a chemical coating containing plasterized plasticized or unplasticized un~~plasticized~~ polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products and the. The primary mode of cure is solvent evaporation.~~

~~"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100 (s) (1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.~~

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-37-3. Applicability and compliance

~~(a) New sources. Any new source calculated to emit an organic material to the atmosphere either as a solvent or a reactant will be subject to permitting under OAC 252:100-7, and with the application of Best Available Control Technology.~~

~~(b) Compliance schedule.~~

~~(1) All equipment and process previously regulated under OAC 252:100-37 and 252:100-39 and its effective dates of July 1, 1972 and December 8, 1974 must still abide by those dates.~~

~~(2) (a) New sources. In all areas except AQMA's, this This Subchapter shall apply to all new installations of any equipment or processes described in this Subchapter, after the effective date of December 28, 1974.~~

~~(3) (b) Existing sources. Provisions Sections 15, 16, 35, 36, 37, and 38 of this Subchapter relating to control of VOC shall apply to all new and existing installations of any equipment or processes in use and described in this Subchapter that are located~~

~~in Air Quality Maintenance Areas (AQMA's) as classified by the Environmental Protection Agency with regard to hydrocarbons and photochemical oxidants Tulsa County or Oklahoma County, and become after the effective on June 8, 1979; provided, however, that existing installations shall have twenty-four (24) months from the effective date within which to comply with this Subchapter date of June 9, 1981. Except that the The retrofit requirements for crude petroleum storage tanks will be limited vessels apply only to to tanks vessels of greater than 10,000 barrel 420,000 gal (1,590 m³) capacity.~~

~~(c) Permit-by-rule facilities. This Subchapter does not apply to facilities registered under the VOC storage and loading facility permit-by-rule except as provided for in Part 9.~~

~~(4) Provisions of this Subchapter relating to the control of organic solvent shall be as specified in the applicable Section.~~

252:100-37-4. Exemptions

~~(a) Organic materials as used VOCs with vapor pressures less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from in 252:100-37-15 through 252:100-37-18 252:100-37-16 and , and 252:100-37-27 and 252:100-37-28, 252:100-37-35 through 252:100-37-38 will not include: Methane (CH₄) or any material otherwise included which has vapor pressure of less than 1.5 pounds per square inch absolute under actual storage conditions.~~

~~(b) Petroleum or condensate stored, processed, treated, loaded, and/or treated transferred at a drilling or production facility prior to lease custody transfer is exempt from this Subchapter. This exemption also includes transfer and loading operations Methanol stored at a drilling or production facility for use on site is also exempt from this Subchapter.~~

~~(a) (c) The storage, loading, processing, manufacturing or burning of organic materials VOCs on a farm or ranch, when such VOCs are used for agricultural purposes on farms and ranches said farm or ranch, is exempted from all provisions of 252:100-37-15 through 252:100-37-18, and 252:100-37-27 and 252:100-37-28, 252:100-37-16, 252:100-37-35 through 252:100-37-38, 252:100:39-41, and 252:100-39-42.~~

252:100-37-5. Operation and maintenance

~~Any vapor-loss control devices, packing glands and mechanical seals required by this Subchapter shall be properly installed, maintained, and operated.~~

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS **VOCs IN STORAGE AND LOADING OPERATIONS**

252:100-37-15. Storage of volatile organic compounds VOCs

~~(a) Storage capabilities greater than 40,000 gallons. No person shall build, sell, or install or permit the building or installation of any new stationary tank, reservoir or other container Each VOC storage vessel with a capacity of more than 40,000 gallons (150,000 liters) capacity which will be used for storage of any organic materials, unless such tank, reservoir or other container is to gal (151 m³) shall be a pressure tank vessel capable of~~

maintaining working pressures sufficient at all times to ~~that~~ prevent organic vapor or gas the loss of VOC to the atmosphere or is designed, and will be built and shall be equipped with one of the following vapor-loss control devices:

- (1) ~~A~~ An external floating roof, consisting of that consists of a pontoon type, internal floating cover or double-deck type roof, which will cover, or a fixed roof with an internal-floating cover. The cover shall rest on the surface of the liquid contents and at all times (i.e., off the leg supports), except during initial fill when the storage vessel is completely emptied, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space between the roof cover edge and tank vessel wall. Such floating ~~Floating roofs are not appropriate control devices if the organic materials~~ VOCs have a vapor pressure of 11-11.1 pounds per square inch absolute psia (568 mm Hg) (76.6kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
- (2) ~~A vapor-recovery system consisting that consists of a vapor-gathering system capable of collecting 85 percent or more of the uncontrolled organic material~~ VOCs that would otherwise be emitted to the atmosphere; and a vapor-disposal system capable of processing such organic material so as these VOCs to prevent their emission to the atmosphere and with all tank. All vessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
- (3) ~~Other equipment or means methods that are of equal efficiency for purposes of air pollution control as may be used when approved by the Executive Division Director prior to installation.~~

(b) **Storage Capacities of 400 gallons and greater.** ~~No person shall build, sell, or install or permit the building or installation of a new stationary organic material~~ Each VOC storage tank vessel with a capacity of 400 gallons (1520 liters) gal (1.5 m³) of m³ or more unless such tank is shall be equipped with a permanent submerged fill pipe or is equipped with an organic material a vapor-recovery system as required in 252:100-37-15(a)252:100-37-15 (a) (2).

Exemptions. VOC storage vessels that are subject to equipment standards (e.g., a fixed roof in combination with an internal floating cover, an external floating roof, or a closed vent system and control device) in 40 CFR 60 Subparts K, Ka, or Kb are exempt from the requirements of 252:100-37-15 (a) and (b).

252:100-37-16. Loading of volatile organic compounds VOCs

(a) **Loading facilities with throughput greater than 40,000 gallons/day.**

(1) ~~No person shall build or install or permit the building or installation of a stationary organic material~~ Each VOC loading facility having with a throughput greater than 40,000 gallons per day gal/d (151,416 l/d) from its aggregate loading pipes unless such loading facility is shall be equipped with a vapor-collection and disposal system or unless all tank trucks or trailers are bottom loading loaded with closed hatches closed, properly installed, in good working order and in operation.

(2) **(1) Vapor-collection and disposal system.** When loading in a vapor-collection and disposal system is effected through the hatches of a tank truck or trailer with a loading arm equipped with a vapor-collecting adaptor; pneumatic, hydraulic or other

~~mechanical means shall be provided to force a vapor-tight seal between the adaptor and the hatch.~~

(A) Vapor-collection portion of the system.

(i) When loading VOCs through the hatches of a tank truck or trailer, using a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic, or mechanical means shall be provided to ensure a vapor-tight seal between the adaptor and the hatch.

~~(3) A means shall be provided in either system to prevent organic material drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.~~

(4)(ii) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which that make vapor-tight connections and which must be closed when disconnected or which close automatically when disconnected.

~~(5)(B) Vapor-disposal portion of he system.~~ The vapor-disposal portion of the system shall consist of ~~one of the following:~~

(A)(i) a vapor-liquid absorber system with a minimum recovery efficiency of 90 percent by weight of all the organic material-VOC vapors and gases entering such disposal system; or,

(B)(ii) a variable-vapor space tank, compressor, and fuel-gas system of sufficient capacity to receive all organic material-VOC vapors and gases displaced from the tank trucks and trailers being loaded.

(2) Prevention of VOC drainage. A means shall be provided in either loading system specified in subsection (a) to prevent VOC drainage from he loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.

(b) Loading facilities with throughput equal to or less than 40,000 gallons per day.

~~(1) No person shall build or install or permit the building or installation of a stationary organic material. Each loading pipe at a VOC loading facility having a with an aggregate throughput of 40,000 gallons (150,000 liters) per day gal/d (151,416 l/d) or less from its aggregate loading pipes unless each is shall be equipped with a system for submerged filling of tank trucks or trailers properly installed, in good working order and operating in such a manner that which is installed and operated to maintain a 97 percent submergence factor is maintained.~~

~~(2)(2) Paragraph 252:100-37-16(b)(1) apply-applies to any facility which that loads organic materials-VOCs into any tank truck or trailer with a capacity greater than 200 gal (757 l) which is designed for transporting organic materials and having a capacity in excess of 200 gallons (760 liters)VOCs.~~

(c) Exemptions. Loading facilities subject to the requirements of 40 CFR Subpart XX or 40 CFR 63 Subpart R are exempt from the requirements of 252:100-37-16 (a) and (b).

252:100-37-17. Effluent water separators [AMENDED AND RENUMBERED TO 252:100-37-37]

~~No person shall build or install or permit the building or installation of a single or multiple compartment organic material water separator which receives effluent water containing 200 gallons (760 liters) a day or more or any organic material from any equipment processing, refining, treating, storing or handling organic materials unless the compartment receiving said effluent water is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:~~

- ~~(1) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~
- ~~(2) A container equipped with a floating roof, consisting of a pontoon type, double-deck type roof, or internal floating cover, which will rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~
- ~~(3) A container equipped with a vapor recovery system, consisting of a vapor gathering system capable of collecting the organic material vapors and gases discharged and a vapor disposal system capable of processing such organic material vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas tight except when gauging or sampling is taking place. The organic material removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress; or,~~
- ~~(4) Containers equipped with controls of equal efficiency provided such equipment is submitted to and approved by the Executive Director.~~

252:100-37-18. Pumps and compressors [AMENDED AND RENUMBERED TO 252:100-37-38]

~~No person shall build or install or permit the building or installation of any pump or compressor handling organic material compounds unless rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency; or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15 minute period at standard conditions per pump or compressor.~~

**PART 5. CONTROL OF ORGANIC SOLVENTS
VOCs IN COATING OPERATIONS**

252:100-37-25. Coating of parts and products

~~(a) Standards. No owner or operator subject to the provision of this Section shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any organic solvent in excess of the amounts, listed in the following table, per gallon of coating, excluding water, delivered to the coating applicator. No owner or operator of any coating line or coating operation with VOC emissions shall use coatings that as applied contain VOCs in excess of the amounts listed~~

below. (Limits are expressed in pounds of VOC per gallon of coating, excluding the volume of any water and exempt organic compounds.)[applicator in SIP]

Type of coating	Pounds of organic solvent per gallon of paint (less water)		
	Jan. 79 limit	Jan. 81 limit	Jan. 82 limit
Alkyd primer	5.6	5.2	4.8
Vinyls	6.4	6.4	6.0
NC lacquers	6.8	6.6	6.4
Acrylics	6.4	6.4	6.0
Epoxies	5.6	5.2	4.8
Maintenance finishes	5.6	5.2	4.8
Custom products finishes	6.8	6.6	6.5
(1) Alkyd primer-	4.8		
(2) Vinyls -	6.0		
(3) NC lacquers -	6.4		
(4) Acrylics -	6.0		
(5) Epoxies -	4.8		
(6) Maintenance finishes -	4.8		
Custom products finishes -	6.5		

(b) **Plant-wide emission plan.** ~~An owner/operator may develop a plant-wide emission plan instead of having each coating line comply with the emission limitations prescribed in the table in (a) of this section, provided:~~

(1) ~~(1)~~ **Development of a plant-wide emission plan.** An owner or operator may develop a plant-wide emission plan instead of having each coating line comply with the VOC content limitations in 252:100-37-25 (a). If the following conditions are met.

~~(A) the~~ The owner or operator demonstrates, by means of approved material balance or manual emission test methods, by the methods in 252:100-5-2.1 (d) that sufficient reductions in organic solvents emissions of VOCs may be obtained by controlling other facilities/sources within the plant to the extent necessary to compensate for all excess emissions which that result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be described made in writing and shall include:

~~(A)(i) A~~ a complete description of the coating line or lines which that will not cannot comply with the emission VOC content limitation in 252:100-37-25(a);

~~(B)(ii) Quantification~~ quantification of emissions, in terms of pounds per day of organic solvents VOCs, which are in excess of the prescribed emission VOC content limitation for each coating line described under 252:100-37-25(b)(1)(A) 252:100-37-25 (b) (1) (A) (i);

~~(C)(iii) A~~ a complete description of each facility and the related control system, if any, for those facilities within the plant where how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described under 252:100-37-25(b)(1)(A) 252:100-37-25 (b) (1) (A) (i) and the date on which such reductions will be achieved;

~~(D)(iv) Quantification~~ quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, for each ~~facility~~ source described under ~~252:100-37-25(b)(1)(C)~~ 252:100-37-25 (b) (1) (A) (iii), both before and after the improvement or installation of any applicable control system, or operational changes to such a facility or facilities to reduce emissions ~~and the date on which such reductions will be achieved~~; and,

~~(E)(v) A~~ a description of the procedures and methods used to determine the emissions of ~~organic solvents~~ VOCs.

~~(2)(B) the~~ The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. ~~The plant-wide emission reduction plan may include decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to facilities, including permanently reduced production or closing a facility, located on the premises of a surface-coating operation.~~

~~(3)(2) Compliance with a plant-wide emission plan.~~ The implementation of a plant-wide emission reduction plan instead of compliance with the ~~emissions~~ VOC content limitation prescribed in 252:100-37-25(a) ~~has been expressly~~ must be approved in writing by the ~~Executive Division~~ Director. Upon approval, any emissions in excess of those established for each facility under the plan shall be a violation of this Subchapter.

~~(c) Emission limitation.~~ No person shall discharge into the atmosphere more than 3,000 pounds of organic materials in any one day nor more than 450 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing such solvent is employed or applied, unless such discharge has been reduced by at least 85 percent or has applied BACT or better as determined by the Executive Director.

~~(d)(c) Exemption.~~ Owners or operators of sources that are computed to emit less than 100 pounds of organic solvent VOC per 24 hr./day 24-hour day are exempt from the requirements of this Section.

~~(e)(d) Alternate standard.~~ Emissions ~~The use of coating with VOC contents in excess of those permitted by 252:100-37-25(a) through 252:100-37-25(d) are or 252:100-37-25 (b) is allowable if both of the following conditions are met:~~

(1) VOC emissions are reduced to the quantity that would result in the absence of control are reduced occur if the coating used complied with the VOC content allowed in 252:100-37-25 (a) by:

(A) 90 percent, by incineration; or,

(B) 85 percent, by absorption or any other process of equivalent reliability and effectiveness; and, absorption/adsorption; or,

(C) any other process of equivalent reliability and effectiveness.

(2) No air pollution, as defined by the Clean Air Act, results.

252:100-37-26. Clean up with organic solvents

~~Emissions of organic materials to the atmosphere from the clean up with organic solvents, as defined in 252:100-37-2, VOCs of any article, machine, or equipment or other contrivance used in applying coatings controlled in 252:100-37-25(a) through 252:100-37-25(d) 252:100-37-25 (d) shall be included with the other emissions of~~

~~organic solvents from the coating line or operation counted~~ in determining compliance with those rules.

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35. Waste gas disposal

(a) **Ethylene manufacturing emissions.** ~~No person owner or operator shall build or install or permit the building or installation of any ethylene manufacturing plant unless~~ the waste-gas stream under normal operating conditions is properly burned at 1,300°F. for 0.3 seconds or greater in a direct-flame afterburner equipped with an indicating pyrometer ~~which that~~ is positioned in the working area for the operator's ready monitoring or an equally effective catalytic vapor incinerator also with pyrometer. Proper burning of the waste-gas stream is defined as reduction by 98 percent of the ethylene emissions originally present in the waste-gas stream.

(b) **Vapor blowdown.** Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, ~~no person shall emit organic gases to the atmosphere owner or operator shall allow VOC gases to be emitted~~ from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the ~~Executive Division~~ Director.

252:100-37-36. Fuel-burning and refuse-burning equipment

~~No person shall cause or allow the emission of hydrocarbons or other organic materials from any fuel-burning or refuse-burning equipment. All such fuel-burning or refuse-burning equipment shall be operated as to minimize such emissions of VOC.~~ Among other things, such operation shall assure, based on manufacturer's data and good engineering practice, that the equipment is not overloaded; that it is properly cleaned, operated, and maintained; and that temperature and available air are sufficient to provide essentially complete combustion.

252:100-37-37. Effluent water separators

A single-compartment or multiple-compartment VOC/water separator that receives effluent water containing 200 gal/d (760 l/d) or more of any VOC from any equipment processing, refining, treating, storing or handling VOCs shall comply with one of the following sets of conditions.

- (1) ~~0~~— The container totally encloses the liquid contents and all openings are sealed. All gauging and sampling devices shall be gas-tight except when gauging or sampling is place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.
- (2) The container is equipped with an external floating roof that consists of a pontoon type or double-deck type cover, or a fixed roof with an internal-floating cover. The cover shall rest on the surface of the contents and be equipped with a closure seal, or seals, to close the space between the cover edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

- (3) The container is equipped with a vapor-recovery system that consists of a vapor-gathering system capable of collecting the VOC vapors and gases discharged and a vapor-disposal system capable of processing such vapors and gases to prevent their emission to the atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.
- (4) The container is approved prior to use by the Division Director and is equipped with controls that have efficiencies equal to the controls listed in 252:100-37-37 (1) through (3).

252:100-37-38. Pumps and compressors

- (a) Any pump or compressor handling VOCs shall meet the following conditions.
 - (1) Rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency.
 - (2) Reciprocating type pumps and compressors are equipped with packing glands.
 - (3) Emissions from the drain recovery system do not exceed 2 in.³ of liquid VOC in any 15-minute period per pump or compressor at standard conditions.
- (b) Pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK are exempt from 252:100-37-38.

PART 9. PERMIT BY RULE FOR VOC STORAGE AND LOADING FACILITIES

252:100-37-41. Applicability

Any new VOC storage and/or loading facility may be constructed and any existing VOC storage and/or loading facility may be operated under this Part if the following conditions are met.

- (1) The facility is located in an area designated as unknown or attainment for ozone.
- (2) Each storage vessel located at the facility meets one of the following criteria.
 - (A) The storage capacity is 19,813 gal (75 m³) or less.
 - (B) The storage capacity is greater than 19,813 gal (75 m³) but less than 39,889 gal (151 m³) and the liquid stored has a maximum true vapor pressure less than 0.51 psia (3.5 kPa).
- (3) The facility is designed to have a throughput of 19,998 gal/d (75,700 l/d) or less from the aggregate loading pipes.
- (4) The facility meets the requirements of 252:100-7-60 (a), (b), and (c).

252:100-37-42. Permit-by-rule requirements

- (a) An owner or operator shall submit annual emission inventory reports and meet the requirements of 252:100-37-5, regarding operation and maintenance, and 252:100-37-38, regarding pumps and compressors.
- (b) No owner or operator shall build or install a new stationary VOC storage vessel with a capacity of 400 gal (1.5 m³) or greater unless it is equipped with a permanent submerged fill pipe as defined in 252:100-37-2.

- (c) No owner or operator shall build or install a stationary VOC loading facility unless each loading pipe is equipped with a system for submerged filling of tank trucks or trailers which is installed and operated to maintain a 97 percent submergence factor.
- (d) The owner or operator of a vessel with a storage capacity greater than 10,567 gal (40 m³) shall maintain records on site of the dimensions of the storage vessel and an analysis showing the capacity.

Oklahoma Register

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1216]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed rules:

252:100. Air Pollution Control

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke. Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Summary:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter (ug/m^3) and a new 24-hr PM-2.5 standard set at $65 \text{ ug}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \text{ ug}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to Subchapter 7 will delete the lower limit of 5 tons per year for

Permit by Rule (PBR) facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Two substantive changes are proposed for

Notices of Rulemaking Intent

Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Room 101, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1216; filed 6-25-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1217]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

Proposed rules:

252:100, Air Pollution Control: Subchapter 47, Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

Summary:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled

Notices of Rulemaking Intent

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1259]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

SUMMARY:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to

Subchapter 7 will delete the lower limit of 5 tons per year Permit by Rule (PBR) facilities. This will allow the facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/delete initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix L requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and

Notices of Rulemaking Intent

reformatting. Two substantive changes are proposed for Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to a version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

AN IDENTICAL NOTICE WAS PUBLISHED IN THE OKLAHOMA REGISTER ON JULY 15, 1998. AFTER PUBLICATION, THE COUNCIL MEETING LOCATION WAS CHANGED TO 4545 N. LINCOLN BLVD., BURGUNDY ROOM, OKLAHOMA CITY, OKLAHOMA. NO OTHER CHANGES WERE MADE TO THIS NOTICE.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1259; filed 7-9-98]

~~TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL~~

~~[OAR Docket #98-1260]~~

~~INTENDED RULEMAKING ACTION:~~

~~Notice of proposed EMERGENCY and PERMANENT rulemaking.~~

~~PROPOSED RULES:~~

~~252:100. Air Pollution Control~~

~~Subchapter 47. Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]~~

~~SUMMARY:~~

~~A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.~~

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1358]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 8. Permits for Part 70 Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

SUMMARY:

In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a

PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no PBR has been written, the opportunity to apply for coverage under an applicable general permit. The Department also proposes to delete the definition for "Volatile Organic Solvents (VOS)," because the proposed changes to Subchapters 37 and 39 would exclude that term from the rules.

The Department is considering increases in the permit application fees in both Subchapters 7 and 8.

The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to both subchapters follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow such exceedances during one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. Other

Notices of Rulemaking Intent

proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Three substantive changes are proposed for each Subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; a request dated April 21, 1997, from the Halogenated Solvents Industry Alliance, requesting that perchloroethylene be excluded from the definition of VOC; a request from Dow Corning that methylated siloxanes be excluded from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, that methyl acetate be excluded from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c). In addition, the Department is requesting comments on 252:100-39-47, Control of VOS Emissions from Aerospace Industries Coatings Operations. Options include (1) retain the present (ARACT) rule and enforce the emissions reduction plan specified therein; (2) repeal the present rule and promulgate new rules regulating specialty coatings; or (3) retain the present plan, promulgate new rules for specialty coatings, and allow the facility to choose which of the two they prefer. These options recognize that the new NESHAP for the aerospace industry controls VOC emissions except for specialty coatings. The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40

CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Tuesday, September 15, 1998, through Tuesday, October 20, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, October 13, 1998

Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 10, 1998 - 9:30 a.m. in Poteau (Location to be determined. See contact person)

PUBLIC HEARINGS:

Tuesday, October 20, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (Subchapters 5 and 8), Michelle Martinez (Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37, 39 and 41). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 7, 23, 24, 25, 37 and 39 that were the subject of a public hearing on August 18, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1358; filed 8-26-98]

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1473]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2 [AMENDED]

Subchapter 7. Permits for Minor Facilities [AMENDED]

Subchapter 8. Permits for Part 70 Sources

252:100-8-1.7 [AMENDED]

252:100-8-4 [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

SUMMARY:

The Department is proposing to amend 252:100-5-2.2 to increase annual operating fees for minor facilities and to include a provision for state appropriations and federal grants to be used to offset annual operating fees assessed to minor facilities. The Department is also proposing to increase the base annual operating fee for Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no

PBR has been written, the opportunity to apply for coverage under an applicable general permit.

The Department is also proposing to amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

The Department is proposing amendments to 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. In addition, it is proposed that 252:100-8-4(a)(2) be amended to update the incorporation by reference of 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Substantive changes are proposed for each subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; a request from American Airlines, Boeing, and Nordam, dated January 19, 1998; to exclude acetone from the definition of VOC; a request from the Halogenated Solvents Industry Alliance dated April 21, 1997, to exclude perchloroethylene from the definition of VOC; a request from Dow Corning to exclude methylated siloxanes from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, to exclude methyl acetate from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The fourth substantive change to Subchapter 37 will be the addition of a new Part 9, Permit by Rule for Volatile Organic Compound Storage and Loading Facilities. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive

change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons to 252:100-39-41(c) to determine the applicability of subsection (c).

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments on proposed amendments to 252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7 will be accepted until December 8, 1998. Oral comments may be made at the December 15, 1998 hearing.

Comments on all other proposed amendments and new rules included in this notice will be accepted beginning Monday, November 16, 1998, through Tuesday, December 15, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, December 8, 1998.

Also scheduled before the Environmental Quality Board (Date and location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, December 15, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 16, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7), Jeanette Buttram (Subchapter 7 except 252:100-7-3), and Joyce Sheedy (252:100-8-4 and Subchapters 37 and 39), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1473; filed 10-23-98]

**TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 55. HOME INVESTMENTS PARTNERSHIP PROGRAM RULES**

[OAR Docket #98-1472]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

330:55-1-1 through 330:55-1-7 [NEW]

330:55-3-1 through 330:55-3-6 [NEW]

330:55-5-1 through 330:55-5-2 [NEW]

330:55-7-1 through 330:55-7-5 [NEW]

SUMMARY:

The Board of Trustees of the Oklahoma Housing Finance Agency (OHFA) a public trust, have in compliance with Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended and codified at 42 U.S.C. 12701-12839; and 24 CFR Part 92, Section 92.1, *et seq.* (Title II) adopted OHFA's Chapter 55 HOME Investments Partnership Program Rules (the 'Rules') for use in the allocation and issuance of HOME Program funds throughout the state of Oklahoma.

The Rules provide guidelines which OHFA follows in allocating HOME funds pursuant to Title II and are intended to provide a description of the procedures to be followed by applicants for evaluating and prioritizing applications. The Rules also provide an overview of Title II and other federal regulations which govern the administration of the HOME Program.

AUTHORITY:

These Chapter 55 rules are authorized by the Trustees of The Oklahoma Housing Finance Agency (OHFA), the Amended Trust Indenture of OHFA and the Bylaws of OHFA.

COMMENT PERIOD:

Written comments will be accepted November 16, 1998 through December 16, 1998. Comments should reference the section of the rules addressed and be sent to Oklahoma Housing Finance Agency, P. O, Box 26720, Oklahoma City, Oklahoma 73126-0720, Attn: Byron Debruler.

PUBLIC HEARING:

The following public hearing will be held: December 8, 1998, at 10:00 a.m. at the offices of OHFA, 1140 N. W. 63rd Oklahoma City, OK in the 4th floor conference room. All interested persons are invited to attend and present their views.

COPIES OF PROPOSED RULES:

Copies of the proposed Rules may be obtained by contacting Byron Debruler, at OHFA, 1140 Northwest 63rd, P. O. Box 26720, Oklahoma City, Oklahoma 73126-0720, 405-848-1144 Ext. 314. There will be a \$5.00 per copy charge.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-1722]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

- 252:100. Air Pollution Control
- Subchapter 37. Control of Emission of Organic Materials [AMENDED]
- Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

SUMMARY:

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical and grammatical errors, deletion of redundant language, and reformatting. Substantive changes are proposed for each subchapter. One of these changes affects both Subchapters. The definition of Volatile Organic Compound (VOC) has been modified in both subchapters to be consistent with the definition used by the Environmental Protection Agency. The substantive changes to Subchapter 37 are: the removal of the requirement for Best Available Control Technology (BACT) for all new sources of VOC in 252:100-37-3(a); the addition of 252:100-37-16(c), exempting loading facilities that are subject to 40 CFR 60, Subparts K, Ka and Kb; the addition of 252:100-37-25(c), exempting loading facilities that are subject to 40 CFR 60, Subpart XX, and 40 CFR 63, Subpart R; the deletion of 252:100-37-36, regarding fuel-burning and refuse-burning equipment, to resolve the contradiction between the first and second sentences; the addition of 252:100-37-38(b), exempting pumps and compressors that are subject to the equipment leak standards in 40 CFR 60, Subparts VV, GGG and KKK; and the addition of a new Part 9, Permit by Rule for Volatile Organic Compound Storage and Loading Facilities. The substantive changes to Subchapter 39 are: the correction of the placement of the phrase "prior to lease custody transfer" in 252:100-39-30(b)(2), the deletion of requirements in Part 3 regarding petroleum refinery operations which were made redundant by new federal requirements, and the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons to 252:100-39-41(c) for the determination of applicability of subsection (c).

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments on the proposed amendments to 252:100-37 and 252:100-39 will be accepted until February 10, 1999. Oral comments may be made at the Air Quality Advisory Council hearing, February 17, 1999.

PUBLIC HEARINGS:

Air Quality Advisory Council meeting will be held Wednesday, February 17, 1999 - 9:30 a.m. briefing and 1:30 p.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma

Subchapter 252:100-37 and 252:100-39 are also scheduled to be heard by the Environmental Quality Board on Friday, March 5, 1999, 9:30 a.m., at the Association of County Commissioners of Oklahoma, 429 NE 50th Street, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available January 15, 1999, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Joyce Sheedy, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 37 and 39 that were the subject of the public hearing on December 15, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1722; filed 12-22-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 400. RADIATION MANAGEMENT**

[OAR Docket #98-1729]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

- 252:400-2-1. State agreement program authorizations [NEW]
- 252:400-2-2. Specific licenses [NEW]
- 252:400-2-12. State Agreement Fees [NEW]
- Subchapter 21. Radionuclide NESMAP [NEW]
- Appendix G. State agreement fees. Special nuclear material [NEW]
- Appendix H. State agreement fees: Source material [NEW]
- Appendix I. State agreement fees: Byproduct mat [NEW]

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Permitting Rules, 252:2-15-70 and the definition of administratively complete in 252:100-8-2.

[OAR Docket #99-849; filed 5-7-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-850]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

✓ Subchapter 37. Control of Emission of Organic Materials

Part 1. General Provisions

252:100-37-1 [AMENDED]

252:100-37-2 [AMENDED]

252:100-37-3 [AMENDED]

252:100-37-4 [AMENDED]

252:100-37-5 [NEW]

Part 3. Control of Volatile Organic Compounds VOCs in Storage and Loading Operations

252:100-37-15 [AMENDED]

252:100-37-16 [AMENDED]

252:100-37-17 [AMENDED AND RENUMBERED TO 252:100-37-37]

252:100-37-18 [AMENDED AND RENUMBERED TO 252:100-37-38]

Part 5. Control of Organic Solvents VOCs in Coating Operations

252:100-37-25 [AMENDED]

252:100-37-26 [AMENDED]

Part 7. Control of Specific Process

252:100-37-35 [AMENDED]

252:100-37-36 [AMENDED]

252:100-37-37 [NEW]

252:100-37-38 [NEW]

Part 9. Permit by Rule for VOC Storage and Loading Facilities [NEW]

252:100-37-41 [NEW]

252:100-37-42 [NEW]

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None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed revisions to Oklahoma Administrative Code 252:100-37, Control of Emission of Organic Materials, will simplify the language under the agency-wide re-right/de-wrong initiative. The revisions also include the following substantive changes: 1) the redefinition of the term "volatile organic compound (VOC)" and the substitution of this term for "organic materials", "organic solvents", and "hydrocarbons"; 2) the deletion of 252:100-37-3(a), which is a redundant requirement except to the extent that it requires new minor sources to apply best available control technology (BACT); 3) the exemption of methanol storage vessels at a drilling or production facility for use on site in 252:100-37-4(c); 4) the addition of 252:100-37-15(c), exempting VOC storage vessels that are subject to the equipment standards in 40 CFR 60 Subparts K, Ka, or Kb from the requirements of 252:100-37-15(a) and (b); 5) the addition of 252:100-37-16(c), exempting VOC loading facilities subject to the requirements of 40 CFR 60 Subpart XX or 40 CFR 63 Subpart R from the requirements of 252:100-37-15(a) and (b); 6) the deletion of 252:100-37-25(c), which allows the emission of 3,000 pounds per day or 450 pounds per hour of organic materials before controls are required; 7) the revision of the alternate standard for coatings in 252:100-37-25(d); 8) the correction of the impossible requirement in 252:100-37-36 that no emission of hydrocarbons or organic material is allowed from fuel-burning or refuse-burning equipment; 9) the addition of 252:37-38(b), exempting pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK from 252:100-37-38; and 10) the addition of Part 9, which contains the permit by rule for VOC storage and loading facilities.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 1999.

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SUBCHAPTER 37. CONTROL OF EMISSION OF ORGANIC MATERIALS

PART 1. GENERAL PROVISIONS

252:100-37-1. Purpose

The purpose of this Subchapter is to control the emission of organic materials from stationary sources to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration prevented. The purpose of this Subchapter is to reduce the formation of ozone by controlling the emissions of volatile organic compounds (VOCs) from stationary sources.

252:100-37-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Acrylic" means a chemical coating containing polymers or co-polymers of acrylic or substitute acrylic acid in combination with suitable resinous modifiers and its. The primary mode of cure is solvent evaporation.

"Alkyd primer" means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional paint coating.

"Custom product finishes/finish" means a proprietary chemical coating designed for a specific customer and end use.

"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

"Drilling or production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

"Effluent water separator" means any tank, box, sump, or other container in which any material compound VOC floating on, or entrained in, or contained in water entering such tank, box, sump or other the container is physically separated and removed from such the water prior to outfall, drainage, or recovery of such discharge of the water from the container.

"Epoxy" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. Epoxies prime The primary mode of cure involves a chemical reaction between the epoxy and the cross-linking agent.

"Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage vessels or automatic transfer facilities to pipelines or any other form of transportation.

"Maintenance finishes/finish" means a chemical coating formulated to form a protection of that protects a given

substrate to from adverse chemical or physical conditions.

"Nitrocellulose lacquers/lacquer (NC lacquer)" means a chemical coating containing nitrocellulose and suitable resinous modifiers, and whose. The primary mode of cure is solvent evaporation.

"Organic materials" means chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.

"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.

"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions:

(A) the The bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled;

(B) the The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel;

(C) the The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel; or,

(D) other equivalent methods acceptable to the Executive Director.

"Vinyl" means a chemical coating containing plasterized plasticized or unplasterized unplasticized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products and the. The primary mode of cure is solvent evaporation.

"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.

"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.

252:100-37-3. Applicability and compliance

(a) **New sources.** Any new source calculated to emit an organic material to the atmosphere either as a solvent or a reactant will be subject to permitting under OAC 252:100-7,

and with the application of Best Available Control Technology.

(b) Compliance schedule.

(1) All equipment and process previously regulated under OAC 252:100-37 and 252:100-39 and its effective dates of July 1, 1972 and December 8, 1974 must still abide by those dates.

(2)(a) New sources. In all areas except AQMA's, this Subchapter shall apply to all new installations of any equipment or processes described in this Subchapter, after the effective date of December 28, 1974.

(3)(b) Existing sources. Provisions Sections 15, 16, 35, 36, 37, and 38 of this Subchapter relating to control of VOC shall apply to all new and existing installations of any equipment or processes in use and described in this Subchapter that are located in Air Quality Maintenance Areas (AQMA's) as classified by the Environmental Protection Agency with regard to hydrocarbons and photochemical oxidants Tulsa County or Oklahoma County, and become after the effective on June 8, 1979; provided, however, that existing installations shall have twenty-four (24) months from the effective date within which to comply with this Subchapter date of June 9, 1981. Except that the The retrofit requirements for crude petroleum storage tanks will be limited vessels apply only to tanks vessels of greater than 10,000 barrel 420,000 gal (1,590 m³) capacity.

(c) Permit-by-rule facilities. This Subchapter does not apply to facilities registered under the VOC storage and loading facility permit-by-rule except as provided in Part 9.

(4) Provisions of this Subchapter relating to the control of organic solvent shall be as specified in the applicable Section.

252:100-37-4. Exemptions

(a) Organic materials as used in VOCs with vapor pressures less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from 252:100-37-15 through 252:100-37-18, 252:100-37-16 and 252:100-37-27 and 252:100-37-28, 252:100-37-35 through 252:100-37-38 will not include: Methane (CH₄) or any material otherwise included which has vapor pressure of less than 1.5 pounds per square inch absolute under actual storage conditions.

(b) Petroleum or condensate stored, processed, treated, loaded, and/or treated transferred at a drilling or production facility prior to lease custody transfer is exempt from this Subchapter. This exemption also includes transfer and loading operations Methanol stored at a drilling or production facility for use on site is also exempt from this Subchapter.

(c) The storage, loading, processing, manufacturing or burning of organic materials VOCs on a farm or ranch, when such VOCs are used for agricultural purposes on farms and ranches said farm or ranch, is exempted from all provisions of 252:100-37-15 through 252:100-37-18 and 252:100-37-27 and

252:100-37-28, 252:100-37-16, 252:100-37-35 through 252:100-37-38, 252:100-39-41, and 252:100-39-42.

252:100-37-5. Operation and maintenance

Any vapor-loss control devices, packing glands and mechanical seals required by this Subchapter shall be properly installed, maintained, and operated.

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS VOCs IN STORAGE AND LOADING OPERATIONS

252:100-37-15. Storage of volatile organic compounds VOCs

(a) Storage capacities greater than 40,000 gallons. No person shall build, sell, or install or permit the building or installation of any new stationary tank, reservoir or other container Each VOC storage vessel with a capacity of more than 40,000 gallons (150,000 liters) capacity which will be used for storage of any organic materials, unless such tank, reservoir or other container is total (151 m³) shall be a pressure tank vessel capable of maintaining working pressures sufficient at all times to that prevent organic vapor or gas the loss of VOC to the atmosphere or is designed, and will be built and shall be equipped with one of the following vapor-loss control devices:

(1) An external floating roof, consisting of that consists of a pontoon type, internal floating cover roof, or double-deck type which will cover, or a fixed roof with an internal floating cover. The cover shall rest on the surface of the liquid contents and at all times (i.e., off the leg supports), except during initial fill, when the storage vessel is completely emptied, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space between the roof cover edge and tank vessel wall. Such floating Floating roofs are not appropriate control devices if the organic materials VOCs have a vapor pressure of 1111.1 pounds per square inch absolute psia (568 mm Hg) (76.6 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(2) A vapor-recovery system consisting that consists of a vapor-gathering system capable of collecting 85 percent or more of the uncontrolled organic material VOCs that would otherwise be emitted to the atmosphere; and a vapor-disposal system capable of processing such organic material so as these VOCs to prevent their emission to the atmosphere and with all tank. All vessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

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(3) Other equipment or means ~~methods that are~~ of equal efficiency for purposes of air pollution control as may be used when approved by the Executive Division Director prior to installation.

(b) Storage capacities of 400 gallons and greater. No person shall build, sell, or install or permit the building or installation of a new stationary organic material ~~Each VOC storage tank vessel~~ with a capacity of 400 gallons (1520 liters) ~~gal (1.5 m³)~~ or more unless such tank ~~is~~ shall be equipped with a permanent submerged fill pipe or is equipped with an organic material ~~a~~ vapor-recovery system as required in ~~252:100-37-5(a)~~ 252:100-37-15(a)(2).

(c) Exemptions. VOC storage vessels that are subject to equipment standards (e.g., a fixed roof in combination with an internal floating cover, an external floating roof, or a closed vent system and control device) in 40 CFR 60 Subparts K, Ka, or Kb are exempt from the requirements of 252:100-37-15(a) and (b).

252:100-37-16. Loading of volatile organic compounds VOCs

(a) Loading facilities with throughput greater than 40,000 gallons/day.

(1) ~~No person shall build or install or permit the building or installation of a stationary organic material~~ Each VOC loading facility having with a throughput greater than 40,000 gallons per day gal/d (151,416 l/d) from its aggregate loading pipes unless such loading facility is shall be equipped with a vapor-collection and disposal system ~~or unless all tank trucks or trailers are bottom loading~~ loaded with closed hatches closed, properly installed, in good working order and in operation.

(2) (1) Vapor-collection and disposal system. When loading in a vapor-collection and disposal system is effected through the hatches of a tank truck or trailer with a loading arm equipped with a vapor-collecting adaptor, pneumatic, hydraulic or other mechanical means shall be provided to force a vapor-tight seal between the adaptor and the hatch.

(A) Vapor-collection portion of the system.

(i) When loading VOCs through the hatches of a tank truck or trailer, using a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic, or mechanical means shall be provided to ensure a vapor-tight seal between the adaptor and the hatch.

(3) A means shall be provided in either system to prevent organic material drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.

(4) (ii) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which that make vapor-tight connections and which must be closed when

disconnected or which close automatically when disconnected.

(5) (B) Vapor-disposal portion of the system. The vapor-disposal portion of the system shall consist of one of the following:

(A) (i) a vapor-liquid absorber system with a minimum recovery efficiency of 90 percent by weight of all the organic material VOC vapors and gases entering such disposal system; or,

(B) (ii) a variable-vapor space tank, compressor, and fuel-gas system of sufficient capacity to receive all organic material VOC vapors and gases displaced from the tank trucks and trailers being loaded.

(2) Prevention of VOC drainage. A means shall be provided in either loading system specified in subsection (a) to prevent VOC drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.

(b) Loading facilities with throughput equal to or less than 40,000 gallons per day.

(1) ~~No person shall build or install or permit the building or installation of a stationary organic material~~ Each loading pipe at a VOC loading facility having a with an aggregate throughput of 40,000 gallons (150,000 liters) per day gal/d (151,416 l/d) or less from its aggregate loading pipes unless each is shall be equipped with a system for submerged filling of tank trucks or trailers properly installed, in good working order and operating in such a manner that which is installed and operated to maintain a 97 percent submergence factor is maintained.

(2) Paragraph 252:100-37-16(b)(1) ~~apply~~ applies to any facility which that loads organic materials VOCs into any tank truck or trailer with a capacity greater than 200 gal (757 l) which is designed for transporting organic materials and having a capacity in excess of 200 gallons (760 liters) VOCs.

(c) Exemptions. Loading facilities subject to the requirements of 40 CFR 60 Subpart XX or 40 CFR 63 Subpart R are exempt from the requirements of 252:100-37-16(a) and (b).

252:100-37-17. Effluent water separators [AMENDED AND RENUMBERED TO 252:100-37-37]

~~No person shall build or install or permit the building or installation of a single or multiple compartment organic material water separator which receives effluent water containing 200 gallons (760 liters) a day or more or any organic material from any equipment processing, refining, treating, storing or handling organic materials unless the compartment receiving said effluent water is equipped with one of the following vapor-loss control devices, properly installed, in good working order and in operation:~~

(1) ~~A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling~~

devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress;

(2) A container equipped with a floating roof, consisting of a pontoon type, double-deck type roof, or internal floating cover, which will rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress;

(3) A container equipped with a vapor recovery system, consisting of a vapor-gathering system capable of collecting the organic material vapors and gases discharged and a vapor disposal system capable of processing such organic material vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place. The organic material removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress; or,

(4) Containers equipped with controls of equal efficiency provided such equipment is submitted to and approved by the Executive Director.

252:100-37-18. Pumps and compressors [AMENDED AND RENUMBERED TO 252:100-37-38]

No person shall build or install or permit the building or installation of any pump or compressor handling organic material compounds unless rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency; or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15-minute period at standard conditions per pump or compressor.

PART 5. CONTROL OF ORGANIC SOLVENTS/VOCs IN COATING OPERATIONS

252:100-37-25. Coating of parts and products

(a) Standards. No owner or operator subject to the provision of this Section shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any organic solvent in excess of the amounts, listed in the following table, per gallon of coating, excluding water, delivered to the coating applicator. No owner or operator of any coating line or coating operation with VOC emissions shall use coatings that as applied contain VOCs in excess of the amounts listed below. (Limits are expressed in pounds of VOC per gallon of coating, excluding the volume of any water and exempt organic compounds.)

Type of coating	Pounds of organic solvent per gallon of paint (less water)		
	Jan. 79 limit	Jan. 81 limit	Jan. 82 limit
Alkyd primer	5.6	5.2	4.8
Vinyls	6.4	6.4	6.0
NC lacquers	6.8	6.6	6.4
Acrylics	6.4	6.4	6.0
Epoxies	5.6	5.2	4.8
Maintenance finishes	5.6	5.2	4.8
Custom products finishes	6.8	6.6	6.5

- (1) Alkyd primer - 4.8
- (2) Vinyls - 6.0
- (3) NC lacquers - 6.4
- (4) Acrylics - 6.0
- (5) Epoxies - 4.8
- (6) Maintenance finishes - 4.8
- (7) Custom products finishes - 6.5

(b) Plant-wide emission plan. An owner/operator may develop a plant-wide emission plan instead of having each

coating line comply with the emission limitations prescribed in the table in (a) of this section, provided:

(1) Development of a plant-wide emission plan. An owner or operator may develop a plant-wide emission plan instead of having each coating line comply with the VOC content limitations in 252:100-37-25(a), if the following conditions are met.

(A) The owner or operator demonstrates, by means of approved material balance or manual

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emission test methods, by the methods in 252:100-5-2.1(d) that sufficient reductions in organic solvents emissions of VOCs may be obtained by controlling other facilities sources within the plant to the extent necessary to compensate for all excess emissions which that result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be described made in writing and shall include:

(A)(i) A complete description of the coating line or lines which that will not cannot comply with the emission VOC content limitation in 252:100-37-25(a);

(B)(ii) Quantification quantification of emissions, in terms of pounds per day of organic solvents VOCs, which are in excess of the prescribed emission VOC content limitation for each coating line described under 252:100-37-25(b)(1)(A) 252:100-37-25(b)(1)(A)(i);

(C)(iii) A complete description of each facility and the related control system, if any, for those facilities within the plant where how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described under 252:100-37-25(b)(1)(A) 252:100-37-25(b)(1)(A)(i) and the date on which such reductions will be achieved;

(D)(iv) Quantification quantification of emissions, in terms of pounds per day of organic solvents VOCs, for each facility source described under 252:100-37-25(b)(1)(C) 252:100-37-25(b)(1)(A)(iii), both before and after the improvement or installation of any applicable control system, or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

(E)(v) A description of the procedures and methods used to determine the emissions of organic solvents VOCs.

(2)(B) The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan may include decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to facilities, including permanently reduced production or closing a facility, located on the premises of a surface coating operation.

(3)(2) Compliance with a plant-wide emission plan. The implementation of a plant-wide emission reduction plan instead of compliance with the emissions VOC content limitation prescribed in 252:100-37-25(a) has been expressly must be approved in writing by the Executive Division Director. Upon approval, any emissions in excess of those established

for each facility under the plan shall be a violation of Subchapter.

(e) Emission limitation. No person shall discharge into the atmosphere more than 3,000 pounds of organic materials in any one day nor more than 450 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing such solvent is employed or applied, unless such discharge has been reduced by at least 85 percent or has applied BACT or better as determined by the Executive Director.

(d)(c) Exemption. Owners or operators of sources that are computed to emit less than 100 pounds of organic solvent VOC per 24 hr./day 24-hour day are exempt from the requirements of this Section.

(e)(d) Alternate standard. Emissions The use of coatings with VOC contents in excess of those permitted by 252:100-37-25(a) through 252:100-37-25(d) are or 252:100-37-25(b) is allowable if both of the following conditions are met:

(1) VOC emissions are reduced to the quantity that would result in the absence of control are reduced occur if the coating used complied with the VOC content allowed in 252:100-37-25(a) by:

(A) 90 percent, by incineration; or,

(B) 85 percent, by absorption or any other process of equivalent reliability and effectiveness and, absorption/adsorption; or,

(C) any other process of equivalent reliability and effectiveness.

(2) no No air pollution, as defined by the Clean Air Act, results.

252:100-37-26. Clean up with organic solvents VOCs

Emissions of organic materials to the atmosphere from the clean up with organic solvents, as defined in 252:100-37-2, VOCs of any article, machine, or equipment or other contrivance used in applying coatings controlled in 252:100-37-25(a) through 252:100-37-25(d) 252:100-37-25(d) shall be included with the other emissions of organic solvents from the coating line or operation counted in determining compliance with those rules.

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35. Waste gas disposal

(a) Ethylene manufacturing emissions. No person owner or operator shall build or install or permit the building or installation of any ethylene manufacturing plant unless the waste-gas stream under normal operating conditions is properly burned at 1,300° F. for 0.3 seconds or greater in a direct-flame afterburner equipped with an indicating pyrometer which that is positioned in the working area for the operator's ready monitoring or an equally effective catalytic vapor incinerator also with pyrometer. Proper burning of the waste-gas stream is defined as reduction by 98

percent of the ethylene emissions originally present in the waste-gas stream.

(b) Vapor blowdown. Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no person shall emit organic gases to the atmosphere. owner or operator shall allow VOC gases to be emitted from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the Executive Division Director.

252:100-37-36. Fuel-burning and refuse-burning equipment

No person shall cause or allow the emission of hydrocarbons or other organic materials from any fuel-burning or refuse-burning equipment. All such fuel-burning or refuse-burning equipment shall be operated as to minimize such emissions of VOC. Among other things, such operation shall assure, based on manufacturer's data and good engineering practice, that the equipment is not overloaded; that it is properly cleaned, operated, and maintained; and that temperature and available air are sufficient to provide essentially complete combustion.

252:100-37-37. Effluent water separators

A single-compartment or multiple-compartment VOC/water separator that receives effluent water containing 200 gal/d (760 l/d) or more of any VOC from any equipment processing, refining, treating, storing or handling VOCs shall comply with one of the following sets of conditions.

- (1) The container totally encloses the liquid contents and all openings are sealed. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.
- (2) The container is equipped with an external floating roof that consists of a pontoon type or double-deck type cover, or a fixed roof with an internal-floating cover. The cover shall rest on the surface of the contents and be equipped with a closure seal, or seals, to close the space between the cover edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.
- (3) The container is equipped with a vapor-recovery system that consists of a vapor-gathering system capable of collecting the VOC vapors and gases discharged and a vapor-disposal system capable of processing such vapors and gases to prevent their emission to the atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The VOC removal devices shall be

gas-tight except when manual skimming, inspection and/or repair is in progress.

(4) The container is approved prior to use by the Division Director and is equipped with controls that have efficiencies equal to the controls listed in 252:100-37-37(1) through (3).

252:100-37-38. Pumps and compressors

(a) Any pump or compressor handling VOCs shall meet the following conditions.

- (1) Rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency.
- (2) Reciprocating type pumps and compressors are equipped with packing glands.
- (3) Emissions from the drain recovery system do not exceed 2 in.³ of liquid VOC in any 15-minute period per pump or compressor at standard conditions.

(b) Pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK are exempt from 252:100-37-38.

PART 9. PERMIT BY RULE FOR VOC STORAGE AND LOADING FACILITIES

252:100-37-41. Applicability

Any new VOC storage and/or loading facility may be constructed and any existing VOC storage and/or loading facility may be operated under this Part if the following conditions are met.

- (1) The facility is located in an area designated as unknown or attainment for ozone.
- (2) Each storage vessel located at the facility meets one of the following criteria.
 - (A) The storage capacity is 19,813 gal (75 m³) or less.
 - (B) The storage capacity is greater than 19,813 gal (75 m³) but less than 39,889 gal (151 m³) and the liquid stored has a maximum true vapor pressure less than 2.18 psia (15.0 kPa).
 - (C) The storage capacity is greater than or equal to 39,889 gal (151 m³) and the liquid stored has a maximum true vapor pressure less than 0.51 psia (3.5 kPa).
- (3) The facility is designed to have a throughput of 19,998 gal/d (75,700 l/d) or less from the aggregate loading pipes.
- (4) The facility meets the requirements of 252:100-7-60(a), (b), and (c).

252:100-37-42. Permit-by-rule requirements

- (a) An owner or operator shall submit annual emission inventory reports and meet the requirements of 252:100-37-5, regarding operation and maintenance, and 252:100-37-38, regarding pumps and compressors.
- (b) No owner or operator shall build or install a new

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stationary VOC storage vessel with a capacity of 400 gal (1.5 m³) or greater unless it is equipped with a permanent submerged fill pipe as defined in 252:100-37-2.

(c) No owner or operator shall build or install a stationary VOC loading facility unless each loading pipe is equipped with a system for submerged filling of tank trucks or trailers which is installed and operated to maintain a 97 percent submergence factor.

(d) The owner or operator of a vessel with a storage capacity greater than 10,567 gal (40 m³) shall maintain records on site of the dimensions of the storage vessel and an analysis showing the capacity.

[OAR Docket #99-850; filed 5-7-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-851]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 39. Emission of Organic Materials in Nonattainment Areas

Part 1. General Provisions

252:100-39-1 through 252:100-39-3 [AMENDED]

252:100-39-4 [NEW]

Part 3. Petroleum Refinery Operations

252:100-39-15 through 252:100-39-18 [AMENDED]

Part 5. Petroleum Processing and Storage

252:100-39-30 [AMENDED]

Part 7. Specific Operations

252:100-39-40 through 252:100-39-47 [AMENDED]

252:100-39-48 [REVOKED]

252:100-39-49 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

July 15, 1998, through August 18, 1998

September 15, 1998, through October 20, 1998

November 10, 1998, through December 15, 1998

January 15, 1999, through February 17, 1999

Public hearing:

August 18, 1998

October 20, 1998

December 15, 1998

February 17, 1999

Adoption:

March 5, 1999

Submitted to Governor:

March 15, 1999

Submitted to House:

March 15, 1999

Submitted to Senate:

March 15, 1999

Gubernatorial approval:

April 19, 1999

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 7, 1999

Final adoption:

May 7, 1999

Effective:

June 11, 1999

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

No additional incorporations by reference were added by the proposed revision.

ANALYSIS:

The proposed revisions to Oklahoma Administrative Code 252:100-39, Emission of Organic Materials in Nonattainment Areas, will simplify the language under the agency-wide re-write/de-wrong initiative. The proposed revisions also include the following substantive changes: 1) the redefinition of the term "volatile organic compound (VOC)" and the substitution of this term for "organic materials", "organic solvents", "volatile organic solvent (VOS)" and in some instances "hydrocarbons"; 2) the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b); 3) the addition of 252:100-39-30(b)(3) and (4), exempting storage vessels subject to the equipment standards in 40 CFR 60 Subparts Ka or Kb and/or the equipment standards in 40 CFR 63 Subparts CC or G from the requirements of 252:100-39-30; 4) the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons for determining applicability of 252:100-39-41(c); and 5) the clarification of the definition of "aerospace" in 252:100-39-47(b)(1), adding the words "rework or repair".

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 1999.

SUBCHAPTER 39. EMISSION OF ORGANIC MATERIALS IN NONATTAINMENT AREAS

PART 1. GENERAL PROVISIONS

252:100-39-1. Purpose

The purpose of this Subchapter is to control the emission of organic materials from stationary sources located in nonattainment areas and to specify the additional control measures required to protect and enhance the air quality to insure that the Oklahoma air quality standard is

Air Quality Council

BRIEFING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 9:30 A.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

1. **Call to Order** Chairman
2. **Division Director's Report** Dyke
Informational update of current events and AQD activities

PUBLIC HEARINGS

3. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public
4. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
5. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public
6. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public

7. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
 The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
 Discussion by Council/Public

8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public

9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public

10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
 Discussion by Council/Public

11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
 Discussion by Council/Public

HEARING/MEETING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 1:00 P.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

- | | |
|---|------------------|
| 1. Call to Order | Chairman |
| 2. Roll Call | Secretary |
| 3. Approval of June 16, 1998 Minutes | Chairman |
| 4. Resolutions – Bill Fishback – Marilyn Andrews | |

PUBLIC HEARINGS

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Discussion by Council/Public; possible action by Council
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 Discussion by Council/Public; possible action by Council
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 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
 Discussion by Council/Public; possible action by Council
13. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
 Discussion by Council/Public; possible action by Council
14. **New Business** **Chairman**
 Discussion/consideration of subjects/business arising within the past 24 hours
 Possible action by Council
15. **Adjournment** **Chairman**
 Next Regular Meeting **TUESDAY, OCTOBER 20, 1998**
Tulsa City-County Auditorium
5051 South 129th East Tulsa OK

July 24, 1998

MEMORANDUM

TO: Air Quality Council

FROM: David R. Dyke, Interim Director
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 37

Enclosed is a copy of the proposed draft modifications to OAC 252:100-37 CONTROL OF EMISSION OF ORGANIC MATERIALS to be brought to public hearing on August 18, 1998. The proposed revisions are the result of the DEQ program to simplify, clarify and correct all its existing rules. The proposed revisions primarily simplify and clarify language, correct grammar, and impose consistency in format without involving substantive changes. However, in the process of simplifying and clarifying the rule, it was necessary to make a few substantive changes.

For simplicity the term "volatile organic compound" in 252:100-37-2 has been redefined to be consistent with the EPA definition.. The new definition includes the incorporation by reference of 40 CFR 52.100(s)(1) which lists the organic compounds that EPA has determined to have negligible photochemical reactivity. Presently Chapter 100 divides what EPA classifies as "volatile organic compound (VOC)" into "volatile organic compound (VOC)," "organic solvents," and "volatile organic solvent (VOS)." The Chapter contains two definitions of volatile organic compound neither of which is consistent with the EPA definition; a definition of volatile organic solvent which is almost exactly the same as the EPA definition of volatile organic compound, and two definitions of organic solvents. As part of the simplification process the staff propose to have only one definition of volatile organic compound which will be consistent with the EPA definition and to replace the terms "volatile organic solvent (VOS)" and "organic solvents" with "volatile organic compound (VOC)." The redefinition of volatile organic compound will also serve as a response to requests to exempt acetone, methylated siloxanes, and perchloroethylene from being considered VOCs. The proposed definition excludes substances with negligible photochemical reactivity and EPA has determined that these three substances have negligible photochemical reactivity and, therefore, are not considered to be VOCs .

The staff proposes deleting 252:100-37-3(a), which requires any new source that emits organic material as a solvent or reactant to obtain a permit and apply best available control technology (BACT). As originally proposed by the staff to the Air Quality Council, this subsection applied only to organic solvents and only to major sources. When approved by the Council, the major source requirement was omitted. The Council records from that time contain no explanation for this change. To require each new source of VOC to apply BACT, regardless of the size of the source, expends more time, effort and expense than can be justified by the Department considering the subsequent reductions in VOC emissions.

This is especially true for new sources in areas that are in attainment and have always been in attainment.. To require BACT for new major sources of VOC in Subchapter 37 is redundant. That requirement already exists in 252:100-8-5(d)(1)(A). Therefore, it is proposed to delete this subsection.

The staff proposes deleting the first sentence in 252:100-37-36 (fuel-burning and refuse-burning equipment), thereby eliminating the impossible requirement that no emission of hydrocarbons or organic materials is allowed from fuel-burning or refuse-burning equipment. This revision will also resolve the contradiction with the second sentence which requires such equipment to be operated to minimize these emissions.

An informational meeting to discuss revisions to Subchapter 37 for the purpose of simplification, clarification, and correction of the rule was held on Tuesday, July 7, 1998, at the DEQ office. This meeting was open to the public. Comments made at the meeting were given consideration in the proposed draft enclosed with this memorandum.

In the process of revising Subchapter 37, definitions were changed, moved, and/or deleted. The staff intends to revise 252:100-1-3, Definitions, later in the process of the "Re-write De-wrong" project. It is our intention to include in Subchapter 1 only those definitions that apply to all or practically all of the subchapters in Chapter 100. Definitions that apply to only one or two subchapters will be placed in those subchapters and definitions that are general to the entire Chapter 100 will be deleted from individual subchapters.

Staff will recommend the rule be considered again at the next Air Quality Council meeting on October 20, 1998.

In addition to the proposed draft revisions to Subchapter 37, a copy of 40 CFR 51.100(s)(1), and a summation of the proposed revisions with explanations are also included in the packet.

Enclosures: 3

SUBCHAPTER 37. CONTROL OF EMISSION OF VOLATILE ORGANIC MATERIALS COMPOUNDS (VOCs)

PART 1. GENERAL PROVISIONS

252:100-37-1.	Purpose	1
252:100-37-2.	Definitions	1
252:100-37-3.	Applicability and compliance	2
252:100-37-4.	Exemptions	3
252:100-37-5.	Operation and maintenance	4

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS VOCs IN STORAGE AND LOADING OPERATIONS

252:100-37-15.	Storage of volatile organic <u>compounds VOCs</u>	4
252:100-37-16.	Loading of volatile organic <u>compounds VOCs</u>	5
252:100-37-17.	Effluent water separators [NOTE: Moved and Renumbered]	6
252:100-37-18.	Pumps and compressors [NOTE: Moved and renumbered.]	7

PART 5. CONTROL OF ORGANIC SOLVENTS VOCs IN COATING OPERATIONS

252:100-37-25.	Coating of parts and products	7
252:100-37-26.	Clean up with organic solvents <u>VOCs</u>	9

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35.	Waste gas disposal	10
252:100-37-36.	Fuel-burning and refuse-burning equipment	10
252:100-37-37.	Effluent water separators	10
252:100-37-38.	Pumps and compressors	11

[NOTE: The italicized notes in brackets are for information only and are not part of the rule.]

PART 1. GENERAL PROVISIONS

252:100-37-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration prevented. The purpose of this Subchapter is to prevent the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains the requirements for control of the emissions of VOCs from stationary sources.~~

252:100-37-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Acrylic" means a chemical coating containing polymers or co-polymers of acrylic or substitute acrylic acid in combination with suitable resinous modifiers, ~~and its~~ The primary mode of cure is solvent evaporation.

"Alkyd primer" means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional ~~paint coating~~. [NOTE: Coating is the term used in Section 25 of this Subchapter.]

"Custom product finishes" means a proprietary chemical coating designed for a specific customer and end use.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate. [NOTE: This term is not used in subchapter 37.]~~

"Effluent water separator" means any tank, box, sump, or other container in which any material ~~compound~~ VOC floating on, or entrained in, or contained in water entering such tank, box, sump or ~~other~~ the container is physically separated and removed from such the water prior to outfall, drainage, or recovery of such discharge of the water from the container.

"Epoxy" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. ~~Epoxy~~ The prime mode of cure involves a chemical reaction between the epoxy and the cross-linking agent.

"Maintenance finishes" means a chemical coating ~~formulated to form a protection of that protects~~ a given substrate ~~to~~ from adverse chemical or physical condition.

"Nitrocellulose lacquers (NC lacquers)" means a chemical coating containing nitrocellulose and suitable resinous modifiers, ~~and whose~~. The primary mode of cure is solvent evaporation.

~~"Organic materials" means chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates. [NOTE: This term is no longer used in this Subchapter as a result of the proposed revisions.]~~

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives. [NOTE: This term is not used in SC-37.]~~

~~"Submerged fill pipe" means any fill pipe or discharge nozzle which~~that meets any one of the following conditions:

(A) ~~the~~The bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) ~~the~~The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) ~~the~~The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel.

(D) ~~either~~It is an equivalent method ~~method~~ acceptable to that ~~has been approved by the Executive Division Director.~~

~~"Vinyl" means a chemical coating containing plasterized or unplasterized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products. and~~The primary mode of cure is solvent evaporation.

~~"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions.~~of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any organic compound except those designated as having negligible photochemical reactivity as listed in 40 CFR 51.100(s)(1), which is hereby incorporated by reference as it existed on July 1, 1998. [NOTE: This revision makes the AQD definition of VOC consistent with the EPA definition in 40 CFR 51.100(s). The proposed revision also complies with requests to exempt acetone, methylated siloxanes, and perchloroethylene from being considered VOCs (EPA's definition exempts these substances). It also brings AQD definition into agreement with the EPA reactivity policy as expressed in the memorandum dated July 21, 1987, from G. T. Helms, Chief, Control Programs Operations Branch, U.S. EPA, OAQPS and the comments contained in Attachment B of the June 9, 1988, letter from William B. Hathaway, EPA Region 6. This change will result in only one definition of VOC being used throughout the Chapter, thus simplifying the rules.]

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions, that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method. [NOTE: This term is not used in Subchapter 37.]~~

252:100-37-3. Applicability and compliance

~~(a) New sources. Any new source calculated to emit an organic material to the atmosphere either as a solvent or a reactant will~~

~~be subject to permitting under OAC 252:100-7, and with the application of Best Available Control Technology. [NOTE: This subsection has been difficult to interpret and consequently has been interpreted in various ways over the years. As originally proposed it applied only to major sources of organic solvents. When adopted, the 100 tpy trigger level was missing and there appears to be no explanation for this change in the records. When applied to all new sources regardless of size, this subsection requires more time, effort, and expense than can be justified by the reduction in VOCs. If applied only to major sources, it is redundant since 252:100-8-5(b)(A) requires new major sources to obtain permits and to apply BACT.]~~

~~(b) Compliance schedule.~~

~~(1) All equipment and process previously regulated under OAC 252:100-37 and 252:100-39 and its effective dates of July 1, 1972 and December 8, 1974 must still abide by those dates.~~

~~(2)(a) In all areas except AQMA's, this~~ This Subchapter shall apply to all new installations of any equipment or processes described in this Subchapter, after the effective date of December 28, 1974.

~~(3)(b) Provisions~~ Sections 15, 16, 35, 36, 37, and 38 of this Subchapter relating to control of VOC shall apply to all new and existing installations of any equipment or processes in use and described in this Subchapter located in Air Quality Maintenance Areas (AQMA's) as classified by the Environmental Protection Agency EPA with regard to hydrocarbons VOCs and photochemical oxidants ozone (which in 1998 consists of Tulsa County and Oklahoma County), and become effective on June 8, 1979, provided, however, that existing installations shall have twenty four (24) months from the effective date within which to comply with this Subchapter June 9, 1981. ~~Except that the~~ The retrofit requirements for crude petroleum storage tanks vessels will be limited to tanks vessels of greater than 420,000 gallon (10,000 barrel) capacity. [NOTE: Only the sections listed in (a) previously applied to sources of VOC which was defined to exclude substances with vapor pressures less than 1.5 psia. The changes to this subsection were made so that such substances with vapor pressures less than 1.5 psia would remain exempt from the listed sections.]

~~(4) Provisions of this Subchapter relating to the control of organic solvent shall be as specified in the applicable Section.~~

252:100-37-4. Exemptions

(a) Organic materials as used in VOCs with vapor pressures less than 1.5 pounds per square inch (psia) under actual storage conditions are exempt from 252:100-37-15 through 252:100-37-18, 252:100-37-16 and 252:100-37-27 and 252:100-37-28, 252:100-37-35 through 252:100-37-38 will not include: Methane (CH₄) or any material otherwise included which has vapor pressure of less than 1.5 pounds per square inch absolute under actual storage conditions. [NOTE: The Sections listed in this subsection have applied only to VOCs with vapor pressures less than 1.5 psia. VOCs

with vapor pressures less than 1.5 psia as stored are exempt from the listed Sections to avoid a substantive change.]

(b) Petroleum or condensate stored, processed, treated, loaded, and/or ~~treated~~ transferred at a drilling or production facility prior to custody transfer is exempt from this Subchapter. This exemption also includes transfer and loading operations.

(c) The storage, loading, processing, manufacturing or burning of ~~organic materials~~ VOCs on a farm or ranch, when such VOCs are used for agricultural purposes on ~~farms and ranches~~ said farm or ranch, is exempted from all provisions of 252:100-37-15, ~~through 252:100-37-18~~ 252:100-37-16, and 252:100-37-27 and 252:100-37-28 252:100-37-35 through 252:100-37-38.

252:100-37-5. Operation and maintenance

Any required vapor-loss control devices, packing glands and mechanical seals shall be properly installed, maintained, and operated. [NOTE: This Section was added as part of the simplification and streamlining processes. This requirement appeared in several places in the rule. It has been added as a section and appears only once.]

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS VOCs IN STORAGE AND LOADING OPERATIONS

252:100-37-15. Storage of volatile organic compounds VOCs

(a) Storage capacities greater than 40,000 gallons. N o person owner or operator shall build, sell, or install or permit the building or installation of any new stationary tank, reservoir or other container storage vessel of more than 40,000 gallons (150,000 liters) capacity which will be used for storage of any organic materials VOCs, unless such tank, reservoir or other container it is to be a pressure tank vessel capable of maintaining working pressures sufficient at all times to that prevent organic vapor or gas the loss of VOC to the atmosphere or is designed, and will be built and equipped with one of the following vapor-loss control devices:

(1) A floating roof, consisting of pontoon type, internal floating cover, or double-deck type roof, ~~which that~~ will rest on the surface of the liquid contents. ~~and~~ The floating roof shall be equipped with a closure seal, or seals, to close the space between the roof edge and tank vessel wall. Such floating roofs are not appropriate control devices if the organic materials VOCs have a vapor pressure of 11 pounds per square inch absolute psia (568 mm Hg 75.8 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(2) A vapor-recovery system consisting of a vapor-gathering system capable of collecting 85 percent or more of the uncontrolled organic material VOC that would otherwise be emitted to the atmosphere, and a vapor-disposal system capable of processing such organic material VOC so as to prevent their emission to the atmosphere, ~~and with all~~ All tank vessel

gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(3) Other equipment or ~~means~~methods of equal efficiency for purposes of air pollution control ~~as may be when~~ approved by the ~~Executive~~Division Director prior to installation.

(b) Storage capacities of 400 gallons and greater. N O
~~person~~owner or operator shall build, ~~sell,~~ or install ~~or permit the building or installation of~~ a new stationary organic ~~material~~VOC storage ~~tank~~vessel with a capacity of 400 gallons (1520 liters) or more unless ~~such tank~~it is equipped with a permanent submerged fill pipe or is equipped with ~~an organic material~~a vapor-recovery system as required in ~~252:100-37-5(a)~~252:100-37-15(a).

252:100-37-16. Loading of ~~volatile organic compounds~~VOCs

(a) Loading facilities with throughput greater than 40,000 gallons/day.

(1) No ~~person~~owner or operator shall build or install ~~or permit the building or installation of~~ a stationary organic ~~material~~VOC loading facility having~~designed to have~~ a throughput greater than 40,000 gallons per day from its aggregate loading pipes unless ~~such loading facility~~it ~~is~~will be equipped with a vapor-collection and disposal system or unless loading is accomplished by bottom loading with closed hatches closed, properly installed, in good working order and in operation.

(2) ~~When loading in a vapor collection and disposal system is effected through the hatches of a tank truck or trailer with a loading arm equipped with a vapor collecting adaptor, pneumatic, hydraulic or other mechanical means shall be provided to force a vapor tight seal between the adaptor and the hatch.~~When loading VOCs (at a loading facility equipped with a vapor collection and disposal system) through the hatches of a tank truck or trailer, using a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic, or mechanical means shall be provided to ensure a vapor-tight seal between the adaptor and the hatch.

(3) A means shall be provided in either system to prevent ~~organic material~~VOC drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.

(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings ~~which~~that make vapor-tight connections and which must be closed when disconnected or which close automatically when disconnected.

(5) The vapor-disposal portion of the system shall consist of ~~one of the following:~~

(A) a vapor-liquid absorber system with a minimum recovery efficiency of 90 percent by weight of all the ~~organic material~~VOC vapors and gases entering such disposal system; or,

(B) a variable-vapor space tank, compressor, and

fuel-gas system of sufficient capacity to receive all ~~organic material~~VOC vapors and gases displaced from the tank trucks and trailers being loaded.

(b) Loading facilities with throughput equal to or less than 40,000 gallons per day.

(1) ~~No person owner or operator shall build or install or permit the building or installation of a stationary organic material~~VOC loading facility ~~having~~designed to have a throughput of 40,000 gallons (150,000 liters) per day or less from its aggregate loading pipes unless each ~~is~~loading pipe will be equipped with a system for submerged filling of tank trucks or trailers properly installed, in good working order and operating in such a manner that ~~which will be installed and operated to maintain~~ a 97 percent submergence factor ~~is maintained~~.

(2) Paragraph 252:100-37-16(b)(1) ~~apply~~applies to any facility ~~which~~that loads organic materialsVOCs into any tank truck or trailer ~~with a capacity in excess of 200 gallons (760 liters) that is designed for transporting organic materialsVOCs and having a capacity in excess of 200 gallons (760 liters)~~.

252:100-37-17. Effluent water separators [NOTE: Moved and Renumbered]

~~No person shall build or install or permit the building or installation of a single or multiple compartment organic material water separator which receives effluent water containing 200 gallons (760 liters) a day or more or any organic material from any equipment processing, refining, treating, storing or handling organic materials unless the compartment receiving said effluent water is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:~~

~~(1) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(2) A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover, which will rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(3) A container equipped with a vapor recovery system, consisting of a vapor gathering system capable of collecting the organic material vapors and gases discharged and a vapor disposal system capable of processing such organic material vapors and gases so as to prevent their emission to~~

~~the atmosphere and with all tank gauging and sampling devices gas tight except when gauging or sampling is taking place. The organic material removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress, or,~~

~~(4) Containers equipped with controls of equal efficiency provided such equipment is submitted to and approved by the Executive Director. [NOTE: Renumbered as 252:100-37-37.]~~

252:100-37-18. Pumps and compressors [NOTE: Moved and renumbered.]

~~No person shall build or install or permit the building or installation of any pump or compressor handling organic material compounds unless rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency, or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15 minute period at standard conditions per pump or compressor. [NOTE: Renumbered 252:100-37-38.]~~

PART 5. CONTROL OF ORGANIC SOLVENTS/VOCs IN COATING OPERATIONS

252:100-37-25. Coating of parts and products

(a) Standards. ~~No owner or operator subject to the provision of this Section shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any organic solvent in excess of the amounts, listed in the following table, per gallon of coating, excluding water, delivered to the coating applicator. No owner or operator of any coating line or coating operation shall allow VOC emissions from coatings that contain VOCs in excess of the amounts listed in the following table.~~

Type of coating	Pounds of organic solvent/VOC per gallon of paint/coating (less water and exempted organic compounds)		
	Jan. 79 limit	Jan. 81 limit	Jan. 82 limit
Alkyd primer	5.6	5.2	4.8
Vinyls	6.4	6.4	6.0
NC lacquers	6.8	6.6	6.4
Acrylics	6.4	6.4	6.0
Epoxies	5.6	5.2	4.8
Maintenance finishes	5.6	5.2	4.8
Custom products finishes	6.8	6.6	6.5

(b) Plant-wide emission plan. ~~An owner/operator may develop a plant wide emission plan instead of having each coating line comply with the emission limitations prescribed in the table in (a) of~~

~~this section, provided:~~

(1) Development of a plant-wide emission plan. ~~An owner or operator may develop a plant-wide emission plan instead of having each coating line comply with the VOC content limitations in 252:100-37-25(a), if the following conditions are met.~~

~~(A) The owner or operator demonstrates, by means of approved material balance or manual emission test methods, by the methods in 252:100-5-2.1(d) that sufficient reductions in organic solvents VOCs emissions may be obtained by controlling other facilities sources within the plant to the extent necessary to compensate for all excess emissions which that result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be described made in writing and shall include:~~

~~(A)(i) A complete description of the coating line or lines which that will not comply with the emission VOC content limitation in 252:100-37-25(a);~~

~~(B)(ii) Quantification of emissions, in terms of pounds per day of organic solvents VOCs, which are in excess of the prescribed emission VOC content limitation for each coating line described under 252:100-37-25(b)(1)(A) 252:100-37-25(b)(1)(A)(i);~~

~~(C)(iii) A complete description of each facility and the related control system, if any, for those facilities within the plant where how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described under 252:100-37-25(b)(1)(A) 252:100-37-25(b)(1)(A)(i) and the date on which such reductions will be achieved;~~

~~(D)(iv) Quantification of emissions, in terms of pounds per day of organic solvents VOCs, for each facility source described under 252:100-37-25(b)(1)(C) 252:100-37-25(b)(1)(A)(iii), both before and after the improvement or installation of any applicable control system, or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,~~

~~(E)(v) A description of the procedures and methods used to determine the emissions of organic solvents VOCs.~~

~~(2)(B) The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant wide emission reduction plan may include decreases in emissions accomplished through installation or improvement of a control system or through physical or~~

~~operational changes to facilities, including permanently reduced production or closing a facility, located on the premises of a surface coating operation.~~

~~(3)~~ (2) **Compliance with a plant-wide emission plan.** ~~the~~The implementation of a plant-wide emission reduction plan instead of compliance with the ~~emissions~~VOC content limitation prescribed in 252:100-37-25(a) has been expressly approved by the Executive Director. Upon approval, any emissions in excess of those established for each facility under the plan shall be a violation of this Subchapter.

(c) ~~Emission limitation~~Control equipment required. ~~No person shall discharge into the atmosphere more than 3,000 pounds of organic materials in any one day nor more than 450 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing such solvent is employed.~~No owner or operator shall allow the emissions into the atmosphere of more than 3,000 pounds of VOCs in any one day nor more than 450 pounds in any one hour from any machine or equipment in which VOC or VOC containing material is used or applied, unless such discharge~~emission~~ has been reduced by at least 85 percent or has applied~~unless~~ BACT or better, as determined by the ~~Executive~~Division Director has been applied to the coating machine or equipment.

(d) **Exemption.** Owners or operators of sources that are computed to emit less than 100 pounds of ~~organic solvent~~VOC per 24 ~~hr./day~~24-hour day are exempt from the requirements of this Section.

(e) **Alternate standard.** ~~Emissions~~The use of coatings with VOC contents in excess of those permitted by 252:100-37-25(a) or with emissions in excess of those permitted by ~~through 252:100-37-25(d)~~252:100-37-25(c) are allowable if both of the following conditions are met:

(1) VOC emissions that would result in the absence of control occur if no controls were used, are reduced by:

(A) 90 percent, by incineration; ~~or,~~

(B) 85 percent, by ~~absorption~~adsorption; or, any other process of equivalent reliability and effectiveness; and,

(C) 85 percent by any other process of equivalent reliability and effectiveness.

(2) ~~no~~No air pollution, as defined by the Clean Air Act, results.

252:100-37-26. Clean up with ~~organic solvents~~VOCs

Emissions of ~~organic materials to the atmosphere from the clean up with organic solvents, as defined in 252:100-37-2,~~VOCs of any article, machine, or equipment or other contrivance used in applying coatings controlled in 252:100-37-25(a) through 252:100-37-25(d)~~252:100-37-25(e)~~ shall be included with the other emissions of ~~organic solvents from the coating line or operation~~counted in determining compliance with those rules.

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35. Waste gas disposal

(a) Ethylene manufacturing emissions. ~~No person owner or operator shall build or install or permit the building or installation of any ethylene manufacturing plant unless the waste-gas stream under normal operating conditions is properly burned at 1,300°F. for 0.3 seconds or greater in a direct-flame afterburner equipped with an indicating pyrometer which is positioned in the working area for the operator's ready monitoring or an equally effective catalytic vapor incinerator also with pyrometer. Proper burning of the waste-gas stream is defined as reduction by 98 percent of the ethylene emissions originally present in the waste-gas stream.~~

(b) Vapor blowdown. Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no person owner or operator shall allow emit organic VOC gases to be emitted to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares or an equally effective control device as approved by the Executive Division Director.

252:100-37-36. Fuel-burning and refuse-burning equipment

~~No person shall cause or allow the emission of hydrocarbons or other organic materials from any fuel burning or refuse burning equipment. All such fuel-burning or refuse-burning equipment shall be operated as to minimize such emissions of VOC. Among other things, such operation shall assure that the equipment is not overloaded, that it is properly cleaned and maintained, and that temperature and available air are sufficient to provide essentially complete combustion.~~

252:100-37-37. Effluent water separators [NOTE: Was 252:100-37-17.]

~~No person owner or operator shall build or install or permit the building or installation of a single-compartment or multiple-compartment organic material water VOC/water separator which that will receives receive effluent water containing 200 gallons (760 liters) a day or more or of any organic material VOC from any equipment processing, refining, treating, storing or handling organic materials VOCs unless the compartment receiving said the effluent water is will be equipped comply with one of the following vapor less control devices, properly installed, in good working order and in operations sets of conditions.~~

(1) The container totally encloses the liquid contents and having all openings are sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) The container is equipped with a floating roof, consisting of a pontoon type, internal floating cover, or double-deck type roof, or internal floating cover, which will

rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) The container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the organic material VOC vapors and gases discharged and a vapor-disposal system capable of processing such organic material vapors and gases so as to prevent their emission to the atmosphere, and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place. The organic material VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress; or.

(4) The Containers container is equipped with controls of equal efficiency provided such equipment is submitted to and if approved by the Executive Division Director. [NOTE: New language in this section is double underlined to facilitate comparison.]

252:100-37-38. Pumps and compressors [NOTE: Was 252:100-37-18.]

No person owner or operator shall build or install or permit the building or installation of any pump or compressor handling organic material compounds VOCs unless the following conditions are met. rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency; or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15 minute period at standard conditions per pump or compressor.

(1) Rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency.

(2) Reciprocating type pumps and compressors are equipped with packing glands.

(3) Emissions from the drain recovery system do not exceed two cubic inches of liquid VOC in any 15 minute period per pump or compressor at standard conditions.

[NOTE: New language in this Section is double underlined to facilitate comparison.]

LIST OF ORGANIC COMPOUNDS WITH NEGLIGIBLE
PHOTOCHEMICAL REACTIVITY

40 CFR 51.100(s)(1) as it existed on July 1, 1998
From the Federal Register dated 4/9/98

Sec. 51.100 Definitions.

(s) Volatile organic compounds (VOC)

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
ethane;
methylene chloride (dichloromethane);
1,1,1-trichloroethane (methyl chloroform);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
chlorodifluoromethane (HCFC-22);
trifluoromethane (HFC-23);
1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1-dichloro 1-fluoroethane (HCFC-141b);
1-chloro 1,1-difluoroethane (HCFC-142b);
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
pentafluoroethane (HFC-125);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trifluoroethane (HFC-143a);
1,1-difluoroethane (HFC-152a);
parachlorobenzotrifluoride (PCBTF);
cyclic, branched, or linear completely methylated siloxanes;
acetone;
perchloroethylene (tetrachloroethylene);
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
difluoromethane (HFC-32);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);

chlorofluoromethane (HCFC-31);
1 chloro-1-fluoroethane (HCFC-151a);
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCF_2OCH_3$);
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCF_2OC_2H_5$);
methyl acetate

and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

SUMMATION AND EXPLANATION OF THE PROPOSED REVISIONS TO SUBCHAPTER 37

The proposed revisions to Subchapter 37 are the result of the DEQ program to simplify, clarify and correct all its rules. Unless otherwise noted, no substantive changes were intended in the following proposed revisions. *The substantive revisions are summarized in Section II of this document.*

- I. Revisions made throughout the Subchapter
 - A. Revisions in Terminology
 1. Environmental Protection Agency has been replaced by EPA - simplification
 2. Executive Director has been replaced, in most cases, by Division Director - clarification
 3. Organic material has been replaced by VOC - simplification
 4. Organic solvent has been replaced by VOC - simplification
 5. Hydrocarbon has been replaced by VOC - simplification
 6. Volatile organic compound(s) has been replaced by VOC(s) - simplification
 7. photochemical oxidants has been replaced by ozone - clarification
 8. Tank has been replaced by vessel - consistency in terminology
 9. Person has been replaced by owner or operator - clarification
 - B. Revised or deleted language
 1. "or permit the building or installation of" has been deleted throughout the rule - simplification and clarification
 2. Unless otherwise noted herein, changes to language were for simplification, clarification, correction of grammar, or consistency of format.
- II. SUBSTANTIVE CHANGES. Only three of the revisions proposed by the staff are intended to be substantive. These are:
 - A. the revision of the definition of volatile organic compound (VOC) in 252:100-37-2;
 - B. the deletion of the requirement for BACT for new sources of VOC in 252:100-37-3(a); and
 - C. the correction of 252:100-37-36 regarding fuel-burning and refuse-burning equipment.
- III. Revisions to PART 1. GENERAL PROVISIONS
 - A. **252:100-37-1. Purpose.** The proposed revisions are to set forth as clearly as possible the purpose of the rule.
 - B. **252:100-37-2. Definitions.** The following revisions are proposed for this section.
 1. The staff proposes to delete the definitions OF CUTBACK ASPHALT, REFINERY and VOLATILE ORGANIC SOLVENT (VOS) since these terms are not used in Subchapter 37.
 2. The staff proposes to revise the definition OF VOLATILE ORGANIC COMPOUND (VOC) be consistent with the EPA definition and to incorporate 40 CFR

51.100(s)(1) by reference. 40 CFR 51.100 contains the list of organic compounds that EPA has designated as having negligible photochemical reactivity and therefore excluded from the definition of VOC.

- ◆ This is part of the simplification process. What EPA classifies as VOC has been classified as organic material in Chapter 100 and divided into VOC, organic solvents, and volatile organic solvents. The Chapter contains two definitions of VOC and two definitions of organic solvents. The staff feels having one definition of VOC that is consistent with the EPA definition will simplify the Chapter as well as Subchapter 37.
- ◆ Ozone is the NAAQS pollutant of concern in Subchapter 37. The rule provides for control of ozone by controlling the emissions of ozone precursors - photochemically reactive organic compounds. The proposed revision of the definition of VOC reflects this purpose.
- ◆ A petition from the Chemical Manufacturers Association to exclude acetone from the definition of VOC was presented to the Air Quality Council at the meeting of December 19, 1995. The Council directed the staff to give consideration to this petition. Subsequent to this event, other requests have been received requesting that perchloroethylene and methylated siloxanes also be excluded from the definition of VOC. The proposed revision of VOC excludes these three compounds since they have been designated by EPA as having negligible photochemical reactivity.
- ◆ **THIS REVISION MAY RESULT IN SOME SUBSTANTIVE CHANGES,** although care has been taken throughout the rest of the Subchapter to minimize any such substantive changes that may result from the revised definition of VOC.

C. 252:100-37-3. Applicability and compliance

1. **(a) New sources.** Staff recommends that this subsection be deleted. As originally proposed it applied only to organic solvents and only to major sources. The major source restriction was dropped without explanation when the subsection was adopted, but it applied only to organic solvents (what is now Part 5 and consists of Section 25, Coating of parts and products and Section 26, Clean up with organic solvents). In the course of several recodifications the subsection was moved to General Provisions and became applicable to the entire rule. Staff does not believe this was the original intent. To require BACT for all new minor sources of VOC, especially those located in areas that have always been in attainment for ozone, requires more time, effort, and resources than can be justified by the subsequent reduction in VOC emissions. There is no need to require BACT for new major sources of BACT since that requirement already exists in 252:100-8-5(d)(1)(A). **THIS IS A SUBSTANTIVE CHANGE.**
2. **(b) Compliance schedule.**
 - ◆ Staff recommends that (b)(1) be deleted. The requirement is redundant.

- ◆ Staff proposes to renumber (b)(2) as (a) and proposes revisions to make clear that the Subchapter as modified effective December 28, 1974, applies to all new sources or modifications after that date.
- ◆ Staff proposes to renumber (b)(3) as (b) and lists the sections (as revised) that will apply to all existing sources in AQMAs. This was done to prevent a substantive change due to the use of the term VOC instead of organic solvents or organic material. In the existing rule only Sections 15, 16, 17, 18, 35 and 36 pertained to VOCs. In the proposed revision Sections 17 and 18 have been renumbered Sections 35 and 36 respectively. Language has also been added to make clear that AQMAs as classified by the EPA with regard to VOCs and ozone consists of Tulsa and Oklahoma Counties. The proposed revisions are for clarification.
- ◆ Staff proposes to delete (b)(4). This paragraph is redundant.

D. 252:100-37-4. Exemptions

1. Revisions to paragraph (a) insure that those sections which previously applied only to VOCs with vapor pressure of 1.5 psia or greater continue to apply only to VOCs with vapor pressure of 1.5 psia or greater. Changes in citations reflect renumbering proposed in other sections of the rule. Two citations (252:100-37-27 and 28) which did not exist in the present rule were corrected and renumbered to 252:100-37-35 and 36.
2. Revisions to paragraph (b) make it clear that the exemption of transfer and loading operations is limited to those located at drilling production facilities.
3. Revisions to paragraph (c) make it clear that VOCs produced, stored, or used on a farm or ranch are exempt from portions of Subchapter 37 if they are used for agricultural purposes on the same farm or ranch.

E. 252:100-37-5. Operation and maintenance This proposed new section is part of the simplification and streamlining project. This requirement appears in several places in the existing rule. It has been added as a section and appear only once in the proposed revision.

IV. PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS Staff proposes to rename this Part "CONTROL OF VOCs IN STORAGE AND LOADING OPERATIONS" to better reflect its contents. 252:100-37-17 (Effluent water separators) and 252:100-37-18 (Pumps and compressors) have been renumbered and moved to Part 7.

A. 252:100-15. Storage of VOCs Staff proposes to add taglines to subsections (a) and (b) for clarification.

1. **(b) Storage capacities of 400 gallons and greater.** Proposed revisions to this subsection is for the correction of a citation (252:100-37-5(a) should have been 252:100-37-15(a)).

B. 252:100-37-17. Effluent water separators has been renumbered 252:100-37-37 and moved to Part 7, Control of Specific Processes.

C. **252:100-37-18. Pumps and compressors** has been renumbered 252:100-37-38 and moved to Part 7, Control of Specific Processes.

V. PART 5. CONTROL OF ORGANIC SOLVENTS Staff proposes to rename Part 5 CONTROL OF VOCs IN COATING OPERATIONS to better reflect its contents..

A. 252:100-37-25. Coating of parts and products.

1. (a) Standards. Staff proposes to delete the limits on VOC content per gallon of coating that were set for January, 1979 and January 1980. These deadlines have passed and sources are now required to comply with the limits that became effective January, 1982.
2. (c) Emission limitation. Staff proposes to change the title of this subsection to "Control equipment required" to better reflect its contents.
3. (e) Alternate standard. The proposed revisions to this subsection are for clarification and to correct citations.

VI. PART 7. CONTROL OF SPECIFIC PROCESSES

- A. 252:100-37-36. Fuel-burning and refuse-burning equipment. The staff proposes to delete the impossible requirement that there can be no emission of hydrocarbons or other organic material from fuel-burning or refuse-burning equipment by deleting the first sentence of this section. This also resolves the conflict with the requirement that all such equipment be operated to minimize such emissions that was contained in the second sentence of this section. **THIS IS A SUBSTANTIVE CHANGE.**

MINUTES

AIR QUALITY COUNCIL

AUGUST 18, 1998

Burgundy Room

4545 North Lincoln Boulevard

Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman

Sharon Myers

Fred Grosz

Gary Kilpatrick

Joel Wilson

David Branecky

Meribeth Slagell

Staff Present

David Dyke

Dennis Doughty

Scott Thomas

Barbara Hoffman

Ray Bishop

Linn Wainner

Michelle Martinez

Cheryl Bradley

Jeanette Buttram

Becky Mainord

Joyce Sheedy

Eddie Terrill

Myrna Bruce

Guests Present

**see attached list

Council Members Absent

Larry Canter

PUBLIC MEETING

Notice of Public Meeting for August 18, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room and also at the DEQ Tower.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye. Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 16, 1998 Public Meeting/Hearings. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley to give staff recommendations on this rule. Ms. Bradley advised that the rule was first considered by the Council on June 16, 1998 at which time the hearing was continued because EPA was in the process of amending the federal standards that are the basis for the draft rule. These amendments became effective August 17, 1998. Ms. Bradley stated that staff had made the revisions consistent with the amended federal regulations and addressed all comments received.

After discussion, Chairman Breisch entertained a motion to recommend adoption of this rule as emergency and permanent to the Environmental Quality Board at its September 15, 1998 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

State 111(d) Plan for Municipal Solid Waste Landfills

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley for staff position regarding this State Plan. Ms. Bradley pointed out the criteria for approval of a state plan and advised that Oklahoma's mechanism to implement this Plan is OAC252:100-47. Ms. Bradley related that although no Council action was necessary, the staff requests to hear comments from the Council members and the public regarding the State Plan.

See attached transcript.

PUBLIC HEARING

OAC 252:100 Air Pollution Control:

Appendix E, Primary Ambient Air Quality Standards [AMENDED]

Appendix F, Secondary Ambient Air Quality Standards [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who stated that the revisions to these appendices would be identical to the revised federal National Ambient Air Quality Standards (NAAQS) for particulate matter and ozone

announced by EPA in the July 18, 1997 *Federal Register*. Ms. Martinez pointed out that according to the Secretary of State's Rules on Rulemaking, an appendix cannot be amended; therefore, staff recommended that Council vote to revoke the old appendices and pass the new appendices as permanent.

After discussion, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality Board as a permanent rule at its September 15, 1998 meeting. Mr. Kilpatrick moved that Council revoke the existing rule and replace them with the new rules as presented. Second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out revisions made to date and advised that staff was recommending that the comment period be left open until August 24 after which staff would revise the rule based upon comments received from Council and public; and would bring again to the Council's October 20 meeting.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Ms. Slagell. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position on this rule. Ms. Buttram advised that the rule was presented to Council's June 16 meeting where changes to simplify and clarify the rule and to fulfill an EPA State Implementation Plan (SIP) requirement concerning Continuous Emission Monitoring (CEM) were proposed. Ms. Buttram advised that comments received have been addressed and incorporated into the current draft rule. Following discussion with new comments, staff

recommended that the hearing be continued on this rule to the October 20 meeting to allow time for further comments.

Mr. Breisch asked for a motion to continue the hearing. Mr. Wilson made the motion and Ms. Slagell made the second. Roll call was as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Becky Mainord who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out the changes made and stated that it was staff's recommendation to continue the hearing until Council's next meeting.

Following discussion, Mr. Breisch entertained a motion to continue this rule. Dr. Grosz made that motion with second made by Mr. Wilson. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that revisions were made to simplify the language according to the Agency's re-write/de-wrong initiative, the addition of a Permit By Rule section, and to add a new Appendix L which would include PM₁₀ emission factors for the Permit By Rule. Ms. Martinez pointed out that comments had been received and considered, and that staff's recommendation was to continue the hearing to the next meeting.

After discussion, Mr. Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Mr. Branecky. Roll call

as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the revisions are part of the Agency's re-write/de-wrong initiative and respond to industry requests to exempt acetone, perchloroethylene, and methylated siloxanes from being considered VOCs. She advised that staff held a workshop on July 7 requesting public input and comments. She said there are numerous changes to be made in language, format and with the three substantive changes, staff recommended that the rule be continued to the next meeting.

Mr. Breisch entertained a motion to continue this rule. Mr. Branecky made motion with second made by Mr. Kilpatrick. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that there were numerous revisions as part of the Agency's re-write/de-wrong initiative and also five substantive changes to be considered; therefore, staff would recommend that the hearing be continued.

Mr. Breisch entertained a motion to continue this rule to the Council's October 20 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being October 20, 1998 at Tulsa City-County Health Department Auditorium, 5051 South 129th East, Tulsa, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID R. DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

AUGUST 18, 1998

SIGN IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Pat Davenport	National Std. 3602 N. Perkins Rd.	Jktlwr
2. Bonnie Maxwell	Opden Martin 2122 S. Yukon	Tulsa 58
3. Robert Edgington	ARMSTRONG ST. L.W. RFD	405-377-11
4. MICK COTE	DEQ EPA DALLAS	214 665
5. SANDRA RENNIE	EPA DALLAS	214 665 72
6. John Snow	5000 - HARVEY VUKON	
7. Flint Ruffin	Bartlesville	918-336-3
8. Kathy Purcell	4608 S. Garnett, Ste 100	Tulsa 918-6
9. Norey Simms	DEQ	
10. Erney Gower	4608 S. Garnett Tulsa	918-641-05
11. Dave Pruitt	103 SW 4th Lawton OK 73501	580 581 346
12. GRANT MAREBURNER	940 TERRACE NORMAN 73069	
13. Buck Lucas	103 SW 4th Lawton OK 73501	580 581-33
14. Robert Davenport	Kansas Pipeline Rt 2 Box 173 Pawnee OK 6, 91871	
15. WILLIAM CLARK	P.O. Box 2039 TULSA OK 74107	918-594-1
16. Mike Wood	Hot Springs, AR	501-624-85
17. Nancy Coleman	RSA, Norman	405 321 38
18. Bill Hiebink	MORIL, EDMOND	405-348-868
19. Kirk Tatum	OGFA	580-233-580
20. John Wheeler	Trinity Consultants	(972) 661-8100
21. Steve Landers	H. James, Mark	918 683-76
22. Gill Lutten	"	"
23. Ruston Givens	"	"
24. Carol Barkin	TAFB	736-7246
25. Andrew Livingston	Sinclair Oil Corp PO Box 970 Tulsa OK 74107	418-588-112



NAME/AFFILIATION	ADDRESS	TELEPHO
26. Bill Merrill	DEQ 12-115	
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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING/HEARING
AIR QUALITY COUNCIL

Tuesday October 20, 1998 1:00 p.m.
Tulsa City-County Health Department Auditorium
5051 South 129 East — Tulsa, Oklahoma

1. **Call to Order – Bill Breisch**
2. **Roll Call – Myrna Bruce**

3. **Approval of Minutes of the August 18, 1998 Regular Meeting**

4. **CY99 Meeting Schedule**
 - A. Discussion by Council
 - B. Possible action by Council
 - C. Roll call vote

5. **OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.

 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
 - C. Roll call vote

6. **OAC 272:100-7 Permits [AMENDED]**

Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.

 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

7. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]**

Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.

 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Becky Mainord
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

12. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

13. **NEW BUSINESS**
 - A. Discussion/consideration of subjects / business arising within the past 24 hours
 - B. Possible action by Council

14. **ADJOURNMENT – Next Regular Meeting** **TUESDAY, DECEMBER 15, 1998**
Lincoln Plaza Office Park - Burgundy Room 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 702-4100.

**BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL**

**Tuesday October 20, 1998 9:30 A.M.
Tulsa City-County Health Department Auditorium
5051 South 129 East — Tulsa, Oklahoma**

- 1. Call to Order – Bill Breisch**
- 2. Division Director's Report**
Informational update of current events and AQD activities
 - A. Discussion by Council / Public**
- 3. CY99 Meeting Schedule**
 - A. Discussion by Council**
- 4. OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi**
 - B. Questions and discussion by Council / Public**
- 5. OAC 272:100-7 Permits [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram**
 - B. Questions and discussion by Council / Public**
- 6. OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]**
Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram**
 - B. Questions and discussion by Council / Public**

7. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Becky Mainord
 - B. Questions and discussion by Council / Public

8. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public

9. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

10. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

11. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

October 5, 1998

MEMORANDUM

TO: Air Quality Council
FROM: Eddie Terrill, Director ^{ET.}
AIR QUALITY DIVISION
SUBJECT: Modifications to Subchapter 37

Enclosed is a copy of the proposed draft modifications to OAC 252:100-37 CONTROL OF EMISSION OF ORGANIC MATERIALS. These revisions were brought to the Air Quality Council for the first time on August 18, 1998. At that time the staff recommended that the rule be considered again at the October 20, 1998 Council meeting.

The proposed revisions primarily simplify and clarify language, correct grammar, and impose consistency of format on the rule without involving substantive changes. A number of small changes were made to the rule following the August 18, 1998 Council meeting. None of these additional changes are intended to be substantive in nature. The following substantive revisions to the rule are proposed.

1. The definition of "volatile organic compound (VOC)" in 252:100-37-2 has been revised. The new definition provides that any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity and will not be considered to be a VOC. Presently Chapter 100 divides what EPA classifies as "volatile organic compound (VOC)" into "volatile organic compound (VOC)," "organic solvents," and "volatile organic solvent (VOS)." The Chapter contains two definitions of volatile organic compound neither of which is consistent with the EPA definition; a definition of volatile organic solvent which is almost exactly the same as the EPA definition of volatile organic compound, and two definitions of organic solvents. As part of the simplification process the staff propose to have only one definition of volatile organic compound which will be consistent with the EPA definition and to replace the terms "volatile organic solvent (VOS)" and "organic solvents" with "volatile organic compound (VOC)." This revision will also serve as a response to requests to exempt acetone, methylated siloxanes, perchloroethylene, and methyl acetate from being considered VOCs. These four substances are on the list in 40 CFR 51.100(s)(1) and, therefore, will not be considered to be VOCs.
2. The staff proposes deleting 252:100-37-3(a), which requires any new source that emits organic material as a solvent or reactant to obtain a permit and apply best available control technology (BACT). As originally proposed by the staff to the Air Quality Council, this subsection applied only to organic solvents and only to major

sources. When approved by the Council, the major source requirement was omitted. The Council records from that time contain no explanation for this change. To require each new source of VOC to apply BACT, regardless of the size of the source, expends more time, effort, and expense than can be justified by the Department considering the subsequent reductions in VOC emissions. This is especially true for new sources in areas that are in attainment and have always been in attainment. To require BACT for new major sources of VOC in Subchapter 37 is redundant. That requirement already exists in 252:100-8-5(d)(1)(A). Therefore, it is proposed to delete this subsection.

3. The staff proposes deleting the first sentence in 252:100-37-36 (fuel-burning and refuse-burning equipment), thereby eliminating the impossible requirement that no emission of hydrocarbons or organic materials is allowed from fuel-burning or refuse-burning equipment. This revision will also resolve the contradiction with the second sentence which requires such equipment to be operated to minimize these emissions.

An informational meeting to discuss revisions to Subchapter 37 for the purpose of simplification, clarification, and correction of the rule was held on Tuesday, July 7, 1998 at the DEQ office. This meeting was open to the public. Comments made at the meeting were given consideration in the proposed draft enclosed with this memorandum. At that time it became apparent that problems existed in the coating sections of the rule that were beyond the scope of the "re-write/de-wrong" process. A workgroup has been formed to study these problems. A meeting was held on September 11, 1998. The staff intends to propose revisions to the coating sections in 1999.

In the process of revising Subchapter 37, definitions were changed, moved, and/or deleted. The staff intends to revise 252:100-1-3, Definitions, later in the process of the "re-write/de-wrong" project. It is our intention to include in Subchapter 1 only those definitions that apply to all or practically all of the subchapters in Chapter 100. Definitions that apply to only one or two subchapters will be placed in those subchapters and definitions that are general to the entire Chapter 100 will be deleted from individual subchapters.

Staff will suggest that the proposed rule be recommended to the Board for permanent adoption.

In addition to the proposed draft revisions to Subchapter 37, a copy of 40 CFR 51.100(s)(1), a summation of the proposed revisions with explanations, and a list of the revisions that were made to the rule after the August 18, 1998 Air Quality Council meeting are also included in the packet.

Enclosures: 4

**SUBCHAPTER 37. CONTROL OF EMISSION OF VOLATILE ORGANIC MATERIALS
COMPOUNDS (VOCs)**

PART 1. GENERAL PROVISIONS

252:100-37-1.	Purpose	1
252:100-37-2.	Definitions	1
252:100-37-3.	Applicability and compliance	3
252:100-37-4.	Exemptions	3
252:100-37-5.	Operation and maintenance	4

**PART 3. CONTROL OF ~~VOLATILE ORGANIC COMPOUNDS~~VOCs IN STORAGE AND
LOADING OPERATIONS**

252:100-37-15.	Storage of volatile organic compounds VOCs	4
252:100-37-16.	Loading of volatile organic compounds VOCs	5
252:100-37-17.	Effluent water separators [NOTE: Moved and Renumbered]	6
252:100-37-18.	Pumps and compressors [NOTE: Moved and renumbered.]	7

PART 5. CONTROL OF ~~ORGANIC SOLVENTS~~VOCs IN COATING OPERATIONS

252:100-37-25.	Coating of parts and products	7
252:100-37-26.	Clean up with organic solvents VOCs	10

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35.	Waste gas disposal	10
252:100-37-36.	Fuel-burning and refuse-burning equipment	10
252:100-37-37.	Effluent water separators	10
252:100-37-38.	Pumps and compressors	11

[NOTE: The italicized notes in brackets are for information only and are not part of the rule.]

PART 1. GENERAL PROVISIONS

252:100-37-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration prevented. The purpose of this Subchapter is to prevent the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains the requirements for control of the emissions of VOCs from stationary sources.~~

252:100-37-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"**Acrylic**" means a chemical coating containing polymers or co-polymers of acrylic or substitute acrylic acid in combination with suitable resinous modifiers, ~~and its~~ The primary mode of cure is solvent evaporation.

"**Alkyd primer**" means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional paint coating.

"**Custom product finishes**finish" means a proprietary chemical coating designed for a specific customer and end use.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate. [NOTE: Not used in SC-37.]~~

"**Effluent water separator**" means any ~~tank, box, sump, or other~~ container in which any ~~material compound~~ VOC floating on, or entrained in, or contained in water entering ~~such tank, box, sump or other~~ the container is physically separated and removed from ~~such~~ the water prior to ~~outfall, drainage, or recovery of~~ such discharge of the water from the container.

"**Epoxy**" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. ~~Epoxies~~ The prime mode of cure involves a chemical reaction between the epoxy and the cross-linking agent.

"**Maintenance finishes**finish" means a chemical coating ~~formulated to form a protection of that protects~~ a given substrate ~~tefrom~~ from adverse chemical or physical ~~condition~~ conditions.

"**Nitrocellulose lacquers**lacquer (NC lacquer)" means a chemical coating containing nitrocellulose and suitable resinous modifiers, ~~and whose~~ The primary mode of cure is solvent evaporation.

~~"Organic materials" means chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates. [NOTE: This term is no longer used in SC-37 as a result of the proposed revisions.]~~

~~"Refinery" means any facility engaged in producing gasoline,~~

~~kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives. [NOTE: This term is not used in SC-37.]~~

"Submerged fill pipe" means any fill pipe or discharge nozzle ~~which~~that meets any one of the following conditions:

(A) ~~the~~The bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) ~~the~~The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) ~~the~~The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel.

~~(D) other equivalent methods acceptable to the Executive Director. [NOTE: This is not part of the definition. It is covered in 252:100-37-15(a) and (b).]~~

"Vinyl" means a chemical coating containing ~~plasterized~~plasticized or ~~unplasterized~~unplasticized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products. ~~and the~~The primary mode of cure is solvent evaporation.

"Volatile organic compound (VOC)" means any compound ~~containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s) (1) shall be presumed to have negligible photochemical reactivity.~~

[NOTE: This revision makes the AQD definition of VOC consistent with the EPA definition in 40 CFR 51.100(s). The proposed revision also complies with requests to exempt acetone, methylated siloxanes, perchloroethylene, and methyl acetate from being considered VOCs (EPA's definition exempts these substances). It also brings AQD definition into agreement with the EPA reactivity policy as expressed in the memorandum dated July 21, 1987, from G. T. Helms, Chief, Control Programs Operations Branch, U.S. EPA, OAQPS and the comments contained in Attachment B of the June 9, 1988, letter from William B. Hathaway, EPA Region 6. This change will result in only one definition of VOC being used throughout the Chapter, thus simplifying the rules.]

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions, that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method. [NOTE: This term is not used in SC-37.]~~

252:100-37-3. Applicability and compliance

~~(a) New sources. Any new source calculated to emit an organic material to the atmosphere either as a solvent or a reactant will~~

~~be subject to permitting under OAC 252:100-7, and with the application of Best Available Control Technology. [NOTE: This subsection has been difficult to interpret and consequently has been interpreted in various ways over the years. As originally proposed it applied only to major sources of organic solvents. When adopted, the 100 tpy trigger level was missing and there appears to be no explanation for this change in the records. When applied to all new sources regardless of size, this subsection requires more time, effort, and expense than can be justified by the reduction in VOCs. If applied only to major sources, it is redundant since 252:100-8-5(b)(A) requires new major sources to obtain permits and to apply BACT.]~~

~~(b) Compliance schedule.~~

~~(1) All equipment and process previously regulated under OAC 252:100-37 and 252:100-39 and its effective dates of July 1, 1972 and December 8, 1974 must still abide by those dates.~~

~~(2)(a) In all areas except AQMA's, this~~ This Subchapter shall apply to all new installations of any equipment or processes described in this Subchapter, after the effective date of December 28, 1974.

~~(3)(b) Provisions~~ Sections 15, 16, 35, 36, 37, and 38 of this Subchapter relating to control of VOC shall apply to all new and existing installations of any equipment or processes in use and described in this Subchapter located in Air Quality Maintenance Areas (AQMA's) as classified by the Environmental Protection Agency EPA with regard to hydrocarbons VOCs and photochemical oxidants ozone (which in 1998 consists of Tulsa County and Oklahoma County), and become effective on June 8, 1979, provided, however, that existing installations shall have twenty four (24) months from the effective date within which to comply with this Subchapter June 9, 1981. Except that the The retrofit requirements for crude petroleum storage tanks vessels will be limited to tanks vessels of greater than 420,000 gallon (10,000 barrel) capacity. [NOTE: Only the sections listed in (b) previously applied to sources of VOC which was defined to exclude substances with vapor pressures less than 1.5 psia. The changes to this subsection were made so that such substances with vapor pressures less than 1.5 psia would remain exempt from the listed sections.]

~~(4) Provisions of this Subchapter relating to the control of organic solvent shall be as specified in the applicable Section.~~

252:100-37-4. Exemptions

(a) Organic materials as used in VOCs with vapor pressures less than 1.5 pounds per square inch (psia) under actual storage conditions are exempt from 252:100-37-15 through 252:100-37-18, 252:100-37-16 and 252:100-37-27 and 252:100-37-28, 252:100-37-35 through 252:100-37-38 will not include: Methane (CH₄) or any material otherwise included which has vapor pressure of less than 1.5 pounds per square inch absolute under actual storage conditions. [NOTE: The Sections listed in this subsection have applied only to VOCs with vapor pressures equal to or greater than

1.5 psia. VOCs with vapor pressures less than 1.5 psia as stored are exempt from the listed Sections to avoid a substantive change.]

(b) Petroleum or condensate stored, processed, treated, loaded, and/or ~~treated~~ transferred at a drilling or production facility prior to lease custody transfer is exempt from this Subchapter. ~~This exemption also includes transfer and loading operations.~~

(c) The storage, loading, processing, manufacturing or burning of ~~organic materials~~ VOCs on a farm or ranch, when such VOCs are used for agricultural purposes on ~~farms and ranches~~ said farm or ranch, is exempted from all provisions of 252:100-37-15, ~~through 252:100-37-18~~ 252:100-37-16, and ~~252:100-37-27 and 252:100-37-28~~ 252:100-37-35 through 252:100-37-38.

252:100-37-5. Operation and maintenance [NEW]

Any required vapor-loss control devices, packing glands and mechanical seals shall be properly installed, maintained, and operated.

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS VOCs IN STORAGE AND LOADING OPERATIONS

252:100-37-15. Storage of volatile organic compounds VOCs

(a) Storage capacities greater than 40,000 gallons. N o person owner or operator shall build, sell, or install or permit the building or installation of any new stationary tank, reservoir or other container storage vessel of more than 40,000 gallons (150,000 liters) capacity which will be used for storage of any organic materials VOCs, unless such tank, reservoir or other container it is to be a pressure tank vessel capable of maintaining working pressures sufficient at all times to that prevent organic vapor or gas the loss of VOC to the atmosphere or is designed, and will be built and equipped with one of the following vapor-loss control devices:

(1) An external floating roof, consisting of penton type, pontoon-type internal floating cover or double-deck type reef cover, or a fixed roof with an internal-floating cover. ~~which~~ The cover will rest on the surface of the liquid contents at all times (i.e. off the leg supports), except during initial fill, when the storage vessel is completely emptied, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. ~~and~~ The floating roof shall be equipped with a closure seal, or seals, to close the space between the reef cover edge and tank vessel wall. Such floating roofs are not appropriate control devices if the organic materials VOCs have a vapor pressure of ~~11.1~~ 1.1 pounds per square inch absolute psia (568 mm Hg 76.6 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(2) A vapor-recovery system consisting of a vapor-gathering system capable of collecting 85 percent or more of the

uncontrolled ~~organic material~~VOCs that would otherwise be emitted to the atmosphere, and a vapor-disposal system capable of processing ~~such these~~ organic material VOCs so as to prevent their emission to the atmosphere. ~~and with all~~All tank vessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(3) Other equipment or ~~means~~methods of equal efficiency for purposes of air pollution control ~~as may be when~~ approved by the ~~Executive Division~~ Director prior to installation.

(b) Storage capacities of 400 gallons and greater. N O
~~person~~owner or operator shall build, sell, or install ~~or permit the building or installation of~~ a new stationary organic material VOC storage tank vessel with a capacity of 400 gallons (1520 liters) or more unless ~~such tank~~it is equipped with a permanent submerged fill pipe or is equipped with an ~~organic material~~a vapor-recovery system as required in ~~252:100-37-5(a)~~252:100-37-15(a).

252:100-37-16. Loading of ~~volatile organic compounds~~VOCs

(a) Loading facilities with throughput greater than 40,000 gallons/day.

(1) No ~~person~~owner or operator shall build or install ~~or permit the building or installation of~~ a stationary organic material VOC loading facility ~~having~~designed to have a throughput greater than 40,000 gallons per day from its aggregate loading pipes unless ~~such loading facility~~it ~~is~~will be equipped with a vapor-collection and disposal system or ~~unless loading is accomplished by bottom loading with closed hatches closed,~~ properly installed, in good working order and in operation.

(2) ~~When loading in a vapor collection and disposal system is effected through the hatches of a tank truck or trailer with a loading arm equipped with a vapor collecting adaptor, pneumatic, hydraulic or other mechanical means shall be provided to force a vapor tight seal between the adaptor and the hatch.~~When loading VOCs (at a loading facility equipped with a vapor collection and disposal system) through the hatches of a tank truck or trailer, using a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic, or mechanical means shall be provided to ensure a vapor-tight seal between the adaptor and the hatch.

(3) A means shall be provided in either system to prevent organic material VOC drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.

(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings ~~which that~~ make vapor-tight connections and which must be closed when disconnected or which close automatically when disconnected.

(5) The vapor-disposal portion of the system shall consist of ~~one of the following:~~

(A) a vapor-liquid absorber system with a minimum

recovery efficiency of 90 percent by weight of all the ~~organic material~~VOC vapors and gases entering such disposal system; or,

(B) a variable-vapor space tank, compressor, and fuel-gas system of sufficient capacity to receive all ~~organic material~~VOC vapors and gases displaced from the tank trucks and trailers being loaded.

(b) Loading facilities with throughput equal to or less than 40,000 gallons per day.

(1) No ~~person~~owner or operator shall build or install ~~or permit the building or installation of~~ a stationary ~~organic material~~VOC loading facility ~~having~~designed to have a throughput of 40,000 gallons (150,000 liters) per day or less from its aggregate loading pipes unless each ~~is~~loading pipe will be equipped with a system for submerged filling of tank trucks or trailers ~~properly installed, in good working order and operating in such a manner that~~which will be installed and operated to maintain a 97 percent submergence factor ~~is maintained.~~

(2) Paragraph 252:100-37-16(b)(1) ~~apply~~applies to any facility ~~which~~that loads ~~organic materials~~VOCs into any tank truck or trailer with a capacity in excess of 200 gallons (760 liters) that is designed for transporting ~~organic materials~~VOCs and ~~having a capacity in excess of 200 gallons (760 liters).~~

252:100-37-17. Effluent water separators [NOTE: Moved and Renumbered 252:100-37-37.]

~~No person shall build or install or permit the building or installation of a single or multiple compartment organic material water separator which receives effluent water containing 200 gallons (760 liters) a day or more or any organic material from any equipment processing, refining, treating, storing or handling organic materials unless the compartment receiving said effluent water is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:~~

~~(1) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(2) A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover, which will rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(3) A container equipped with a vapor recovery system;~~

~~consisting of a vapor gathering system capable of collecting the organic material vapors and gases discharged and a vapor disposal system capable of processing such organic material vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas tight except when gauging or sampling is taking place. The organic material removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress, or,~~

~~(4) Containers equipped with controls of equal efficiency provided such equipment is submitted to and approved by the Executive Director.~~

252:100-37-18. Pumps and compressors [NOTE: Moved and renumbered 252:100-37-38.]

~~No person shall build or install or permit the building or installation of any pump or compressor handling organic material compounds unless rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency; or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15 minute period at standard conditions per pump or compressor.~~

PART 5. CONTROL OF ORGANIC SOLVENTS/VOCs IN COATING OPERATIONS

252:100-37-25. Coating of parts and products

(a) Standards. ~~No owner or operator subject to the provision of this Section shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any organic solvent in excess of the amounts, listed in the following table, per gallon of coating, excluding water, delivered to the coating applicator. No owner or operator of any coating line or coating operation with VOC emissions shall use coatings that as applied contain VOCs in excess of the amounts listed in the following table.~~

Type of coating	Pounds of organic solvent/VOC per gallon of paint/coating (less water and exempted organic compounds)		
	Jan. 79 limit	Jan. 81 limit	Jan. 82 limit
Alkyd primer	5.6	5.2	4.8
Vinyls	6.4	6.4	6.0
NC lacquers	6.8	6.6	6.4
Acrylics	6.4	6.4	6.0
Epoxies	5.6	5.2	4.8
Maintenance finishes	5.6	5.2	4.8
Custom products finishes	6.8	6.6	6.5

(b) Plant-wide emission plan. ~~An owner/operator may develop a plant wide emission plan instead of having each coating line comply with the emission limitations prescribed in the table in (a) of this section, provided:~~

(1) Development of a plant-wide emission plan. An owner or operator may develop a plant-wide emission plan instead of having each coating line comply with the VOC content limitations in 252:100-37-25(a), if the following conditions are met.

(A) ~~the~~The owner or operator demonstrates, by means of approved material balance or manual emission test methods, by the methods in 252:100-5-2.1(d) that sufficient reductions in organic solvents emissions of VOCs may be obtained by controlling other facilitiesources within the plant to the extent necessary to compensate for all excess emissions whichthat result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be describedmade in writing and shall include:

~~(A)(i)~~ Aa complete description of the coating line or lines whichthat will not comply with the emissionVOC content limitation in 252:100-37-25(a);

~~(B)(ii)~~ Quantificationquantification of emissions, in terms of pounds per day of organic solventsVOCs, which are in excess of the prescribed emissionVOC content limitation for each coating line described under 252:100-37-25(b)(1)(A)252:100-37-25(b)(1)(A)(i);

~~(C)(iii)~~ Aa complete description of each facility and the related control system, if any, for those facilities within the plant wherehow emissions will be decreased at specific sources to compensate for excess emissions from each coating line described under 252:100-37-25(b)(1)(A)252:100-37-25(b)(1)(A)(i) and the date on which such reductions will be achieved;

~~(D)(iv)~~ Quantificationquantification of emissions, in terms of pounds per day of organic solventsVOCs, for each facilitysource described under 252:100-37-25(b)(1)(C)252:100-37-25(b)(1)(A)(iii), both before and after the improvement or installation of any applicable control system, or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved;

~~(E)(v)~~ Aa description of the procedures and methods used to determine the emissions of organic solventsVOCs.

~~(2)(B)~~ theThe plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules.

~~The plant wide emission reduction plan may include decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to facilities, including permanently reduced production or closing a facility, located on the premises of a surface coating operation.~~

~~(3)~~ (2) **Compliance with a plant-wide emission plan.** ~~the~~The implementation of a plant-wide emission reduction plan instead of compliance with the ~~emissions~~VOC content limitation prescribed in 252:100-37-25(a) has been expressly approved by the Executive Director. Upon approval, any emissions in excess of those established for each facility under the plan shall be a violation of this Subchapter.

(c) **Emission limitation**Control equipment required. ~~No person shall discharge into the atmosphere more than 3,000 pounds of organic materials in any one day nor more than 450 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing such solvent is employed.~~No owner or operator shall allow the emissions into the atmosphere of more than 3,000 pounds of VOCs in any one day nor more than 450 pounds in any one hour from any machine or equipment in which VOC or VOC containing material is used or applied, unless such dischargeemission has been reduced by at least 85 percent or ~~has applied~~unless BACT or better, as determined by the ~~Executive~~Division Director, has been applied to the coating machine or equipment.

(d) **Exemption.** Owners or operators of sources that are computed to emit less than 100 pounds of ~~organic solvent~~VOC per ~~24 hr./day~~24-hour day are exempt from the requirements of this Section.

(e) **Alternate standard.** ~~Emissions~~The use of coatings with VOC contents in excess of those permitted by 252:100-37-25(a) or with emissions in excess of those permitted by ~~through 252:100-37-25(d)~~252:100-37-25(c) are allowable if both of the following conditions are met:

(1) VOC emissions that would result in the absence of control occur if no controls were used, are reduced by:

(A) 90 percent, by incineration; ~~or,~~

(B) 85 percent, by ~~absorption~~adsorption; or, any other process of equivalent reliability and effectiveness; and,

(C) 85 percent by any other process of equivalent reliability and effectiveness.

(2) ~~no~~No air pollution, as defined by the Clean Air Act, results.

252:100-37-26. Clean up with ~~organic solvents~~VOCs

Emissions ~~of organic materials to the atmosphere from the clean up with organic solvents, as defined in 252:100-37-2,~~VOCs of any article, machine, or equipment or other contrivance used in applying coatings controlled in 252:100-37-25(a) through ~~252:100-37-25(d)~~252:100-37-25(e) shall be included with the other emissions

~~of organic solvents from the coating line or operation counted in determining compliance with those rules.~~

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35. Waste gas disposal

(a) ~~Ethylene manufacturing emissions.~~ ~~No personowner or operator shall build or install or permit the building or installation of any ethylene manufacturing plant unless the waste-gas stream under normal operating conditions is properly burned at 1,300°F- for 0.3 seconds or greater in a direct-flame afterburner equipped with an indicating pyrometer which is positioned in the working area for the operator's ready monitoring or an equally effective catalytic vapor incinerator also with pyrometer. Proper burning of the waste-gas stream is defined as reduction by 98 percent of the ethylene emissions originally present in the waste-gas stream.~~

(b) ~~Vapor blowdown.~~ Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, ~~no personowner or operator shall allow emit organicVOC gases to be emitted to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the ExecutiveDivision Director.~~

252:100-37-36. Fuel-burning and refuse-burning equipment

~~No person shall cause or allow the emission of hydrocarbons or other organic materials from any fuel burning or refuse burning equipment. All suchfuel-burning or refuse-burning equipment shall be operated as to minimize such emissions of VOC. Among other things, such operation shall assure that the equipment is not overloaded, that it is properly cleaned, operated, and maintained, and that temperature and available air are sufficient to provide essentially complete combustion.~~

252:100-37-37. Effluent water separators [NOTE: Was 252:100-37-17.]

~~No personowner or operator shall build or install or permit the building or installation of a single-single-compartment or multiple-compartment organic material waterVOC/water separator whichthat will receivesreceive effluent water containing 200 gallons (760 liters) a day or more orof any organic materialVOC from any equipment processing, refining, treating, storing or handling organic materialsVOCs unless the compartment receiving saidthe effluent water iswill equippedcomply with one of the following vapor loss control devices, properly installed, in good working order and in operationsets of conditions-.~~

~~(1) The container totally encloses the liquid contents and having all openings are sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.~~

(2) The container is equipped with a floating roof, consisting of a pontoon type, internal floating cover, or double-deck type roof, or internal floating cover, which will rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) The container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the organic material VOC vapors and gases discharged and a vapor-disposal system capable of processing such organic material vapors and gases so as to prevent their emission to the atmosphere, and with all tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The organic material VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress, or.

(4) The Containers container is equipped with controls of equal efficiency provided such equipment is submitted to and if approved by the Executive Division Director. [NOTE: New language in this section is double underlined to facilitate comparison.]

252:100-37-38. Pumps and compressors [NOTE: Was 252:100-37-18.]

No person owner or operator shall build or install or permit the building or installation of any pump or compressor handling organic material compounds VOCs unless the following conditions are met. rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency; or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15 minute period at standard conditions per pump or compressor.

(1) Rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency.

(2) Reciprocating type pumps and compressors are equipped with packing glands.

(3) Emissions from the drain recovery system do not exceed two cubic inches of liquid VOC in any 15 minute period per pump or compressor at standard conditions.

[NOTE: New language in this Section is double underlined to facilitate comparison.]

LIST OF ORGANIC COMPOUNDS WITH NEGLIGIBLE
PHOTOCHEMICAL REACTIVITY

40 CFR 51.100(s)(1) as it existed on July 1, 1998

From the Federal Register dated 4/9/98

Sec. 51.100 Definitions.

(s) Volatile organic compounds (VOC)

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
ethane;
methylene chloride (dichloromethane);
1,1,1-trichloroethane (methyl chloroform);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
chlorodifluoromethane (HCFC-22);
trifluoromethane (HFC-23);
1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1-dichloro 1-fluoroethane (HCFC-141b);
1-chloro 1,1-difluoroethane (HCFC-142b);
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
pentafluoroethane (HFC-125);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trifluoroethane (HFC-143a);
1,1-difluoroethane (HFC-152a);
parachlorobenzotrifluoride (PCBTF);
cyclic, branched, or linear completely methylated siloxanes;
acetone;
perchloroethylene (tetrachloroethylene);
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
difluoromethane (HFC-32);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);

chlorofluoromethane (HCFC-31);
1 chloro-1-fluoroethane (HCFC-151a);
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCF_2OCH_3$);
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCF_2OC_2H_5$);
methyl acetate

and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

SUMMATION AND EXPLANATION OF THE PROPOSED REVISIONS TO SUBCHAPTER 37

The proposed revisions to Subchapter 37 are the result of the DEQ program to simplify, clarify and correct all its rules. Unless otherwise noted, no substantive changes were intended in the following proposed revisions. *The substantive revisions are summarized in Section II of this document.* This summation has been updated to reflect the substantive changes proposed after the August 18, 1998, Air Quality Council meeting. The only changes to this document are to III.B.2. and IV.A.1. The document entitled "Revisions to the Proposed Modification of Subchapter 37 for the October 20, 1998, Air Quality Council Meeting" lists all proposed revisions to the draft presented at the August 18, 1998, meeting.

I. Revisions made throughout the Subchapter

A. Revisions in Terminology

1. Environmental Protection Agency has been replaced by EPA - simplification
2. Executive Director has been replaced, in most cases, by Division Director - clarification
3. Organic material has been replaced by VOC - simplification
4. Organic solvent has been replaced by VOC - simplification
5. Hydrocarbon has been replaced by VOC - simplification
6. Volatile organic compound(s) has been replaced by VOC(s) - simplification
7. photochemical oxidants has been replaced by ozone - clarification
8. Tank has been replaced by vessel - consistency in terminology
9. Person has been replaced by owner or operator - clarification

B. Revised or deleted language

1. "or permit the building or installation of" has been deleted throughout the rule - simplification and clarification
2. Unless otherwise noted herein, changes to language were for simplification, clarification, correction of grammar, or consistency of format.

II. SUBSTANTIVE CHANGES. Only three of the revisions proposed by the staff are intended to be substantive. These are:

- A. the revision of the definition of volatile organic compound (VOC) in 252:100-37-2;
- B. the deletion of the requirement for BACT for new sources of VOC in 252:100-37-3(a); and
- C. the correction of 252:100-37-36 regarding fuel-burning and refuse-burning equipment.

III. Revisions to PART 1. GENERAL PROVISIONS

- A. **252:100-37-1. Purpose.** The proposed revisions are to set forth as clearly as possible the purpose of the rule.
- B. **252:100-37-2. Definitions.** The following revisions are proposed for this section.
 1. The staff proposes to delete the definitions OF CUTBACK ASPHALT, REFINERY and VOLATILE ORGANIC SOLVENT (VOS) since these terms are not used in Subchapter 37.
 2. The staff proposes to revise the definition of VOLATILE ORGANIC COMPOUND (VOC) be consistent with the EPA definition. 40 CFR 51.100(s)(1) contains the list of organic compounds that EPA has designated as having negligible

photochemical reactivity and therefore excluded from the definition of VOC. Staff has added language that states if an organic compound is listed in 40 CFR 51.100(s)(1) it will be presumed to have negligible photochemical reactivity and will not be considered a VOC.

- ◆ This is part of the simplification process. What EPA classifies as VOC has been classified as organic material in Chapter 100 and divided into VOC, organic solvents, and volatile organic solvents. The Chapter contains two definitions of VOC and two definitions of organic solvents. The staff feels having one definition of VOC that is consistent with the EPA definition will simplify the Chapter as well as Subchapter 37.
- ◆ Ozone is the NAAQS pollutant of concern in Subchapter 37. The rule provides for control of ozone by controlling the emissions of ozone precursors - photochemically reactive organic compounds. The proposed revision of the definition of VOC reflects this purpose.
- ◆ A petition from the Chemical Manufacturers Association to exclude acetone from the definition of VOC was presented to the Air Quality Council at the meeting of December 19, 1995. The Council directed the staff to give consideration to this petition. Subsequent to this event, other requests have been received requesting that perchloroethylene and methylated siloxanes also be excluded from the definition of VOC. The proposed revision of VOC excludes these three compounds since they have been designated by EPA as having negligible photochemical reactivity.
- ◆ **THIS REVISION MAY RESULT IN SOME SUBSTANTIVE CHANGES**, although care has been taken throughout the rest of the Subchapter to minimize any such substantive changes that may result from the revised definition of VOC.

C. 252:100-37-3. Applicability and compliance

1. **(a) New sources.** Staff recommends that this subsection be deleted. As originally proposed it applied only to organic solvents and only to major sources. The major source restriction was dropped without explanation when the subsection was adopted, but it applied only to organic solvents (what is now Part 5 and consists of Section 25, Coating of parts and products and Section 26, Clean up with organic solvents). In the course of several recodifications the subsection was moved to General Provisions and became applicable to the entire rule. Staff does not believe this was the original intent. To require BACT for all new minor sources of VOC, especially those located in areas that have always been in attainment for ozone, requires more time, effort, and resources than can be justified by the subsequent reduction in VOC emissions. There is no need to require BACT for new major sources of BACT since that requirement already exists in 252:100-8-5(d)(1)(A). **THIS IS A SUBSTANTIVE CHANGE.**
2. **(b) Compliance schedule.**
 - ◆ Staff recommends that (b)(1) be deleted. The requirement is redundant.

- ◆ Staff proposes to renumber (b)(2) as (a) and proposes revisions to make clear that the Subchapter as modified effective December 28, 1974, applies to all new sources or modifications after that date.
- ◆ Staff proposes to renumber (b)(3) as (b) and lists the sections (as revised) that will apply to all existing sources in AQMAs. This was done to prevent a substantive change due to the use of the term VOC instead of organic solvents or organic material. In the existing rule only Sections 15, 16, 17, 18, 35 and 36 pertained to VOCs. In the proposed revision Sections 17 and 18 have been renumbered Sections 35 and 36 respectively. Language has also been added to make clear that AQMAs as classified by the EPA with regard to VOCs and ozone consists of Tulsa and Oklahoma Counties. The proposed revisions are for clarification.
- ◆ Staff proposes to delete (b)(4). This paragraph is redundant.

D. 252:100-37-4. Exemptions

1. Revisions to paragraph (a) insure that those sections which previously applied only to VOCs with vapor pressure of 1.5 psia or greater continue to apply only to VOCs with vapor pressure of 1.5 psia or greater. Changes in citations reflect renumbering proposed in other sections of the rule. Two citations (252:100-37-27 and 28) which did not exist in the present rule were corrected and renumbered to 252:100-37-35 and 36.
2. Revisions to paragraph (b) make it clear that the exemption of transfer and loading operations is limited to those located at drilling production facilities.
3. Revisions to paragraph (c) make it clear that VOCs produced, stored, or used on a farm or ranch are exempt from portions of Subchapter 37 if they are used for agricultural purposes on the same farm or ranch.

E. 252:100-37-5. Operation and maintenance This proposed new section is part of the simplification and streamlining project. This requirement appears in several places in the existing rule. It has been added as a section and appear only once in the proposed revision.

IV. PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS Staff proposes to rename this Part "CONTROL OF VOCs IN STORAGE AND LOADING OPERATIONS" to better reflect its contents. 252:100-37-17 (Effluent water separators) and 252:100-37-18 (Pumps and compressors) have been renumbered and moved to Part 7.

A. 252:100-15. Storage of VOCs Staff proposes to add taglines to subsections (a) and (b) for clarification.

1. **(a) Storage capacities greater than 40,000 gallons.**
 - ◆ (1). Staff has proposed language to make clear that the cover of an external floating roof vessel may rest on the leg supports during filling, emptying, or refilling. Staff proposes to replace "11 psia" with "11.1 psia", and "75.8 kPa" with "76.6 kPa".
2. **(b) Storage capacities of 400 gallons and greater.** Proposed revision to this subsection is for the correction of a citation (252:100-37-5(a) should have been 252:100-37-15(a)).

B. 252:100-37-17. Effluent water separators has been renumbered 252:100-37-37 and moved to Part 7, Control of Specific Processes.

C. **252:100-37-18. Pumps and compressors** has been renumbered 252:100-37-38 and moved to Part 7, Control of Specific Processes.

V. **PART 5. CONTROL OF ORGANIC SOLVENTS** Staff proposes to rename Part 5 **CONTROL OF VOCs IN COATING OPERATIONS** to better reflect its contents..

A. **252:100-37-25. Coating of parts and products.**

1. (a) **Standards.** Staff proposes to delete the limits on VOC content per gallon of coating that were set for January, 1979 and January 1980. These deadlines have passed and sources are now required to comply with the limits that became effective January, 1982.
2. (c) **Emission limitation.** Staff proposes to change the title of this subsection to "Control equipment required" to better reflect its contents.
3. (e) **Alternate standard.** The proposed revisions to this subsection are for clarification and to correct citations.

VI. **PART 7. CONTROL OF SPECIFIC PROCESSES**

A. **252:100-37-36. Fuel-burning and refuse-burning equipment.** The staff proposes to delete the impossible requirement that there can be no emission of hydrocarbons or other organic material from fuel-burning or refuse-burning equipment by deleting the first sentence of this section. This also resolves the conflict with the requirement that all such equipment be operated to minimize such emissions that was contained in the second sentence of this section. **THIS IS A SUBSTANTIVE CHANGE.**

REVISIONS TO THE PROPOSED MODIFICATION OF SUBCHAPTER 37 FOR THE
OCTOBER 20, 1998 AIR QUALITY COUNCIL MEETING

Below is a list of the revisions that will be proposed to the proposed modification of Subchapter 37 that was presented at the August 18, 1998, AQC meeting. This list is furnished to facilitate review of the modification for the October 20, 1998 AQC meeting

1. 252:100-37-2. Deleted NOTE following definition of "Alkyd primer"
2. 252:100-37-2. Changed "Custom product finishes" to "Custom product finish"
3. 252:100-37-2. Changed "Maintenance finishes" to "Maintenance finish" and replaced "condition" with "conditions"
4. 252:100-37-2. Changed "Nitrocellulose lacquers (NC lacquers)" to "Nitrocellulose lacquer (NC lacquer)"
5. 252:100-37-2. Deleted (D) under "Submerged fill pipe" and added a NOTE.
6. 252:100-37-2. "Vinyl" Corrected spelling by deleting "plasterized" and "unplasterized" and replacing them with "plasticized" and "unplasticized" respectively.
7. 252:100-37-2. "Volatile organic compound (VOC)" Removed language incorporating 40 CFR 51.100(s)(1) by reference. Added language that states if an organic compound is listed in 40 CFR 51.100(s)(1) we will presume it has negligible photochemical reactivity and it will not be considered a VOC. Revised the NOTE to include methyl acetate
8. 252:100-37-3(b) Changed "vesse;s" to "vessels"
9. 252:100-37-3(b) Replaced (a) with (b) in the NOTE
10. 252:100-37-4(a). Changed "with vapor pressure less than 1.5 psia" in the first sentence of the NOTE to "with vapor pressures equal to or greater than 1.5 psia".
11. 252:100-37-4(b). Inserted "lease" prior to "custody transfer" for consistency and because "lease custody transfer" is defined in 252:100-1.
12. 252:100-37-5. Deleted the NOTE
13. 252:100-37-15(a)(1). In the first sentence replaced "A" with "An external"; inserted a hyphen between "pontoon" and "type"; deleted "internal floating cover,"; after "double-deck type" replaced "roof" with "cover"; inserted "or a fixed roof with an internal-floating cover." after "double-deck type cover"; and deleted "that". Began the second sentence by inserting "The cover" prior to "will rest", deleted the period after "liquid contents" and added "at all times (i.e. off the leg supports), except during initial fill, when the storage vessel is completely empty, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible." Replaced "roof edge" with "cover edge", "11 psia" with "11.1 psia", and "75.8 kPa" with "76.6 kPa"
14. 252:100-37-15(a)(2). Changed both uses of "VOC" in the first sentence to "VOCs" and added "these" prior to the second "VOCs"

15. 252:100-37-25(a). Reworded the sentence preceding the table for simplification and clarification
16. 252:100-37-25(a). Inserted "as applied" between "coatings that" and "contain VOCs"
17. 252:100-37-25(a). Deleted "Jan. 82 limit" from the table heading.
18. 252:100-37-25(b)(1)(A). Deleted "VOCs" prior to "emissions" and inserted "of VOCs" after "emissions"
19. 252:100-37-25(c). Inserted a comma after "Division Director"
20. 252:100-37-35(A). Deleted the period after "1,300F"
21. 252:100-37-36. Changed the following sentence as indicated. ".Among other things, such operation shall assure that the equipment is not overloaded that it is properly cleaned operated, and maintained; and that temperature and available air are sufficient to provide essentially complete combustion." This change was suggested by EPA in their comment letter.
22. 252:100-37-37. Deleted "be" in the following sentence. No person owner or operator shall build or installer permit the building or installation of single single-compartment or multiple-compartment organic material waterVOC/water separator which that will receivesreceive effluent water containing 200 gallons (760 liters) a day or more of any organic materialVOC from any equipment processing, refining, treating, storing or handling organic materialsVOCs unless the compartment receivesaidthe effluent water iswill be equipped comply with one of the following vapor less control devices, properly installed, in good working order and in operationacts of conditions.
23. 252:100-37-37(3) Inserted "shall be" before "gas-tight" in the second sentence.

**RESPONSE TO WRITTEN COMMENTS FROM THE PUBLIC AND INDUSTRY
SUBCHAPTER 37**

Below is a summation of written comments along with staff responses regarding the proposed revisions to Subchapter 37. This includes only those comments that were received prior to the mail-out of the Air Quality Council packets for the October 20, 1998 meeting.

FORT JAMES LETTER (dated 8/6/98, received 8/13/98, signed by Mark S. Reimer):

1. COMMENT: The commentor found it unclear if the control requirements in Part 3 apply to new installations located only in Tulsa or Oklahoma Counties or any new installation located in the State when 252:100-37-3(b) is read in conjunction with Part 3.

RESPONSE: 252:100-37-3(b) does not address new sources. It requires existing sources located in an AQMA to comply with Sections 15, 16, 35, 36, 37 and 38. On the other hand 252:100-37-3(a) requires all new installations regardless of where they are located to comply with this Subchapter after the effective date of the Subchapter. Staff feels that keeping both 252:100-37-3(a) and (b) in mind, it is clear that Sections 15, 16 17 and 18 found in Part 3 apply to all new sources in the State after 12/28/74 and to all existing sources in Tulsa and Oklahoma Counties as of 6/9/81.

EPA LETTER (received by FAX on 8/14/98, signed by Thomas H. Diggs, Region 6)

2. COMMENT: The word vesse;s in 252:100-37-3(b) should be vessels (typographical error).

RESPONSE: The staff concurs and this correction has been made..

3. COMMENT: The word "operated," should be added to the last sentence after "properly cleaned" in 252:100-37-36 Fuel-burning and refuse-burning equipment (on page 10).

RESPONSE: Staff concurs and this changed has been made

DOW CORNING LETTER (dated 8/14/98, received 8/14/98, signed by Michael E. Thelen)

4. COMMENT; Dow Corning Corporation supports the proposed revisions to the definition of VOC to exempt methylated siloxanes due to its low photochemical reactivity. This allows the use of methylated siloxanes as replacement for VOCs in manufacturing operations.

RESPONSE: The Staff appreciates Dow Corning Corporations support.

KILPATRICK STOCKTON LLP LETTER (dated August 13, 1998, received august 18, 1998, written on behalf of Eastman chemical Company and signed by W. Clark Jordan.)

5 COMMENT: A letter supporting the revision of the definition of VOC which results in methyl acetate not being considered a VOC.

RESPONSE: Staff appreciates the support.

MINUTES

AIR QUALITY COUNCIL

OCTOBER 20, 1998

Tulsa City-County Health Department Auditorium
5051 South 129th Street East
Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce

Council Members Absent

Larry Canter
Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 20, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye. Mr. Kilpatrick, Ms. Slagell and Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 18, 1998 Public Meeting/Hearings. Motion was made by Mr. Wilson to approve the Minutes as presented and second to the motion was made by Dr. Grosz. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

1999 Meeting Schedule - Mr. Dyke presented Council with proposed scheduled for 1999 meetings with the suggestion that the December 21 date mentioned in the packet memo be changed to December 14. Ms. Myers made motion to accept the schedule as proposed: Wednesday, February 17, Tuesday, April 20, Tuesday, August 17, and Tuesday, December 14 at OKC, DEQ Multi-Purpose Room; with Tuesday, June 15 and October 19 at Tulsa, TCCHD Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out proposed revisions would modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits stating that actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of “de minimis facility.” Also, she stated that proposed revision would delete the lower limit of five tons per year for PBR facilities allowing those facilities with less than five tons per year emissions which are subject to NSPS or NESHAP to apply for a PBR instead of having to obtain an individual permit. Ms. Buttram advised that staff proposed that a new Part 9 be added that would outline the requirements necessary for a facility to qualify for a PBR. A third point she brought out was the proposed revision to delete the lower limit for general permits allowing facilities that may have less than 40 tons per year of emissions, but for which no PBR had been written, the opportunity to apply for coverage under an applicable general permit. Lastly, she added that the Department proposed to amend 252-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council’s October 20, 1998 meeting. Ms. Myers made that motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff’s position on this rule. Ms. Buttram pointed out that the proposed amendments would fulfill an EPA requirement concerning Continuous Emissions Monitoring proposing to incorporate by reference the Federal opacity monitoring requirements for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators as specified in 40 CFR 51, Appendix P. She noted that the Department proposed to exempt from Appendix P requirements for those sources already subject to a new source performance standard and for sources scheduled for retirement within five years after the

amended rule takes effect. Ms. Buttram added that the amended rule would also provide criteria for approval of alternative monitoring requirements with additional changes that would clarify how the opacity standard is determined.

Mr. Breisch asked for a motion to recommend the rule as proposed to the Environmental Quality Board for permanent adoption. Mr. Wilson made the motion with David Branecky making the second. Roll call was as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out that the proposed revisions add a new Permit by Rule section that would streamline the permitting process by creating a mechanism that eliminates the necessity for some cotton gins to obtain an individual air quality permit. Ms. Martinez added that additional changes would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Following discussion, Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Ms. Myers made the motion with second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who advised that the proposed revisions would simplify the language under the agency-wide re-right/de-wrong initiative and would add a new Permit by Rule section to streamline the permitting process by creating a mechanism that would eliminate the necessity for some grain elevators to obtain an individual air quality permit. Ms. Martinez added that a new Appendix L proposed would contain PM-10 emission factors for PBR grain elevators. Additional changes follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the

opacity standard allowing exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Mr. Breisch entertained a motion to recommend the rule to the Environmental Quality Board for permanent adoption at its November 10 meeting. Mr. Wilson made that motion with second made by Ms. Myers. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She then pointed out four substantive changes that were proposed for Subchapter 37 as well as Subchapter 39:

- 1) to change the definition of “volatile organic compounds (VOC)” per Council’s direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;
- 2) to remove of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a);
- 3) a change regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences; and
- 4) to add a new Part 9, Permit by Rule for Volatile Organic Liquid Storage and Loading Facilities.

Mr. Breisch entertained a motion to continue this rule to Council’s December meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She stated that one substantive change affects both Subchapters 39 and 37

which is to change the definition of "volatile organic compounds" per Council's direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;

In Subchapter 39, Dr. Sheedy pointed out the need for correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2) which would be a substantive change along with the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c).

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's December 15 meeting. Mr. Branecky made that motion with the second made by Mr. Wilson. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the proposed revisions would update the adoption by reference of 40 CFR Part 63 to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. She pointed out that the new standards are Subpart S - NESHAP for Pulp and Paper Production and Subpart LL - NESHAP for Aluminum Production Plants. The proposed revisions will also update the adoption by reference of the NESHAP as found in 40 CFR Part 61 (with the exception of Subparts B, H, I, K, Q, R, T, and W. and Appendices D and E which address radionuclides) to July 1, 1998. Dr. Sheedy advised the Council that these modifications were necessary to obtain EPA's delegation of authority to implement the federal hazardous air pollutant program in Oklahoma.

Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Mr. Wilson made that motion with the second made by Mr. Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

**OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees
[AMENDED]**

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Shawna McWaters-Khalousi for staff recommendation. Ms. Khalousi advised that the Department is proposing to amend 252:100-5-2.2 to increase annual operating fees assessed to minor facilities; amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits; and amend 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. Ms. Khalousi stated that it was staff's recommendation that this rule be continued to Council's December 15 meeting.

Mr. Breisch entertained motion to continue these rules to the December meeting. Ms. Myers made the motion and second was made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes.

NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being December 15, 1998 at Lincoln Plaza Office Complex Burgundy Room, 4545 North Lincoln, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

OCTOBER 20, 1998

SIGN-IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Bonnie McGilbra	2122 S. VUKAN TULSA	583-392
2. John Snow HANOVER	1600 W VANDAMENI	405-640-961
3. Carlos J. Nazario	Tinker AFB	405-734-70
4. Connie White	Tinker AFB	LL "
5. Rhonda Jeffries	ODEQ IRON	(918) 488 889
6. HERB NEWMAN	"	"
7. Nadene Barton	CASE	481-0474
8. FRANK GANDON	EQ BOARD	
9. Carol Barker	Tinker AFB	736-7246
10. Perry Friedrich	GRMA Chauveau	476-8268
11. SANDRA RENNIE	EPA REGION 6	(214) 665-7367
12. Terry Thomas	" "	214-665-7160
13. Stanley M. Spruiell	" "	(214) 665-7212
14. Anne Schaefer	Tinker AFB	405.734.7071
15. Rose Williams	Tinker AFB	405-734 3002
16. Bruce Russell	DEQ	918 488 8895
17. BILL CLARK	SUN CO. INC.	918-594-63
18. JACK FLY	TULSA	918-489-8895
19. Deann Hughes	Cardinal Engineering	405-842-106
20. Dustin Givens	Fort James	918 683-767
21. Steve Landers	" " "	" " "
22. GERALD BUTCHER	WFEC	405-247-434
23. Howard Ground	CSW	214-777-1711
24. Deborah Kern	Emercon	918-665-769
25. Joel Nelson	Boeing P.O. Box 582808 Tulsa, OK 74158	918-832-3215



NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Rick Trema	Box 1307 Enid, OK 73702	580-293-580
27. Kim Warram	6545 So Meridian St 214	405 722 7
28. Ron Sobber	10830 E 45th St ^{OKC} Tulsa	918 663 98
29. Edington	4115 N. Perkins Rd Stillwater	405-377-129
30. D. W. Kelley	1408 S DENVER Tulsa 74119	918-582-
31. Don Pugh	American Airlines PO Box 582809, MD 508 Tulsa 74158	918-
32. Cathy Oshan	Mintech/Perma Fix 4608 S Garnett Tulsa 74116	64-
33. David Emery	12 AZ Phillips Building - Bartlesville OK 74001	
34. Cheryl Bradley	DEQ AQD	
35.		
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BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Tuesday- December 15, 1998 9:30 A.M.
4545 North Lincoln Boulevard
Burgundy Room
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Division Director's Report - Staff**
 - A. Update of current events and AQD activities
 - B. Discussion by Council / Public
3. **OAC 252:100-7 Permits for Minor Facilities [AMENDED]**

Proposed revisions will delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will also be referenced under this new Part. Continued from August 18 and October 20, 1998 Air Quality Council meeting.

 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
4. **OAC 252:100-8-4(a)(2) Permits for Part 70 Sources [AMENDED]**

The Department proposes to update the incorporation by reference of the case-by-case MACT rules in 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
5. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

6. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18 and October 20, 1998 Air Quality Council meeting.

- A. Presentation – Joyce Sheedy
- B. Questions and discussion by Council / Public

7. **OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

OAC 252:100-7-3 Permits for Minor Facilities [AMENDED]

OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

In Subchapter 5, the Department is proposing increases in annual operating fees for both minor facilities and Part 70 sources, with increases of specific permit application fees in Subchapters 7 and 8.

- A. Presentation – Shawna McWaters-Khalousi
- B. Questions and discussion by Council / Public

HEARING/MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Tuesday December 15, 1998 1:00 P.M.
4545 North Lincoln Boulevard
Burgundy Room
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the October 20, 1998 Regular Meeting**
4. **OAC 252:100-7 Permits for Minor Facilities [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will also be referenced under this new Part. Continued from August 18 and October 20, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
5. **OAC 252:100-8-4(a)(2) Permits for Part 70 Sources [AMENDED]**
The Department proposes to update the incorporation by reference of the case-by-case MACT rules in 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

6. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18 and October 20, 1998 Air Quality Council meetings.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

7. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18 and October 20, 1998 Air Quality Council meetings.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

8. **OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits for Minor Facilities [AMENDED]
OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is proposing increases in annual operating fees for both minor facilities and Part 70 sources, with increases of specific permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

9. **NEW BUSINESS**
 - A. Discussion/consideration of subjects / business arising within past 24 hours
 - B. Possible action by Council

10. **ADJOURNMENT – Next Regular Meeting**
WEDNESDAY, FEBRUARY 17, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson, Oklahoma City, Oklahoma

December 1, 1998

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director ^{ET.}
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 37
CONTROL OF EMISSION OF ORGANIC MATERIALS

Enclosed is a copy of the proposed modifications to OAC 252:100-37. These revisions were brought to the Air Quality Council for the first time on August 18, 1998 and again on October 20, 1998. At the October meeting the staff recommended that the rule be considered again at the December 15, 1998 Council meeting.

The proposed revisions primarily simplify and clarify language, correct grammar, and impose consistency of format on the rule without involving substantive changes. A number of changes have been made to the rule following the October 20, 1998 Council meeting. Most of these additional changes are not intended to be substantive in nature. Substantive changes numbers 3 and 5 listed below have been made since the October meeting. The following substantive revisions to the rule are proposed.

1. The definition of "volatile organic compound (VOC)" in 252:100-37-2 has been revised. As part of the simplification process the staff propose to have only one definition of volatile organic compound which will be consistent with the EPA definition and replace the terms "volatile organic solvent (VOS)" and "organic solvents." The new definition provides that any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity and will not be considered to be a VOC. This revision will also serve as a response to requests to exempt acetone, methylated siloxanes, perchloroethylene, and methyl acetate from being considered VOCs. These four substances are on the list in 40 CFR 51.100(s)(1) and, therefore, will not be considered to be VOCs.
2. The staff proposes deleting 252:100-37-3(a), which requires any new source that emits organic material as a solvent or reactant to obtain a permit and apply best available control technology (BACT). As originally proposed by the staff to the Air Quality Council, this subsection applied only to organic solvents and only to major sources. When approved by the Council, the major source requirement was omitted. The Council records from that time contain no explanation for this change. To require each new source of VOC to apply BACT, regardless of the size of the source, expends more time, effort, and expense than can be justified by the Department considering the subsequent reductions in VOC emissions. This is especially true for new sources in areas that are in attainment and have always been

- in attainment.. To require BACT for new major sources of VOC in Subchapter 37 is redundant. That requirement already exists in 252:100-8-5(d)(1)(A). Therefore, it is proposed to delete this subsection.
3. Staff proposes to add 252:100-37-15(c) to exempt storage tanks subject to the standards contained in 40 CFR 60, Subparts K, Ka, and Kb from the requirements of that section.. The equipment standards contained in K, Ka, and Kb are as stringent as the requirements of Section 15.
 4. Staff proposes to add 252:100-37-16(c) to exempt loading facilities that are subject to 40 CFR 60, subpart XX and 40 CFR 63, Subpart R from the requirements of this section. The requirements of XX and R are as stringent as those in Section 16.
 5. Staff proposes to add 252:100-38(b) to exempt pumps and compressors that are subject to the equipment leak standards contained in 40 CFR 60 Subparts VV, GGG, or KKK from the requirements of Subsection 38. The requirements of VV, GGG, or KKK are as stringent as those in Subsection 38.
 6. The staff proposes to delete 252:100-37-25(c) Emission limitations. Research in the Air Quality Council records indicate that this subsection was originally meant to control emissions of organic material from the use of nonphotochemically reactive solvents. These substances would not be considered VOC by the proposed revised definition of VOC. If these limits are applied to VOCs, the emission of 3,000 pounds of VOC per day for 365 days per year would result in an annual emission of 547 tons. The subsection can be interpreted to allow each machine or piece of equipment at a site to emit 3,000 pounds per day before controls are required. This is meaningless for substances considered to be VOC. Subchapter 8 contains requirements for BACT for both major sources and for PSD sources.
 7. The staff proposes deleting the first sentence in 252:100-37-36 (fuel-burning and refuse-burning equipment), thereby eliminating the impossible requirement that no emission of hydrocarbons or organic materials is allowed from fuel-burning or refuse-burning equipment. This revision will also resolve the contradiction with the second sentence which requires such equipment to be operated to minimize these emissions.
 8. Subpart 9, Permit By Rule for VOC Storage and Loading Facilities, has been added to provide for permit by rule for facilities that meet the applicability requirements contained therein.

Comments made at an informational meeting held July 7, 1998, were given consideration in the proposed draft enclosed with this memorandum. Stemming from that meeting, a workgroup was formed to address problems existed in the coating section of the rule (252:100-37-25) that were beyond the scope of the "Re-right/De-wrong" process. At the October 30, 1998 meeting of this workgroup it was decided to delay work on this section of the rule until upcoming federal rulemaking was completed in EPA's combined coating rulemaking initiative..

In the process of revising Subchapter 37, definitions were changed, moved, and/or deleted. The staff intends to revise 252:100-1-3, Definitions, later in the process of the "Re-right/De-wrong" project. It is our intention to include in Subchapter 1 only those definitions that apply to all or practically all of the subchapters in Chapter 100. Definitions that apply to only one or two subchapters will be placed in those subchapters and definitions that are general to the entire Chapter 100 will be deleted from individual subchapters.

Because some unresolved issues have been brought to our attention regarding alternative standards for coating operations (252:100-37-25(d)), staff will recommend the rule be considered again at the next Air Quality Council meeting on February 17, 1999.

In addition to the proposed draft revisions to Subchapter 37, a copy of 40 CFR 51.100(s)(1), a rule impact statement, a summary of comments and staff responses, and a list of the revisions that were made to the rule after the October 20, 1998 Air Quality Council meeting are also included in the packet.

Enclosures: 5

**SUBCHAPTER 37. CONTROL OF EMISSION OF VOLATILE ORGANIC MATERIALS
COMPOUNDS (VOCs)**

PART 1. GENERAL PROVISIONS

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**PART 3. CONTROL OF ~~VOLATILE ORGANIC COMPOUNDS~~VOCs IN STORAGE AND
LOADING OPERATIONS**

252:100-37-15.	Storage of volatile organic compounds VOCs	3
252:100-37-16.	Loading of volatile organic compounds VOCs	4
252:100-37-17.	Effluent water separators [AMENDED AND RENUMBERED TO 252:100-37-37]	6
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PART 1. GENERAL PROVISIONS

252:100-37-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration prevented.~~ The purpose of this Subchapter is to prevent the formation of ozone by controlling the emissions of volatile organic compounds (VOCs) from stationary sources.

252:100-37-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Acrylic" means a chemical coating containing polymers or co-polymers of acrylic or substitute acrylic acid in combination with ~~suitable~~ resinous modifiers, ~~and its~~ The primary mode of cure is solvent evaporation.

"Alkyd primer" means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional ~~paint~~ coating.

"Custom product ~~finishes~~ finish" means a proprietary chemical coating designed for a specific customer and end use.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~

"Effluent water separator" means any ~~tank, box, sump, or other~~ container in which any ~~material compound~~ VOC floating on, or entrained in, or contained in water entering ~~such tank, box, sump or ether~~ the container is physically separated and removed from ~~such~~ the water prior to ~~outfall, drainage, or recovery of~~ such discharge of the water from the container.

"Epoxy" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. ~~Epoxies~~ The prime mode of cure involves a chemical reaction between the epoxy and the cross-linking agent.

"Maintenance ~~finishes~~ finish" means a chemical coating ~~formulated to form a protection of that~~ protects a given substrate ~~to~~ from adverse chemical or physical ~~condition~~ conditions.

"Nitrocellulose ~~lacquers~~ lacquer (NC lacquer)" means a chemical coating containing nitrocellulose and suitable resinous modifiers, ~~and whose~~. The primary mode of cure is solvent evaporation.

~~"Organic materials" means chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~

"Submerged fill pipe" means any fill pipe or discharge nozzle ~~which~~ that meets any one of the following conditions.

(A) ~~the~~The bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) ~~the~~The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) ~~the~~The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel, ~~or~~.

~~(D) other equivalent methods acceptable to the Executive Director.~~

"Vinyl" means a chemical coating containing ~~plasterized~~plasticized or ~~unplasterized~~unplasticized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products. ~~and the~~The primary mode of cure is solvent evaporation.

"Volatile organic compound (VOC)" means any compound ~~containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.~~ Any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions, that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-37-3. Applicability and compliance

~~(a) New sources. Any new source calculated to emit an organic material to the atmosphere either as a solvent or a reactant will be subject to permitting under OAC 252:100-7, and with the application of Best Available Control Technology.~~

~~(b) Compliance schedule.~~

~~(1) All equipment and process previously regulated under OAC 252:100-37 and 252:100-39 and its effective dates of July 1, 1972 and December 8, 1974 must still abide by those dates.~~

~~(2)(a) In all areas except AQMA's, this~~This Subchapter shall apply to all new installations of any equipment or processes described in this Subchapter, after the effective date of December 28, 1974.

~~(3)(b) Provisions~~Sections 15, 16, 35, 36, 37, and 38 of this Subchapter ~~relating to control of VOC shall apply to all new and existing installations of any equipment or processes in use and described in this Subchapter that are located in Air Quality Maintenance Areas (AQMA's) as classified by the Environmental Protection Agency with regard to hydrocarbons and photochemical oxidants~~Tulsa County or Oklahoma County, and become ~~after the effective on June 8, 1979; provided, however, that existing~~

~~installations shall have twenty four (24) months from the effective date within which to comply with this Subchapter date of June 9, 1981. Except that the~~The retrofit requirements for crude petroleum storage tanksvessels will be limited to tanksvessels of greater than 420,000 gallon 10,000 barrel (1,590 m³) capacity.

~~(4) Provisions of this Subchapter relating to the control of organic solvent shall be as specified in the applicable Section.~~

252:100-37-4. Exemptions

(a) ~~Organic materials as used in~~VOCs with vapor pressures less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from 252:100-37-15 through 252:100-37-18, 252:100-37-16 and 252:100-37-27 and 252:100-37-28, 252:100-37-35 through 252:100-37-38 will not include: Methane (CH₄) or any material otherwise included which has vapor pressure of less than 1.5 pounds per square inch absolute under actual storage conditions.

(b) Petroleum or condensate stored, processed, treated, loaded, and/or ~~treated~~transferred at a drilling or production facility prior to lease custody transfer is exempt from this Subchapter. This exemption also includes transfer and loading operations.

(c) The storage, loading, processing, manufacturing or burning of organic materialsVOCs on a farm or ranch, when such VOCs are used for agricultural purposes on farms and ranchessaid farm or ranch, is exempted from all provisions of 252:100-37-15, through 252:100-37-18252:100-37-16, 252:100-37-35 through 252:100-37-38, 252:100-39-41, and 252:100-37-27 and 252:100-37-28 252:100-39-42.

252:100-37-5. Operation and maintenance

Any vapor-loss control devices, packing glands and mechanical seals required by this Subchapter shall be properly installed, maintained, and operated.

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDSVOCs IN STORAGE AND LOADING OPERATIONS

252:100-37-15. Storage of volatile organic compoundsVOCs

(a) Storage capacities greater than 40,000 gallons. No personowner or operator shall build, sell, or install or permit the building or installation of any new stationary tank, reservoir or other containerstorage vessel of more than 40,000 gallons (150,000 liters151 M³) capacity, which will be used for storage of any organic materialsVOCs, unless such tank, reservoir or other containerit is to be a pressure tankvessel capable of maintaining working pressures sufficient at all times tothat prevent organic vapor or gas~~the~~ loss of VOC to the atmosphere or is designed, and will be built and equipped, with one of the following vapor-loss control devices+.

(1) An external floating roof, consisting of pontoon type, internal floating cover or double-deck type reefcover, or a fixed roof with an internal-floating cover. whichThe cover

will rest on the surface of the liquid contents, at all times (i.e., off the leg supports), except during initial fill, when the storage vessel is completely emptied, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. andThe floating roof shall be equipped with a closure seal, or seals, to close the space between the ~~roofcover~~ edge and ~~tankvessel~~ wall. Such ~~floating~~Floating roofs are not appropriate control devices if the ~~organic materials~~VOCs have a vapor pressure of ~~11.1 pounds per square inch absolute~~psia (568 mm Hg76.6 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(2) A vapor-recovery system consisting of a vapor-gathering system capable of collecting 85 percent or more of the uncontrolled ~~organic material~~VOCs that would otherwise be emitted to the atmosphere, and a vapor-disposal system capable of processing ~~such these~~ ~~organic material~~VOCs so as to prevent their emission to the atmosphere, ~~and with all~~All ~~tankvessel~~ gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(3) Other equipment or ~~means~~methods of equal efficiency for purposes of air pollution control ~~as may be when~~ approved by the ~~Executive~~Division Director prior to installation.

(b) Storage capacities of 400 gallons and greater. No ~~person~~owner or operator shall build, sell, or install ~~or permit the building or installation of~~ a new stationary ~~organic material~~VOC storage ~~tankvessel~~ with a capacity of 400 gallons (~~1520 liters~~1.5 m³) or more unless ~~such tank~~it is equipped with a permanent submerged fill pipe or is equipped with an ~~organic material~~a vapor-recovery system as required in ~~252:100-37-5(a)~~252:100-37-15(a) (2).

(c) Exemptions. VOC storage vessels that are subject to equipment standards (e.g., a fixed roof in combination with an internal floating cover, an external floating roof, or a closed vent system and control device) in 40 CFR 60 Subparts K, Ka, or Kb are exempt from the requirements of 252:100-37-15(a) and (b).

252:100-37-16. Loading of ~~volatile organic compounds~~VOCs

(a) Loading facilities with throughput greater than 40,000 gallons/day.

~~(1)~~ No ~~person~~owner or operator shall build or install ~~or permit the building or installation of~~ a stationary ~~organic material~~VOC loading facility ~~having~~designed to have a throughput greater than 40,000 gallons (~~151,416 liters~~) per day from its aggregate loading pipes unless ~~such loading facility~~it ~~is~~will be equipped with a vapor-collection and disposal system or ~~unless loading is accomplished by bottom loading with closed hatches closed, properly installed, in good working order and in operation.~~

~~(2)~~ Vapor-collection and disposal system. ~~When loading in a vapor collection and disposal system is effected through the~~

~~hatches of a tank truck or trailer with a loading arm equipped with a vapor collecting adaptor, pneumatic, hydraulic or other mechanical means shall be provided to force a vapor tight seal between the adaptor and the hatch.~~

(A) Vapor-collection portion of the system.

(i) When loading VOCs through the hatches of a tank truck or trailer, using a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic, or mechanical means shall be provided to ensure a vapor-tight seal between the adaptor and the hatch.

~~(3) A means shall be provided in either system to prevent organic material drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.~~

(4ii) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which that make vapor-tight connections and which must be closed when disconnected or which close automatically when disconnected.

(5B) Vapor-disposal portion of the system. The vapor-disposal portion of the system shall consist of ~~one of the following:~~

(Ai) a vapor-liquid absorber system with a minimum recovery efficiency of 90 percent by weight of all the organic material VOC vapors and gases entering such disposal system; or

(Bii) a variable-vapor space tank, compressor, and fuel-gas system of sufficient capacity to receive all organic material VOC vapors and gases displaced from the tank trucks and trailers being loaded.

(2) Prevention of VOC drainage. A means shall be provided in either system to prevent VOC drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.

(b) Loading facilities with throughput equal to or less than 40,000 gallons per day.

~~(1) No person owner or operator shall build or install or permit the building or installation of a stationary organic material VOC loading facility having designed to have a throughput of 40,000 gallons (151,416 liters) per day or less from its aggregate loading pipes unless each loading pipe will be equipped with a system for submerged filling of tank trucks or trailers properly installed, in good working order and operating in such a manner that which will be installed and operated to maintain a 97 percent submergence factor is maintained.~~

(2) Paragraph 252:100-37-16(b)(1) apply applies to any facility which that loads organic materials VOCs into any tank truck or trailer with a capacity greater than 200 gallons (757

liters) that is designed for transporting organic materials VOCs and having a capacity in excess of 200 gallons (760 liters).

(c) Exemptions. Loading facilities subject to the requirements of 40 CFR 60 Subpart XX or 40 CFR 63 Subpart R are exempt from the requirements of 252:100-37-16(a) and (b).

252:100-37-17. Effluent water separators [AMENDED AND RENUMBERED TO 252:100-37-37]

~~No person shall build or install or permit the building or installation of a single or multiple compartment organic material water separator which receives effluent water containing 200 gallons (760 liters) a day or more or any organic material from any equipment processing, refining, treating, storing or handling organic materials unless the compartment receiving said effluent water is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:~~

~~(1) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(2) A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover, which will rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(3) A container equipped with a vapor recovery system, consisting of a vapor gathering system capable of collecting the organic material vapors and gases discharged and a vapor disposal system capable of processing such organic material vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas tight except when gauging or sampling is taking place. The organic material removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~or,
(4) Containers equipped with controls of equal efficiency provided such equipment is submitted to and approved by the Executive Director.~~

252:100-37-18. Pumps and compressors [AMENDED AND RENUMBERED TO 252:100-37-38]

~~No person shall build or install or permit the building or installation of any pump or compressor handling organic material compounds unless rotating type pumps and compressors are equipped~~

~~with mechanical seals or other equipment of equal efficiency, or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15 minute period at standard conditions per pump or compressor.~~

PART 5. CONTROL OF ORGANIC SOLVENTS/VOCs IN COATING OPERATIONS

252:100-37-25. Coating of parts and products

(a) ~~Standards. No owner or operator subject to the provision of this Section shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any organic solvent in excess of the amounts, listed in the following table, per gallon of coating, excluding water, delivered to the coating applicator. No owner or operator of any coating line or coating operation with VOC emissions shall use coatings that as applied contain VOCs in excess of the amounts listed in the following table.~~

Type of coating	Pounds of organic solvent/VOC per gallon of paint/coating (less water and exempted organic compounds)		
	Jan. 79 limit	Jan. 81 limit	Jan. 82 limit
Alkyd primer	5.6	5.2	4.8
Vinyls	6.4	6.4	6.0
NC lacquers	6.8	6.6	6.4
Acrylics	6.4	6.4	6.0
Epoxies	5.6	5.2	4.8
Maintenance finishes	5.6	5.2	4.8
Custom products finishes	6.8	6.6	6.5

(b) ~~Plant-wide emission plan. An owner/operator may develop a plant wide emission plan instead of having each coating line comply with the emission limitations prescribed in the table in (a) of this section, provided:~~

(1) Development of a plant-wide emission plan. An owner or operator may develop a plant-wide emission plan instead of having each coating line comply with the VOC content limitations in 252:100-37-25(a), if the following conditions are met.

(A) The owner or operator demonstrates, by means of approved material balance or manual emission test methods, by the methods in 252:100-5-2.1(d) that sufficient reductions in organic solvents emissions of VOCs may be obtained by controlling other facilities/sources within the plant to the extent necessary to compensate for all excess emissions which that result from one or more coating lines not achieving the prescribed limitation. Such demonstration

shall be described ~~made~~ in writing and shall include:

~~(A)(i)~~ Aa complete description of the coating line or lines ~~which~~that will not comply with the ~~emission~~VOC content limitation in 252:100-37-25(a);

~~(B)(ii)~~ Quantification of emissions, in terms of pounds per day of ~~organic solvents~~VOCs, which are in excess of the ~~prescribed emission~~VOC content limitation for each coating line described under ~~252:100-37-25(b)(1)(A)~~252:100-37-25(b)(1)(A)(i);

~~(C)(iii)~~ Aa complete description of each ~~facility and the related control system, if any, for those facilities within the plant where~~how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described under ~~252:100-37-25(b)(1)(A)~~252:100-37-25(b)(1)(A)(i) and the date on which such reductions will be achieved;

~~(D)(iv)~~ Quantification of emissions, in terms of pounds per day of ~~organic solvents~~VOCs, for each ~~facility~~source described under ~~252:100-37-25(b)(1)(C)~~252:100-37-25(b)(1)(A)(iii), both before and after the improvement or installation of any applicable control system, or operational changes to such a facility or facilities to reduce emissions ~~and the date on which such reductions will be achieved~~; and,

~~(E)(v)~~ Aa description of the procedures and methods used to determine the emissions of ~~organic solvents~~VOCs.

~~(2)(B)~~ The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. ~~The plant wide emission reduction plan may include decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to facilities, including permanently reduced production or closing a facility, located on the premises of a surface coating operation.~~

~~(3)(2)~~ Compliance with a plant-wide emission plan. ~~the~~The implementation of a plant-wide emission reduction plan instead of compliance with the ~~emissions~~VOC content limitation prescribed in 252:100-37-25(a) ~~has been~~must be expressly approved by the ~~Executive~~Division Director. Upon approval, any emissions in excess of those established for each facility under the plan shall be a violation of this Subchapter.

~~(c) Emission limitation.~~ No person shall discharge into the atmosphere more than 3,000 pounds of organic materials in any one day nor more than 450 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing such solvent is employed or

~~applied, unless such discharge has been reduced by at least 85 percent or has applied BACT or better as determined by the Executive Director.~~

(dc) Exemption. Owners or operators of sources that are computed to emit less than 100 pounds of ~~organic solvent~~VOC per 24 hr./~~day~~24-hour day are exempt from the requirements of this Section.

(ed) Alternate standard. ~~Emissions~~The use of coatings with VOC contents in excess of those permitted by 252:100-37-25(a) through ~~252:100-37-25(d) or 252:100-37-25(b)~~ are allowable if both of the following conditions are met:.

(1) VOC emissions that would result in the absence of control occur if no controls were used are reduced by:

(A) 90 percent, by incineration; ~~or,~~

(B) 85 percent, by ~~absorption~~absorption/adsorption; or, any other process of equivalent reliability and effectiveness; and,

(C) 85 percent by any other process of equivalent reliability and effectiveness.

(2) ~~no~~No air pollution, as defined by the Clean Air Act, results.

252:100-37-26. ~~Clean up with organic solvents~~VOCs

~~Emissions of organic materials to the atmosphere from the clean up with organic solvents, as defined in 252:100-37-2, VOCs of any article, machine, or equipment or other contrivance used in applying coatings controlled in 252:100-37-25(a) through 252:100-37-25(d)~~252:100-37-25(d) shall be included with the other emissions of ~~organic solvents from the coating line or operation~~counted in determining compliance with those rules.

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35. Waste gas disposal

(a) Ethylene manufacturing emissions. ~~No person~~owner or operator shall build or install ~~or permit the building or installation of~~ any ethylene manufacturing plant unless the waste-gas stream under normal operating conditions is properly burned at 1,300°F. for 0.3 seconds or greater in a direct-flame afterburner equipped with an indicating pyrometer ~~which~~that is positioned in the working area for the operator's ready monitoring or an equally effective catalytic vapor incinerator also with pyrometer. Proper burning of the waste-gas stream is defined as reduction by 98 percent of the ethylene emissions originally present in the waste-gas stream.

(b) Vapor blowdown. Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, ~~no person~~owner or operator shall allow ~~emit~~organicVOC gases to be emitted to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the ExecutiveDivision Director.

252:100-37-36. Fuel-burning and refuse-burning equipment

~~No person shall cause or allow the emission of hydrocarbons or other organic materials from any fuel burning or refuse burning equipment. All such fuel-burning or refuse-burning equipment shall be operated as to minimize such emissions of VOC. Among other things, such operation shall assure, based on manufacturer's data and good engineering practice, that the equipment is not overloaded; that it is properly cleaned, operated, and maintained; and that temperature and available air are sufficient to provide essentially complete combustion.~~

252:100-37-37. Effluent water separators

No owner or operator shall build or install a single-compartment or multiple-compartment VOC/water separator that will receive effluent water containing 200 gallons (760 liters) a day or more of any VOC from any equipment processing, refining, treating, storing or handling VOCs unless the compartment receiving the effluent water will comply with one of the following sets of conditions.

(1) The container totally encloses the liquid contents and all openings are sealed. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) The container is equipped with an external floating roof, consisting of a pontoon type or double-deck type cover, or a fixed roof with an internal-floating cover. The cover will rest on the surface of the contents and be equipped with a closure seal, or seals, to close the space between the cover edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) The container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the VOC vapors and gases discharged and a vapor-disposal system capable of processing such vapors and gases to prevent their emission to the atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(4) The container is equipped with controls of equal efficiency if approved by the Division Director.

252:100-37-38. Pumps and compressors

(a) No owner or operator shall build or install any pump or compressor handling VOCs unless the following conditions are met.

(1) Rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency.

(2) Reciprocating type pumps and compressors are equipped with packing glands.

- (3) Emissions from the drain recovery system do not exceed two cubic inches of liquid VOC in any 15-minute period per pump or compressor at standard conditions.
- (b) Pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK are exempt from 252:100-37-38.

PART 9. PERMIT BY RULE FOR VOC STORAGE AND LOADING FACILITIES

252:100-37-41. Applicability

Any new VOC storage and loading facility may be constructed and any existing VOC storage and loading facility may be operated under this Part if:

- (1) the facility is located in an area designated as unknown or attainment for ozone;
- (2) each storage vessel located at the facility has a storage capacity of 19,813 gallons (75 m³) or less;
- (3) the facility is designed to have a throughput of 19,998 gallons (75,700 liters) per day or less from the aggregate loading pipes; and
- (4) the facility meets the requirements of 252:100-7-60(a), (b), and (c).

252:100-37-42. Permit requirements

- (a) An owner or operator shall submit annual emission inventory reports and meet the requirements of 252:100-37-5, regarding operation and maintenance, and 252:100-37-38, regarding pumps and compressors.
- (b) No owner or operator shall build or install a new stationary VOC storage vessel with a capacity of 400 gallons (1.5 m³) or greater unless it is equipped with a permanent submerged fill pipe as defined in 252:100-37-2.
- (c) No owner or operator shall build or install a stationary VOC loading facility unless each loading pipe is equipped with a system for submerged filling of tank trucks or trailers which is installed and operated to maintain a 97 percent submergence factor.
- (d) The owner or operator of a vessel with a storage capacity greater than 10,567 gallons (40 m³) shall maintain records on site of the dimensions of the storage vessel and an analysis showing the capacity.

LIST OF ORGANIC COMPOUNDS WITH NEGLIGIBLE
PHOTOCHEMICAL REACTIVITY

40 CFR 51.100(s)(1) as it existed on July 1, 1998
From the Federal Register dated 4/9/98

Sec. 51.100 Definitions.

(s) Volatile organic compounds (VOC)

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
ethane;
methylene chloride (dichloromethane);
1,1,1-trichloroethane (methyl chloroform);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
chlorodifluoromethane (HCFC-22);
trifluoromethane (HFC-23);
1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1-dichloro 1-fluoroethane (HCFC-141b);
1-chloro 1,1-difluoroethane (HCFC-142b);
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
pentafluoroethane (HFC-125);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trifluoroethane (HFC-143a);
1,1-difluoroethane (HFC-152a);
parachlorobenzotrifluoride (PCBTF);
cyclic, branched, or linear completely methylated siloxanes;
acetone;
perchloroethylene (tetrachloroethylene);
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
difluoromethane (HFC-32);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);

chlorofluoromethane (HCFC-31);

1 chloro-1-fluoroethane (HCFC-151a);

1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);

1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);

2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCH_2OCH_3$);

1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);

2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCH_2OC_2H_5$);

methyl acetate

and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

MINUTES
AIR QUALITY COUNCIL
DECEMBER 15, 1998
Lincoln Plaza Office Complex
Burgundy Room
4545 North Lincoln Boulevard
Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Larry Canter
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Jeanette Buttram
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce
Cheryl Bradley
Becky Mainord

Council Members Absent

Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for December 15, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye; Mr. Kilpatrick and Ms. Slagell did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 20, 1998 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Mr. Branecky. Roll call as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye.

PUBLIC HEARINGS

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered into the hearing records the Hearing Agenda and Oklahoma Register Notice.

OAC 252:100-7 Permits [AMENDED]

Mr. Dyke called upon Ms. Jeanette Buttram for staff recommendation to Council. Ms. Buttram advised that proposed revisions delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emission standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit.

Also a new Part 9 is proposed which will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities would also be referenced under this new Part. Within Part 9, Section 252:100-7-60.3 was written due to the proposed PBR section for VOC storage and loading facilities in Subchapter (SC) 37. Staff recommendation for SC 37 will be to continue the rule until the February AQC meeting. Therefore, staff suggests the proposed new section be deleted from the rule and added once the PBR in SC 37 is approved. Mr. Branecky requested clarification of which part of the rule was being deleted. Ms. Buttram confirmed the suggestion to recommend the proposed rule, excluding Section 252:100-7-60.3, to the Environmental Quality Board for permanent adoption.

Following discussion and comments, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality board at the next meeting. Dr. Grosz made that motion with second made by Ms. Myers. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100:8-4(a)(2) Permits for Part 70 Sources [AMENDED]

Mr. Dyke called upon Ms. Joyce Sheedy for staff recommendation regarding this rule. Dr. Sheedy advised that these amendments update the incorporation by reference of the case-by-case MACT determinations for Part 70 sources in 252:100-8-4 (a)(2)(C) by adopting 40 CFR 63.41, 63.43, and 63.44 as they exist on July 1, 1998. Dr. Sheedy advised that this update would be made annually.

Mr. Breisch entertained motion recommending adoption as permanent rule by the Environmental Quality Board. Mr. Branecky made the motion with the second being made by Mr. Wilson. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

Mr. Dyke called upon Dr. Joyce Sheedy who advised that proposed changes primarily simplify language and correct grammar and format but also include various substantive changes. Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. Dr. Sheedy then stated the staff's recommendation to continue this rule until the February Council meeting because of remaining controversy.

Council discussion followed. Mr. Wilson expressed concern about SC 37 being open for so long with no action taken. During public discussion, Mr. Bradshaw from Boeing reiterated Mr. Wilson's concern. Mr. Bradshaw further explained that the specific point of concern for Boeing and American Airlines is the definition of VOC. He said the members of his industry would like to see the definition amended as soon as possible. Ms. Hoffman responded by explaining that it is the intent of the staff to have all remaining issues with SC 37 resolved and to recommend approval of the rule by the Council. She further explained that if the rule is

approved by the Council in February, there would be time to get the packet of information to the Environmental Quality Board before the March 5, 1999 meeting.

Mr. Breisch entertained a motion to continue this rule to Council's February meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

Mr. Dyke called upon Dr. Joyce Sheedy for staff recommendation. Dr. Sheedy pointed out that the proposed changes primarily simplify language and correct grammar and format but also include some substantive changes. Dr. Sheedy explained that written comments, staff responses and details of the substantive changes were summarized in the Council packet. Dr. Sheedy submitted the written letters from EPA and EFO for hearing record.

There were no questions or comments from the Council or from the public.

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's February 17, 1999 meeting. Mr. Branecky made that motion with the second made by Ms. Myers. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

This subject was first brought before the Council on October 20, 1998 at which time the Council voted to continue the hearing until the December 15, 1998 Council meeting. The presentation for this public hearing consisted of several staff members. Mr. David Dyke began by informing those present that written comments have been received from the Environmental Federation of Oklahoma, Mid-Continent Oil and Gas Association, and the Small Business Advisory Panel. These comments and staff responses were submitted for official record. Mr. Dyke continued to explain the Division's anticipated increase in workload and discussed other factors contributing to the request for fee increases.

Mr. Dyke called upon Mr. Scott Thomas to describe the upcoming rulemaking activities. Mr. Thomas explained that the Division's rulemaking goals were designed according to proposed rules received from the EPA, instruction from the State Legislature to review all of our rules by December 2000, and efforts to go forward with the agencies directive and goals of the permit continuum. Mr. Thomas also stated that in order to accomplish these goals, additional staff would be required or the rulemaking priorities would have to be refined. Mr. Ray Bishop came forward to elaborate upon the need for additional permitting staff. He stated that even though the Permit program has instituted a number of time-saving and efficiency efforts, the Division does not anticipate meeting the impending Title V time frames and deadlines with the current staff. He also reviewed the non-Title V activities required of the permitting

staff. Mr. Terrill commented regarding potential actions that could occur at the federal level and consequently affect the Division.

Finally, Mr. Dyke called upon Ms. Shawna McWaters-Khalousi to explain the proposed increases and how they were derived. Staff recommended approval by the Council. Mr. Dyke summarized staff's position by stating that even though services and spending levels are reduced from previous years, the current level of services and management of oncoming issues cannot be maintained without additional staff. Mr. Dyke assured that the Division would not compromise the environmental protection, but be forced to shift and prioritize resources ultimately resulting in reduced services provided.

After extensive comment and discussion from the Council, the public and members of industry, Mr. Breisch entertained, and Mr. Branecky made the motion that: In SC 5, annual operating fees for minor facilities and for Part 70 sources be increased to \$17.12 per ton; In SC 7, the fee for minor source applicability determinations be increased to \$250 and the fees for all types of individual minor source permits be doubled; and In SC 8, the fee for major source applicability determinations be increased to \$250. Ms. Myers made the second to Mr. Branecky's motion with roll call as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye.

Copy of hearing transcript attached and made an official part of these minutes.

NEW BUSINESS The Council requested a monthly financial statement from Mr. Coleman's office. This information would enable the Finance Committee to monitor the cash flow of the AQD and work toward avoiding future budgetary shortfalls. Additionally, the Council requested that a comprehensive and detailed list of tasks that would be billed to Title V expenditures be created. This list would be a guideline for staff to follow when accounting time and effort. Finally, a request was made for additional state appropriations for a workload study that will determine staffing priorities.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 17, 1999 at the Department of Environmental Quality Multi-Purpose Room, First Floor, 707 North Robinson, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the copies of hearing records are attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 15, 1998

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Robert A. Felding, Jr.	ARM STRONG	405-377-1283 x14
2. Bill Fishbeck	MOBIL	405-348-8683
3. Kim Warren	ENERCON	405- 550 ⁷²² 7693
4. Stanley M. Spruiell - EPA	EPA - Air Permits	719 739-0804
5. Carol Barker TAFB	EMV	736-7246
6. Carlos Nazario TAFB	EMV	734-7071
7. Kevin Cannon TAFB	LAPER	736-5986
8. Pat Weyenport	National Std.	405/3775050
9. David Bradshaw	Tulsa	918/832/2073
10. Kip Runk	Tulsa	918/832/3178
11. John Sims	OKC	405-672-3400
12. Mike Wood/Weyco	Hot Springs, AR	501-624-8569
13. Rick Boggs/GCS	ANADARKO, OK	405/577-3186
14. Dustin Givens	Fort Jones	918/683-7671
15. Steve Landers	" "	" " "
16. Howard Ground	CSW	214-777-1711
17. Nadine Barton	CASE	
18. Kyle Arline	ODDQ	405-702-6112
19. John COAKLEY	EQ Board	580-726-2189
20. John Wheeler	Trinity	972-661-8100
21. Shauna McWhorter Khalani	AAD	(405) 702-4100
22. David Emery	Phillips Pet	918-661-3041
23. Andrew Livingston	Sinclair Oil Corp	918-588-1127
24.		
25.		

**BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL**

**Wednesday February 17, 1999 9:30 A.M.
707 North Robinson
DEQ Multi-Purpose Room, First Floor
Oklahoma City, OK**

- 1. Call to Order – Bill Breisch**
- 2. Division Director's Report – Staff**
 - A. Update of current events and AQD activities
 - B. Discussion by Council / Public
- 3. Election of Officers – Calendar Year 1999**

Discussion by Council
- 4. OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from December 15, 1998 Air Quality Council meeting.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
- 5. OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from December 15, 1998 Air Quality Council meeting.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

HEARING/MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Wednesday February 17, 1999 1:00 P.M.
707 North Robinson
DEQ Multi-Purpose Room, First Floor
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the December 15, 1998 Regular Meeting**
4. **Election of Officers Calendar Year 1999**
Nominations and election by Council
5. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from December 15, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
6. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from December 15, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
7. **New Business**
 - A. Discussion/consideration of subjects/business arising within past 24 hours
 - B. Possible action by Council
8. **Adjournment – Next Regular Meeting**
Tuesday, April 20, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson, Oklahoma City, Oklahoma

February 3, 1999

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 37

Enclosed is a copy of the proposed modifications to OAC 252:100-37 CONTROL OF EMISSION OF ORGANIC MATERIALS. These revisions were brought to the Air Quality Council for the first time on August 18, 1998 and again on October 20, 1998, and December 15, 1998. At the December meeting the staff recommended that the rule be considered again at the February 17, 1999, Council meeting.

The proposed revisions primarily simplify and clarify language, correct grammar, and impose consistency of format on the rule without involving substantive changes. A number of changes have been made to the rule following the December 15, 1998, Council meeting which are not intended to be substantive in nature. Staff is also proposing the six additional substantive changes listed in numbers 1, 2, 5, 6, 10, and 14 below. The following substantive revisions to the rule are proposed.

1. Staff proposes to add a definition of "drilling or production facility" that is identical to that found in 40 CFR 60, Subpart K, to 252:100-37-2.
2. Staff proposes to add a definition of "lease custody transfer" based on the definition of "custody transfer" found in 40 CFR 60, subpart K, to 252:100-37-2.
3. The definition of "volatile organic compound (VOC)" in 252:100-37-2 has been revised. As part of the simplification process, the staff proposes to have only one definition of volatile organic compound which will be consistent with the EPA definition and replace the terms "volatile organic solvent (VOS)" and "organic solvents." The new definition provides that any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity and will not be considered to be a VOC. This revision will also serve as a response to requests to exempt acetone, methylated siloxanes, perchloroethylene, and methyl acetate from being considered VOCs. These four substances are on the list in 40 CFR 51.100(s)(1) and, therefore, will not be considered to be VOCs.
4. Staff proposes deleting 252:100-37-3(a), which requires any new source that emits organic material as a solvent or reactant to obtain a permit and apply best available control technology (BACT). As originally proposed by the staff to the Air Quality Council, this subsection applied only to organic solvents and only to major sources. When approved by the Council, the major source requirement was omitted. The Council records from that time contain no explanation for this change. To require each new source of VOC to apply BACT, regardless of the size of the source,

expends more time, effort, and expense than can be justified by the Department considering the subsequent reductions in VOC emissions. This is especially true for new sources in areas that are in attainment and have always been in attainment. To require BACT for new major sources of VOC in Subchapter 37 is redundant. That requirement already exists in 252:100-8-5(d)(1)(A). Therefore, it is proposed to delete this subsection.

5. Staff proposes to add new subsection (c), Permit-by-rule facilities, to 252:100-37-3 to make clear that the only requirements in Subchapter 37 that apply to facilities registered under the VOC storage and loading facility permit-by-rule are those in Part 9.
6. Staff proposes to add subsection (b), which exempts methanol storage vessels at drilling or production facilities when used on site, to 252:100-39-4.
7. Staff proposes to add 252:100-37-15(c) to exempt storage tanks subject to the standards contained in 40 CFR 60, Subparts K, Ka, and Kb from the requirements of that section. The equipment standards contained in Subparts K, Ka, and Kb are as stringent as the requirements of Section 15.
8. Staff proposes to add 252:100-37-16(c) to exempt loading facilities that are subject to 40 CFR 60, Subpart XX and 40 CFR 63, Subpart R from the requirements of this section. The requirements of Subparts XX and R are as stringent as those in Section 16.
9. Staff proposes to delete 252:100-37-25(c), Emission limitations. Research in the Air Quality Council records indicate that this subsection was originally meant to control emissions of organic material from the use of nonphotochemically reactive solvents. These substances would not be considered VOC by the proposed revised definition of VOC. If these limits are applied to VOCs, the emission of 3,000 pounds of VOC per day for 365 days per year would result in an annual emission of 547 tons. The subsection can be interpreted to allow each machine or piece of equipment at a site to emit 3,000 pounds per day before controls are required. This is meaningless for substances considered to be VOC. Subchapter 8 contains requirements for BACT for both major sources and for PSD sources.
10. Staff has revised the alternate standard in 252:100-37-25(d) to require that VOC emissions from noncompliant coatings be reduced to the level they would have been had the coatings complied with the VOC content limits in 252:100-37-25(a).
11. Staff proposes deleting the first sentence in 252:100-37-36, Fuel-burning and refuse-burning equipment, thereby eliminating the impossible requirement that no emission of hydrocarbons or organic materials is allowed from fuel-burning or refuse-burning equipment. This revision will also resolve the contradiction with the second sentence which requires such equipment to be operated to minimize these emissions.
12. Staff proposes to add 252:100-37-38(b) to exempt pumps and compressors that are subject to the equipment leak standards contained in 40 CFR 60 Subparts VV,

GGG, or KKK from the requirements of Subsection 38. The requirements of VV, GGG, or KKK are as stringent as those in Subsection 38.

13. Staff proposes the addition of Subpart 9, Permit By Rule for VOC Storage and Loading Facilities, to provide for permit by rule for facilities that meet the applicability requirements contained therein.
14. Staff proposes the addition of new subparagraphs (A), (B), and (C) to 252:100-37-41(2) which will allow tanks that have storage capacities greater than 19,813 gallons and which are subject to NSPS Subpart Kb to qualify for the permit-by-rule for VOC storage and loading facilities since the only requirements in Subpart Kb are to maintain on site records of the dimensions of the vessel and an analysis of the capacity of the storage vessel.

Staff will suggest that the proposed rule be recommended to the Board for permanent adoption.

In addition to the proposed draft revisions to Subchapter 37, a copy of 40 CFR 51.100(s)(1), a rule impact statement, two summaries of comments and staff responses, and a list of the revisions that were made to the rule after the December 15, 1998, Air Quality Council meeting are also included in the packet.

Enclosures: 6

SUBCHAPTER 37. CONTROL OF EMISSION OF VOLATILE ORGANIC MATERIALS COMPOUNDS (VOCs)

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PART 1. GENERAL PROVISIONS

252:100-37-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration prevented. The purpose of this Subchapter is to prevent the formation of ozone by controlling the emissions of volatile organic compounds (VOCs) from stationary sources.~~

252:100-37-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Acrylic" means a chemical coating containing polymers or co-polymers of acrylic or substitute acrylic acid in combination with suitable resinous modifiers, ~~and its~~ The primary mode of cure is solvent evaporation.

"Alkyd primer" means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional ~~paint~~ coating.

"Custom product ~~finishes~~ finish" means a proprietary chemical coating designed for a specific customer and end use.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~

"Drilling or production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

"Effluent water separator" means any tank, box, sump, or other container in which any material ~~compound~~ VOC floating on, or entrained in, or contained in water entering such tank, box, sump or other ~~the~~ container is physically separated and removed from ~~such~~ the water prior to outfall, drainage, or recovery of ~~such~~ discharge of the water from the container.

"Epoxy" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. ~~Epoxies~~ The prime mode of cure involves a chemical reaction between the epoxy and the cross-linking agent.

"Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage vessels or automatic transfer facilities to pipelines or any other form of transportation.

~~"Maintenance finishes~~ finish" means a chemical coating ~~formulated to form a protection of that protects~~ a given substrate ~~tefrom~~ adverse chemical or physical ~~condition~~ conditions.

"Nitrocellulose lacquers lacquer (NC lacquer)" means a chemical coating containing nitrocellulose and suitable resinous modifiers, ~~and whose~~. The primary mode of cure is solvent evaporation.

~~"Organic materials" means chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~

~~"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions:~~

~~(A) theThe bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled.~~

~~(B) theThe bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.~~

~~(C) theThe bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel, or,~~

~~(D) other equivalent methods acceptable to the Executive Director.~~

~~"Vinyl" means a chemical coating containing plasterizedplasticized or unplasterizedunplasticized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products. and theThe primary mode of cure is solvent evaporation.~~

~~"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.~~

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-37-3. Applicability and compliance

~~(a) New sources. Any new source calculated to emit an organic material to the atmosphere either as a solvent or a reactant will be subject to permitting under OAC 252:100-7, and with the application of Best Available Control Technology.~~

~~(b) Compliance schedule.~~

~~(1) All equipment and process previously regulated under OAC 252:100-37 and 252:100-39 and its effective dates of July 1, 1972 and December 8, 1974 must still abide by those dates.~~

~~(2)(a) New sources. In all areas except AQMA's, thisThis Subchapter shall apply to all new installations of any equipment or processes described in this Subchapter, after the effective date of~~

December 28, 1974.

~~(3)(b) Existing sources. Provisions Sections 15, 16, 35, 36, 37, and 38 of this Subchapter relating to control of VOC shall apply to all new and existing installations of any equipment or processes in use and described in this Subchapter that are located in Air Quality Maintenance Areas (AQMA's) as classified by the Environmental Protection Agency with regard to hydrocarbons and photochemical oxidants Tulsa County or Oklahoma County, and become after the effective on June 8, 1979, provided, however, that existing installations shall have twenty four (24) months from the effective date within which to comply with this Subchapter date of June 9, 1981. Except that the The retrofit requirements for crude petroleum storage tanks vessels will be limited apply only to tanks vessels of greater than 420,000 gal 10,000 barrel (1,590 m³) capacity.~~

~~(c) Permit-by-rule facilities. This Subchapter does not apply to facilities registered under the VOC storage and loading facility permit-by-rule except as provided in Part 9.~~

~~(4) Provisions of this Subchapter relating to the control of organic solvent shall be as specified in the applicable Section.~~

252:100-37-4. Exemptions

~~(a) Organic materials as used in VOCs with vapor pressures less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from 252:100-37-15 through 252:100-37-18, 252:100-37-16 and 252:100-37-27 and 252:100-37-28, 252:100-37-35 through 252:100-37-38 will not include: Methane (CH₄) or any material otherwise included which has vapor pressure of less than 1.5 pounds per square inch absolute under actual storage conditions.~~

~~(b) Petroleum or condensate stored, processed, treated, loaded, and/or treated transferred at a drilling or production facility prior to lease custody transfer is exempt from this Subchapter. Methanol stored at a drilling or production facility for use on site is also exempt from this Subchapter. This exemption also includes transfer and loading operations.~~

~~(c) The storage, loading, processing, manufacturing or burning of organic materials VOCs on a farm or ranch, when such VOCs are used for agricultural purposes on farms and ranches said farm or ranch, is exempted from all provisions of 252:100-37-15, through 252:100-37-18 252:100-37-16, 252:100-37-35 through 252:100-37-38, 252:100-39-41, and 252:100-37-27 and 252:100-37-28 252:100-39-42.~~

252:100-37-5. Operation and maintenance

Any vapor-loss control devices, packing glands and mechanical seals required by this Subchapter shall be properly installed, maintained, and operated.

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS VOCs IN STORAGE AND LOADING OPERATIONS

252:100-37-15. Storage of volatile organic compounds VOCs

(a) Storage capacities greater than 40,000 gallons. No person shall build, sell, or install or permit the building or installation of any new stationary tank, reservoir or other container. Each VOC storage vessel with a capacity of more than 40,000 gallons (150,000 liters) 151 m^3 capacity which will be used for storage of any organic materials, unless such tank, reservoir or other container is to ~~shall~~ be a pressure tank ~~vessel~~ capable of maintaining working pressures sufficient at all times ~~to that~~ prevent organic vapor or gas ~~the~~ loss of VOC to the atmosphere or is designed, and will be built and shall be equipped with one of the following vapor-loss control devices:

(1) An external floating roof, consisting that consists of a pontoon type, internal floating cover or double-deck type roof cover, or a fixed roof with an internal-floating cover. ~~which~~ The cover will ~~shall~~ rest on the surface of the liquid contents at all times (i.e., off the leg supports), except during initial fill, when the storage vessel is completely emptied, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. ~~and~~ The floating roof shall be equipped with a closure seal, or seals, to close the space between the ~~roof cover~~ edge and ~~tank vessel~~ wall. Such ~~floating~~ Floating roofs are not appropriate control devices if the organic materials VOCs have a vapor pressure of ~~11.1~~ 11.1 pounds per square inch absolute (psia) (568 mm Hg) ~~76.6~~ 76.6 kPa or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(2) A vapor-recovery system ~~consisting that~~ consists of a vapor-gathering system capable of collecting 85 percent or more of the uncontrolled organic material VOCs that would otherwise be emitted to the atmosphere; and a vapor-disposal system capable of processing ~~such these~~ organic material VOCs so as to prevent their emission to the atmosphere. ~~and with all~~ All ~~tank vessel~~ gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(3) Other equipment or ~~means~~ methods that are of equal efficiency for purposes of air pollution control as may be used when approved by the Executive Division Director prior to installation.

(b) Storage capacities of 400 gallons and greater. No person shall build, sell, or install or permit the building or installation of a new stationary organic material. Each VOC storage ~~tank vessel~~ with a capacity of 400 gallons (1520 liters) 1.5 m^3 or more unless such tank is ~~shall~~ be equipped with a permanent submerged fill pipe or is equipped with an organic material a vapor-recovery system as required in 252:100-37-5(a) 252:100-37-15(a) (2).

(c) Exemptions. VOC storage vessels that are subject to equipment standards (e.g., a fixed roof in combination with an internal floating cover, an external floating roof, or a closed

vent system and control device) in 40 CFR 60 Subparts K, Ka, or Kb are exempt from the requirements of 252:100-37-15(a) and (b).

252:100-37-16. Loading of volatile organic compounds VOCs

(a) Loading facilities with throughput greater than 40,000 gallons/day.

~~(1) No person shall build or install or permit the building or installation of a stationary organic material. Each VOC loading facility having with a throughput greater than 40,000 gallons/d (151,416 l/d) per day from its aggregate loading pipes unless such loading facility is shall be equipped with a vapor-collection and disposal system or unless all tank trucks or trailers are bottom loading loaded with closed hatches closed, properly installed, in good working order and in operation.~~

~~(2)(1) Vapor-collection and disposal system. When loading in a vapor collection and disposal system is effected through the hatches of a tank truck or trailer with a loading arm equipped with a vapor collecting adaptor, pneumatic, hydraulic or other mechanical means shall be provided to force a vapor tight seal between the adaptor and the hatch.~~

(A) Vapor-collection portion of the system.

(i) When loading VOCs through the hatches of a tank truck or trailer, using a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic, or mechanical means shall be provided to ensure a vapor-tight seal between the adaptor and the hatch.

~~(3) A means shall be provided in either system to prevent organic material drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.~~

~~(4)(ii) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which that make vapor-tight connections and which must be closed when disconnected or which close automatically when disconnected.~~

~~(5)(B) Vapor-disposal portion of the system. The vapor-disposal portion of the system shall consist of one of the following:~~

~~(A)(i) a vapor-liquid absorber system with a minimum recovery efficiency of 90 percent by weight of all the organic material VOC vapors and gases entering such disposal system; or~~

~~(B)(ii) a variable-vapor space tank, compressor, and fuel-gas system of sufficient capacity to receive all organic material VOC vapors and gases displaced from the tank trucks and trailers being loaded.~~

(2) Prevention of VOC drainage. A means shall be provided in either system to prevent VOC drainage from the loading

device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.
(b) Loading facilities with throughput equal to or less than 40,000 gallons per day.

(1) ~~No person shall build or install or permit the building or installation of a stationary organic material~~Each loading pipe at a VOC loading facility having a with an aggregate throughput of 40,000 gallonsgal/d (150,000151,416 litersl/d) per day or less from its aggregate loading pipes unless each is shall be equipped with a system for submerged filling of tank trucks or trailers properly installed, in good working order and operating in such a manner thatwhich is installed and operated to maintain a 97 percent submergence factor-is maintained.

(2) Paragraph 252:100-37-16(b)(1) ~~apply~~applies to any facility ~~whichthat~~ loads organic materialsVOCs into any tank truck or trailer with a capacity greater than 200 gal (757 l) which is designed for transporting organic materialsVOCs and having a capacity in excess of 200 gallons (760 liters).

(c) Exemptions. Loading facilities subject to the requirements of 40 CFR 60 Subpart XX or 40 CFR 63 Subpart R are exempt from the requirements of 252:100-37-16(a) and (b).

252:100-37-17. Effluent water separators [AMENDED AND RENUMBERED TO 252:100-37-37]

~~No person shall build or install or permit the building or installation of a single or multiple compartment organic material water separator which receives effluent water containing 200 gallons (760 liters) a day or more or any organic material from any equipment processing, refining, treating, storing or handling organic materials unless the compartment receiving said effluent water is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:~~

~~(1) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(2) A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover, which will rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(3) A container equipped with a vapor recovery system, consisting of a vapor gathering system capable of collecting the organic material vapors and gases discharged and a~~

~~vapor disposal system capable of processing such organic material vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas tight except when gauging or sampling is taking place. The organic material removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress, or,~~

~~(4) Containers equipped with controls of equal efficiency provided such equipment is submitted to and approved by the Executive Director.~~

252:100-37-18. Pumps and compressors [AMENDED AND RENUMBERED TO 252:100-37-38]

~~No person shall build or install or permit the building or installation of any pump or compressor handling organic material compounds unless rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency, or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15 minute period at standard conditions per pump or compressor.~~

PART 5. CONTROL OF ORGANIC SOLVENTS/VOCs IN COATING OPERATIONS

252:100-37-25. Coating of parts and products

(a) ~~Standards. No owner or operator subject to the provision of this Section shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any organic solvent in excess of the amounts, listed in the following table, per gallon of coating, excluding water, delivered to the coating applicator. No owner or operator of any coating line or coating operation with VOC emissions shall use coatings that as applied contain VOCs in excess of the amounts listed in the following table.~~

Type of coating	Pounds of organic solvent/VOC per gallon of paint/coating (less water and exempted organic compounds)		
	Jan. 79 limit	Jan. 81 limit	Jan. 82 limit
Alkyd primer	5.6	5.2	4.8
Vinyls	6.4	6.4	6.0
NC lacquers	6.8	6.6	6.4
Acrylics	6.4	6.4	6.0
Epoxies	5.6	5.2	4.8
Maintenance finishes	5.6	5.2	4.8
Custom products finishes	6.8	6.6	6.5

(b) ~~Plant-wide emission plan. An owner/operator may develop a plant wide emission plan instead of having each coating line comply~~

with the emission limitations prescribed in the table in (a) of this section, provided:

(1) Development of a plant-wide emission plan. An owner or operator may develop a plant-wide emission plan instead of having each coating line comply with the VOC content limitations in 252:100-37-25(a), if the following conditions are met.

(A) ~~the~~The owner or operator demonstrates, by means of approved material balance or manual emission test methods, by the methods in 252:100-5-2.1(d) that sufficient reductions in organic solvents emissions of VOCs may be obtained by controlling other facilitiesources within the plant to the extent necessary to compensate for all excess emissions whichthat result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be ~~described~~made in writing and shall include:

~~(A)(i)~~ Aa complete description of the coating line or lines whichthat will not comply with the emissionVOC content limitation in 252:100-37-25(a);

~~(B)(ii)~~ Quantificationquantification of emissions, in terms of pounds per day of organic solventsVOCs, which are in excess of the prescribed emissionVOC content limitation for each coating line described under 252:100-37-25(b)(1)(A)252:100-37-25(b)(1)(A)(i);

~~(C)(iii)~~ Aa complete description of each facility and the related control system, if any, for those facilities within the plant wherehow emissions will be decreased at specific sources to compensate for excess emissions from each coating line described under 252:100-37-25(b)(1)(A)252:100-37-25(b)(1)(A)(i) and the date on which such reductions will be achieved;

~~(D)(iv)~~ Quantificationquantification of emissions, in terms of pounds per day of organic solventsVOCs, for each facilitysource described under 252:100-37-25(b)(1)(C)252:100-37-25(b)(1)(A)(iii), both before and after the improvement or installation of any applicable control system, or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

~~(E)(v)~~ Aa description of the procedures and methods used to determine the emissions of organic solventsVOCs.

~~(2)(B)~~ theThe plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. ~~The plant wide emission reduction plan may include decreases in emissions accomplished through installation~~

~~or improvement of a control system or through physical or operational changes to facilities, including permanently reduced production or closing a facility, located on the premises of a surface coating operation.~~

~~(3)~~ (2) Compliance with a plant-wide emission plan. ~~the~~The implementation of a plant-wide emission reduction plan instead of compliance with the emissions VOC content limitation prescribed in 252:100-37-25(a) ~~has been~~ must be expressly approved by the Executive Division Director. Upon approval, any emissions in excess of those established for each facility under the plan shall be a violation of this Subchapter.

~~(e) Emission limitation.~~ No person shall discharge into the atmosphere more than 3,000 pounds of organic materials in any one day nor more than 450 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing such solvent is employed or applied, unless such discharge has been reduced by at least 85 percent or has applied DACT or better as determined by the Executive Director.

~~(d)~~ (c) Exemption. Owners or operators of sources that are computed to emit less than 100 pounds of organic solvent VOC per 24 hr./day 24-hour day are exempt from the requirements of this Section.

~~(e)~~ (d) Alternate standard. Emissions The use of coatings with VOC contents in excess of those permitted by 252:100-37-25(a) through ~~252:100-37-25(d)~~ or 252:100-37-25(b) are allowable if both of the following conditions are met:.

(1) VOC emissions are reduced to the quantity that would result in the absence of control occur if the coating used complied with the VOC content allowed in 252:100-37-25(a) are reduced by:

(A) 90 percent, by incineration; or,

(B) 85 percent, by absorption/adsorption; or, any other process of equivalent reliability and effectiveness; and,

(C) any other process of equivalent reliability and effectiveness.

(2) ~~no~~ No air pollution, as defined by the Clean Air Act, results.

252:100-37-26. Clean up with organic solvents VOCs

Emissions of ~~organic materials to the atmosphere from the clean up with organic solvents, as defined in 252:100-37-2,~~ VOCs of any article, machine, or equipment or other contrivance used in applying coatings controlled in 252:100-37-25(a) through ~~252:100-37-25(d)~~ 252:100-37-25(d) shall be included with the other emissions of ~~organic solvents from the coating line or operation~~ counted in determining compliance with those rules.

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35. Waste gas disposal

(a) Ethylene manufacturing emissions. No ~~person~~owner or operator shall build or install ~~or permit the building or installation of~~ any ethylene manufacturing plant unless the waste-gas stream under normal operating conditions is properly burned at 1,300°F- for 0.3 seconds or greater in a direct-flame afterburner equipped with an indicating pyrometer ~~which~~that is positioned in the working area for the operator's ready monitoring or an equally effective catalytic vapor incinerator also with pyrometer. Proper burning of the waste-gas stream is defined as reduction by 98 percent of the ethylene emissions originally present in the waste-gas stream.

(b) Vapor blowdown. Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no ~~person~~owner or operator shall allow ~~emit~~ organic VOC gases to be emitted to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the Executive Division Director.

252:100-37-36. Fuel-burning and refuse-burning equipment

~~No person shall cause or allow the emission of hydrocarbons or other organic materials from any fuel burning or refuse burning equipment.~~ All ~~such~~fuel-burning or refuse-burning equipment shall be operated as to minimize ~~such~~ emissions of VOC. Among other things, such operation shall assure, based on manufacturer's data and good engineering practice, that the equipment is not overloaded, that it is properly cleaned, operated, and maintained, and that temperature and available air are sufficient to provide essentially complete combustion.

252:100-37-37. Effluent water separators

A single-compartment or multiple-compartment VOC/water separator that receives effluent water containing 200 gal/d (760 l/d) or more of any VOC from any equipment processing, refining, treating, storing or handling VOCs shall comply with one of the following sets of conditions.

(1) The container totally encloses the liquid contents and all openings are sealed. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) The container is equipped with an external floating roof that consists of a pontoon type or double-deck type cover, or a fixed roof with an internal-floating cover. The cover shall rest on the surface of the contents and be equipped with a closure seal, or seals, to close the space between the cover edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) The container is equipped with a vapor-recovery system that consists of a vapor-gathering system capable of

collecting the VOC vapors and gases discharged and a vapor-disposal system capable of processing such vapors and gases to prevent their emission to the atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(4) The container is approved prior to use by the Division Director and is equipped with controls that have efficiencies equal to the controls listed in 252:100-37-37(1) through (3).

252:100-37-38. Pumps and compressors

(a) Any pump or compressor handling VOCs shall meet the following conditions.

(1) Rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency.

(2) Reciprocating type pumps and compressors are equipped with packing glands.

(3) Emissions from the drain recovery system do not exceed 2 in.³ of liquid VOC in any 15-minute period per pump or compressor at standard conditions.

(b) Pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK are exempt from 252:100-37-38.

PART 9. PERMIT BY RULE FOR VOC STORAGE AND LOADING FACILITIES

252:100-37-41. Applicability

Any new VOC storage and/or loading facility may be constructed and any existing VOC storage and/or loading facility may be operated under this Part if the following conditions are met.

(1) The facility is located in an area designated as unknown or attainment for ozone.

(2) Each storage vessel located at the facility meets one of the following criteria.

(A) The storage capacity is 19,813 gal (75 m³) or less.

(B) The storage capacity is greater than 19,813 gal (75 m³) but less than 39,889 gal (151 m³) and the liquid stored has a maximum true vapor pressure less than 2.18 psia (15.0 kPa).

(C) The storage capacity is greater than or equal to 39,889 gal (151 m³) and the liquid stored has a maximum true vapor pressure less than 0.51 psia (3.5 kPa).

(3) The facility is designed to have a throughput of 19,998 gal/d (75,700 l/d) or less from the aggregate loading pipes.

(4) The facility meets the requirements of 252:100-7-60(a), (b), and (c).

252:100-37-42. Permit-by-rule requirements

(a) An owner or operator shall submit annual emission inventory reports and meet the requirements of 252:100-37-5, regarding operation and maintenance, and 252:100-37-38, regarding pumps and

compressors.

(b) No owner or operator shall build or install a new stationary VOC storage vessel with a capacity of 400 gal (1.5 m³) or greater unless it is equipped with a permanent submerged fill pipe as defined in 252:100-37-2.

(c) No owner or operator shall build or install a stationary VOC loading facility unless each loading pipe is equipped with a system for submerged filling of tank trucks or trailers which is installed and operated to maintain a 97 percent submergence factor.

(d) The owner or operator of a vessel with a storage capacity greater than 10,567 gal (40 m³) shall maintain records on site of the dimensions of the storage vessel and an analysis showing the capacity.

LIST OF ORGANIC COMPOUNDS WITH NEGLIGIBLE
PHOTOCHEMICAL REACTIVITY
40 CFR 51.100(s)(1) as it existed on July 1, 1998
From the Federal Register dated 4/9/98

Sec. 51.100 Definitions.

(s) Volatile organic compounds (VOC)

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
ethane;
methylene chloride (dichloromethane);
1,1,1-trichloroethane (methyl chloroform);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
chlorodifluoromethane (HCFC-22);
trifluoromethane (HFC-23);
1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1-dichloro 1-fluoroethane (HCFC-141b);
1-chloro 1,1-difluoroethane (HCFC-142b);
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
pentafluoroethane (HFC-125);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trifluoroethane (HFC-143a);
1,1-difluoroethane (HFC-152a);
parachlorobenzotrifluoride (PCBTf);
cyclic, branched, or linear completely methylated siloxanes;
acetone;
perchloroethylene (tetrachloroethylene);
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
difluoromethane (HFC-32);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);

chlorofluoromethane (HCFC-31);
1-chloro-1-fluoroethane (HCFC-151a);
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
(CF₃)₂CF₂OCH₃);
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane
(CF₃)₂CF₂OC₂H₅);
methyl acetate

and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

MINUTES
AIR QUALITY COUNCIL
FEBRUARY 17, 1999
Department of Environmental Quality
707 North Robinson, Oklahoma City, OK
Multi-Purpose Room

Council Members Present

William B. Breisch, Chairman
Larry Canter
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz
Gary Kilpatrick

Council Members Absent

Meribeth Slagell

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Guests Present

**see attached list

Staff Present

Scott Thomas
Joyce Sheedy
Max Price
Leon Ashford
Myrna Bruce

PUBLIC MEETING

Notice of Public Meeting for February 17, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Slagell did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the December 15, 1998 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Dr. Canter. Roll call as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Election of Officers - Floor was opened for nominations for Chairman for Calendar Year 1999. Dr. Canter nominated Mr. Breisch for Chairman and the second was made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - abstain. Nominations were then requested for Vice Chairman. Mr. Kilpatrick nominated Dr. Canter and Dr. Grosz made the second. Roll call as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - abstain; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARINGS

Protocol Statement – As protocol officer, Mr. Terrill convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Terrill entered into the hearing records the Hearing Agenda and Oklahoma Register Notice.

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

Mr. Terrill called upon Dr. Joyce Sheedy who advised that proposed changes primarily simplify language and correct grammar and format but also include fourteen substantive changes. Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. The other changes include:

1. an added definition of drilling or production facility
2. an added definition of lease custody transfer
3. an added new subsection 252:100-37-3(c)
4. a revised 252:100-37-4(b) to exempt methanol storage vessels at drilling or production sites
5. a revised the alternate standard 252:100-37-25(d)
6. and added new subparagraphs (A), (B) (C) to 252:100-37-41(2)

Dr. Sheedy reiterated eight substantive changes that had been previously proposed.

1. a revision of the definition of Volatile Organic Compound (VOC) 252:100-37-2
2. a deleted 252:100-37-3(a)
3. an added 252:100-37-15(c) to exempt storage tanks subject to NSPS subpart K, Ka, Kb
4. an added 252:100-37-16(c) to exempt loading facilities that are subject to NSPS subpart XX or NESHAP subpart R
5. a deleted 252:100-37-25(c)
6. a deleted first sentence in 252:100-37-36 to eliminate an impossible requirement
7. an added 252:100-37-38(b) to exempt pumps and compressors that are subject to equipment leak standards in NSPS subparts VV, GGG, or KKK from Section 38
8. an added part 9 Permit by Rule for VOC storage and loading facilities

Dr. Sheedy submitted the written letter from EPA dated February 10, 1999 indicating support for the proposed revisions for hearing record.

Dr. Sheedy then stated it was staff's recommendation that Council forward to the Environmental Quality Board at its March 5, 1999 meeting.

Council discussion followed which included question from Ms. Myers regarding the meaning of "expressly" in 252:100-37-25(b)(2). Ms. Hoffman explained the intent of the word to be that the approval must be in writing from the Division Director. Wording was changed.

Ms. Sandra Rennie, EPA, stated that these changes supported the SIP and also complimented EPA's own current program of simplifying language in their rules.

Mr. Breisch entertained a motion to send to this rule to the EQ Board in March. Mr. Wilson made motion with second made by Dr. Grosz. Roll call as follows: Mr. Wilson – aye; Dr. Grosz – aye; Dr. Canter – aye; Mr. Kilpatrick – aye; Ms. Myers – aye; Mr. Branecky – aye; Mr. Breisch – aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

Mr. Terrill called upon Dr. Joyce Sheedy who advised that proposed changes primarily simplify language and correct grammar and format but also include substantive changes. Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. She then submitted, for the record, the written letter from EPA dated February 10, 1999 indicating support for these proposed revisions.

Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. The other changes include:

1. an added definition of drilling or production facility to 252:100-39-30(a)
2. a revised the definition of aerospace in 252:100-39-47(b) to make clear that it includes rework
3. an added 3252:100-9-30(b)(3) and (4) to exempt storage vessels subject to NSPS Ka and Kb or MACT standards CC or G from Section 30

Previous proposals were:

1. a definition of VOC
2. a correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)
3. an addition of language to 252:100-39-41(c) that exempts facilities that have an annual throughput less than 120,000 gallons or storage capacity less than 10,000 gallons from Section 41

Sandra Rennie re-stated EPA's support of subchapter 37 also applies to subchapter39.

Following discussion, Mr. Breisch entertained a motion to recommend this rule to the EQBoard at its March 5 meeting. Mr. Kilpatrick made that motion with the second made by Dr. Grosz. Roll call as follows: Mr. Wilson – aye; Dr. Grosz – aye; Dr. Canter – aye; Mr. Kilpatrick – aye; Ms. Myers – aye; Mr. Branecky – aye; Mr. Breisch – aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

NEW BUSINESS

Council discussed the possibility of changing the format of the Council meetings to make the briefing session shorter and less formal and the hearing sessions to include more of the discussions involved in the changes to rules as matter of record through court reporter transcripts. It was decided to make this discussion an agenda item at the next meeting to obtain additional input from audience.

Mr. Terrill advised that the monthly financial information and detailed list of tasks that would be billed to Title V expenditures requested at Council's last meeting is in rough draft form and would be made available to the Council Subcommittee at a meeting in March.

Mr. Breisch suggested that a management efficiency study that would determine staffing priorities should involve Council, staff, and industry to formulate scope and funding.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be April 20, 1999 at the Department of Environmental Quality Multi-Purpose Room, First Floor, 707 North Robinson, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

Eddie Terrill, Director
Air Quality Division



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

FEBRUARY 17, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. SANDRA REINIE	EPA - REGION 6	(214) 665-7367
2. Melissa Sims	DEQ AQ	702 4121
3. Bob Kellogg, SJC	OKC	235-0808
4. John Snow	OKC	672-3400
5. FRANK GONDON	EQ BOARD	
6. Kirk Rutter	Boeing-Tulsa	918-932-3178
7. David Bradshaw	" "	" " 207.
8. Wiggins Clark	Burco, Inc	918-594-636
9. Pat Davenport	National Std. Stillwater	405/378-88
10. Thomas Moffatt	DEQ AQD	405 702 410
11. Jane Hughes	Cardinal Engineer	842-1066
12. K. Edling	ARMSTRONG	405-307-1283
13. Mike Wood	Weyerhaeuser	501-624-8569
14. Rich. Tamm	OGA	580-233-5800
15. Art Muebgen	DEQ Board	580-233-5800
16. Carol Bank	Jinco AFB	405-736-599
17. Rex H. Tshmael	Halliburton, P.O. Drawn 431, Duncan	580-251-2298
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		

AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-37

Subchapters or Sections Involved – [new, amended or revoked]

Control of Emissions of Organic Materials [AMENDED]

On FEBRUARY 17, 1999 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

X permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: 2-17-99

Chair or Designee

VOTING TO APPROVE:

Joel Wilson
Fred Grosz
Larry Canter
Gary Kilpatrick
Sharon Myers
David Branecky
William B. Breisch

ABSTAINING:

VOTING AGAINST:

ABSENT:

Meribeth Slagell

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, March 5, 1999
Association of County Commissioners of Oklahoma
429 NE 50th Street, Oklahoma City, Oklahoma

1. Call to Order - Herschel Roberts
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 10, 1998 Regular Meeting
4. Election of Officers (Chair and Vice-Chair) for 1999

5. **OAC 252:100 Air Pollution Control:**

Changes are proposed to five subchapters. The changes fall into three general groups.

- Proposed revisions to both Subchapters 37 (Control of Emissions of Organic Materials) and 39 (Emission of Organic Materials in Nonattainment Areas) include 1) definitional changes, including most notably the term "volatile organic compound (VOC)" and related terms; 2) exemption of certain types or sizes of VOC loading and storage vessels and facilities and certain pumps and compressors from some state requirements and standards, especially when the equipment or facilities are subject to related federal requirements; 3) deletion of a rule which allows the emission of 3,000 pounds per day or 450 pounds per hour of organic materials before controls are required; 4) revision of an alternate emission standard for coating operations; 5) correction of the impossible requirement that no emission of hydrocarbons or organic material is allowed from fuel-burning or refuse-burning equipment; and 6) addition of provisions for permit by rule for VOC storage and loading facilities.
- Proposed amendments to Subchapter 7 (Permits for Minor Facilities) will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the current lower tonnage limits for PBR and general permits. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Proposed amendments to Subchapter 8 (Permits for Part 70 Sources) will update the adoption by reference of the requirements for case-by-case MACT determinations contained in federal rules to July 1, 1998.
- Proposed amendments to Subchapter 5 would increase the annual operating fees for both Part 70 and minor emission sources. Proposed revisions to Subchapter 7 will increase the applicability determination fee and individual application fees for minor facilities. Subchapter 8 is revised to increase the fee for applicability determinations, consistent with the proposed increase in Subchapter 7.

- A. Presentation— David Branecky, Air Quality Council member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

6. **OAC 252:200 and 205 Hazardous Waste Management:**

The state hazardous waste rules have been revised as part of the DEQ's effort to simplify and streamline its rules. The rewrite is not intended to change the requirements of the rules, but to make them clearer and more concise. Due to extensive reworking of the language and rearrangement of the text, the DEQ believes it is more understandable and straightforward to revoke Chapter 200 in its entirety and replace it with a new chapter, Chapter 205, than to present an underline/strike-out version of Chapter 200. This revocation and replacement was done last year by emergency rulemaking; it is proposed to repeat the action as permanent rulemaking.

Chapter 205 as proposed also contains three categories of substantive changes. The first is update of the adoption by reference of federal hazardous waste regulations to July 1, 1998. The second is to delineate certain hazardous waste regulatory duties which remain with the U.S. Environmental Protection Agency. The third is to clarify that although federal hazardous waste regulations allow conditionally exempt small quantity generators of hazardous waste to dispose of their hazardous waste in certain solid waste landfills, this practice is prohibited by Oklahoma statute.

- A. Presentation— David Bradshaw, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

7. **OAC 252:400 Radiation Management:**

The proposed new rules support Oklahoma's pending application to the U.S. Nuclear Regulatory Commission (NRC) for State Agreement status. NRC approval of Oklahoma's application will shift regulation of source, byproduct and special nuclear material from the NRC to the DEQ.

New Subchapter 2 forms the framework for the State Agreement Program and the incorporation by reference of federal NRC regulations from Title 10 of the Code of Federal Regulations. Appendices G through P mirror NRC categories and set fees for Oklahoma's State Agreement Program. All fees in these Appendices are less than the current federal fees. Due to the requirement that fees must be adopted during the time the legislature is in session, these Appendices are presented to the Board before the remainder of Subchapter 2's State Agreement rules. However, these fee schedules will not go into effect until the date the State Agreement program becomes effective.

- A. Presentation— Dr. David Gooden, Radiation Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

8. **OAC 252:510 Municipal Solid Waste Landfills:**

The proposed addition of Subchapter 16 addresses new standards for the exclusion of hazardous, PCB, radioactive, or other restricted wastes from disposal in a municipal solid waste landfill (MSWLF). The rules require owners/operators to submit a new or amended Waste Exclusion Plan for approval by January 1, 2000, and sets standards for the plan. The amendment to 252:510-17-5 incorporates the Subchapter 16 provisions in the current rule requiring exclusion of unacceptable wastes.

The proposed amendment to 252:510-17-2(d) would require owners/operators of MSWLFs and nonhazardous industrial waste landfills to establish and maintain vegetative cover, or other

alternatives approved by DEQ, over waste areas that extend above the natural horizon if that area will not be receiving more waste in the upcoming year. The rule is designed to enhance dust control, erosion control and aesthetics at MSWLFs and nonhazardous industrial waste landfills once they begin placing waste above ground.

The amendment to 252:510-21-6 would clarify that the pay-in period under the Trust Fund financial assurance mechanism, which may be used to ensure the costs for closure and post-closure of the landfill, is limited to a maximum of 15 years. This change is consistent with the change in law provided by SB 1025 passed during the 1998 legislative session.

- A. Presentation— Steve Mason, Solid Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

9. OAC 252:520 Solid Waste Management:

The proposed amendment to 252:520-9-11 would require owners/operators of landfills to establish and maintain vegetative cover, or other alternatives approved by DEQ, over waste areas that extend above the natural horizon if that area will not be receiving more waste in the upcoming year. The rule is designed to enhance dust control, erosion control and aesthetics at landfills once they begin placing waste above ground.

Changes to Subchapter 21 implement revisions to the waste tire recycling program as required by SB 1218 and SB 986 passed during the 1998 session.

The amendment to 252:510-23-51 would clarify that the pay-in period under the Trust Fund financial assurance mechanism, which may be used to ensure the costs for closure and post-closure of solid waste disposal sites, is limited to a maximum of 15 years. This change is consistent with the change in law provided by SB 1025 passed during the 1998 legislative session.

- A. Presentation— Steve Mason, Solid Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

10. OAC 252:640 and 641 Individual and Small Public On-Site Sewage Disposal Systems:

252:640 is being revoked. The rules in Chapter 640 were clarified, substantially rewritten and reorganized through the re-right/de-wrong process and moved to 252:641. Subchapter 11 of Chapter 700 has also been rewritten and moved to new Chapter 641; among the revisions is a recategorization of certified installers. The purpose of these rules is to establish procedures for the construction, installation and operation of individual and small public on-site sewage disposal systems and to establish procedures for persons seeking certification as installers of individual sewage disposal systems.

- A. Presentation— Gary Collins, Director, Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

11. **OAC 252:700 Water and Wastewater Works Operator Certification:**
This action is a corresponding action to agenda item 10. This rule change would revoke current Subchapter 11 of Chapter 700 (relating to certification for septic tank system installers), the provisions of which are included in new Chapter 641.
 - A. Presentation— Gary Collins, Director, Environmental Complaints and Local Services Division
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent adoption
12. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)
13. Executive Director's Report
14. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak..

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

**SUBCHAPTER 37. CONTROL OF EMISSION OF VOLATILE ORGANIC
MATERIALS COMPOUNDS (VOCs)**

PART 1. GENERAL PROVISIONS

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252:100-37-2.	Definitions	1
252:100-37-3.	Applicability and compliance	2
252:100-37-4.	Exemptions	3
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**PART 3. CONTROL OF ~~VOLATILE ORGANIC COMPOUNDS~~VOCs IN STORAGE AND
LOADING OPERATIONS**

252:100-37-15.	Storage of volatile organic compounds VOCs	4
252:100-37-16.	Loading of volatile organic compounds VOCs	5
252:100-37-17.	Effluent water separators [AMENDED AND RENUMBERED TO 252:100-37-37]	6
252:100-37-18.	Pumps and compressors [AMENDED AND RENUMBERED TO 252:100-37-38]	7

PART 5. CONTROL OF ~~ORGANIC SOLVENTS~~VOCs IN COATING OPERATIONS

252:100-37-25.	Coating of parts and products	7
252:100-37-26.	Clean up with organic solvents VOCs	9

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35.	Waste gas disposal	10
252:100-37-36.	Fuel-burning and refuse-burning equipment	10
252:100-37-37.	Effluent water separators	10
252:100-37-38.	Pumps and compressors	11

PART 9. PERMIT BY RULE FOR VOC STORAGE AND LOADING FACILITIES

252:100-37-41.	Applicability	11
252:100-37-42.	Permit-by-rule requirements	11

PART 1. GENERAL PROVISIONS

252:100-37-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration prevented. The purpose of this Subchapter is to reduce the formation of ozone by controlling the emissions of volatile organic compounds (VOCs) from stationary sources.~~

252:100-37-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Acrylic" means a chemical coating containing polymers or co-polymers of acrylic or substitute acrylic acid in combination with ~~suitable resinous modifiers and its.~~ The primary mode of cure is solvent evaporation.

"Alkyd primer" means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional ~~paint coating.~~

"Custom product ~~finishes finish~~" means a proprietary chemical coating designed for a specific customer and ~~end use.~~

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~

"Drilling or production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

"Effluent water separator" means any ~~tank, box, sump, or other~~ container in which any ~~material compound~~ VOC floating on, or entrained in, or contained in water entering ~~such tank, box, sump or other~~ the container is physically separated and removed from ~~such the~~ water prior to ~~outfall, drainage, or recovery of such~~ discharge of the water from the container.

"Epoxy" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. ~~Epoxies prime~~ The primary mode of cure involves a chemical reaction between the epoxy and the cross-linking agent.

"Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage vessels or automatic transfer facilities to pipelines or any other form of transportation.

~~"Maintenance finishes finish" means a chemical coating formulated to form a protection of that protects a given substrate to from adverse chemical or physical eendition conditions.~~

"Nitrocellulose ~~lacquers lacquer~~ (NC lacquer)" means a chemical coating containing nitrocellulose and suitable resinous modifiers, and whose. The primary mode of cure is solvent evaporation.

~~"Organic materials" means chemical compounds of carbon excluding~~

~~carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~

~~"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions:~~

~~(A) theThe bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled.~~

~~(B) theThe bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.~~

~~(C) theThe bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel, or.~~

~~(D) other equivalent methods acceptable to the Executive Director.~~

~~"Vinyl" means a chemical coating containing plasterizedplasticized or unplasterizedunplasticized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products and the. The primary mode of cure is solvent evaporation.~~

~~"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.~~

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-37-3. Applicability and compliance

~~(a) New sources. Any new source calculated to emit an organic material to the atmosphere either as a solvent or a reactant will be subject to permitting under OAC 252:100-7, and with the application of Best Available Control Technology.~~

~~(b) Compliance schedule.~~

~~(1) All equipment and process previously regulated under OAC 252:100-37 and 252:100-39 and its effective dates of July 1, 1972 and December 8, 1974 must still abide by those dates.~~

~~(2)(a) New sources. In all areas except AQMA's, thisThis Subchapter shall apply to all new installations of any equipment or processes described in this Subchapter, after the effective date of December 28, 1974.~~

~~(3)(b) Existing sources. Provisions Sections 15, 16, 35, 36, 37, and 38 of this Subchapter relating to control of VOC shall apply to all new and existing installations of any equipment or processes in use and described in this Subchapter that are located in Air Quality Maintenance Areas (AQMA's) as classified by the Environmental Protection Agency with regard to hydrocarbons and photochemical oxidants Tulsa County or Oklahoma County, and become after the effective on June 8, 1979, provided, however, that existing installations shall have twenty four (24) months from the effective date within which to comply with this Subchapter date of June 9, 1981. Except that the The retrofit requirements for crude petroleum storage tanks will be limited vessels apply only to tanks vessels of greater than 10,000 barrel 420,000 gal (1,590 m³) capacity.~~

(c) Permit-by-rule facilities. This Subchapter does not apply to facilities registered under the VOC storage and loading facility permit-by-rule except as provided in Part 9.

~~(4) Provisions of this Subchapter relating to the control of organic solvent shall be as specified in the applicable Section.~~

252:100-37-4. Exemptions

~~(a) Organic materials as used in VOCs with vapor pressures less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from 252:100-37-15 through 252:100-37-18, 252:100-37-16 and 252:100-37-27 and 252:100-37-28, 252:100-37-35 through 252:100-37-38 will not include: Methane (CH₄) or any material otherwise included which has vapor pressure of less than 1.5 pounds per square inch absolute under actual storage conditions.~~

~~(b) Petroleum or condensate stored, processed, treated, loaded, and/or treated transferred at a drilling or production facility prior to lease custody transfer is exempt from this Subchapter. This exemption also includes transfer and loading operations Methanol stored at a drilling or production facility for use on site is also exempt from this Subchapter.~~

~~(c) The storage, loading, processing, manufacturing or burning of organic materials VOCs on a farm or ranch, when such VOCs are used for agricultural purposes on farms and ranches said farm or ranch, is exempted from all provisions of 252:100-37-15 through 252:100-37-18 and 252:100-37-27 and 252:100-37-28, 252:100-37-16, 252:100-37-35 through 252:100-37-38, 252:100-39-41, and 252:100-39-42.~~

252:100-37-5. Operation and maintenance

Any vapor-loss control devices, packing glands and mechanical seals required by this Subchapter shall be properly installed, maintained, and operated.

PART 3. CONTROL OF VOLATILE ORGANIC COMPOUNDS VOCs IN STORAGE AND LOADING OPERATIONS

252:100-37-15. Storage of volatile organic compounds VOCs

(a) Storage capacities greater than 40,000 gallons. No person

~~shall build, sell, or install or permit the building or installation of any new stationary tank, reservoir or other container~~ Each VOC storage vessel with a capacity of more than 40,000 gallons (150,000 liters) capacity which will be used for storage of any organic materials, unless such tank, reservoir or other container is total (151 m³) shall be a pressure tank vessel capable of maintaining working pressures sufficient at all times ~~tethat~~ prevent organic vapor or gas the loss of VOC to the atmosphere or is designed, and will be built and shall be equipped with one of the following vapor-loss control devices.

(1) ~~AAn external floating roof, consisting of that consists of a pontoon type, internal floating cover reef, or double-deck type which will cover, or a fixed roof with an internal-floating cover.~~ The cover shall rest on the surface of the liquid contents ~~and at all times (i.e., off the leg supports), except during initial fill, when the storage vessel is completely emptied, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible.~~ The floating roof shall be equipped with a closure seal, or seals, to close the space between the ~~reef cover~~ edge and ~~tank vessel~~ wall. ~~Such floating~~ Floating roofs are not appropriate control devices if the ~~organic materials~~ VOCs have a vapor pressure of ~~111.1 pounds per square inch absolute psia (568 mm Hg) (76.6 kPa)~~ or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(2) A vapor-recovery system ~~consisting that consists of a vapor-gathering system capable of collecting 85 percent or more of the uncontrolled organic material VOCs that would otherwise be emitted to the atmosphere, and a vapor-disposal system capable of processing such organic material so as these VOCs to prevent their emission to the atmosphere and with all tank.~~ All vessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(3) Other equipment or ~~means~~ methods that are of equal efficiency for purposes of air pollution control ~~as may be used when approved by the Executive Division Director prior to installation.~~

(b) Storage capacities of 400 gallons and greater. ~~No person shall build, sell, or install or permit the building or installation of a new stationary organic material~~ Each VOC storage tank vessel with a capacity of 400 gallons (1520 liters) gal (1.5 m³) or more unless such tank ~~is~~ shall be equipped with a permanent submerged fill pipe or is equipped with an organic material a vapor-recovery system as required in 252:100-37-5(a) 252:100-37-15(a) (2).

(c) Exemptions. VOC storage vessels that are subject to equipment standards (e.g., a fixed roof in combination with an internal floating cover, an external floating roof, or a closed vent system and control device) in 40 CFR 60 Subparts K, Ka, or Kb are exempt from the requirements of 252:100-37-15(a) and (b).

252:100-37-16. Loading of ~~volatile organic compounds~~ VOCs

(a) Loading facilities with throughput greater than 40,000 gallons/day.

~~(1) No person shall build or install or permit the building or installation of a stationary organic material. Each VOC loading facility having with a throughput greater than 40,000 gallons per daygal/d (151,416 l/d) from its aggregate loading pipes unless such loading facility is shall be equipped with a vapor-collection and disposal system or unless all tank trucks or trailers are bottom loading loaded with closed hatches closed, properly installed, in good working order and in operation.~~

~~(2)(1) Vapor-collection and disposal system. When loading in a vapor collection and disposal system is effected through the hatches of a tank truck or trailer with a loading arm equipped with a vapor collecting adaptor, pneumatic, hydraulic or other mechanical means shall be provided to force a vapor tight seal between the adaptor and the hatch.~~

~~(A) Vapor-collection portion of the system.~~

~~(i) When loading VOCs through the hatches of a tank truck or trailer, using a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic, or mechanical means shall be provided to ensure a vapor-tight seal between the adaptor and the hatch.~~

~~(3) A means shall be provided in either system to prevent organic material drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.~~

~~(4)(ii) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which that make vapor-tight connections and which must be closed when disconnected or which close automatically when disconnected.~~

~~(5)(B) Vapor-disposal portion of the system. T h e vapor-disposal portion of the system shall consist of one of the following:~~

~~(A)(i) a vapor-liquid absorber system with a minimum recovery efficiency of 90 percent by weight of all the organic material VOC vapors and gases entering such disposal system; or,~~

~~(B)(ii) a variable-vapor space tank, compressor, and fuel-gas system of sufficient capacity to receive all organic material VOC vapors and gases displaced from the tank trucks and trailers being loaded.~~

~~(2) Prevention of VOC drainage. A means shall be provided in either loading system specified in subsection (a) to prevent VOC drainage from the loading device when it is removed from any tank truck or trailer, or to accomplish complete drainage before removal.~~

(b) Loading facilities with throughput equal to or less than 40,000 gallons per day.

(1) ~~No person shall build or install or permit the building or installation of a stationary organic material. Each loading pipe~~

~~at a VOC loading facility having with an aggregate throughput of 40,000 gallons (150,000 liters) per daygal/d (151,416 l/d) or less from its aggregate loading pipes unless each is shall be equipped with a system for submerged filling of tank trucks or trailers properly installed, in good working order and operating in such a manner that which is installed and operated to maintain a 97 percent submergence factor is maintained.~~

~~(2) Paragraph 252:100-37-16(b) (1) applyapplies to any facility whichthat loads organic materialsVOCs into any tank truck or trailer with a capacity greater than 200 gal (757 l) which is designed for transporting organic materials and having a capacity in excess of 200 gallons (760 liters)VOCs.~~

(c) Exemptions. Loading facilities subject to the requirements of 40 CFR 60 Subpart XX or 40 CFR 63 Subpart R are exempt from the requirements of 252:100-37-16(a) and (b).

252:100-37-17. Effluent water separators [AMENDED AND RENUMBERED TO 252:100-37-37]

~~No person shall build or install or permit the building or installation of a single or multiple compartment organic material water separator which receives effluent water containing 200 gallons (760 liters) a day or more or any organic material from any equipment processing, refining, treating, storing or handling organic materials unless the compartment receiving said effluent water is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:~~

~~(1) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(2) A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover, which will rest on the surface of the contents and is equipped with a closure seal, or seals, to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. The oil removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress;~~

~~(3) A container equipped with a vapor recovery system, consisting of a vapor gathering system capable of collecting the organic material vapors and gases discharged and a vapor disposal system capable of processing such organic material vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas tight except when gauging or sampling is taking place. The organic material removal devices shall be gas tight except when manual skimming, inspection and/or repair is in progress; or,~~

~~(4) Containers equipped with controls of equal efficiency provided such equipment is submitted to and approved by the Executive Director.~~

252:100-37-18. Pumps and compressors [AMENDED AND RENUMBERED TO 252:100-37-38]

~~No person shall build or install or permit the building or installation of any pump or compressor handling organic material compounds unless rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency; or reciprocating type pumps and compressors are equipped with packing glands properly installed and in good working order such that the emissions from the drain recovery system are limited to two cubic inches of liquid organic material in any 15 minute period at standard conditions per pump or compressor.~~

PART 5. CONTROL OF ORGANIC SOLVENTS/VOCs IN COATING OPERATIONS

252:100-37-25. Coating of parts and products

~~(a) Standards. No owner or operator subject to the provision of this Section shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any organic solvent in excess of the amounts, listed in the following table, per gallon of coating, excluding water, delivered to the coating applicator. No owner or operator of any coating line or coating operation with VOC emissions shall use coatings that as applied contain VOCs in excess of the amounts listed below. (Limits are expressed in pounds of VOC per gallon of coating, excluding the volume of any water and exempt organic compounds.)~~

~~Type of coating ————— Pounds of organic solvent per gallon of paint (less water)~~

	Jan. 79	Jan. 81	Jan. 82
	limit	limit	limit
Alkyd primer	5.6	5.2	4.8
Vinyls	6.4	6.4	6.0
NC lacquers	6.8	6.6	6.4
Acrylics	6.4	6.4	6.0
Epoxies	5.6	5.2	4.8
Maintenance finishes	5.6	5.2	4.8
Custom products finishes	6.8	6.6	6.5

- (1) Alkyd primer - 4.8
- (2) Vinyls - 6.0
- (3) NC lacquers - 6.4
- (4) Acrylics - 6.0
- (5) Epoxies - 4.8
- (6) Maintenance finishes - 4.8
- (7) Custom products finishes - 6.5

~~(b) Plant-wide emission plan. — An owner/operator may develop a plant wide emission plan instead of having each coating line comply with the emission limitations prescribed in the table in (a) of this section, provided:~~

- (1) Development of a plant-wide emission plan. An owner or

operator may develop a plant-wide emission plan instead of having each coating line comply with the VOC content limitations in 252:100-37-25(a), if the following conditions are met.

~~(A) the~~The owner or operator demonstrates, ~~by means of approved material balance or manual emission test methods, by the methods in 252:100-5-2.1(d)~~ that sufficient reductions in ~~organic solvents~~ emissions of VOCs may be obtained by controlling other ~~facilities~~sources within the plant to the extent necessary to compensate for all excess emissions ~~which that~~ result from one or more coating lines not achieving the ~~prescribed~~ limitation. Such demonstration shall be ~~described~~made in writing and shall include:

~~(A)(i)~~ Aa complete description of the coating line or lines ~~which that will can~~ not comply with the ~~emission~~VOC content limitation in 252:100-37-25(a);

~~(B)(ii)~~ Quantification of emissions, in terms of pounds per day of ~~organic solvents~~VOCs, which are in excess of the ~~prescribed emission~~VOC content limitation for each coating line described under ~~252:100-37-25(b)(1)(A)~~252:100-37-25(b)(1)(A)(i);

~~(C)(iii)~~ Aa complete description of each ~~facility and the related control system, if any, for those facilities within the plant where~~how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described under ~~252:100-37-25(b)(1)(A)~~252:100-37-25(b)(1)(A)(i) and the date on which such reductions will be achieved;

~~(D)(iv)~~ Quantification of emissions, in terms of pounds per day of ~~organic solvents~~VOCs, for each ~~facility~~source described under ~~252:100-37-25(b)(1)(C)~~252:100-37-25(b)(1)(A)(iii), both before and after the improvement or installation of any applicable control system, or operational changes to such a facility or facilities to reduce emissions ~~and the date on which such reductions will be achieved; and,~~

~~(E)(v)~~ Aa description of the procedures and methods used to determine the emissions of ~~organic solvents~~VOCs.

~~(2)(B) the~~The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. ~~The plant wide emission reduction plan may include decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to facilities, including permanently reduced production or closing a facility, located on the premises of a surface coating operation.~~

~~(3)(2)~~ Compliance with a plant-wide emission plan. t h e T h e implementation of a plant-wide emission reduction plan instead of compliance with the ~~emissions~~VOC content limitation prescribed in 252:100-37-25(a) ~~has been expressly~~must be approved in writing by the ~~Executive~~Division Director. Upon approval, any emissions in excess of those established for each

facility under the plan shall be a violation of this Subchapter.
~~(c) Emission limitation. No person shall discharge into the atmosphere more than 3,000 pounds of organic materials in any one day nor more than 450 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing such solvent is employed or applied, unless such discharge has been reduced by at least 85 percent or has applied BACT or better as determined by the Executive Director.~~

~~(d)(c) Exemption. Owners or operators of sources that are computed to emit less than 100 pounds of organic solvent VOC per 24 hr./day~~24-hour day are exempt from the requirements of this Section.

~~(e)(d) Alternate standard. Emissions~~The use of coatings with VOC contents in excess of those permitted by 252:100-37-25(a) through 252:100-37-25(d) are or 252:100-37-25(b) is allowable if both of the following conditions are met:.

(1) VOC emissions are reduced to the quantity that would result in the absence of control are reduced occur if the coating used complied with the VOC content allowed in 252:100-37-25(a) by:

(A) 90 percent, by incineration; or,

(B) 85 percent, by absorption or any other process of equivalent reliability and effectiveness; and, absorption/adsorption; or,

(C) any other process of equivalent reliability and effectiveness.

(2) ~~no~~No air pollution, as defined by the Clean Air Act, results.

252:100-37-26. Clean up with ~~organic solvents~~ VOCs

~~Emissions of organic materials to the atmosphere from the clean up with organic solvents, as defined in 252:100-37-2, VOCs of any article, machine, or equipment or other contrivance used in applying coatings controlled in 252:100-37-25(a) through 252:100-37-25(d)~~252:100-37-25(d) shall be included with the other emissions of organic solvents from the coating line or operation counted in determining compliance with those rules.

PART 7. CONTROL OF SPECIFIC PROCESSES

252:100-37-35. Waste gas disposal

(a) **Ethylene manufacturing emissions.** ~~No person~~owner or operator shall build or install ~~or permit the building or installation of~~ any ethylene manufacturing plant unless the waste-gas stream under normal operating conditions is properly burned at 1,300°F- for 0.3 seconds or greater in a direct-flame afterburner equipped with an indicating pyrometer ~~which that~~ is positioned in the working area for the operator's ready monitoring or an equally effective catalytic vapor incinerator also with pyrometer. Proper burning of the waste-gas stream is defined as reduction by 98 percent of the ethylene emissions originally present in the waste-gas stream.

(b) **Vapor blowdown.** Except where inconsistent with the "Minimum

Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, ~~no person shall emit organic gases to the atmosphere~~ owner or operator shall allow VOC gases to be emitted from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the Executive Division Director.

252:100-37-36. Fuel-burning and refuse-burning equipment

~~No person shall cause or allow the emission of hydrocarbons or other organic materials from any fuel burning or refuse burning equipment.~~ All such fuel-burning or refuse-burning equipment shall be operated as to minimize such emissions of VOC. Among other things, such operation shall assure, based on manufacturer's data and good engineering practice, that the equipment is not overloaded; that it is properly cleaned, operated, and maintained; and that temperature and available air are sufficient to provide essentially complete combustion.

252:100-37-37. Effluent water separators

A single-compartment or multiple-compartment VOC/water separator that receives effluent water containing 200 gal/d (760 l/d) or more of any VOC from any equipment processing, refining, treating, storing or handling VOCs shall comply with one of the following sets of conditions.

(1) The container totally encloses the liquid contents and all openings are sealed. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) The container is equipped with an external floating roof that consists of a pontoon type or double-deck type cover, or a fixed roof with an internal-floating cover. The cover shall rest on the surface of the contents and be equipped with a closure seal, or seals, to close the space between the cover edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) The container is equipped with a vapor-recovery system that consists of a vapor-gathering system capable of collecting the VOC vapors and gases discharged and a vapor-disposal system capable of processing such vapors and gases to prevent their emission to the atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(4) The container is approved prior to use by the Division Director and is equipped with controls that have efficiencies equal to the controls listed in 252:100-37-37(1) through (3).

252:100-37-38. Pumps and compressors

(a) Any pump or compressor handling VOCs shall meet the following conditions.

(1) Rotating type pumps and compressors are equipped with mechanical seals or other equipment of equal efficiency.

(2) Reciprocating type pumps and compressors are equipped with packing glands.

(3) Emissions from the drain recovery system do not exceed 2 in.³ of liquid VOC in any 15-minute period per pump or compressor at standard conditions.

(b) Pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK are exempt from 252:100-37-38.

PART 9. PERMIT BY RULE FOR VOC STORAGE AND LOADING FACILITIES

252:100-37-41. Applicability

Any new VOC storage and/or loading facility may be constructed and any existing VOC storage and/or loading facility may be operated under this Part if the following conditions are met.

(1) The facility is located in an area designated as unknown or attainment for ozone.

(2) Each storage vessel located at the facility meets one of the following criteria.

(A) The storage capacity is 19,813 gal (75 m³) or less.

(B) The storage capacity is greater than 19,813 gal (75 m³) but less than 39,889 gal (151 m³) and the liquid stored has a maximum true vapor pressure less than 2.18 psia (15.0 kPa).

(C) The storage capacity is greater than or equal to 39,889 gal (151 m³) and the liquid stored has a maximum true vapor pressure less than 0.51 psia (3.5 kPa).

(3) The facility is designed to have a throughput of 19,998 gal/d (75,700 l/d) or less from the aggregate loading pipes.

(4) The facility meets the requirements of 252:100-7-60(a), (b), and (c).

252:100-37-42. Permit-by-rule requirements

(a) An owner or operator shall submit annual emission inventory reports and meet the requirements of 252:100-37-5, regarding operation and maintenance, and 252:100-37-38, regarding pumps and compressors.

(b) No owner or operator shall build or install a new stationary VOC storage vessel with a capacity of 400 gal (1.5 m³) or greater unless it is equipped with a permanent submerged fill pipe as defined in 252:100-37-2.

(c) No owner or operator shall build or install a stationary VOC loading facility unless each loading pipe is equipped with a system for submerged filling of tank trucks or trailers which is installed and operated to maintain a 97 percent submergence factor.

(d) The owner or operator of a vessel with a storage capacity greater than 10,567 gal (40 m³) shall maintain records on site of the dimensions of the storage vessel and an analysis showing the capacity.

Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 37. CONTROL OF EMISSION OF ORGANIC MATERIALS

EXECUTIVE SUMMARY: The proposed revisions to 252:100-37, Control of Emissions of Organic Materials, include the following non-substantive changes: 1) simplification and clarification of language, 2) correction of typographical errors, 3) removal of redundant language, and 4) reformatting. The proposed revisions also include the following substantive changes: 1) the redefinition of the term "volatile organic compound (VOC)" and the substitution of this term for "organic materials", "organic solvents", and "hydrocarbons"; 2) the deletion of 252:100-37-3(a), which is a redundant requirement except to the extent that it requires new minor sources to apply best available control technology (BACT); 3) the exemption of methanol storage vessels at a drilling or production facility for use on site in 252:100-37-4(c); 4) the addition of 252:100-37-15(c), exempting VOC storage vessels that are subject to the equipment standards in 40 CFR 60 Subparts K, Ka, or Kb from the requirements of 252:100-37-15(a) and (b); 5) the addition of 252:100-37-16(c), exempting VOC loading facilities subject to the requirements of 40 CFR 60 Subpart XX or 40 CFR 63 Subpart R from the requirements of 252:100-37-15(a) and (b); 6) the deletion of 252:100-37-25(c), which allows the emission of 3,000 pounds per day or 450 pounds per hour of organic materials before controls are required; 7) the revision of the alternate standard for coatings in 252:100-37-25(d); 8) the correction of the impossible requirement in 252:100-37-36 that no emission of hydrocarbons or organic material is allowed from fuel-burning or refuse-burning equipment; 9) the addition of 252:37-38(b), exempting pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK from 252:100-37-38; and 10) the addition of Part 9, which contains the permit by rule for VOC storage and loading facilities.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: A letter from Dow Corning supports the proposed revisions to the definition of VOC that will exempt methylated siloxanes from being considered a VOC. EPA has determined that methylated siloxanes have negligible photochemical reactivity. This allows the use of methylated siloxanes as replacement for VOCs in manufacturing operations.

Comment: A letter written on behalf of Eastman Chemical Company supports the revision of the definition of VOC which results in methyl acetate, a substance with negligible photochemical reactivity, not being considered a VOC.

Comment: In 252:100-37-1 "prevent the formation of ozone" should be changed to "reduce the formation of ozone".

Response: Staff agrees and this change has been made.

Comment: In 252:100-37-2 in the definition of "epoxy" the word "prime" in the second sentence should be change to "primary" for consistency with other parts of the rule.

Response: Staff agrees and this change has been made.

Comment: When 252:100-37-3(b) is read in conjunction with Part 3, it is unclear whether the control requirements in Part 3 apply to new installations located only in Tulsa or Oklahoma Counties or to any new installation in the State.

Response: 252:100-37-3(b) does not address new sources. It requires existing sources located in Tulsa County or Oklahoma County to comply with Sections 15, 16, 35, 36, 37 and 38. 252:100-37-3(a) requires all new installations, regardless of where they are located, to comply with Subchapter 37 after the effective date of the Subchapter. Staff believes, keeping both 252:100-37-3(a) and (b) in mind, that it is clear that Sections 15, 16, 35, 36, 37, and 38 apply to all new sources in the state after December 28, 1974, and to all existing sources in Tulsa and Oklahoma Counties as of June 9, 1981.

Comment: EPA pointed out that the word "vesse;s" in 252:100-37-3(b) should be "vessels".

Response: Staff agrees and this correction has been made.

Comment: 252:100-37-5 should be removed because it is redundant and vague and the requirement to properly install, maintain, and operate any seals required by other regulations would probably be contained in those regulations.

Response: Staff does not agree that this section should be deleted. 252:100-37-5 was intended to require proper installation, maintenance, and operation of the equipment required by Subchapter 37. These requirements were deleted from several other sections of the Subchapter and placed in Section 5 to simplify the rule. Revisions have been made to the section to make clear that it covers only the equipment required by Subchapter 37.

Comment: The separation in the letters in the word "no" in 252:100-37-15(a) and (b) should be corrected.

Response: This has been corrected.

Comment: NSPS 40 CFR 60, Subpart Kb covers all VOL storage tanks built or modified since 1984 and has slightly more restrictive controls than 252:100-37-15(a). It is true that NSPS 40 CFR 60, Subpart Kb covers tanks which store liquids whose vapor pressure is greater than 0.5 psia while this subsection covers all tanks. However, the universe of significant emission points is covered if all new tanks storing above 0.5 psia VOCs are subject. This subsection is redundant and should be deleted.

Response: Staff does not agree. 252:100-37-15(a) covers tanks that store VOCs with vapor pressures of 1.5 psia or greater. Subsection (a) became effective February 14, 1972. 40 CFR 60, Subpart K applies to petroleum liquid storage tanks with capacities greater than 40,000 gallons that commenced construction after June 11, 1973, and prior to May 19, 1978. NSPS Ka, like K, only covers storage of petroleum liquids. It wasn't until Kb was promulgated that VOC storage tanks (those that commenced construction, modification, or reconstruction after July 23, 1984) were covered by NSPS. Therefore, tanks with storage capacities greater than 40,000 gallons used to store VOCs built after February 14, 1972, but before July 23, 1984, are subject to 252:100-37-15(a), but are not subject to NSPS unless they store petroleum liquids. A new subsection, 252:100-37-15(c), has been proposed which would exempt VOC storage tanks that are required by K, Ka, or Kb to be equipped with 1) a fixed roof with an internal floating cover, 2) an external floating roof, or 3) a closed vent system and control device, from the requirements of 252:100-37-15(a) and(b).

Comment: 252:100-37-15(b) covers tanks not subject to NSPS Kb and is, therefore, not redundant. It should apply only to tanks smaller than those subject to NSPS Kb. The environmental benefit of having a regulation for those small tanks is most likely small.

Response: 252:100-37-15(b) applies to tanks that were constructed after February 14, 1972, with storage capacities of 400 gallons or greater, and which store VOCs with vapor pressures of 1.5 psia or greater. NSPS K and Ka apply to storage tanks with capacities of 40,000 gallons or greater used to store petroleum liquids. It is only with the promulgation of NSPS Kb which covers tanks with capacities of 10,567 gallons or greater that commenced construction after July 23, 1984, that VOC storage tanks were covered by NSPS. Even so, for tanks with storage capacities less than 19,813 gallons or that store VOLs with vapor pressure less than 0.51 psia, the only requirement is to keep a record of the tank dimensions and a calculation of the storage capacity. Staff feels that the NSPS leaves gaps in the coverage of VOC storage tanks with capacities less than 40,000 gallons. There are a large number of tanks with capacities of 400 gallons to 40,000 gallons that store VOCs, and the environmental impact of these tanks is important. 252:100-37-15(b) requires that such tanks be equipped with submerged fill pipes or vapor recovery systems. This is not an onerous requirement. Staff is proposing the addition of 252:100-37-15(c), which would exempt VOC storage tanks required by NSPS subparts K, Ka, or Kb to be equipped with control devices from the requirements

of 252:100-37-15(a) and (b).

Comment: 252:100-37-16 covers VOC loading of 40,000 gallons per day. NSPS Subpart XX covers gasoline loading of new terminals when over 10,000 gallons per day of gasoline is loaded. Further the new gasoline distribution MACT rule for major sources of HAPs that load gasoline controls sources also covered by this section. However Section 16 covers more than gasoline loading so it is not redundant in all cases. EPA is currently working on an organic liquid distribution MACT rule which will probably overlap this section. It is recommended that a new subsection be added that states that sources subject to NSPS XX or the gasoline distribution MACT 40 CFR Part 63, Subpart R are exempt from 252:100-37-15 and add sources subject to the organic liquids distribution MACT to this exemption when it becomes final.

Response: This section was effective February 14, 1972, and is not limited to gasoline. Staff does not feel that this section is redundant since it covers facilities constructed after February 14, 1972 and NSPS Subpart XX applies to sources that commenced construction after December 17, 1980. The MACT standard in Subpart R applies to bulk gasoline terminals only. Staff is proposing the addition of 252:100-37-16(c), which would exempt facilities subject to NSPS 40 CFR 60, Subpart XX or NESHAP 40 CFR 63, Subpart R from the requirements of 252:100-37-16.

Comment: In 252:100-37-16(a) (2) which systems are meant by "either system"?

Response: Staff has changed "either system" to "either loading system specified in subsection (a)" to make clear that the two systems involved are described in 252:100-37-16(a).

Comment: How were the limits in 252:100-37-25 determined?

Response: Council records indicate that the limits, as well as the coating classifications and definitions, were agreed upon in a meeting between the Air Quality Staff and the Oklahoma Chemical Coating Manufacturers Association.

Comment: In 252:100-37-25(b) (1) (A) (i) "that will not comply" should be changed to "that can not comply".

Response: Staff agrees and has made this change.

Comment: In 252:100-37-25(b) (2) "expressly approved by the Division Director" should be changed to "approved in writing by the Division Director" since it is not clear what is meant by "expressly".

Response: Staff agrees and this change has been made.

Comment: 252:100-37-25(c) refers to hourly emissions of VOC. Should there be an annual limitation on total emissions of VOC?

Response: This subsection has never contained an annual limitation. It was originally written in the early 1970s to control emissions of organic materials from the use of non-photochemically reactive solvents. The limit of 3,000 pounds per day would result in the emission of 547.5 tons per year, assuming 365 days of operation per year. At this level of emissions, BACT would be required by Subchapter 8 both as a major source and as a PSD source. In this case it is not appropriate to equate "organic material" with "VOC" since the organic material was clearly intended as originally adopted to be from non-photochemically reactive solvents. Since non-photochemically reactive solvents would not be considered "VOCs" under the new definition of VOC, this subsection no longer serves any purpose and staff recommends that it be deleted.

Comment: The word "operated" should be added to the last sentence after "properly cleaned" in 252:100-37-36, Fuel-burning and refuse-burning equipment.

Response: Staff agrees and this change has been made.

Comment: The provision of 252:100-37-36 regarding fuel-burning and refuse-burning equipment is vague and open to misinterpretation by sources, the public, and individual DEQ staffers. The regulation does not provide any method for showing compliance, therefore, compliance methods will not be consistent across sources. Further it seems unlikely that any significant amount of VOCs are being released by combustion devices, but that rather they are significant sources of NOx and CO. Regulations on significant combustion devices exist (e.g., NSPS Da, 252:100-33-2), therefore, Section 36 is not warranted by the environmental benefit it provides, if any.

Response: Since this section covers a wide variety of fuel-burning equipment and refuse-burning equipment, it is not possible to list compliance methods for each type. Staff feels that not all fuel-burning equipment is covered at this time by NSPS or NESHAP. Staff agrees that the section is somewhat vague regarding requirements, but feels that this cannot be completely eliminated without losing the flexibility necessary to cover such a wide variety of sources. Staff has added language that manufacturer's data and good engineering practice is to be used to assure compliance and envisions that specific conditions for new sources tailored to fit the particular equipment will be included in the permit, if one is required.

Comment: 252:100-37-37 covers effluent water separators which are

also covered by federal regulations, e.g. NSPS Subpart QQQ or NESHAP Subpart FF. In those regulations all fugitive sources are reviewed and those that are significant are controlled. Section 37 looks at a single fugitive source of emissions and requires controls that overlap for those with significant VOC emissions, i.e., refineries and chemical plants. It is unlikely that Section 37's benefit will exceed costs when those sources already covered by other regulations and, therefore, well controlled are not counted.

Response: Staff does not agree. NSPS 40 CFR 60, Subpart QQQ applies only to equipment leaks from petroleum refinery wastewater systems that commenced construction after May 5, 1987, and 40 CFR 61 Subpart FF covers oil/water separators at chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries that process hazardous waste streams containing benzene. 252:100-37-37 applies to organic materials/water separators (now VOC/water separators) that were constructed after February 14, 1972.

Comment: 252:100-37-38 covers a small subset of fugitive sources, pumps and compressors, which are covered extensively by federal fugitive regulations, e.g., NSPS 40 CFR 60, Subpart VV. The benefits of covering those few pumps and compressors that are not already covered will undoubtedly be low and the costs will be high since only the pumps and compressors will require controls instead of all fugitive sources at a site. Therefore, Section 38 is not cost effective and should be removed. At the very least an exemption for sources subject to other federal regulations should be provided.

Response: This section became effective February 14, 1972, and the requirement for packing glands for reciprocating pumps was added in 1974. The federal NSPS for equipment leaks that cover pumps and compressors include Subpart VV, which covers equipment constructed after January 5, 1981, located at SOCFI sources; Subpart GGG, which covers equipment constructed after January 4, 1983, located at petroleum refineries; and Subpart KKK, which covers equipment constructed after January 20, 1984, located at onshore natural gas processing plants. There is a gap in the coverage offered by the NSPS. Staff is proposing the addition of Subsection (b), which would exempt pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK from the requirements of 252:100-37-38.

REVISIONS TO THE PROPOSED MODIFICATION OF SUBCHAPTER 37 FOR THE
FEBRUARY 17, 1999, AIR QUALITY COUNCIL MEETING

Following is a list of the substantive revisions that have been made to the modification of Subchapter 37 that was presented at the December 15, 1998, AQC meeting. Most of the nonsubstantive changes are minor, consisting of replacements such as "will" with "shall", "gallons" with "gal", and "liter" with "l". However, the following proposed revisions are more substantive.

1. 252:100-37-2 (page 1) Added the definition of "Drilling and production facility". This definition is identical to that found in 40 CFR 60.111, an NSPS for petroleum liquid storage vessels.
2. 252:100-37-2 (page 2) Added the definition of "Lease custody transfer", which is based on the definition of "custody transfer" found in 40 CFR 60.111.
3. 252:100-37-3(c) (page 3) Added new subsection "Permit-by-rule facilities." to make clear that the only requirements in Subchapter 37 that apply to facilities registered under the VOC storage and loading facility permit-by-rule are those in Part 9.
4. 252:100-37-4(b) (page 3) Added "Methanol stored at a drilling or production facility for use on site is also exempt from this Subchapter". We learned that drilling and production facilities often store methanol on-site for cleaning purposes, and it did not make sense to exempt produced petroleum and condensate stored on-site and not methanol.
5. 252:100-37-25(d)(1) (page 9) Added "are reduced to the quantity" after "emissions" in the first line. Added "the coating used complied with the VOC content allowed in 252:100-37-25(a)" after "occur if". Deleted "no controls were used" and "are reduced". Rather than requiring operators who use non-compliant coatings to achieve an arbitrary percentage of emission reduction, the proposed revision would simply require the resulting emissions to equal those that would have been emitted had the operator used compliant coatings.
6. 252:100-37-41(2)(A),(B), and (C) (page 11) Added new subparagraphs (A), (B), and (C). These substantive changes allow tanks that have storage capacities greater than 19,813 gallons and which are subject to NSPS Subpart Kb to qualify for the permit by rule for VOC storage and loading facilities. NSPS Subpart Kb only requires the operator of such a tank to maintain records of the dimensions of the vessel and an analysis of the capacity of the storage vessel on site. These simple requirements are appropriate for a permit-by-rule facility.

**CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 37. CONTROL OF EMISSION OF ORGANIC MATERIALS**

SUMMARY OF COMMENTS AND RESPONSES

Air Quality Council Meeting: August 18, 1998

Comment Period: July 15, 1998 - August 18, 1998

Comment:

When 252:100-37-3(b) is read in conjunction with Part 3, it is unclear whether the control requirements in Part 3 apply to new installations located only in Tulsa or Oklahoma Counties or any new installation located in the State.

Response:

252:100-37-3(b) does not address new sources. It requires existing sources located in Oklahoma County or Tulsa County to comply with Sections 15, 16, 35, 36, 37 and 38. 252:100-37-3(a) requires all new installations regardless of where they are located to comply with Subchapter 37 after the effective date of the Subchapter. Staff feels, keeping both 252:100-37-3(a) and (b) in mind, that it is clear that Sections 15, 16, 35, 36, 37 and 38 apply to all new sources in the State after 12/28/74 and to all existing sources in Tulsa and Oklahoma Counties as of 6/9/81.

Comment:

EPA pointed out that the word "vesse;s" in 252:100-37-3(b) should be "vessels" and that the word "operated," should be added to the last sentence after "properly cleaned" in 252:100-37-36, Fuel-burning and refuse-burning equipment.

Response:

The staff concurs with these two comments and the revisions have been made.

Comment:

The Dow Corning Corporation supports the proposed revisions to the definition of VOC to exempt methylated siloxanes due to its low photochemical reactivity. This allows the use of methylated siloxanes as replacement for VOCs in manufacturing operations.

Comment:

A letter written on behalf of Eastman Chemical Company supports the revision of the definition of VOC which results in methyl acetate not being considered a VOC.

Air Quality Council Meeting: October 20, 1998

Comment Period: September 15, 1998 - October 20, 1998

Comment:

A comment letter from EPA, Region 6 supported the adoption of the proposed changes to Subchapter 37.

Comment:

The separation of the letters in the word "no" in 252:100-37-15(a) & (b) should be corrected.

Response:

This has been done.

Comment:

How were the limits in 252:100-37-25 determined?

Response:

Council records indicate that the limits, as well as the coating classification and definitions, were agreed upon in a meeting between Air Quality staff and the Oklahoma Chemical Coating Manufacturers Association.

Comment:

Is there an annual limitation on total emissions in 252:100-37-25(c)?

Response:

This subsection has never contained an annual limitation. It was originally written in the early 1970s to control emissions of organic materials from the use of non-photochemically reactive solvents. The limit of 3,000 pounds per day from any machine or equipment would result in the emission of 547.5 tons per year assuming 365 days of operation per year. At this level of emissions, BACT would be required by Subchapter 8 both as a major source and as a PSD source. In this case, it is not appropriate to equate "organic material" with "VOC," since the organic material was clearly intended as originally adopted to be from non-photochemically reactive solvents. Since non-photochemically reactive solvents would not be considered "VOCs" under the new definition of VOC, this subsection no longer serves any purpose and staff recommends that it be deleted.

Air Quality Council Meeting: December 15, 1998

Comment Period: October 16, 1998 - December 15, 1998

Comment:

252:100-37-5 should be removed because it is redundant and vague and the requirement to properly install, maintain, and operate any seals required by other regulations would probably be contained in those regulations.

Response:

Staff does not agree that this section should be deleted. 252:100-37-5 was intended to require proper installation, maintenance, and operation of the equipment that is required by Subchapter 37. These requirements were deleted from several other sections of the Subchapter and placed in Section 5 to simplify the rule. Revisions have been made to this section to make clear that it covers only the equipment required by Subchapter 37.

Comment:

NSPS Subpart Kb covers all VOL storage tanks built or modified since 1984 and has slightly more restrictive controls than 252:100-37-15(a). It is true that NSPS Kb covers tanks which store liquids whose vapor pressure is greater than 0.5 psia while this subsection covers all tanks. However, the universe of significant emission points is covered if all new tanks storing over 0.5 psia VOCs are subject. This subsection is redundant and should be deleted.

Response:

Staff does not agree. 252:100-37-15(a) covers tanks that store VOCs with vapor pressures of 1.5 psia or greater. 252:100-37-15(a) became effective February 14, 1972. 40 CFR 60, Subpart K applies to petroleum liquid storage tanks with capacities greater than 40,000 gallons that commenced construction after June 11, 1973, and prior to May 19, 1978. NSPS Ka, like K, only covers storage of petroleum liquid. It wasn't until Kb was promulgated that VOC storage tanks (those that commenced construction, modification or reconstruction after July 23, 1984) were covered by the NSPS. Therefore, tanks with storage capacities greater than 40,000 gallons used to store VOCs built after February 14, 1972, but before July 23, 1984, are subject to 252:100-37-15(a), but are not subject to NSPS unless they store petroleum liquids. A new subsection, 252:100-37-15(c), has been proposed, which would exempt VOC storage tanks that are required by K, Ka, or Kb to be equipped with a fixed roof with an internal floating cover, an external floating roof, or a closed vent system and control device from 252:100-37-15(a) and (b).

Comment:

252:100-37-15(b) covers tanks not subject to NSPS Kb and is, therefore, not redundant. It should apply only to tanks smaller than those subject to NSPS Kb. The environmental benefit of having a regulation for those small tanks is most likely small.

Response:

252:100-37-15(b) applies to tanks that were constructed after February 14, 1972, with storage capacities of 400 gallons or greater, and which store VOCs with vapor pressures of 1.5 psia or greater. NSPS Subparts K and Ka apply to storage tanks with capacities of 40,000 gallons or greater used to store petroleum liquids. It is only with the promulgation of NSPS Subpart Kb, which covers tanks with capacities of 10,567 gallons or greater that commenced construction after July 23, 1984, that VOC storage tanks were covered by NSPS. Even so, for tanks with storage capacities less than 19,813 gallons or that store VOLs with vapor pressures less than 0.51 psia, the only requirement is to keep a record of the tank dimensions and a calculation of the storage capacity. Staff feels that the NSPS leaves gaps in the coverage of VOC storage tanks with capacities less than 40,000 gallons. There are a large number of tanks with capacities of 400 gallons to 40,000 gallons that store VOCs, and the environmental impact of these tanks is important. 252:100-37-15(b) requires that such tanks be equipped with submerged fill pipes or vapor recovery systems. This is not an onerous requirement. Staff is proposing the addition of 252:100-37-15(c), which would exempt VOC storage tanks required by NSPS Subparts K, Ka, or Kb to be equipped with control devices from the requirements of 252:100-37-15(a) and (b).

Comment:

252:100-37-16 covers VOC loading of 40,000 gallons per day. NSPS Subpart XX covers gasoline loading of new terminals when over 10,000 gallons per day of gasoline is loaded. Further the new gasoline distribution MACT rule for major sources of HAPs that load gasoline controls sources also covered by this section. However Section 16 covers more than gasoline loading so it is not redundant in all cases. EPA is currently working on an organic liquid distribution MACT rule which will probably overlap with this section. It is recommended that a new subsection be added that states that sources subject to NSPS XX or the gasoline distribution MACT 40 CFR Part 63 Subpart R are exempt from 252:100-37-15 and add sources subject to the organic liquids distribution MACT to this exemption when it becomes final.

Response:

This section was effective 2/14/72 and is not limited to gasoline. Staff does not feel that this section is redundant since it covers facilities constructed after 2/14/72 and NSPS Subpart XX applies to sources that commenced construction after 12/17/80. The MACT standard in Subpart R applies to bulk gasoline terminals only. Staff is proposing the addition of 252:100-37-16(c), which would exempt facilities subject to NSPS 40 CFR 60, Subpart XX or NESHAP 40 CFR 63, Subpart R from the requirements of 252:100-37-16.

Comment:

The provisions of 252:100-37-36 regarding fuel-burning and refuse-burning equipment is vague and open to misinterpretation by sources, the public, and individual DEQ staffers. The regulation does not provide any method for showing compliance, therefore, compliance methods will not be consistent across sources. Further, it seems unlikely that any significant amount of VOCs are being released by combustion devices, but that rather they are significant sources of NO_x and CO. Regulations on significant combustion devices exist (e.g., NSPS Da, 252:100-33-2), therefore, Section 36 is not warranted by the environmental benefit it provides, if any.

Response:

Since this section covers a wide variety of fuel-burning equipment and refuse-burning equipment, it is not possible to list compliance methods for each type. Staff feels that not all fuel-burning equipment is covered at this time by NSPS or NESHAP. Staff agrees that the section is somewhat vague regarding requirements, but feels that this cannot be completely eliminated without losing the flexibility necessary to cover such a wide variety of sources. Staff has added language that manufacturer's data and good engineering practice is to be used to assure compliance and envisions that specific conditions for new sources tailored to fit the particular equipment will be included in the permit, if one is required.

Comment:

252:100-37-37 covers effluent water separators which are also covered by federal regulations, e.g. NSPS Subpart QQQ or NESHAP Subpart FF. In those regulations all fugitive sources are reviewed and those that are significant are controlled. Section 37

looks at a single fugitive source of emissions and requires controls that overlap for those with significant VOC emissions, i.e., refineries and chemical plants. It is unlikely that Section 37's benefits will exceed cost when those sources already covered by other regulations and therefore well controlled are not counted.

Response:

Staff does not agree. NSPS 40 CFR 60, Subpart QQQ applies only to equipment leaks from petroleum refinery wastewater systems that commenced construction after May 5, 1987, and 40 CFR 61 Subpart FF covers oil/water separators at chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries that process hazardous waste streams containing benzene. 252:100-37-37 applies to organic materials/water separators (now VOC/water separators) that were constructed after February 14, 1972.

Comment:

252:100-37-38 covers a small subset of fugitive sources, pumps and compressors, which are covered extensively by federal fugitive regulations, e.g., NSPS 40 CFR 60 Subpart VV. The benefits of covering those few pumps and compressors that are not already covered will undoubtedly be low and the costs will be high since only the pumps and compressors will require controls instead of all fugitive sources at a site. Therefore, Section 38 is not cost effective and should be removed. At the very least an exemption for sources subject to other federal regulations should be provided.

Response:

This section became effective February 14, 1972, and the requirement for packing glands for reciprocating pumps was added in 1974. The federal NSPS for equipment leaks that cover pumps and compressors include Subpart VV, which covers equipment constructed after January 5, 1981, located at SOCFMI sources; Subpart GGG, which covers equipment constructed after January 4, 1983, located at petroleum refineries; and Subpart KKK, which covers equipment constructed after January 20, 1984, located at onshore natural gas processing plants. There is a gap in the coverage offered by the NSPS. Staff is proposing the addition of Subsection (b), which would exempt pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK. from the requirements of 252:100-37-38.

**COMMENTS ON SUBCHAPTER 37 COPIED FROM THE COUNCIL PACKETS
OF MS. MYERS AND DR. GROSZ AT THE
DECEMBER 15, 1998 AIR QUALITY COUNCIL MEETING**

1. **COMMENT:** 252:100-37-15(b) (page 4) The 400 gal capacity seems pretty small .

RESPONSE: That's true, but vessels of that size are only required to have a submerged fill pipe. This prevents releases of VOCs, which is necessary in order for Oklahoma to maintain compliance with the ambient air quality standard for ozone.

2. **COMMENT:** 252:100-37-15(b) and 252:100-37-16(a) (pages 4 and 5) Why the difference in units [In 15(b) "gallons" is converted to "m³" and in 16(a) "gallons" is converted to "liters"]?

RESPONSE: English units have been used throughout this rule. The metric units in parentheses have been chosen to correspond with the units used in federal rules and standards such as the NSPS or NESHAP.

3. **COMMENT:** 252:100-37-41(2) and (3) (page 12) Why is gallons converted to m³ in (2) and to liters in (3)?

RESPONSE: See 2 above.

**CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 37. CONTROL OF EMISSION OF ORGANIC MATERIALS**

SUMMARY OF COMMENTS AND RESPONSES

Air Quality Council Meeting: August 18, 1998

Comment Period: July 15, 1998 - August 18, 1998

Comment::

When 252:100-37-3(b) is read in conjunction with Part 3, it is unclear whether the control requirements in Part 3 apply to new installations located only in Tulsa or Oklahoma Counties or any new installation located in the State.

Response::

252:100-37-3(b) does not address new sources. It requires existing sources located in an AQMA to comply with Sections 15, 16, 35, 36, 37 and 38. On the other hand 252:100-37-3(a) requires all new installations regardless of where they are located to comply with this Subchapter after the effective date of the Subchapter. Staff feels that keeping both 252:100-37-3(a) and (b) in mind, it is clear that Sections 15, 16 17 and 18 found in Part 3 apply to all new sources in the State after 12/28/74 and to all existing sources in Tulsa and Oklahoma Counties as of 6/9/81.

Comment:

A comment letter from EPA pointed out that the word "vesse;s" in 252:100-37-3(b) should be "vessels" and that the word "operated," should be added to the last sentence after "properly cleaned" in 252:100-37-36 Fuel-burning and refuse-burning equipment.

Response:

The staff concurs with these two comments and the revisions have been made.

Comment:

The Dow Corning Corporation supports the proposed revisions to the definition of VOC to exempt methylated siloxanes due to its low photochemical reactivity. This allows the use of methylated siloxanes as replacement for VOCs in manufacturing operations.

Comment:

A letter written on behalf of Eastman Chemical Company supports the revision of the definition of VOC which results in methyl acetate not being considered a VOC.

Air Quality Council Meeting: October 20, 1998

Comment Period: September 15, 1998 - October 20, 1998

Comment:

A comment letter from EPA, Region 6 supported the adoption of the proposed changes to Subchapter 37.

Comment:

A commenter suggested a "cosmetic cleanup" of the separation of the word "no" in 252:100-37-15(a) & (b).

Response:

Staff has checked this out and finds that the format can be altered to take care of this problem. This has been done.

Comment:

How were the limits in 252:100-37-25 determined?

Response:

Council records indicate that the limits, as well as the coating classification and definitions, were agreed upon in a meeting between Air Quality staff and the Oklahoma Chemical Coating Manufacturers Association. This information was from a summary of comments for the revisions that were adopted May 19, 1979.

Comment:

Is there an annual limitation on total emissions in 252:100-37-25(c)?

Response:

This subsection has never contained an annual limitation. It was originally written to control emissions of organic materials from the use of non-photochemically reactive solvents. The limit of 450 pounds per hour and 3,000 pounds per day from any machine or equipment would result in the emission of 547.5 tons per year assuming 365 days of operation per year. At this level of emissions, BACT would be required by Subchapter 8 both as a major source and as a PSD source. In this case, it is not appropriate to equate "organic material" with "VOC," since the organic material was clearly intended in earlier versions of the rule to be from non-photochemically reactive solvents. Since non-photochemically reactive solvents would not be considered "VOCs" under the new definition of VOC, this subsection no longer serves any purpose and staff recommends that it be deleted.

Air Quality Council Meeting: December 15, 1998

Comment Period: October 16, 1998 - December 15, 1998

Comment:

A commenter recommended the removal of 252:100-37-5 since it is redundant and vague and the requirement to properly install, maintain, and operate any seals required by other regulations would probably be contained in those regulations.

Response:

Staff does not agree that this section should be deleted. 252:100-37-5 was intended to require proper installation, maintenance, and operation of the equipment that is required by Subchapter 37. These requirements were deleted from several other sections of the Subchapter and placed in Section 5 to simplify the rule. Revisions have been made to this section to make clear that it covers only the equipment required by Subchapter 37.

Comment:

NSPS Subpart Kb covers all VOL storage tanks built or modified since 1984 and has slightly more restrictive controls than this subsection 252:100-37-15(a). It is true that NSPS Kb covers tanks which store liquids whose vapor pressure is greater than 0.5 psia while this subsection covers all tanks. However, the universe of significant emission points is covered if all new tanks storing over 0.5 psia VOCs are subject. This section is redundant and serves no significant purpose for environmental protection.

Response:

Staff does not agree. 252:100-37-15(a) covers tanks that store VOCs with vapor pressures of 1.5 psia or greater. 252:100-37-15(a) became effective 2/14/72. 40 CFR 60 Subpart K applies to petroleum liquid storage vessels with capacities greater than 40,000 gallons that commenced construction after June 11, 1973 and prior to May 19, 1978. NSPS Ka, like K, only covers storage of petroleum liquid. It wasn't until Kb was promulgated that VOC storage vessels (that commenced construction, etc., after July 23, 1984) were covered by the NSPS. Therefore, tanks with storage capacities greater than 40,000 gallons used to store VOCs built after February 14, 1972, but before July 23, 1984, are subject to 252:100-37-15(a), but are not subject to NSPS. Based on this, staff does not feel that 252:100-37-15(a) is redundant. A new subsection, 252:100-37-15(c), has been proposed which would exempt VOC storage vessels that are required by K, Ka, or Kb to be equipped with a fixed roof with an internal floating cover, an external floating roof, or a closed vent system and control device from 252:100-37-15(a) and (b).

Comment:

252:100-37-15(b) covers tanks not subject to NSPS Kb and is therefore not redundant. It should apply only to tanks smaller than those subject to NSPS Kb. The environmental benefit of having a regulation for those small tanks is most likely small.

Response:

252:100-37-15(b) applies to tanks that were constructed after February 14, 1972, with storage capacities of 400 gallons or greater, and which store VOCs with vapor pressures of 1.5 psia or greater. NSPS K and Ka apply to storage tanks with capacities of 40,000 gallons or greater used to store petroleum liquids. It is only with the promulgation of NSPS Kb which covers vessels with capacities of 10,567 gallons that commenced construction after July 23, 1984, that VOC storage was covered by NSPS. Even so, for tanks with storage capacities less than 19,813 gallons or that store VOLs with vapor pressures less than 0.51 psia, the only requirement is to keep a record of the tank dimensions and a calculation of the storage capacity. Staff feels that the NSPS leaves gaps in the coverage of VOC storage tanks with capacities less than 40,000 gallons. Staff feels there are a large number of tanks with capacities 400 gallons to 40,000 gallons that store VOCs and that the environmental impact of these tanks is important. 252:100-37-15(b) requires that such tanks be equipped with submerged fill pipes or vapor recovery systems. This is not an onerous requirement. Staff is proposing the addition of 252:100-37-15(c), which would exempt VOC storage vessels required by NSPS subparts K, Ka, or Kb to be equipped with control devices from 252:100-37-15(a) and (b).

Comment:

252:100-37-16 covers VOC loading of 40,000 gallons per day. NSPS Subpart XX covers gasoline loading of new terminals when over 10,000 gallons per day of gasoline is loaded. Further the new gasoline distribution MACT rule for major sources of HAPs that load gasoline controls sources also covered by this section. However 37-16 covers more than gasoline loading so it is not redundant in all cases. EPA is currently working on an organic liquid distribution MACT rule which will probably overlap with this section. It is recommended that a new subsection (252:100-37-16(c)) be added that states that sources subject to NSPS XX or the gasoline distribution MACT 40 CFR Part 63 Subpart R are exempt from 252:100-37-15 and add sources subject to the organic liquids distribution MACT to this exemption when it becomes final.

Response:

This section was effective 2/14/72 and is not limited to gasoline. Staff does not feel that this section is redundant since it covers facilities constructed after 2/14/72 and NSPS Subpart XX applies to sources that commenced construction after 12/17/80. The MACT standard in Subpart R applies to bulk gasoline terminals only. Staff is proposing the addition of 252:100-37-16(c), which would exempt facilities subject to NSPS Subpart XX or NESHAP Subpart R from the requirements of 252:100-37-16.

Comment:

252:100-37-36, fuel burning and refuse burning equipment. This provision of 252:100-37-36 is vague and open to misinterpretation by sources, the public, and individual DEQ staffers. The regulation does not itself provide any method for showing compliance with the regulation, therefore, compliance methods will not be consistent across sources. Further, it seems unlikely that any significant amount of VOCs are being released by combustion devices, but that rather they are significant sources of NOx and CO. Regulations on significant combustion devices exist (e.g., NSPS Da, 252:100-33-2), therefore, 37-36 is not warranted by the environmental benefit it provides, if any.

Response:

Since this section covers a wide variety of fuel-burning equipment and refuse-burning equipment, it is not possible to list compliance methods for each type. Staff feels that not all fuel-burning equipment is covered at this time by NSPS or NESHAP. Staff agrees that the section is somewhat vague regarding requirements, but feels that this cannot be completely eliminated without losing the flexibility necessary to cover such a wide variety of sources. Staff has added language that manufacturer's data and good engineering practice is to be used to assure compliance and envisions that specific conditions for new sources tailored to fit the particular equipment will be included in the permit, if one is required.

Comment:

252:100-37-37 covers effluent water separators which are also covered by other federal regulations, e.g. NSPS Subpart QQQ or NESHAP Subpart FF. In those regulations all fugitive sources are reviewed and those that are significant controlled. 37-37 looks at a single fugitive source of emissions and requires controls that overlap on those with significant VOC emissions, i.e., refineries and chemical plants. It is unlikely

that regulation 37-37's benefits will exceed their cost when those sources already covered by other regulations and therefore well controlled are not counted.

Response:

Staff does not agree. NSPS Subpart QQQ applies only to equipment leaks from petroleum refinery wastewater systems that commenced construction after May 5, 1987, and 40 CFR 61 Subpart FF covers oil water separators at chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries that process hazardous waste streams containing benzene. 252:100-37-37 applies to organic materials/water separators (now VOC/water separators) that were constructed after February 14, 1972.

Comment:

252:100-37-38 covers a small subset of fugitive sources, pumps and compressors which are covered extensively by federal fugitive regulations, e.g., Subpart VV. The benefits by covering those few pumps and compressors that are not already covered will undoubtedly be low and the costs will be high since only the pumps and compressors will require controls instead of all fugitive sources at a site. Therefore, 37-38 is not cost effective and should be removed, at the very least an exemption for sources subject to other federal regulations should be provided.

Response:

This section became effective February 14, 1972 and the requirement for packing glands for reciprocating pumps was added in 1974. The federal NSPS for equipment leaks that cover pumps and compressors include Subpart VV, which covers equipment constructed after 1/5/81 located at SOCOMI sources; and Subpart GGG, which covers equipment constructed after 1/4/83 located at petroleum refineries; and Subpart KKK, which covers equipment constructed after 1/20/84 located at onshore natural gas processing plants. Here again there is a gap in the coverage offered by the NSPS. Staff is proposing the addition of subsection (b), which would exempt pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK. from the requirements of 252:100-37-38.

REVISIONS TO THE PROPOSED MODIFICATION OF SUBCHAPTER 37 FOR THE
DECEMBER 15, 1998, AIR QUALITY COUNCIL MEETING

Following is a list of the revisions that have been made to the modification of Subchapter 37 that was presented at the October 20, 1998, AQC meeting. In addition to these changes, the Notes which are not part of the rule have been deleted and the "underlined strikeouts" and double underlines have been deleted from Sections 37 and 38.

- 1 252:100-37-1. Purpose (page 1) Deleted the last sentence that had been previously added to this section and added "from stationary sources." after "(VOCs)".
- 2 252:100-37-3(b). (pages 2 & 3) Rewrote deleting references to AQMAs. Replaced "10,000 barrels" with "1,590 m³".
- 3 252:100-37-4(c). (page 3) Deleted "and" after "252:100-37-16", added ", and 252:100-37-41, and 252:100-37-42" after "252:100-37-38".
- 4 252:100-37-5. (page 3) Added "required by this Subchapter" after "seals".
- 5 252:100-37-15(a) Storage capacities greater than 40,000 gallons (page 3) Replaced 150,000 liters with 151 m³, added a comma after "capacity" and a comma after "equipped".
- 6 252:100-37-15(a)(1) (pages 3 & 4) Undeleted the commas after "roof" in the first line and "cover" in the second line. In the fifth line added a comma after "i.e." Deleted "Such" in line 11 at the beginning of the forth sentence and capitalized "Floating" in line 12.
- 7 252:100-37-15(b) Storage capacities of 400 gallons and greater (page 4) Replaced "1520 liters" with "1.5 m³", changed "252:100-37-15(a)" to "252:100-37-15(a)(2)", and added subsection (c)..
- 8 252:100-37-16(a)(1) (pages 4 & 5) Reformatted subsection (a) and Inserted "(151,416 liters)" after "40,000 gallons".
- 9 252:100-37-16(b)(1) (page 5) Replaced "150,000" with "151,416".
- 10 252:100-37-16(b)(2) (page 6) Replaced "760" with "757". Replace "in excess of" with "greater than" in line 3.
- 11 252:100-37-16(c) {page 6} Added this new subsection regarding exemptions.
- 12 252:100-37-25((b)(1)(A) (pages 7 & 8) Corrected "(v_" to "(v)".
- 13 252:100-37-25(b)(2) (page 8) replaced "has been" following "252:100-37-25(a)" with "must be". Replaced "Executive Director" with "Division Director".
- 14 252:100-37-25(c). (pages 8 & 9) Deleted this subsection.
- 15 252:100-37-25(d). (page 9) Replaced (d) with (c).
- 16 252:100-37-25(e). (page 9) Replaced (e) with (d) and replaced "252:100-37-25(c)" with "252:100-37-25(b)"..

- 17 252:100-37-25(d)(1) formerly 252:100-37-25(e)(1) . (page 9) Deleted the comma after "used".
- 18 252:100-37-26. Clean up with VOCs. (page 9) Replaced "252:100-37-25(e)" with "252:100-37-25(d)".
- 19 252:100-37-35(a) Ethylene manufacturing emissions. (page 9) Replaced "that" with "which" after "pyrometer" in the first sentence.
- 20 252:100-37-36. Fuel-burning and refuse-burning equipment. (page 10) Added ", based on manufacturer's data and good engineering practice," after "assure" in the second sentence.
- 21 252:100-37-37(2). Effluent water separators. (page 10) Rewrote this paragraph for clarity.
- 22 252:100-37-38. Pumps and compressors. (pages 10 & 11) Added (a) at the beginning of the first paragraph making it subsection (a) and added new subsection (b).
- 23 Added new Part 5 with Sections 252:100-37-41 and 252:100-37-42 containing the requirements for permit by rule for VOC storage and loading facilities.

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA

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9 TRANSCRIPT OF PROCEEDINGS
10 OAC 252:100-37, CONTROL OF EMISSIONS OF
11 ORGANIC MATERIALS
12 HELD ON AUGUST 18, 1998
13 AT 1:00 P.M.
14 AT 4545 LINCOLN BOULEVARD, BUNGOWDY ROOM
15 IN OKLAHOMA CITY, OKLAHOMA
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22 REPORTED BY: Christy A. Myers, CER

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27 MIREX REPORTING SERVICE
28 (405) 721-2002

1 COUNCIL MEMBERS

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3 MS. SEARON MYERS, MEMBER
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10 MS. KYRRA BRUCE, SECRETARY
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27 PROCEEDINGS

28 MR. DIXIE: The next item, Item
29 Number 12. This hearing is convened by the
30 Air Quality Council in compliance with the
31 Oklahoma Administrative Procedures Act,
32 title 40 of the Code of Federal

1 Regulations, as well as the authority of
2 Title 27A of the Oklahoma statutes.
3 This hearing was advertised in the
4 Oklahoma Register for the purpose of
5 receiving comments pertaining to the
6 proposed new rule OAC 252:100-37, Control
7 of Emissions of Organic Materials. If you
8 wish to make a statement, please complete
9 the form at the registration table.

10 At this time, I will call upon Dr.
11 Joyce Shedy to give the staff position on
12 this proposed rule. Dr. Shedy?

13 DR. SHEDY: Mr. Chairman,
14 members of the Council, ladies and
15 gentlemen, I am Joyce Shedy of the Rules
16 and Planning Unit. The proposed revisions
17 to Subchapter 37 are part of the rewrite
18 wrong project that the DEQ has
19 undertaken. There are also in response to
20 a directive from the Air Quality Council at
21 their December 19th, 1995 meeting, that the
22 staff respond to a petition from the
23 Chemical Manufacturer's Association,
24 requesting that consideration be given to
25 exempting acetone from being considered a
26 VOC.

27 The Division also received a request
28 dated April 21st, 1997, from the
29 Halogenated Solvents Industry Alliance to
30 exempt perchloroethylene from being
31 considered a VOC and a request from Dow
32 Corning to exclude methylated siloxanes

1 from being considered a VOC.

2 The staff held a workshop on July 7,
3 requesting public input regarding problems
4 inconsistencies, or errors with Subchapter
5 37. The comments from that meeting were
6 considered in the proposal that you have
7 before you.

8 The DEQ is required to evaluate all
9 its rules and to simplify, clarify and
10 streamline them by December 31st, 2000.
11 Since that is the main reason for the
12 current revision, we haven't had enough
13 time to consider some of the substantive
14 changes that have been suggested. We are
15 in the process of forming a workgroup made
16 up of members of the public, regulated
17 community, and coating manufacturers to
18 participate in updating the coating section
19 of our rules.

20 We are proposing numerous changes in
21 language, format, spelling, as well as
22 correction of errors. There are parts --
23 these are part of the clarification,
24 simplification and correction process and
25 are summarized in the "Summary and
26 Explanation of Proposed Revisions to
27 Subchapter 37," contained in the Council
28 packets and available at this meeting.

29 The majority of these changes are
30 not intended to be substantive. However,
31 three of the proposed revisions are
32 substantive. These are the revision of the

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1 definition of the volatile organic compound
2 (VOC) in 252:100-37-2, on page 1 of the
3 rule. The removal of the requirement for
4 permits and BACT (best available control
5 technology) for new sources of VOC in
6 252:100-37-3(a), on page 2; and the
7 correction of 252:100-37-36 regarding fuel-
8 burning and refuse-burning equipment on
9 page 10.

10 It's our intention to include in
11 Subchapter 1, all definitions that are
12 general and used throughout the rules or
13 they're used in several rules. However,
14 when definitions pertain only to one or two
15 rules, those definitions will be included
16 in those rules and not included in
17 Subchapter 1. We've had some inquiries as
18 to how we plan to handle that.

19 Because the revisions of most of the
20 subchapters we have made to date have
21 included changes in the definitions, we
22 plan to make the revision to Subchapter 1
23 towards the end of the rewrite devrong
24 process.

25 The first substantive change was the
26 definition of "volatile organic compound."
27 The staff proposes to revise the definition
28 of "VOC" contained in 252:100-37-2 to be
29 consistent with the EPA definition found in
30 40 CFR 52.100(s). As part of our
31 definition the staff proposes to
32 incorporate by reference 40 CFR

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1 52.100(s)(1), which is a list of organic
2 compounds that EPA has designated as having
3 negligible photochemical reactivity and
4 are, therefore, not considered to be VOCs.

5 This proposed revision greatly
6 simplifies the rule by using only one
7 definition for volatile organic compounds.
8 Staff has replaced the terms "organic
9 materials" and "organic solvent", and
10 "volatile organic solvent" with the term
11 "VOC" throughout this rule in Subchapter
12 19.

13 The revisions also respond to the
14 request for exemptions of the 3 substances
15 mentioned earlier. These substances are
16 considered by the EPA definition to have
17 negligible photochemical reactivity and
18 are, therefore, not considered to be VOCs.

19 The second substantive change was to
20 252:100-37-3(a), New Sources. The staff
21 proposes to delete this subsection. This
22 subsection has been difficult to interpret
23 and consequently has been interpreted in
24 various ways over the years. As originally
25 proposed it applied only to major sources
26 of organic solvents. When adopted, the 100
27 tons per year trigger level was missing and
28 no explanation of this change could be
29 found in the records.

30 When applied to all new sources
31 regardless of size, this subsection
32 requires more time, effort and expense than

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1 can be justified by the reduction of VOCs,
2 since in most cases when you balance the
3 cost of controls versus the reduction of
4 emissions in minor sources, BACT is to add
5 no controls. This is especially true in
6 areas that are attainment and have always
7 been attainment. If applied to only major
8 sources, it is redundant since 252:100-8-
9 5(b)(a) requires new major sources to
10 obtain permits and to apply BACT.

11 The third substantive change is to
12 252:100-37-36. Fuel burning and refuse
13 burning equipment. Staff recommends
14 deleting the first sentence of 252:100-37-
15 36. This corrects a contradiction between
16 the first and second sentences of this
17 section.

18 The first sentence prohibits release
19 of hydrocarbons or other organic materials
20 from fuel or refuse burning equipment.
21 This requirement is impossible to meet.

22 The second sentence requires such
23 equipment to minimize emissions of
24 hydrocarbons and other organic material
25 from this equipment. The second sentence
26 will remain in place.

27 We have three letters of comments
28 since the Council packet was mailed. A
29 letter from Fort James was received
30 Thursday, August 13, 1990. And a letter
31 from EPA Region 6 was received by FAI on
32 Friday, August 14. And a letter was

7

1 received from Dow Corning on Monday, August
2 17th. I would like to enter those into the
3 hearing record. I understand also there
4 will probably be additional comments from
5 EPA on this rule at a later date.

6 The staff's recommendation is that
7 the rule be considered again at the next
8 Air Quality Council meeting on October 20,
9 1990.

10 MR. DYER: Questions of Dr.
11 Shedy from the Council? Any questions of
12 Dr. Shedy from the public? Anybody
13 wishing to speak on this matter today?
14 Thank you, Dr. Shedy.

15 MR. CHAIRMAN: Is it your
16 recommendation to continue this?

17 MR. DYER: Yes.

18 MR. CHAIRMAN: I will entertain a
19 motion to continue this hearing until the
20 next regular meeting on October 20.

21 MR. BRANCKY: So moved.

22 DR. GROSS: Seconded.

23 MR. CHAIRMAN: I've got a motion
24 and a second. Any more questions or
25 comments? If not, Myra, call the roll.

26 MS. BROCK: Ms. Myers?

27 MS. MYERS: Aye.

28 MS. BROCK: Dr. Gross?

29 DR. GROSS: Aye.

30 MS. BROCK: Mr. Kilpatrick?

31 MR. KILPATRICK: Aye.

32 MS. BROCK: Mr. Wilson?

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MR. WILSON: Aye.
MR. BRUCE: Mr. Branecky?
MR. BRANECKY: Aye.
MR. BRUCE: Mr. Slagell?
MR. SLAGELL: Aye.
MR. BRUCE: Mr. Breisch?
MR. BREISCH: Aye.

(HEARING CONCLUDED)

CERTIFICATE

STATE OF OKLAHOMA)

) ss:

COUNTY OF OKLAHOMA)

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I, CHRISTY A. MYERS, Certified
Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
proceedings is the truth, the whole truth,
and nothing but the truth, and said
proceedings was taken by me in shorthand
and thereafter transcribed under my
direction; that said proceedings was taken
on the 18th day of August, 1938 at Oklahoma
City, Oklahoma; and that I am neither
attorney for nor relative of any of said
parties, nor otherwise interested in said
proceedings.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
28th day of August, 1938.

CHRISTY A. MYERS, C.S.R.
Certificate No. 80310

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DEPARTMENT OF ENVIRONMENTALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE OAC 252:100-37
CONTROL OF EMISSIONS OF ORGANIC MATERIALS (AMENDED)
HELD ON OCTOBER 20, 1998, AT 1:00 P.M.
AT TULSA CITY-COUNTY
HEALTH DEPARTMENT AUDITORIUM
IN TULSA, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

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2. MS. SLAGELL - MEMBER
3. MR. WILSON - MEMBER
4. MS. MYERS - MEMBER
5. MR. BRANCKY - MEMBER
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7. DR. GROSZ - MEMBER
8. MR. BREISCH - CHAIRMAN
9. MR. DYKE - PROTOCOL OFFICER
10. MS. BRUCE - SECRETARY

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PROCEEDINGS

MR. DYKE: The next item is Item Number 10, OAC 252:100-37. This hearing was advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed new Rule, OAC 252:100-37, Control of Emissions of Organic Materials.

At this time, I will call upon Dr. Joyce Sheedy to give the staff position.

DR. SHEEDY: Mr. Chairman, Members of the Council, ladies and gentlemen, I am Joyce Sheedy of the Rules and Planning Unit. The proposed revisions to Subchapter 37 of the Air Quality Rules were presented first to the Air Quality Council on August 18th, 1998. The proposed revisions are part of the Rewrite/Dewrong project that the DEQ has undertaken, and in response to a directive from the Air Quality Council that the staff respond to a petition requesting that consideration be given to exempting acetone from being a VOC. The Division also received a request that perchloroethylene, methylated siloxanes and methyl acetate be exempted from being VOCs.

A number of changes have been made to the proposed rule that was presented in the August Council meeting. The majority of these changes are insignificant and are not intended to be substantive in nature. It is not my intention to go over these rules at this time. A complete list of the -- I mean, not rules, these changes at this time -- a complete

Christy A. Myers
Certified shorthand reporter

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list of the changes are in the Council packet and, I think, available at this meeting.

We have 3 -- there are 3 substantive changes to the rule, the Redefinition to "Volatile Organic Compound" to be the same as EPA's definition contained in 252:100-37-2, which is on page 2 of the rule. And this revision also responds to the requests for exemptions of the four substances mentioned earlier. These are substances considered by the EPA -- by the EPA definition to have negligible photochemical reactivity and are, therefore, not VOCs.

The second substantive change, the staff proposes to delete 252:100-37-3(a), New Sources, on page 2, which requires BACT and permits for any emission of organic material emitted as a reactant or a solvent. This section is redundant since 252:100-6-5(b) requires the new major sources to obtain permits and to apply BACT. In Subchapter 7 contains the requirements for a minor source permit.

The third substantive change the staff recommends deleting the first sentence in 252:100-37-36, Fuel burning and refuse burning equipment. This corrects a contradiction between the first and second sentences of this Section, and to remove a standard that can't be met.

We have no letters of comment since the August Air Quality Council meeting, or at least we received none.

The staff had intended to recommend that the rule be

Christy A. Myers
Certified shorthand reporter

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recommended to the Environmental Quality 1 for permanent
adoption. However, after the Council packets were mailed,
staff determined that the most appropriate place to put the
Permit by Rule for VOC storage vessels, was in Subchapter 17,
as a new Part.

Since this PBR is ready and the Department desires to
have it promulgated as soon as possible for the timely
implementation of the permit continuum, staff requests that
this rule return to the December meeting so that the new Part
can be added.

MR. DYKE: Questions from the Council?
Questions, comments from the public? Anyone wishing to speak
on this matter?

MS. MEDLEY: You did say that this rule -- even
though my understanding is it's being held over to December, is
that correct?

DR. SHEEDY: That's correct.

MR. DYKE: Do you wish to speak?

MS. MEDLEY: Okay, regarding the fuel burning
and refuse burning equipment, obviously my main concern. My
main concern regarding this is our trash to energy plant in
Tulsa, Oklahoma, where we've been dealing with considerably
lately. It says here that what you changed and took out, and
what you've now got in there, actually makes it looser than, I
think, more so than tighter. My question is, why was this

Carley A. Hynn
Certified shorthand Reporter

change made, t. no person shall cause or allow the emission
of hydrocarbons or other organic materials from fuel burning
and refuse burning equipment -- you took that out and you now
say all substances, and you left the rest of it. Well, they do
burn hydrocarbons, they burn benzene. There's a lot of things
that are being burned over there that we at first didn't know
were being burned over there, but now we have actual proof of
them. So, my concern is by you taking that out of the rule, am
I missing something, or --

DR. SHEEDY: Well, the purpose is for fuel
burning as well as refuse burning, that would be anything that
burns natural gas, or burns diesel or anything like that. And
this states that they cannot emit hydrocarbons. I don't think
anything is 100 percent efficient anymore and will always burn
hydrocarbons and everything else (inaudible). That leads
possibly to do that. So, that is not a standard --

MS. MEDLEY: But now you have -- now you have
nothing. You're going from they can't do it to no -- to no
requirement at all. Am I correct?

DR. SHEEDY: Well, no, if they had the same
requirement they had before probably in actuality before,
otherwise, we would have to shut --

MS. MEDLEY: Our trash to energy plant has no
permit. Their limits are 1980 permitting that was done in a 30
day period. The point is, this could be beneficial to us. I'm

Carley A. Hynn
Certified shorthand Reporter

not sure if I feel comfortable with this being totally left
out, based on at least our refuse burning equipment, I'm not
dealing with fuel burning right now, but I do have a problem
with this being just taken out. Am I to assume they are
allowed then to emit emissions of hydrocarbon and other
organics? And we know they do and they're supposed to have a
permit that has limits to it but unfortunately trash to energy
plants doesn't have that strict of a limit.

DR. SHEEDY: I don't think it's possible to burn
refuse completely to the point where that you're not going to
have emissions.

MS. MEDLEY: So, is that why you took it out?

DR. SHEEDY: Yeah, I think it would be strictly
enforcing everything that burns fuel.

MS. MEDLEY: I have another question. At the
bottom of this, in the same paragraph, where it says among
other things (inaudible) operations (inaudible) equipment is
not overloaded there is a little T1 or T2 down there, what is
that on my copy?

DR. SHEEDY: I think that's a semicolon that's
underlined.

MS. MEDLEY: Okay, I just thought maybe that had
some significance. That is properly cleaned, operated,
maintained at that temperature above air sufficient. Is there
anything in any reg that tells you what that temperature must

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be now?

DR. SHEEDY: When we're talking about municipal
waste incinerations, I think we do have. The federal
government has regulations in which require certain
temperatures and certain retention time and after burns. So,
yeah, we do lose something. We have had policies for years in
DBQ to use for medical waste incineration and large
incinerators of 2,000 degrees per second requirement on the
chamber -- on the secondary chamber which we base it on the
intensity.

MS. MEDLEY: What do you require on refuse
burning?

DR. SHEEDY: I'm not sure what the burning
intensity is.

MS. MEDLEY: (Inaudible):

DR. SHEEDY: Now, I am talking about secondary
burn.

MS. MEDLEY: Oh, secondary burn.

DR. SHEEDY: That's where you can complete the
combustion that started in the primary chamber.

MS. MEDLEY: When, anyway, there's just nothing
in here -- I mean, we're deleting a bunch and then you've left
-- I don't see the point.

DR. SHEEDY: There are, I'm sure, other people
who have more experience regarding equipment and various other

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1 things than I do. I am not sure it's possible to set these
2 numbers for total ranges that's covered.

3 MR. DYKE: Nadine.

4 MS. BARTON: On page 3, starting with paragraph
5 b, that's been crossed out, compliance schedule. This doesn't
6 make sense to me. It starts with, this Subchapter shall apply
7 to all new installations of any equipment or processes
8 described in this Subchapter, after the effective date of
9 December 28, 1974. Now, B, it says Sections 15, 16, 35, 36, 37
10 and 38 of this Subchapter shall apply to all existing
11 installations of any equipment or processes in use and
12 described in this Subchapter located in Air Quality Maintenance
13 Areas as classified by the EPA with regard to VOCs and ozone,
14 which is 1988, which consists of Tulsa County and Oklahoma
15 County. What does that mean?

16 DR. SHEEDY: Okay. The A, means that at new
17 installations anywhere in the state were subject to this rule
18 after the effective date, December 28, 1974. B, means that
19 existing sources -- existing installations in Tulsa and
20 Oklahoma Counties which are the only (inaudible) at this time
21 are also subject to Sections 15, 16, 35, 36, 37 and 38 with
22 regard to VOC -- sorry, and 38 after the effective date --
23 let's see, there's a date in here somewhere.

24 MS. BARTON: It just says which in --

25 DR. SHEEDY: Okay. Maybe that's not in the best

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1 place. But what we're saying here is that AQMA's in 1988,
2 consists of Tulsa County and Oklahoma County. In the future,
3 if (inaudible) AQMA's (inaudible) then any new towns might be
4 (inaudible). Right now, these are the only two that are
5 subject to new sources.

6 MS. BARTON: I get the new sources.

7 DR. SHEEDY: Yeah. The existing sources are in
8 Tulsa and Oklahoma County only.

9 MS. BARTON: It's only, period, right?

10 DR. SHEEDY: That's right.

11 MS. BARTON: So, if somebody else goes into
12 nonattainment, then we'll have to come back and revisit that,
13 is that correct?

14 DR. SHEEDY: The rules take care of it in
15 Subchapter 19. This is really kind of a safe clause, I think,
16 for the rules as they used to be.

17 MS. BARTON: All of these chapters, 15, 16, 35
18 and all of that, what does that deal with basically? What do
19 those chapters in the Sections 15, 16, 35, 38, what do they
20 relate to?

21 DR. SHEEDY: Basically, those are the things
22 that were -- as I said previously about the control of B and C.
23 At the time that this emission was written, VOC was the only
24 control in those chapters. The rest of the chapters controls
25 only solvents. So we had at that time extension to VOCs and

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1 solvents. So to keep that exactly as it had been, instead of
2 just saying related to the control of VOC, we had to list
3 those Sections that we had at that time for VOCs. And we were
4 trying to make substantive changes in this Section -- rule. We
5 were just trying to reword it.

6 MR. DYKE: Any additional comments from the
7 public? From the Council?

8 MR. BREISCH: I'll entertain a motion that this
9 item be continued to the next regular meeting.

10 MS. MYERS: I'll make a motion to continue it.

11 DR. GROSZ: Second.

12 MR. BREISCH: Got a motion and a second to
13 continue this item to the next meeting. Questions or comments?

14 Myrna, call roll.

15 MS. BRUCE: Mr. Braneky.

16 MR. BRANECKY: Aye.

17 MS. BRUCE: Ms. Myers.

18 MS. MYERS: Aye.

19 MS. BRUCE: Mr. Wilson.

20 MR. WILSON: Aye.

21 MS. BRUCE: Dr. Gross.

22 DR. GROSZ: Aye.

23 MS. BRUCE: Mr. Breisch.

24 MR. BREISCH: Aye.

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1 (PROCEEDINGS CONCLUDED)

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1 proceedings are the truth, the whole truth nothing but the
 2 truth, in the proceedings aforesaid; that the foregoing
 3 proceeding was taken by me in shorthand and thereafter
 4 transcribed under my direction; that said proceedings was taken
 5 on the 20th day of October, 1998, at Tulsa, Oklahoma; and that
 6 I am neither attorney for nor relative of any of said parties,
 7 nor otherwise interested in said proceedings.

8 IN WITNESS WHEREOF, I have hereunto set my hand and
 9 official seal on this, the 4th day of November, 1998.

7

8

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

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Christy A. Myers
 Certified Shorthand Reporter

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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIV
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF PUBLIC HEARINGS OAC 252:100-37
CONTROL OF EMISSIONS OF ORGANIC MATERIALS
HELD ON DECEMBER 15, 1998, AT 1:00 P.M.
AT 4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

MEMBERS OF THE COUNCIL

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PROCEEDINGS

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MR. DYKE: The next item on the agenda is Item Number 6, OAC 252:100-37, Control of Emissions of Organic Materials Amended. I'll call on Dr. Shеды.

DR. SHEEDY: Mr. Chairman, Members of the Council, ladies and gentlemen, my name is Joyce Shеды, I work in the Rules and Planning Unit.

The proposed revisions to Subchapter 37, Control of Emission of Organic Materials, were brought to the Council for the first time on August 18th, and again at the meeting on October the 20th.

The proposed revisions primarily simplify and clarify language and correct grammar and format without involving substantive changes. However, there are 8 substantive changes proposed, 2 of which have been added since the October Council meeting.

Those two were added in consideration of comments received after the October meeting. Staff proposes to add to 252:100-37-15(c), which is on page 6, to exempt storage tanks that are subject to standards in 40 CFR 60, Subparts K, Ka, or Kb from the requirements of Section 15. Staff also proposes to add 252:100-37-18(b), on page 11, to exempt pumps and compressors that are subject to equipment leak standards in 40 CFR 60 Subparts BB, GGG, or XXX from the requirements of Section 18. That's G-G-G, K-K-K.

Christy A. Myers
Certified shorthand reporter

THE REPORTER: Thank you.

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DR. SHEEDY: We feel that the MSFS subparts mentioned here are as stringent as the state rules, or more stringent.

A number of other small changes have been proposed to the rule since the October Council meeting, none of which is intended to be substantive. The Council packet, as well as the materials here on the table, includes a list of revisions that have been made to the rule after the October 20th meeting, as well as a summary of written comments received and staff responses to those comments.

We received letters of comments from EPO and from EPA Region 6 since the October Council meeting. The EPO comments and staff responses, as I said, are part of the Council packet. The EPA letter dated December 10, 1998, is not included in that summarization and mainly it supports the proposed changes to Subchapter 37. And we would -- I'd like to make these letters part of the record, the EPO letter and the EPA letter.

Due to unresolved issues regarding alternative standards for coating operations in 252:100-37-25(d) on page 9, staff recommends that the rule be considered again at the next Air Quality Council meeting on February 17th.

MR. DYKE: Questions and discussion by the Council?

Christy A. Myers
Certified shorthand reporter

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1 MR. WILSON: I have a question. You know, this
2 thing has been open now for several months. And you know, if
3 it goes in the future like it's gone in the past, there will be
4 unresolved issues in February. And when do we stop -- I'm
5 sorry, when do we stop trying to resolve every issue here and
6 just get on with it?

7 MS. SHEEHY: I think we plan to do that in
8 February. It seems like it's been going on longer than it has,
9 simply because we didn't get any comments, you know, before the
10 August meeting. I think a lot of people were -- we had so many
11 things on the agenda that people hadn't had adequate time to
12 address 37 and 39, and we began to get comments after the first
13 meeting -- after the second meeting, as people had time to look
14 at it. Now, hopefully, they will have had time to look at
15 these and will come up with a final product for this time in
16 February. Of course, next year it'll probably change again.

17 MR. DYKE: Further questions? Comments by the
18 Council? Is there anyone from the public wishing to make a
19 statement? Yes?

20 MR. BRADSHAW: Just one more time on this,
21 David.

22 MR. DYKE: Please identify yourself, please.

23 MR. BRADSHAW: David Bradshaw from Boeing. Like
24 the gentleman on the Council, remarked that this has been going
25 on for a heck of a long time, we're holding it up here for one

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Certified Shorthand Reporter*

1 issue. Another large package. The part that really concerns
2 me is if we do get to the February meeting and the Council does
3 pass it, it sounds to me like we're not going to be able to
4 make the Board, their meeting which is about ten days later,
5 and there is a Board meeting after that, which they will
6 hopefully approve it, but then it won't become effective until
7 you know, in the year 2000. I mean, that's kind of what we're
8 up against, and you know, I think we ought to find some way to
9 get past that, an emergency meeting, or something.

10 DR. SHEEHY: Dave, I believe one of the main
11 concerns was with the new definition of VOC.

12 MR. BRADSHAW: That's my particular concern,
13 yes.

14 DR. SHEEHY: And Barbara and I have discussed
15 some possible ways of addressing that issue, to try and get it
16 done in a more timely fashion. Barbara, do you want to --

17 MS. HOFFMAN: My name is Barbara Hoffman, I'm
18 the staff attorney for DEQ. And I think probably the best way
19 to handle it would be when we put this out for public notice
20 and for public comment -- that will be published in January.
21 We'll notice it both as an emergency rule and as a permanent
22 rule. And for the emergency rule, we'll stick to just a couple
23 of substantive changes that dealt with the VOC definition. In
24 that way, when we -- after we have our Council meeting, it
25 won't be very much time, but I believe that it can be done,

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1 that we can get the package to the Board in time for them to
2 look at it. And if they think they need the entire package,
3 with the permit rules and everything, more than they can handle
4 in one meeting, I think they should still have sufficient time
5 to look at the emergency rule that would deal with the
6 definition of VOC. And in that case, once -- I would hope that
7 they would pass that and then with the Governor's signature,
8 that would take effect immediately.

9 MR. BRADSHAW: That would be very acceptable.
10 And I'd just point out that this request was not from just
11 Boeing but from American Airlines. So we are talking about at
12 least a population base of 12,000 employees, and I'm sure
13 Tinker would support that issue, or I strongly expect support
14 from them, as well.

15 MR. DYKE: Thank you for your comments, that
16 also helps us with the emergency issue before the Board, your
17 comments. Anyone else? Any further comments from the Council?

18 MR. BREISCH: What's the Council's wish?

19 MS. MYERS: I'll make a motion that we continue
20 this until February.

21 DR. GROSS: Second.

22 MR. BREISCH: I've got a motion and a second to
23 continue this item to our regular February meeting. Any
24 additions to that? If not, Myrna, call the roll.

25 MS. BRUCE: Dr. Canter.

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Certified Shorthand Reporter*

1 MR. CANTER: Aye.
2 MS. BRUCE: Ms. Myers.
3 MS. MYERS: Aye.
4 MS. BRUCE: Dr. Gross.
5 DR. GROSS: Aye.
6 MS. BRUCE: Mr. Braneky.
7 MR. BRANECKY: Aye.
8 MS. BRUCE: Mr. Wilson.
9 MR. WILSON: Aye.
10 MS. BRUCE: Mr. Breisch.
11 MR. BREISCH: Aye.

(PROCEEDINGS CONCLUDED)

*Christy A. Myers
Certified Shorthand Reporter*

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STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings are the truth, the whole truth, and nothing but the truth, in the proceedings aforesaid; that the foregoing proceeding was taken by me in shorthand and thereafter transcribed under my direction; that said proceedings was taken on the 15th day of December, 1998, at Oklahoma City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 23rd day of December, 1998.

CHRISTY A. MYERS, C.S.R.
Certificate No. 60310

Christy A. Myers
Certified Shorthand Reporter

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

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TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE OAC 252:100-37
CONTROL OF EMISSIONS OF ORGANIC MATERIALS

[AMENDED]

HELD ON FEBRUARY 17, 1999

AT 1:00 P.M.

AT 707 NORTH ROBINSON

IN OKLAHOMA CITY, OKLAHOMA

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REPORTED BY: Christy A. Myers, CSR,

MEMBERS OF THE COUNCIL

1. DR. FRED GROSZ - MEMBER
2. MR. GARY KILPATRICK - MEMBER
3. MS. MERIBETH SLAGELL - MEMBER
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10. MR. EDDIE TERRILL - DIRECTOR

DR. CANTER: Second.
 MR. BREISCH: I have a motion and
 a second. Any corrections, additions,
 comments? If not, Myrna, call the roll.
 MS. BRUCE: Mr. Wilson.
 MR. WILSON: Aye.
 MS. BRUCE: Dr. Grosz.
 DR. GROSZ: Yes.
 MS. BRUCE: Dr. Canter.
 DR. CANTER: Aye.
 MS. BRUCE: Mr. Kilpatrick.
 MR. KILPATRICK: Aye.
 MS. BRUCE: Ms. Myers.
 MS. MYERS: Aye.
 MS. BRUCE: Mr. Branecky.
 MR. BRANECKY: Aye.
 MS. BRUCE: Mr. Breisch.
 MR. BREISCH: Aye. Next item,
 election of officers for calendar year '99.
 Here's your chance. What are your
 pleasures?
 DR. CANTER: Is the Chair ready
 for a motion? I would like to nominate
 Bill Breisch for Chairman of the Air
 Quality Council for this year.

PROCEEDINGS

MR. BREISCH: All right. We'll
 call this meeting to order. Again, this is
 a regular meeting and a hearing. We'll
 start out with the roll call. Myrna.
 MS. BRUCE: Mr. Wilson.
 MR. WILSON: Here.
 MS. BRUCE: Dr. Grosz.
 DR. GROSZ: Here.
 MS. BRUCE: Dr. Canter.
 DR. CANTER: Here.
 MS. BRUCE: Mr. Kilpatrick.
 MR. KILPATRICK: Here.
 MS. BRUCE: Ms. Myers.
 MS. MYERS: Present.
 MS. BRUCE: Mr. Branecky.
 MR. BRANECKY: Here.
 MS. BRUCE: Mr. Breisch.
 MR. BREISCH: Here.
 MS. BRUCE: For the record,
 absent is Ms. Slagell.
 MR. BREISCH: Okay. I need
 approval of the Minutes of the December
 15th meeting.
 DR. GROSZ: So moved.

DR. GROSZ: Second.
 MR. BREISCH: Do we have to --
 MR. BRANECKY: Do them separate,
 or --
 MR. BREISCH: Can we do them
 together, if we want to go ahead and elect
 a Vice-Chairman at the same time, or do we
 have to do them separately, Barbara?
 MS. HOFFMAN: I would suggest you
 do them separately.
 MR. BREISCH: Okay. Did we have
 a second?
 DR. GROSZ: Yes.
 MR. BREISCH: Okay. Any other
 nominations?
 DR. GROSZ: Move the nominations
 cease.
 MR. KILPATRICK: Second.
 MR. BREISCH: What did he say?
 MR. BRANECKY: He moved the
 nomination cease and he seconded.
 MR. BREISCH: Okay. We have a
 motion and a second to cease.
 MR. BRANECKY: So, what are we
 voting on?

1 MR. BRIESCH: We're on the voting
 2 on the Chairman.
 3 MR. BRANECKY: Okay.
 4 MR. BREISCH: Okay. Myrna, call
 5 the roll.
 6 MS. BRUCE: Mr. Wilson.
 7 MR. WILSON: Aye.
 8 MS. BRUCE: Dr. Grosz.
 9 DR. GROSZ: Aye.
 10 MS. BRUCE: Dr. Canter.
 11 DR. CANTER: Aye.
 12 MS. BRUCE: Mr. Kilpatrick.
 13 MR. KILPATRICK: Aye.
 14 MS. BRUCE: Ms. Myers.
 15 MS. MYERS: Aye.
 16 MS. BRUCE: Mr. Branecky.
 17 MR. BRANECKY: Aye.
 18 MS. BRUCE: Mr. Breisch.
 19 MR. BREISCH: Abstain. Now, I
 20 don't want to put myself in a compromising
 21 position. Okay. Now, we want to elect a
 22 Vice-Chairman. And remember, this Vice-
 23 Chairman would take over in case the
 24 Chairman gets out of this.
 25 MR. KILPATRICK: Mr. Chairman, I

1 Director of the Air Quality Division. As
 2 such, I will act as the Protocol Officer
 3 for today's hearing.
 4 These hearings will be convened by
 5 the Air Quality Council in compliance with
 6 the Oklahoma Administrative Procedures Act
 7 and Title 40 of the Code of Federal
 8 Regulations, Part 51, as well as the
 9 authority of Title 2790 of the Oklahoma
 10 Statute, Section 2-201 through 2-5118.
 11 These hearings were advertised in
 12 the Oklahoma Register for the purpose of
 13 receiving comments pertaining to the
 14 proposed OAC Title 252 Chapter, 100 Rules,
 15 as listed in the hearing agenda, which will
 16 be entered into each record along with the
 17 Oklahoma Register filing.
 18 If you wish to make a statement, it
 19 is very important that you complete the
 20 form at the registration table and you will
 21 be called upon at the appropriate time.
 22 At this time, we will proceed with
 23 what is marked as Agenda Item Number 5 on
 24 the hearing agenda, OAC 252:100-37, Control
 25 of Emissions of Organic Materials. And

1 would like to move that Dr. Canter be the
 2 Vice-Chairman.
 3 DR. GROSZ: Second.
 4 MR. BREISCH: Okay. I've got a
 5 motion and a second. Any further
 6 nominations? Okay. Hearing none, Myrna,
 7 call the roll.
 8 MS. BRUCE: Mr. Wilson.
 9 MR. WILSON: Aye.
 10 MS. BRUCE: Dr. Grosz.
 11 DR. GROSZ: Aye.
 12 MS. BRUCE: Dr. Canter.
 13 DR. CANTER: Abstain.
 14 MS. BRUCE: Mr. Kilpatrick.
 15 MR. KILPATRICK: Aye.
 16 MS. BRUCE: Ms. Myers.
 17 MS. MYERS: Aye.
 18 MS. BRUCE: Mr. Branecky.
 19 MR. BRANECKY: Aye.
 20 MS. BRUCE: Mr. Breisch.
 21 MR. BREISCH: Aye. Next item.
 22 Eddie Terrill will act as Protocol Officer
 23 for Items 5 and 6.
 24 MR. TERRILL: Ladies and
 25 gentlemen, my name is Eddie Terrill, I am

1 I'll call on Dr. Joyce Sheedy, who will
 2 give the staff position on the proposed
 3 rule.
 4 DR. SHEEDY: Mr. Chairman,
 5 Members of the Council, ladies and
 6 gentlemen, I'm Joyce Sheedy and I work in
 7 the Rules and Planning Unit of the Air
 8 Quality Division of the Department of
 9 Environmental Quality.
 10 The proposed revisions to Subchapter
 11 37, Control of Emissions of Organic
 12 Materials, were brought to the Council for
 13 the first time on August 18, 1998, and
 14 again on October 20, 1998 and December 15,
 15 1998. At the December Council meeting,
 16 staff requested that the rule be considered
 17 again at the February Council meeting, due
 18 to unresolved issues regarding alternate
 19 standards for coating operations continued
 20 in 252:100-37-25(d). These issues have now
 21 been resolved.
 22 However, some questions came up in
 23 this morning's briefing, two of which can't
 24 be resolved today. These two are -- there
 25 was a feeling among the Council that the

1 requirements in 252:100-37-15(a)(2) on page
 2 4, as written, may be impossible to meet.
 3 We have had no comments from the regulated
 4 community or the Air Quality staff
 5 indicating that this is a problem.
 6 However, we believe it merits an in-depth
 7 look and it will be considered in future
 8 rulemaking so that any changes we might
 9 propose will be subject to public comment.

10 The other question was in 252:100-
 11 37-16(b)(1) and 252:100-37-42(c) on pages 6
 12 and 12 respectively, the term "submergence
 13 factor" appears. Its meaning is unclear
 14 since the term isn't defined in the rule.
 15 Staff will look into providing a definition
 16 or changing the wording in these two
 17 portions of the rule.

18 Based on this morning's briefing,
 19 five nonsubstantive changes are
 20 recommended. These are in 252:100-37-1 on
 21 page 1, that we change "prevent" to
 22 "reduce". On 252:100-37-2 on page 1, that
 23 we change primary -- I'm sorry, that we
 24 change "prime" to "primary" in the
 25 definition of Epoxy. And that on page 8,

1 have been made since the December meeting
 2 are, one, the addition to 252:100-37-2 on
 3 page 1, of a definition of "drilling or
 4 production facility" that is essentially
 5 identical to that found in 40 CFR 60,
 6 Subpart K.

7 Two, the addition to 252:100-37-2 on
 8 page 1, of the definition of "lease custody
 9 transfer" based on the definition of
 10 "custody transfer" found in 40 CFR 60,
 11 Subpart K and identical to the definition
 12 that already exists in 252:100-39-30(a).

13 Three, the addition of new
 14 Subsection C, Permit-By-Rule Facilities, to
 15 252:100-37-3 on page 3, to make clear that
 16 the only requirements in Subchapter 37 that
 17 apply to facilities registered under the
 18 VOC storage and loading facility permit-by-
 19 rule are those in Part 9.

20 The fourth one, the addition of
 21 language to Subchapter (b) of 252:100-39-4
 22 on page 3, to exempt from the requirements
 23 of Subchapter 37, methanol storage vessels
 24 at drilling or production facilities when
 25 the methanol is used on-site. It is our

1 in 252:100-37-25(b)(1)(a)(1), we change
 2 "will" to "can".

3 There was a question as to what is
 4 meant by "either system" in 252:100-37-
 5 16(a)(2) on page 5. Staff recommends
 6 changing "either system" to "either loading
 7 system specified in subsection (a)." It
 8 was suggested that "computed to" in
 9 252:100-37-25(c) be deleted, and the staff
 10 agrees that this can be deleted without
 11 changing the meaning of that section.

12 The majority of the proposed
 13 revisions to Subchapter 37 simplify and
 14 clarify the language and correct grammar
 15 and format, without involving substantive
 16 changes. However, fourteen substantive
 17 changes are proposed, six of which have
 18 been added since the December Council
 19 meeting. A number of nonsubstantive
 20 changes have also been made since the
 21 December meeting, most of which are minor
 22 and consist of replacements, such as "will"
 23 with "shall", "gallons" with "g-a-l", and
 24 "liter" with "l".

25 The six substantive changes that

1 understanding that drilling and production
 2 facilities often store methanol for various
 3 on-site uses, and it does not make sense to
 4 exempt produced petroleum and condensate
 5 stored on-site and not methanol.

6 The fifth addition was a revision to
 7 the alternate standard in 252:100-37-25(d)
 8 on page 9, to require that VOC emissions
 9 from noncompliant coatings be reduced to
 10 the level that they would have been had the
 11 coatings complied with the VOC content
 12 limits in 252:100-37-25(a).

13 The sixth new substantive change is
 14 for the addition of new subparagraphs (a),
 15 (b), and (c) to 252:100-37-41(2) on page
 16 11, which will allow tanks that have
 17 storage capacities greater than 19,813
 18 gallons and which are subject to NSPS
 19 Subpart Kb, to qualify for the permit-by-
 20 rule for VOC storage and loading
 21 facilities, since the only applicable
 22 requirement in Subpart Kb are those to
 23 maintain on-site records of the dimensions
 24 of the vessel and an analysis of the
 25 capacity of the vessel. These simple

1 requirements are appropriate for a permit-
 2 by-rule facility.

3 The eighth substantive changes that
 4 were previously proposed are the revision
 5 of the definition of "volatile organic
 6 compound (VOC)" in 252:100-37-2 on page 2,
 7 to make that definition consistent with the
 8 EPA definition. The deletion of 252:100-
 9 37-3(a) on page 2. This is the subsection
 10 that requires any new source that emits
 11 organic material as a solvent or reactant
 12 to obtain a permit and apply BACT. Staff
 13 feels that this is not justified for minor
 14 sources, based on the amount of effort and
 15 time and expense that it requires in
 16 comparison to the subsequent reduction of
 17 VOC emissions. Especially that's true in
 18 new sources in areas that are in attainment
 19 for ozone and have always been in
 20 attainment for ozone, and to require BACT
 21 for new major sources is redundant since
 22 that's already required in Subchapter 8.

23 The third substantive change that
 24 was previously proposed is the addition of
 25 252:100-37-15(c) on pages 4 and 5, to

1 547 tons per year. This is meaningless
 2 since Subchapter 8 contains requirements
 3 for BACT to be applied to major sources
 4 which emit 100 tons per year of VOCs and
 5 for new PSD sources that emit 100 tons per
 6 year of VOCs and for modifications to
 7 existing PSD sources that result in an
 8 increase in VOC emissions of 40 tons per
 9 year or more. Now, the deletion of
 10 the first sentence in 252:100-37-36, fuel-
 11 burning and refuse-burning equipment on
 12 page 10, thereby eliminating the impossible
 13 requirement that no emission of hydrocarbon
 14 or organic materials is allowed from fuel-
 15 burning or refuse-burning equipment.

16 The addition of 252:100-37-38(b) on
 17 page 11, which exempts pumps and
 18 compressors that are subject to the
 19 equipment leak standards in 40 CFR 60,
 20 Subparts VV, triple G (GGG) or triple K
 21 (KKK), from the requirements of Section 38,
 22 since the requirements of those subparts
 23 are as stringent as the ones in Section 38.

24
 25 And the addition of Subpart 9,

1 exempt storage tanks subject to the
 2 standards contained in 40 CFR 60, Subparts
 3 K, Ka, or Kb, from the requirements of that
 4 section, since these standards are as
 5 stringent as the requirements in Section
 6 15.

7 The addition of 252:100-37-16(c) on
 8 page 6, to exempt loading facilities that
 9 are subject to 40 CFR 60, Subpart XX or 40
 10 CFR 63, Subpart R, from the requirements of
 11 Section 16, since the requirements of
 12 Subparts XX and R are as stringent as those
 13 contained in Section 16.

14 The deletion of 252:100-25(c),
 15 Emissions Limitations on page 9. Research
 16 in the Air Quality Council records indicate
 17 that this subsection was originally meant
 18 to control emissions of organic materials
 19 from the use of nonphotochemically reactive
 20 solvents. These substances would not be
 21 considered VOC by the proposed revision of
 22 definition of VOC. If the limits contained
 23 in subsection (c) are applied to VOCs, the
 24 emission limit of 3,000 pounds of VOC per
 25 day for 365 days per year would result in

1 Permit-By-Rule for VOC Storage and Loading
 2 facilities on pages 11 and 12, provide for
 3 permit-by-rule for facilities that meet the
 4 applicability requirements contained
 5 herein.

6 The Council packet includes a list
 7 of substantive revisions that have been
 8 made to the rule after December 15th, as
 9 well as a summary of written comments
 10 received and staff's responses. Only one
 11 letter of comment has been received since
 12 the December Council meeting. This was a
 13 letter dated February 10, 1999, from Tom
 14 Diggs, EPA Region 6, supporting the
 15 proposed changes to Subchapter 37. I would
 16 like to make that letter a part of the
 17 permanent record.

18 Staff recommends that the proposed
 19 rule be recommended to the Environmental
 20 Quality Board for permanent adoption. Any
 21 questions or comments?

22 MR. TERRILL: Questions or
 23 comments from the Council?

24 MR. KILPATRICK: I have one.

25 MR. WILSON: I'm sorry, go ahead.

1 MR. KILPATRICK: Okay. Maybe
 2 we're going to ask the same question. This
 3 is for clarification to be sure we
 4 understood. The change on page 5 on the --
 5 in either system that was Section A, that
 6 was a capital "A", not a little "A"?

7 DR. SHEEDY: No, it was the
 8 little "A". When we went back and re-read
 9 this carefully, up here on 37-16, little
 10 "A", we say that each loading facility with
 11 a throughput greater than 40,000 gallons
 12 per day from its aggregate loading pipes
 13 shall be equipped with a vapor-collection
 14 and disposal system unless all tanks will -
 15 - I'm sorry. I'm having trouble reading
 16 along the edges here. Unless all tanks,
 17 trucks or trailers are bottom loaded with
 18 hatches closed. So, what we have up here,
 19 and I'll admit it may not be very clear, is
 20 we have two things. You can either have a
 21 system that's bottom loaded with closed
 22 hatches, or you can have a system with
 23 vapor control and with vapor collection
 24 disposal. And those are the two systems
 25 referred to in 2. So, if you have a system

1 get into place for the simplification
 2 program and for various industries. We
 3 think that two of the issues that came up
 4 this morning need to be looked at in
 5 greater depth, before we make changes, so
 6 we can be sure, consider all the impacts it
 7 may make and to give industry and the
 8 public a chance to comment on it. And that
 9 was the 252:100-37-15(a)(2) on page 4.
 10 About 85 percent control efficiency.

11 MS. MYERS: Right.
 12 DR. SHEEDY: And we want to do
 13 some further -- see if we can come up with
 14 a definition of "submergence factor"
 15 anywhere. We looked in several places, not
 16 only in our own rules, but we've checked
 17 some of EPA's current stuff. It might be
 18 that it came out of some older CTG. If we
 19 cannot come up with a definition, then we
 20 will have to change the wording.

21 MS. MYERS: Okay. On page 9,
 22 compliance with a plant-wide emission plan.
 23 About halfway through that paragraph it
 24 refers to VOC content limitation described
 25 in 252:100-37-25(a), must be expressly

1 that is bottom loading with closed hatches,
 2 then you have to provide a means to prevent
 3 VOC drainage from the loading device when
 4 it's removed from any tank, truck or
 5 trailer. If, on the other hand, you have a
 6 system that is equipped with the vapor
 7 collection and disposal system, you must
 8 also provide a means to prevent VOC
 9 drainage from the loading device when
 10 removed from any tank, truck or trailer.

11 MR. KILPATRICK: Okay.
 12 MR. TERRILL: Any further
 13 questions?

14 MS. MYERS: Joyce, I had a
 15 question. You said at the start of your
 16 presentation that there were a couple of
 17 issues that staff needed to go back and
 18 resolve before this rule -- explain to me
 19 the timing on this thing. There were some
 20 issues that needed to be resolved, but you
 21 are still asking for us to go ahead and
 22 pass it?

23 DR. SHEEDY: Yes. We are asking
 24 that we pass the rule as it is, because
 25 there are parts of it that really need to

1 approved. Can we take the word "expressly"
 2 out? It has to be approved by the
 3 Director. I don't see what expressly adds
 4 to it, other than confusion.

5 DR. SHEEDY: I don't want to
 6 comment on that. Maybe legal. Okay,
 7 Barbara -- Sharon, it's on page 9. Exactly
 8 where, now?

9 MS. MYERS: Under paragraph 2,
 10 compliance with the plant-wide emission
 11 plan.

12 DR. SHEEDY: It's a rule we're
 13 actually looking at -- 39?

14 MS. MYERS: We're looking at page
 15 37 -- at Rule Number 37.

16 DR. SHEEDY: Let me get back to
 17 37 on page 9.

18 MS. MYERS: Paragraph 2. If it
 19 has to be approved by the Director, why
 20 does it have to be expressly approved.
 21 What does that add to it? What is the
 22 definition that's going to clarify that for
 23 anybody?

24 MS. HOFFMAN: My name is Barb.
 25 Hoffman and I help with these rules. I

1 think that what was intended there was that
2 what we particularly want is that there not
3 be any -- someone not say, yeah, he told me
4 over the phone that it was okay. In other
5 words, probably what we really mean there
6 is that we want something in writing. That
7 we want written approval, is probably what
8 we want.

9 MS. MYERS: Perhaps it needs to
10 be, must have written approval by the
11 Division Director, would simplify that.
12 That confused me when I read it, but I'm
13 easily confused. I mean, if the intent has
14 to be in writing, then I think it needs to
15 be said that it's got to be in writing,
16 rather than expressly approved because that
17 leaves it kind of wide open, in my opinion.

18 MS. HOFFMAN: Okay. So, we could
19 delete expressly, and then after approved
20 add the words "in writing".

21 DR. SHEEDY: Okay.

22 MS. MYERS: Thank you.

23 MR. TERRILL: Any further
24 comments from the Council? I've got one
25 request for comment from Sandra Rennie of

1 factoring them into the redress of the
2 subchapters. I would also like to add that
3 EPA is very pleased that the state has
4 taken steps to revise their regulations
5 under the Rewrite-Dewrong Program. This
6 effort goes into the program within the
7 federal government to use plain English in
8 writing federal regulations and other
9 documents. We are very encouraged by the
10 approach that you are taking and the effort
11 put forth to revise your Air Regulations.
12 Thank you for the opportunity to provide
13 comments.

14 MR. TERRILL: Are there any
15 further questions from the audience, or
16 comments? Any further questions from
17 Council? Being none, I guess we're ready
18 for a vote.

19 MR. BREISCH: I'll entertain a
20 motion to send this to the DEQ with a
21 request to approve it.

22 MR. WILSON: So moved.

23 DR. GROSZ: Second.

24 MR. BREISCH: I've got a motion
25 and a second.

1 EPA Region 6.

2 MS. RENNIE: Mr. Chairman,
3 Members of the Council, members of the
4 public, my name is Sandra Rennie. That's
5 R-e-n-n-i-e. I'm with the EPA Region 6
6 Office in Dallas. I appreciate the
7 opportunity to come before the Council to
8 provide comments on the proposals to amend
9 Subchapters 37 and 39 of the Oklahoma Air
10 Regulations.

11 The proposed changes clarify the
12 regulations and make them more user-
13 friendly. EPA Region 6 has reviewed all of
14 the proposed changes and have determined
15 that the changes support the State
16 Implementation Plan. The State has chosen
17 to use many federal regulations to create
18 consistency between state and federal
19 regulations. This is not only expedient,
20 but it removes confusion from facilities.

21 EPA Region 6 sent a letter dated
22 February 10, 1999, supporting these
23 amendments. We appreciate the Oklahoma DEQ
24 addressing our comments made on these
25 regulations at previous hearings, and

1 MR. KILPATRICK: Does -- that
2 motion include the five suggested changes
3 that were made by staff; is that correct?

4 MR. BREISCH: With all changes.

5 MR. WILSON: I thought we added
6 one more. It was six adjusted changes.

7 MR. BREISCH: Okay. And that's
8 DEQ Board that we're sending it to for
9 approval, and it is for a permanent rule.

10 DR. SHEEDY: Yes.

11 MR. BREISCH: Okay. Is the
12 motion in order?

13 MR. WILSON: Motion stands, yes.

14 MR. BREISCH: Any further
15 questions or comments? Myrna, call the
16 roll.

17 MS. BRUCE: Mr. Wilson.

18 MR. WILSON: Aye.

19 MS. BRUCE: Dr. Grosz.

20 DR. GROSZ: Aye.

21 MS. BRUCE: Dr. Canter.

22 DR. CANTER: Aye.

23 MS. BRUCE: Mr. Kilpatrick.

24 MR. KILPATRICK: Aye.

25 MS. BRUCE: Ms. Myers.

1 MS. MYERS: Yes.
 2 MS. BRUCE: Mr. Branecky.
 3 MR. BRANECKY: Aye.
 4 MS. BRUCE: Mr. Breisch.
 5 MR. BREISCH: Aye.

6
7 (END OF PROCEEDINGS)
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1 CERTIFICATE

2 STATE OF OKLAHOMA)
 3 COUNTY OF OKLAHOMA) ss:

4 I, CHRISTY A. MYERS, Certified

5 Shorthand Reporter in and for the State of
 6 Oklahoma, do hereby certify that the above
 7 proceedings are the truth, the whole truth,
 8 and nothing but the truth, in the
 9 proceedings aforesaid; that the foregoing
 10 proceeding was taken by me in shorthand and
 11 thereafter transcribed under my direction;
 12 that said proceedings was taken on the 17th
 13 day of February, 1999, at Oklahoma City,
 14 Oklahoma; and that I am neither attorney
 15 for nor relative of any of said parties,
 16 nor otherwise interested in said
 17 proceedings.

18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 28th day of February, 1999.

21
 22 *Christy Myers*
 23 CHRISTY A. MYERS C.S.R.
 24 Certificate No. 00310
 25

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-39 Emission of Organic Materials in Nonattainment Areas

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OAC 252:100-39 SIP Revision

SUBCHAPTER 39. EMISSION OF ORGANIC MATERIALS IN NONATTAINMENT AREAS

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- 252:100-39-2. Definitions [AMENDED]
- 252:100-39-3. General Applicability [AMENDED]
- 252:100-39-4. Exemptions [NEW]

PART 3. PETROLEUM REFINERY OPERATIONS

- 252:100-39-15. Petroleum refinery equipment leaks [AMENDED]
- 252:100-39-16. ~~Refinery~~ Petroleum refinery process unit turnaround [AMENDED]
- 252:100-39-17. ~~Refinery~~ Petroleum refinery vacuum producing system [AMENDED]
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PART 5. PETROLEUM PROCESSING AND STORAGE

- 252:100-39-30. Petroleum liquid storage in vessels with external floating roof tanks roofs [AMENDED]

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- 252:100-39-40. Cutback asphalt (paving) [AMENDED]
- 252:100-39-41. ~~Vapor recovery systems~~ Storage, loading and transport/delivery or VOCs [AMENDED]
- 252:100-39-42. Metal cleaning [AMENDED]
- 252:100-39-43. Graphic arts systems [AMENDED]
- 252:100-39-44. Manufacture of pneumatic rubber tires [AMENDED]
- 252:100-39-45. Petroleum (solvent) dry cleaning [AMENDED]
- 252:100-39-46. Coating of parts and products [AMENDED]
- 252:100-39-47. Control of VOS VOC emissions from aerospace industries coatings operations [AMENDED]
- 252:100-39-48. Vapor recovery systems [REVOKED]
- 252:100-39-49. Manufacturing of fiberglass reinforced plastic products [AMENDED]

PART 1. GENERAL PROVISIONS

252:100-39-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources located in nonattainment areas and to specify the additional control measures required to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration is prevented.~~ The purpose of this Subchapter is to reduce the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains requirements for the control of emissions of VOCs from stationary sources located in areas that are nonattainment or were formerly nonattainment for ozone.

252:100-39-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

"Organic materials" means any chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.

"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel of crude oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.

"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.

"Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions:

(A) ~~the~~ The bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled;

(B) ~~the~~ The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel;

(C) ~~the~~ The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel; or,

(D) other equivalent methods acceptable to the Executive Director.

"Volatile organic compound (VOC)" means any compound ~~containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100 (s) (1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.~~

"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.

252:100-39-3. General applicability

In addition to any application of the requirements contained in OAC 252:100-37, the additional ~~control/prohibitions~~ requirements contained in this Subchapter shall be required ~~on~~ of existing and new facilities located in Tulsa and Oklahoma Counties.

252:100-39-4. Exemptions

VOCs with vapor pressure less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from 252:100-39-16 through 252:100-39-18, 252:100-39-30, 252:100-39-41, and 252:100-48.

PART 3. PETROLEUM REFINERY OPERATIONS

252:100-39-15. Petroleum refinery equipment leaks

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Component"** means any piece of equipment which has the potential to leak ~~volatile organic compounds~~ VOCs when tested in the manner described in EPA Test Method 21 of 40 CFR Part 60. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated.

(2) **"Gas service"** means any equipment which processes, transfers or contains a ~~volatile organic compound~~ VOC or mixture of ~~volatile organic compounds~~ VOCs in the gaseous phase.

(3) **"Leaking component"** means a component which has a VOC concentration exceeding 10,000 ppmv when tested according to the provisions in 252:100-39-15 (e).

~~(3)~~ (4) **"Liquid service"** means any equipment which processes, transfers or contains a ~~volatile organic compound~~ VOC or mixture of ~~volatile organic compounds~~ VOCs in the liquid phase.

~~(4)~~ **"Petroleum refinery"** means ~~any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.~~

(5) **"Refinery unit"** means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

~~(6)~~ (5) **"Valves not externally regulated"** means valves that have no external controls, such as in-line check valves.

(7) **"Volatile organic compounds"** means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 0.3 kilopascals (0.0435 pounds per square inch absolute) or greater under actual storage conditions. (Effective 2-12-90)

(b) **Applicability.** ~~This Section applies to all source facility petroleum refineries located in the following counties: Tulsa and Oklahoma.~~

(1) This Section applies to all petroleum refineries located in Tulsa County and Oklahoma County.

(2) VOCs with vapor pressure less than 0.0435 psia (0.3 kilopascals (kPa)) under actual storage conditions are exempt from 252:100-39-15. (Effective 2-12-90.)

(c) **Provisions for specific processes. Standards and operating requirements**

(1) The owner or operator of a petroleum refinery ~~complex~~ subject to this Section shall:

(A) develop and conduct a monitoring program consistent with the provisions in 252:100-39-15(d) and 252:100-39-15 (f);

~~(B) — conduct a monitoring program consistent with the provisions in 252:100-39-15(f);~~

~~(C) record all leaking components which have a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e) and place an identifying tag on each component consistent with the provisions in 252:100-39-15(f)(3);~~

~~(D)(C) repair and retest the leaking components, as defined in 252:100-39-15(c)(1)(C), as soon as possible but no later than 15 days after the leak is found; and,~~

~~(E)(D) identify all leaking components, as defined in 252:100-39-15(c)(1)(C), which cannot be repaired until the unit is shutdown for turnaround. Assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap; and,~~

(E) assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.

(2) The ~~Executive Division Director,~~ may, at his/her discretion, take require the owner or operator to take appropriate remedial action, including early unit turnaround, based on the number and severity of tagged leaks awaiting repair.

(3) Pipeline valves and pressure relief valves in ~~gaseous volatile organic compound gas~~ service shall be marked in some manner that will be readily obvious to both petroleum refinery or contract personnel performing monitoring and the Executive Director DEQ.

(d) ~~Compliance schedule~~ schedule. The owner or operator of a petroleum refinery, ~~in order to comply with 252:100-39-15,~~ shall adhere to the increments of progress contained in the following schedule:

(1) ~~Submit~~ submit to the ~~Executive Division Director~~ a monitoring program by July 30, 1981. This program shall contain, at a minimum, a list of the refinery units ~~only~~ and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this Section.

~~(2) Submit quarterly monitoring report to the Executive Director.~~

(e) **Testing and monitoring procedures.** Testing and calibration procedures to determine compliance with this Section must be consistent with EPA Test Method 21 of 40 CFR Part 60.

(f) **Monitoring.**

(1) The owner or operator of a petroleum refinery ~~subject to this Section~~ shall conduct a monitoring program consistent with the following provisions: The owner or operator shall:

(A) ~~monitor yearly by the methods referenced in Test Method 21 of 40 CFR Part 60~~ 252:100-39-15 (e) all:

~~(i) pump seals;~~

~~(ii) pipeline valves in liquid service;~~ and

~~(iii) process drains;~~

(B) ~~monitor quarterly by the methods referenced in 252:100-39-15(d), 252:100-39-15 (e)~~ all:

~~(i) compressor seals;~~

~~(ii) pipeline valves in gaseous gas service;~~ and

~~(iii) pressure relief valves in gaseous gas service;~~

(C) monitor weekly by visual methods all pump seals;

(D) monitor ~~immediately~~ within 24 hours any pump seal from which VOC liquids are observed dripping;

(E) monitor any relief valve within 24 hours after it has vented to the atmosphere; and,

(F) monitor immediately after repair any component that was found leaking.

(2) Pressure relief devices ~~which that~~ are connected to an operating flare header, vapor recovery ~~device~~ devices, inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in paragraph (1) of this subsection; ~~Provided~~ provided, however, such inaccessible valves will be monitored during annual shutdown.

(3) The owner or operator of a petroleum refinery, upon the detection of a leaking component, ~~as defined in 252:100-39-15(e)(1)(C), which that~~ is not repaired on discovery, shall affix a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leaking component is repaired.

(g) Recordkeeping.

(1) The owner or operator of a petroleum refinery shall maintain a leaking components monitoring log ~~as specified in 252:100-39-15(e)(1)(C)~~ which shall contain, at a minimum, ~~the following data:~~

(A) the name of the process unit where the component is located;

(B) the type of component (e.g., valve, seal);

(C) the tag number of the component, if not repaired immediately on discovery;

(D) the date on which a leaking component is discovered;

(E) the date on which a leaking component is repaired;

(F) the date and instrument reading of the recheck procedure after a leaking component is repaired;

(G) the date of the calibration of the monitoring instrument. ~~The record of calibration~~ which shall be made available for inspection on request;

(H) those leaks that cannot be repaired until turnaround; and,

(I) the total number of components checked and the total number of components found leaking.

(2) ~~Copies of the~~ The monitoring log shall be retained on site by the owner or operator for at least two years after the date on which the record was made or the report prepared.

(3) ~~Copies of the~~ The monitoring log shall be made available for inspection at any reasonable time and copies of the log shall be provided to the Executive Division Director, upon written request, at any reasonable time of the AQD.

(h) Reporting. The owner or operator of a petroleum refinery, ~~upon the completion of each monitoring procedure,~~ shall:

(1) submit a report to the ~~Executive Division~~ Director by the 30th day following the end of each calendar quarter that lists all leaking components that were located during the previous quarter but not repaired within 15 days, all leaking components awaiting unit turnaround, and the total number of components found leaking; and,

(2) submit a signed statement with the report attesting to the fact that all monitoring and, with the exception of those leaking components listed in 252:100-39-15(h)(1), ~~all monitoring and repairs~~ were performed as stipulated in the monitoring program.

252:100-39-16. ~~Refinery~~ Petroleum refinery process unit turnaround

(a) **Definition.** ~~"Turn around"~~ **"Turnaround"** means the planned procedure of shutting down a unit, inspecting and repairing it, and restarting it.

(b) **Procedures required.** For the shutdown, purging and blowdown operation of any ~~processing~~ petroleum refinery processing unit the following procedures are required:

(1) Recovery of ~~volatile organic compounds (VOC)~~ VOCs shall be accomplished during the shutdown or turnaround to a process unit pressure compatible with the flare or vapor system pressure. The unit ~~will~~ shall then be purged or flushed ~~with~~ to a flare or vapor recovery system using a suitable material such as steam, water or nitrogen ~~to a flare or vapor recovery system~~. The unit shall not be vented to the atmosphere until pressure is reduced to less than 5 psig through control devices.

(2) Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no person shall emit ~~organic~~ VOC gases to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the ~~Executive Division~~ Director.

(3) At least fifteen days prior to a scheduled turnaround, a written notification shall be submitted to the ~~Executive Division~~ Director. As a minimum, the notification shall indicate the unit to be shutdown, the date of shutdown, and the approximate quantity of ~~hydrocarbons~~ VOCs to be emitted to the atmosphere.

(4) Scheduled refinery unit turnaround may be accomplished without the controls specified in 252:100-39-16(b)(1) and 252:100-39-16(b)(2) during non-oxidant seasons provided the notification to the ~~Executive Division~~ Director as required in 252:100-39-16(b)(3), specifically contains such a request for such an exemption. ~~Non-oxidant~~ The non-oxidant season is ~~understood to be between the months of October and April~~ from November 1 through March 31.

252:100-39-17. ~~Refinery~~ Petroleum refinery vacuum producing system

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Accumulator"** means the vessel in the overhead stream of any fractionating tower, after the overhead condenses and separates noncondensable gases, liquid ~~hydrocarbons~~ VOCs and water.

(2) **"Hotwell"** means the tank at the bottom of the barometer leg in a barometric condenser system to receive the water, condensate and entrained ~~hydrocarbons~~ VOCs generated by the barometric condenser.

(b) **Requirements.** Noncondensable ~~volatile organic compounds from the following equipment~~ VOCs emitted from any of the vacuum producing systems listed in paragraphs (1) through (3) of this subsection shall be incinerated or reduced by 90 percent of what would be emitted ~~from the following vacuum producing system without controls~~.

(1) ~~steam~~ Steam ejectors with barometric condensers;

(2) ~~steam~~ Steam ejectors with surface condensers;

(3) ~~mechanical~~ Mechanical vacuum pumps.

(c) **Hotwells and accumulators.**

(1) Hot wells and accumulators shall be covered and the noncondensable vapors shall be vented to a fire-box or incinerator.

(2) The presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame. (Effective February 12, 1990)

(d) **Compliance.** Compliance shall be determined in accordance with the provision of the CTG document ("Control of Refinery Vacuum Producing systems, Wastewater Separators and Process Unit Turnarounds," (EPA 450/2-77-025, October, 1977)). Test reports and maintenance records ~~will~~ shall be maintained for at least two years. If emission testing is required, the appropriate test method(s) selected from EPA Reference Methods 1 through 4, 21, and/or 25, ~~will~~ shall be utilized.

252:100-39-18. Refinery Petroleum refinery effluent water separators

(a) **Definition.** "Effluent water separator" means any container in which any VOC floating on, entrained in, or contained in water entering the container is physically separated and removed from the water prior to discharge of the water from the container.

(b) **Requirements.** ~~No person owner or operator shall operate, or install or permit the operation or installation of a single single-compartment or multiple-compartment volatile organic compound water effluent water separator from any equipment processing, refining, treating, storing or handling volatile organic compound unless the compartment receiving said the effluent water is equipped with one of the following vapor control devices, properly installed, in good working order and in operation; to control emissions in one of the following ways.~~

(1) ~~A~~ The container having totally encloses the liquid contents and all openings are sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) ~~A~~ The container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the organic material VOC vapors and gases discharged and a vapor- disposal system capable of processing such organic material VOC vapors and gases so as to prevent their emission to the atmosphere and with all. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The ~~organic material VOC~~ removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) ~~Containers~~ A container that is equipped with controls of equal efficiency, provided the plans and specifications of such equipment are submitted and are approved by the Executive Division Director prior to their use.

PART 5. PETROLEUM PROCESSING AND STORAGE

252:100-39-30. Petroleum liquid storage in vessels with external floating roof tanks-roofs

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Condensate**" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at ~~normal operating~~ standard conditions.

(2) "**Crude oil**" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

(3) "**Drilling or production facility**" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

(3)(4) "**Externally External floating roof**" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(4)(5) "**Lease custody transfer**" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks vessels or automatic transfer facilities to pipelines or any other forms of transportation.

(5)(6) "**Liquid-mounted seal**" means primary seal mounted in continuous contact with the liquid between the ~~tank vessel~~ wall and the floating roof.

(6)(7) "**Petroleum liquid**" means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery.

(7)(8) "**Vapor-mounted seal**" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the ~~tank vessel~~ wall, the liquid surface, and the floating roof.

(8)(9) "**Waxy, high pour point crude oil**" means a crude oil with a pour point of 50°F. or higher as determined by the American Society of Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) **Applicability.**

(1) This Section applies to ~~all source facilities with petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (40,000 gallons), that are located in Tulsa and Oklahoma Counties~~ 40,000 gal (150,000l).

(2) This Section does not apply to petroleum liquid storage vessels ~~which prior to custody transfer~~ that:

(A) are used to store waxy, high pour point crude oil;

(B) have capacities less than ~~1,600,000 liters 422,675 gal(420,000 gallons) (1,600 m³)~~ and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) contain a petroleum liquid with a true vapor pressure less than 1.5 psia (10.5 kPa) ~~(1.5 psia);~~

(D) ~~contain a petroleum liquid with a true vapor pressure less than 27.6 Kpa (4.0 psia);~~ and,

(i) ~~are of welded construction; and,~~

(ii) presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Executive Director; or, contain a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa) if the vessels are of welded construction and have a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Division Director; or,

(E) are of welded construction, are equipped with a metallic-type shoe primary seal and ~~has~~ have a secondary seal from the top of the shoe seal to the ~~tank~~ vessel wall (shoe-mounted secondary seal).

(3) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 60 Subparts Ka or Kb are exempt from the requirements of 252:100-37-30.

(4) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 63 Subparts CC (63.646) or G shall be exempt from the requirements of 252:100-39-30 upon the date compliance with the standards in Subparts CC and G is required.

(c) **Provisions for specific processes** ~~Equipment and operating requirements.~~

(1) **Standards.** ~~No owner of a petroleum liquid~~ Each storage vessel subject to this Section shall used to store a petroleum liquid in that vessel unless; shall meet the following conditions.

(A) The vessel has been fitted with;

(i) a continuous secondary seal extending from the floating roof to the ~~tank~~ vessel wall (rim-mounted secondary seal); or,

(ii) a closure device or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required ~~above~~ under ~~in~~ 252:100-39-30(c)(1)(A)(i) and approved by the ~~Executive Division~~ Director.

(B) All seal closure devices meet the following requirements;

(i) ~~there~~ There are no visible holes, tears, or other openings in the seal(s) or seal fabric ;

(ii) ~~the~~ The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the ~~tank~~ vessel wall ; and ;

(iii) ~~for vapor mounted primary seals, the~~ The accumulated area of gaps exceeding ~~0.32 cm (1/8 in.)~~ 1/8 in. (0.32 cm) in width between the secondary seal and the ~~tank~~ vessel wall when the secondary seal is used in combination with a vapor mounted primary seal shall not exceed 21.2 cm² per meter-1.0 in.² /ft of tank-vessel diameter (1.0 in.² per foot 21.2 cm²/m of tank-vessel diameter), as This shall be determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a ~~0.32 cm-1/8 in. (0.32 cm)~~ uniform diameter probe passes freely between the seal and the ~~tank~~ vessel wall ; and summing the ~~area~~ areas of the individual gaps.

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are ;

(i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,

(ii) equipped with projections into the ~~tank~~ vessel which remain below the liquid surface at all times;

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports ;

(E) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended settings ; and ;

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening.

(2) **Monitoring.** The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this Section shall:

(A) perform routine inspections semi-annually in order to ensure compliance with 252:100-39-30(c)(1)(B)(i), i.e., no visible holes, tears, or other openings in the seals or seal fabric;

(B) measure the secondary seal gap annually in accordance with 252:100-39-30(c)(1)(B)(iii), when the floating roof is equipped with a vapor-mounted primary seal; and,

(C) maintain records of the types of volatile petroleum liquids stored, the true vapor pressure of the liquid as stored, and the results of the inspections performed in 252:100-39-30(c)(2)(A) and 252:100-39-30(c)(2)(B).

(3) Recordkeeping.

~~(3)(A)~~ Copies of all records under 252:100-39-30(c)(2) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

~~(4)(B)~~ Copies of all records under this Section shall be made available to the ~~Executive Division~~ Director, upon ~~verbal or written~~ request, at any reasonable time.

(d) **Compliance schedule.** Compliance with this Section ~~will~~ shall be accomplished by affected facilities ~~within two years of approval of this Section by the Oklahoma Environmental Quality Board~~ by May 23, 1982.

PART 7. SPECIFIC OPERATIONS

252:100-39-40. Cutback asphalt (paving)

(a) **Definitions.** "Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

(b) **Requirements.** No owner, operator and/or contractor shall prepare or apply cutback ~~liquified~~ liquefied asphalt without the prior written consent of the ~~Executive Division~~ Director or the ~~Executive Director's~~ designee. Such consent may be granted during Oklahoma's non-oxidant season, i.e., ~~October through April~~ November 1 through March 31.

252:100-39-41. ~~Vapor recovery systems~~ Storage, loading and transport/delivery or VOCs

(a) **Storage of ~~volatile organic compounds~~ — VOCs in vessels with storage capacities greater than 40,000 gallons (953 bbls).** ~~No person shall store or permit the storage of gasoline or any volatile organic compound in tanks or vessels having~~ Each vessel with a storage capacity greater than 40,000 gallons (953 bbls) unless such tank, reservoir or other container is to gal (151 m³ which stores gasoline or any VOC shall be a pressure tank-vessel capable of maintaining working pressures sufficient at all times to that prevent organic the loss of VOC vapor or gas loss to the atmosphere, or is shall be equipped with one or more of the following vapor control devices:

(1) aAn external floating roof, consisting that consists of pontoon type, internal floating cover a pontoon-type or double-deck type roof, which will cover or a fixed roof with an internal-floating cover. The cover shall rest on the surface of the liquid contents at all times (i.e. off the leg supports), except during initial fill, when the storage vessels is completely empty, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space

between the ~~roof cover edge and tank vessel wall~~. Such ~~floating~~ Floating roofs are not appropriate control devices if the ~~organic compounds~~ VOCs have a vapor pressure of ~~11.0 pounds per square inch absolute (568 mm Hg)~~ 11.1 psia (76.6 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. Closure seals ~~will for fixed roof vessels with an internal-floating cover shall~~ meet the requirements of ~~252:100-39-30(c)(1)(B); 252:100-39-30(c)(1)(B)(i) and (ii)~~. Closure seals for vessels with external floating roofs shall meet the requirements of ~~252:100-39-30(c)(1)(B)(i), (ii), and (iii)~~.

(2) ~~a~~ A vapor-recovery system ~~consisting that consists~~ of a vapor-gathering system capable of collecting 90 percent by weight or more of the uncontrolled ~~volatile organic compounds~~ VOCs that would otherwise be emitted to the atmosphere and vapor-disposal system capable of processing such ~~organic compounds so as~~ VOCs to prevent emissions in excess of ~~80 mg/liter of gasoline~~ 6.68×10^{-4} lb/gal (80 mg/l) of VOCs transferred to the atmosphere. All ~~tank vessel~~ gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place; ~~or,~~

(3) ~~other~~ Other equipment or methods that are of equal efficiency for purposes of air pollution control as ~~may be used when approved by the Executive Division Director and are~~ in concert with federal guidelines.

(b) Storage of ~~volatile organic compounds~~ — VOCs in vessels with storage capacities of 400-40,000 gallons (~~9.5-953~~ bbls).

(1) No person shall store or permit the storage of ~~Each~~ gasoline or other ~~volatile organic compounds in any stationary VOC storage container vessel~~ with a nominal capacity greater than 400 gallons (~~9.5 bbls~~) gal (1.5 m^3) and less than 40,000 gallons (~~953 bbls~~) unless such container is gal (1.5 m^3) shall be equipped with a submerged fill pipe or is ~~be~~ bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compound in any stationary storage container with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage container are processed by a system that has a total collection efficiency no less than 90 percent by weight of total hydrocarbon compounds in said vapors.

(2) The displaced vapors from each storage vessel with an average daily throughput of 30,000 gal (113,562 l) or greater which stores gasoline or other VOCs shall be processed by a system that has a total collection efficiency no less than 90 percent by weight of total VOCs in the vapors.

(2) (A) The vapor recovery system shall include ~~one or more of the following~~:

(A) (i) a vapor-tight return line from the storage ~~container vessel~~ to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or ~~volatile organic compounds~~ VOCs can be transferred into the ~~container storage vessel~~;

or,

(B) (ii) other equipment that has a total collection efficiency no less than 90 percent by weight of the total ~~hydrocarbon compounds~~ VOCs in the displaced vapor provided that ~~if approval of the proposed design installation, and operation is obtained from the Executive Division Director prior to start of construction.~~

(3) (B) Provided, however, that ~~the~~ The requirements for vapor collection of displaced vapors shall not apply to operations that are not major sources.

(c) Loading of ~~volatile organic compounds~~ VOCs.

~~(1) No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound. Each VOC loading facility unless such loading facility is with an annual throughput of 120,000 gal (454,429 l) or greater or storage capacity greater than 10,000 gal (38 m³) shall be equipped with a vapor-collection and/or disposal system properly installed, in good working order and in operation.~~

~~(2) When volatile organic compounds. While VOCs are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.~~

~~(3) A means shall be provided to prevent organic material. VOC drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.~~

~~(4) When loading is effected through by means other than hatches, all loading and vapor lines shall be equipped with fittings which that make vapor-tight connections and which close automatically when disconnected.~~

~~(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following elements listed in 252:100-39-41(c)(5)(A) through 252:100-39-42(c)(5)(C) in addition to bottom loading or submerged fill of transport vessels: Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as specified in 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

~~(A) an An absorption/adsorption system or condensation system with that has a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound. VOC vapors and gases entering such disposal system ;~~

~~(B) a A vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent ; or,~~

~~(C) other. Other equipment of that has at least a 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Division Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

~~(6) Subsection 252:100-39-41(c) shall apply to any facility which that loads volatile organic compounds. VOCs into any transport vessel designed for transporting volatile organic compounds. VOCs.~~

(d) Transport/delivery.

~~(1) The vapor-laden delivery vessel shall meet one of the following requirements:~~

~~(A) the The delivery vessel must be so designated and operated as to be vapor tight except when sampling, gauging, or inspecting ; or,~~

~~(B) the The delivery vessel must be equipped and operated so that to deliver the volatile organic compound. VOC vapors are delivered to a vapor recovery/disposal system.~~

~~(2) No owner/operator will owner or operator shall allow a delivery vessel to be filled at a facility unable to receive displaced organic. VOC vapors nor service tanks vessels unable to deliver displaced vapors except for tanks/facilities vessels and facilities exempted in 252:100-39-41(b) and 252:100-39-41(c).~~

~~(3) Testing of the tank trucks for compliance with the vapor tightness requirements must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic~~

Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA 450/2-78-051, or an equivalent method as determined by the ~~Executive Division~~ Director.

(e) **Additional requirements for Tulsa County.** ~~Also see 252:100-39-48 for additional requirements pertaining to Tulsa County.~~

(1) **Applicability.** This Subsection applies only in Tulsa County.

(2) **Storage of VOCs.**

(A) **2,000-40,000 gallons capacity.** Each storage vessel with a nominal capacity greater than 2,000 gal (7.6 m³) and less than 40,000gal (151 m³) that stores gasoline or other VOCs or each storage vessel located at a facility that dispenses more than 120,000 gal/yr of gasoline or other VOCs in addition to being equipped with a submerged fill pipe or being bottom loading, shall be equipped with a vapor control system. The vapor control system shall have an efficiency of no less than 90 percent by weight of the VOCs contained in the displaced vapors and shall be equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 oz/in.² and ½ oz/in.² vacuum. The vapor recovery system shall include one or more of the following.

(i) A vapor-tight return line from the storage vessel to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or VOCs can be transferred into the storage vessel (i.e., popped connectors from the storage vessel to the delivery vessel.).

(ii) A float vent valve assembly installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending 6 in. (15 cm) below the top of the vessel will be allowed. Sleeves may be equipped with a 1/16 in. (0.16 cm) air bleed hole.

(iii) A vapor recovery line with a cross-sectional area that is at least half of the cross-sectional area of the liquid delivery line.

(iv) Other equipment that has a total collection efficiency no less than 90 percent by weight of the total VOCs in the displaced vapor if approved by Division Director prior to start of construction.

(B) **Applicability.**

(i) Any vessel with a capacity greater than 2,000 gal (7.6 m³) or any vessel located at a facility that dispenses more than 120,000 gal/yr (454,249 l/yr) shall be and will always remain subject to 252:100-39-41(e)(2). (effective February 12, 1990)

(ii) Exemptions to 252:100-39-41(e)(2) may be granted if the owner or operator shows to the satisfaction of the Division Director that the vessel is used exclusively for agricultural purposes.

(C) **Emission testing.** If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B shall be utilized.

(D) **Compliance.** Compliance with 252:100-39-41(e)(2) shall be accomplished by the owner or operator of affected facilities by December 31, 1986.

(E) **Certification.** The owner or operator of a facility shall obtain, by whatever means practicable, certification from the owner or operator of the transport/delivery vessels that all deliveries of gasoline or other VOCs made to their 400-gallon to 40,000-gallon storage facility located in Tulsa County shall be made by transport/delivery vessels that comply with the requirements contained in 252:100-39-41(e)(4). Compliance with 252:100-39-41(e)(2) shall be accomplished by owners or operators of affected facilities no later than December 31, 1990. (Effective February 12, 1990)

(3) Loading of VOCs. In addition to those requirements contained in 252:100-39-41 (c), stationary loading facilities shall be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5,000 ppmv shall be repaired within 15 days. Facilities shall retain inspection and repair records for at least two years.

(4) Transport/delivery vessel requirements. In addition to the requirements contained in 252:1000-39-41(d), facilities located in Tulsa County must meet the following requirements.

(A) Maintenance.

(i) The delivery vessel must be maintained so that it is vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.

(ii) The delivery vessel must be equipped, maintained, and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and 252:100-39-41(b)(2) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.

(iii) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies that would impair the vessels' ability to retain vapors or liquid shall be repaired within 5 days.

(iv) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-41(e)(4)(B)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.

(v) No owner or operator shall allow a delivery vessel to be filled at a facility unable to receive displaced VOCs nor service vessels unable to deliver displaced vapors except for vessels/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels that do not display a current tag.

(vi) Delivery vessels may be inspected by representatives of the DEQ in order to determine their state of repair. Such a test may consist of a visual inspection or a vapor test with vapors not to exceed 5,000 ppmv. Failure of a vapor test shall require the owner or operator to make the necessary repairs within 10 days. Failure to certify within 10 days of a vapor test that the necessary repairs have made shall subject the owner or operator to sanctions. Upon certification of repairs, the vessel will be allowed to resume normal operation.

(B) Testing requirements.

(i) Pressure test.

(I) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Division Director.

(II) The vessel shall be considered to pass the test prescribed in 252:100-39-41(e)(4)(B)(i)(I) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 in. H₂O. There shall be no avoidable visible liquid leaks.

(ii) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(e)(4)(A)(iv) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound

Leaks from Gasoline Tank Trucks and Vapor Collection Systems”, EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-41(e) took effect December 15, 1988.

252:100-39-42. Metal cleaning

(a) Cold cleaning facility requirements.

(1) Equipment requirements. ~~No person~~ An owner or operator shall allow the construction or operation of any cold cleaning unit for metal degreasing using an organic solvent unless the following requirements are met ~~which uses a VOC shall:~~

(A) install a cover or door ~~shall be installed~~ on the facility that can be easily operated with one hand;

(B) provide an internal drain board ~~will be provided in such a manner that will allow lid closure if practical;~~ if not practical, ~~the drainage facility may be provide~~ an external drainage facility; and,

(C) attach a permanent, conspicuous label summarizing the operating requirements ~~will be permanently attached~~ specified in 252:100-39-42(a)(2) to the facility.

(2) Operating requirements. ~~The operating requirements specified in 252:100-39-42(a)(1)(C) shall as a minimum specify~~ Owners or operators shall at a minimum:

(A) drain clean parts at least 15 seconds or until dripping ceases before removal;

(B) close degreaser cover when not handling parts in cleaner; ~~and;~~

(C) store waste solvent-VOC in covered containers. Do not dispose or allow disposition in such a manner that more than 20 percent by weight can evaporate into the atmosphere;

(D) not dispose or allow disposition of waste VOC in such a manner that more than 20 percent by weight can evaporate into the atmosphere.

(3) ~~(E) If used, a solvent spray will be of a solid fluid stream (not atomized or spray)~~ use a solid fluid stream, not an atomized spray, when VOC is sprayed.

(4) ~~(3) Requirements for controls.~~ If the solvent volatility vapor pressure of the VOC is greater than 33 mm Hg (0.6 psi)-0.6 psi (4.1 kPa) measured at 38°C (100°F)-100°F (38°C) or if solvent-VOC is heated to 120 degrees C-248°F (120°C), the owner or operator shall apply one or more of the following control devices will be required: ~~devices/techniques.~~

(A) ~~freeboard~~ Freeboard that gives a ~~free board freeboard~~ ratio greater than or equal to 0.7;

(B) ~~water~~ Water cover and where the solvent-VOC is insoluble in and heavier ~~denser~~ than water or such equivalent; ~~or;~~

(C) ~~other~~ Another system of equivalent control as approved by the ~~Executive Division~~ Director.

(5) ~~(4) Compliance and recordkeeping.~~ Compliance will shall be determined in accordance with EPA guidance document “Control of Volatile Organic Emissions from Solvent Metal Cleaning.” 450/2-77-022. Test reports and maintenance and repair records of control equipment will shall be maintained by the source for at least two years.

(b) Vapor-type metal degreasing requirements.

(1) Equipment requirements. ~~No person shall allow the construction or operation~~ An owner or operator of any vapor-type metal degreasing unit using an organic solvent unless a VOC shall ensure that the following requirements are met:

(A) ~~the~~ The unit ~~has shall have~~ a cover or door that can easily be opened and closed without disturbing the vapor zone;

(B) ~~the~~ The unit will shall have the following safety switches:

(i) ~~condenser~~ Condenser flow switch and thermostat or equivalent capable of shutting off the sump heat if condenser coolant is not circulating or coolant exceeds solvent VOC manufacturer's recommended level; ~~and~~;

(ii) ~~spray~~ Spray safety switch capable of shutting off spray pumps if the vapor level drops in excess of ~~four inches~~ 4 in. (10 cm).

(C) ~~the~~ The unit will shall have one or more of the following control devices/techniques:

(i) ~~freeboard~~ Freeboard ratio not less than 0.75, i.e., the ratio of the freeboard to the width of the degreaser wherein the term freeboard is defined as the distance from the top of the vapor zone to the top of the degreaser tank; ~~;~~

(ii) ~~refrigerated~~ Refrigerated chiller, i.e., condenser coils in the upper limit of the vapor zone; ~~;~~

(iii) ~~enclosed~~ Enclosed design, i.e., cover or door is opened only when a part is actually entering or exiting the facility; ~~or~~;

(iv) ~~a~~ A carbon adsorption system with ventilation greater than 50 ~~cfm/ft.~~ 2 cfm/ft² of air/vapor area when cover is open ~~and exhausting~~. The system shall exhaust less than 25 ppm solvent-ppmv VOC average over one adsorption cycle; ~~or~~;

(v) ~~a~~ A control system demonstrated to have a control efficiency equal to or greater than any of the systems in ~~(C) of this paragraph~~ 252:100-39-42(b)(1)(C).

(D) ~~a~~ A permanent conspicuous label summarizing operating ~~procedures will~~ requirements in 252:100-39-42(b)(2) shall be attached to the facility ~~unit~~.

(2) Operating requirements. ~~The operating requirements referred to in 252:100-39-42(b)(1)(D) shall as a minimum specify:~~ An owner or operator of a vapor type metal degreasing unit using VOC shall ensure that the following requirements are met.

(A) As a minimum operators shall:

(i) keep the cover closed at all times except when processing work degreasing parts;

(B) minimize solvent carry-out by the following measures:

(i) ~~(ii)~~ rack parts to allow full drainage;

(ii) ~~(iii)~~ move parts in and out of the degreaser at less than 3.3 m/sec. (11 ft/min.) 11 ft/min (3.4 m/min);

(iii) ~~(iv)~~ degrease the workload in the vapor zone at least 30 sec. seconds or until condensation ceases;

(iv) ~~(v)~~ tip out any pools of solvent VOC on the cleaned parts before removal;

(v) ~~(vi)~~ allow parts to dry within the degreaser for at least 15 sec. seconds or until visually dry;

(vi) assure that VOC leaks are immediately repaired or the degreaser is shut down;
and

(viii) store waste VOC only in closed containers.

(B) As a minimum operators shall not:

(C) ~~do not~~ (i) degrease porous or absorbent materials, such as cloth, leather, wood or rope;

(D) (ii) workloads should not allow workloads to occupy more than half of the degreaser's open top area;

(E) (iii) never spray above the vapor level;

(F) assure solvent leaks immediately repaired or the degreaser is shut down;

~~(G)(iv) do not dispose of waste solvent or transfer it to another party in such a manner that allow greater than 20 percent of the VOC waste (by weight) will to evaporate into the atmosphere. Store waste solvent only in closed containers when disposing of the waste or transferring the waste to another party;~~

~~(H)(v) allow exhaust ventilation should not to exceed $20\text{m}^3/\text{min}$. per m^2 (65 cfm per ft^2) $65\text{ cfm}/\text{ft}^2$ ($20\text{ m}^3/\text{min}/\text{m}^2$) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans should not be used near the degreaser opening; and,~~

~~(vi) use ventilation fans near the degreaser opening; or,~~

~~(I)(vii) allow water should not to be visually detectable in solvent VOC exiting the water separator.~~

(3) **Compliance and recordkeeping.** Compliance ~~will~~ shall be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records ~~will~~ shall be retained by the source for at least two years.

(c) **Conveyorized degreasing unit requirements.**

(1) **Operating requirements.** ~~No person shall operate~~ An owner or operator of a conveyorized degreasing unit using VOC shall ensure that ~~unless the following requirements are met:~~

~~(A) exhaust~~ Exhaust ventilation should ~~shall~~ not exceed $20\text{m}^3/\text{min}$. per m^2 (65 cfm per ft^2) $65\text{ cfm}/\text{ft}^2$ ($20\text{ m}^3/\text{min}/\text{m}^2$) of degreaser opening, unless necessary to meet OSHA requirements. Work place fans should not be used near the degreaser opening;

~~(B) Work place fans shall not be used near the degreaser opening.~~

~~(B)(C) — minimize carry-out~~ Carry-out emissions shall be minimized by:

(i) racking parts for best drainage; and,

(ii) maintaining vertical conveyor speed at less than $3.3\text{ m}/\text{min}$. ($11\text{ ft.}/\text{min.}$); $11\text{ ft}/\text{min}$ ($3.4\text{ m}/\text{min}$).

~~(C)(D) do~~ Evaporation of waste VOC into the atmosphere shall not dispose of waste solvent or transfer it to another party in such a manner that be greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. Store waste solvent only in covered containers; when disposing of the waste or transferring the waste to another party.

~~(E) Waste VOC shall be stored only in covered containers.~~

~~(D)(F) repair solvent VOC leaks must be repaired immediately, or shut down the degreaser ; must be shut down.~~

~~(E)(G) water should~~ Water shall not be visibly detectable in the solvent VOC exiting the water separator ; and,

~~(F)(H) a~~ A permanent conspicuous label will be attached to the facility summarizing the operating requirements listed in 252:100-39-42(b) and 252:100-39-42(c) shall be attached to the unit.

(2) **Control requirements.** In addition to the requirements in 252:100-39-42(c)(1), any unit that has an air/vapor interface of more than ~~2.0m^2~~ 21.5 ft^2 (2.0 m^2) shall be subject to the following control requirements:

(A) **Major control devices.** The degreaser must be controlled by either:

(i) a refrigerated chiller ;

(ii) a carbon adsorption system, with that exhausts less than 25 ppmv of VOC averaged over a complete adsorption cycle and has ventilation equal to or greater than $15\text{ m}^2/\text{min}$ per m^2 ($50\text{ cfm}/\text{ft}^2$) $50\text{ cfm}/\text{ft}^2$ ($15\text{ m}^3/\text{min}/\text{m}^2$) of air/vapor area (when

down-time covers are open), and exhausting less than 25 ppm of solvent by volume averaged over a complete adsorption cycle; or,

(iii) a system demonstrated to have control efficiency equivalent to or better than either of the above.

(B) **Carryover prevention.** Either a drying tunnel, or another means such as rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent-VOC liquid or vapor subject to space limitations must be installed.

(C) **Safety switches.** The following safety switches must be installed and be operational:

(i) Condenser flow switch and thermostat that (shuts off sump heat if coolant is either not circulating or too warm).

(ii) Spray safety switch that (shuts off spray pump or conveyor if the vapor level drops excessively, e.g. more than ~~10 cm (4 in.)~~ 4 in (10 cm)).

(iii) Vapor level control thermostat that (shuts off sump heat when vapor level rises too high).

(D) **Minimized openings.** Entrances and exits ~~should~~ shall silhouette work loads so that the average clearance (between parts and the edge of the degreaser opening) is either less than ~~10 cm (4 in.)~~ 4 in (10 cm) or less than 10 percent of the width of the opening.

(E) **Covers.** Down-time ~~cover covers~~ must be placed over entrances and exits of conveyorized degreasers immediately after the conveyor and exhaust are shutdown and removed just before they are started up.

(3) Compliance ~~will~~ shall be determined in accordance with EPA document 450/2-77-022 and all. All test and maintenance records ~~will~~ shall be retained by the source for at least two years.

(d) **Alternative control methods.** As an alternative to the requirements of 252:100-39-42(a) through 252:100-39-42(c), and subject to EPA approval, an operator may request the approval by the Division Director of other methods of control may be approved by, subject to EPA approval, the Executive Director upon application by a source; provided, the The applicant can must demonstrate that the proposed method will preclude no less than prevent at least 80 percent of the emissions from each source from being emitted to the atmosphere, as determined by the appropriate test methods selected from EPA Methods 1 through 4, 18, 25, 25A and 25B.

252:100-39-43. Graphic arts systems

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Flexographic printing"** means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(2) **"Packaging rotogravure printing"** means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, ~~which that~~ are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(3) **"Publication rotogravure printing"** means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(4) **"Roll printing"** means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

(5) "Rotogravure printing" means the application of works, designs and pictures to a substrate by means of a roll printing technique ~~which~~ that involves an intaglio or recessed image areas in the form of cells.

(b) **Applicability.**

~~(1) This Section applies to all packaging rotogravure, publication rotogravure, and flexographic printing facilities located in Tulsa and Oklahoma counties.~~

~~(2) This Section applies only to only packaging rotogravure, publication rotogravure, and flexographic printing facilities whose potential emission emissions of organic solvent VOC are is equal to or more than 90 megagrams (106 grams) per year (100 tons/yr.) 100 tons/yr (90 Mg/yr). Potential emissions are to shall be calculated based on historical records of actual consumption of solvent VOC and ink.~~

(c) **Provisions for specific processes.**

~~(1) No An owner or operator of a packaging rotogravure, publication rotogravure or flexographic printing facility subject to this Section and employing solvent which uses VOC containing ink may operate, cause, allow or permit the operation of the facility unless shall ensure that one of the following conditions is met.~~

~~(A) the The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of organic solvent VOC and 75.0 percent by volume or more of water;~~

~~(B) the The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more of nonvolatile material ; or ;~~

~~(C) the The owner or operator installs and operates:~~

~~(i) a carbon adsorption system which that reduces the organic solvent VOC emissions from the capture system by at least 90.0 percent by weight;~~

~~(ii) an incineration system which that oxidizes at least 90.0 percent of the nonmethane volatile organic solvent VOC measured as total combustible carbon to carbon dioxide and water; or,~~

~~(iii) an alternative organic solvent VOC emission reduction system demonstrated to have at least 90.0 percent reduction efficiency, measured across the control system, and which has been approved by the Executive Division Director.~~

~~(2) A capture system must be used in conjunction with the emission control systems in 252:100-39-43(c)(1)(C). The design and operation of the capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in volatile organic compound VOC emissions of at least:~~

~~(A) 75.0 percent where a publication rotogravure process is employed;~~

~~(B) 65.0 percent where a packaging rotogravure process is employed ; or ;~~

~~(C) 60.0 percent where a flexographic printing process is employed.~~

~~(d) **Compliance schedule.** Compliance with this Section will shall be accomplished by affected facilities within two (2) years of approval of this Subchapter by the Oklahoma Environmental Quality Board by May 23, 1982.~~

~~(e) **Testing.** Test procedures to determine compliance with this Subchapter must be consistent with EPA Reference Method 24 or equivalent ASTM Methods.~~

252:100-39-44. Manufacture of pneumatic rubber tires

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Automatic tread end cementing" means the application of a ~~solvent~~-VOC based cement to the tire tread ends by automated devices.

(2) "Bead dipping" means the dipping of an assembled tire bead into a ~~solvent~~-VOC based cement.

(3) "Green tires" means assembled tires before molding and curing have occurred.

(4) "Green tire spraying" means the spraying of green tires, both inside and outside, with release compounds ~~which~~-that help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

(5) "Manual tread end cementing" means the application of a ~~solvent~~VOC based cement to the tire tread ends by manufacturers.

(6) "Passenger type tire" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches.

(7) "Pneumatic rubber tire manufacture" means the production of pneumatic rubber, passenger type tires on a mass production basis.

(8) "Undertread cementing" means the application of a ~~solvent~~-VOC based cement to the underside of a tire tread.

(9) "Water based sprays" means release compounds, sprayed on the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for ~~organic solvents~~VOCs. These sprays may contain an average of up to five percent ~~organic solvent~~VOC.

(b) **Applicability.**

(1) This Section applies to VOC emissions ~~from the following operations in~~ from all major source pneumatic rubber tire manufacturing facilities located in Oklahoma County ~~from~~:

- (A) undertread cementing;
- (B) automatic tread end cementing; and,
- (C) green tire spraying.

(2) The provisions of this Section do not apply to the ~~productions~~production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs. This exemption applies only to tires produced on equipment separate from normal production lines for passenger type tires.

(3) Manual tread end cementing operations are exempt from the provisions of this Section.

(c) **~~Provisions for specific processes~~Control requirements.**

(1) Undertread cementing or automatic tread end cementing. The owner or operator of an undertread cementing, or automatic tread end cementing, operation subject to this Section shall: install and operate the following.

(A) ~~install and operate a~~ A capture system, designed to achieve maximum reasonable capture from all undertread cementing, and automatic tread end cementing operations. Maximum reasonable capture would require that hood enclosures be designed ~~in such a manner~~ to minimize open areas and enclose as much of the emission source as practical while maintaining a minimum in-draft velocity of 200 ~~feet per minute~~ ft/min (61 m/min) except during times when the enclosure must be opened to allow work inside or for the inspections of the product in progress. Maximum reasonable capture shall be consistent with ~~the following documents~~:

- (i) Industrial Ventilation, A Manual of Recommended Practices, 14th Edition, American Federation of Industrial Hygienists ~~;~~ and,

(ii) Recommended Industrial Ventilation guidelines, U.S. Department of Health Education and Welfare, National Institute of Occupational Safety and Health.

(B) ~~install and operate a~~ A control device that meets the requirements of one of the following ~~systems~~.

(i) A carbon adsorption system designed and operated ~~in a manner such so~~ that there is at least an initial 95.0 percent removal of VOC by weight from the gases ducted to the control device with at least a 90 percent 3 year removal average ~~;~~ or,

(ii) An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds (VOC VOCs~~ (measured as total combustible carbon) which enter the incinerator to carbon dioxide and water.

(iii) ~~An alternative volatile organic compound VOC~~ emission reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, and that has been approved by the ~~Executive Division~~ Director.

(2) **Green tire spraying.** The owner or operator of a green tire spraying operation subject to this Section shall implement one of the following means of reducing ~~volatile organic compound VOC~~ emissions:

(A) ~~substitute~~ Substitute water-based sprays for the normal ~~solvent-based VOC-based~~ mold release compound ~~;~~ or,

(B) ~~install~~ Install a capture system designed and operated ~~in a manner that will to~~ capture and transfer at least 90.0 percent of the VOC emitted by the green tire spraying operation to a control device, and install and operate a control device that meets the requirements of one of the following ~~systems~~.

(i) ~~a~~ A carbon adsorption system designed and operated ~~in a manner such so~~ that there is at least 95.0 percent removal of VOC by weight from the gases ducted to the control device ~~;~~ or,

(ii) ~~an~~ An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds (VOC VOCs~~ (measured as total combustible carbon) to carbon dioxide and water ~~;~~ or,

(iii) ~~an~~ An alternative ~~volatile organic compound VOC~~ emission reduction system approved by the Division Director and certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, ~~that has been approved by the Executive Director.~~

(3) **Exemption.** If the total ~~volatile organic compound VOC~~ emissions from all undertread cementing, tread-end cementing, bead dipping, and green tire spraying operations at a pneumatic rubber tire manufacturing facility do not exceed 57 ~~grams per tire/tire~~, 252:100-39-44(c)(1) and 252:100-39-44(c)(2) shall not apply.

~~(4) An owner or operator of an undertread cementing, tread-end cementing, bead dipping or green tire spraying operation subject to this Section may, instead of implementing measures required by 252:100-39-44(c)(1) and 252:100-39-44(c)(2), submit to the Executive Director a petition for alternative controls. The petition must be submitted in writing before September 15, 1981 and must contain:~~

~~(A) the name and address of the company and the name and telephone number of a responsible company representative over whose signature the petition is submitted;~~

~~(B) a description of all operations conducted at the location to which the petition applies and the purpose the volatile organic compound emitting equipment serves within the operations;~~

~~(C) reference to the specific emission limits, operational and/or equipment controls for which alternative emission limits, operational and/or equipment controls are proposed;~~

~~(D) a detailed description of the proposed alternative emission limits, operational and/or equipment controls, the magnitude of volatile organic compound emission reduction which will be achieved, and the quantity and composition of volatile organic compounds which will be emitted if the alternative emission limits, operational and/or equipment controls are instituted;~~

~~(E) a schedule for the installation and/or institution of the alternative operational and/or equipment controls in conformance with the appropriate compliance schedule section; and,~~

~~(F) a demonstration that the alternative control program constitutes reasonably available control technology for the petitioned facility. The factors to be presented in this demonstration include but are not limited to:~~

~~(i) the capital expenditure necessary to achieve the petitioned level of control;~~

~~(ii) the impact of these costs on the firm;~~

~~(iii) the energy requirements of the petitioned level of control;~~

~~(iv) the impact on the environment in terms of any increase in air, water and solid waste effluent discharge of the petitioned level of control;~~

~~(v) any adverse worker or product safety implications of the petitioned level of control; and,~~

~~(vi) an analysis for each of the factors in 252:100-39-44(c)(4)(F)(i) through 252:100-39-44(c)(4)(F)(v) for the control levels specified in 252:100-39-44(c)(1) and 252:100-39-44(c)(2).~~

~~(5) The Executive Director may approve a Petition for Alternative Control if:~~

~~(A) the petition is submitted in accordance with 252:100-39-44(c);~~

~~(B) the petition demonstrates that the alternative controls represent reasonable available control technology; or,~~

~~(C) the petition contains a compliance schedule for achieving and maintaining a reduction of volatile organic compound emissions as expeditiously as practicable, but no later than the photochemical oxidant attainment date.~~

(d) Compliance schedule. Compliance with this Section will be accomplished by affected facilities on or before December 31, 1982.

(e) Testing and monitoring.

(1) Test procedures to determine compliance with this Section must be approved by the Executive Division Director and be consistent with:

(A) EPA Guideline Series Document "Measurement of Volatile Organic Compounds," EPA-450/2-78-041; and,

(B) Appendix A of "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008.

(2) The Executive Division Director may accept, instead of green tire spray analysis, a certification by the manufacturer of the composition of the green tire spray, if supported by actual batch formulation records.

(3) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating: These monitors shall measure:

- (A) ~~exhaust gas temperatures~~ temperature of incinerators ~~an incinerator~~;
- (B) temperature rise across a catalytic incinerator bed;
- (C) breakthrough of VOC on a carbon adsorption unit; and,
- (D) any other parameter for which a continuous monitoring or recording device is required by the ~~Executive Division~~ Director.

252:100-39-45. Petroleum (solvent) dry cleaning

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Cartridge filters"** means perforated canisters containing filtration paper and/or activated carbon that are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden petroleum solvent.
- (2) **"Containers and conveyors ~~and of petroleum solvent~~"** means piping, ductwork, pumps, storage tanks, and other ancillary equipment that are associated with the installation and operation of washers, dryers, filters, stills, and settling tanks.
- (3) **"Dry cleaning"** means a process of the cleaning of textiles and fabric products in which articles are washed in a non-aqueous solution (petroleum solvent) and then dried by exposure to a heated air stream.
- (4) **"Housekeeping"** means those measures and precautions necessary to minimize the release of petroleum solvent to the atmosphere.
- (5) **"Operations parameters"** means the activities required to insure that the equipment is operated in a manner to preclude the loss of petroleum solvents to the atmosphere.
- (6) **"Perceptible leaks"** means any petroleum solvent vapor or liquid leaks that are conspicuous from visual observation, such as pools or droplets of liquid, or buckets or barrels of petroleum solvent or petroleum solvent-laden waste standing open to the atmosphere.
- (7) **"Petroleum solvent"** means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms per organic molecule that exists as a liquid under standard conditions.

(b) **Applicability.** This Section applies to petroleum solvent washers, dryers, ~~solvent~~-filters, settling tanks, vacuum stills, and other containers and conveyors of petroleum solvent that are used in petroleum solvent dry cleaning facilities in Tulsa County only.

(c) **~~Provisions for specific processes~~ Operating requirements.**

- (1) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any dry cleaning equipment using petroleum solvents unless:
 - (A) there are no perceptible liquid or vapor leaks from any portion of the equipment;
 - (B) all washer lint traps, button traps, access doors and other parts of the equipment where petroleum solvent may be exposed to the atmosphere are kept closed at all times except when required for proper operation or maintenance;
 - (C) the still residue is stored in sealed containers. ~~The and the~~ used filtering material is to be placed into a sealed container suitable for use with petroleum solvents, immediately after removal from the filter and ~~be~~-disposed of in the prescribed manner; or,

(D) cartridge filters containing paper or carbon or a combination thereof, which are used in the dry cleaning process are to be drained in the filter housing for at least 24 hours prior to removal.

(2) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any drying tumblers and cabinets that use petroleum solvents unless tumblers and cabinets are operated in such a manner as to control petroleum solvent vapor leaks by reducing the number of sources where petroleum solvent is exposed to the atmosphere. Under no circumstances should there be any open containers (can, buckets, barrels) of petroleum solvent or petroleum solvent-containing material. Equipment containing solvent (washers, dryers, extractors, and filters) should remain closed at all times other than during maintenance or load transfer. Lint filter and button trap covers should remain closed except when petroleum solvent-laden lint and debris are removed. Gaskets and seals should be inspected and replaced when found worn or defective. Solvent-laden-Petroleum solvent-laden clothes should never be allowed to sit remain exposed to the atmosphere for longer periods than are necessary for load transfers. Finally, vents on petroleum solvent-containing waste and new petroleum solvent storage tanks should be constructed and maintained in a manner that limits petroleum solvent vapor emissions to the maximum possible extent.

(3) The owner or operator shall repair all petroleum solvent vapor and liquid leaks within 3 working days after identifying the sources of the leaks. If necessary repair parts are not on hand, the owner or operator shall order these parts within 3 working days, and repair the leaks no later than 3 working days following the arrival of the necessary parts.

(d) **Disposal of filters.** Filters from the petroleum dry cleaning facility shall be disposed of by:

- (1) incineration at a facility approved by the fire marshall's office for such disposal;
- (2) by recycling through an approved vendor of this service; or,
- (3) by any other method approved by the ~~Executive Division~~ Director.

(e) **Compliance schedule.** Compliance with 252:100-39-45(c)(1) through 252:100-39-45(c)(3), will shall be accomplished by affected facilities on or before October 1, 1986.

252:100-39-46. Coating of parts and products

(a) **Applicability.** This Section shall apply only to ~~these~~ industries located in Tulsa County which manufacture and/or coat metal parts and products. ~~This Section is applicable to, such as~~ large farm machinery, small farm machinery, small appliances, commercial machinery, industrial machinery and fabricated metal products. Architectural coating, aerospace coating, and automobile refinishing are not included.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Air or forced air dry coatings"** means coatings ~~which~~ that are dried by the use of air or forced warm air at temperatures up to 194°F.
- (2) **"Clear coat"** means a coating ~~which~~ that lacks color and opacity or is transparent and uses the undercoat as a reflectant base.
- (3) **"Extreme performance coatings"** mean coatings designed for harsh exposure or extreme environmental conditions (~~i.e.,~~ e.g., exposure to the weather, all of the time, temperature above 200°F, detergents, abrasive and scouring agents, solvents, corrosive atmosphere or similar conditions).

(4) "**Facility**" means all emission sources located on ~~a contiguous property~~ properties under common control which are affected by the surface coating provisions of OAC 252:100-37 and 252:100-39.

(5) "**Powder**" means a coating ~~which~~ that is applied in a finely divided (~~powder~~) state by various methods, and becomes a continuous, solid film when the metal part or product is moved to an oven for curing.

(6) "**Transfer efficiency**" means the weight (or volume) of coating solids adhering to the surface being coated divided by the total weight (or volume) of coating solids delivered to the applicator.

(c) **Existing source requirement.** No owner or operator ~~subject to the provisions of this Section~~ shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any ~~organic solvent~~ VOC in excess of the amounts listed in 252:100-39-46(d) as calculated by EPA method 24, 40 CFR Part 60.

(d) **Standards.** The following table enumerates the limitations for surface coatings in pounds of ~~solvent~~ VOC per gallon of coating as applied (~~less water/exempt solvent~~): (water and exempt compounds). If more than one limit listed in the table is applicable to a specific coating, then the least stringent limitation shall be applied.

Coating type	Limitations	
	lbs/gal	kg/liter
Air or Forced Air Dry	3.5	<u>.420.42</u>
Clear Coat	4.3	<u>.520.52</u>
Extreme Performance	3.5	<u>.420.42</u>
Powder	0.4	<u>.050.05</u>
Other	3.0	<u>.360.36</u>

(e) **Emission factor.** For the purposes of calculating an emission factor (EF) in pounds ~~VOS~~ VOC per gallon of coating solids for use in the development of a plant-wide emission plan as described in 252:100-39-46(j)(1), the following formula will be utilized:

$$EF = V D / 1-(V+W) = V D / S$$

where:

- (1) V = volume fraction of ~~solvent~~ VOC in coating;
- (2) D = density of ~~solvent~~ VOC in the coating;
- (3) W = volume fraction of water in coating, and
- (4) S = 1-(V+W) = volume fraction of solids in coating.

(f) **Emission limit Compliance.** ~~If more than one emission limit as listed in 252:100-39-46(d) is applicable to a specific coating, then the least stringent emission limitation shall be applied.~~ Compliance with the coating limits listed in 252:100-39-46(d) is to be calculated on a daily weighted average basis.

(g) **Solvent-containing VOC-containing materials.** ~~Solvent-containing~~ VOC-containing materials used for clean up shall be considered in the ~~emissions~~ VOC content limits listed in 252:100-39-46(d) unless:

- (1) the solvent-VOC containing materials are maintained in a closed container when not in use;
- (2) closed containers are used for the disposal of cloth or paper or other materials used for surface preparation and cleanup;
- (3) the spray equipment is disassembled and cleaned in a solvent-VOC vat and the vat is closed when not in use; or,
- (4) the solvent-VOC containing materials used for the clean up of spray equipment are sprayed directly into closed containers.

(h) **Exemptions.** ~~Exemptions to this Section shall be permitted for combined emissions at one site/facility, which do not exceed a 10 tons/year emissions cutoff based on the facility's Facilities with a potential to emit VOCs 10 tons/year or less of VOC from coating operations are exempt from this Section. Once this limit is exceeded, the source facility will always be subject to the limits of this Section.~~

(i) **Alternate standard.** ~~Emissions-Coatings with VOC contents in excess of those permitted allowed by 252:100-39-46(d) are allowable may be used if both of the following conditions are met:~~

(1) ~~emissions that would result in the absence of control Emissions are reduced to levels equivalent to those permitted by that would occur if the VOC content of the coatings met the limits contained in 252:100-39-46(d) and meet there is an overall control efficiency of at least:~~

- (A) 85 percent, by incineration; or,
- (B) 85 percent, by absorption; or ~~any other equipment of equivalent reliability and effectiveness; and,~~
- (C) 85 percent by any other equipment of equivalent reliability and effectiveness.

(2) ~~no~~ No air pollution, as defined by the Clean Air Act, results.

(j) **Emission plan.**

(1) **Development of a plant-wide emission plan.** ~~An owner/operator owner or operator may develop a plant-wide emission plan consistent with EPA's Emission Trading Policy as published in the December 4, 1986 Federal Register instead of having each coating line comply with the emission VOC content limitations prescribed contained in subsection (d) of this Section, provided:252:100-39-46(d), if the following conditions are met.~~

~~(1)-(A)~~ The owner or operator demonstrates, ~~by means of approved material balance or manual emission test methods,~~ by the methods prescribed in 252:100-5-2.1(d) that sufficient reductions in organic solvent-VOC emissions may be obtained by controlling other facilities-sources within the plant to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be described in writing and shall include:

- (A)(i) a complete description of the coating line or lines ~~which will that can~~ not comply with the ~~emission VOC content~~ limitation in 252:100-39-46(d);
- (B)(ii) quantification of emissions, in terms of pounds per day of ~~organic solvents~~VOCs, which are in excess of the prescribed ~~emission-VOC content~~ limitation for each coating line described in ~~252:100-39-46(d)~~252:100-39-46(j)(A)(i);
- (C)(iii) a complete description of ~~each facility and the related control system,~~ if any, for those facilities within the plant where ~~how~~ emissions will be decreased at specific sources to compensate for excess emissions from each coating line described

~~in 252:100-39-46(d)~~252:100-39-46(j)(A)(i) and the date on which such reduction will be achieved;

~~(D)~~(iv) a transfer efficiency based on a 60 percent baseline with emissions expressed in pounds of VOC per gallon of solids when transfer efficiency is used to compensate for excess emissions from spray painting operations, ~~the transfer efficiency shall be based on a 60 percent baseline, with emissions expressed in pounds of solvent per gallon of solids. Credits for improvements in transfer efficiency shall be demonstrated with in-plant testing which complies with approved EPA methods;~~

(v) a demonstration of credits for improvements in transfer efficiency with in plant testing that complies with EPA methods.

~~(E)~~(vi) quantification of emissions, in terms of pounds per day of ~~organic solvents~~VOCs, for each source both before and after the improvement or installation of any applicable control system, or any physical or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

~~(F)~~(vii) a description of the procedures and methods used to determine the emissions of ~~organic solvents~~VOCs.

(2)(B) The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan as described in the Emissions Trading Policy may include voluntary decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to ~~facilities~~emission units, including permanently reduced production or closing a facility, located on the premises of a surface-coating operation.

(3)(2) **Compliance with a plant-wide emission plan.** The implementation of a plant-wide emission reduction plan instead of compliance with the ~~emissions~~ VOC content limitation prescribed in 252:100-39-46(d) has been expressly approved by the Executive Director and the EPA Administrator. Upon approval of a plan, any emissions in excess of those established for each facility under the plan shall be a violation of these rules.

(k) **Compliance, testing, and monitoring requirements.**

(1) The ~~Executive Division~~ Director may require ~~the owner/operator~~ at the expense of the owner or operator a demonstration of a source to demonstrate at his expense, compliance with the emission limits using EPA Methods 24, 24A, 1-4, 25, 25A, 25B in 40 CFR 60.444 or EPA Document 450/3-84-019. At a minimum, such test must show that the overall capture efficiency and destruction efficiency are equal to 85 percent; (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). The one hour bake option in Method 24 is required when doing compliance testing.)

(2) Testing for plant-wide emission plans shall be conducted ~~by the owner/operator at his expense~~ at the expense of the owner or operator to demonstrate compliance with the emission VOC content limits contained in 252:100-39-46(d).

(3) Monitoring shall be required of any ~~owner/operator~~ owner or operator subject to this Section who uses add-on control equipment for compliance. Such monitoring shall include:

~~(A)~~ installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

- ~~(i)(A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;~~
- ~~(ii)(B) the total amount of volatile organic substances—VOCs recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,~~
- ~~(iii)(C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance emissions during such activities;~~
- ~~(B) maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k)(3)(A)(i); and,~~
- ~~(C) maintenance of all records at the affected facility for at least two years and make such records available to representative of the State or local air pollution control agency upon request.~~

~~(l) Reporting and recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request, reports detailing specific VOS sources; the quantity of coatings used for a specific time period, VOS content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOS emissions. The data necessary to supply the requested information shall be retained by the owner/operator for a minimum of two years.~~

~~(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request reports detailing specific VOC sources; the quantity of coatings used for a specific time period, VOC content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOC emissions. The data necessary to supply the requested information shall be retained by the owner or operator for a minimum of two years.~~

~~(2) The owner or operator of a facility subject to this Section shall maintain records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k), as well as all other records, for at least two years. These records shall be available to representatives of the DEQ upon request.~~

~~(m) Compliance date. The date of compliance with the requirements of this Section will be is December 31, 1990.~~

252:100-39-47. Control of ~~VOS~~VOC emissions from aerospace industries coatings operations

(a) Applicability.

~~(1) This Section applies to all aerospace facilities located in Tulsa County. Sources once subject to this Section are always subject.~~

~~(2) This Section does not apply to individual coating formulations—which that, when aggregated, do not exceed fifty-five (55) gallons per year 55 gal/yr for the facility.~~

~~(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in OAC 252:100-7 and will be submitted to EPA as source-specific SIP revision, unless:~~

~~(A) the new coatings meet the presumption norm (3.5 pound VOS per gallon less water and exempt solvents limit); or,~~

~~(B) the total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation.~~

~~(4)(3) Exemptions to this Section shall be permitted for combined emissions at one site/facility which do not exceed a ten ton per year emission cut-off based on the Facilities with a potential of the facility to emit VOS-10 tons/year or less of VOC from coatings operations are exempt from this Section.~~

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Aerospace**" means the industries, air bases and depots that ~~design and manufacture, rework, or repair~~ aircraft or military equipment components for either commercial or military customers.

(2) "**Aircraft**" means any machine designed to travel through the earth's atmosphere. This group includes but is not limited to: airplanes, balloons, dirigibles, drones, helicopters, missiles, and rockets.

(3) "**Alternate ~~reasonable~~ reasonably available control technology (ARACT)**" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility as determined on a case-by-case basis.

(4) "**Coating**" means a material which covers a surface which alters the surface characteristics and from which ~~Volatile Organic Solvents-VOCs~~ can be emitted during the application and/or curing process.

(5) "**CTG**" means the Control Techniques Guidance Document "Control of Volatile Organic Emissions From Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," EPA No. 450/2-78-015.

(6) "**Facility**" means all of the pollutant-emitting activities ~~which~~ that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.

(7) "**Low ~~organic solvent~~ VOC coating (LOSC)(LVOCC)**" means a coating which ~~contain~~ that contains less ~~organic solvent~~ VOC than the conventional coatings used by the industry. Low ~~organic solvent~~ VOC coatings include waterborne, higher solids, electrodeposition, and powder coatings.

(8) "**Reasonable ~~Reasonably~~ available control technology (RACT)**" means the ~~lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility and the need to impose such controls to attain and maintain a National Ambient Air Quality Standard.~~

(c) **General requirements.** ~~All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). Said plan, upon approval, shall constitute the determination of ARACT for that particular facility. ARACT must be installed and operating as approved in the plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan. Provided, however, that in the case that Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification.~~

(1) All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). This plan, upon approval, shall constitute ARACT for that particular facility.

(2) ARACT must be installed and operating as provided in the approved plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are approved in the plan.

(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in 252:100-7 or 252:100-8, and will be submitted to EPA as source-specific SIP revisions, unless one of the following applies.

(A) The new coatings meet the presumptive norm of 3.5 pounds of VOC per gallon less water and exempt compounds.

(B) The total usage of the new coating does not exceed 55 gal/yr of each coating formulation.

(d) **Emissions reduction plan.**

(1) ~~Plan development. Each owner/operator shall develop an emissions reduction plan for all affected facilities. Each plan shall include the following:~~

~~(A) a detailed, reasoned and exhaustive review of:~~

~~(i) each source of emissions within the facility and~~

~~(ii) (2) the entire plant collectively;~~

(A) a detailed, reasoned and exhaustive review of each source of emissions within the facility and the entire plant collectively;

(B) identification and quantification of emissions, in terms of pounds per day, of all organic solvents VOC both before and after the application of ARACT;

(C) a detailed, innovative engineering effort directed toward finding alternative air management schemes that can be incorporated in order to abate emissions at costs which are reasonable;

(D) a consideration of the level of control that is achievable using available alternative coatings, to include LVOCC for every application, low organic solvent coatings (LOSC);

~~(E) a consideration of the level of control achievable using available add-on control devices. This demonstration shall include, at a minimum, a demonstration of the feasibility/infeasibility of the following control options:~~

~~(i) carbon absorption;~~

~~(ii) incineration/flaring;~~

~~(iii) condensation; and,~~

~~(iv) a combination of 252:100-39-47(d)(1)(E)(i) and 252:100-39-47(d)(1)(E)(ii).~~

(E) a demonstration of the level of control achievable using available add-on control devices which shall include, at a minimum, the feasibility/infeasibility of carbon adsorption, incineration/flaring, condensation, and a combination of carbon adsorption and incineration/flaring;

~~(F) a consideration of facility redesign, including the following:~~

~~(i) recirculation;~~

~~(ii) reduced air flows;~~

~~(iii) consolidation of spray operations; and,~~

~~(iv) installation of common control devices for two or more separate coatings operations.~~

(F) a consideration of facility redesign, including recirculation, reduced air flows, consolidation of spray operations, and installation of common control devices for two or more separate coating operations;

~~(G) a consideration of alternative applications, to improve transfer efficiency, including:~~

~~(i) high volume low pressure spray equipment;~~

~~(ii) heated spray guns; and,~~

(iii) electrostatic spray equipment/powder coatings.

(G) a consideration of alternative applications, to improve transfer efficiency, including high-volume-low-pressure spray equipment, heated spray guns, and electrostatic spray equipment/powder coatings;

(H) an explanation why each source is not a typical coating source covered by the CTG as defined in 252:100-39-47(b);

(I) a cost/benefit analysis for all control technology considered; and,

(J) a detailed compliance schedule which that includes the emission limit and/or control techniques for each emission source. This schedule, which together with other relevant considerations, shall be set forth in a separate section of the plan which that summarizes and outlines ARACT for the referenced facility.

(2) **Submission of emission reduction plans.** ~~Upon completion, the Three copies of the emissions reduction plan shall be submitted in triplicate to the Air Quality Division and one shall be submitted to EPA, Region VI. The preparer shall also submit a copy of the plan to Region VI Environmental Protection Agency (EPA), Region VI.~~

(3) **Action on Plan.** ~~Within 30 days of submittal, or of the effective date of this Section May 25, 1990, whichever is later, the Air Quality Division shall, considering any comments submitted by EPA, either approve, modify or disapprove the plan.~~

(4) **Public hearing.** ~~The Division shall, at the first meeting of the Air Quality Council following the approval, modification, or disapproval of the plan, present at public hearing, the staff's findings and ARACT determination. Upon consideration of comments and recommendations from the Council, the owner/operator of the affected facility, the public and EPA, the Department shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility. The owner/operator shall be responsible for installation and operational provisions of the approved ARACT, including any specific provisions set forth therein. Any violation of the plan or of its provisions shall constitute a violation of this Section.~~

(5) **Final approval.** ~~Upon consideration of comments and recommendations from the Council, the owner or operator of the affected facility, the public, and EPA, the DEQ shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility.~~

(6) **Compliance.** ~~The owner or operator shall be responsible for installation and operational provisions of the approved ARACT. Any violation of the plan or of its provisions shall constitute a violation of this Section.~~

~~(5)(7)~~ **Submission of SIP revision.** ~~Upon approval by the Department DEQ, the ARACT determination shall be submitted to EPA as a SIP revision.~~

(e) **Reporting and recordkeeping.**

(1) **Recordkeeping requirements.** ~~The owner/operator~~ owner or operator shall maintain the following:

(A) a material safety data sheet which documents the volatile organic solvent-VOC content, composition, solids content, solvent-VOC density and other relevant information regarding each coating and solvent-VOC available for use in the affected surface coating processes and information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits. Information as to the amounts of each type coating used and the amounts of solvents used for dilution in each coating type shall be maintained for each coating operation. Daily

~~usage records will be kept for all coatings used that do not comply with the applicable control limits specified in the plan;~~

~~(B) information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits;~~

~~(C) information as to the amounts of each type coating used and the amounts of VOC used for dilution in each coating type for each coating operation;~~

~~(D) daily usage records for all coatings used that do not comply with the applicable control limits specified in the plan; and,~~

~~(B)(E) records shall be maintained of any monitoring and testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f);~~

~~(C)(2) Methods of calculating VOC content in coatings. records—Records required by 252:100-39-47(e)(1)(A) and 252:100-39-47(e)(1)(B) through 252:100-37-47(e)(1)(E) detailing VOC in pounds per gallon of coating (less water and exempt compounds) shall be calculated as follows: $\text{VOC in lbs/gal of coating} = \frac{(W_v - W_x - W_x) - W_v - W_w - W_x}{V_m - V_w - V_x}$ where:~~

~~(A) W_v = weight of all volatiles;~~

~~(B) W_w = weight of water;~~

~~(C) W_x = weight of exempt solvent compounds;~~

~~$V_m = 1$ (one);~~

~~(D) V_w = volume fraction of water; and,~~

~~(E) V_x = volume fraction of exempt solvent compounds.~~

~~(D)(3) Maintenance of records. records—Records required by 252:100-39-47(e)(1)(A) and 252:100-39-47(e)(1)(B) through 252:100-39-47(e)(1)(E) shall be maintained for at least two years and shall be made available upon written request by representatives of the Air Quality Division, U.S. Environmental Protection Agency or the Tulsa City-County Health Department AQD or EPA.~~

~~(2)(4) Alternative recordkeeping provision. Alternatively to 252:100-39-47(e)(1) through 252:100-39-47(e)(3), an equivalent recordkeeping provision which that satisfies the substantive requirements of 252:100-39-47(e)(1) through 252:100-39-47(e)(3) may be approved under the plan.~~

(f) Testing and monitoring.

~~(1) Testing. Each owner/operator—The Division may require testing at the expense of the owner or operator shall, upon a determination by the Air Quality Division that testing is required to establish emission from any particular source or sources, conduct such tests at his own expense. Test methods may include 1-4, 18, 24, 24A, 25A, 25B found in the Appendix A of 40 CFR Part 60, including the procedures found at 40 CFR 60.444.~~

~~(2) Monitoring. Monitoring shall be required of any owner/operator subject to this section owner or operator who uses add-on control equipment for compliance. Such monitoring shall include: accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:~~

~~(A) installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:~~

~~(i) (A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;~~

~~(ii) (B) the total amount of volatile organic substances (VOCs) recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,~~
~~(iii) (C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance (VOC) emissions during such activities.~~

~~(B) maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f)(2)(A)(i); and,~~

~~(C) maintenance of all records at the affected facility for at least two years and make such records available to representatives of the State or local air pollution control agencies upon request. (252:100-39-47 Effective May 25, 1990)~~

252:100-39-48. Vapor recovery systems [REVOKED]

~~(a) Applicability. This Section applies only in Tulsa County.~~

~~(b) Storage of volatile organic compounds - 400-40,000 gallons (9.5-953 bbls).~~

~~(1) No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a submerged fill pipe or is bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compounds contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum.~~

~~(2) The vapor recovery system shall include one or more of the following:~~

~~(A) a vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds can be transferred into the container (i.e., popped connectors from the storage container to the delivery vessel.);~~

~~(B) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole;~~

~~(C) the cross-sectional area of the vapor recovery line must be at least half of the cross-sectional area of the liquid delivery line, or;~~

~~(D) instead 252:100-39-48(b)(2)(A) through 252:100-39-48(b)(2)(C), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Executive Director prior to start of construction.~~

~~(3) Exemptions to this Section may be granted provided the owner/operator shows to the satisfaction of the appropriate authority that the container is used exclusively for agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less.~~

~~(4) The applicability of this Section shall be determined by the most restrictive of the 2,000 gallon tank size as specified in 252:100-39-48(b)(1) or the 120,000 gallon annual throughput described in 252:100-39-48(b)(3). However, once a facility places a 2,000 gallon tank in service or exceeds the 120,000 gallon annual throughput described in 252:100-39-48(b)(3), that facility shall always be subject to the provisions of this Section. (effective February 12, 1990)~~

~~(5) If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized.~~

~~(6) Compliance with this subsection will be accomplished by affected owner/operator by December 31, 1986.~~

~~(7) The owner/operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds made to their facility or facilities located in Tulsa County, shall be made by vessels which comply with the requirements contained in 252:100-39-48(d). Compliance with this Section shall be accomplished by affected owner/operators no later than December 31, 1990. (Effective February 12, 1990)~~

~~(c) Loading of volatile organic compounds.~~

~~(1) No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound loading facility unless such loading facility is equipped with a vapor collection and/or disposal system properly installed, in good working order and in operation.~~

~~(2) When volatile organic compounds are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.~~

~~(3) A means shall be provided to prevent organic material drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.~~

~~(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected.~~

~~(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels:~~

~~(A) an absorption/adsorption system or condensation system with a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound vapors and gases entering such disposal system;~~

~~(B) a vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent; or,~~

~~(C) other equipment of at least 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-48(c)(5)(A) through 252:100-39-48(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

~~(6) Subsection 252:100-39-48(c) shall apply to any facility which loads volatile organic compounds into any transport vessel designed for transporting volatile organic compounds.~~

~~(7) Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for two years.~~

~~(d) Transport/delivery vessel requirements.~~

~~(1) Maintenance.~~

~~(A) The delivery vessel must be maintained so as to be vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.~~

~~(B) The delivery vessel must be equipped, maintained and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.~~

~~(C) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which would impair the vessels ability to retain vapors or liquid shall be repaired within 5 days.~~

~~(D) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-48(d)(2)(A)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.~~

~~(E) No owner/operator will allow a delivery vessel to be filled at a facility unable to receive displaced organic vapors nor service tanks unable to deliver displaced vapors except for tanks/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels which do not display a current tag.~~

~~(F) Delivery vessels may be inspected by representatives of the appropriate health agency in order to determine their state of repair. Such a test may consist of a visual inspection, a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner/operator to effect the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days the vessel will be removed from service by the owner/operator. Failure to certify that the cited repairs have been effected will subject the vessel to sanctions. Upon certification of repairs the vessel will be allowed to operate in a normal manner.~~

~~(2) Testing requirements.~~

~~(A) Pressure test.~~

~~(i) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Executive Director.~~

~~(ii) The vessel will be considered to pass the test prescribed in 252:100-39-48(d)(2)(A)(i) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O in addition there shall be no avoidable visible liquid leaks.~~

~~(B) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(d)(1)(F) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as~~

modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-48 will become effective December 15, 1988.

252:100-39-49. Manufacturing of fiberglass reinforced plastic products

~~(a) **General provisions.** Within 12 months after promulgation of this Section all affected facilities shall limit emissions of VOS from fiberglass manufacturing to those listed in 252:100-39-49(a)(1), or have an approved plan for the reduction of such emissions. The plan must be submitted to the Executive Director within 6 months after promulgation of this Section, and shall detail those emissions which will be controlled, the means by which control will be achieved and will demonstrate that compliance will be achieved within two years from the date of promulgation of this Section. The approval authority for such plans shall reside with the Air Quality Council. All approved plans shall be submitted as SIP revisions.~~

~~(1) Compliance with 252:100-39-49(a) shall be accomplished by use of control equipment which can demonstrate an 85 percent reduction in the VOS released from each process gas stream, e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency.~~

~~(2) Exemptions to the limits listed in 252:100-39-49(a)(1) may be allowed for any process gas stream which does not exceed six tons per year actual emissions based on 6240 hours per year. However, once this limit is exceeded, controls must be put in place and maintained at any operating level.~~

~~(b) **Demonstration of compliance.** The Executive Director may require the owner/operator of a source to demonstrate at his expense, compliance with the prescribed emissions limits. The testing shall be accomplished using the appropriate EPA test method or methods, these include methods 14, 18-25, 25A, 25B and 40 CFR 60.444. Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.~~

~~(c) **Testing.** Testing for the alternate emissions plan shall be conducted by the owner/operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.~~

~~(d) **Recordkeeping.** The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request reports detailing specific VOS sources, the quantity of solvents used during specific months, a description of the solvent used, control equipment efficiencies, equipment downtime and any other information pertinent to the calculation of VOS emissions from the facility. The owner/operator must also maintain records which detail the maintenance performed on all control equipment as well as a record of the downtime with the reason for each occurrence. Such records shall be maintained by the source for a minimum of two years. (252:100-39-49, Effective February 12, 1990)~~

(a) Applicability.

(1) This Section applies to any process gas stream with actual VOC emissions that exceed six tons per year based on 6,240 hours of operation per year.

(2) Once the limit in 252:100-39-49(a)(1) is exceeded, the controls required in 252:100-39-49(b) must be put in place and maintained and used at any operating level.

(b) Standards. Affected facilities shall limit emissions of VOC from fiberglass manufacturing by use of control equipment which can demonstrate an 85 percent reduction in the VOC released from each process stream (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency).

(c) Compliance. All affected facilities must comply with one of the following.

(1) Meet the requirements of 252:100-39-49(b) by February 13, 1991.

(2) Have an approved plan for the reduction of VOC emissions as required by 252:100-39-49(b) by February 13, 1991.

(A) The plan shall be submitted by August 13, 1990, and shall:

(i) detail those emissions which will be controlled;

(ii) detail the means by which control will be achieved; and,

(iii) demonstrate that compliance will be achieved by February 13, 1992.

(B) The Air Quality Council shall have approval authority for the plans.

(C) All approved plans shall be submitted to the EPA as SIP revisions.

(d) Demonstration of compliance.

(1) The Division Director may require at the expense of the owner or operator a demonstration of compliance with the requirements of 252:100-39-49(b).

(2) The testing shall be accomplished using the appropriate EPA test method or methods. These include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444.

(3) Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.

(4) Testing for the emissions plan described in 252:100-39-49(c)(2) shall be conducted at the expense of the owner or operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.

(e) Recordkeeping.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports that include:

(A) details of specific VOC sources;

(B) the quantity of VOC used during specific months;

(C) a description of the VOC used;

(D) control equipment efficiencies;

(E) details of maintenance performed on all control equipment;

(F) equipment downtime; and,

(G) any other information pertinent to the calculation of VOC emissions from the facility.

(2) The records required in 252:100-39-49(e)(1) shall be maintained by the source for at least two years. [252:100-39-49, Effective February 12, 1990]

Oklahoma Register

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1216]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed rules:

252:100. Air Pollution Control

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke. Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Summary:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to Subchapter 7 will delete the lower limit of 5 tons per year for

Permit by Rule (PBR) facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Two substantive changes are proposed for

Notices of Rulemaking Tent

Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Room 101, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1216; filed 6-25-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1217]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

Proposed rules:

252:100, Air Pollution Control: Subchapter 47, Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

Summary:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1259]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emissions of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED].

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

Appendix F. Secondary Ambient Air Quality Standards [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

SUMMARY:

The proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter (PM) and ozone announced by EPA in the July 18, 1997, Federal Register. The EPA revised the primary (health-based) PM standards by adding a new annual PM-2.5 standard set at 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a new 24-hr PM-2.5 standard set at $65 \mu\text{g}/\text{m}^3$. EPA is retaining the current annual PM-10 standard of $50 \mu\text{g}/\text{m}^3$ and changing the form of the PM-10 24-hr standard. The secondary (welfare-based) standards are also being adjusted to make them identical to the primary standards. Also, the previous 1-hr primary ozone standard is being phased out and replaced with a new 8-hr "concentration-based" standard of 0.08 ppm. The 3-yr average of the 4th highest daily maximum 8-hr ozone concentrations is used to determine compliance with the standard. The EPA also replaced the previous secondary standards with a standard identical to the new primary standard. The proposed revisions to

Subchapter 7 will delete the lower limit of 5 tons per year Permit by Rule (PBR) facilities. This will allow the facilities with less than 5 tons per year emissions, which are subject to new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each Subchapter containing a PBR for specific facilities will be referenced under this new Part also. The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-write initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PE grain elevators. The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix L requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to not exceed six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. The proposed changes to Subchapters 37 and 39 are primarily intended to clarify, simplify and correct the rule and to respond to requests to exclude acetone and methylated siloxanes from the definition of volatile organic compound (VOC). The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and

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reformatting. Two substantive changes are proposed for Subchapter 37 and one for Subchapter 39. One of those substantive changes affects both Subchapter 37 and 39. The definition of volatile organic compounds (VOC) in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of Volatile Organic Compounds (VOC); the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; and a request that methylated siloxanes be excluded from the definition of VOC. The definition of volatile organic compounds (VOC) has been modified to be consistent with the Environmental Protection Agency definition. The second substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Wednesday, July 15, 1998, through Tuesday, August 18, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, August 11, 1998. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, September 15, 1998 - 9:30 a.m. in Alva (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 18, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1998, for review at the Air Quality Division office at the address listed above or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

A copy of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (Appendices E, F, L and Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37 and 39). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the version of Subchapter 25 that was the subject of a public hearing on June 16, 1998.

AN IDENTICAL NOTICE WAS PUBLISHED IN THE OKLAHOMA REGISTER ON JULY 15, 1998. AFTER PUBLICATION, THE COUNCIL MEETING LOCATION WAS CHANGED TO 4545 N. LINCOLN BLVD., BURGUNDY ROOM, OKLAHOMA CITY, OKLAHOMA. NO OTHER CHANGES WERE MADE TO THIS NOTICE.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1259; filed 7-9-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1260]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

PROPOSED RULES:

252:100. Air Pollution Control

Subchapter 47. Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

SUMMARY:

A new Subchapter 47 is proposed to establish state standards to control emissions from municipal solid waste (MSW) landfills that commenced construction, modification, or reconstruction before May 30, 1991, and accepted waste after November 8, 1987. These proposed rules will be included in Oklahoma's State 111(d) Plan and will provide the enforceable mechanism for implementing the provisions of the Emission Guidelines (EG) for MSW landfills (40 CFR 60 Subpart Cc). Subchapter 47 incorporates by reference sections of the New Source Performance Standards for MSW landfills (40 CFR 60 Subpart WWW). The proposed rules would affect privately and publicly owned MSW landfills that are actively accepting or are capable of accepting municipal solid waste as well as those that are closed. Landfill gas collection and control systems will be required for landfills that have design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters and have estimated emissions of at least 50 megagrams per year of non-methane organic compounds. The Department is requesting comments on this proposed rule.

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1358]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 7. Permits for Minor Sources [AMENDED]

Subchapter 8. Permits for Part 70 Sources [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]

Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

SUMMARY:

In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a

PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no PBR has been written, the opportunity to apply for coverage under an applicable general permit. The Department also proposes to delete the definition for "Volatile Organic Solvents (VOS)," because the proposed changes to Subchapters 37 and 39 would exclude that term from the rules.

The Department is considering increases in the permit application fees in both Subchapters 7 and 8.

The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to both subchapters follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow such exceedances during one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. Other

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proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Three substantive changes are proposed for each Subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; a request dated April 21, 1997, from the Halogenated Solvents Industry Alliance, requesting that perchloroethylene be excluded from the definition of VOC; a request from Dow Corning that methylated siloxanes be excluded from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, that methyl acetate be excluded from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c). In addition, the Department is requesting comments on 252:100-39-47, Control of VOS Emissions from Aerospace Industries Coatings Operations. Options include (1) retain the present (ARACT) rule and enforce the emissions reduction plan specified therein; (2) repeal the present rule and promulgate new rules regulating specialty coatings; or (3) retain the present plan, promulgate new rules for specialty coatings, and allow the facility to choose which of the two they prefer. These options recognize that the new NESHAP for the aerospace industry controls VOC emissions except for specialty coatings. The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40

CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Tuesday, September 15, 1998, through Tuesday, October 20, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, October 13, 1998

Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 10, 1998 - 9:30 a.m. in Poteau (Location to be determined. See contact person)

PUBLIC HEARINGS:

Tuesday, October 20, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (Subchapters 5 and 8), Michelle Martinez (Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37, 39 and 41). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 7, 23, 24, 25, 37 and 39 that were the subject of a public hearing on August 18, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1358; filed 8-26-98]

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1473]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2 [AMENDED]

Subchapter 7. Permits for Minor Facilities [AMENDED]

Subchapter 8. Permits for Part 70 Sources

252:100-8-1.7 [AMENDED]

252:100-8-4 [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

SUMMARY:

The Department is proposing to amend 252:100-5-2.2 to increase annual operating fees for minor facilities and to include a provision for state appropriations and federal grants to be used to offset annual operating fees assessed to minor facilities. The Department is also proposing to increase the base annual operating fee for Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no

PBR has been written, the opportunity to apply for coverage under an applicable general permit.

The Department is also proposing to amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

The Department is proposing amendments to 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. In addition, it is proposed that 252:100-8-4(a)(2) be amended to update the incorporation by reference of 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Substantive changes are proposed for each subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; a request from American Airlines, Boeing, and Nordam, dated January 19, 1998, to exclude acetone from the definition of VOC; a request from the Halogenated Solvents Industry Alliance dated April 21, 1997, to exclude perchloroethylene from the definition of VOC; a request from Dow Corning to exclude methylated siloxanes from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, to exclude methyl acetate from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The fourth substantive change to Subchapter 37 will be the addition of a new Part 9, Permit by Rule for Volatile Organic Compound Storage and Loading Facilities. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive

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change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons to 252:100-39-41(c) to determine the applicability of subsection (c).

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101, et seq.

COMMENT PERIOD:

Written comments on proposed amendments to 252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7 will be accepted until December 8, 1998. Oral comments may be made at the December 15, 1998 hearing.

Comments on all other proposed amendments and new rules included in this notice will be accepted beginning Monday, November 16, 1998, through Tuesday, December 15, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, December 8, 1998.

Also scheduled before the Environmental Quality Board (Date and location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, December 15, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 16, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7), Jeanette Buttram (Subchapter 7 except 252:100-7-3), and Joyce Sheedy (252:100-8-4 and Subchapters 37 and 39), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1473; filed 10-23-98]

**TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 55. HOME INVESTMENTS
PARTNERSHIP PROGRAM RULES**

[OAR Docket #98-1472]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

330:55-1-1 through 330:55-1-7 [NEW]

330:55-3-1 through 330:55-3-6 [NEW]

330:55-5-1 through 330:55-5-2 [NEW]

330:55-7-1 through 330:55-7-5 [NEW]

SUMMARY:

The Board of Trustees of the Oklahoma Housing Finance Agency (OHFA) a public trust, have in compliance with Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended and codified at 42 U.S.C. 12701-12839; and 24 CFR Part 92, Section 92.1, et seq (Title II) adopted OHFA's Chapter 55. HOME Investments Partnership Program Rules (the 'Rules) for use in the allocation and issuance of HOME Program funds throughout the state of Oklahoma.

The Rules provide guidelines which OHFA follows in allocating HOME funds pursuant to Title II and are intended to provide a description of the procedures to be followed by applicants for evaluating and prioritizing applications. The Rules also provide an overview of Title II and other federal regulations which govern the administration of the HOME Program.

AUTHORITY:

These Chapter 55 rules are authorized by the Trustees of The Oklahoma Housing Finance Agency (OHFA), the Amended Trust Indenture of OHFA, and the Bylaws of OHFA.

COMMENT PERIOD:

Written comments will be accepted November 16, 1998 through December 16, 1998. Comments should reference the section of the rules addressed and be sent to Oklahoma Housing Finance Agency, P. O. Box 26720, Oklahoma City, Oklahoma 73126-0720, Attn: Byron Debruler.

PUBLIC HEARING:

The following public hearing will be held: December 8, 1998, at 10:00 a.m. at the offices of OHFA, 1140 N. W. 63rd Oklahoma City, OK in the 4th floor conference room. All interested persons are invited to attend and present their views.

COPIES OF PROPOSED RULES:

Copies of the proposed Rules may be obtained by contacting Byron Debruler, at OHFA, 1140 Northwest 63rd, P. O. Box 26720, Oklahoma City, Oklahoma 73126-0720, 405-848-1144 Ext. 314. There will be a \$5.00 per copy charge.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-1722]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

252:100. Air Pollution Control

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

SUMMARY:

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical and grammatical errors, deletion of redundant language, and reformatting. Substantive changes are proposed for each subchapter. One of these changes affects both Subchapters. The definition of Volatile Organic Compound (VOC) has been modified in both subchapters to be consistent with the definition used by the Environmental Protection Agency. The substantive changes to Subchapter 37 are: the removal of the requirement for Best Available Control Technology (BACT) for all new sources of VOC in 252:100-37-3(a); the addition of 252:100-37-16(c), exempting loading facilities that are subject to 40 CFR 60, Subparts K, Ka and Kb; the addition of 252:100-37-25(c), exempting loading facilities that are subject to 40 CFR 60, Subpart XX, and 40 CFR 63, Subpart R; the deletion of 252:100-37-36, regarding fuel-burning and refuse-burning equipment, to resolve the contradiction between the first and second sentences; the addition of 252:100-37-38(b), exempting pumps and compressors that are subject to the equipment leak standards in 40 CFR 60, Subparts VV, GGG and KKK; and the addition of a new Part 9, Permit by Rule for Volatile Organic Compound Storage and Loading Facilities. The substantive changes to Subchapter 39 are: the correction of the placement of the phrase "prior to lease custody transfer" in 252:100-39-30(b)(2), the deletion of requirements in Part 3 regarding petroleum refinery operations which were made redundant by new federal requirements, and the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons to 252:100-39-41(c) for the determination of applicability of subsection (c).

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments on the proposed amendments to 252:100-37 and 252:100-39 will be accepted until February 10, 1999. Oral comments may be made at the Air Quality Advisory Council hearing, February 17, 1999.

PUBLIC HEARINGS:

Air Quality Advisory Council meeting will be held Wednesday, February 17, 1999 - 9:30 a.m. briefing and p.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma

Subchapter 252:100-37 and 252:100-39 are also scheduled to be heard by the Environmental Quality Board on Friday, March 5, 1999, 9:30 a.m., at the Association of County Commissioners of Oklahoma, 429 NE 50th Street, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available January 15, 1999, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Joyce Sheedy, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 37 and 39 that were the subject of the public hearing on December 15, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1722; filed 12-22-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 400. RADIATION MANAGEMENT**

[OAR Docket #98-1729]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

252:400-2-1. State agreement program authorizations [NEW]

252:400-2-2. Specific licenses [NEW]

252:400-2-12. State Agreement Fees [NEW]

Subchapter 21. Radionuclide NESHAP [NEW]

Appendix G. State agreement fees: Special nuclear material [NEW] Appendix H. State agreement fees: Source material [NEW]

Appendix I. State agreement fees: Byproduct mat [NEW]

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stationary VOC storage vessel with a capacity of 400 gal (1.5 m³) or greater unless it is equipped with a permanent submerged fill pipe as defined in 252:100-37-2.

(c) No owner or operator shall build or install a stationary VOC loading facility unless each loading pipe is equipped with a system for submerged filling of tank trucks or trailers which is installed and operated to maintain a 97 percent submergence factor.

(d) The owner or operator of a vessel with a storage capacity greater than 10,567 gal (40 m³) shall maintain records on site of the dimensions of the storage vessel and an analysis showing the capacity.

[OAR Docket #99-850; filed 5-7-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-851]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 39. Emission of Organic Materials in Nonattainment Areas

Part 1. General Provisions

252:100-39-1 through 252:100-39-3 [AMENDED]

252:100-39-4 [NEW]

Part 3. Petroleum Refinery Operations

252:100-39-15 through 252:100-39-18 [AMENDED]

Part 5. Petroleum Processing and Storage

252:100-39-30 [AMENDED]

Part 7. Specific Operations

252:100-39-40 through 252:100-39-47 [AMENDED]

252:100-39-48 [REVOKED]

252:100-39-49 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

July 15, 1998, through August 18, 1998

September 15, 1998, through October 20, 1998

November 10, 1998, through December 15, 1998

January 15, 1999, through February 17, 1999

Public hearing:

August 18, 1998

October 20, 1998

December 15, 1998

February 17, 1999

Adoption:

March 5, 1999

Submitted to Governor:

March 15, 1999

Submitted to House:

March 15, 1999

Submitted to Senate:

March 15, 1999

Gubernatorial approval:

April 19, 1999

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 7, 1999

Final adoption:

May 7, 1999

Effective:

June 11, 1999

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

No additional incorporations by reference were added by the proposed revision.

ANALYSIS:

The proposed revisions to Oklahoma Administrative Code 252:100-39, Emission of Organic Materials in Nonattainment Areas, will simplify the language under the agency-wide re-write/de-wrong initiative. The proposed revisions also include the following substantive changes: 1) the redefinition of the term "volatile organic compound (VOC)" and the substitution of this term for "organic materials", "organic solvents", "volatile organic solvent (VOS)" and in some instances "hydrocarbons"; 2) the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b); 3) the addition of 252:100-39-30(b)(3) and (4), exempting storage vessels subject to the equipment standards in 40 CFR 60 Subparts Ka or Kb and/or the equipment standards in 40 CFR 63 Subparts CC or G from the requirements of 252:100-39-30; 4) the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons for determining applicability of 252:100-39-41(c); and 5) the clarification of the definition of "aerospace" in 252:100-39-47(b)(1), adding the words "rework or repair".

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 1999.

SUBCHAPTER 39. EMISSION OF ORGANIC MATERIALS IN NONATTAINMENT AREAS

PART 1. GENERAL PROVISIONS

252:100-39-1. Purpose

The purpose of this Subchapter is to control the emission of organic materials from stationary sources located in nonattainment areas and to specify the additional control measures required to protect and enhance the air quality to insure that the Oklahoma air quality standard is

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not exceeded and significant deterioration is prevented. The purpose of this Subchapter is to reduce the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains requirements for the control of emissions of VOCs from stationary sources located in areas that are nonattainment or were formerly nonattainment for ozone.

252:100-39-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

"Organic materials" means any chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.

"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.

"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.

"Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions:

- (A) the bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled;
- (B) the bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel;
- (C) the bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel; or,
- (D) other equivalent methods acceptable to the Executive Director.

"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide,

carbonic acid, metallic carbides or carbonate and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.

"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.

252:100-39-3. General applicability

In addition to any application of the requirements contained in OAC 252:100-37, the additional control/prohibitions requirements contained in this Subchapter shall be required of existing and new facilities located in Tulsa and Oklahoma Counties.

252:100-39-4. Exemptions

VOCs with vapor pressures less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from 252:100-39-16 through 252:100-39-18, 252:100-39-30, 252:100-39-41, and 252:100-48.

PART 3. PETROLEUM REFINERY OPERATION

252:100-39-15. Petroleum refinery equipment leaks

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) "Component" means any piece of equipment which has the potential to leak volatile organic compounds VOCs when tested in the manner described in EPA Test Method 21 of 40 CFR Part 60. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated.
- (2) "Gas service" means any equipment which processes, transfers or contains a volatile organic compound VOC or mixture of volatile organic compounds VOCs in the gaseous phase.
- (3) "Leaking component" means a component which has a VOC concentration exceeding 10,000 ppmv when tested according to the provisions in 252:100-39-15(e).
- (3)(4) "Liquid service" means any equipment which processes, transfers or contains a volatile organic compound VOC or mixture of volatile organic compounds VOCs in the liquid phase.
- (4) "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other

~~products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming of unfinished petroleum derivatives.~~

~~(5) "Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.~~

~~(6)(5) "Valves not externally regulated" means valves that have no external controls, such as in-line check valves.~~

~~(7) "Volatile organic compounds" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 0.3 kilopascals (0.0435 pounds per square inch absolute) or greater under actual storage conditions. (Effective 2-12-90)~~

~~(b) Applicability. This Section applies to all source facility petroleum refineries located in the following counties: Tulsa and Oklahoma.~~

~~(1) This Section applies to all petroleum refineries located in Tulsa County and Oklahoma County.~~

~~(2) VOCs with vapor pressures less than 0.0435 psia (0.3 kilopascals(kPa)) under actual storage conditions are exempt from 252:100-39-15. (Effective 2-12-90.)~~

~~(c) Provisions for specific processes. Standards and operating requirements~~

~~(1) The owner or operator of a petroleum refinery complex subject to this Section shall:~~

~~(A) develop and conduct a monitoring program consistent with the provisions in 252:100-39-15(d) and 252:100-39-15(f);~~

~~(B) conduct a monitoring program consistent with the provisions in 252:100-39-15(f);~~

~~(C) record all leaking components which have a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e) and place an identifying tag on each component consistent with the provisions in 252:100-39-15(f)(3);~~

~~(D)(C) repair and retest the leaking components, as defined in 252:100-39-15(e)(1)(C), as soon as possible but no later than 15 days after the leak is found; and,~~

~~(E)(D) identify all leaking components, as defined in 252:100-39-15(e)(1)(C), which cannot be repaired until the unit is shutdown for turnaround. Assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap; and,~~

~~(E) assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.~~

~~(2) The Executive Division Director, may, at his/her discretion, take require the owner or operator to take~~

appropriate remedial action, including early unit turnaround, based on the number and severity of tagged leaks awaiting repair.

(3) Pipeline valves and pressure relief valves in gaseous volatile organic compound gas service shall be marked in some manner that will be readily obvious to both petroleum refinery or contract personnel performing monitoring and the Executive Director DEO.

(d) Compliance ~~schedules~~ schedule. The owner or operator of a petroleum refinery, in order to comply with 252:100-39-15, shall adhere to the increments of progress contained in the following schedule:

(1) ~~Submit~~ submit to the Executive Division Director a monitoring program by July 30, 1981. This program shall contain, at a minimum, a list of the refinery units only and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this Section.

(2) ~~Submit~~ submit quarterly monitoring report to the Executive Director.

(e) Testing and monitoring procedures. Testing and calibration procedures to determine compliance with this Section must be consistent with EPA Test Method 21 of 40 CFR Part 60.

(f) Monitoring.

(1) The owner or operator of a petroleum refinery subject to this Section shall conduct a monitoring program consistent with the following provisions. The owner or operator shall:

(A) monitor yearly by the methods referenced in Test Method 21 of 40 CFR Part 60 252:100-39-15(e) all:

- (i) pump seals;
- (ii) pipeline valves in liquid service; and,
- (iii) process drains;

(B) monitor quarterly by the methods referenced in 252:100-39-15(d) 252:100-39-15(e), all:

- (i) compressor seals;
- (ii) pipeline valves in gaseous gas service; and,
- (iii) pressure relief valves in gaseous gas service;

(C) monitor weekly by visual methods all pump seals;

(D) monitor immediately within 24 hours any pump seal from which VOC liquids are observed dripping;

(E) monitor any relief valve within 24 hours after it has vented to the atmosphere; and,

(F) monitor immediately after repair any component that was found leaking.

(2) Pressure relief devices which that are connected to an operating flare header, vapor recovery devices devices,

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inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in paragraph (1) of this subsection. ~~Provided~~ provided, however, such inaccessible valves will be monitored during annual shutdown.

(3) The owner or operator of a petroleum refinery, upon the detection of a leaking component, ~~as defined in 252:100-39-15(e)(1)(C), which~~ that is not repaired on discovery, shall affix a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leaking component is repaired.

(g) **Recordkeeping.**

(1) The owner or operator of a petroleum refinery shall maintain a leaking components monitoring log as ~~specified in 252:100-39-15(e)(1)(C)~~ which shall contain, at a minimum, ~~the following data:~~

- (A) the name of the process unit where the component is located;
- (B) the type of component (e.g., valve, seal);
- (C) the tag number of the component, if not repaired immediately on discovery;
- (D) the date on which a leaking component is discovered;
- (E) the date on which a leaking component is repaired;
- (F) the date and instrument reading of the recheck procedure after a leaking component is repaired;
- (G) the date of the calibration of the monitoring instrument. ~~The record of calibration which~~ shall be made available for inspection on request;
- (H) those leaks that cannot be repaired until turnaround; and,
- (I) the total number of components checked and the total number of components found leaking.

(2) ~~Copies of the~~ The monitoring log shall be retained on site by the owner or operator for at least two years after the date on which the record was made or the report prepared.

(3) ~~Copies of the~~ The monitoring log shall be made available for inspection at any reasonable time and copies of the log shall be provided to the Executive Division Director, upon written request, at any reasonable time of the AOD.

(h) **Reporting.** The owner or operator of a petroleum refinery, ~~upon the completion of each monitoring procedure,~~ shall:

(1) submit a report to the Executive Division Director by the 30th day following the end of each calendar quarter that lists all leaking components that were located during the previous quarter but not repaired within 15 days, all leaking components awaiting unit turnaround, and the total number of components found leaking; and,

(2) submit a signed statement with the re ~~attesting to the fact that~~ all monitoring and, with exception of those leaking components listed in 252:100-39-15(h)(1), ~~all monitoring and repairs were performed as stipulated in the monitoring program.~~

252:100-39-16. Refinery ~~Petroleum refinery~~ process unit turnaround

(a) **Definition.** ~~“Turn-around”~~ “Turnaround” means the planned procedure of shutting down a unit, inspecting and repairing it, and restarting it.

(b) **Procedures required.** For the shutdown, purging and blowdown operation of any ~~processing~~ petroleum refinery processing unit the following procedures are required:

(1) ~~Recovery of volatile organic compounds (VOC)~~ VOCs shall be accomplished during the shutdown or turnaround to a process unit pressure compatible with the flare or vapor system pressure. The unit ~~will~~ shall then be purged or flushed ~~with to a flare or vapor recovery system using~~ a suitable material such as steam, water or nitrogen ~~to a flare or vapor recovery system~~. The unit shall not be vented to the atmosphere until pressure is reduced to less than 5 psig through control devices.

(2) Except where inconsistent with the “Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline,” or any State Oklahoma regulatory agency, no person shall en. organic VOC gases to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the Executive Division Director.

(3) At least fifteen days prior to a scheduled turnaround, a written notification shall be submitted to the Executive Division Director. As a minimum, the notification shall indicate the unit to be shutdown, the date of shutdown, and the approximate quantity of hydrocarbons VOCs to be emitted to the atmosphere.

(4) Scheduled refinery unit turnaround may be accomplished without the controls specified in 252:100-39-16(b)(1) and 252:100-39-16(b)(2) during non-oxidant seasons provided the notification to the Executive Division Director as required in 252:100-39-16(b)(3), specifically contains such a request for such an exemption. ~~Non-oxidant~~ The non-oxidant season is ~~understood to be between the months of October and April~~ from November 1 through March 31.

252:100-39-17. Refinery ~~Petroleum refinery~~ vacuum producing system

(a) **Definitions.** The following words and terms, ~~wh~~ used in this Section, shall have the following meani. unless the context clearly indicates otherwise:

(1) **“Accumulator”** means the vessel in the overhead stream of any fractionating tower, after the overhead

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condenses and separates noncondensable gases, liquid hydrocarbons, VOCs and water.

(2) "Hotwell" means the tank at the bottom of the barometer leg in a barometric condenser system to receive the water, condensate and entrained hydrocarbons, VOCs generated by the barometric condenser.

(b) **Requirements.** Noncondensable volatile organic compounds from the following equipment, VOCs emitted from any of the vacuum producing systems listed in paragraphs (1) through (3) of this subsection shall be incinerated or reduced by 90 percent of what would be emitted from the following vacuum producing system without controls.

- (1) steam ejectors with barometric condensers;
- (2) steam ejectors with surface condensers; or,
- (3) mechanical vacuum pumps.

(c) **Hotwells and accumulators.**

(1) Hot wells and accumulators shall be covered and the noncondensable vapors shall be vented to a fire-box or incinerator.

(2) The presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame. (Effective February 12, 1990)

(d) **Compliance.** Compliance shall be determined in accordance with the provision of the CTG document ("Control of Refinery Vacuum Producing systems, Wastewater Separators and Process Unit Turnarounds," EPA 450/2-77-025, October, 1977). Test reports and maintenance records will shall be maintained for at least two years. If emission testing is required, the appropriate test method(s) selected from EPA Reference Methods 1 through 4, 21, and/or 25, will shall be utilized.

252:100-39-18. Refinery Petroleum refinery effluent water separators

(a) **Definition.** "Effluent water separator" means any container in which any VOC floating on, entrained in, or contained in water entering the container is physically separated and removed from the water prior to discharge of the water from the container.

(b) **Requirements.** No person owner or operator shall operate, or install or permit the operation or installation of a single-compartment or multiple-compartment volatile organic compound water effluent water separator from any equipment processing, refining, treating, storing or handling volatile organic compound unless the compartment receiving said the effluent water is equipped with one of the following vapor control devices, properly installed, in good working order and in operation: to control emissions in one of the following ways.

(1) The container having totally encloses the liquid contents and all openings are sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or

sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) The container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the organic material VOC vapors and gases discharged and a vapor-disposal system capable of processing such organic material VOC vapors and gases so as to prevent their emission to the atmosphere and with all. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The organic material VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) Containers A container that is equipped with controls of equal efficiency, provided the plans and specifications of such equipment are submitted and are approved by the Executive Division Director prior to their use.

PART 5. PETROLEUM PROCESSING AND STORAGE

252:100-39-30. Petroleum liquid storage in vessels with external floating roof tanks/roofs

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at normal operating standard conditions.

(2) "Crude oil" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

(3) "Drilling or production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

(4) "Externally External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(5) "Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks/vessels or automatic transfer facilities to pipelines or any other forms of transportation.

(6) "Liquid-mounted seal" means primary seal mounted in continuous contact with the liquid between the tank/vessel wall and the floating roof.

(7) "Petroleum liquid" means crude oil, condensate,

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and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery.

(7)(8) "Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tankvessel wall, the liquid surface, and the floating roof.

(8)(9) "Waxy, high pour point crude oil" means a crude oil with a pour point of 50° F. or higher as determined by the American Society of Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) Applicability.

(1) This Section applies to all source facilities with petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (40,000 gallons), that are located in Tulsa and Oklahoma Counties (40,000 gal (150,000l)).

(2) This Section does not apply to petroleum liquid storage vessels which prior to custody transfer that:

(A) are used to store waxy, high pour point crude oil;

(B) have capacities less than 1,600,000 liters (422,675 gal (420,000 gallons 1,600 m³)) and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) contain a petroleum liquid with a true vapor pressure less than 1.5 psia (10.5 kPa) (1.5 psia);

(D) contain a petroleum liquid with a true vapor pressure less than 27.6 Kpa (4.0 psia); and,

(i) are of welded construction;

(ii) presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid-filled type seal, or other closure device of demonstrated equivalence approved by the Executive Director; or, contain a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa) if the vessels are of welded construction and have a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Division Director; or,

(E) are of welded construction, are equipped with a metallic-type shoe primary seal and have a secondary seal from the top of the shoe seal to the tankvessel wall (shoe-mounted secondary seal).

(3) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 60 Subparts Ka or Kb are exempt from the requirements of 252:100-39-30.

(4) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 63 Subparts CC (63.646) or G shall be exempt from the requirements of 252:100-39-30 upon the date compliance with the standards in Subparts CC and G is required.

(c) Provisions for specific processes Equipment operating requirements.

(1) Standards. No owner of a petroleum liquid storage vessel subject to this Section shall use to store a petroleum liquid in that vessel unless shall meet the following conditions.

(A) The vessel has been fitted with;

(i) a continuous secondary seal extending from the floating roof to the tankvessel wall (rim-mounted secondary seal); or,

(ii) a closure device or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required above under in 252:100-39-30(c)(1)(A)(i) and approved by the Executive Division Director.

(B) All seal closure devices meet the following requirements;

(i) there are no visible holes, tears, or other openings in the seal(s) or seal fabric;

(ii) the seal(s) are intact and uniformly in place around the circumference of the floating roof between the circumference of the floating roof and the tankvessel wall; and,

(iii) for vapor-mounted primary seals, the accumulated area of gaps exceeding 0.32 cm (1/8 in.) 1/8 in. (0.32 cm) in width between secondary seal and the tankvessel wall when secondary seal is used in combination with vapor mounted primary seal shall not exceed 21.2 cm² per meter (1.0 in.²/ft of tankvessel diameter (1.0 in. 2 per foot (21.2 cm²/m of tankvessel diameter), as. This shall be determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm 1/8 in. (0.32 cm) uniform diameter probe passes freely between the seal and the tankvessel wall; and summing the areas of the individual gaps.

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are;

(i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,

(ii) equipped with projections into the tankvessel which remain below the liquid surface at all times;

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports;

(E) Rim vents are set to open when the roof being floated off the leg supports or at the manufacturer's recommended settings; and,

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers

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which cover at least 90 percent of the area of the opening.

(2) **Monitoring.** The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this Section shall:

- (A) perform routine inspections semi-annually in order to ensure compliance with 252:100-39-30(c)(1)(B)(i), i.e., no visible holes, tears, or other openings in the seals or seal fabric;
- (B) measure the secondary seal gap annually in accordance with 252:100-39-30(c)(1)(B)(iii), when the floating roof is equipped with a vapor-mounted primary seal; and,
- (C) maintain records of the types of volatile petroleum liquids stored, the true vapor pressure of the liquid as stored, and the results of the inspections performed in 252:100-39-30(c)(2)(A) and 252:100-39-30(c)(2)(B).

(3) **Recordkeeping.**

(3)(A) Copies of all records under 252:100-39-30(c)(2) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

(4)(B) Copies of all records under this Section shall be made available to the Executive Division Director, upon verbal or written request, at any reasonable time.

(d) **Compliance schedule.** Compliance with this Section will shall be accomplished by affected facilities within two years of approval of this Section by the Oklahoma Environmental Quality Board by May 23, 1982.

PART 7. SPECIFIC OPERATIONS

252:100-39-40. **Cutback asphalt (paving)**

(a) **Definitions.** "Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

(b) **Requirements.** No owner, operator and/or contractor shall prepare or apply cutback liquefied asphalt without the prior written consent of the Executive Division Director or the Executive Director's designee. Such consent may be granted during Oklahoma's non-oxidant season, i.e., October through April November 1 through March 31.

252:100-39-41. **Vapor recovery systems Storage, loading and transport/delivery of VOCs**

(a) **Storage of volatile organic compounds-VOCs in vessels with storage capacities greater than 40,000 gallons (953 bbls).** No person shall store or permit the storage of gasoline or any volatile organic compound in tanks or vessels having Each vessel with a storage capacity greater than 40,000 gallons (953 bbls) unless such tank, reservoir or other container is total (151 m³) which stores gasoline or any VOC shall be a pressure tank vessel capable of maintaining working pressures sufficient at all times to that prevent organic the loss of VOC vapor or gas less to the atmosphere,

or is shall be equipped with one or more of the following vapor control devices:

(1) ~~a~~ **An external floating roof, consisting that consists of pontoon type, internal floating cover a pontoon-type or double-deck type roof, which will cover or a fixed roof with an internal-floating cover.** The cover shall rest on the surface of the liquid contents at all times (i.e. off the leg supports), except during initial fill, when the storage vessel is completely empty, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space between the roof cover edge and tank vessel wall. Such floating Floating roofs are not appropriate control devices if the organic compounds VOCs have a vapor pressure of 11.0 pounds per square inch absolute (568 mm Hg) 11.1 psia (76.6 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. Closure seals will for fixed roof vessels with an internal-floating cover shall meet the requirements of 252:100-39-30(c)(1)(B); 252:100-39-30(c)(1)(B)(i) and (ii). Closure seals for vessels with external floating roofs shall meet the requirements of 252:100-39-30(c)(1)(B)(i), (ii), and (iii).

(2) ~~a~~ **A vapor-recovery system consisting that consists of a vapor-gathering system capable of collecting 90 percent by weight or more of the uncontrolled volatile organic compounds VOCs that would otherwise be emitted to the atmosphere and a vapor-disposal system capable of processing such organic compounds so as VOCs to prevent emissions in excess of 80 mg/liter of gasoline 6.68 x 10⁻⁴ lb/gal (80 mg/l) of VOCs transferred to the atmosphere.** All tank vessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place; or,

(3) ~~other~~ **Other equipment or methods that are of equal efficiency for purposes of air pollution control as may be used when approved by the Executive Division Director and are in concert with federal guidelines.**

(b) **Storage of volatile organic compounds-VOCs in vessels with storage capacities of 400-40,000 gallons (9.5-953 bbls).**

(1) ~~No person shall store or permit the storage of~~ Each gasoline or other volatile organic compound in any stationary VOC storage container vessel with a nominal capacity greater than 400 gallons (9.5 bbls) gal (1.5 m³) and less than 40,000 gallons (953 bbls) unless such container is gal (151 m³) shall be equipped with a submerged fill pipe or is be bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compound in any stationary storage container with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage container are processed by a system that has a

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total collection efficiency no less than 90 percent by weight of total hydrocarbon compounds in said vapors.

(2) The displaced vapors from each storage vessel with an average daily throughput of 30,000 gal (113,562 l) or greater which stores gasoline or other VOCs shall be processed by a system that has a total collection efficiency no less than 90 percent by weight of total VOCs in the vapors.

(2)(A) The vapor recovery system shall include ~~one or more of the following:~~

(A)(i) a vapor-tight return line from the storage ~~container vessel~~ to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds ~~VOCs~~ can be transferred into the ~~container storage vessel~~; or,

(B)(ii) other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds ~~VOCs~~ in the displaced vapor provided that if approval of the proposed design installation, and operation is obtained from the Executive Division Director prior to start of construction.

(3)(B) ~~Provided, however, that the~~ The requirements for vapor collection of displaced vapors shall not apply to operations that are not major sources.

(c) ~~Loading of volatile organic compounds VOCs.~~

(1) ~~No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound~~ Each VOC loading facility unless such loading facility is with an annual throughput of 120,000 gal (454,249 l) or greater or storage capacity greater than 10,000 gal (38 m³) shall be equipped with a vapor-collection and/or disposal system properly installed, in good working order and in operation.

(2) ~~When volatile organic compounds~~ While VOCs are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.

(3) A means shall be provided to prevent organic material ~~VOC~~ drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.

(4) When loading is effected through by means other than hatches, all loading and vapor lines shall be equipped with fittings which that make vapor-tight connections and which close automatically when disconnected.

(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following elements listed in 252:100-39-41(c)(5)(A) through 252:100-39-42(c)(5)(C) in addition to bottom loading or submerged fill of transport vessels: Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as specified in 252:100-39-41(c)(5)(A) through

252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.

(A) ~~an~~ An absorption/adsorption system or condensation system with that has a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound ~~VOC~~ vapors and gases entering such disposal system;

(B) ~~a~~ A vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent; or,

(C) ~~other~~ Other equipment of that has at least a 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Division Director. ~~Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

(6) Subsection 252:100-39-41(c) shall apply to any facility which that loads volatile organic compounds ~~VOCs~~ into any transport vessel designed for transporting volatile organic compounds ~~VOCs~~.

(d) ~~Transport/delivery.~~

(1) The vapor-laden delivery vessel shall meet one of the following requirements:

(A) ~~the~~ The delivery vessel must be so designa and operated as to be vapor tight except whe.. sampling, gauging, or inspecting; or,

(B) ~~the~~ The delivery vessel must be equipped and operated so that to deliver the volatile organic compound ~~VOC~~ vapors are delivered to a vapor recovery/disposal system.

(2) ~~No owner/operator will owner or operator shall allow a delivery vessel to be filled at a facility unable to receive displaced organic VOC vapors nor service tanks/vessels unable to deliver displaced vapors except for tanks/facilities/vessels and facilities exempted in 252:100-39-41(b) and 252:100-39-41(c).~~

(3) Testing of the tank trucks for compliance with the vapor tightness requirements must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA 450/2-78-051, or an equivalent method as determined by the Executive Division Director.

(e) ~~Additional requirements for Tulsa County. Also see 252:100-39-48 for additional requirements pertaining to Tulsa County.~~

(1) Applicability. This subsection applies only in Tulsa County.

(2) Storage of VOCs.

(A) 2,000 - 40,000 gallons capacity. Each storage vessel with a nominal capacity greater than 2,000 gal (7.6 m³) and less than 40,000 gal (151 m³) that stores gasoline or other VOCs or each storage vessel

located at a facility that dispenses more than 120,000 gal/yr of gasoline or other VOCs, in addition to being equipped with a submerged fill pipe or being bottom loading, shall be equipped with a vapor control system. The vapor control system shall have an efficiency of no less than 90 percent by weight of the VOCs contained in the displaced vapors and shall be equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 oz/in.² and 1/2 oz/in.² vacuum. The vapor recovery system shall include one or more of the following.

(i) A vapor-tight return line from the storage vessel to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or VOCs can be transferred into the storage vessel (i.e., popped connectors from the storage vessel to the delivery vessel).

(ii) A float vent valve assembly installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending 6 in. (15 cm) below the top of the vessel will be allowed. Sleeves may be equipped with a 1/16 in. (0.16 cm) air bleed hole.

(iii) A vapor recovery line with a cross-sectional area that is at least half of the cross-sectional area of the liquid delivery line.

(iv) Other equipment that has a total collection efficiency no less than 90 percent by weight of the total VOCs in the displaced vapor if approved by Division Director prior to start of construction.

(B) Applicability.

(i) Any vessel with a capacity greater than 2,000 gal (7.6 m³) or any vessel located at a facility that dispenses more than 120,000 gal/yr (454,249 l/yr) shall be and will always remain subject to 252:100-39-41(e)(2). (effective February 12, 1990)

(ii) Exemptions to 252:100-39-41(e)(2) may be granted if the owner or operator shows to the satisfaction of the Division Director that the vessel is used exclusively for agricultural purposes.

(C) Emission testing. If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B shall be utilized.

(D) Compliance. Compliance with 252:100-39-41(e)(2) shall be accomplished by the owner or operator of affected facilities by December 31, 1986.

(E) Certification. The owner or operator of a facility shall obtain, by whatever means practicable,

certification from the owner or operator of the transport/delivery vessels that all deliveries of gasoline or other VOCs made to their 400-gallon to 40,000-gallon storage facility located in Tulsa County shall be made by transport/delivery vessels that comply with the requirements contained in 252:100-39-41(e)(4). Compliance with 252:100-39-41(e)(2) shall be accomplished by owners or operators of affected facilities no later than December 31, 1990. (Effective February 12, 1990)

(3) Loading of VOCs. In addition to those requirements contained in 252:100-39-41(c), stationary loading facilities shall be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5,000 ppmv shall be repaired within 15 days. Facilities shall retain inspection and repair records for at least two years.

(4) Transport/delivery vessel requirements. In addition to the requirements contained in 252:100-39-41(d), facilities located in Tulsa County must meet the following requirements.

(A) Maintenance.

(i) The delivery vessel must be maintained so that it is vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.

(ii) The delivery vessel must be equipped, maintained, and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and 252:100-39-41(b)(2) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.

(iii) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies that would impair the vessels' ability to retain vapors or liquid shall be repaired within 5 days.

(iv) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-41(e)(4)(B)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.

(v) No owner or operator shall allow a delivery vessel to be filled at a facility unable to receive displaced VOCs nor service vessels unable to deliver displaced vapors except for vessels/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels that do not display a current tag.

(vi) Delivery vessels may be inspected by representatives of the DEQ in order to determine their state of repair. Such a test may consist of a visual inspection or a vapor test with

vapors not to exceed 5,000 ppmv. Failure of a vapor test shall require the owner or operator to make the necessary repairs within 10 days. Failure to certify within 10 days of a vapor test that the necessary repairs have been made shall subject the owner or operator to sanctions. Upon certification of repairs, the vessel will be allowed to resume normal operation.

(B) **Testing requirements.**

(i) **Pressure test.**

(I) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Division Director.

(II) The vessel shall be considered to pass the test prescribed in 252:100-39-41(e)(4)(B)(i)(I) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 in. H₂O. There shall be no avoidable visible liquid leaks.

(ii) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(e)(4)(A)(vi) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-41(e) took effect December 15, 1988.

252:100-39-42. **Metal cleaning**

(a) **Cold cleaning facility requirements.**

(1) **Equipment requirements.** No personAn owner or operator shall allow the construction or operation of any cold cleaning unit for metal degreasing using an organic solvent unless the following requirements are metwhich uses a VOC shall:

- (A) install a cover or door shall be installed on the facility that can be easily operated with one hand;
- (B) provide an internal drain board will be provided in such a manner that will allow lid closure if practical; if not practical, the drainage facility may be provide an external drainage facility; and,
- (C) attach a permanent, conspicuous label

summarizing the operating requirements w permanently attached specified 252:100-39-42(a)(2) to the facility.

(2) **Operating requirements.** The operating requirements specified in 252:100-39-42(a)(1)(C) shall as a minimum specify Owners or operators shall at a minimum:

- (A) drain clean parts at least 15 seconds or until dripping ceases before removal;
- (B) close degreaser cover when not handling parts in cleaner; and;
- (C) store waste solvent VOC in covered containers. Do not dispose or allow disposition in such a manner that more than 20 percent by weight can evaporate into the atmosphere;
- (D) not dispose or allow disposition of waste VOC in such a manner that more than 20 percent by weight can evaporate into the atmosphere.

(3)(E) If used, a solvent spray will be of a solid fluid stream (not atomized or spray) use a solid fluid stream, not an atomized spray, when VOC is sprayed.

(4)(3) **Requirements for controls.** If the solvent volatility vapor pressure of the VOC is greater than 33 mm Hg (0.6 psi) 0.6 psi (4.1 kPa) measured at 38°C (100°F) 100°F (38°C) or if solvent VOC is heated to 120 degrees C 248°F (120°C), the owner or operator shall apply one or more of the following control devices be required devices/techniques.

- (A) freeboard Freeboard that gives a free board freeboard ratio greater than or equal to 0.7;
- (B) water Water cover and where the solvent VOC is insoluble in and heavier denser than water or such equivalent; or,
- (C) other Another system of equivalent control as approved by the Executive Division Director.

(5)(4) **Compliance and recordkeeping.** Compliance will shall be determined in accordance with EPA guidance document "Control of Volatile Organic Emissions from Solvent Metal Cleaning." 450/2-77-022. Test reports and maintenance and repair records of control equipment will shall be maintained by the source for at least two years.

(b) **Vapor-type metal degreasing requirements.**

(1) **Equipment requirements.** No person shall allow the construction or operation An owner or operator of any vapor-type metal degreasing unit using an organic solvent unless A VOC shall ensure that the following requirements are met;

- (A) the The unit has shall have a cover or door that can easily be opened and closed without disturbing the vapor zone;
- (B) the The unit will shall have the following saf switches;
 - (i) condenser Condenser flow switch and thermostat or equivalent capable of shutting off the sump heat if condenser coolant is not

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- circulating or coolant exceeds solvent VOC manufacturer's recommended level; and,
- (ii) ~~spray~~ Spray safety switch capable of shutting off spray pumps if the vapor level drops in excess of ~~four inches~~ 4 in. (10 cm).
- (C) ~~The unit will shall~~ have one or more of the following control devices/techniques:
- (i) ~~freeboard~~ Freeboard ratio not less than 0.75, i.e., the ratio of the freeboard to the width of the degreaser wherein the term freeboard is defined as the distance from the top of the vapor zone to the top of the degreaser tank;
- (ii) ~~refrigerated~~ Refrigerated chiller, i.e., condenser coils in the upper limit of the vapor zone;
- (iii) ~~enclosed~~ Enclosed design, i.e., cover or door is opened only when a part is actually entering or exiting the facility; or,
- (iv) ~~a~~ A carbon adsorption system with ventilation greater than ~~50 cfm/ft.2~~ cfm/ft² of air/vapor area when cover is open and exhausting. The system shall exhaust less than 25 ppm solvent/ppmv VOC average over one adsorption cycle; or,
- (v) ~~a~~ A control system demonstrated to have a control efficiency equal to or greater than any of the systems in ~~(C)~~ of this paragraph 252:100-39-42(b)(1)(C).
- (D) ~~a~~ A permanent conspicuous label summarizing operating ~~procedures~~ requirements in 252:100-39-42(b)(2) shall be attached to the facility unit.
- (2) Operating requirements. The operating requirements referred to in 252:100-39-42(b)(1)(D) shall as a minimum specify: An owner or operator of a vapor type metal degreasing unit using VOC shall ensure that the following requirements are met.
- (A) As a minimum operators shall:
- (i) keep the cover closed at all times except when processing work/degreasing parts;
- (B) minimize solvent carry-out by the following measures:
- (i)(ii) rack parts to allow full drainage;
- (ii)(iii) move parts in and out of the degreaser at less than 3.3 m/sec (11 ft./min.); 11 ft/min (3.4 m/min);
- (iii)(iv) degrease the workload in the vapor zone at least 30 sec. seconds or until condensation ceases;
- (iv)(v) tip out any pools of solvent/VOC on the cleaned parts before removal;
- (v)(vi) allow parts to dry within the degreaser for at least 15 sec. seconds or until visually dry;
- (vii) assure that VOC leaks are immediately repaired or the degreaser is shut down; and,
- (viii) store waste VOC only in closed containers.
- (B) As a minimum operators shall not:
- (C)(i) do not degrease porous or absorbent materials, such as cloth, leather, wood or rope;
- (D)(ii) workloads should not allow workloads to occupy more than half of the degreaser's open top area;
- (E)(iii) never spray above the vapor level;
- (F) assure solvent leaks immediately repaired or the degreaser is shut down;
- (G)(iv) do not dispose of waste solvent or transfer it to another party in such a manner that allow greater than 20 percent of the VOC waste (by weight) will to evaporate into the atmosphere. Store waste solvent only in closed containers when disposing of the waste or transferring the waste to another party;
- (H)(v) allow exhaust ventilation should not to exceed 20m³/min. per m² (65 cfm per ft²) 65 cfm/ft² (20 m³/min/m²) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans should not be used near the degreaser opening; and,
- (vi) use ventilation fans near the degreaser opening; or,
- (F)(vii) allow water should not to be visually detectable in solvent/VOC exiting the water separator.
- (3) Compliance and recordkeeping. Compliance will shall be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records will shall be retained by the source for at least two years.
- (c) Conveyorized degreasing unit requirements.
- (1) Operating requirements. No person shall operate An owner or operator of a conveyorized degreasing unit using VOC shall ensure that unless the following requirements are met,
- (A) exhaust/Exhaust ventilation should shall not exceed 20m³/min. per m² (65 cfm per ft²) 65 cfm/ft² (20 m³/min/m²) of degreaser opening, unless necessary to meet OSHA requirements. Work place fans should not be used near the degreaser opening;
- (B) Work place fans shall not be used near the degreaser opening.
- (B)(C) minimize carry-out Carry-out emissions shall be minimized by:
- (i) racking parts for best drainage; and,
- (ii) maintaining vertical conveyor speed at less than 3.3 m/min. (11 ft./min.); 11 ft/min (3.4 m/min).
- (C)(D) do Evaporation of waste VOC into the atmosphere shall not dispose of waste solvent or transfer it to another party in such a manner that be greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. Store waste solvent

~~VOC only in covered containers, when disposing of the waste or transferring the waste to another party.~~

~~(E) Waste VOC shall be stored only in covered containers.~~

~~(D)(F) repair solvent VOC leaks must be repaired immediately, or shut down the degreaser; must be shut down.~~

~~(E)(G) water should Water shall not be visibly detectable in the solvent VOC exiting the water separator; and,~~

~~(F)(H) a permanent conspicuous label will be attached to the facility summarizing the operating requirements listed in 252:100-39-42(b) and 252:100-39-42(c) shall be attached to the unit.~~

(2) **Control requirements.** In addition to the requirements in 252:100-39-42(c)(1), any unit that has an air/vapor interface of more than 2.0 m^2 ~~will~~ 21.5 ft^2 (2.0 m^2) shall be subject to the following control requirements:

(A) **Major control devices.** The degreaser must be controlled by either:

- (i) a refrigerated chiller;
- (ii) a carbon adsorption system, with that exhausts less than 25 ppmv of VOC averaged over a complete adsorption cycle and has ventilation equal to or greater than $15\text{ m}^2/\text{min}$ per m^2 ($50\text{ cfm}/\text{ft}^2$) $50\text{ cfm}/\text{ft}^2$ ($15\text{ m}^3/\text{min}/\text{m}^2$) of air/vapor area (when down-time covers are open), and exhausting less than 25 ppm of solvent by volume averaged over a complete adsorption cycle; or,
- (iii) a system demonstrated to have control efficiency equivalent to or better than either of the above.

(B) **Carryover prevention.** Either a drying tunnel, or another means such as rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent VOC liquid or vapor subject to space limitations must be installed.

(C) **Safety switches.** The following safety switches must be installed and be operational:

- (i) Condenser flow switch and thermostat -that (shuts off sump heat if coolant is either not circulating or too warm).
- (ii) Spray safety switch -that (shuts off spray pump or conveyor if the vapor level drops excessively, e.g. more than 10 cm (4 in.)) 4 in (10 cm).
- (iii) Vapor level control thermostat -that (shuts off sump heat when vapor level rises too high).

(D) **Minimized openings.** Entrances and exits should shall silhouette work loads so that the average clearance (between parts and the edge of the degreaser opening) is either less than 10 cm (4 in.)

10 cm) or less that 10 percent of the width of opening.

(E) **Covers.** Down-time covers must be placed over entrances and exits of conveyerized degreasers immediately after the conveyor and exhaust are shutdown and removed just before they are started up.

(3) **Compliance and recordkeeping.** Compliance will shall be determined in accordance with EPA document 450/2-77-022 and all. All test and maintenance records will shall be retained by the source for at least two years.

(d) **Alternative control methods.** As an alternative to the requirements of 252:100-39-42(a) through 252:100-39-42(c), and subject to EPA approval, an operator may request the approval by the Division Director of other methods of control may be approved by, subject to EPA approval, the Executive Director upon application by a source; provided, the. The applicant can must demonstrate that the proposed method will preclude no less than prevent at least 80 percent of the emissions from each source from being emitted to the atmosphere, as determined by the appropriate test methods selected from EPA Methods 1 through 4, 18, 25, 25A and 25B.

252:100-39-43. Graphic arts systems

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.
- (2) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which that are, in subsequent operations, formed into packaging products and labels for articles to be sold.
- (3) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.
- (4) "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.
- (5) "Rotogravure printing" means the application of works, designs and pictures to a substrate by means of a roll printing technique which that involves an intaglio or recessed image areas in the form of cells.

(b) **Applicability.**

- (1) This Section applies to all packaging rotogravure, publication rotogravure, and flexographic printing facilities located in Tulsa and Oklahoma counties.

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(2) This Section applies ~~only to only~~ packaging rotogravure, publication rotogravure, and flexographic printing facilities whose potential emissionemissions of organic solvent is VOC are equal to or more than 90 megagrams (106 grams) per year (100 tons/yr.) 100 tons/yr (90 Mg/yr). Potential emissions ~~are to~~ shall be calculated based on historical records of actual consumption of solvent VOC and ink.

(c) Provisions for specific processes.

(1) ~~No An~~ owner or operator of a ~~packaging rotogravure, publication rotogravure or flexographic printing facility subject to this Section and employing solvent which uses VOC containing ink may operate, cause, allow or permit the operation of the facility unless~~ shall ensure that one of the following conditions is met.

(A) ~~the~~ The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of ~~organic solvent~~ VOC and 75.0 percent by volume or more of water;

(B) ~~the~~ The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more of nonvolatile material; ~~or,~~

(C) ~~the~~ The owner or operator installs and operates:

(i) a carbon adsorption system ~~which that~~ reduces the organic solvent VOC emissions from the capture system by at least 90.0 percent by weight;

(ii) an incineration system ~~which that~~ oxidizes at least 90.0 percent of the nonmethane volatile organic solvent VOC measured as total combustible carbon to carbon dioxide and water; or,

(iii) an alternative ~~organic solvent VOC~~ emission reduction system demonstrated to have at least 90.0 percent reduction efficiency, measured across the control system, and which has been approved by the Executive Division Director.

(2) A capture system must be used in conjunction with the emission control systems in 252:100-39-43(c)(1)(C). The design and operation of the capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in ~~volatile organic compound~~ VOC emissions of at least:

(A) 75.0 percent where a publication rotogravure process is employed;

(B) 65.0 percent where a packaging rotogravure process is employed; ~~or,~~

(C) 60.0 percent where a flexographic printing process is employed.

(d) Compliance schedule. Compliance with this Section ~~will~~ shall be accomplished by affected facilities ~~within two~~ (2)

~~years of approval of this Subchapter by the Oklahoma Environmental Quality Board by May 23, 1982.~~

(e) Testing. Test procedures to determine compliance with this Subchapter must be consistent with EPA Reference Method 24 or equivalent ASTM Methods.

252:100-39-44. Manufacture of pneumatic rubber tires

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Automatic tread end cementing" means the application of a ~~solvent~~ VOC based cement to the tire tread ends by automated devices.

(2) "Bead dipping" means the dipping of an assembled tire bead into a ~~solvent~~ VOC based cement.

(3) "Green tires" means assembled tires before molding and curing have occurred.

(4) "Green tire spraying" means the spraying of green tires, both inside and outside, with release compounds ~~which that~~ help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

(5) "Manual tread end cementing" means the application of a ~~solvent~~ VOC based cement to the tire tread ends by manufacturers.

(6) "Passenger type tire" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches.

(7) "Pneumatic rubber tire manufacture" means the production of pneumatic rubber, passenger type tires on a mass production basis.

(8) "Undertread cementing" means the application of a ~~solvent~~ VOC based cement to the underside of a tire tread.

(9) "Water based sprays" means release compounds, sprayed on the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for ~~organic solvents~~ VOCs. These sprays may contain an average of up to five percent ~~organic solvent~~ VOC.

(b) Applicability.

(1) This Section applies to VOC emissions ~~from the following operations in~~ from all major source pneumatic rubber tire manufacturing facilities located in Oklahoma County ~~from:~~

(A) undertread cementing;

(B) automatic tread end cementing; and,

(C) green tire spraying.

(2) The provisions of this Section do not apply to the ~~productions~~ production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs. This exemption applies only to tires produced on equipment separate from normal production lines for passenger type tires.

(3) Manual tread end cementing operations are exempt from the provisions of this Section.

(c) Provisions for specific processes Control requirements.

(1) Undertread cementing or automatic tread end cementing. The owner or operator of an undertread cementing, or automatic tread end cementing, operation subject to this Section shall: install and operate the following.

(A) ~~install and operate a~~ capture system, designed to achieve maximum reasonable capture from all undertread cementing, and automatic tread end cementing operations. Maximum reasonable capture would require that hood enclosures be designed ~~in such a manner to minimize open areas and enclose as much of the emission source as practical while maintaining a minimum in-draft velocity of 200 feet per minute~~ (ft/min (61 m/min)) except during times when the enclosure must be opened to allow work inside or for the inspections of the product in progress. Maximum reasonable capture shall be consistent with ~~the following documents:~~

- (i) Industrial Ventilation, A Manual of Recommended Practices, 14th Edition, American Federation of Industrial Hygienists; and.
- (ii) Recommended Industrial Ventilation guidelines, U.S. Department of Health Education and Welfare, National Institute of Occupational Safety and Health.

(B) ~~install and operate a~~ control device that meets the requirements of one of the following: systems.

- (i) A carbon adsorption system designed and operated ~~in a manner such~~ so that there is at least an initial 95.0 percent removal of VOC by weight from the gases ducted to the control device with at least a 90 percent 3 year removal average; ~~or,~~
- (ii) An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds (VOC)~~ VOCs (measured as total combustible carbon) which enter the incinerator to carbon dioxide and water.
- (iii) An alternative ~~volatile organic compound~~ VOC emission reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, and that has been approved by the Executive Division Director.

(2) Green tire spraying. The owner or operator of a green tire spraying operation subject to this Section shall implement one of the following means of reducing ~~volatile organic compound~~ VOC emissions:

(A) substitute Substitute water-based sprays for

the normal solvent-based ~~VOC-based~~ mold ~~compound; or,~~

(B) ~~install~~ Install a capture system designed and operated ~~in a manner that will~~ to capture and transfer at least 90.0 percent of the VOC emitted by the green tire spraying operation to a control device, and install and operate a control device that meets the requirements of one of the following: systems.

- (i) ~~a~~ A carbon adsorption system designed and operated ~~in a manner such~~ so that there is at least 95.0 percent removal of VOC by weight from the gases ducted to the control device; ~~or,~~
- (ii) ~~an~~ An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds (VOC)~~ VOCs (measured as total combustible carbon) to carbon dioxide and water; ~~or,~~
- (iii) ~~an~~ An alternative ~~volatile organic compound~~ VOC emission reduction system approved by the Division Director and certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, that has been approved by the Executive Director.

(3) Exemption. If the total ~~volatile organic compound~~ VOC emissions from all undertread cementing, tread-end cementing, bead dipping, green tire spraying operations at a pneumatic rubber tire manufacturing facility do not exceed 57 grams per tire/tire, 252:100-39-44(c)(1) and 252:100-39-44(c)(2) shall not apply.

(4) ~~An owner or operator of an undertread cementing, tread-end cementing, bead dipping or green tire spraying operation subject to this Section may, instead of implementing measures required by 252:100-39-44(c)(1) and 252:100-39-44(c)(2), submit to the Executive Director a petition for alternative controls. The petition must be submitted in writing before September 15, 1981 and must contain:~~

- (A) ~~the name and address of the company and the name and telephone number of a responsible company representative over whose signature the petition is submitted;~~
- (B) ~~a description of all operations conducted at the location to which the petition applies and the purpose the volatile organic compound emitting equipment serves within the operations;~~
- (C) ~~reference to the specific emission limits, operational and/or equipment controls for which alternative emission limits, operational and/or equipment controls are proposed;~~
- (D) ~~a detailed description of the proposed alternative emission limits, operational and/or equipment controls, the magnitude of volatile organic compound emission reduction which will be achieved, and the quantity and composition of~~

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volatile organic compounds which will be emitted if the alternative emission limits, operational and/or equipment controls are instituted;

(E) a schedule for the installation and/or institution of the alternative operational and/or equipment controls in conformance with the appropriate compliance schedule section; and,

(F) a demonstration that the alternative control program constitutes reasonably available control technology for the petitioned facility. The factors to be presented in this demonstration include but are not limited to:

- (i) the capital expenditure necessary to achieve the petitioned level of control;
- (ii) the impact of these costs on the firm;
- (iii) the energy requirements of the petitioned level of control;
- (iv) the impact on the environment in terms of any increase in air, water and solid waste effluent discharge of the petitioned level of control;
- (v) any adverse worker or product safety implications of the petitioned level of control; and,
- (vi) an analysis for each of the factors in 252:100-39-44(e)(4)(F)(i) through 252:100-39-44(e)(4)(F)(v) for the control levels specified in 252:100-39-44(e)(1) and 252:100-39-44(e)(2).

(5) The Executive Director may approve a Petition for Alternative Control if:

- (A) the petition is submitted in accordance with 252:100-39-44(e);
- (B) the petition demonstrates that the alternative controls represent reasonable available control technology; or,
- (C) the petition contains a compliance schedule for achieving and maintaining a reduction of volatile organic compound emissions as expeditiously as practicable, but no later than the photochemical oxidant attainment date.

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities on or before December 31, 1982.

(e) **Testing and monitoring.**

(1) Test procedures to determine compliance with this Section must be approved by the Executive Division Director and be consistent with:

- (A) EPA Guideline Series Document "Measurement of Volatile Organic Compounds," EPA-450/2-78-041; and,
- (B) Appendix A of "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008.

(2) The Executive Division Director may accept, instead of green tire spray analysis, a certification by the manufacturer of the composition of the green tire spray, if supported by actual batch formulation records.

(3) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating. These monitors shall measure:

- (A) exhaust gas ~~temperature~~ temperature of ~~incinerators~~ an incinerator;
- (B) temperature rise across a catalytic incinerator bed;
- (C) breakthrough of VOC on a carbon adsorption unit; and,
- (D) any other parameter for which a continuous monitoring or recording device is required by the Executive Division Director.

252:100-39-45. Petroleum (solvent) dry cleaning

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Cartridge filters**" means perforated canisters containing filtration paper and/or activated carbon that are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden petroleum solvent.

(2) "**Containers and conveyors and of petroleum solvent**" means piping, ductwork, pumps, storage tanks, and other ancillary equipment that are associated with the installation and operation of washers, dryers, filters, stills, and settling tanks.

(3) "**Dry cleaning**" means a process of the cleaning of textiles and fabric products in which articles are washed in a non-aqueous solution (petroleum solvent) and then dried by exposure to a heated air stream.

(4) "**Housekeeping**" means those measures and precautions necessary to minimize the release of petroleum solvent to the atmosphere.

(5) "**Operations parameters**" means the activities required to insure that the equipment is operated in a manner to preclude the loss of petroleum solvents to the atmosphere.

(6) "**Perceptible leaks**" means any petroleum solvent vapor or liquid leaks that are conspicuous from visual observation, such as pools or droplets of liquid, or buckets or barrels of petroleum solvent or petroleum solvent-laden waste standing open to the atmosphere.

(7) "**Petroleum solvent**" means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms per organic molecule that exists as a liquid under standard conditions.

(b) **Applicability.** This Section applies to petroleum solvent washers, dryers, solvent filters, settling tanks,

vacuum stills, and other containers and conveyors of petroleum solvent that are used in petroleum solvent dry cleaning facilities in Tulsa County only.

(c) ~~Provisions for specific processes~~ Operating requirements.

(1) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any dry cleaning equipment using petroleum solvents unless:

- (A) there are no perceptible liquid or vapor leaks from any portion of the equipment;
- (B) all washer lint traps, button traps, access doors and other parts of the equipment where petroleum solvent may be exposed to the atmosphere are kept closed at all times except when required for proper operation or maintenance;
- (C) the still residue is stored in sealed containers. ~~The and the~~ used filtering material is to be placed into a sealed container suitable for use with petroleum solvents, immediately after removal from the filter and be disposed of in the prescribed manner; or,
- (D) cartridge filters containing paper or carbon or a combination thereof, which are used in the dry cleaning process are to be drained in the filter housing for at least 24 hours prior to removal.

(2) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any drying tumblers and cabinets that use petroleum solvents unless tumblers and cabinets are operated in such a manner as to control petroleum solvent vapor leaks by reducing the number of sources where petroleum solvent is exposed to the atmosphere. Under no circumstances should there be any open containers (can, buckets, barrels) of petroleum solvent or petroleum solvent-containing material. Equipment containing solvent (washers, dryers, extractors, and filters) should remain closed at all times other than during maintenance or load transfer. Lint filter and button trap covers should remain closed except when petroleum solvent-laden lint and debris are removed. Gaskets and seals should be inspected and replaced when found worn or defective. ~~Solvent-laden~~ Petroleum solvent-laden clothes should never be allowed to sit remain exposed to the atmosphere for longer periods than are necessary for load transfers. Finally, vents on petroleum solvent-containing waste and new petroleum solvent storage tanks should be constructed and maintained in a manner that limits petroleum solvent vapor emissions to the maximum possible extent.

(3) The owner or operator shall repair all petroleum solvent vapor and liquid leaks within 3 working days after identifying the sources of the leaks. If necessary repair parts are not on hand, the owner or operator shall order these parts within 3 working days, and repair the leaks no later than 3 working days following the arrival of the necessary parts.

(d) **Disposal of filters.** Filters from the petroleum cleaning facility shall be disposed of by:

- (1) incineration at a facility approved by the fire marshall's office for such disposal;
- (2) by recycling through an approved vendor of this service; or,
- (3) by any other method approved by the Executive Division Director.

(e) **Compliance schedule.** Compliance with 252:100-39-45(c)(1) through 252:100-39-45(c)(3), ~~will~~ shall be accomplished by affected facilities on or before October 1, 1986.

252:100-39-46. Coating of parts and products

(a) **Applicability.** This Section shall apply only to these industries located in Tulsa County which manufacture and/or coat metal parts and products. ~~This Section is applicable to, such as~~ large farm machinery, small farm machinery, small appliances, commercial machinery, industrial machinery and fabricated metal products. Architectural coating, aerospace coating, and automobile refinishing are not included.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) "Air or forced air dry coatings" means coating ~~which that~~ are dried by the use of air or forced warm at temperatures up to 194°F.
- (2) "Clear coat" means a coating ~~which that~~ lacks color and opacity or is transparent and uses the undercoat as a reflectant base.
- (3) "Extreme performance coatings" mean coatings designed for harsh exposure or extreme environmental conditions (~~i.e., (e.g., exposure to the weather,~~ all of the time, temperature above 200°F, detergents, abrasive and scouring agents, solvents, corrosive atmosphere or similar conditions).
- (4) "Facility" means all emission sources located on a contiguous ~~property~~ properties under common control which are affected by the surface coating provisions of OAC 252:100-37 and 252:100-39.
- (5) "Powder" means a coating ~~which that~~ is applied in a finely divided (~~powder~~) state by various methods, and becomes a continuous, solid film when the metal part or product is moved to an oven for curing.
- (6) "Transfer efficiency" means the weight (or volume) of coating solids adhering to the surface being coated divided by the total weight (or volume) of coating solids delivered to the applicator.

(c) **Existing source requirement.** No owner or operator ~~subject to the provisions of this Section shall discharge or cause the discharge into the atmosphere from an existir~~ coating line or individual coating operation any ~~organic~~ solvent VOC in excess of the amounts listed in 252:100-39-46(d) as calculated by EPA method 24, 40 CFR Part 60.

(d) **Standards.** The following table enumerates the limitations for surface coatings in pounds of solvent VOC per gallon of coating as applied (~~less water/exempt solvent~~); (water and exempt compounds). If more than one limit listed in the table is applicable to a specific coating, then the least stringent limitation shall be applied.

Coating type	Limitations	
	lbs/gal	kg/liter
Air or Forced Air Dry	3.5	.42 0.42
Clear Coat	4.3	.52 0.52
Extreme Performance	3.5	.42 0.42
Powder	0.4	.05 0.05
Other	3.0	.36 0.36

(e) **Emission factor.** For the purposes of calculating an emission factor (EF) in pounds VOC per gallon of coating solids for use in the development of a plant-wide emission plan as described in 252:100-39-46(j)(1), the following formula will be utilized: $EF = V D / 1 - (V + W) = V D / S$ where:

- (1) V = volume fraction of solvent VOC in coating,
- (2) D = density of solvent VOC in the coating,
- (3) W = volume fraction of water in coating, and,
- (4) S = 1 - (V + W) = volume fraction of solids in coating.

(f) **Emission limit Compliance.** ~~If more than one emission limit as listed in 252:100-39-46(d) is applicable to a specific coating, then the least stringent emission limitation shall be applied.~~ Compliance with the coating limits listed in 252:100-39-46(d) is to be calculated on a daily weighted average basis.

(g) **Solvent-containing VOC-containing materials.** Solvent-containing VOC-containing materials used for clean up shall be considered in the emissions VOC content limits listed in 252:100-39-46(d) unless:

- (1) the solvent VOC containing materials are maintained in a closed container when not in use;
- (2) closed containers are used for the disposal of cloth or paper or other materials used for surface preparation and cleanup;
- (3) the spray equipment is disassembled and cleaned in a solvent VOC vat and the vat is closed when not in use; or,
- (4) the solvent VOC containing materials used for the clean up of spray equipment are sprayed directly into closed containers.

(h) **Exemptions.** ~~Exemptions to this Section shall be permitted for combined emissions at one site/facility, which do not exceed a 10 tons/year emissions cutoff based on the facility's Facilities with a potential to emit 10 tons/year or less of VOC from coating operations are exempt from this Section.~~ Once this limit is exceeded, the source/facility will always be subject to the limits of this Section.

(i) **Alternate standard.** Emissions Coatings with VOC

contents in excess of those permitted/allowed by 252:100-39-46(d) are allowable/may be used if both of the following conditions are met:

(1) ~~emissions that would result in the absence of control Emissions are reduced to levels equivalent to those permitted by that would occur if the VOC content of the coatings met the limits contained in 252:100-39-46(d) and meet there is an overall control efficiency of at least:~~

- (A) 85 percent, by incineration or;
- (B) 85 percent, by absorption; or any other equipment of equivalent reliability and effectiveness; and,
- (C) 85 percent by any other equipment of equivalent reliability and effectiveness.

(2) ~~no~~ No air pollution, as defined by the Clean Air Act, results.

(j) **Emission plan.**

(1) **Development of a plant-wide emission plan.** An ~~owner/operator~~ owner or operator may develop a plant-wide emission plan consistent with EPA's Emission Trading Policy as published in the December 4, 1986 Federal Register instead of having each coating line comply with the emission VOC content limitations ~~prescribed contained in subsection (d) of this Section, provided: 252:100-39-46(d), if the following conditions are met.~~

(1)(A) The owner or operator demonstrates, ~~by means of approved material balance or manual emission test methods,~~ by the methods prescribed in 252:100-5-2.1(d) that sufficient reductions in organic solvent VOC emissions may be obtained by controlling other ~~facilities~~ sources within the plant to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be made ~~described in writing and shall include:~~

- (A)(i) a complete description of the coating line or lines ~~which will that can~~ not comply with the emission VOC content limitation in 252:100-39-46(d);
- (B)(ii) quantification of emissions, in terms of pounds per day of organic solvents VOCs, which are in excess of the prescribed emission VOC content limitation for each coating line described in 252:100-39-46(d) 252:100-39-46(j)(A)(i);
- (C)(iii) a complete description of each facility and the related control system, if any, for those facilities within the plant where how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described in 252:100-39-46(d) 252:100-39-46(j)(A)(i) and the date on which such reduction will be achieved;
- (D)(iv) a transfer efficiency based on a 60 percent baseline with emissions expressed in pounds of VOC per gallon of solids when transfer efficiency is used

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to compensate for excess emissions from spray painting operations, ~~the transfer efficiency shall be based on a 60 percent baseline, with emissions expressed in pounds of solvent per gallon of solids. Credits for improvements in transfer efficiency shall be demonstrated with in-plant testing which complies with approved EPA methods;~~

(y) a demonstration of credits for improvements in transfer efficiency with in plant testing that complies with EPA methods.

~~(E)(vi)~~ quantification of emissions, in terms of pounds per day of organic solvents VOCs, for each source both before and after the improvement or installation of any applicable control system, or any physical or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

~~(F)(vii)~~ a description of the procedures and methods used to determine the emissions of organic solvents VOCs.

~~(2)(B)~~ The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan as described in the Emissions Trading Policy may include voluntary decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to facilities emission units, including permanently reduced production or closing a facility, located on the premises of a surface-coating operation.

~~(3)(2)~~ Compliance with a plant-wide emission plan. The implementation of a plant-wide emission reduction plan instead of compliance with the emissions VOC content limitation prescribed in 252:100-39-46(d) has been expressly approved by the Executive Director and the EPA Administrator. Upon approval of a plan, any emissions in excess of those established for each facility under the plan shall be a violation of these rules.

(k) Compliance, testing, and monitoring requirements.

(1) The ~~Executive Division~~ Director may require the owner/operator at the expense of the owner or operator a demonstration of a source to demonstrate at his expense, compliance with the emission limits using EPA Methods 24, 24A, 1-4, 25, 25A, 25B in 40 CFR 60.444 or EPA Document 450/3-84-019. At a minimum, such test must show that the overall capture efficiency and destruction efficiency are equal to 85 percent, (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). The one hour bake option in Method 24 is required when doing compliance testing.)

(2) Testing for plant-wide emission plans shall be conducted by the owner/operator at his expense at the expense of the owner or operator to demonstrate

compliance with the emission VOC content li contained in 252:100-39-46(d).

(3) Monitoring shall be required of any owner/operator owner or operator subject to this Section who uses add-on control equipment for compliance. Such monitoring shall include:

~~(A)~~ installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(i)(A)~~ the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;

~~(ii)(B)~~ the total amount of volatile organic substances VOCs recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,

~~(iii)(C)~~ the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance emissions during such activities;

~~(B)~~ maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k)(3)(i); and,

~~(C)~~ maintenance of all records at the affected facility for at least two years and make such records available to representative of the State or local air pollution control agency upon request.

(l) **Reporting and recordkeeping.** The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request, reports detailing specific VOS sources; the quantity of coatings used for a specific time period, VOS content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOS emissions. The data necessary to supply the requested information shall be retained by the owner/operator for a minimum of two years.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request reports detailing specific VOC sources; the quantity of coatings used for a specific time period, VOC content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOC emissions. The data necessary to supply the requested information shall be retained by the owner or operator for a minimum of two years.

(2) The owner or operator of a facility subject to this Section shall maintain records of any testing conducted at an affected facility in accordance with the provision specified in 252:100-39-46(k), as well as all other records, for at least two years. These records shall be available to representatives of the DEO upon request.

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(m) **Compliance date.** The date of compliance with the requirements of this Section will be ~~be~~ December 31, 1990.

252:100-39-47. Control of VOS VOC emissions from aerospace industries coatings operations

(a) Applicability.

(1) This Section applies to all aerospace facilities located in Tulsa County. Sources once subject to this Section are always subject.

(2) This Section does not apply to individual coating formulations ~~which that~~, when aggregated, do not exceed ~~fifty-five (55) gallons per year~~ 55 gal/yr for the facility.

(3) ~~New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in OAC 252:100-7 and will be submitted to EPA as source-specific SIP revision, unless:~~

(A) ~~the new coatings meet the presumption norm (3.5 pound VOS per gallon less water and exempt solvents limit); or,~~

(B) ~~the total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation.~~

(4) ~~(3) Exemptions to this Section shall be permitted for combined emissions at one site/facility which do not exceed a ten-ton per year emission cut-off based on the Facilities with a potential of the facility to emit VOS 10 tons/year or less of VOC from coatings operations are exempt from this Section.~~

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Aerospace" means the industries, air bases and depots that ~~design and manufacture, rework, or repair~~ aircraft or military equipment components for either commercial or military customers.

(2) "Aircraft" means any machine designed to travel through the earth's atmosphere. This group includes but is not limited to: airplanes, balloons, dirigibles, drones, helicopters, missiles, and rockets.

(3) "Alternate ~~reasonable~~ reasonably available control technology (ARACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility as determined on a case-by-case basis.

(4) "Coating" means a material which covers a surface which alters the surface characteristics and from which Volatile Organic Solvents VOCs can be emitted during the application and/or curing process.

(5) "CTG" means the Control Techniques Guidance Document "Control of Volatile Organic Emissions From Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," EPA No. 450/2-78-015.

(6) "Facility" means all of the pollutant-emitting activities ~~which that~~ belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.

(7) "~~Low organic solvent~~ VOC coating (LOSC) (LVOCC)" means ~~a coating which contain that~~ contains less organic solvent VOC than the conventional coatings used by the industry. Low organic solvent VOC coatings include waterborne, higher solids, electrodeposition, and powder coatings.

(8) "~~Reasonable~~ Reasonably available control technology (RACT)" means ~~the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility and the need to impose such controls to attain and maintain a National Ambient Air Quality Standard.~~

(c) **General requirements.** ~~All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). Said plan, upon approval, shall constitute the determination of ARACT for that particular facility. ARACT must be installed and operating as approved in the plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan. Provided, however, that in the case that Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification.~~

(1) All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). This plan, upon approval, shall constitute ARACT for that particular facility.

(2) ARACT must be installed and operating as provided in the approved plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are approved in the plan.

(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in 252:100-7 or 252:100-8, and will be submitted to EPA as source-specific SIP revisions, unless one of the following applies.

(A) The new coatings meet the presumptive norm of 3.5 pounds of VOC per gallon less water and exempt compounds.

(B) The total usage of the new coating does not exceed 55 gal/yr of each coating formulation.

(d) **Emissions reduction plan.**

(1) **Plan development.** ~~Each owner/operator shall develop an emissions reduction plan for all affected facilities. Each plan shall include the following:~~

- (A) ~~a detailed, reasoned and exhaustive review of:~~
- (i) ~~each source of emissions within the facility and~~
 - (ii) ~~(2) the entire plant collectively;~~

(A) a detailed, reasoned and exhaustive review of each source of emissions within the facility and the entire plant collectively;

(B) identification and quantification of emissions, in terms of pounds per day, of all organic solvents/VOC both before and after the application of ARACT;

(C) a detailed, innovative engineering effort directed toward finding alternative air management schemes that can be incorporated in order to abate emissions at costs which are reasonable;

(D) a consideration of the level of control that is achievable using available alternative coatings, to include LVOCC for every application, low organic solvent coatings (LOSC);

(E) a consideration of the level of control achievable using available add-on control devices. This demonstration shall include, at a minimum, a demonstration of the feasibility/ infeasibility of the following control options:

- (i) carbon adsorption;
- (ii) incineration/flaring;
- (iii) condensation; and
- (iv) a combination of 252:100-39-47(d)(1)(E)(i) and 252:100-39-47(d)(1)(E)(ii).

(E) a demonstration of the level of control achievable using available add-on control devices which shall include, at a minimum, the feasibility/infeasibility of carbon adsorption, incineration/flaring, condensation, and a combination of carbon adsorption and incineration/flaring;

(F) a consideration of facility redesign, including the following:

- (i) recirculation;
- (ii) reduced air flows;
- (iii) consolidation of spray operations; and,
- (iv) installation of common control devices for two or more separate coatings operations.

(F) a consideration of facility redesign, including recirculation, reduced air flows, consolidation of spray operations, and installation of common control devices for two or more separate coating operations;

(G) a consideration of alternative applications, to improve transfer efficiency, including:

- (i) high volume low pressure spray equipment;
- (ii) heated spray guns; and,
- (iii) electrostatic spray equipment/powder coatings.

(G) a consideration of alternative applications, to improve transfer efficiency, including high-volume-low-pressure spray equipment, heated

spray guns, and electrostatic equipment/powder coatings;

(H) an explanation why each source is not a typical coating source covered by the CTG as defined in 252:100-39-47(b);

(I) a cost/benefit analysis for all control technology considered; and,

(J) a detailed compliance schedule which that includes the emission limit and/or control techniques for each emission source. This schedule, which together with other relevant considerations, shall be set forth in a separate section of the plan which that summarizes and outlines ARACT for the referenced facility.

(2) Submission of emission reduction plans. Upon completion, the Three copies of the emissions reduction plan shall be submitted in triplicate to the Air Quality Division and one shall be submitted to EPA, Region VI. The preparer shall also submit a copy of the plan to Region VI Environmental Protection Agency (EPA), Region VI.

(3) Action on plan. Within 30 days of submittal, or of the effective date of this Section May 25, 1990, whichever is later, the Air Quality Division shall, considering any comments submitted by EPA, either approve, modify or disapprove the plan.

(4) Public hearing. The Division shall, at the meeting of the Air Quality Council following the approval, modification, or disapproval of the plan, present at public hearing, the staff's findings and ARACT determination. Upon consideration of comments and recommendations from the Council, the owner/operator of the affected facility, the public and EPA, the Department shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility. The owner/operator shall be responsible for installation and operational provisions of the approved ARACT, including any specific provisions set forth therein. Any violation of the plan or of its provisions shall constitute a violation of this Section.

(5) Final approval. Upon consideration of comments and recommendations from the Council, the owner or operator of the affected facility, the public, and EPA, the DEQ shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility.

(6) Compliance. The owner or operator shall be responsible for installation and operational provisions of the approved ARACT. Any violation of the plan or of its provisions shall constitute a violation of this Section.

(5)(7) Submission of SIP revision. Upon approval the Department/DEQ, the ARACT determination shall be submitted to EPA as a SIP revision.

(e) Reporting and recordkeeping.

(1) Recordkeeping requirements. The

~~owner/operator~~ owner or operator shall maintain the following:

(A) a material safety data sheet which documents the ~~volatile organic solvent~~ VOC content, composition, solids content, ~~solvent~~ VOC density and other relevant information regarding each coating and ~~solvent~~ VOC available for use in the affected surface coating processes ~~information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits. Information as to the amounts of each type coating used and the amounts of solvents used for dilution in each coating type shall be maintained for each coating operation. Daily usage records will be kept for all coatings used that do not comply with the applicable control limits specified in the plan;~~

(B) information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits;

(C) information as to the amounts of each type coating used and the amounts of VOC used for dilution in each coating type for each coating operation;

(D) daily usage records for all coatings used that do not comply with the applicable control limits specified in the plan; and

(B)(E) ~~records shall be maintained of any monitoring and testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f);~~

(C)(2) Method of calculating VOC content in coatings. ~~Records~~ Records required by 252:100-39-47(e)(1)(A) and ~~252:100-39-47(e)(1)(B) through 252:100-39-47(e)(1)(E)~~ detailing ~~VOS~~ VOC in pounds per gallon of coating (less water and exempt compounds) shall be calculated as follows: $VOS\ VOC \text{ in lbs/gal of coating} = \frac{W_v - W_x - W_x W_v - W_w - W_x}{V_m - V_w - V_x}$ where:

(A) W_v = weight of all volatiles;

(B) W_w = weight of water;

(C) W_x = weight of exempt solvent compounds;
 $V_m = 1$ (one);

(D) V_w = volume fraction of water; and

(E) V_x = volume fraction of exempt solvent compounds.

(D)(3) Maintenance of records. ~~Records~~ Records required by 252:100-39-47(e)(1)(A) and ~~252:100-39-47(e)(1)(B) through 252:100-39-47(e)(1)(E)~~ shall be maintained for at least two years and shall be made available upon written request by representatives of the Air Quality Division, U.S. Environmental Protection Agency or the Tulsa City-County Health Department AOD or EPA.

(2)(4) Alternative recordkeeping provision.

Alternatively to 252:100-39-47(e)(1) through 252:100-39-47(e)(3), an equivalent recordkeeping provision which ~~that~~ satisfies the substantive requirements of 252:100-39-47(e)(1) through 252:100-39-47(e)(3) may be approved under the plan.

(f) Testing and monitoring.

(1) Testing. ~~Each owner/operator~~ The Division may require testing at the expense of the owner or operator ~~shall, upon a determination by the Air Quality Division that testing is required to establish emission from any particular source or sources, conduct such tests at his own expense.~~ Test methods may include 1-4, 18, 24, 24A, 25A, 25B found in the Appendix A of 40 CFR Part 60, including the procedures found at 40 CFR 60.444.

(2) Monitoring. Monitoring shall be required of any ~~owner/operator~~ subject to this section ~~owner or operator~~ who uses add-on control equipment for compliance. Such monitoring shall include: accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

(A) ~~installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:~~

(i) (A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;

(ii) (B) the total amount of volatile organic substances VOCs recovered by carbon adsorption or other ~~solvent~~ VOC recovery system during a calendar month; and,

(iii) (C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance VOC emissions during such activities.

(B) ~~maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f)(2) (A)(i); and,~~

(C) ~~maintenance of all records at the affected facility for at least two years and make such records available to representatives of the State or local air pollution control agencies upon request. (252:100-39-47 Effective May 25, 1990)~~

252:100-39-48. Vapor recovery systems [REVOKED]

(a) Applicability. This Section applies only in Tulsa County.
(b) Storage of volatile organic compounds - 400-40,000 gallons (9, 5-953 bbls).

(1) No person shall store or permit the storage of

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gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a submerged fill pipe or is bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compounds contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum.

(2) The vapor recovery system shall include one or more of the following:

(A) a vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds can be transferred into the container (i.e., popped connectors from the storage container to the delivery vessel.);

(B) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole;

(C) the cross-sectional area of the vapor recovery line must be at least half of the cross-sectional area of the liquid delivery line, or;

(D) instead 252:100-39-48(b)(2)(A) through 252:100-39-48(b)(2)(C), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Executive Director prior to start of construction.

(3) Exemptions to this Section may be granted provided the owner/operator shows to the satisfaction of the appropriate authority that the container is used exclusively for agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less.

(4) The applicability of this Section shall be determined by the most restrictive of the 2,000 gallon tank size as specified in 252:100-39-48(b)(1) or the 120,000 gallon annual throughput described in 252:100-39-48(b)(3). However, once a facility places a 2,000 gallon tank in service or exceeds the 120,000 gallon annual throughput described in

252:100-39-48(b)(3), that facility shall always be subject to the provisions of this Section. (effective February 12, 1990)

(5) If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized.

(6) Compliance with this subsection will be accomplished by affected owner/operator by December 31, 1986.

(7) The owner/operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds made to their facility or facilities located in Tulsa County, shall be made by vessels which comply with the requirements contained in 252:100-39-48(d). Compliance with this Section shall be accomplished by affected owner/operators no later than December 31, 1990. (Effective February 12, 1990)

(c) Loading of volatile organic compounds.

(1) No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound loading facility unless such loading facility is equipped with a vapor collection and/or disposal system properly installed, in good working order and in operation.

(2) When volatile organic compounds are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.

(3) A means shall be provided to prevent organic material drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.

(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected.

(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels:

(A) an absorption/adsorption system or condensation system with a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound vapors and gases entering such disposal system;

(B) a vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent; or,

(C) other equipment of at least 90 percent efficiency, provided plans for such equipment submitted to and approved by the Executive Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to

recovery/disposal of vapors as per 252:100-39-48(c)(5)(A) through 252:100-39-48(c)(5)(C) if they are designed to prevent the release of vapors during use.

(6) Subsection 252:100-39-48(c) shall apply to any facility which loads volatile organic compounds into any transport vessel designed for transporting volatile organic compounds.

(7) Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for two years.

(d) Transport/delivery vessel requirements.

(1) Maintenance.

(A) The delivery vessel must be maintained so as to be vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.

(B) The delivery vessel must be equipped, maintained and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.

(C) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which would impair the vessels ability to retain vapors or liquid shall be repaired within 5 days.

(D) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-48(d)(2)(A)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.

(E) No owner/operator will allow a delivery vessel to be filled at a facility unable to receive displaced organic vapors nor service tanks unable to deliver displaced vapors except for tanks/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels which do not display a current tag.

(F) Delivery vessels may be inspected by representatives of the appropriate health agency in order to determine their state of repair. Such a test may consist of a visual inspection, a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner/operator to effect the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days the vessel will be removed from service by the owner/operator. Failure to certify that the cited repairs have been effected will subject the vessel to sanctions. Upon certification of repairs the vessel will be allowed to operate in a normal manner.

(2) Testing requirements.

(A) Pressure test.

(i) Delivery vessels, delivering or receiving

gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Executive Director.

(ii) The vessel will be considered to pass the test prescribed in 252:100-39-48(d)(2)(A)(i) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O in addition there shall be no avoidable visible liquid leaks.

(B) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(d)(1)(F) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-48 will become effective December 15, 1988.

252:100-39-49. Manufacturing of fiberglass reinforced plastic products

(a) General provisions. Within 12 months after promulgation of this Section all affected facilities shall limit emissions of VOS from fiberglass manufacturing to those listed in 252:100-39-49(a)(1), or have an approved plan for the reduction of such emissions. The plan must be submitted to the Executive Director within 6 months after promulgation of this Section, and shall detail those emissions which will be controlled, the means by which control will be achieved and will demonstrate that compliance will be achieved within two years from the date of promulgation of this Section. The approval authority for such plans shall reside with the Air Quality Council. All approved plans shall be submitted as SIP revisions.

(1) Compliance with 252:100-39-49(a) shall be accomplished by use of control equipment which can demonstrate an 85 percent reduction in the VOS released from each process gas stream, e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency.

(2) Exemptions to the limits listed in 252:100-39-49(a)(1) may be allowed for any process gas stream which does not exceed six tons per year actual emissions based on 6240 hours per year. However, once this limit is exceeded, controls must be put in place and maintained at any operating level.

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(b) Demonstration of compliance. The Executive Director may require the owner/operator of a source to demonstrate at his expense, compliance with the prescribed emissions limits. The testing shall be accomplished using the appropriate EPA test method or methods, these include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444. Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.

(c) Testing. Testing for the alternate emissions plan shall be conducted by the owner/operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.

(d) Recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request reports detailing specific VOS sources, the quantity of solvents used during specific months, a description of the solvent used, control equipment efficiencies, equipment downtime and any other information pertinent to the calculation of VOS emissions from the facility. The owner/operator must also maintain records which detail the maintenance performed on all control equipment as well as a record of the downtime with the reason for each occurrence. Such records shall be maintained by the source for a minimum of two years. (252:100-39-49, Effective February 12, 1990).

Applicability.

(1) This Section applies to any process gas stream with actual VOC emissions that exceed six tons per year based on 6,240 hours of operation per year.

(2) Once the limit in 242:100-39-49(a)(1) is exceeded, the controls required in 252:100-39-49(b) must be put in place and maintained and used at any operating level.

(b) Standards. Affected facilities shall limit emissions of VOC from fiberglass manufacturing by use of control equipment which can demonstrate an 85 percent reduction in the VOC released from each process stream (e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency).

(c) Compliance. All affected facilities must comply with one of the following.

(1) Meet the requirements of 252:100-39-49(b) by February 13, 1991.

(2) Have an approved plan for the reduction of VOC emissions as required by 252:100-39-49(b) by February 13, 1991.

(A) The plan shall be submitted by August 13, 1990, and shall:

(i) detail those emissions which will be controlled;

(ii) detail the means by which control will be achieved; and,

(iii) demonstrate that compliance will be achieved by February 13, 1992.

(B) The Air Quality Council shall have approval authority for the plans.

(C) All approved plans shall be submitted to EPA as SIP revisions.

(d) Demonstration of compliance.

(1) The Division Director may require at the expense of the owner or operator a demonstration of compliance with the requirements of 252:100-39-49(b).

(2) The testing shall be accomplished using the appropriate EPA test method or methods. These include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444.

(3) Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.

(4) Testing for the emissions plan described in 252:100-39-49(c)(2) shall be conducted at the expense of the owner or operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.

(e) Recordkeeping.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request reports that include:

(A) details of specific VOC sources;

(B) the quantity of VOC used during specific months;

(C) a description of the VOC used;

(D) control equipment efficiencies;

(E) details of maintenance performed on control equipment;

(F) equipment downtime; and,

(G) any other information pertinent to the calculation of VOC emissions from the facility.

(2) The records required in 252:100-39-49(e)(1) shall be maintained by the source for at least two years. (252:100-39-49, Effective February 12, 1990)

[OAR Docket #99-851; filed 5-7-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 200. HAZARDOUS WASTE MANAGEMENT [REVOKED]

[OAR Docket #99-852]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

252:200. Hazardous Waste Management [REVOKED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and 2-7-106

DATES:

Comment period:

July 15, 1998 through August 3, 1998, August 11, 1998 and March 5, 1999

Air Quality Council

BRIEFING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 9:30 A.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

1. **Call to Order** Chairman
2. **Division Director's Report** Dyke
Informational update of current events and AQD activities

PUBLIC HEARINGS

3. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public
4. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
5. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public
6. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public

7. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
 The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
 Discussion by Council/Public

8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public

9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public

10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
 Discussion by Council/Public

11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
 Discussion by Council/Public

HEARING/MEETING AGENDA
Department of Environmental Quality
AIR QUALITY COUNCIL REGULAR MEETING
TUESDAY, AUGUST 18, 1998, 1:00 P.M.
4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
Oklahoma City, Oklahoma

- | | | |
|----|---|-----------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Approval of June 16, 1998 Minutes | Chairman |
| 4. | Resolutions – Bill Fishback – Marilyn Andrews | |

PUBLIC HEARINGS

5. **OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]** Bradley
Proposes to establish state standards to control emissions from certain existing municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991 and accepted waste after November 8, 1987. The proposed rules to be included in Oklahoma's State 111(d) Plan provide the enforceable mechanism for implementing the federal emission guidelines (40 CFR 60 subpart Cc.)
Discussion by Council/Public; possible action by Council
6. **State 111(d) Plan for Municipal Solid Waste Landfills** Bradley
The proposed State 111(d) Plan outlines Oklahoma's program to implement the emission guidelines for municipal solid waste landfills. Federal regulations (40 CFR 60 Subparts B and Cc) require that a public hearing be held to receive comments from the Council and public on the proposed plan.
Discussion by Council/Public; Council approval is not required.
7. **OAC 252:100 Air Pollution Control:** Martinez
Appendix E, Primary Ambient Air Quality Standards [AMENDED]
Appendix F, Secondary Ambient Air Quality Standards [AMENDED]
Proposed revisions to Appendices E and F will mirror the revised federal national ambient air quality standards for particulate matter and ozone announced by EPA in the July 18, 1997, *Federal Register*.
Discussion by Council/Public; possible action by Council
8. **OAC 272:100-7 Permits [AMENDED]** Buttram
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also.
Discussion by Council/Public; possible action by Council

9. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]** **Buttram**
 The proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include changing the time allowed for visible emissions during short-term occurrences to exceed the opacity standard to one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.
 Discussion by Council/Public; possible action by Council
10. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]** **Mainord**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public; possible action by Council
11. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]** **Martinez**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section.
 Discussion by Council/Public; possible action by Council
12. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction.
 Discussion by Council/Public; possible action by Council
13. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]** **Sheedy**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC.
 Discussion by Council/Public; possible action by Council
14. **New Business** **Chairman**
 Discussion/consideration of subjects/business arising within the past 24 hours
 Possible action by Council
15. **Adjournment** **Chairman**
 Next Regular Meeting **TUESDAY, OCTOBER 20, 1998**
 Tulsa City-County Auditorium
 5051 South 129th East Tulsa OK

July 24, 1998

MEMORANDUM

TO: Air Quality Council

FROM: David R. Dyke, Interim Director
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 39

Enclosed is a copy of the proposed draft modifications to OAC 252:100-39 EMISSIONS OF ORGANIC MATERIALS IN NONATTAINMENT AREAS to be brought to public hearing on August 18, 1998. The proposed revisions are the result of the DEQ program to simplify, clarify and correct all its existing rules. The proposed revisions primarily simplify and clarify language, correct grammar, and impose consistency in format without involving substantive changes. However, in the process of simplifying and clarifying the rule, it was necessary to make a few substantive changes.

For simplicity the definitions of "volatile organic compound" in 252:100-39-2 and 252:100-39-15(a)(7) have been revised to be consistent with the EPA definition. The new definition includes the incorporation by reference of 40 CFR 52.100(s)(1) which lists the organic compounds that EPA has determined to have negligible photochemical reactivity. Presently Chapter 100 divides what EPA classifies as "volatile organic compound (VOC)" into "volatile organic compound (VOC)," "organic solvents," and "volatile organic solvent (VOS)." The Chapter contains two definitions of volatile organic compound neither of which is consistent with the EPA definition; a definition of volatile organic solvent which is almost exactly the same as the EPA definition of volatile organic compound, and two definitions of organic solvents. As part of the simplification process the staff propose to have only one definition of volatile organic compound which will be consistent with the EPA definition and to replace the terms "volatile organic solvent (VOS)" and "organic solvents" with "volatile organic compound (VOC)." The redefinition of volatile organic compound will also serve as a response to requests to exempt acetone, methylated siloxanes, and perchloroethylene from being considered VOCs. The proposed definition excludes substances with negligible photochemical reactivity and EPA has determined that these three substances have negligible photochemical reactivity; therefore, they are not considered to be VOCs.

The staff proposes to add language to 252:100-39-3, General applicability, and 252:100-39-15(d), Compliance schedule, in an effort to insure that Subchapter 39 will apply to any new ozone nonattainment areas if necessary.

The staff proposes to correct the placement of "prior to lease custody transfer" in 252:100-39-30(b). This phrase was located in paragraph (2) and was, therefore, applicable to all the exemptions listed in that paragraph. Research in the Air Quality Council records and in the

Control Technology Guideline, Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450/2-78-047, indicates that this phrase should apply only to 252:100-39-30(b)(2)(B). Staff recommends moving this phrase to 252:100-39-30(b)(2)(B).

Loading of volatile organic compounds, 252:100-39-41(c), currently has no provisions to exclude small loading facilities. The staff proposes to add language that will limit the requirements of this subsection to facilities that have a minimum annual throughput of 120,000 gallons or storage capacity greater than 2,000 gallons.

An informational meeting to discuss revisions to Subchapter 39 for the purpose of simplification, clarification, and correction of the rule was held on Tuesday, July 7, 1998 at the DEQ office. This meeting was open to the public. Comments made at the meeting were given consideration in the proposed draft enclosed with this memorandum.

In the process of revising Subchapter 39, definitions were changed, moved, and/or deleted. The staff intends to revise 252:100-1-3, Definitions, later in the process of the "Re-write De-wrong" project. It is our intention to include in Subchapter 1 only those definitions that apply to all or practically all of the subchapters in Chapter 100. Definitions that apply to only one or two subchapters will be placed in those subchapters and definitions that are general to the entire Chapter 100 will be deleted from individual subchapters.

Staff will recommend the rule be considered again at the next Air Quality Council meeting on October 20, 1998.

In addition to the proposed draft revisions to Subchapter 39, a copy of 40 CFR 51.100(s)(1), and a summation of the proposed revisions with explanations are also included in the packet.

Enclosures: 3

SUBCHAPTER 39. EMISSION OF VOLATILE ORGANIC MATERIALS COMPOUNDS (VOC) IN NONATTAINMENT AREAS AND FORMER NON-ATTAINMENT AREAS

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[NOTE: Bracketed, italicized NOTES are for information only and are not part of the rule.]

PART 1. GENERAL PROVISIONS

252:100-39-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources located in nonattainment areas and to specify the additional control measures required to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration is prevented.~~ The purpose of this Subchapter is to prevent the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains requirements for the control of emissions of VOC from stationary sources located in areas that are nonattainment or were formerly nonattainment for ozone and carbon monoxide.

252:100-39-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~ [NOTE: This definition was moved to 252:100-39-40(a) for consistency.]

~~"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.~~ [NOTE: Moved to 252:100-39-18(a).]

~~"Organic materials" means any chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives. [NOTE: Moved from 252:100-39-15(a) (4) since this term is used in other sections of Subchapter 39.]

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~ [NOTE: This term is not used in Subchapter 39. "Petroleum refinery" is the term used in Subchapter 39.]

"Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons. [NOTE: Moved from 252:100-39-15(a) (5) since this term is used in other sections of Subchapter 39.]

"Submerged fill pipe" means any fill pipe or discharge nozzle ~~which that~~ meets any one of the following conditions:

(A) ~~the~~The bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) ~~the~~The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) ~~the~~The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel.

(D) ~~other equivalent methods acceptable to~~It is an equivalent method that has been approved by the Executive Division Director.

"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any organic compound except those designated as having negligible photochemical reactivity as listed in 40 CFR 51.100(s)(1), which is hereby incorporated by reference as it existed on July 1, 1998. [NOTE: This revision makes the AQD definition of VOC consistent with the EPA definition in 40 CFR 51.100(s) and complies with requests to exempt acetone, methylated siloxanes, and perchloroethylene from being considered VOC (EPA's definition exempts these substances). It replaces the term "Volatile organic solvent (VOS)" since the definitions are essentially the same. It brings the AQD definition into agreement with the EPA reactivity policy as expressed in the Memorandum dated July 21, 1987, from G. T. Helms, Chief, Control Programs Operations Branch, U.S. EPA, OAQPS and the comments contained in Attachment B of the June 9, 1988, letter from William B. Hathaway, EPA Region 6. This change will result in only one definition of VOC.]

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-39-3. General applicability

In addition to any application of the requirements contained in ~~OAC~~ 252:100-37, the additional ~~control/prohibitions~~ requirements contained in this Subchapter shall be required ~~on~~ of existing and new facilities located in Tulsa and Oklahoma Counties and any areas designated nonattainment for ozone unless clearly indicated otherwise.

252:100-39-4. Exemptions

VOCs with vapor pressures less than 1.5 pounds per square inch (psia) under actual storage conditions are exempt from 252:100-39-

16 through 252:100-39-18, 252:100-39-30, 252:100-39-41, and 252:100-48. [NOTE: This Section is added to avoid substantive changes that would be brought about by the revision of the definition of VOC.]

PART 3. PETROLEUM REFINERY OPERATIONS

252:100-39-15. Petroleum refinery equipment leaks

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Component" means any piece of equipment which has the potential to leak ~~volatile organic compounds~~ VOCs when tested in the manner described in EPA Test Method 21 of 40 CFR Part 60. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated.

(2) "Gas service" means any equipment which processes, transfers or contains a ~~volatile organic compound~~VOC or mixture of ~~volatile organic compounds~~VOCs in the gaseous phase.

(3) "Leaking component" means a component which has a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e). [NOTE: This was 252:100-39-15(c)(1)(C).]

~~(3)~~(4) "Liquid service" means any equipment which processes, transfers or contains a ~~volatile organic compound~~VOC or mixture of ~~volatile organic compounds~~VOCs in the liquid phase.

~~(4)~~ "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives. [NOTE: Moved to 252:100-39-2 since it applies to more than one section in Subchapter 39.]

~~(5)~~ "Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons. [NOTE: Moved to 252:100-39-2 since it applies to more than one section in Subchapter 39.]

~~(6)~~ (4) "Valves not externally regulated" means valves that have no external controls, such as in-line check valves.

~~(7)~~ "Volatile organic compounds" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 0.3 kilopascals (0.0435 pounds per square inch absolute) or greater under actual storage conditions. (Effective 2-12-90) [NOTE: The special conditions contained in this definitions have been moved to 252:100-39-15(b)(2).]

(b) Applicability. This Section applies to all source facility petroleum refineries located in the following counties: Tulsa and

Oklahoma.

(1) This Section applies to all petroleum refineries located in Tulsa County and Oklahoma County.

(2) VOCs with vapor pressures less than 0.0435 psia (0.3 kilopascals(kPa)) under actual storage conditions are exempt from 252:100-39-15. (Effective 2-12-90.) [NOTE: Moved from 252:100-39-15(a)(4).]

(c) Provisions for specific processes. Standards and operating requirements

(1) The owner or operator of a petroleum refinery complex subject to this Section shall:

(A) develop and conduct a monitoring program consistent with the provisions in 252:100-39-15(d) and 252:100-39-15(f);

~~(B) conduct a monitoring program consistent with the provisions in 252:100-39-15(f);~~

~~(C) record all leaking components which have a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e) and place an identifying tag on each component consistent with the provisions in 252:100-39-15(f)(3);~~

~~(D) (C) repair and retest the leaking components, as defined in 252:100-39-15(e)(1)(C), as soon as possible but no later than 15 days after the leak is found; and,~~

~~(E) (D) identify all leaking components, as defined in 252:100-39-15(e)(1)(C), which cannot be repaired until the unit is shutdown for turnaround; and, assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.~~

(E) assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.

(2) The ~~Executive~~Division Director, may, at his/~~her~~his or her discretion, ~~take~~require the owner or operator to take appropriate remedial action, including early unit turnaround, based on the number and severity of tagged leaks awaiting repair.

(3) Pipeline valves and pressure relief valves in gaseous ~~volatile organic compound~~VOC service shall be marked in some manner that will be readily obvious to both petroleum refinery or contract personnel performing monitoring and the ~~Executive Director~~DEQ.

(d) Compliance ~~schedule~~ schedule. The owner or operator of a petroleum refinery, ~~in order to comply with 252:100-39-15,~~ shall ~~adhere to the increments of progress contained in the following schedule.~~

~~(1) Submit~~submit to the ~~Executive~~Division Director a monitoring program by July 30, 1981, or within 60 days of the date the area where the refinery is located was designated as a nonattainment area. This program shall contain, at a minimum, a list of the refinery units ~~only~~ and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum

refinery of the responsibility for compliance with this Section.
~~(2) Submit quarterly monitoring report to the Executive Director. [NOTE: This is covered in 252:100-39-15(h).]~~

(e) **Testing and monitoring procedures.** Testing and calibration procedures to determine compliance with this Section must be consistent with EPA Test Method 21 of 40 CFR Part 60.

(f) **Monitoring.**

(1) The owner or operator of a petroleum refinery ~~subject to this Section~~ shall conduct a monitoring program consistent with the following provisions. The owner or operator shall:

(A) monitor yearly by the methods referenced in ~~Test Method 21 of 40 CFR Part 60~~ 252:100-39-15(e) all:

~~(i) pump seals;~~

~~(ii) pipeline valves in liquid service;~~ and

~~(iii) process drains;~~

(B) monitor quarterly by the methods referenced in ~~252:100-39-15(d)~~ 252:100-39-15(e), all:

~~(i) compressor seals;~~

~~(ii) pipeline valves in gaseous gas service;~~ and

~~(iii) pressure relief valves in gaseous gas service;~~

(C) monitor weekly by visual methods all pump seals;

(D) monitor immediately any pump seal from which VOC liquids are observed dripping;

(E) monitor any relief valve within 24 hours after it has vented to the atmosphere; and,

(F) monitor immediately after repair any component that was found leaking.

(2) Pressure relief devices ~~which~~ that are connected to an operating flare header, vapor recovery ~~device~~ devices, inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in paragraph (1) of this subsection. ~~Provided~~ provided, however, such inaccessible valves will be monitored during annual shutdown.

(3) The owner or operator of a petroleum refinery, upon the detection of a leaking component, ~~as defined in 252:100-39-15(e)(1)(C)~~, ~~which~~ that is not repaired on discovery, shall affix a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leaking component is repaired.

(g) **Recordkeeping.**

(1) The owner or operator of a petroleum refinery shall maintain a leaking components monitoring log ~~as specified in 252:100-39-15(e)(1)(C)~~ which shall contain, at a minimum, ~~the following data:~~

(A) the name of the process unit where the component is located;

(B) the type of component (e.g., valve, seal);

(C) the tag number of the component, if not repaired immediately on discovery;

(D) the date on which a leaking component is discovered;

- (E) the date on which a leaking component is repaired;
 - (F) the date and instrument reading of the recheck procedure after a leaking component is repaired;
 - (G) the date of the calibration of the monitoring instrument. ~~The record of calibration~~ which shall be made available for inspection on request;
 - (H) those leaks that cannot be repaired until turnaround; and,
 - (I) the total number of components checked and the total number of components found leaking.
- (2) Copies of the monitoring log shall be retained by the owner or operator for at least two years after the date on which the record was made or the report prepared.
- (3) Copies of the monitoring log shall be made available to the Executive Division Director, upon written request, at any reasonable time.
- (h) **Reporting.** The owner or operator of a petroleum refinery, ~~upon the completion of each monitoring procedure,~~ shall:
- (1) submit a report to the Executive Division Director by the 30th day following the end of each calendar quarter that lists all leaking components that were located during the previous quarter but not repaired within 15 days, all leaking components awaiting unit turnaround, and the total number of components found leaking; and,
 - (2) submit a signed statement with the report attesting to the fact that, all monitoring and, with the exception of those leaking components listed in 252:100-39-15(h)(1), all monitoring and repairs were performed as stipulated in the monitoring program.

252:100-39-16. Petroleum Refinery refinery process unit turnaround

(a) **Definition.** ~~"Turn-around"~~ **"Turnaround"** means the planned procedure of shutting down a unit, inspecting and repairing it, and restarting it.

(b) **Procedures required.** For the shutdown, purging and blowdown operation of any ~~processing~~ petroleum refinery processing unit the following procedures are required:

(1) Recovery of ~~volatile organic compounds (VOC)~~ VOCs shall be accomplished during the shutdown or turnaround to a process unit pressure compatible with the flare or vapor system pressure. The unit will then be purged or flushed to a flare or vapor recovery system with using a suitable material such as steam, water or nitrogen, ~~to a flare or vapor recovery system.~~ The unit shall not be vented to the atmosphere until pressure is reduced to less than 5 psig through control devices.

(2) Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no person shall emit ~~organic~~ VOC gases to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the Executive Division Director.

(3) At least fifteen days prior to a scheduled turnaround, a written notification shall be submitted to the Executive Division Director. As a minimum, the notification shall indicate the unit to be shutdown, the date of shutdown, and the approximate quantity of hydrocarbonsVOCs to be emitted to the atmosphere.

(4) Scheduled refinery unit turnaround may be accomplished without the controls specified in 252:100-39-16(b)(1) and 252:100-39-16(b)(2) during non-oxidant seasons provided the notification to the Executive Division Director as required in 252:100-39-16(b)(3), specifically contains ~~such~~ a request for such an exemption. The Non-oxidantnon-oxidant season is ~~understood to be between the months of October and April from~~ November 1 through March 31.

252:100-39-17. Petroleum Refineryrefinery vacuum producing system

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Accumulator" means the vessel in the overhead stream of any fractionating tower, after the overhead condenses and separates noncondensable gases, liquid hydrocarbonsVOCs and water.

(2) "Hotwell" means the tank at the bottom of the barometer leg in a barometric condenser system to receive the water, condensate and entrained hydrocarbonsVOCs generated by the barometric condenser.

(b) **Requirements.** ~~Noncondensable volatile organic compoundsVOCs from the following equipment shall be incinerated or reduced by 90 percent of what would be emitted without controls when emitted from the following vacuum producing system:~~

- (1) steam ejectors with barometric condensers;
- (2) steam ejectors with surface condensers; or,
- (3) mechanical vacuum pumps.

(c) **Hotwells and accumulators.**

(1) Hot wells and accumulators shall be covered and the noncondensable vapors shall be vented to a fire-box or incinerator.

(2) The presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame. (Effective February 12, 1990)

(d) **Compliance.** Compliance shall be determined in accordance with the provision of the CTG document (EPA 450/2-77-025). Test reports and maintenance records will be maintained for at least two years. If emission testing is required, the appropriate test method(s) selected from EPA Reference Methods 1 through 4, 21, and/or 25, will be utilized.

252:100-39-18. Petroleum Refineryrefinery effluent water separators

(a) **Definition.** "Effluent water separator" means any tank, box, sump, or other container in which any material compoundVOC floating on, or entrained in, or contained in water entering such tank, box,

~~sump or other~~ the container is physically separated and removed from such the water prior to outfall, drainage, or recovery of such discharge of the water from the container. [NOTE: Moved from 252:100-39-2 since the term is only used in this Subchapter. Since this is new to the Section, original language is underlined, deleted language is stricken out, and new language is double underlined to facilitate comparison.]

(b) Requirements. No ~~person~~owner or operator shall operate, or install or permit the operation or installation of a ~~single~~ single-compartment or multiple-compartment ~~volatile organic compound~~ water/VOC/water separator from any equipment processing, refining, treating, storing or handling ~~volatile organic compound~~ VOC unless the compartment receiving said the effluent water is equipped to control emissions in one of the following ways. ~~with one of the following vapor control devices, properly installed, in good working order and in operation.~~

(1) A ~~The~~ container totally encloses the liquid contents and having all openings are sealed, and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) A ~~The~~ container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the ~~organic material~~ VOC vapors and gases discharged and a vapor-disposal system capable of processing such ~~organic material~~ VOC vapors and gases ~~so as~~ to prevent their emission to the atmosphere, ~~and with all~~ All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The ~~organic material~~ VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) A ~~Containers~~ container that is equipped with controls of equal efficiency, provided the plans and specifications of such equipment are submitted and are approved by the Executive Division Director prior to their use.

PART 5. PETROLEUM PROCESSING AND STORAGE

252:100-39-30. Petroleum liquid storage in vessels with external floating roof tanks ~~roofs~~

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at normal operating conditions.

(2) "Crude oil" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

(3) "Externally External floating roof" means a storage vessel

cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(4) "Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage ~~tanks~~vessels or automatic transfer facilities to pipelines or any other ~~forms~~form of transportation.

(5) "Liquid-mounted seal" means primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof.

(6) "Petroleum liquid" means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery.

(7) "Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the ~~tank~~vessel wall, the liquid surface, and the floating roof.

(8) "Waxy, high pour point crude oil" means a crude oil with a pour point of 50°F. or higher as determined by the American Society of Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) **Applicability.**

(1) This Section applies to all ~~source facilities with petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 40,000 gallons (150,000 liters) (40,000 gallons), that are located in Tulsa and Oklahoma Counties.~~

(2) This Section does not apply to petroleum liquid storage vessels ~~which that: prior to custody transfer:~~

(A) are used to store waxy, high pour point crude oil;

(B) have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) contain a petroleum liquid with a true vapor pressure less than 1.5 psia (10.5 kPa) (1.5 psia);

(D) ~~contain a petroleum liquid with a true vapor pressure less than 27.6 Kpa (4.0 psia); and,~~

~~(i) are of welded construction;~~

~~(ii) presently possess a metallic type shoe seal, a liquid-mounted foam seal, a liquid mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Executive Director; or, contain a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa) if the vessels are of welded construction and have a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Division Director; or,~~

(E) are of welded construction, equipped with a metallic-type shoe primary seal and has a secondary seal from the top of the

shoe seal to the tankvessel wall (shoe-mounted secondary seal).

[NOTE: Research indicates that "prior to custody transfer" should have been added to 3.7.5-3(a)(2)(B)(ii) which is now 252:100-39-30(b)(2)(B).]

(c) Provisions for specific processes Equipment and operating requirements.

(1) Standards. No owner of a petroleum liquid storage vessel subject to this Section shall store a petroleum liquid in that vessel unless the following conditions are met.

(A) The vessel has been fitted with:

(i) a continuous secondary seal extending from the floating roof to the tankvessel wall (rim-mounted secondary seal); or,

(ii) a closure device or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required ~~above~~ underin 252:100-39-30(c)(1)(A)(i) and approved by the Executive Division Director.

(B) All seal closure devices meet the following requirements:

(i) ~~there~~ There are no visible holes, tears, or other openings in the seal(s) or seal fabric.

(ii) ~~the~~ The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the tankvessel wall ~~and~~.

(iii) ~~for~~ For vapor mounted primary seals, the accumulated area of gaps exceeding 0.32 cm (1/8 in.) in width between the secondary seal and the tankvessel wall shall not exceed 21.2 cm² per meter of tankvessel diameter (1.0 ~~in.~~ in.² per foot of tank diameter), as determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm uniform diameter probe passes freely between the seal and the tankvessel wall; and summing the area of the individual gaps.

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

(i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,

(ii) equipped with projections into the tankvessel which remain below the liquid surface at all times.

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports.

(E) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended settings ~~and~~.

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening.

(2) Monitoring. The owner or operator of a petroleum liquid

storage vessel with an external floating roof subject to this Section shall:

(A) perform routine inspections semi-annually in order to ensure compliance with 252:100-39-30(c)(1)(B)(i), i.e., no visible holes, tears, or other openings in the seals or seal fabric;

(B) measure the secondary seal gap annually in accordance with 252:100-39-30(c)(1)(B)(iii), when the floating roof is equipped with a vapor-mounted primary seal; and,

(C) maintain records of the types of volatile petroleum liquids stored, the true vapor pressure of the liquid as stored, and the results of the inspections performed in 252:100-39-30(c)(2)(A) and 252:100-39-30(c)(2)(B).

(3) Recordkeeping.

~~(3)~~ (A) Copies of all records under 252:100-39-30(c)(2) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

~~(4)~~ (B) Copies of all records under this Section shall be made available to the Executive Division Director, upon verbal or written request, at any reasonable time.

(d) Compliance schedule. Compliance with this Section will be accomplished by affected facilities ~~within two years of approval of this Section by the Oklahoma Environmental Quality Board by May 23, 1982.~~

PART 7. SPECIFIC OPERATIONS

252:100-39-40. Cutback asphalt (paving)

(a) Definitions. "Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

(b) Requirements. No owner, operator and/or contractor shall prepare or apply cutback liquified asphalt without the prior written consent of the Executive Division Director, ~~or the Executive Director's designee.~~ Such consent may be granted during Oklahoma's non-oxidant season, i.e., ~~October through April~~ November 1 through March 31.

252:100-39-41. ~~Vapor recovery systems~~ Storage, loading and transport/delivery of VOCs

(a) Storage of ~~volatile organic compounds~~ VOCs in vessels with storage capacities — greater than 40,000 gallons — ~~(953 bbls).~~ No person ~~owner or operator~~ shall store or permit the storage of gasoline or any ~~volatile organic compound~~ VOC in tanks or vessels a vessel having with a storage capacity greater than 40,000 gallons ~~(953 bbls)~~ unless such tank, reservoir or other container it is to be a pressure tank vessel capable of maintaining working pressures sufficient at all times ~~to that~~ to prevent organic VOC vapor or gas loss to the atmosphere, or it is equipped with one or more of the following vapor control devices:

(1) ~~a~~ A floating roof, consisting of pontoon type, internal floating cover or double-deck type roof, which will rest on the surface of the liquid contents. The floating roof shall be

equipped with a closure seal, or seals, to close the space between the roof edge and ~~the~~ tank vessel wall. Such floating roofs are not appropriate control devices if the ~~organic compounds~~ VOCs have a vapor pressure of 11.0 ~~pounds per square inch absolute psia (568 mm Hg)~~ (75.8 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. Closure seals will meet the requirements of ~~252:100-39-30(e)(1)(B)~~ 252:100-39-30(c)(1)(B)(i) and (ii).

(2) ~~a~~ A vapor-recovery system consisting of a vapor-gathering system capable of collecting 90 percent by weight or more of the uncontrolled ~~volatile organic compounds~~ VOCs that would otherwise be emitted to the atmosphere and a vapor-disposal system capable of processing such ~~organic compounds~~ VOCs so as to prevent emissions in excess of 80 mg/liter of ~~gasoline~~ VOC transferred to the atmosphere. All ~~tank vessel~~ gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place, ~~or~~.

(3) ~~other~~ Other equipment or methods of equal efficiency for purposes of air pollution control ~~as may be when~~ approved by the ~~Executive Division~~ Director and are in concert with federal guidelines.

(b) Storage of ~~volatile organic compounds~~ VOCs in vessels with storage capacities of 400-40,000 gallons (9.5-953 bbls).

(1) ~~No person~~ owner or operator shall store or permit the storage of gasoline or other ~~volatile organic compounds~~ VOCs in any stationary storage ~~container~~ vessel with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (953 bbls) unless such ~~container~~ it is equipped with a submerged fill pipe or is bottom filled. ~~No person shall store or permit the storage of gasoline or other volatile organic compound in any stationary storage container with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage container are processed by a system that has a total collection efficiency no less than 90 percent by weight of total hydrocarbon compounds in said vapors.~~

(2) No owner or operator shall store gasoline or other VOCs in any stationary storage vessel with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage vessel are processed by a system that has a total collection efficiency no less than 90 percent by weight of total VOCs in the vapors.

~~(2)(A)~~ The vapor recovery system shall include ~~one or more of the following:~~

~~(A)(i)~~ a vapor-tight return line from the storage ~~container~~ vessel to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or ~~volatile organic compounds~~ VOCs can be transferred into the ~~container~~ vessel; or,

~~(B)(ii)~~ other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon ~~compounds~~ VOCs in the displaced vapor provided

that if approval of the proposed design installation, and operation is obtained from the Executive Division Director prior to start of construction.

~~(3)~~ (B) Provided, however, that the requirements for vapor collection of displaced vapors shall not apply to operations that are not major sources.

(c) Loading of ~~volatile organic compounds~~ VOCs.

(1) No ~~person~~ owner or operator shall install or operate, ~~install or permit the building, operation or installation of a stationary volatile organic compound~~ VOC loading facility with an annual throughput of 120,000 gallons or greater or storage capacity greater than 2,000 gallons unless such loading facility ~~it is equipped with a vapor-collection and/or disposal system properly installed, in good working order and in operation.~~

(2) ~~When~~ While ~~volatile organic compounds~~ VOCs are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.

(3) A means shall be provided to prevent ~~organic material~~ VOC drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.

(4) When loading is effected ~~throughby~~ means other than hatches, all loading and vapor lines shall be equipped with fittings ~~which~~ that make vapor-tight connections and which close automatically when disconnected.

(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as specified in 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.

(A) ~~an~~ An absorption/adsorption system or condensation system ~~with~~ that has a minimum recovery efficiency of 90 percent by weight of all the ~~volatile organic compound~~ VOC vapors and gases entering such disposal system.

(B) ~~a~~ A vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent, ~~or,~~

(C) ~~other~~ Other equipment ~~of~~ that has at least a 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Division Director. ~~Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

(6) Subsection 252:100-39-41(c) shall apply to any facility ~~which~~ that loads ~~volatile organic compounds~~ VOCs into any transport vessel designed for transporting ~~volatile organic compounds~~ VOCs.

(d) **Transport/delivery.**

(1) The vapor-laden delivery vessel shall meet one of the following requirements.

(A) ~~the~~The delivery vessel must be ~~so~~ designated and operated ~~as to~~ be vapor tight except when sampling, gauging, or inspecting, ~~or,~~

(B) ~~the~~The delivery vessel must be equipped and operated ~~so that to deliver~~ the ~~volatile organic compound~~VOC vapors are delivered to a vapor recovery/disposal system.

(2) No ~~owner/operator~~ owner or operator will~~shall~~ allow a delivery vessel to be filled at a facility unable to receive displaced ~~organic~~VOC vapors nor service ~~tanks/vessels~~ unable to deliver displaced vapors except for ~~tanks/facilities~~vessels and facilities exempted in 252:100-39-41(b) and 252:100-39-41(c).

(3) Testing of the tank trucks for compliance with the vapor tightness requirements must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA 450/2-78-051, or an equivalent method as determined by the Executive Division Director.

(e) **Additional requirements for Tulsa County.** ~~Also see 252:100-39-48 for additional requirements pertaining to Tulsa County.~~ [NOTE: The requirements in this subsection were formerly contained in 252:100-39-48. To facilitate comparison, deletions to the original language have been stricken out and additions have been double underlined. Since the material is new to this Section, it is all underlined.]

(1) Applicability. This Section subsection applies only in Tulsa County. In addition to the other requirements for vapor recovery systems that are contained in 252:100-39-41(a) through (d), facilities located in Tulsa County must comply with the requirements of this subsection. [NOTE: This was 252:100-39-48(a).]

(2) Storage of VOCs.

(A) 2,000 - 40,000 gallons capacity. No ~~person~~owner or operator shall store or permit the storage of gasoline or other volatile organic compoundsVOCs in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless, such container in addition to being equipped with a submerged fill pipe or being bottom loading, it is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compoundsVOCs contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum. The vapor recovery system shall include one or more of the following.

(i) aA vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or ~~volatile organic compounds~~VOCs can be transferred into the

container (i.e., popped connectors from the storage container to the delivery vessel.)

(ii) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole.

(iii) The cross-sectional area of the vapor recovery line must be at least half of the cross-sectional area of the liquid delivery line.

(iv) Instead of 252:100-39-48(b)(2)(A) through 252:100-39-48(b)(2)(C) of 252:100-39-41(e)(2)(B)(i) through 252:100-39-41(e)(2)(B)(iii), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds/VOCs in the displaced vapor provided that may be used if approved by approval of the proposed design, installation, and operation is obtained from the Executive Division Director prior to start of construction. [NOTE: This was in 252:100-39-48(b)(1) and (2).]

(B) Applicability.

(i) The applicability of this Section 252:100-39-41(e)(2) shall be determined by the most restrictive of the 2,000 gallon tank/vessel size as specified required in 252:100-39-48(b)(1) 252:100-39-41(e)(2)(A) or the 120,000 gallon annual throughput described required in 252:100-39-48(b)(3) 252:100-39-41(e)(2)(B)(ii). However, once a facility places a 2,000 gallon tank/vessel in service or exceeds the 120,000 gallon annual throughput described in 252:100-39-48(b)(3), that facility shall always be subject to the provisions of this Section 252:100-39-41(e)(2). (effective February 12, 1990) [NOTE: This was 252:100-39-48(b)(4).]

(ii) Exemptions to this Section 252:100-39-41(e)(2) may be granted provided if the owner/operator owner or operator shows to the satisfaction of the appropriate authority/Division Director that the container/vessel is used exclusively for agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less. [NOTE: This was 252:100-39-48(b)(3).]

(C) Emission testing. If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized. [NOTE: Was 252:100-39-48(b)(5).]

(D) Compliance. Compliance with this subsection 252:100-39-41(e)(2) will be accomplished by affected owner/operator the owner or operator of affected facilities by December 31, 1986. [NOTE: Was 252:100-39-48(b)(6).]

(E) Certification. The owner/operator owner or operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator owner or

operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds VOCs made to their 400-gallon to 40,000-gallon storage facility or facilities located in Tulsa County, shall be made by transport/delivery vessels which that comply with the requirements contained in 252:100-39-48(d)-252:100-39-41(e)(4). Compliance with this Section 252:100-39-41(e)(2) shall be accomplished by affected owner/operators owners or operators of affected facilities no later than December 31, 1990. (Effective February 12, 1990) [NOTE: Was 252:100-39-48(b)(7).]

(3) Loading of VOCs. In addition to those requirements contained in 252:100-39-41(c), stationary loading facilities Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for at least two years. [NOTE: This was 252:100-39-48(c)(7).]

(4) Transport/delivery vessel requirements. In addition to the requirements contained in 252:100-39-41(d), facilities located in Tulsa County must meet the following requirements.

(A) Maintenance.

(i) The delivery vessel must be maintained' so as to be that it is vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.

(ii) The delivery vessel must be equipped, maintained and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and 252:100-39-41(b)(2) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.

(iii) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which that would impair the vessels' ability to retain vapors or liquid shall be repaired within 5 days.

(iv) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-48(d)(2)(A)(i)-252:100-39-41(e)(4)(B)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.

(v) No owner/operator owner or operator will allow a delivery vessel to be filled at a facility unable to receive displaced organic vapors VOCs nor service tanks/vessels unable to deliver displaced vapors except for tanks/facilities/vessels/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels which that do not display a current tag.

(vi) Delivery vessels may be inspected by representatives of the appropriate health agency DEQ in order to determine their state of repair. Such a test may consist of a visual inspection, or a vapor test with vapors not to exceed 5000

ppm. Failure of a vapor test will require the owner/operatorowner or operator to effectmake the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days, the vessel willshall be removed from service by the owner/ operator. Failure to certify within 10 days of a vapor test that the eitednecessary repairs have been effectedmade will subject the vesselowner or operator to sanctions. Upon certification of repairs, the vessel will be allowed to operate in a normal mannerresume normal operation.

(B) Testing requirements.

(i) Pressure test.

(I) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the ExecutiveDivision Director.

(II) The vessel will be considered to pass the test prescribed in ~~252:100-39-48(d)(2)(A)(i)~~ 252:100-39-41(e)(4)(B)(i)(I) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O. in addition thereThere shall be no avoidable visible liquid leaks.

~~(2)(ii)~~ Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under ~~252:100-39-41(d)(1)(F)~~ 252:100-39-41(e)(4)(A)(vi) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of ~~252:100-39-48~~ 252:100-39-41(e) will become effectivetook effect December 15, 1988. [NOTE: This was 252:100-39-48(d).]

252:100-39-42. Metal cleaning

(a) Cold cleaning facility requirements.

(1) Equipment requirements. No ~~person~~owner or operator shall allow the construction or operation of any cold cleaning unit for metal degreasing using an ~~organic solvent~~VOC unless the following requirements are met~~+~~.

(A) ~~a~~A cover or door shall be installed on the facility that can be easily operated with one hand~~+~~.

(B) ~~an~~An internal drain board will be provided in ~~such a manner~~ that will allow lid closure if practical; ~~+~~ if not practical, the drainage facility may be external~~+~~ and~~+~~.

(C) ~~a~~A permanent, conspicuous label summarizing the operating requirements specified in 252:100-39-42(a)(2) will be

permanently attached to the facility.

(2) Operating requirements. ~~The operating requirements specified in 252:100-39-42(a)(1)(C) shall as a minimum specify~~ Owners or operators shall at a minimum:

(A) drain clean parts at least 15 seconds or until dripping ceases before removal;

(B) close degreaser cover when not handling parts in cleaner and;

(C) store waste solvent VOC in covered containers. ~~Do not dispose or allow disposition in such a manner that more than 20 percent by weight can evaporate into the atmosphere.~~

(D) Do not dispose or allow disposition of waste VOC in such a manner that more than 20 percent by weight can evaporate into the atmosphere.

~~(3)(E) If used, a solvent spray will be of a solid fluid stream (not atomized or spray)~~ Use a solid stream, not an atomized spray, when VOC is sprayed.

~~(4)(3)~~ Requirements for controls. If the solvent volatility vapor pressure of the VOC is greater than ~~33 mm Hg (0.6 psi)~~ 0.6 psi (4.1 kPa) measured at ~~38°C (100°F)~~ (38°C) or if solvent VOC is heated to ~~120 degrees C (248°F)~~ (120°C), one or more of the following control devices will be required:

(A) ~~freeboard~~ Freeboard that gives a ~~free board~~ freeboard ratio greater than or equal to 0.7.

(B) ~~water~~ Water cover and where the solvent VOC is insoluble in and heavier than water or such equivalent ~~or~~.

(C) ~~other~~ Another system of equivalent control as approved by the ~~Executive~~ Division Director.

~~(5)(4)~~ Compliance and recordkeeping. Compliance will be determined in accordance with EPA document 450/2-77-022. Test reports and maintenance and repair records of control equipment will be maintained by the source for at least two years.

(b) Vapor-type metal degreasing requirements.

(1) Equipment requirements. No ~~person~~ owner or operator shall allow the construction or operation of any vapor-type metal degreasing unit using an ~~organic solvent~~ a VOC unless the following requirements are met:

(A) ~~the~~ The unit has a cover or door that can easily be opened and closed without disturbing the vapor zone.

(B) ~~the~~ The unit will have the following safety switches:

(i) ~~condenser~~ Condenser flow switch and thermostat or equivalent capable of shutting off the sump heat if condenser coolant is not circulating or coolant exceeds solvent VOC manufacturer's recommended level and.

(ii) ~~spray~~ Spray safety switch capable of shutting off spray pumps if the vapor level drops in excess of four inches (10 cm).

(C) ~~the~~ The unit will have one or more of the following control devices/techniques:

(i) ~~freeboard~~ Freeboard ratio not less than 0.75, i.e., the ratio of the freeboard to the width of the degreaser wherein the term freeboard is defined as the distance from

the top of the vapor zone to the top of the degreaser tank.

(ii) ~~refrigerated~~Refrigerated chiller, i.e., condenser coils in the upper limit of the vapor zone.

(iii) ~~enclosed~~Enclosed design, i.e., cover or door is opened only when part is actually entering or exiting the facility.

(iv) ~~a~~A carbon adsorption system with ventilation greater than 50 cfm/ft.² of air/vapor area when cover is open and exhausting less than 25 ppm ~~solvent~~VOC average over one adsorption cycle.

(v) ~~a~~A control system demonstrated to have a control efficiency equal to or greater than any of the systems in (C) of this paragraph.

(D) ~~a~~A permanent conspicuous label summarizing operating procedures in 252:100-39-42(b)(2) will be attached to the facility unit.

(2) Operating requirements. ~~The operating requirements referred to in 252:100-39-42(b)(1)(D) As a minimum operators shall do the following as a minimum specify.~~

(A) ~~keep~~Keep cover closed at all times except when processing work.

(B) ~~minimize~~Minimize ~~solvent~~VOC carry-out by the following measures:

(i) ~~rack~~racking parts to allow full drainage;

(ii) ~~move~~moving parts in and out of the degreaser at less than 3.3 m/sec (11 ft/min.) (3.3 m/min.);

(iii) ~~degrease~~degreasing the workload in the vapor zone at least 30 sec. or until condensation ceases;

(iv) ~~tip~~tipping out any pools of ~~solvent~~VOC on the cleaned parts before removal; and,

(v) ~~allow~~allowing parts to dry within the degreaser for at least 15 sec. or until visually dry.

(C) ~~do not~~Not degrease porous or absorbent materials, such as cloth, leather, wood or rope.

(D) ~~workloads should not~~Not allow workloads to occupy more than half of the degreaser's open top area.

(E) ~~never~~Never spray above the vapor level.

(F) ~~assure~~Assure that ~~solvent~~VOC leaks are immediately repaired or the degreaser is shut down.

(G) ~~do not~~Not dispose of waste ~~solvent~~VOC or transfer it to another party in such a manner that greater than 20 percent of the waste (by weight) will evaporate into the atmosphere.

(H) Store waste ~~solvent~~VOC only in closed containers.

~~(H)~~(I) Not allow exhaust ventilation should not exceed 20 m³/min. per m² (65 cfm per ft²) (20 m³/min. per m²) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans should not be used near the degreaser opening; and,

~~(I)~~(J) Not allow water should not to be visually detectable in ~~solvent~~VOC exiting the water separator.

(3) Compliance and recordkeeping. Compliance will be determined

in accordance with EPA document 450/2-77-022, which is incorporated by reference, and all test and maintenance records ~~will~~shall be retained by the source for at least two years.

(c) Conveyorized degreasing unit requirements.

(1) Operating requirements. No ~~person~~owner or operator shall operate a conveyorized degreasing unit unless the following requirements are met.

(A) ~~exhaust~~Exhaust ventilation should not exceed ~~20m³/min. per m² 65 cfm per ft² (65 cfm per ft²) (20m³/min. per m²)~~ of degreaser opening, unless necessary to meet OSHA requirements. ~~Work place fans should not be used near the degreaser opening.~~

(B) Work place fans should not be used near the degreaser opening.

~~(B)~~ (C) minimize Minimize carry-out emissions by:

(i) racking parts for best drainage; and,

(ii) maintaining vertical conveyor speed at less than ~~3.3 m/min. 11 ft./min. (11 ft./min.) (3.3 m/min.)~~.

~~(C)~~ (D) do Waste VOC should not be disposed ~~disposed~~ of waste solvent or ~~transfer~~transferred it to another party in such a manner that greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. ~~Store waste solvent VOC only in covered containers.~~

(E) Store waste VOC only in covered containers.

~~(D)~~ (F) repair VOC leaks must be repaired immediately, or ~~shut down the degreaser~~ must be shut down.

~~(E)~~ (G) water Water should not be visibly detectable in the ~~solvent~~VOC exiting the water separator, ~~and~~.

~~(F)~~ (H) a permanent conspicuous label will must be attached to the ~~facility~~unit summarizing the operating requirements listed in 252:100-39-42(b) and 252:100-39-42(c).

(2) Control requirements. In addition to the requirements in 252:100-39-42(c)(1), any unit that has an air/vapor interface of more than ~~2.0m² 2.0 m²~~ will be subject to the following control requirements.

(A) Major control devices. The degreaser must be controlled by either:

(i) a refrigerated chiller;

(ii) a carbon adsorption system, with ventilation equal to or greater than ~~15 m²/min per m² 50 cfm/ft² (50 cfm/ft²) (15 m²/min per m²)~~ of air/vapor area (when down-time covers are open), and exhausting less than 25 ppm of ~~solvent~~VOC by volume averaged over a complete adsorption cycle; or

(iii) a system demonstrated to have control efficiency equivalent to or better than either of the above.

(B) Carryover prevention. Either a drying tunnel, or another means such as rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out ~~solvent~~VOC liquid or vapor subject to space limitations must be installed.

(C) Safety switches. The following safety switches must be installed and be operational.

(i) Condenser flow switch and thermostat ~~that~~ (shuts off sump heat if coolant is either not circulating or too

warm).

(ii) Spray safety switch ~~that~~ {shuts off spray pump or conveyor if the vapor level drops excessively, e.g. more than ~~10 cm (4 in.)~~ 4 in. (10 cm).

(iii) Vapor level control thermostat ~~that~~ {shuts off sump heat when vapor level rises too high}.

(D) **Minimized openings.** Entrances and exits should silhouette work loads so that the average clearance {between parts and the edge of the degreaser opening} is either less than ~~10 cm (4 in.)~~ 4 in. (10 cm) or less than 10 percent of the width of the opening.

(E) **Covers.** Down-time ~~eover~~covers must be placed over entrances and exits of conveyORIZED degreasers immediately after the conveyor and exhaust are shutdown and removed just before they are started up.

(3) **Compliance and recordkeeping.** Compliance will be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records will be retained by the source for at least two years.

(d) **Alternative control methods.** As an alternative to the requirements of 252:100-39-42(a) through 252:100-39-42(c) and subject to EPA approval, an operator may request the approval by the Division Director of other methods of control. ~~may be approved by, subject to EPA approval, the Executive Director upon application by a source; provided, the~~ The applicant can must demonstrate that the proposed method will preclude no less than prevent at least 80 percent of the emissions from each source from being emitted to the atmosphere, as determined by the appropriate test methods selected from EPA Methods 1 through 4, 18, 25, 25A and 25B.

252:100-39-43. Graphic arts systems

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Flexographic printing"** means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(2) **"Packaging rotogravure printing"** means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, ~~which that~~ are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(3) **"Publication rotogravure printing"** means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(4) **"Roll printing"** means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

(5) **"Rotogravure printing"** means the application of works,

designs and pictures to a substrate by means of a roll printing technique ~~which~~that involves an intaglio or recessed image areas in the form of cells.

(b) **Applicability.**

~~(1) This Section applies to all packaging rotogravure, publication rotogravure, and flexographic printing facilities located in Tulsa and Oklahoma counties.~~

~~(2) This Section applies only to enly~~only~~packaging rotogravure, publication rotogravure, and flexographic printing facilities whose potential emission~~emissions of organic solvent VOC is~~are~~ equal to or more than 100 tons/year (90 megagrams/year) (100 grams)~~per year (100 tons/yr.)~~. Potential emissions are to be calculated based on historical records of actual consumption of solvent VOC and ink.

(c) **Provisions for specific processes.**

(1) No owner or operator of a ~~packaging rotogravure, publication rotogravure or flexographic printing facility~~ subject to this Section and employing solvent VOC containing ink may operate, ~~cause, allow or permit the operation of the facility unless one of the following conditions applies.~~

(A) ~~the~~The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of ~~organic solvent VOC~~ and 75.0 percent by volume or more of water.

(B) ~~the~~The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more of nonvolatile material, ~~or.~~

(C) ~~the~~The owner or operator installs and operates:

(i) a carbon adsorption system ~~which~~that reduces the ~~organic solvent VOC~~ emissions from the capture system by at least 90.0 percent by weight;

(ii) an incineration system ~~which~~that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic solvent VOC~~ measured as total combustible carbon to carbon dioxide and water; or,

(iii) an alternative ~~organic solvent VOC~~ emission reduction system demonstrated to have at least 90.0 percent reduction efficiency, measured across the control system, ~~and that~~ has been approved by the ~~Executive~~Division Director.

(2) A capture system must be used in conjunction with the emission control systems in 252:100-39-43(c)(1)(C). The design and operation of the capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in ~~volatile organic compound~~VOC emissions of at least:

(A) 75.0 percent where a publication rotogravure process is employed;

(B) 65.0 percent where a packaging rotogravure process is employed; ~~or.~~

(C) 60.0 percent where a flexographic printing process is employed.

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities ~~within two (2) years of~~

~~approval of this Subchapter by the Oklahoma Environmental Quality Board by May 23, 1982.~~

(e) **Testing.** Test procedures to determine compliance with this Subchapter must be consistent with EPA Reference Method 24 or equivalent ASTM Methods.

252:100-39-44. Manufacture of pneumatic rubber tires

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "**Automatic tread end cementing**" means the application of a ~~solvent~~VOC based cement to the tire tread ends by automated devices.

(2) "**Bead dipping**" means the dipping of an assembled tire bead into a ~~solvent~~VOC based cement.

(3) "**Green tires**" means assembled tires before molding and curing have occurred.

(4) "**Green tire spraying**" means the spraying of green tires, both inside and outside, with release compounds ~~which~~that help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

(5) "**Manual tread end cementing**" means the application of a ~~solvent~~VOC based cement to the tire tread ends by manufacturers.

(6) "**Passenger type tire**" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches.

(7) "**Pneumatic rubber tire manufacture**" means the production of pneumatic rubber, passenger type tires on a mass production basis.

(8) "**Undertread cementing**" means the application of a ~~solvent~~VOC based cement to the underside of a tire tread.

(9) "**Water based sprays**" means release compounds, sprayed on the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for ~~organic solvents~~VOCs. These sprays may contain an average of up to five percent ~~organic solvent~~VOC.

(b) **Applicability.**

(1) This Section applies to VOC emissions ~~from the following operations~~ in from all major source pneumatic rubber tire manufacturing facilities located in Oklahoma County from:

- (A) undertread cementing;
- (B) automatic tread end cementing; and,
- (C) green tire spraying.

(2) The provisions of this Section do not apply to the ~~productions~~production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs. This exemption applies only to tires produced on equipment separate from normal production lines for passenger type tires.

(3) Manual tread end cementing operations are exempt from the

provisions of this Section.

(c) Provisions for specific processes Control requirements.

(1) Undertread cementing or automatic tread end cementing. The owner or operator of an undertread cementing, or automatic tread end cementing, operation subject to this Section shall install and operate the following.

(A) ~~install and operate a~~ capture system, designed to achieve maximum reasonable capture from all undertread cementing, and automatic tread end cementing operations. Maximum reasonable capture would require that hood enclosures be designed in such a manner to minimize open areas and enclose as much of the emission source as practical while maintaining a minimum in-draft velocity of 200 feet per minute except during times when the enclosure must be opened to allow work inside or for the inspections of the product in progress. Maximum reasonable capture shall be consistent with the following documents:

(i) Industrial Ventilation, A Manual of Recommended Practices, 14th Edition, American Federation of Industrial Hygienists; and,

(ii) Recommended Industrial Ventilation guidelines, U.S. Department of Health Education and Welfare, National Institute of Occupational Safety and Health.

(B) ~~install and operate a~~ control device that meets the requirements of one of the following systems.

(i) A carbon adsorption system designed and operated in a manner ~~such so~~ that there is at least an initial 95.0 percent removal of VOC by weight from the gases ducted to the control device with at least a 90 percent 3 year removal average; ~~or~~.

(ii) An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~ (VOCs) (measured as total combustible carbon) which enter the incinerator to carbon dioxide and water.

(iii) An alternative ~~volatile organic compound~~ VOC emission reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, and that has been approved by the Executive Division Director.

(2) Green tire spraying. The owner or operator of a green tire spraying operation subject to this Section shall implement one of the following means of reducing ~~volatile organic compound~~ VOC emissions.

(A) ~~substitute~~ Substitute water-based sprays for the normal ~~solvent-based~~ VOC-based mold release compound; ~~or~~.

(B) ~~install~~ Install a capture system designed and operated in a manner that will capture and transfer at least 90.0 percent of the VOC emitted by the green tire spraying operation to a control device, and install and operate a control device that meets the requirements of one of the following systems.

(i) ~~a~~ carbon adsorption system designed and operated in a manner ~~such so~~ that there is at least 95.0 percent

removal of VOC by weight from the gases ducted to the control device, ~~or,~~

(ii) ~~an~~ An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds (VOC~~ VOCs (measured as total combustible carbon) to carbon dioxide and water, ~~or,~~

(iii) ~~an~~ An alternative ~~volatile organic compound~~ VOC emission reduction system approved by the Division Director and certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, that has been approved by the Executive Division Director.

(3) Exemption. If the total ~~volatile organic compound~~ VOC emissions from all undertread cementing, tread-end cementing, bead dipping, and green tire spraying operations at a pneumatic rubber tire manufacturing facility do not exceed 57 grams per tire, 252:100-39-44(c)(1) and 252:100-39-44(c)(2) shall not apply.

~~(4) An owner or operator of an undertread cementing, tread end cementing, bead dipping or green tire spraying operation subject to this Section may, instead of implementing measures required by 252:100-39-44(c)(1) and 252:100-39-44(c)(2), submit to the Executive Director a petition for alternative controls. The petition must be submitted in writing before September 15, 1981 and must contain:~~

~~(A) the name and address of the company and the name and telephone number of a responsible company representative over whose signature the petition is submitted;~~

~~(B) a description of all operations conducted at the location to which the petition applies and the purpose the volatile organic compound emitting equipment serves within the operations;~~

~~(C) reference to the specific emission limits, operational and/or equipment controls for which alternative emission limits, operational and/or equipment controls are proposed;~~

~~(D) a detailed description of the proposed alternative emission limits, operational and/or equipment controls, the magnitude of volatile organic compound emission reduction which will be achieved, and the quantity and composition of volatile organic compounds which will be emitted if the alternative emission limits, operational and/or equipment controls are instituted;~~

~~(E) a schedule for the installation and/or institution of the alternative operational and/or equipment controls in conformance with the appropriate compliance schedule section; and,~~

~~(F) a demonstration that the alternative control program constitutes reasonably available control technology for the petitioned facility. The factors to be presented in this demonstration include but are not limited to:~~

~~(i) the capital expenditure necessary to achieve the petitioned level of control;~~

- ~~(ii) the impact of these costs on the firm;~~
- ~~(iii) the energy requirements of the petitioned level of control;~~
- ~~(iv) the impact on the environment in terms of any increase in air, water and solid waste effluent discharge of the petitioned level of control;~~
- ~~(v) any adverse worker or product safety implications of the petitioned level of control; and,~~
- ~~(vi) an analysis for each of the factors in 252:100 39 44(c) (4) (F) (i) through 252:100 39 44(c) (4) (F) (v) for the control levels specified in 252:100 39 44(c) (1) and 252:100 39 44(c) (2).~~

~~(5) The Executive Director may approve a Petition for Alternative Control if:~~

~~(A) the petition is submitted in accordance with 252:100 39 44(c);~~

~~(B) the petition demonstrates that the alternative controls represent reasonable available control technology; or~~

~~(C) the petition contains a compliance schedule for achieving and maintaining a reduction of volatile organic compound emissions as expeditiously as practicable, but no later than the photochemical oxidant attainment date.~~

~~[NOTE: 252:100-39-44(c) (4) and (5) were deleted since the provisions for alternative controls were not used prior to the deadline.]~~

(d) Compliance schedule. Compliance with this Section will be accomplished by affected facilities on or before December 31, 1982.

(e) Testing and monitoring.

(1) Test procedures to determine compliance with this Section must be approved by the Executive Division Director and be consistent with:

(A) EPA Guideline Series Document "Measurement of Volatile Organic Compounds," EPA-450/2-78-041; and,

(B) Appendix A of "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008.

(2) The Executive Division Director may accept, instead of green tire spray analysis, a certification by the manufacturer of the composition of the green tire spray, if supported by actual batch formulation records.

(3) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating to measure:

(A) exhaust gas temperatures of incinerators;

(B) temperature rise across a catalytic incinerator bed;

(C) breakthrough of VOC on a carbon adsorption unit; and,

(D) any other parameter for which a continuous monitoring or recording device is required by the Executive Division Director.

252:100-39-45. Petroleum (solvent) dry cleaning

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Cartridge filters" means perforated canisters containing filtration paper and/or activated carbon that are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden petroleum solvent.

(2) "Containers and conveyors ~~and of petroleum solvent~~" means piping, ductwork, pumps, storage tanks, and other ancillary equipment that are associated with the installation and operation of washers, dryers, filters, stills, and settling tanks.

(3) "Dry cleaning" means a process of the cleaning of textiles and fabric products in which articles are washed in a non-aqueous solution (petroleum solvent) and then dried by exposure to a heated air stream.

(4) "Housekeeping" means those measures and precautions necessary to minimize the release of petroleum solvent to the atmosphere.

(5) "Operations parameters" means the activities required to insure that the equipment is operated in a manner to preclude the loss of petroleum solvents to the atmosphere.

(6) "Perceptible leaks" means any petroleum solvent vapor or liquid leaks that are conspicuous from visual observation, such as pools or droplets of liquid, or buckets or barrels of petroleum solvent or petroleum solvent-laden waste standing open to the atmosphere.

(7) "Petroleum solvent" means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms per organic molecule that exists as a liquid under standard conditions.

(b) Applicability. This Section applies to petroleum solvent washers, dryers, ~~solvent~~-filters, settling tanks, vacuum stills, and other containers and conveyors of petroleum solvent that are used in petroleum solvent dry cleaning facilities in Tulsa County only.

(c) ~~Provisions for specific processes~~ Operating requirements.

(1) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any dry cleaning equipment using petroleum solvents unless:

(A) there are no perceptible liquid or vapor leaks from any portion of the equipment;

(B) all washer lint traps, button traps, access doors and other parts of the equipment where petroleum solvent may be exposed to the atmosphere are kept closed at all times except when required for proper operation or maintenance;

(C) the still residue is stored in sealed containers ~~and~~ ~~the~~ ~~the~~ used filtering material is ~~to be~~ placed into a sealed container suitable for use with petroleum solvents, immediately after removal from the filter and ~~be~~ disposed of in the prescribed manner; or,

(D) cartridge filters containing paper or carbon or a combination thereof, which are used in the dry cleaning process are to be drained in the filter housing for at least 24 hours prior to removal.

(2) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any drying tumblers and cabinets that use petroleum solvents unless tumblers and cabinets are operated in such a manner as to control petroleum solvent vapor leaks by reducing the number of sources where petroleum solvent is exposed to the atmosphere. Under no circumstances should there be any open containers (can, buckets, barrels) of petroleum solvent or petroleum solvent-containing material. Equipment containing solvent (washers, dryers, extractors, and filters) should remain closed at all times other than during maintenance or load transfer. Lint filter and button trap covers should remain closed except when petroleum solvent-laden lint and debris are removed. Gaskets and seals should be inspected and replaced when found worn or defective. Petroleum solvent-laden solvent-laden clothes should never be allowed to ~~sit~~ remain exposed to the atmosphere for longer periods than are necessary for load transfers. Finally, vents on petroleum solvent-containing waste and new petroleum solvent storage tanks should be constructed and maintained in a manner that limits petroleum solvent vapor emissions to the maximum possible extent.

(3) The owner or operator shall repair all petroleum solvent vapor and liquid leaks within 3 working days after identifying the sources of the leaks. If necessary repair parts are not on hand, the owner or operator shall order these parts within 3 working days, and repair the leaks no later than 3 working days following the arrival of the necessary parts.

(d) **Disposal of filters.** Filters from the petroleum dry cleaning facility shall be disposed of by:

(1) incineration at a facility approved by the fire marshall's office for such disposal;

(2) by recycling through an approved vendor of this service;
or,

(3) by any other method approved by the Executive Division Director.

(e) **Compliance schedule.** Compliance with 252:100-39-45(c)(1) through 252:100-39-45(c)(3), will be accomplished by affected facilities on or before October 1, 1986.

252:100-39-46. Coating of parts and products

(a) **Applicability.** This Section shall apply only to those industries located in Tulsa County which manufacture and/or coat metal parts and products, such as ~~This Section is applicable to~~ large farm machinery, small farm machinery, small appliances, commercial machinery, industrial machinery and fabricated metal products. Architectural coating, aerospace coating, and automobile refinishing are not included.

(b) **Definitions.** The following words and terms, when used in

this Section, shall have the following meaning, unless the context clearly indicates otherwise+.

(1) "Air or forced air dry coatings" means coatings which that are dried by the use of air or forced warm air at temperatures up to 194°F.

(2) "Clear coat" means a coating which that lacks color and opacity or is transparent and uses the undercoat as a reflectant base.

(3) "Extreme performance coatings" mean coatings designed for harsh exposure or extreme environmental conditions (i.e.e.g., exposure to the weather, all of the time, temperature above 200°F, detergents, abrasive and scouring agents, solvents, corrosive atmosphere or similar conditions).

(4) "Facility" means all emission sources located on a contiguous property properties under common control which are affected by the surface coating provisions of ~~0AC~~ 252:100-37 and 252:100-39.

(5) "Powder" means a coating which that is applied in a finely divided (~~powder~~) state by various methods, and becomes a continuous, solid film when the metal part or product is moved to an oven for curing.

(6) "Transfer efficiency" means the weight (or volume) of coating solids adhering to the surface being coated divided by the total weight (or volume) of coating solids delivered to the applicator.

(c) **Existing source requirement.** No owner or operator ~~subject to the provisions of this Section~~ shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any ~~organic solvent~~ VOC in excess of the amounts listed in 252:100-39-46(d) as calculated by EPA method 24, 40 CFR Part 60.

(d) **Standards.** The following table enumerates the limitations for surface coatings in pounds of ~~solvent~~ VOC per gallon of coating as applied (less ~~water/exempt solvent water and exempt compounds~~)+. If more than one limit listed in the table is applicable to a specific coating, then the least stringent limitation shall be applied.

Coating type	Limitations	
	lbs/gal	kg/liter
Air or Forced Air Dry	3.5	420.42
Clear Coat	4.3	520.52
Extreme Performance	3.5	420.42
Powder	0.4	050.05
Other	3.0	360.36

(e) **Emission factor.** For the purposes of calculating an emission factor (EF) in pounds ~~VOC~~ VOC per gallon of coating solids, the following formula will be utilized:

$$EF = V D / 1 - (V+W) = V D / S$$

where: V = volume fraction of solvent VOC in coating_T.
D = density of solvent VOC in the coating_T.
W = volume fraction of water in coating_T and.
S = 1-(V+W) = volume fraction of solids in coating.

(f) ~~Emission limit Compliance.~~ ~~If more than one emission limit as listed in 252:100-39-46(d) is applicable to a specific coating, then the least stringent emission limitation shall be applied.~~ Compliance with the coating limits listed in 252:100-39-46(d) is to be calculated on a daily weighted average basis.

(g) ~~Solvent-containing VOC-containing materials.~~ ~~Solvent-containing VOC-containing materials used for clean up shall be considered in the emissions VOC content limits listed in 252:100-39-46(d) unless:~~

(1) the solvent VOC containing materials are maintained in a closed container when not in use;

(2) closed containers are used for the disposal of cloth or paper or other materials used for surface preparation and cleanup;

(3) the spray equipment is disassembled and cleaned in a solvent VOC vat and the vat is closed when not in use; or,

(4) the solvent VOC containing materials used for the clean up of spray equipment are sprayed directly into closed containers.

(h) ~~Exemptions.~~ ~~Exemptions to this Section shall be permitted for combined emissions at one site/facility, which do not exceed a 10 tons/year emissions cutoff based on the facility's Facilities with a potential to emit 10 tons/year or less of VOSVOC from coating operations are exempt from this Section.~~ Once this limit is exceeded, the source facility will always be subject to the limits of this Section.

(i) ~~Alternate standard.~~ Emissions Coatings with VOC contents in excess of those permitted allowed by 252:100-39-46(d) are allowable may be used if both of the following conditions are met.

(1) ~~emissions Emissions that would result in the absence of control are reduced to levels equivalent to those permitted by that would occur if the VOC content of the coatings met the limits contained in 252:100-39-46(d) and meet there is an overall control efficiency of at least:~~

(A) 85 percent_T by incineration; ~~or,~~

(B) 85 percent_T by absorption; ~~or, any other equipment of equivalent reliability and effectiveness; and,~~

(C) 85 percent by any other equipment of equivalent reliability and effectiveness.

(2) ~~no~~ No air pollution, as defined by the Clean Air Act, results.

(j) Emission plan.

(1) Development of a plant-wide emission plan. A n owner/operator may develop a plant-wide emission plan consistent with EPA's Emission Trading Policy as published in the December 4, 1986 Federal Register instead of having each coating line comply with the emission VOC content limitations prescribed contained in subsection (d) of this Section 252:100-39-46(d),

provided if the following conditions are met:

~~(1)~~ (A) The owner or operator demonstrates, ~~by means of approved material balance or manual emission test methods,~~ by the methods prescribed in 252:100-5-2.1(d) that sufficient reductions in ~~organic solvent~~ VOC emissions may be obtained by controlling other ~~facilities~~ sources within the plant to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be made ~~described~~ in writing and shall include:

~~(A)~~ (i) a complete description of the coating line or lines ~~which that~~ will not comply with the ~~emission~~ VOC content limitation in 252:100-39-46(d);

~~(B)~~ (ii) quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, which are in excess of the prescribed ~~emission~~ VOC content limitation for each coating line described in ~~252:100-39-46(d)~~ 252:100-39-46(j)(A)(i);

~~(C)~~ (iii) a complete description of each ~~facility and the related control system, if any, for these facilities within the plant where~~ how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described in ~~252:100-39-46(d)~~ 252:100-39-46(j)(A)(i) and the date on which such reduction will be achieved;

~~(D)~~ (iv) a transfer efficiency based on a 60 percent baseline with emissions expressed in pounds of VOC per gallon of solids when transfer efficiency is used to compensate for excess emissions from spray painting operations, the transfer efficiency shall be based on a 60 percent baseline, with emissions expressed in pounds of solvent per gallon of solids. Credits for improvements in transfer efficiency shall be demonstrated with in plant testing which complies with approved EPA methods.;

(v) a demonstration of credits for improvements in transfer efficiency with in plant testing that complies with EPA methods.

~~(E)~~ (vi) quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, for each source both before and after the improvement or installation of any applicable control system, or any physical or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

~~(F)~~ (vii) a description of the procedures and methods used to determine the emissions of ~~organic solvents~~ VOCs.

~~(2)~~ (B) The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan as described in the Emissions Trading Policy may include voluntary decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to ~~facilities~~ emission

units, including permanently reduced production or closing a facility, located on the premises of a surface-coating operation.

~~(3)~~(2) Compliance with a plant-wide emission plan. The implementation of a plant-wide emission reduction plan instead of compliance with the emissions VOC content limitation prescribed in 252:100-39-46(d) has been expressly approved by the Executive Director and the EPA Administrator. Upon approval of a plan, any emissions in excess of those established for each facility under the plan shall be a violation of these rules.

(k) Compliance, testing, and monitoring requirements.

(1) The Executive Division Director may require the owner/operator owner or operator of a source to demonstrate at his expense, compliance with the emission limits using EPA Methods 24, 24A, 1-4, 25, 25A, 25B in 40 CFR 60.444 or EPA Document 450/3-84-019. At a minimum, such test must show that the overall capture efficiency and destruction efficiency are equal to 85 percent, (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). The one hour bake option in Method 24 is required when doing compliance testing.

(2) Testing for plant-wide emission plans shall be conducted by the owner/operator owner or operator at his expense to demonstrate compliance with the emission VOC content limits contained in 252:100-39-46(d).

(3) Monitoring shall be required of any owner/operator owner or operator subject to this Section who uses add-on control equipment for compliance. Such monitoring shall include:

~~(A)~~ installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(i)~~(A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;

~~(ii)~~(B) the total amount of volatile organic substances VOCs recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,

~~(iii)~~(C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance emissions during such activities;

~~(B)~~ maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k)(3)(A)(i); and, [NOTE: Moved to 252:100-39-46(1).]

~~(C)~~ maintenance of all records at the affected facility for at least two years and make such records available to representative of the State or local air pollution control agency upon request. [NOTE: Moved to 252:100-39-46(1).]

(1) Reporting and recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon

~~written request, reports detailing specific VOS sources; the quantity of coatings used for a specific time period, VOS content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOS emissions. The data necessary to supply the requested information shall be retained by the owner/operator for a minimum of two years.~~

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports detailing specific VOC sources; the quantity of coatings used for a specific time period, VOC content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOC emissions. The data necessary to supply the requested information shall be retained by the owner or operator for a minimum of two years.

(2) The owner or operator of a facility subject to this Sections shall maintain records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k), as well as all other records for at least two years. These records shall be available to representatives of the DEQ upon request.

(m) Compliance date. The date of compliance with the requirements of this Section will be is December 31, 1990.

252:100-39-47. Control of ~~VOS~~VOC emissions from aerospace industries coatings operations

(a) Applicability.

(1) This Section applies to all aerospace facilities located in Tulsa County. Sources once subject to this Section are always subject.

(2) This Section does not apply to individual coating formulations ~~which~~that, when aggregated, do not exceed fifty-five (55) gallons per year for the facility.

~~(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in OAC 252:100-7 and will be submitted to EPA as source-specific SIP revision, unless:~~

~~(A) the new coatings meet the presumption norm (3.5 pound VOS per gallon less water and exempt solvents limit); or,~~

~~(B) the total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation.~~

[NOTE: Moved to 252:100-39-47(d)(7)(B).]

~~(4)~~(3) Exemptions to this Section shall be permitted for combined emissions at one site/facility which do not exceed a ~~ten~~ten per year emission cut off based on the Facilities with a potential of the facility to emit 10 tons/year or less of VOS VOC from coatings operations are exempt from this Section.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise-

(1) "Aerospace" means the industries, air bases and depots that design and manufacture aircraft or military equipment components for either commercial or military customers.

(2) "Aircraft" means any machine designed to travel through the earth's atmosphere. This group includes but is not limited to airplanes, balloons, dirigibles, drones, helicopters, missiles, and rockets.

(3) "~~Alternate~~ reasonable ~~reasonably~~ available control technology (ARACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility as determined on a case-by-case basis.

(4) "Coating" means a material which covers a surface which alters the surface characteristics and from which ~~Volatile Organic Solvents~~ VOCs can be emitted during the application and/or curing process.

(5) "CTG" means the Control Guidance Document "Control of Volatile Organic Emissions From Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," EPA No. 450/2-78-015.

(6) "Facility" means all of the pollutant-emitting activities ~~which~~ that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.

(7) "~~Low organic solvent~~ VOC coating (~~LOSE~~) (LVOCC)" means a coating ~~which~~ that ~~contains~~ contains less ~~organic solvent~~ VOC than the conventional coatings used by the industry. Low ~~organic solvent~~ VOC coatings include waterborne, higher solids, electrodeposition, and powder coatings.

(8) "~~Reasonable~~ Reasonably available control technology (RACT)" means ~~the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility~~ and the need to impose such controls to attain and maintain a National Ambient Air Quality Standard.

(c) ~~General requirements. All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). Said plan, upon approval, shall constitute the determination of ARACT for that particular facility. ARACT must be installed and operating as approved in the plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan. Provided, however, that in the case that Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification.~~

(1) All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). This plan, upon approval, shall constitute the determination of ARACT for that particular facility.

(2) ARACT must be installed and operating as approved provided in the approved plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan.

~~(3) If Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification. [NOTE: (3) was deleted because the 5 year period ended 1/1/96 and Tulsa was not and is not in nonattainment.]~~

(d) Emissions reduction plan.

(1) Plan development. Each owner/operator shall develop an emissions reduction plan for all affected facilities. Each plan shall include the following:

~~(A) a detailed, reasoned and exhaustive review of:~~

~~(i) each source of emissions within the facility and~~

~~(ii) (2) the entire plant collectively;~~

(A) a detailed, reasoned and exhaustive review of each source of emissions within the facility and the entire plant collectively;

(B) identification and quantification of emissions, in terms of pounds per day, of all organic solvents/VOC both before and after the application of ARACT;

(C) a detailed, innovative engineering effort directed toward finding alternative air management schemes that can be incorporated in order to abate emissions at costs which are reasonable;

(D) a consideration of the level of control that is achievable using available alternative coatings, to include LVOCC for every application, low organic solvent coatings (LOSC);

~~(E) a consideration of the level of control achievable using available add on control devices. This demonstration shall include, at a minimum, a demonstration of the feasibility/infeasibility of the following control options:~~

~~(i) carbon absorption;~~

~~(ii) incineration/flaring;~~

~~(iii) condensation; and~~

~~(iv) a combination of 252:100 39 47(d) (1) (E) (i) and 252:100 39 47(d) (1) (E) (ii).~~

(E) a demonstration of the level of control achievable using available add-on control devices which shall include, at a minimum, the feasibility/infeasibility of carbon adsorption, incineration/flaring, condensation, and a combination of carbon adsorption and incineration/flaring;

~~(F) a consideration of facility redesign, including the following:~~

~~(i) recirculation;~~

~~(ii) reduced air flows;~~

~~(iii) consolidation of spray operations; and,~~

~~(iv) installation of common control devices for two or more separate coatings operations.~~

(F) a consideration of facility redesign, including recirculation, reduced air flows, consolidation of spray operations, and installation of common control devices for two or more separate coating operations;

~~(G) a consideration of alternative applications, to improve~~

~~transfer efficiency, including:~~

- ~~(i) high volume low pressure spray equipment;~~
- ~~(ii) heated spray guns; and,~~
- ~~(iii) electrostatic spray equipment/powder coatings.~~

(G) a consideration of alternative applications, to improve transfer efficiency, including high-volume-low-pressure spray equipment, heated spray guns, and electrostatic spray equipment/powder coatings;

(H) an explanation why each source is not a typical coating source covered by the CTG as defined in 252:100-39-47(b);

(I) a cost/benefit analysis for all control technology considered; and,

(J) a detailed compliance schedule ~~which~~that includes the emission limit and/or control techniques for each emission source. ~~This schedule, which~~ together with other relevant considerations, shall be set forth in a separate section of the plan ~~which~~that summarizes and outlines ARACT for the referenced facility.

(2) Submission of emission reduction plans. ~~Upon completion,~~ ~~the~~The emissions reduction plan shall be submitted in triplicate to the Air Quality Division. The preparer shall also submit a copy of the plan to ~~Region VI Environmental Protection Agency (EPA)~~EPA, Region VI.

(3) Action on plan. Within 30 days of submittal, or of the ~~effective date of this Section~~ May 25, 1990, whichever is later, the Air Quality Division shall, considering any comments submitted by EPA, either approve, modify or disapprove the plan.

(4) Public hearing. The Division shall, at the first meeting of the Air Quality Council following the approval, modification, or disapproval of the plan, present at public hearing, the staff's findings and ARACT determination. ~~Upon consideration of comments and recommendations from the Council, the owner/operator of the affected facility, the public and EPA, the Department shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility. The owner/operator shall be responsible for installation and operational provisions of the approved ARACT, including any specific provisions set forth therein. Any violation of the plan or of its provisions shall constitute a violation of this Section.~~

(5) Final approval. Upon consideration of comments and recommendations from the Council, the owner or operator of the affected facility, the public, and EPA, the DEQ shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility.

(6) Compliance. The owner or operator shall be responsible for installation and operational provisions of the approved ARACT. Any violation of the plan or of its provisions shall constitute a violation of this Section.

~~(5)~~(7) Submission of SIP revision.

(A) Upon approval by the ~~Department~~DEQ, the ARACT

determination shall be submitted to EPA as a SIP revision.

(*B)) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in 252:100-7 or 252:100-8, and will be submitted to EPA as source-specific SIP revision, unless one of the following applies.

(i) The new coatings meet the presumptive norm of 3.5 pound VOC per gallon less water and exempt compounds.

(ii) The total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation. [NOTE: Was 252:100-39-47(a)(3).]

(e) Reporting and recordkeeping.

(1) Recordkeeping requirements. The ~~owner/operator~~owner or operator shall maintain the following:

(A) a material data sheet which documents the volatile organic solventVOC content, composition, solids content, solventVOC density and other relevant information regarding each coating and solventVOC available for use in the affected surface coating processes; ~~information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits. Information as to the amounts of each type coating used and the amounts of solvents used for dilution in each coating type shall be maintained for each coating operation. Daily usage records will be kept for all coatings used that do not comply with the applicable control limits specified in the plan;~~

(B) information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits;

(C) information as to the amounts of each type coating used and the amounts of VOC used for dilution in each coating type for each coating operation;

(D) daily usage records for all coatings used that do not comply with the applicable control limits specified in the plan; and,

~~(B)(E)~~ records shall be maintained of any monitoring and testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f)_i.

~~(C)(2)~~ Method of calculating VOC content in coatings. ~~records~~ Records required by 252:100-39-47(e)(1)(A) and ~~252:100-39-47(e)(1)(B) through 252:100-39-47(e)(1)(E)~~ detailing ~~VOC~~VOC in pounds per gallon of coating (less water and exempt compounds) shall be calculated as follows:

$$\text{VOC in lbs/gal of coating} = \frac{W_v - W_x - W_e}{V_m - V_w - V_x}$$

where: W_v = weight of all volatiles_i

W_w = weight of water_i

W_x = weight of exempt solvent compounds_i

V_m = 1 (one)_i

V_w = volume fraction of water_i; and,

Vx = volume fraction of exempt solvent compounds.

~~(D)~~ (3) Maintenance of records. ~~records~~ Records required by 252:100-39-47(e)(1)(A) and ~~252:100-39-47(e)(1)(B)~~ through 252:100-39-47(e)(1)(E) shall be maintained for at least two years and shall be made available upon written request by representatives of the ~~Air Quality Division, AOD~~ U.S. Environmental Protection Agency or EPA or the Tulsa City County Health Department.

~~(2)~~ (4) Alternative recordkeeping provision. Alternatively to 252:100-39-47(e)(1) through 252:100-39-47(e)(3), an equivalent recordkeeping provision ~~which~~ that satisfies the substantive requirements of 252:100-39-47(e)(1) through 252:10-39-47(e)(3) may be approved under the plan.

(f) Testing and monitoring.

(1) Testing. Each ~~owner/operator~~ owner or operator shall, upon a determination by the Air Quality Division that testing is required to establish emission from any particular source or sources, conduct such tests at his own expense. Test methods may include 1-4, 18, 24, 24A, 25A, 25B found in the Appendix A of 40 CFR Part 60, including the procedures found at 40 CFR 60.444.

(2) Monitoring. Monitoring shall be required of any ~~owner/operator~~ owner or operator ~~subject to this section~~ who uses add-on control equipment for compliance. Such monitoring shall ~~include~~ accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(A) installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:~~

~~(i) (A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;~~

~~(ii) (B) the total amount of volatile organic substances VOCs recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,~~

~~(iii) (C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance VOC emissions during such activities.~~

~~(B) maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f)(2)(A)(i); and,~~

~~(C) maintenance of all records at the affected facility for at least two years and make such records available to representatives of the State or local air pollution control agencies upon request. (252:100-39-47 Effective May 25, 1990)~~

[NOTE: 252:100-39-47(f)(2)(B) and (C) are covered in 252:100-39-47(e)(1)(E) and 252:100-39-47(e)(3).]

~~252:100-39-48. Vapor recovery systems [NOTE: This section has been combined with 252:100-39-41 as 252:100-39-41(e).]~~

~~(a) Applicability. This Section applies only in Tulsa County. [NOTE: Moved to 252:100-39-41(e)(1).]~~

~~(b) Storage of volatile organic compounds — 400-40,000 gallons (9.5-953 bbls).~~

~~(1) No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a submerged fill pipe or is bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compounds contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum. [NOTE: The last sentence of 252:100-39-48(b)(1) was moved to 252:100-39-41(e)(2)(A). The rest of 252:100-39-48(b)(1) was deleted since it repeats material already in 252:100-39-41.]~~

~~(2) The vapor recovery system shall include one or more of the following:~~

~~(A) a vapor tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds can be transferred into the container (i.e., popped connectors from the storage container to the delivery vessel.);~~

~~(B) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole;~~

~~(C) the cross sectional area of the vapor recovery line must be at least half of the cross sectional area of the liquid delivery line, or;~~

~~(D) instead 252:100-39-48(b)(2)(A) through 252:100-39-48(b)(2)(C), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Executive Director prior to start of construction. [NOTE: 252:100-39-48(b)(2) was moved to 252:100-39-41(e)(2)(A).]~~

~~(3) Exemptions to this Section may be granted provided the owner/operator shows to the satisfaction of the appropriate authority that the container is used exclusively for~~

~~agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less. [NOTE: Moved to 252:100-39-41(e)(2)(B)(ii).]~~

~~(4) The applicability of this Section shall be determined by the most restrictive of the 2,000 gallon tank size as specified in 252:100-39-48(b)(1) or the 120,000 gallon annual throughput described in 252:100-39-48(b)(3). However, once a facility places a 2,000 gallon tank in service or exceeds the 120,000 gallon annual throughput described in 252:100-39-48(b)(3), that facility shall always be subject to the provisions of this Section. (effective February 12, 1990) [NOTE: Moved to 252:100-39-41(e)(2)(B)(ii).]~~

~~(5) If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized. [NOTE: Moved to 252:100-39-41(e)(2)(C).]~~

~~(6) Compliance with this subsection will be accomplished by affected owner/operator by December 31, 1986. [NOTE: Moved to 252:100-39-41(e)(2)(D).]~~

~~(7) The owner/operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds made to their facility or facilities located in Tulsa County, shall be made by vessels which comply with the requirements contained in 252:100-39-48(d). Compliance with this Section shall be accomplished by affected owner/operators no later than December 31, 1990. (Effective February 12, 1990) [NOTE: Moved to 252:100-39-41(e)(2)(E).]~~

~~(c) Loading of volatile organic compounds. [NOTE: This subsection was moved in part to 252:100-39-41(e)(3).]~~

~~(1) No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound loading facility unless such loading facility is equipped with a vapor collection and/or disposal system properly installed, in good working order and in operation.~~

~~(2) When volatile organic compounds are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor tight seal at the hatch.~~

~~(3) A means shall be provided to prevent organic material drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.~~

~~(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor tight connections and which close automatically when disconnected.~~

~~(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels:~~

~~(A) an absorption/adsorption system or condensation system~~

- ~~with a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound vapors and gases entering such disposal system;~~
- ~~(B) a vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent; or,~~
- ~~(C) other equipment of at least 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39 48(e) (5) (A) through 252:100 39 48(e) (5) (C) if they are designed to prevent the release of vapors during use.~~
- ~~(6) Subsection 252:100 39 48(e) shall apply to any facility which loads volatile organic compounds into any transport vessel designed for transporting volatile organic compounds. [NOTE: 252:100-39-48(c) (1) through (6) was deleted since this material is already contained in 252:100-39-41(c).]~~
- ~~(7) Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for two years. [NOTE: Moved to 252:100-39-41(e) (3).]~~
- ~~(d) Transport/delivery vessel requirements.~~
- ~~(1) Maintenance.~~
- ~~(A) The delivery vessel must be maintained so as to be vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.~~
- ~~(B) The delivery vessel must be equipped, maintained and operated to receive vapors from sources identified in 252:100-39 41(b) (1) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.~~
- ~~(C) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which would impair the vessels ability to retain vapors or liquid shall be repaired within 5 days.~~
- ~~(D) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100 39 48(d) (2) (A) (i). The vessel must also display on the rear panel a tag showing the date of the pressure test.~~
- ~~(E) No owner/operator will allow a delivery vessel to be filled at a facility unable to receive displaced organic vapors nor service tanks unable to deliver displaced vapors except for tanks/facilities exempted in 252:100 39 41(b). Terminal owners shall not fill vessels which do not display a current tag.~~
- ~~(F) Delivery vessels may be inspected by representatives of the appropriate health agency in order to determine their state of repair. Such a test may consist of a visual~~

~~inspection, a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner/operator to effect the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days the vessel will be removed from service by the owner/operator. Failure to certify that the cited repairs have been effected will subject the vessel to sanctions. Upon certification of repairs the vessel will be allowed to operate in a normal manner.~~

~~(2) Testing requirements.~~

~~(A) Pressure test.~~

~~(i) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Executive Director.~~

~~(ii) The vessel will be considered to pass the test prescribed in 252:100-39-48(d)(2)(A)(i) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O in addition there shall be no avoidable visible liquid leaks.~~

~~(B) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(d)(1)(F) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-48 will become effective December 15, 1988. [NOTE: 252:100-39-48(d) was moved to 252:100-39-41(e)(4).]~~

252:100-39-49. Manufacturing of fiberglass reinforced plastic products

~~(a) General provisions. Within 12 months after promulgation of this Section all affected facilities shall limit emissions of VOS from fiberglass manufacturing to those listed in 252:100-39-49(a)(1), or have an approved plan for the reduction of such emissions. The plan must be submitted to the Executive Director within 6 months after promulgation of this Section, and shall detail those emissions which will be controlled, the means by which control will be achieved and will demonstrate that compliance will be achieved within two years from the date of promulgation of this Section. The approval authority for such plans shall reside with the Air Quality Council. All approved plans shall be submitted as SIP revisions.~~

~~(1) Compliance with 252:100-39-49(a) shall be accomplished by~~

~~use of control equipment which can demonstrate an 85 percent reduction in the VOS released from each process gas stream, e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency.~~

~~(2) Exemptions to the limits listed in 252:100-39-49(a)(1) may be allowed for any process gas stream which does not exceed six tons per year actual emissions based on 6240 hours per year. However, once this limit is exceeded, controls must be put in place and maintained at any operating level.~~

~~(b) Demonstration of compliance. The Executive Director may require the owner/operator of a source to demonstrate at his expense, compliance with the prescribed emissions limits. The testing shall be accomplished using the appropriate EPA test method or methods, these include methods 1, 4, 18, 25, 25A, 25B and 40 CFR 60.444. Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.~~

~~(c) Testing. Testing for the alternate emissions plan shall be conducted by the owner/operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.~~

~~(d) Recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request reports detailing specific VOS sources, the quantity of solvents used during specific months, a description of the solvent used, control equipment efficiencies, equipment downtime and any other information pertinent to the calculation of VOS emissions from the facility. The owner/operator must also maintain records which detail the maintenance performed on all control equipment as well as a record of the downtime with the reason for each occurrence. Such records shall be maintained by the source for a minimum of two years. (252:100-39-49, Effective February 12, 1990)~~

(a) Applicability.

(1) This Section applies to any process gas stream with actual VOC emissions that exceed six tons per year based on 6,240 hours of operation per year.

(2) Once the limit in 242:100-39-49(a)(1) is exceeded, the controls required in 252:100-39-49(b) must be put in place and maintained and used at any operating level. [NOTE: This subsection was 252:100-39-49(a)(2).]

(b) Standards. Affected facilities shall limit emissions of VOC from fiberglass manufacturing by use of control equipment which can demonstrate an 85 percent reduction in the VOC released from each process stream (e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). [NOTE: This was 252:100-39-49(a)(1).]

(c) Compliance. All affected facilities must comply with one of the following.

(1) Meet the requirements of 252:100-39-49(b) by February 13, 1991.

(2) Have an approved plan for the reduction of VOC emissions as required by 252:100-39-49(b) by February 13, 1991.

(A) The plan shall be submitted by August 13, 1990, and

shall:

- (i) detail those emissions which will be controlled;
- (ii) detail the means by which control will be achieved;
- and,
- (iii) demonstrate that compliance will be achieved by February 13, 1992.

(B) The Air Quality Council shall have approval authority for the plans.

(C) All approved plans shall be submitted to the EPA as SIP revisions. [NOTE: This was 252:100-39-49(a).] [NOTE: Missing dates will be supplied.]

(d) Demonstration of compliance.

(1) The Division Director may require an owner or operator of a source to demonstrate at his expense, compliance with the requirements of 252:100-39-49(b).

(2) The testing shall be accomplished using the appropriate EPA test method or methods. These include methods 1-4, 18-25, 25A, 25B and 40 CFR 50.444.

(3) Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.

(4) Testing for the emissions plan described in 252:100-39-49(c)(2) shall be conducted by the owner or operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan. [NOTE: 252:100-39-49(d)(1) through (3) was 252:100-39-49(b) and 252:100-39-49(d)(4) was 252:100-39-49(c).]

(e) Recordkeeping.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports that include:

(A) details of specific VOC sources;

(B) the quantity of VOC used during specific months;

(C) a description of the VOC used;

(D) control equipment efficiencies;

(E) details of maintenance performed on all control equipment;

(F) equipment downtime; and,

(G) any other information pertinent to the calculation of VOC emissions from the facility.

(2) The records required in 252:100-39-49(e)(1) shall be maintained by the source for at least two years. [252:100-390-49, Effective February 12, 1990] [NOTE: This was 252:100-39-49(d).]

LIST OF ORGANIC COMPOUNDS WITH NEGLIGIBLE
PHOTOCHEMICAL REACTIVITY

40 CFR 51.100(s)(1) as it existed on July 1, 1998
From the Federal Register dated 4/9/98

Sec. 51.100 Definitions.

(s) Volatile organic compounds (VOC)

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
ethane;
methylene chloride (dichloromethane);
1,1,1-trichloroethane (methyl chloroform);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
chlorodifluoromethane (HCFC-22);
trifluoromethane (HFC-23);
1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1-dichloro 1-fluoroethane (HCFC-141b);
1-chloro 1,1-difluoroethane (HCFC-142b);
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
pentafluoroethane (HFC-125);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trifluoroethane (HFC-143a);
1,1-difluoroethane (HFC-152a);
parachlorobenzotrifluoride (PCBTF);
cyclic, branched, or linear completely methylated siloxanes;
acetone;
perchloroethylene (tetrachloroethylene);
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
difluoromethane (HFC-32);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);

chlorofluoromethane (HCFC-31);
1 chloro-1-fluoroethane (HCFC-151a);
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
(CF₃)₂CFCH₂OCH₃);
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane
(CF₃)₂CFCH₂OC₂H₅);
methyl acetate

and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

SUMMATION AND EXPLANATION OF THE PROPOSED
REVISIONS TO SUBCHAPTER 39

The proposed revisions to Subchapter 39 are the result of the DEQ program to simplify, clarify and correct all its rules. Unless otherwise noted no substantive changes are intended in the following revisions. *The substantive changes are summarized in Section III of this document.*

- I. Staff proposes to revise the title of the subchapter to make it clear that it applies to sources that are located not only in ozone nonattainment areas, but also in areas that were previously designated as nonattainment for ozone.
- II. Revisions made throughout the Subchapter
 - A. Revisions in terminology
 1. Environmental Protection Agency has been replaced by EPA - simplification
 2. Executive Director has been replaced, in most cases, by Division Director - clarification
 3. Organic material has been replaced by VOC - simplification
 4. Organic solvent has been replaced by VOC - simplification
 5. When appropriate hydrocarbon has been replaced by VOC - simplification
 6. Volatile organic compound (VOC) has been replaced by VOC - simplification
 7. Photochemical oxidants has been replaced by ozone - clarification
 8. Tank has been replaced by vessel - consistency in terminology
 9. Person has been replaced by owner or operator - clarification
 - B. Revised or deleted language
 1. "or permit the building or installation of" has been deleted throughout the rule - simplification and clarification
 2. Unless otherwise noted herein, changes in language were for simplification, clarification, correction of grammar, or consistency of format
- III. Only five of the revisions proposed by the staff are intended to be substantive. These are:
 - A. the revision of the definition of "Volatile organic compound (VOC) in 252:100-39-2;
 - B. the clarification in 252:100-39-3 that Subchapter 39 applies not only to Tulsa and Oklahoma Counties, but to any other areas that may be designated nonattainment for ozone;
 - C. the deadline of 60 days for a refinery located in an area that becomes nonattainment for ozone to submit a written monitoring program required in 252:100-39-15(d);
 - D. the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b); and
 - E. the addition of a minimum annual throughput of 120,0000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c).
- IV. PART 1. GENERAL PROVISIONS
 - A. 252:100-39-1. Purpose. The proposed revisions are to set forth as clearly as possible the purpose of the rule. and to make it clear that the rule also applies to sources located in areas that were previously designated as nonattainment for ozone.

B. 252:100-39-2. Definitions..

1. The staff proposes to delete the definition of REFINERY since this term is not used in Subchapter 39.
2. Staff proposes to move the definition of CUTBACK ASPHALT to 252:100-39-40(a) and the definition of EFFLUENT WATER SEPARATOR to 252:100-39-18(a). These terms appear only in those sections.
3. The staff proposes to revise the definition OF VOLATILE ORGANIC COMPOUND (VOC) to be consistent with the EPA definition and to incorporate 40 CFR 51.100(s)(1) by reference. 40 CFR 51.100 contains the list of organic compounds that EPA has designated as having negligible photochemical reactivity and therefore has excluded from the definition of VOC.
 - ◆ This is part of the simplification process. What EPA classifies as VOC has been classified as organic material in Chapter 100 and divided into VOC, organic solvents, and volatile organic solvents. The Chapter contains two definitions of VOC, two definitions of organic solvents., and a definition of volatile organic solvent (VOS). The staff feels having one definition of VOC that is consistent with the EPA definition will simplify the Chapter as well as Subchapter 39.
 - ◆ Ozone is the NAAQS pollutant of concern in Subchapter 39. The rule provides for control of ozone by controlling the emissions of ozone precursors - photochemically reactive organic compounds. The proposed revision of the definition of VOC reflects this purpose.
 - ◆ A petition from the Chemical Manufacturers Association to exclude acetone from the definition of VOC was presented to the Air Quality Council at the meeting of December 19, 1995. The Council directed the staff to give consideration to this petition. Subsequent to this event, other requests have been received requesting that perchloroethylene and methylated siloxanes also be excluded from the definition of VOC. The proposed revision of VOC excludes these three compounds since they have been designated by EPA as having negligible photochemical reactivity.
 - ◆ **THE REVISION MAY RESULT IN SOME SUBSTANTIVE CHANGES**, although care has been taken throughout the rest of the Subchapter to minimize any such substantive changes that may result from the revised definition of VOC.
4. Staff proposes to delete the definitions of ORGANIC MATERIALS AND VOLATILE ORGANIC SOLVENT (VOS) as part of the simplification process. These terms will no longer be used in Chapter 100.
5. Staff proposes to move the definitions of PETROLEUM REFINERY from 252:100-39-15(a)(4) and REFINERY UNIT from 252:100-39-15(a)(5) to 252:100-39-2 because these terms are used in more than one section in this Subchapter.

- C. 252:100-39-3. General applicability.** Proposed revisions to this section make clear that the requirements of Subchapter 39 apply not only in Tulsa and Oklahoma Counties, but in any other areas that may be designated as nonattainment for ozone. **THIS IS A SUBSTANTIVE CHANGE.**

- D. **252:100-39-4. Exceptions.** The addition of this section prevents substantive changes due to the new definition of VOC and the use of the term VOC in place of VOS. This revision insures that those sections of Subchapter 39 which previously applied only to VOCs with vapor pressure of 1.5 psia or greater continue to apply only to VOCs with vapor pressure of 1.5 psia or greater.

V. PART 3. PETROLEUM REFINERY OPERATIONS

A. **252:100-39-15. Petroleum refinery equipment leaks**

1. (a) **Definitions.** Staff proposes to add a definition for LEAKING COMPONENT. This language was in 252:100-39-15(c)(1)(C).
 2. (b) **Applicability.** Staff proposes to add paragraph (2) to exempt VOCs with vapor pressures less than 0.0435 psia under actual storage conditions from the requirements of Section 15. This exemption prevents a substantive change in this Section due to the revised definition of VOC.
 3. (c) **Provisions for specific processes.** Staff proposes to rename the subsection "Standards and operating requirements" to better reflect its content..
 4. (d) **Compliance schedule.** Staff proposes to add language that will require a refinery located in an area that becomes nonattainment for ozone to submit a written monitoring program within 60 days of the date the area is designated as nonattainment. This is part of the attempt to make Subchapter 39 applicable to new ozone nonattainment areas. **THIS IS A SUBSTANTIVE CHANGE.**
- B. **252:100-39-16. Refinery process unit turnaround,** Staff proposes to change this to "Petroleum refinery process unit turnaround" for clarity. The proposed revision to 252:100-39-16(b)(4) make it clear which months are included in the non-oxidant season.
- C. **252:100-39-17. Refinery vacuum producing system.** Staff proposes to change the title to "Petroleum refinery vacuum producing system" for consistency.
- D. **252:100-39-18. Refinery effluent water separators.** Staff proposes to change this to "Petroleum refinery effluent water separators" for consistency.

VI. PART V. PETROLEUM PROCESSING AND STORAGE

A. **252:100-39-30. Petroleum liquid storage in external floating roof tanks** Staff proposes to change this to "Petroleum liquid storage in vessels with external floating roofs" for consistency in terminology.

1. (a) **Definitions.** The proposed revisions to the definitions OF EXTERNALLY FLOATING ROOF, LEASE CUSTODY TRANSFER, and VAPOR-MOUNTED SEAL are to correct errors and replace the term tanks with vessels for consistency in terminology.
2. (b) **Applicability** Staff proposes to correct the placement of "prior to lease custody transfer" in 252:100-39-30(b). This phrase was located in paragraph (2) and was, therefore, applicable to all the exemptions listed in that paragraph. Research in the Air Quality Council records and in the Control Technology Guideline, Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450/2-78-047, indicates that this phrase should apply only to 252:100-39-30(b)(2)(B). Staff proposes moving this phrase to 252:100-39-30(b)(2)(B). **THIS IS A SUBSTANTIVE CHANGE.**

3. **(c) Provisions for specific processes.** Staff proposes to rename this subsection "Equipment and operating requirements" to better reflect its contents and to add taglines to each paragraph in the subsection.

VII. (d) Compliance schedule. The proposed revision to this subsection replaces the compliance deadline with a date certain.

PART 7. SPECIFIC OPERATIONS

- A. **252:100-39-40. Cutback asphalt (paving).** Staff proposes to add taglines to subsections (a) and (b) and to clarify which months are included in the non-oxidant season.
- B. **252:100-39-41. Vapor recovery systems.** Staff proposes to rename this section "Storage, loading and transport/delivery of VOCs" to better reflect its contents.
1. (a) **Storage of volatile organic compounds - greater than 40,000 gallons (953 bbls).** Staff proposes to rename this subsection "Storage of VOCs in vessels with storage capacities greater than 40,000 gallons."
 2. (b) **Storage of volatile organic compounds - 400-40,000 gallons (9.5-953 bbls).** Staff proposes to rename this subsection "Storage of VOCs in vessels with storage capacities of 400-40,000 gallons."
 3. (c) **Loading of volatile organic compounds.** Staff proposes to rename this subsection **Loading of VOCs.** Staff proposes to add a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons in paragraph (1) for determining applicability of this subsection. **THIS IS A SUBSTANTIVE CHANGE.**
 4. (e) **Additional requirements for Tulsa County.** Staff proposes to add the requirements in 252:100-39-48 that apply only to Tulsa County and that are not already included in 252:100-39-41 to this subsection and delete 252:100-39-48. This will simplify the rule by putting all the requirements regarding storage, loading, transport/delivery of VOCs in one Section. The proposed revision will also eliminate the necessity for two Sections with the same title in Subchapter 39.
- C. **252:100-39-44. Manufacture of pneumatic rubber tires.** Staff proposes to delete paragraph (4) since the provision for alternative controls was not used prior to the deadline of September 15, 1981, for submitting a petition to the DEQ.
- D. **252:100-39-46. Coating of parts and products.**
1. (f) **Emission limit.** Staff proposes to rename this section "Compliance" to better reflect its contents. Staff proposes to move the first sentence of this subsection to 252:100-39p46(d) for simplification and clarification.
 2. (j) **Emission plan. (1) Development of a plant-wide emission plan.** The term "voluntary" was added to subparagraph (B) in describing the types of decreases that could be included in a plant-wide reduction plan. This is to make clear that even if a reduction is part of a permit, if it was a voluntary reduction and has not been relied on to meet or avoid some other requirement, it can be used in the plant-wide reduction plan.
 3. (k) **Compliance.** Staff proposes to change the title to "Compliance, testing, and monitoring requirements" to better reflect the contents of the subsection. Staff proposes to move 252:100-39-46(k)(3)(B) and (C) regarding maintenance of records to 252:100-39-46(l), Reporting and recordkeeping.
- E. **252:100-39-47. Control of VOS emissions from aerospace industries coating operations.** Proposed revision to the title is for consistency in terminology.
1. (a) **Applicability.** Staff proposes to move paragraph (3) to 252:100-39-46(d)(7)(B) as part of the simplification and clarification process.

2. (c) **General requirements.** Staff proposes to reformat this subsection for clarity and to delete the requirement for review of the Emission Reduction Plan and ARACT determination if Tulsa County is still in nonattainment for ozone within five years of the approval of ARACT. The five year period ended 1/1/96 and Tulsa was not at that time and is not in nonattainment for ozone.
 3. (d) **Emissions reduction plan.** The staff proposes to add taglines to each paragraph of this subsection for clarity.
 - ◆ (3) **Action on plan.** The proposed revision is to include the actual effective date.
 - ◆ (4) **Public hearing.** Staff proposes to divide paragraph (4) into three paragraphs for clarity.
 - ◆ (7) **Submission of SIP revision.** (7)(B) was moved from 252:100-39-47(A)(3) because this appears to be a more logical location for it.
 4. (f) **Testing and monitoring.** Staff proposes to add taglines for clarity. Subparagraphs (B) and (C), except for the effective date, were deleted because the information they contained is included in 252:100-39-47(e)(1)(E) and 252:100-39-47(e)(3).
- F. **252:100-39-48. Vapor recovery systems.** The portions of this section that were in addition to the requirements of 252:100-39-41 were moved to 252:100-39-41(e). Staff proposes to delete the remainder of the section because it is redundant language.

VIII. Manufacturing of fiberglass reinforced plastic products. It is proposed to reformat this section for clarity and consistency in formatting with the rest of the rule. Actual deadline dates have been inserted.

MINUTES

AIR QUALITY COUNCIL

AUGUST 18, 1998

Burgundy Room

4545 North Lincoln Boulevard

Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman

Sharon Myers

Fred Grosz

Gary Kilpatrick

Joel Wilson

David Branecky

Meribeth Slagell

Staff Present

David Dyke

Dennis Doughty

Scott Thomas

Barbara Hoffman

Ray Bishop

Linn Wainner

Michelle Martinez

Cheryl Bradley

Jeanette Buttram

Becky Mainord

Joyce Sheedy

Eddie Terrill

Myma Bruce

Guests Present

**see attached list

Council Members Absent

Larry Canter

PUBLIC MEETING

Notice of Public Meeting for August 18, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room and also at the DEQ Tower.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye. Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 16, 1998 Public Meeting/Hearings. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Wilson - aye; Mr. Branecky - aye; Ms. Slagell - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills [NEW]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley to give staff recommendations on this rule. Ms. Bradley advised that the rule was first considered by the Council on June 16, 1998 at which time the hearing was continued because EPA was in the process of amending the federal standards that are the basis for the draft rule. These amendments became effective August 17, 1998. Ms. Bradley stated that staff had made the revisions consistent with the amended federal regulations and addressed all comments received.

After discussion, Chairman Breisch entertained a motion to recommend adoption of this rule as emergency and permanent to the Environmental Quality Board at its September 15, 1998 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

State 111(d) Plan for Municipal Solid Waste Landfills

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Cheryl Bradley for staff position regarding this State Plan. Ms. Bradley pointed out the criteria for approval of a state plan and advised that Oklahoma's mechanism to implement this Plan is OAC252:100-47. Ms. Bradley related that although no Council action was necessary, the staff requests to hear comments from the Council members and the public regarding the State Plan.

See attached transcript.

PUBLIC HEARING

OAC 252:100 Air Pollution Control:

Appendix E, Primary Ambient Air Quality Standards [AMENDED]

Appendix F, Secondary Ambient Air Quality Standards [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who stated that the revisions to these appendices would be identical to the revised federal National Ambient Air Quality Standards (NAAQS) for particulate matter and ozone

announced by EPA in the July 18, 1997 *Federal Register*. Ms. Martinez pointed out that according to the Secretary of State's Rules on Rulemaking, an appendix cannot be amended; therefore, staff recommended that Council vote to revoke the old appendices and pass the new appendices as permanent.

After discussion, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality Board as a permanent rule at its September 15, 1998 meeting. Mr. Kilpatrick moved that Council revoke the existing rule and replace them with the new rules as presented. Second to the motion was made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out revisions made to date and advised that staff was recommending that the comment period be left open until August 24 after which staff would revise the rule based upon comments received from Council and public; and would bring again to the Council's October 20 meeting.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Ms. Slagell. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position on this rule. Ms. Buttram advised that the rule was presented to Council's June 16 meeting where changes to simplify and clarify the rule and to fulfill an EPA State Implementation Plan (SIP) requirement concerning Continuous Emission Monitoring (CEM) were proposed. Ms. Buttram advised that comments received have been addressed and incorporated into the current draft rule. Following discussion with new comments, staff

recommended that the hearing be continued on this rule to the October 20 meeting to allow time for further comments.

Mr. Breisch asked for a motion to continue the hearing. Mr. Wilson made the motion and Ms. Slagell made the second. Roll call was as follows: Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Kilpatrick – aye; Dr. Grosz – aye; Ms. Myers – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Becky Mainord who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out the changes made and stated that it was staff's recommendation to continue the hearing until Council's next meeting.

Following discussion, Mr. Breisch entertained a motion to continue this rule. Dr. Grosz made that motion with second made by Mr. Wilson. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that revisions were made to simplify the language according to the Agency's re-write/de-wrong initiative, the addition of a Permit By Rule section, and to add a new Appendix L which would include PM₁₀ emission factors for the Permit By Rule. Ms. Martinez pointed out that comments had been received and considered, and that staff's recommendation was to continue the hearing to the next meeting.

After discussion, Mr. Breisch entertained a motion to continue this rule to the Council's October 20, 1998 meeting. Ms. Myers made that motion with second made by Mr. Branecky. Roll call

as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the revisions are part of the Agency's re-write/de-wrong initiative and respond to industry requests to exempt acetone, perchloroethylene, and methylated siloxanes from being considered VOCs. She advised that staff held a workshop on July 7 requesting public input and comments. She said there are numerous changes to be made in language, format and with the three substantive changes, staff recommended that the rule be continued to the next meeting.

Mr. Breisch entertained a motion to continue this rule. Mr. Branecky made motion with second made by Mr. Kilpatrick. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that there were numerous revisions as part of the Agency's re-write/de-wrong initiative and also five substantive changes to be considered; therefore, staff would recommend that the hearing be continued.

Mr. Breisch entertained a motion to continue this rule to the Council's October 20 meeting. Dr. Grosz made that motion with second made by Mr. Branecky. Roll call as follows: Ms. Myers – aye; Dr. Grosz – aye; Mr. Kilpatrick – aye; Mr. Wilson – aye; Mr. Branecky – aye; Ms. Slagell – aye; Mr. Breisch – aye.

See attached transcript.

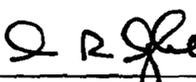
NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being October 20, 1998 at Tulsa City-County Health Department Auditorium, 5051 South 129th East, Tulsa, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

 10/20/98

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL



DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

AUGUST 18, 1998

SIGN IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Pat Davenport	National Std. 3602 N. Parkin Rd. Tulsa	
2. Bonnie McCall	Opden Martin 2122 S. Yukon Tulsa	5
3. Robert Edgington	ARMSTRONG ST. HURKES	405-377-
4. MUCK COLE	DEQ EPA DALLAS	214 66
5. SANDRA DENNIE	EPA DALLAS	214 665 7-
6. John Snow	5000 - HARVEY Yukon	
7. Flint Kufner	Bartlesville	918-336-
8. Kathy Purley	4608 S. Garnett, Ste 100 Tulsa	918-
9. Norey Simms	DEQ	
10. Greg Gorick	4600 S. Garnett Tulsa	918-641-
11. Dave Truitt	103 SW 4th Lawton OK 73501	580 561 34
12. GRANT HARBURGER	440 TERRACE Norman 73069	
13. Bruce Lucas	103 SW 4th Lawton OK 73501	580 581-3
14. Rebecca Kays	Kansas Pipeline Rt 2 Box 173 Pawnee OK, 918	
15. WILLIAM CLARK	P.O. Box 2039 TULSA, OK 74107	918-594-
16. Mike Wood	Hot Springs, AR	501-624-
17. Nancy Coleman	RSA, Norman	405 321 3-
18. Bill Diehl	MORILL, EDMOND	405-398-81
19. Kike Tamm	OGFA	580-233-580
20. John Wheeler	Trinity Consultants	(972) 661-8100
21. Steve Landers	Ft. James, Mex	918 683-
22. Gill Luten	"	"
23. Ruston Givens	"	"
24. Carol Baul	TAFB	736-7246
25. Andrew Livingston	Sinclair Oil Corp PO Box 970 Tulsa OK 74107	418-588-



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

NAME/AFFILIATION	ADDRESS	TIME
26. Bill Merrill	DEQ 12-11	EPI
27.		
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**BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL**

**Tuesday October 20, 1998 9:30 A.M.
Tulsa City-County Health Department Auditorium
5051 South 129 East --- Tulsa, Oklahoma**

1. **Call to Order – Bill Breisch**
2. **Division Director's Report**
Informational update of current events and AQD activities
 - A. Discussion by Council / Public
3. **CY99 Meeting Schedule**
 - A. Discussion by Council
4. **OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
5. **OAC 272:100-7 Permits [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
6. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]**
Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public

7. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – ~~Becky Mainard~~ *Michelle*
 - B. Questions and discussion by Council / Public

8. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public

9. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

10. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

11. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

October 5, 1998

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director ^{C.T.}
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 39

Enclosed is a copy of the proposed draft modifications to OAC 252:100-39, EMISSIONS OF ORGANIC MATERIALS IN NONATTAINMENT AREAS. These revisions were brought to the Air Quality Council for the first time on August 18, 1998. At that time the staff recommended that the rule be considered again at the October 20, 1998 Council meeting.

The proposed revisions primarily simplify and clarify language, correct grammar, and impose consistency in format on the rule without involving substantive changes. A number of small changes were made to the rule following the August 18, 1998, Council meeting. Only one of these additional changes is intended to be substantive in nature. Two substantive changes previously proposed have been deleted. The following substantive revisions to the rule are proposed.

1. The definition of "volatile organic compound (VOC)" in 252:100-37-2 has been revised. The new definition provides that any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity and will not be considered to be a VOC. Presently Chapter 100 divides what EPA classifies as "volatile organic compound (VOC)" into "volatile organic compound (VOC)," "organic solvents," and "volatile organic solvent (VOS)." The Chapter contains two definitions of VOC neither of which is consistent with the EPA definition; a definition of VOS that is almost exactly the same as the EPA definition of VOC, and two definitions of organic solvents. As part of the simplification process, the staff propose to have only one definition of VOC which will be consistent with the EPA definition, and to replace the terms "volatile organic solvent (VOS)" and "organic solvents" with "volatile organic compound (VOC)." This revision will also serve as a response to requests to exempt acetone, methylated siloxanes, perchloroethylene, and methyl acetate from being considered VOCs. These four substances are on the list in 40 CFR 51.100(s)(1) and, therefore, will not be considered to be VOCs.
2. The staff proposes to correct the placement of "prior to lease custody transfer" in 252:100-39-30(b). This phrase was located in paragraph (2) and was, therefore,

applicable to all the exemptions listed in that paragraph. Research in the Air Quality Council records and in the Control Technology Guideline, Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450/2-78-047, indicates that this phrase should apply only to 252:100-39-30(b)(2)(B). Staff recommends moving this phrase to 252:100-39-30(b)(2)(B).

3. 252:100-39-41(c), Loading of volatile organic compounds, currently has no provisions to exclude small loading facilities. The staff proposes to add language that will limit the requirements of this subsection to facilities that have a minimum annual throughput of 120,000 gallons or storage capacity greater than 10,000 gallons. Staff previously proposed a 2,000 gallon storage capacity, but further research indicates that a 10,000 gallon exemption should not result in significantly higher VOC emissions.

An informational meeting to discuss revisions to Subchapter 39 for the purpose of simplification, clarification, and correction of the rule was held on Tuesday, July 7, 1998 at the DEQ office. This meeting was open to the public. Comments made at the meeting were given consideration in the proposed draft enclosed with this memorandum.

In the process of revising Subchapter 39, definitions were changed, moved, and/or deleted. The staff intends to revise 252:100-1-3, Definitions, later in the process of the "rewrite/de-wrong" project. It is our intention to include in Subchapter 1 only those definitions that apply to more than one of the subchapters in Chapter 100. Definitions that apply to only one subchapter will be placed in that subchapter.

Staff will suggest that the proposed rule be recommended to the Board for permanent adoption.

In addition to the proposed draft revisions to Subchapter 39, a copy of 40 CFR 51.100(s)(1), a summation of the proposed revisions with explanations, and a list of the revisions that were made to the rule after the August 18, 1998 Air Quality Council meeting are also included in the packet.

Enclosures: 4

SUBCHAPTER 39. EMISSION OF VOLATILE ORGANIC MATERIALS COMPOUNDS (VOCs) IN NONATTAINMENT AREAS AND FORMER NON-ATTAINMENT AREAS

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[NOTE: Bracketed, italicized NOTES are for information only and are not part of the rule.]

PART 1. GENERAL PROVISIONS

252:100-39-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources located in nonattainment areas and to specify the additional control measures required to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration is prevented.~~ The purpose of this Subchapter is to prevent the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains requirements for the control of emissions of VOCs from stationary sources located in areas that are nonattainment or were formerly nonattainment for ozone.

252:100-39-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~ [NOTE: This definition was moved to 252:100-39-40(a) for consistency.]

~~"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.~~ [NOTE: Moved to 252:100-39-18(a).]

~~"Organic materials" means any chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives. [NOTE: Moved from 252:100-39-15(a)(4) since this term is used in other sections of Subchapter 39.]

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~ [NOTE: This term is not used in Subchapter 39. "Petroleum refinery" is the term used in Subchapter 39.]

"Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons. [NOTE: Moved from 252:100-39-15(a)(5) since this term is used in other sections of Subchapter 39.]

"Submerged fill pipe" means any fill pipe or discharge nozzle ~~which that~~ meets any one of the following conditions:

(A) ~~the~~The bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) ~~the~~The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) ~~the~~The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel ~~or~~.

~~(D) other equivalent methods acceptable to the Executive Director.~~ [NOTE: This is not part of the definition.]

"Volatile organic compound (VOC)" means any compound ~~containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.~~ Any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity.

[NOTE: This revision makes the AQD definition of VOC consistent with the EPA definition in 40 CFR 51.100(s) and complies with requests to exempt acetone, methylated siloxanes, perchloroethylene, and methyl acetate from being considered VOC (EPA's definition exempts these substances). It replaces the term "Volatile organic solvent (VOS)" since the definitions are essentially the same. It brings the AQD definition into agreement with the EPA reactivity policy as expressed in the Memorandum dated July 21, 1987, from G. T. Helms, Chief, Control Programs Operations Branch, U.S. EPA, OAQPS and the comments contained in Attachment B of the June 9, 1988, letter from William B. Hathaway, EPA Region 6. This change will result in only one definition of VOC being used throughout the Chapter, thus simplifying the rules.]

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions, that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-39-3. General applicability

In addition to any application of the requirements contained in OAC 252:100-37, the additional ~~control/prohibitions~~ requirements contained in this Subchapter shall be required ~~enof~~ existing and new facilities located in Tulsa and Oklahoma Counties.

252:100-39-4. Exemptions

VOCs with vapor pressures less than 1.5 pounds per square inch (psia) under actual storage conditions are exempt from 252:100-39-16 through 252:100-39-18, 252:100-39-30, 252:100-39-41, and 252:100-48. [NOTE: This Section is added to avoid substantive changes that would be brought about by the revision of the

definition of VOC.]

PART 3. PETROLEUM REFINERY OPERATIONS

252:100-39-15. Petroleum refinery equipment leaks

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Component" means any piece of equipment which has the potential to leak ~~volatile organic compounds~~ VOCs when tested in the manner described in EPA Test Method 21 of 40 CFR Part 60. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated.

(2) "Gas service" means any equipment which processes, transfers or contains a ~~volatile organic compound~~VOC or mixture of ~~volatile organic compounds~~VOCs in the gaseous phase.

(3) "Leaking component" means a component which has a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e). [NOTE: This was 252:100-39-15(c) (1) (C).]

~~(3)~~(4) "Liquid service" means any equipment which processes, transfers or contains a ~~volatile organic compound~~VOC or mixture of ~~volatile organic compounds~~VOCs in the liquid phase.

~~(4)~~ "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives. [NOTE: Moved to 252:100-39-2 since it applies to more than one section in Subchapter 39.]

~~(5)~~ "Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons. [NOTE: Moved to 252:100-39-2 since it applies to more than one section in Subchapter 39.]

~~(6)~~ (4) "Valves not externally regulated" means valves that have no external controls, such as in-line check valves.

~~(7)~~ "Volatile organic compounds" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 0.3 kilopascals (0.0435 pounds per square inch absolute) or greater under actual storage conditions. (Effective 2-12-90)
[NOTE: The special conditions contained in this definitions have been moved to 252:100-39-15(b) (2).]

(b) Applicability. This Section applies to all source facility petroleum refineries located in the following counties: Tulsa and Oklahoma.

(1) This Section applies to all petroleum refineries located in Tulsa County and Oklahoma County.

(2) VOCs with vapor pressures less than 0.0435 psia (0.3 kilopascals(kPa)) under actual storage conditions are exempt from 252:100-39-15. (Effective 2-12-90.) [NOTE: Moved from 252:100-39-15(a)(4).]

(c) Provisions for specific processes. Standards and operating requirements

(1) The owner or operator of a petroleum refinery complex subject to this Section shall:

(A) develop and conduct a monitoring program consistent with the provisions in 252:100-39-15(d) and 252:100-39-15(f);

~~(B) conduct a monitoring program consistent with the provisions in 252:100-39-15(f);~~

~~(C) record all leaking components which have a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e) and place an identifying tag on each component consistent with the provisions in 252:100-39-15(f)(3);~~

~~(D)(C) repair and retest the leaking components, as defined in 252:100-39-15(e)(1)(C), as soon as possible but no later than 15 days after the leak is found; and,~~

~~(E)(D) identify all leaking components, as defined in 252:100-39-15(e)(1)(C), which cannot be repaired until the unit is shutdown for turnaround; and, Assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.~~

(E) assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.

(2) The Executive Division Director, may, at his/her/his or her discretion, take require the owner or operator to take appropriate remedial action, including early unit turnaround, based on the number and severity of tagged leaks awaiting repair.

(3) Pipeline valves and pressure relief valves in gaseous gas volatile organic compound service shall be marked in some manner that will be readily obvious to both petroleum refinery or contract personnel performing monitoring and the Executive Director DEQ.

(d) Compliance scheduleless schedule. The owner or operator of a petroleum refinery, in order to comply with 252:100-39-15, shall adhere to the increments of progress contained in the following schedule:

~~(1) Submit submit to the Executive Division Director a monitoring program by July 30, 1981. This program shall contain, at a minimum, a list of the refinery units only and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this Section.~~

~~(2) Submit quarterly monitoring report to the Executive Director. [NOTE: This is covered in 252:100-39-15(h).]~~

(e) Testing and monitoring procedures. Testing and calibration

procedures to determine compliance with this Section must be consistent with EPA Test Method 21 of 40 CFR Part 60.

(f) **Monitoring.**

(1) The owner or operator of a petroleum refinery ~~subject to this Section~~ shall conduct a monitoring program consistent with the following provisions~~+~~. The owner or operator shall:

(A) monitor yearly by the methods referenced in ~~Test Method 21 of 40 CFR Part 60~~ 252:100-39-15(e) all~~+~~

~~(i)~~ pump seals~~+~~

~~(ii)~~ pipeline valves in liquid service~~+~~ and~~+~~

~~(iii)~~ process drains;

(B) monitor quarterly by the methods referenced in ~~252:100-39-15(d)~~ 252:100-39-15-(e)~~+~~ all~~+~~

~~(i)~~ compressor seals~~+~~

~~(ii)~~ pipeline valves in gaseous gas service~~+~~ and~~+~~

~~(iii)~~ pressure relief valves in gaseous gas service;

(C) monitor weekly by visual methods all pump seals;

(D) monitor ~~immediately~~ within 24 hours any pump seal from which VOC liquids are observed dripping;

(E) monitor any relief valve within 24 hours after it has vented to the atmosphere; and,

(F) monitor immediately after repair any component that was found leaking.

(2) Pressure relief devices ~~which~~ that are connected to an operating flare header, vapor recovery ~~device~~ devices, inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in paragraph (1) of this subsection~~+~~. Provided provided, however, such inaccessible valves will be monitored during annual shutdown.

(3) The owner or operator of a petroleum refinery, upon the detection of a leaking component, ~~as defined in 252:100-39-15(e)(1)(C)~~, ~~which~~ that is not repaired on discovery~~+~~ shall affix a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leaking component is repaired.

(g) **Recordkeeping.**

(1) The owner or operator of a petroleum refinery shall maintain a leaking components monitoring log ~~as specified in 252:100-39-15(e)(1)(C)~~ which shall contain, at a minimum~~+~~: ~~the following data:~~

(A) the name of the process unit where the component is located;

(B) the type of component (e.g., valve, seal);

(C) the tag number of the component, if not repaired immediately on discovery;

(D) the date on which a leaking component is discovered;

(E) the date on which a leaking component is repaired;

(F) the date and instrument reading of the recheck procedure after a leaking component is repaired;

(G) the date of the calibration of the monitoring instrument~~+~~

~~The record of calibration~~which shall be made available for inspection on request;

(H) those leaks that cannot be repaired until turnaround; and,

(I) the total number of components checked and the total number of components found leaking.

(2) ~~Copies of the~~The monitoring log shall be retained on site by the owner or operator for at least two years after the date on which the record was made or the report prepared.

(3) ~~Copies of the~~The monitoring log shall be made available for inspection at any reasonable time and copies of the log shall be provided to the Executive Division Director, upon written request, ~~at any reasonable time~~of the AOD.

(h) **Reporting.** The owner or operator of a petroleum refinery, ~~upon the completion of each monitoring procedure,~~ shall:

(1) submit a report to the Executive Division Director by the 30th day following the end of each calendar quarter that lists all leaking components that were located during the previous quarter but not repaired within 15 days, all leaking components awaiting unit turnaround, and the total number of components found leaking; and,

(2) submit a signed statement with the report attesting to the fact that, all monitoring and, with the exception of those leaking components listed in 252:100-39-15(h) (1), ~~all monitoring and repairs were performed as stipulated in the monitoring program.~~

252:100-39-16. Petroleum Refinery refinery process unit turnaround

(a) **Definition.** ~~"Turn-around"~~"Turnaround" means the planned procedure of shutting down a unit, inspecting and repairing it, and restarting it.

(b) **Procedures required.** For the shutdown, purging and blowdown operation of any ~~processing~~ petroleum refinery processing unit the following procedures are required:

(1) Recovery of ~~volatile organic compounds (VOC)~~VOCs shall be accomplished during the shutdown or turnaround to a process unit pressure compatible with the flare or vapor system pressure. The unit will then be purged or flushed to a flare or vapor recovery system with using a suitable material such as steam, water or nitrogen, ~~to a flare or vapor recovery system.~~ The unit shall not be vented to the atmosphere until pressure is reduced to less than 5 psig through control devices.

(2) Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no person shall emit ~~organic~~VOC gases to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the Executive Division Director.

(3) At least fifteen days prior to a scheduled turnaround, a written notification shall be submitted to the Executive Division Director. As a minimum, the notification shall indicate the unit

to be shutdown, the date of shutdown, and the approximate quantity of ~~hydrocarbons~~VOCs to be emitted to the atmosphere.

(4) Scheduled refinery unit turnaround may be accomplished without the controls specified in 252:100-39-16(b)(1) and 252:100-39-16(b)(2) during non-oxidant seasons provided the notification to the Executive Division Director as required in 252:100-39-16(b)(3) ~~specifically contains such a request for such an exemption.~~ The Non-oxidant non-oxidant season is understood to be between the months of October and April from November 1 through March 31.

252:100-39-17. Petroleum Refinery~~refinery~~ vacuum producing system
(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Accumulator" means the vessel in the overhead stream of any fractionating tower, after the overhead condenses and separates noncondensable gases, liquid ~~hydrocarbons~~VOCs and water.

(2) "Hotwell" means the tank at the bottom of the barometer leg in a barometric condenser system to receive the water, condensate and entrained ~~hydrocarbons~~VOCs generated by the barometric condenser.

(b) Requirements. ~~Noncondensable volatile organic compounds~~VOCs ~~from the following equipment shall be incinerated or reduced by 90 percent of what would be emitted without controls when emitted from the following vacuum producing system:~~

- (1) steam ejectors with barometric condensers;
- (2) steam ejectors with surface condensers; or,
- (3) mechanical vacuum pumps.

(c) Hotwells and accumulators.

(1) Hot wells and accumulators shall be covered and the noncondensable vapors shall be vented to a fire-box or incinerator.

(2) The presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame. (Effective February 12, 1990)

(d) Compliance. Compliance shall be determined in accordance with the provision of the CTG document ("Control of Refinery Vacuum Producing systems, Wastewater Separators and Process Unit Turnarounds," EPA 450/2-77-025, October, 1977). Test reports and maintenance records will be maintained for at least two years. If emission testing is required, the appropriate test method(s) selected from EPA Reference Methods 1 through 4, 21, and/or 25, will be utilized.

252:100-39-18. Petroleum Refinery~~refinery~~ effluent water separators

(a) Definition. "Effluent water separator" means any tank, box, sump, or other container in which any material compoundVOC floating on, or entrained in, or contained in water entering such tank, box, sump or other the container is physically separated and removed

~~from such the water prior to outfall, drainage, or recovery of such discharge of the water from the container.~~ [NOTE: Moved from 252:100-39-2 since the term is only used in this Subchapter. Since this is new to the Section, original language is underlined, deleted language is stricken out, and new language is double underlined to facilitate comparison.]

(b) Requirements. No personowner or operator shall operate, or install or permit the operation or installation of a ~~single~~ single-compartment or multiple-compartment ~~volatile organic compound~~ waterVOC/water separator from any equipment processing, refining, treating, storing or handling ~~volatile organic compound~~ VOC unless the compartment receiving said the effluent water is equipped to control emissions in one of the following ways. ~~with one of the following vapor control devices, properly installed, in good working order and in operation.~~

(1) A ~~The~~ container totally encloses the liquid contents and having all openings are sealed, and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) A ~~The~~ container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the ~~organic material~~ VOC vapors and gases discharged and a vapor-disposal system capable of processing such ~~organic material~~ VOC vapors and gases ~~so as to prevent their emission to the atmosphere, and with all~~ All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The ~~organic material~~ VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) A ~~Containers~~ container that is equipped with controls of equal efficiency, provided the plans and specifications of such equipment are submitted and are approved by the Executive Division Director prior to their use.

PART 5. PETROLEUM PROCESSING AND STORAGE

252:100-39-30. Petroleum liquid storage in vessels with external floating roof tanks ~~roofs~~

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at normal operating conditions.

(2) "Crude oil" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

(3) "Externally External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon

single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(4) "Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage ~~tankvessels~~ or automatic transfer facilities to pipelines or any other ~~forms~~form of transportation.

(5) "Liquid-mounted seal" means primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof.

(6) "Petroleum liquid" means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery.

(7) "Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the ~~tankvessel~~ wall, the liquid surface, and the floating roof.

(8) "Waxy, high pour point crude oil" means a crude oil with a pour point of 50°F. or higher as determined by the American Society of Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) **Applicability.**

(1) This Section applies to ~~all source facilities with~~ petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 40,000 gallons (150,000 liters) ~~(40,000 gallons), that are located in Tulsa and Oklahoma Counties.~~

(2) This Section does not apply to petroleum liquid storage vessels ~~which that: prior to custody transfer:~~

(A) are used to store waxy, high pour point crude oil;

(B) have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) contain a petroleum liquid with a true vapor pressure less than 1.5 psia (10.5 kPa) ~~(1.5 psia);~~

(D) ~~contain a petroleum liquid with a true vapor pressure less than 27.6 Kpa (4.0 psia); and,~~

~~(i) are of welded construction;~~

~~(ii) presently possess a metallic type shoe seal, a liquid-mounted foam seal, a liquid mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Executive Director; or,~~

contain a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa) if the vessels are of welded construction and have a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Division Director; or,

(E) are of welded construction, equipped with a metallic-type shoe primary seal and has a secondary seal from the top of the shoe seal to the ~~tankvessel~~ wall (shoe-mounted secondary

seal).

[NOTE: Research indicates that "prior to custody transfer" should have been added to 3.7.5-3(a)(2)(B)(ii) which is now 252:100-39-30(b)(2)(B).]

(c) ~~Provisions for specific processes~~ Equipment and operating requirements.

(1) Standards. No owner of a petroleum liquid storage vessel subject to this Section shall store a petroleum liquid in that vessel unless the following conditions are met.

(A) The vessel has been fitted with:

(i) a continuous secondary seal extending from the floating roof to the ~~tankvessel~~ wall (rim-mounted secondary seal); or,

(ii) a closure device or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required ~~above~~ under 252:100-39-30(c)(1)(A)(i) and approved by the ~~Executive~~ Division Director.

(B) All seal closure devices meet the following requirements:

(i) ~~there~~ There are no visible holes, tears, or other openings in the seal(s) or seal fabric.

(ii) ~~the~~ The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the ~~tankvessel~~ wall ~~and~~.

(iii) ~~for~~ For vapor mounted primary seals, the accumulated area of gaps exceeding 0.32 cm (1/8 in) in width between the secondary seal and the ~~tankvessel~~ wall shall not exceed 21.2 cm² per meter of ~~tankvessel~~ diameter (1.0 ~~in~~ in² per foot of tank diameter), as determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm uniform diameter probe passes freely between the seal and the ~~tankvessel~~ wall; and summing the area of the individual gaps.

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

(i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,

(ii) equipped with projections into the ~~tankvessel~~ which remain below the liquid surface at all times.

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports.

(E) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended settings ~~and~~.

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening.

(2) Monitoring. The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this

Section shall:

(A) perform routine inspections semi-annually in order to ensure compliance with 252:100-39-30(c)(1)(B)(i), i.e., no visible holes, tears, or other openings in the seals or seal fabric;

(B) measure the secondary seal gap annually in accordance with 252:100-39-30(c)(1)(B)(iii), when the floating roof is equipped with a vapor-mounted primary seal; and,

(C) maintain records of the types of volatile petroleum liquids stored, the true vapor pressure of the liquid as stored, and the results of the inspections performed in 252:100-39-30(c)(2)(A) and 252:100-39-30(c)(2)(B).

(3) Recordkeeping.

~~(3)~~ (A) Copies of all records under 252:100-39-30(c)(2) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

~~(4)~~ (B) Copies of all records under this Section shall be made available to the Executive Division Director, upon ~~verbal or written~~ request, at any reasonable time.

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities ~~within two years of approval of this Section by the Oklahoma Environmental Quality Board by May 23, 1982.~~

PART 7. SPECIFIC OPERATIONS

252:100-39-40. Cutback asphalt (paving)

(a) Definitions. "Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

(b) Requirements. No owner, operator and/or contractor shall prepare or apply cutback ~~liquified~~ liquefied asphalt without the prior written consent of the Executive Division Director, ~~or the Executive Director's designee.~~ Such consent may be granted during Oklahoma's non-oxidant season, i.e., ~~October through April~~ November 1 through March 31.

252:100-39-41. Vapor ~~recovery~~ systems ~~Storage, loading and transport/delivery of VOCs~~

(a) Storage of ~~volatile organic compounds~~ VOCs in vessels with storage capacities — greater than 40,000 gallons ~~(953 bbls)~~. No ~~person~~ owner or operator shall store ~~or permit the storage of~~ gasoline or any ~~volatile organic compound~~ VOC in tanks ~~or vessels~~ a vessel ~~having~~ with a storage capacity greater than 40,000 gallons ~~(953 bbls)~~ unless such tank, reservoir or other container it is to be a pressure tank vessel capable of maintaining working pressures ~~sufficient at all times to that~~ prevent ~~organic~~ VOC vapor or gas loss to the atmosphere, or it is equipped with one or more of the following vapor control devices:

(1) aAn external floating roof, consisting of ~~pontoon type, pontoon-type internal floating cover or double-deck type reef, cover or a fixed roof with an internal-floating cover.~~ which The cover will rest on the surface of the liquid contents

at all times (i.e. off the leg supports), except during initial fill, when the storage vessel is completely empty, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space between the ~~reef~~cover edge and ~~tank~~vessel wall. Such floating roofs are not appropriate control devices if the ~~organic compounds~~VOCs have a vapor pressure of ~~11.0~~11.1 pounds per square inch absolute psia (568 mm Hg) (76.6 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. Closure seals for fixed roof vessels with an internal-floating cover will meet the requirements of 252:100-39-30(e)(1)(B), 252:100-39-30(c)(1)(B)(i) and (ii). Closure seals for vessels with external floating roofs will meet the requirements of 252:100-39-30(c)(1)(B)(i), (ii), and (iii).

(2) ~~a~~A vapor-recovery system consisting of a vapor-gathering system capable of collecting 90 percent by weight or more of the uncontrolled ~~volatile organic compounds~~VOCs that would otherwise be emitted to the atmosphere and a vapor-disposal system capable of processing such ~~organic compounds~~VOCs so as to prevent emissions in excess of 80 mg/liter of ~~gasoline~~VOCs transferred to the atmosphere. All ~~tank~~vessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place, ~~or,~~

(3) ~~other~~Other equipment or methods of equal efficiency for purposes of air pollution control as ~~may be~~when approved by the ~~Executive~~Division Director and are in concert with federal guidelines.

(b) Storage of ~~volatile organic compounds~~VOCs in vessels with storage capacities of —400-40,000 gallons (9.5-953 bbls).

(1) ~~No person~~owner or operator shall store or permit the storage of gasoline or other ~~volatile organic compounds~~VOCs in any stationary storage ~~container~~vessel with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (953 bbls) unless such ~~container~~it is equipped with a submerged fill pipe or is bottom filled. ~~No person shall store or permit the storage of gasoline or other volatile organic compound in any stationary storage container with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage container are processed by a system that has a total collection efficiency no less than 90 percent by weight of total hydrocarbon compounds in said vapors.~~

(2) No owner or operator shall store gasoline or other VOCs in any stationary storage vessel with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage vessel are processed by a system that has a total collection efficiency no less than 90 percent by weight of total VOCs in the vapors.

~~(2)(A) The vapor recovery system shall include one or more of the following:~~

~~(A)(i)~~ a vapor-tight return line from the storage ~~containervessel~~ to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or ~~volatile organic compounds~~VOCs can be transferred into the ~~containervessel~~; or,
~~(B)(ii)~~ other equipment that has a total collection efficiency no less than 90 percent by weight of the total ~~hydrocarbon compounds~~VOCs in the displaced vapor ~~provided that if approval of the proposed design installation, and operation is obtained from the Executive Division Director prior to start of construction.~~

~~(3)(B)~~ Provided, however, that theThe requirements for vapor collection of displaced vapors shall not apply to operations that are not major sources.

(c) Loading of ~~volatile organic compounds~~VOCs.

(1) ~~No personowner or operator shall install or operate, install or permit the building, operation or installation of a stationary volatile organic compoundVOC loading facility with an annual throughput of 120,000 gallons or greater or storage capacity greater than 10,000 gallons unless such loading facility it is equipped with a vapor-collection and/or disposal system properly installed, in good working order and in operation.~~

(2) ~~WhenWhile~~ ~~volatile organic compounds~~VOCs are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.

(3) A means shall be provided to prevent ~~organic material~~VOC drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.

(4) When loading is ~~effected through~~by means other than hatches, all loading and vapor lines shall be equipped with fittings ~~which that~~ make vapor-tight connections and which close automatically when disconnected.

(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels~~+~~. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as specified in 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.

(A) ~~anAn~~ absorption/adsorption system or condensation system ~~with that~~ has a minimum recovery efficiency of 90 percent by weight of all the ~~volatile organic compound~~VOC vapors and gases entering such disposal system~~+~~.

(B) ~~aA~~ vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent~~+~~, ~~or~~.

(C) ~~etherOther~~ equipment ~~ef that~~ has at least a 90 percent efficiency, provided plans for such equipment are ~~submitted to~~

and approved by the Executive Division Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per ~~252:100-39-41(e)(5)(A) through 252:100-39-41(e)(5)(C)~~ if they are designed to prevent the release of vapors during use.

(6) Subsection 252:100-39-41(c) shall apply to any facility ~~which that~~ loads ~~volatile organic compounds~~ VOCs into any transport vessel designed for transporting ~~volatile organic compounds~~ VOCs.

(d) Transport/delivery.

(1) The vapor-laden delivery vessel shall meet one of the following requirements.

(A) ~~the~~ The delivery vessel must be ~~so~~ designated and operated ~~as to~~ be vapor tight except when sampling, gauging, or inspecting, ~~or,~~

(B) ~~the~~ The delivery vessel must be equipped and operated ~~so~~ that to deliver the ~~volatile organic compound~~ VOC vapors are delivered to a vapor recovery/disposal system.

(2) No ~~owner/operator~~ owner or operator will ~~shall~~ allow a delivery vessel to be filled at a facility unable to receive displaced ~~organic~~ VOC vapors nor service ~~tanks/vessels~~ unable to deliver displaced vapors except for ~~tanks/facilities/vessels and facilities~~ exempted in 252:100-39-41(b) and 252:100-39-41(c).

(3) Testing of the tank trucks for compliance with the vapor tightness requirements must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA 450/2-78-051, or an equivalent method as determined by the Executive Division Director.

(e) Additional requirements for Tulsa County. Also see ~~252:100-39-48~~ for additional requirements pertaining to Tulsa County. [NOTE: The requirements in this subsection were formerly contained in 252:100-39-48. To facilitate comparison, deletions to the original language have been stricken out and additions have been double underlined. Since the material is new to this Section, it is all underlined.]

(1) Applicability. This Section subsection applies only in Tulsa County. In addition to the other requirements for vapor recovery systems that are contained in 252:100-39-41(a) through (d), facilities located in Tulsa County must comply with the requirements of this subsection. [NOTE: This was 252:100-39-48(a).]

(2) Storage of VOCs.

(A) 2,000 - 40,000 gallons capacity. No person owner or operator shall store or permit the storage of gasoline or other volatile organic compounds VOCs in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless, such container in addition to being equipped with a submerged fill pipe or being bottom loading, it is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compounds VOCs

contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum. The vapor recovery system shall include one or more of the following:

(i) a vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds (VOCs) can be transferred into the container (i.e., popped connectors from the storage container to the delivery vessel.)

(ii) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole.

(iii) The cross-sectional area of the vapor recovery line must be at least half of the cross-sectional area of the liquid delivery line.

(iv) Instead of 252:100-39-48(b)(2)(A) through 252:100-39-48(b)(2)(C) of 252:100-39-41(e)(2)(B)(i) through 252:100-39-41(e)(2)(B)(iii), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds (VOCs) in the displaced vapor provided that may be used if approved by approval of the proposed design, installation, and operation is obtained from the Executive Division Director prior to start of construction. [NOTE: This was in 252:100-39-48(b)(1) and (2).]

(B) Applicability.

(i) The applicability of this Section 252:100-39-41(e)(2) shall be determined by the most restrictive of the 2,000 gallon tank vessel size as specified required in 252:100-39-48(b)(1) 252:100-39-41(e)(2)(A) or the 120,000 gallon annual throughput described required in 252:100-39-48(b)(3) 252:100-39-41(e)(2)(B)(ii). However, once a facility places a 2,000 gallon tank vessel in service or exceeds the 120,000 gallon annual throughput described in 252:100-39-48(b)(3), that facility shall always be subject to the provisions of this Section 252:100-39-41(e)(2). (effective February 12, 1990) [NOTE: This was 252:100-39-48(b)(4).]

(ii) Exemptions to this Section 252:100-39-41(e)(2) may be granted provided if the owner/operator owner or operator shows to the satisfaction of the appropriate authority Division Director that the container vessel is used exclusively for agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less. [NOTE: This was 252:100-39-48(b)(3).]

(C) Emission testing. If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through

4, 18, 21, 25, 25A and 25B will be utilized. [NOTE: Was 252:100-39-48(b)(5).]

(D) Compliance. Compliance with this subsection 252:100-39-41(e)(2) will be accomplished by affected owner/operator the owner or operator of affected facilities by December 31, 1986.

[NOTE: Was 252:100-39-48(b)(6).]

(E) Certification. The owner/operator owner or operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator owner or operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds VOCs made to their 400-gallon to 40,000-gallon storage facility or facilities located in Tulsa County, shall be made by transport/delivery vessels which that comply with the requirements contained in 252:100-39-48(d) 252:100-39-41(e)(4). Compliance with this Section 252:100-39-41(e)(2) shall be accomplished by affected owner/operator owners or operators of affected facilities no later than December 31, 1990.

(Effective February 12, 1990) [NOTE: Was 252:100-39-48(b)(7).]

(3) Loading of VOCs. In addition to those requirements contained in 252:100-39-41(c), stationary loading facilities Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for at least two years. [NOTE: This was 252:100-39-48(c)(7).]

(4) Transport/delivery vessel requirements. In addition to the requirements contained in 252:100-39-41(d), facilities located in Tulsa County must meet the following requirements.

(A) Maintenance.

(i) The delivery vessel must be maintained so as to be that it is vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.

(ii) The delivery vessel must be equipped, maintained and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and 252:100-39-41(b)(2) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.

(iii) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which that would impair the vessels' ability to retain vapors or liquid shall be repaired within 5 days.

(iv) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-48(d)(2)(A)(i) 252:100-39-41(e)(4)(B)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.

(v) No owner/operator owner or operator will allow a delivery vessel to be filled at a facility unable to

receive displaced organic vapors VOCs nor service tanks/vessels unable to deliver displaced vapors except for tanks/facilities/vessels/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels which that do not display a current tag.

(vi) Delivery vessels may be inspected by representatives of the appropriate health agency DEQ in order to determine their state of repair. Such a test may consist of a visual inspection, or a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner/operator owner or operator to effect make the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days, the vessel will shall be removed from service by the owner/ operator. Failure to certify within 10 days of a vapor test that the cited necessary repairs have been effected made will subject the vessel owner or operator to sanctions. Upon certification of repairs, the vessel will be allowed to operate in a normal manner resume normal operation.

(B) Testing requirements.

(i) Pressure test.

(I) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Executive Division Director.

(II) The vessel will be considered to pass the test prescribed in ~~252:100-39-48(d)(2)(A)(i)~~ 252:100-39-41(e)(4)(B)(i)(I) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O. ~~in addition there~~ There shall be no avoidable visible liquid leaks.

~~(2)(ii)~~ Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under ~~252:100-39-41(d)(1)(F)~~ 252:100-39-41(e)(4)(A)(vi) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of ~~252:100-39-48~~ 252:100-39-41(e) will become effectivetook effect December 15, 1988. [NOTE: This was 252:100-39-48(d).]

252:100-39-42. Metal cleaning

(a) Cold cleaning facility requirements.

(1) Equipment requirements. No person owner or operator shall allow the construction or operation of any cold cleaning unit

for metal degreasing using an ~~organic solvent~~ a VOC unless the following requirements are met.

(A) ~~a~~ A cover or door shall be installed on the facility that can be easily operated with one hand.

(B) ~~an~~ An internal drain board will be provided in such a manner that will allow lid closure if practical; if not practical, the drainage facility may be external, and.

(C) ~~a~~ A permanent, conspicuous label summarizing the operating requirements specified in 252:100-39-42(a)(2) will be permanently attached to the facility.

(2) Operating requirements. ~~The operating requirements specified in 252:100-39-42(a)(1)(C) shall as a minimum specify~~ Owners or operators shall at a minimum:

(A) drain clean parts at least 15 seconds or until dripping ceases before removal;

(B) close degreaser cover when not handling parts in cleaner and;

(C) store waste ~~solvent~~ VOC in covered containers. ~~Do not dispose or allow disposition in such a manner that more than 20 percent by weight can evaporate into the atmosphere.~~

(D) Do not dispose or allow disposition of waste VOC in such a manner that more than 20 percent by weight can evaporate into the atmosphere.

~~(3)(E) If used, a solvent spray will be of a solid fluid stream (not atomized or spray)~~ Use a solid stream, not an atomized spray, when VOC is sprayed.

~~(4)(3)~~ (3) Requirements for controls. If the ~~solvent~~ volatility vapor pressure of the VOC is greater than ~~33 mm Hg (0.6 psi)~~ 0.6 psi (4.1 kPa) measured at ~~38°C (100°F) (38°C)~~ or if ~~solvent~~ VOC is heated to ~~120 degrees C (248°F) (120°C)~~, one or more of the following control devices will be required.

(A) ~~freeboard~~ Freeboard that gives a ~~free board~~ freeboard ratio greater than or equal to 0.7.

(B) ~~water~~ Water cover and where the ~~solvent~~ VOC is insoluble in and heavier than water or such equivalent, or.

(C) ~~either~~ Another system of equivalent control as approved by the ~~Executive~~ Division Director.

~~(5)(4)~~ (4) Compliance and recordkeeping. Compliance will be determined in accordance with EPA guidance document "Control of Volatile Organic Emissions from Solvent Metal Cleaning," 450/2-77-022. Test reports and maintenance and repair records of control equipment will be maintained by the source for at least two years.

(b) Vapor-type metal degreasing requirements.

(1) Equipment requirements. No ~~person~~ owner or operator shall allow the construction or operation of any vapor-type metal degreasing unit using an ~~organic solvent~~ a VOC unless the following requirements are met.

(A) ~~the~~ The unit has a cover or door that can easily be opened and closed without disturbing the vapor zone.

(B) ~~the~~ The unit will have the following safety switches.

(i) ~~condenser~~ Condenser flow switch and thermostat or

equivalent capable of shutting off the sump heat if condenser coolant is not circulating or coolant exceeds solvent VOC manufacturer's recommended level, and

(ii) ~~spray~~ Spray safety switch capable of shutting off spray pumps if the vapor level drops in excess of four inches (10 cm).

(C) ~~the~~ The unit will have one or more of the following control devices/techniques:

(i) ~~freeboard~~ Freeboard ratio not less than 0.75, i.e., the ratio of the freeboard to the width of the degreaser wherein the term freeboard is defined as the distance from the top of the vapor zone to the top of the degreaser tank.

(ii) ~~refrigerated~~ Refrigerated chiller, i.e., condenser coils in the upper limit of the vapor zone.

(iii) ~~enclosed~~ Enclosed design, i.e., cover or door is opened only when part is actually entering or exiting the facility, or

(iv) ~~a~~ A carbon adsorption system with ventilation greater than 50 ~~cfm/ft²~~ cfm/ft² of air/vapor area when cover is open and exhausting less than 25 ppm solvent VOC average over one adsorption cycle, or

(v) ~~a~~ A control system demonstrated to have a control efficiency equal to or greater than any of the systems in (C) of this paragraph.

(D) ~~a~~ A permanent conspicuous label summarizing operating procedures in 252:100-39-42(b)(2) will be attached to the facility unit.

(2) Operating requirements. ~~The operating requirements referred to in 252:100-39-42(b)(1)(D) As a minimum operators shall do the following as a minimum specify:~~

(A) ~~keep~~ Keep cover closed at all times except when processing work.

(B) ~~minimize~~ Minimize solvent VOC carry-out by the following measures:

(i) ~~rack~~ racking parts to allow full drainage.

(ii) ~~move~~ moving parts in and out of the degreaser at less than ~~3.3 m/sec~~ 11 ft/min (~~11 ft/min~~) (3.3 m/min);

(iii) ~~degrease~~ degreasing the workload in the vapor zone at least 30 sec. or until condensation ceases;

(iv) ~~tip~~ tipping out any pools of solvent VOC on the cleaned parts before removal; and

(v) ~~allow~~ allowing parts to dry within the degreaser for at least 15 sec. or until visually dry.

(C) ~~do not~~ Not degrease porous or absorbent materials, such as cloth, leather, wood or rope.

(D) ~~workloads should not~~ Not allow workloads to occupy more than half of the degreaser's open top area.

(E) ~~never~~ Never spray above the vapor level.

(F) ~~assure~~ Assure that solvent VOC leaks are immediately repaired or the degreaser is shut down.

(G) ~~do not~~ Not dispose of waste solvent VOC or transfer it to

another party in such a manner that greater than 20 percent of the waste (by weight) will evaporate into the atmosphere.

~~(H)~~ Store waste solvent VOC only in closed containers.

~~(H)~~ (I) Not allow exhaust ventilation should not to exceed $20 \text{ m}^3/\text{min}$ per m^2 65 cfm per ft^2 (65 cfm per ft^2) ($20 \text{ m}^3/\text{min per m}^2$) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans should not be used near the degreaser opening, and,

~~(I)~~ (J) Not allow water should not to be visually detectable in solvent VOC exiting the water separator.

(3) Compliance and recordkeeping. Compliance will be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records ~~will~~ shall be retained by the source for at least two years.

(c) Conveyorized degreasing unit requirements.

(1) Operating requirements. No ~~person~~ owner or operator shall operate a conveyorized degreasing unit unless the following requirements are met:

(A) ~~exhaust~~ Exhaust ventilation should not exceed $20 \text{ m}^3/\text{min}$ per m^2 65 cfm per ft^2 (65 cfm per ft^2) ($20 \text{ m}^3/\text{min per m}^2$) of degreaser opening, unless necessary to meet OSHA requirements. ~~Work place fans should not be used near the degreaser opening,~~

(B) Work place fans should not be used near the degreaser opening.

~~(B)~~ (C) minimize Minimize carry-out emissions by:

(i) racking parts for best drainage; and,

(ii) maintaining vertical conveyor speed at less than 3.3 m/min 11 ft/min (11 ft./min.) (3.3 m/min).

~~(C)~~ (D) do Waste VOC should not be disposed disposed of waste solvent or ~~transfer~~ transferred it to another party in such a manner that greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. ~~Store waste solvent VOC only in covered containers,~~

(E) Store waste VOC only in covered containers.

~~(D)~~ (F) repair solvent VOC leaks must be repaired immediately, or ~~shut down the degreaser~~ must be shut down.

~~(E)~~ (G) water Water should not be visibly detectable in the solvent VOC exiting the water separator, and,

~~(F)~~ (H) a A permanent conspicuous label ~~will~~ must be attached to the ~~facility~~ unit summarizing the operating requirements listed in 252:100-39-42(b) and 252:100-39-42(c).

(2) Control requirements. In addition to the requirements in 252:100-39-42(c) (1), any unit that has an air/vapor interface of more than 2.0 m^2 2.0 m^2 will be subject to the following control requirements:

(A) Major control devices. The degreaser must be controlled by either:

(i) a refrigerated chiller;

(ii) a carbon adsorption system, with ventilation equal to or greater than $15 \text{ m}^2/\text{min}$ per m^2 50 cfm/ft^2 (50 cfm/ft^2) ($15 \text{ m}^2/\text{min per m}^2$) of air/vapor area (when down-time covers are open), and exhausting less than 25 ppm of solvent VOC by

volume averaged over a complete adsorption cycle, or
(iii) a system demonstrated to have control efficiency equivalent to or better than either of the above.

(B) **Carryover prevention.** Either a drying tunnel, or another means such as rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent VOC liquid or vapor subject to space limitations must be installed.

(C) **Safety switches.** The following safety switches must be installed and be operational.

(i) Condenser flow switch and thermostat ~~that~~ ~~shuts off~~ sump heat if coolant is either not circulating or too warm.

(ii) Spray safety switch ~~that~~ ~~shuts off~~ spray pump or conveyor if the vapor level drops excessively, e.g. more than ~~10 cm (4 in.)~~ 4 in (10 cm).

(iii) Vapor level control thermostat ~~that~~ ~~shuts off~~ sump heat when vapor level rises too high.

(D) **Minimized openings.** Entrances and exits should silhouette work loads so that the average clearance ~~between parts and the edge of the degreaser opening~~ is either less than ~~10 cm (4 in.)~~ 4 in (10 cm) or less than 10 percent of the width of the opening.

(E) **Covers.** Down-time ~~cover~~ covers must be placed over entrances and exits of conveyorized degreasers immediately after the conveyor and exhaust are shutdown and removed just before they are started up.

(3) **Compliance and recordkeeping.** Compliance will be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records will be retained by the source for at least two years.

(d) **Alternative control methods.** As an alternative to the requirements of 252:100-39-42(a) through 252:100-39-42(c) and subject to EPA approval, an operator may request the approval by the Division Director of other methods of control. ~~may be approved by, subject to EPA approval, the Executive Director upon application by a source; provided, the~~ The applicant can must demonstrate that the proposed method will preclude no less than prevent at least 80 percent of the emissions from each source from being emitted to the atmosphere, as determined by the appropriate test methods selected from EPA Methods 1 through 4, 18, 25, 25A and 25B.

252:100-39-43. Graphic arts systems

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(2) "Packaging rotogravure printing" means rotogravure printing

upon paper, paper board, metal foil, plastic film, and other substrates, ~~which that~~ are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(3) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(4) "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

(5) "Rotogravure printing" means the application of works, designs and pictures to a substrate by means of a roll printing technique ~~which that~~ involves an intaglio or recessed image areas in the form of cells.

(b) **Applicability.**

~~(1) This Section applies to all packaging rotogravure, publication rotogravure, and flexographic printing facilities located in Tulsa and Oklahoma counties.~~

~~(2) This Section applies only to enlypackaging rotogravure, publication rotogravure, and flexographic printing facilities whose potential ~~emission~~emissions of organic solventVOC ~~is~~are equal to or more than 100 tons/year (90 megagrams/year) (106 grams) per year (100 tons/yr.). Potential emissions are to be calculated based on historical records of actual consumption of solventVOC and ink.~~

(c) **Provisions for specific processes.**

(1) No owner or operator of a ~~packaging rotogravure, publication rotogravure or flexographic printing~~ facility subject to this Section and employing solventVOC containing ink may operate, ~~cause, allow or permit the operation of the facility unless one of the following conditions applies.~~

(A) ~~the~~The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of organic solventVOC and 75.0 percent by volume or more of water~~;~~

(B) ~~the~~The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more of nonvolatile material~~;~~ ~~or~~

(C) ~~the~~The owner or operator installs and operates:

(i) a carbon adsorption system ~~which that~~ reduces the organic solventVOC emissions from the capture system by at least 90.0 percent by weight;

(ii) an incineration system ~~which that~~ oxidizes at least 90.0 percent of the ~~nonmethane volatile organic solventVOC~~ measured as total combustible carbon to carbon dioxide and water; or,

(iii) an alternative organic solventVOC emission reduction system demonstrated to have at least 90.0 percent reduction efficiency, measured across the control system, ~~and that~~ has been approved by the Executive Division Director.

(2) A capture system must be used in conjunction with the emission control systems in 252:100-39-43(c) (1) (C). The design and operation of the capture system must be consistent with good

engineering practice, and shall be required to provide for an overall reduction in ~~volatile organic compound~~VOC emissions of at least:

- (A) 75.0 percent where a publication rotogravure process is employed;
- (B) 65.0 percent where a packaging rotogravure process is employed; or,
- (C) 60.0 percent where a flexographic printing process is employed.

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities ~~within two (2) years of approval of this Subchapter by the Oklahoma Environmental Quality Board by May 23, 1982.~~

(e) **Testing.** Test procedures to determine compliance with this Subchapter must be consistent with EPA Reference Method 24 or equivalent ASTM Methods.

252:100-39-44. Manufacture of pneumatic rubber tires

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Automatic tread end cementing"** means the application of a ~~solvent~~VOC based cement to the tire tread ends by automated devices.

(2) **"Bead dipping"** means the dipping of an assembled tire bead into a ~~solvent~~VOC based cement.

(3) **"Green tires"** means assembled tires before molding and curing have occurred.

(4) **"Green tire spraying"** means the spraying of green tires, both inside and outside, with release compounds ~~which~~that help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

(5) **"Manual tread end cementing"** means the application of a ~~solvent~~VOC based cement to the tire tread ends by manufacturers.

(6) **"Passenger type tire"** means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches.

(7) **"Pneumatic rubber tire manufacture"** means the production of pneumatic rubber, passenger type tires on a mass production basis.

(8) **"Undertread cementing"** means the application of a ~~solvent~~VOC based cement to the underside of a tire tread.

(9) **"Water based sprays"** means release compounds, sprayed on the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for ~~organic solvents~~VOCS. These sprays may contain an average of up to five percent ~~organic solvent~~VOC.

(b) **Applicability.**

(1) This Section applies to VOC emissions ~~from the following operations~~ infrom all major source pneumatic rubber tire

manufacturing facilities located in Oklahoma County from:

- (A) undertread cementing;
- (B) automatic tread end cementing; and,
- (C) green tire spraying.

(2) The provisions of this Section do not apply to the ~~productions~~production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs. This exemption applies only to tires produced on equipment separate from normal production lines for passenger type tires.

(3) Manual tread end cementing operations are exempt from the provisions of this Section.

(c) Provisions for specific processes Control requirements.

(1) Undertread cementing or automatic tread end cementing. The owner or operator of an undertread cementing, or automatic tread end cementing, operation subject to this Section shall install and operate the following:

(A) ~~install and operate a~~ capture system, designed to achieve maximum reasonable capture from all undertread cementing, and automatic tread end cementing operations. Maximum reasonable capture would require that hood enclosures be designed in such a manner to minimize open areas and enclose as much of the emission source as practical while maintaining a minimum in-draft velocity of 200 feet per minute except during times when the enclosure must be opened to allow work inside or for the inspections of the product in progress. Maximum reasonable capture shall be consistent with the ~~following documents~~:

(i) Industrial Ventilation, A Manual of Recommended Practices, 14th Edition, American Federation of Industrial Hygienists; and,

(ii) Recommended Industrial Ventilation guidelines, U.S. Department of Health Education and Welfare, National Institute of Occupational Safety and Health.

(B) ~~install and operate a~~ control device that meets the requirements of one of the following systems:

(i) A carbon adsorption system designed and operated ~~in a manner such so~~ that there is at least an initial 95.0 percent removal of VOC by weight from the gases ducted to the control device with at least a 90 percent 3 year removal average, ~~or,~~

(ii) An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~ (VOCs) (measured as total combustible carbon) which enter the incinerator to carbon dioxide and water.

(iii) An alternative ~~volatile organic compound~~ VOC emission reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, and that has been approved by the ~~Executive~~Division Director.

(2) Green tire spraying. The owner or operator of a green tire spraying operation subject to this Section shall implement one

of the following means of reducing ~~volatile organic compound~~VOC emissions~~;~~.

(A) ~~substitute~~Substitute water-based sprays for the normal ~~solvent-based~~ VOC-based mold release compound~~;~~ ~~or~~.

(B) ~~install~~Install a capture system designed and operated in a manner that will capture and transfer at least 90.0 percent of the VOC emitted by the green tire spraying operation to a control device, and install and operate a control device that meets the requirements of one of the following systems~~;~~.

(i) ~~a~~An carbon adsorption system designed and operated ~~in a manner such so~~ that there is at least 95.0 percent removal of VOC by weight from the gases ducted to the control device~~;~~ ~~or~~.

(ii) ~~an~~An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~(VOC VOCs (measured as total combustible carbon) to carbon dioxide and water~~;~~ ~~or~~.

(iii) ~~an~~An alternative ~~volatile organic compound~~VOC emission reduction system approved by the Division Director and certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system~~,~~ ~~that has been approved by the Executive~~Division Director.

(3) Exemption. If the total ~~volatile organic compound~~VOC emissions from all undertread cementing, tread-end cementing, bead dipping, and green tire spraying operations at a pneumatic rubber tire manufacturing facility do not exceed 57 grams per tire, 252:100-39-44(c)(1) and 252:100-39-44(c)(2) shall not apply.

~~(4) An owner or operator of an undertread cementing, tread end cementing, bead dipping or green tire spraying operation subject to this Section may, instead of implementing measures required by 252:100-39-44(c)(1) and 252:100-39-44(c)(2), submit to the Executive Director a petition for alternative controls. The petition must be submitted in writing before September 15, 1981 and must contain:~~

~~(A) the name and address of the company and the name and telephone number of a responsible company representative over whose signature the petition is submitted;~~

~~(B) a description of all operations conducted at the location to which the petition applies and the purpose the volatile organic compound emitting equipment serves within the operations;~~

~~(C) reference to the specific emission limits, operational and/or equipment controls for which alternative emission limits, operational and/or equipment controls are proposed;~~

~~(D) a detailed description of the proposed alternative emission limits, operational and/or equipment controls, the magnitude of volatile organic compound emission reduction which will be achieved, and the quantity and composition of volatile organic compounds which will be emitted if the alternative emission limits, operational and/or equipment~~

~~controls are instituted,~~

~~(E) a schedule for the installation and/or institution of the alternative operational and/or equipment controls in conformance with the appropriate compliance schedule section, and,~~

~~(F) a demonstration that the alternative control program constitutes reasonably available control technology for the petitioned facility. The factors to be presented in this demonstration include but are not limited to:~~

~~(i) the capital expenditure necessary to achieve the petitioned level of control,~~

~~(ii) the impact of these costs on the firm,~~

~~(iii) the energy requirements of the petitioned level of control,~~

~~(iv) the impact on the environment in terms of any increase in air, water and solid waste effluent discharge of the petitioned level of control,~~

~~(v) any adverse worker or product safety implications of the petitioned level of control, and,~~

~~(vi) an analysis for each of the factors in 252:100-39-44(c)(4)(F)(i) through 252:100-39-44(c)(4)(F)(v) for the control levels specified in 252:100-39-44(c)(1) and 252:100-39-44(c)(2).~~

~~(5) The Executive Director may approve a Petition for Alternative Control if:~~

~~(A) the petition is submitted in accordance with 252:100-39-44(c),~~

~~(B) the petition demonstrates that the alternative controls represent reasonable available control technology, or,~~

~~(C) the petition contains a compliance schedule for achieving and maintaining a reduction of volatile organic compound emissions as expeditiously as practicable, but no later than the photochemical oxidant attainment date.~~

~~[NOTE: 252:100-39-44(c)(4) and (5) were deleted since the provisions for alternative controls were not used prior to the deadline.]~~

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities on or before December 31, 1982.

(e) **Testing and monitoring.**

(1) Test procedures to determine compliance with this Section must be approved by the Executive Division Director and be consistent with:

(A) EPA Guideline Series Document "Measurement of Volatile Organic Compounds," EPA-450/2-78-041, and,

(B) Appendix A of "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008.

(2) The Executive Division Director may accept, instead of green tire spray analysis, a certification by the manufacturer of the composition of the green tire spray, if supported by actual

batch formulation records.

(3) If add-on control equipment is used, continuous monitors of ~~the following parameters~~ shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating to measure:-

- (A) exhaust gas temperatures of incinerators;
- (B) temperature rise across a catalytic incinerator bed;
- (C) breakthrough of VOC on a carbon adsorption unit; and,
- (D) any other parameter for which a continuous monitoring or recording device is required by the Executive Division Director.

252:100-39-45. Petroleum (solvent) dry cleaning

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:-

(1) "**Cartridge filters**" means perforated canisters containing filtration paper and/or activated carbon that are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden petroleum solvent.

(2) "**Containers and conveyors and of petroleum solvent**" means piping, ductwork, pumps, storage tanks, and other ancillary equipment that are associated with the installation and operation of washers, dryers, filters, stills, and settling tanks.

(3) "**Dry cleaning**" means a process of the cleaning of textiles and fabric products in which articles are washed in a non-aqueous solution (petroleum solvent) and then dried by exposure to a heated air stream.

(4) "**Housekeeping**" means those measures and precautions necessary to minimize the release of petroleum solvent to the atmosphere.

(5) "**Operations parameters**" means the activities required to insure that the equipment is operated in a manner to preclude the loss of petroleum solvents to the atmosphere.

(6) "**Perceptible leaks**" means any petroleum solvent vapor or liquid leaks that are conspicuous from visual observation, such as pools or droplets of liquid, or buckets or barrels of petroleum solvent or petroleum solvent-laden waste standing open to the atmosphere.

(7) "**Petroleum solvent**" means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms per organic molecule that exists as a liquid under standard conditions.

(b) **Applicability.** This Section applies to petroleum solvent washers, dryers, ~~solvent~~-filters, settling tanks, vacuum stills, and other containers and conveyors of petroleum solvent that are used in petroleum solvent dry cleaning facilities in Tulsa County only.

(c) ~~Provisions for specific processes~~ Operating requirements.

(1) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any dry cleaning equipment using

petroleum solvents unless:

(A) there are no perceptible liquid or vapor leaks from any portion of the equipment;

(B) all washer lint traps, button traps, access doors and other parts of the equipment where petroleum solvent may be exposed to the atmosphere are kept closed at all times except when required for proper operation or maintenance;

(C) the still residue is stored in sealed containers and ~~the~~ used filtering material is ~~to be~~ placed into a sealed container suitable for use with petroleum solvents, immediately after removal from the filter and ~~be~~ disposed of in the prescribed manner; or,

(D) cartridge filters containing paper or carbon or a combination thereof, which are used in the dry cleaning process are ~~to be~~ drained in the filter housing for at least 24 hours prior to removal.

(2) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any drying tumblers and cabinets that use petroleum solvents unless tumblers and cabinets are operated in ~~such~~ a manner as to control petroleum solvent vapor leaks by reducing the number of sources where petroleum solvent is exposed to the atmosphere. Under no circumstances should there be any open containers (can, buckets, barrels) of petroleum solvent or petroleum solvent-containing material. Equipment containing solvent (washers, dryers, extractors, and filters) should remain closed at all times other than during maintenance or load transfer. Lint filter and button trap covers should remain closed except when petroleum solvent-laden lint and debris are removed. Gaskets and seals should be inspected and replaced when found worn or defective. ~~Petroleum solvent laden solvent-laden~~ clothes should never be allowed to ~~sit~~ remain exposed to the atmosphere for longer periods than are necessary for load transfers. Finally, vents on petroleum solvent-containing waste and new petroleum solvent storage tanks should be constructed and maintained in a manner that limits petroleum solvent vapor emissions to the maximum possible extent.

(3) The owner or operator shall repair all petroleum solvent vapor and liquid leaks within 3 working days after identifying the sources of the leaks. If necessary repair parts are not on hand, the owner or operator shall order these parts within 3 working days, and repair the leaks no later than 3 working days following the arrival of the necessary parts.

(d) **Disposal of filters.** Filters from the petroleum dry cleaning facility shall be disposed of by:

(1) incineration at a facility approved by the fire marshall's office for such disposal;

(2) by recycling through an approved vendor of this service;
or,

(3) by any other method approved by the Executive Division Director.

(e) **Compliance schedule.** Compliance with 252:100-39-45(c)(1)

through 252:100-39-45(c)(3), will be accomplished by affected facilities on or before October 1, 1986.

252:100-39-46. Coating of parts and products

(a) **Applicability.** This Section shall apply only to those industries located in Tulsa County which manufacture and/or coat metal parts and products, ~~such as This Section is applicable to~~ large farm machinery, small farm machinery, small appliances, commercial machinery, industrial machinery and fabricated metal products. Architectural coating, aerospace coating, and automobile refinishing are not included.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Air or forced air dry coatings"** means coatings ~~which that~~ are dried by the use of air or forced warm air at temperatures up to 194°F.

(2) **"Clear coat"** means a coating ~~which that~~ lacks color and opacity or is transparent and uses the undercoat as a reflectant base.

(3) **"Extreme performance coatings"** mean coatings designed for harsh exposure or extreme environmental conditions (~~i.e.e.g., exposure to the weather,~~ all of the time, temperature above 200°F, detergents, abrasive and scouring agents, solvents, corrosive atmosphere or similar conditions).

(4) **"Facility"** means all emission sources located on a contiguous ~~property~~ properties under common control which are affected by the surface coating provisions of ~~OAC~~ 252:100-37 and 252:100-39.

(5) **"Powder"** means a coating ~~which that~~ is applied in a finely divided ~~(powder)~~ state by various methods, and becomes a continuous, solid film when the metal part or product is moved to an oven for curing.

(6) **"Transfer efficiency"** means the weight (or volume) of coating solids adhering to the surface being coated divided by the total weight (or volume) of coating solids delivered to the applicator.

(c) **Existing source requirement.** No owner or operator ~~subject to the provisions of this Section~~ shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any ~~organic solvent~~ VOC in excess of the amounts listed in 252:100-39-46(d) as calculated by EPA method 24, 40 CFR Part 60.

(d) **Standards.** The following table enumerates the limitations for surface coatings in pounds of ~~solvent~~ VOC per gallon of coating as applied (less water/~~exempt solvent water and exempt compounds~~) ~~+~~. If more than one limit listed in the table is applicable to a specific coating, then the least stringent limitation shall be applied.

Coating type	Limitations	
	lbs/gal	kg/liter
AQC10-20.39	29	DRAFT 9/15/98

Air or Forced Air Dry	3.5	420.42
Clear Coat	4.3	520.52
Extreme Performance	3.5	420.42
Powder	0.4	050.05
Other	3.0	360.36

(e) **Emission factor.** For the purposes of calculating an emission factor (EF) in pounds ~~VOS~~VOC per gallon of coating solids, the following formula will be utilized:

$$EF = V D / 1 - (V+W) = V D / S$$

where: V = volume fraction of ~~solvent~~VOC in coating₇.
D = density of ~~solvent~~VOC in the coating₇.
W = volume fraction of water in coating₇ and.
S = 1 - (V+W) = volume fraction of solids in coating.

(f) ~~Emission limit Compliance.~~ ~~If more than one emission limit as listed in 252:100-39-46(d) is applicable to a specific coating, then the least stringent emission limitation shall be applied.~~ Compliance with the coating limits listed in 252:100-39-46(d) is to be calculated on a daily weighted average basis.

(g) ~~Solvent containing VOC-containing materials.~~ ~~Solvent containing VOC-containing materials used for clean up shall be considered in the emissions VOC content limits listed in 252:100-39-46(d) unless:~~

- (1) the ~~solvent~~VOC containing materials are maintained in a closed container when not in use;
- (2) closed containers are used for the disposal of cloth or paper or other materials used for surface preparation and cleanup;
- (3) the spray equipment is disassembled and cleaned in a ~~solvent~~VOC vat and the vat is closed when not in use; or,
- (4) the ~~solvent~~VOC containing materials used for the clean up of spray equipment are sprayed directly into closed containers.

(h) ~~Exemptions.~~ ~~Exemptions to this Section shall be permitted for combined emissions at one site/facility, which do not exceed a 10 tons/year emissions cutoff based on the facility's~~ Facilities with a potential to emit 10 tons/year or less of ~~VOS~~VOC from coating operations are exempt from this Section. Once this limit is exceeded, the ~~source~~facility will always be subject to the limits of this Section.

(i) **Alternate standard.** Emissions Coatings with VOC contents in excess of those permitted~~allowed~~ by 252:100-39-46(d) are allowable~~may be used~~ if both of the following conditions are met₇.

(1) ~~emissions~~Emissions that would result in the absence of control are reduced to levels equivalent to those permitted by that would occur if the VOC content of the coatings met the limits contained in 252:100-39-46(d) and ~~meet~~there is an overall control efficiency of at least:

- (A) 85 percent₇ by incineration₇ ~~or~~
- (B) 85 percent₇ by absorption₇ or₇ ~~any other equipment of~~

~~equivalent reliability and effectiveness, and,~~
(C) 85 percent by any other equipment of equivalent reliability and effectiveness.

(2) ~~no~~ air pollution, as defined by the Clean Air Act, results.

(j) **Emission plan.**

(1) Development of a plant-wide emission plan. A n owner/operator may develop a plant-wide emission plan consistent with EPA's Emission Trading Policy as published in the December 4, 1986 Federal Register instead of having each coating line comply with the emission VOC content limitations prescribed contained in subsection (d) of this Section 252:100-39-46(d), provided if the following conditions are met-.

~~(1)(A)~~ The owner or operator demonstrates, ~~by means of approved material balance or manual emission test methods, by the methods prescribed in 252:100-5-2.1(d) that sufficient reductions in organic solvent VOC emissions may be obtained by controlling other facilities~~ sources within the plant to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be made ~~described in writing and shall include:~~

~~(A)(i)~~ a complete description of the coating line or lines ~~which that~~ will not comply with the emission VOC content limitation in 252:100-39-46(d);

~~(B)(ii)~~ quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, which are in excess of the prescribed emission VOC content limitation for each coating line described in ~~252:100-39-46(d)~~ 252:100-39-46(j)(A)(i);

~~(C)(iii)~~ a complete description of each ~~facility and the related control system, if any, for those facilities within the plant where~~ how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described in ~~252:100-39-46(d)~~ 252:100-39-46(j)(A)(i) and the date on which such reduction will be achieved;

~~(D)(iv)~~ a transfer efficiency based on a 60 percent baseline with emissions expressed in pounds of VOC per gallon of solids when transfer efficiency is used to compensate for excess emissions from spray painting operations, the transfer efficiency shall be based on a 60 percent baseline, with emissions expressed in pounds of solvent per gallon of solids. Credits for improvements in transfer efficiency shall be demonstrated with in plant testing which complies with approved EPA methods-;

(v) a demonstration of credits for improvements in transfer efficiency with in plant testing that complies with EPA methods.

~~(E)(vi)~~ quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, for each source both before and after the improvement or installation of any applicable control system, or any physical or operational

changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

~~(F)~~ (vii) a description of the procedures and methods used to determine the emissions of ~~organic solvents~~ VOCs.

~~(2)~~ (B) The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan as described in the Emissions Trading Policy may include voluntary decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to ~~facilities~~ emission units, including permanently reduced production or closing a facility, located on the premises of a surface-coating operation.

~~(3)~~ (2) Compliance with a plant-wide emission plan. The implementation of a plant-wide emission reduction plan instead of compliance with the ~~emissions~~ VOC content limitation prescribed in 252:100-39-46(d) has been expressly approved by the Executive Director and the EPA Administrator. Upon approval of a plan, any emissions in excess of those established for each facility under the plan shall be a violation of these rules.

(k) Compliance, testing, and monitoring requirements.

(1) The ~~Executive Division~~ Director may require the ~~owner/operator~~ owner or operator of a source to demonstrate at his expense, compliance with the emission limits using EPA Methods 24, 24A, 1-4, 25, 25A, 25B in 40 CFR 60.444 or EPA Document 450/3-84-019. At a minimum, such test must show that the overall capture efficiency and destruction efficiency are equal to 85 percent, (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). The one hour bake option in Method 24 is required when doing compliance testing.

(2) Testing for plant-wide emission plans shall be conducted by the ~~owner/operator~~ owner or operator at his expense to demonstrate compliance with the ~~emission~~ VOC content limits contained in 252:100-39-46(d).

(3) Monitoring shall be required of any ~~owner/operator~~ owner or operator subject to this Section who uses add-on control equipment for compliance. Such monitoring shall include:

~~(A)~~— installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(i)~~ (A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;

~~(ii)~~ (B) the total amount of ~~volatile organic substances~~ VOCs recovered by carbon adsorption or other ~~solvent~~ VOC recovery system during a calendar month; and,

~~(iii)~~ (C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and

duration of volatile organic substance emissions during such activities;

~~(B) maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k)(3)(A)(i); and, [NOTE: Moved to 252:100-39-46(1).]~~

~~(C) maintenance of all records at the affected facility for at least two years and make such records available to representative of the State or local air pollution control agency upon request. [NOTE: Moved to 252:100-39-46(1).]~~

(1) ~~Reporting and recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request, reports detailing specific VOS sources, the quantity of coatings used for a specific time period, VOS content of each coating, capture and control efficiencies, and any other information pertinent to the calculation of VOS emissions. The data necessary to supply the requested information shall be retained by the owner/operator for a minimum of two years.~~

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports detailing specific VOC sources; the quantity of coatings used for a specific time period, VOC content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOC emissions. The data necessary to supply the requested information shall be retained by the owner or operator for a minimum of two years.

(2) The owner or operator of a facility subject to this Sections shall maintain records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k), as well as all other records for at least two years. These records shall be available to representatives of the DEQ upon request.

(m) ~~Compliance date. The date of compliance with the requirements of this Section will be is December 31, 1990.~~

252:100-39-47. Control of ~~VOS~~VOC emissions from aerospace industries coatings operations

(a) Applicability.

(1) This Section applies to all aerospace facilities located in Tulsa County. Sources once subject to this Section are always subject.

(2) This Section does not apply to individual coating formulations ~~which that~~, when aggregated, do not exceed fifty-five (55) gallons per year for the facility.

~~(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in OAC 252:100-7 and will be submitted to EPA as source-specific SIP revision, unless:~~

~~(A) the new coatings meet the presumption norm (3.5 pound VOS per gallon less water and exempt solvents limit); or,~~

~~(B) the total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation.~~

[NOTE: Moved to 252:100-39-47(d)(7)(B).]

~~(4)(3) Exemptions to this Section shall be permitted for combined emissions at one site/facility which do not exceed a ten-ton per year emission cut-off based on the facilities with a potential of the facility to emit 10 tons/year or less of VOC VOC from coatings operations are exempt from this Section.~~

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Aerospace"** means the industries, air bases and depots that design and manufacture aircraft or military equipment components for either commercial or military customers.

(2) **"Aircraft"** means any machine designed to travel through the earth's atmosphere. This group includes but is not limited to airplanes, balloons, dirigibles, drones, helicopters, missiles, and rockets.

(3) **"Alternate ~~reasonable~~ reasonably available control technology (ARACT)"** means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility as determined on a case-by-case basis.

(4) **"Coating"** means a material which covers a surface which alters the surface characteristics and from which ~~Volatile Organic Solvents~~ VOCs can be emitted during the application and/or curing process.

(5) **"CTG"** means the Control Guidance Document "Control of Volatile Organic Emissions From Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," EPA No. 450/2-78-015.

(6) **"Facility"** means all of the pollutant-emitting activities ~~which that~~ belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.

(7) **"Low ~~organic solvent~~ VOC coating (~~LOSC~~) (LVOCC)"** means a coating ~~which that~~ contains less ~~organic solvent~~ VOC than the conventional coatings used by the industry. Low ~~organic solvent~~ VOC coatings include waterborne, higher solids, electrodeposition, and powder coatings.

(8) **"~~Reasonable~~ Reasonably available control technology (RACT)"** means ~~the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility and the need to impose such controls to attain and maintain a National Ambient Air Quality Standard.~~

(c) **General requirements.** ~~All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). Said plan, upon approval, shall constitute the determination of ARACT for that particular facility. ARACT must be installed and operating as approved in the plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan. Provided, however, that in the~~

~~case that Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification.~~

(1) All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). This plan, upon approval, shall constitute the determination of ARACT for that particular facility.

(2) ARACT must be installed and operating as approved provided in the approved plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan.

~~(3) If Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification. [NOTE: (3) was deleted because the 5 year period ended 1/1/96 and Tulsa was not and is not in nonattainment.]~~

(d) Emissions reduction plan.

~~(1) Plan development. Each owner/operator shall develop an emissions reduction plan for all affected facilities. Each plan shall include the following:~~

~~(A) a detailed, reasoned and exhaustive review of:~~

~~(i) each source of emissions within the facility and~~

~~(ii) (2) the entire plant collectively;~~

(A) a detailed, reasoned and exhaustive review of each source of emissions within the facility and the entire plant collectively;

(B) identification and quantification of emissions, in terms of pounds per day, of all organic solvents VOC both before and after the application of ARACT;

(C) a detailed, innovative engineering effort directed toward finding alternative air management schemes that can be incorporated in order to abate emissions at costs which are reasonable;

(D) a consideration of the level of control that is achievable using available alternative coatings, to include LVOCC for every application, low organic solvent coatings (LOSEC);

~~(E) a consideration of the level of control achievable using available add on control devices. This demonstration shall include, at a minimum, a demonstration of the feasibility/infeasibility of the following control options:~~

~~(i) carbon absorption;~~

~~(ii) incineration/flaring;~~

~~(iii) condensation; and~~

~~(iv) a combination of 252:100-39-47(d)(1)(E)(i) and 252:100-39-47(d)(1)(E)(ii).~~

(E) a demonstration of the level of control achievable using available add-on control devices which shall include, at a minimum, the feasibility/infeasibility of carbon adsorption, incineration/flaring, condensation, and a combination of carbon adsorption and incineration/flaring;

~~(F) a consideration of facility redesign, including the following:~~

- ~~(i) recirculation;~~
- ~~(ii) reduced air flows;~~
- ~~(iii) consolidation of spray operations; and,~~
- ~~(iv) installation of common control devices for two or more separate coatings operations.~~

(F) a consideration of facility redesign, including recirculation, reduced air flows, consolidation of spray operations, and installation of common control devices for two or more separate coating operations;

~~(G) a consideration of alternative applications, to improve transfer efficiency, including:~~

- ~~(i) high volume low pressure spray equipment;~~
- ~~(ii) heated spray guns; and,~~
- ~~(iii) electrostatic spray equipment/powder coatings.~~

(G) a consideration of alternative applications, to improve transfer efficiency, including high-volume-low-pressure spray equipment, heated spray guns, and electrostatic spray equipment/powder coatings;

(H) an explanation why each source is not a typical coating source covered by the CTG as defined in 252:100-39-47(b);

(I) a cost/benefit analysis for all control technology considered; and,

(J) a detailed compliance schedule ~~which~~that includes the emission limit and/or control techniques for each emission source. ~~This schedule, which~~ together with other relevant considerations, shall be set forth in a separate section of the plan ~~which~~that summarizes and outlines ARACT for the referenced facility.

(2) Submission of emission reduction plans. ~~Upon completion,~~The emissions reduction plan shall be submitted in triplicate to the Air Quality Division. The preparer shall also submit a copy of the plan to Region VI Environmental Protection Agency ~~(EPA)~~EPA, Region VI.

(3) Action on plan. Within 30 days of submittal, or of ~~the effective date of this Section~~ May 25, 1990, whichever is later, the Air Quality Division shall, considering any comments submitted by EPA, either approve, modify or disapprove the plan.

(4) Public hearing. The Division shall, at the first meeting of the Air Quality Council following the approval, modification, or disapproval of the plan, present at public hearing, the staff's findings and ARACT determination. ~~Upon consideration of comments and recommendations from the Council, the owner/operator of the affected facility, the public and EPA, the Department shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility. The owner/operator shall be responsible for installation and operational provisions of the approved ARACT, including any specific provisions set forth therein. Any violation of the plan or of its provisions shall constitute a violation of this Section.~~

(5) Final approval. Upon consideration of comments and recommendations from the Council, the owner or operator of the affected facility, the public, and EPA, the DEO shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility.

(6) Compliance. The owner or operator shall be responsible for installation and operational provisions of the approved ARACT. Any violation of the plan or of its provisions shall constitute a violation of this Section.

~~(5)~~ (7) Submission of SIP revision.

(A) Upon approval by the Department DEO, the ARACT determination shall be submitted to EPA as a SIP revision.

(B) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in 252:100-7 or 252:100-8, and will be submitted to EPA as source-specific SIP revision, unless one of the following applies.

(i) The new coatings meet the presumptive norm of 3.5 pound VOC per gallon less water and exempt compounds.

(ii) The total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation. [NOTE: Was 252:100-39-47(a)(3).]

(e) Reporting and recordkeeping.

(1) Recordkeeping requirements. The ~~owner/operator~~ owner or operator shall maintain the following:

~~(A) a material data sheet which documents the volatile organic solvent VOC content, composition, solids content, solvent VOC density and other relevant information regarding each coating and solvent VOC available for use in the affected surface coating processes; information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits. Information as to the amounts of each type coating used and the amounts of solvents used for dilution in each coating type shall be maintained for each coating operation. Daily usage records will be kept for all coatings used that do not comply with the applicable control limits specified in the plan;~~

(B) information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits;

(C) information as to the amounts of each type coating used and the amounts of VOC used for dilution in each coating type for each coating operation;

(D) daily usage records for all coatings used that do not comply with the applicable control limits specified in the plan; and,

~~(B)~~ (E) records shall be maintained of any monitoring and testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f).

~~(C)~~ (2) Method of calculating VOC content in coatings. records

Records required by 252:100-39-47(e)(1)(A) and ~~252:100-39-47(e)(1)(B)~~ through 252:100-39-47(e)(1)(E) detailing VOC in pounds per gallon of coating (less water and exempt compounds) shall be calculated as follows:

$$\text{VOC in lbs/gal of coating} = \frac{W_v - W_x - W_e}{V_m - V_w - V_x}$$

where: W_v = weight of all volatiles _{τ_i}
 W_w = weight of water _{τ_i}
 W_x = weight of exempt solvent compounds _{τ_i}
 V_m = 1 (one) _{τ_i}
 V_w = volume fraction of water _{τ_i} and
 V_x = volume fraction of exempt solvent compounds.

~~(D)~~ (3) Maintenance of records. Records required by 252:100-39-47(e)(1)(A) and ~~252:100-39-47(e)(1)(B)~~ through 252:100-39-47(e)(1)(E) shall be maintained for at least two years and shall be made available upon written request by representatives of the ~~Air Quality Division, AOD U.S. Environmental Protection Agency~~ or EPA or the ~~Tulsa City County Health Department.~~

~~(2)~~ (4) Alternative recordkeeping provision. Alternatively to 252:100-39-47(e)(1) through 252:100-39-47(e)(3), an equivalent recordkeeping provision which that satisfies the substantive requirements of 252:100-39-47(e)(1) through 252:10-39-47(e)(3) may be approved under the plan.

(f) Testing and monitoring.

(1) Testing. Each ~~owner/operator~~ owner or operator shall, upon a determination by the ~~Air Quality Division~~ that testing is required to establish emission from any particular source or sources, conduct such tests at his own expense. Test methods may include 1-4, 18, 24, 24A, 25A, 25B found in the Appendix A of 40 CFR Part 60, including the procedures found at 40 CFR 60.444.

(2) Monitoring. Monitoring shall be required of any ~~owner/operator~~ owner or operator subject to this section who uses add-on control equipment for compliance. Such monitoring shall include accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(A) installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of these devices in accordance with design specifications, including:~~

~~(i) (A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;~~

~~(ii) (B) the total amount of volatile organic substances VOCs recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,~~

~~(iii) (C) the dates and reasons for any maintenance and repair~~

of the required control devices and the estimated quantity and duration of volatile organic substance VOC emissions during such activities.

~~(B) maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f)(2)(A)(i); and,~~

~~(C) maintenance of all records at the affected facility for at least two years and make such records available to representatives of the State or local air pollution control agencies upon request. (252:100-39-47 Effective May 25, 1990)~~

~~[NOTE: 252:100-39-47(f)(2)(B) and (C) are covered in 252:100-39-47(e)(1)(E) and 252:100-39-47(e)(3).]~~

~~252:100-39-48. Vapor recovery systems [NOTE: This section has been combined with 252:100-39-41 as 252:100-39-41(e).]~~

~~(a) Applicability. This Section applies only in Tulsa County. [NOTE: Moved to 252:100-39-41(e)(1).]~~

~~(b) Storage of volatile organic compounds 400-40,000 gallons (9.5-953 bbls).~~

~~(1) No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a submerged fill pipe or is bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compounds contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum. [NOTE: The last sentence of 252:100-39-48(b)(1) was moved to 252:100-39-41(e)(2)(A). The rest of 252:100-39-48(b)(1) was deleted since it repeats material already in 252:100-39-41.]~~

~~(2) The vapor recovery system shall include one or more of the following:~~

~~(A) a vapor tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds can be transferred into the container (i.e., popped connectors from the storage container to the delivery vessel.);~~

~~(B) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole;~~

~~(C) the cross sectional area of the vapor recovery line must~~

~~be at least half of the cross-sectional area of the liquid delivery line, or,~~

~~(D) instead 252:100-39-48(b)(2)(A) through 252:100-39-48(b)(2)(C), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Executive Director prior to start of construction. [NOTE: 252:100-39-48(b)(2) was moved to 252:100-39-41(e)(2)(A).]~~

~~(3) Exemptions to this Section may be granted provided the owner/operator shows to the satisfaction of the appropriate authority that the container is used exclusively for agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less. [NOTE: Moved to 252:100-39-41(e)(2)(B)(ii).]~~

~~(4) The applicability of this Section shall be determined by the most restrictive of the 2,000 gallon tank size as specified in 252:100-39-48(b)(1) or the 120,000 gallon annual throughput described in 252:100-39-48(b)(3). However, once a facility places a 2,000 gallon tank in service or exceeds the 120,000 gallon annual throughput described in 252:100-39-48(b)(3), that facility shall always be subject to the provisions of this Section. (effective February 12, 1990) [NOTE: Moved to 252:100-39-41(e)(2)(B)(ii).]~~

~~(5) If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized. [NOTE: Moved to 252:100-39-41(e)(2)(C).]~~

~~(6) Compliance with this subsection will be accomplished by affected owner/operator by December 31, 1986. [NOTE: Moved to 252:100-39-41(e)(2)(D).]~~

~~(7) The owner/operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds made to their facility or facilities located in Tulsa County, shall be made by vessels which comply with the requirements contained in 252:100-39-48(d). Compliance with this Section shall be accomplished by affected owner/operators no later than December 31, 1990. (Effective February 12, 1990) [NOTE: Moved to 252:100-39-41(e)(2)(E).]~~

~~(e) Loading of volatile organic compounds. [NOTE: This subsection was moved in part to 252:100-39-41(e)(3).]~~

~~(1) No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound loading facility unless such loading facility is equipped with a vapor collection and/or disposal system properly installed, in good working order and in operation.~~

~~(2) When volatile organic compounds are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor tight seal~~

~~at the hatch.~~

~~(3) A means shall be provided to prevent organic material drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.~~

~~(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor tight connections and which close automatically when disconnected.~~

~~(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels:~~

~~(A) an absorption/adsorption system or condensation system with a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound vapors and gases entering such disposal system;~~

~~(B) a vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent; or,~~

~~(C) other equipment of at least 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-48(e)(5)(A) through 252:100-39-48(e)(5)(C) if they are designed to prevent the release of vapors during use.~~

~~(6) Subsection 252:100-39-48(e) shall apply to any facility which loads volatile organic compounds into any transport vessel designed for transporting volatile organic compounds. [NOTE: 252:100-39-48(c)(1) through (6) was deleted since this material is already contained in 252:100-39-41(c).]~~

~~(7) Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for two years. [NOTE: Moved to 252:100-39-41(e)(3).]~~

~~(d) Transport/delivery vessel requirements.~~

~~(1) Maintenance.~~

~~(A) The delivery vessel must be maintained so as to be vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.~~

~~(B) The delivery vessel must be equipped, maintained and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.~~

~~(C) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which would impair the vessels ability to retain vapors or liquid shall be repaired within 5 days.~~

~~(D) The certified testing facility must certify to the~~

~~approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-48(d)(2)(A)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.~~

~~(E) No owner/operator will allow a delivery vessel to be filled at a facility unable to receive displaced organic vapors nor service tanks unable to deliver displaced vapors except for tanks/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels which do not display a current tag.~~

~~(F) Delivery vessels may be inspected by representatives of the appropriate health agency in order to determine their state of repair. Such a test may consist of a visual inspection, a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner/operator to effect the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days the vessel will be removed from service by the owner/operator. Failure to certify that the cited repairs have been effected will subject the vessel to sanctions. Upon certification of repairs the vessel will be allowed to operate in a normal manner.~~

~~(2) Testing requirements.~~

~~(A) Pressure test.~~

~~(i) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Executive Director.~~

~~(ii) The vessel will be considered to pass the test prescribed in 252:100-39-48(d)(2)(A)(i) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O in addition there shall be no avoidable visible liquid leaks.~~

~~(B) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(d)(1)(F) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-48 will become effective December 15, 1988. [NOTE: 252:100-39-48(d) was moved to 252:100-39-41(e)(4).]~~

252:100-39-49. Manufacturing of fiberglass reinforced plastic products

~~(a) General provisions. Within 12 months after promulgation of this Section all affected facilities shall limit emissions of VOS from fiberglass manufacturing to those listed in 252:100 39-49(a)(1), or have an approved plan for the reduction of such emissions. The plan must be submitted to the Executive Director within 6 months after promulgation of this Section, and shall detail those emissions which will be controlled, the means by which control will be achieved and will demonstrate that compliance will be achieved within two years from the date of promulgation of this Section. The approval authority for such plans shall reside with the Air Quality Council. All approved plans shall be submitted as SIP revisions.~~

~~(1) Compliance with 252:100 39-49(a) shall be accomplished by use of control equipment which can demonstrate an 85 percent reduction in the VOS released from each process gas stream, e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency.~~

~~(2) Exemptions to the limits listed in 252:100 39-49(a)(1) may be allowed for any process gas stream which does not exceed six tons per year actual emissions based on 6240 hours per year. However, once this limit is exceeded, controls must be put in place and maintained at any operating level.~~

~~(b) Demonstration of compliance. The Executive Director may require the owner/operator of a source to demonstrate at his expense, compliance with the prescribed emissions limits. The testing shall be accomplished using the appropriate EPA test method or methods, these include methods 1 4, 18 25, 25A, 25B and 40 CFR 60.444. Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.~~

~~(c) Testing. Testing for the alternate emissions plan shall be conducted by the owner/operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.~~

~~(d) Recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request reports detailing specific VOS sources, the quantity of solvents used during specific months, a description of the solvent used, control equipment efficiencies, equipment downtime and any other information pertinent to the calculation of VOS emissions from the facility. The owner/operator must also maintain records which detail the maintenance performed on all control equipment as well as a record of the downtime with the reason for each occurrence. Such records shall be maintained by the source for a minimum of two years. (252:100 39-49, Effective February 12, 1990)~~

(a) Applicability.

(1) This Section applies to any process gas stream with actual VOC emissions that exceed six tons per year based on 6,240 hours of operation per year.

(2) Once the limit in 242:100-39-49(a)(1) is exceeded, the controls required in 252:100-39-49(b) must be put in place and maintained and used at any operating level. [NOTE: This subsection was 252:100-39-49(a)(2).]

(b) Standards. Affected facilities shall limit emissions of VOC from fiberglass manufacturing by use of control equipment which can demonstrate an 85 percent reduction in the VOC released from each process stream (e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). [NOTE: This was 252:100-39-49(a)(1).]

(c) Compliance. All affected facilities must comply with one of the following.

(1) Meet the requirements of 252:100-39-49(b) by February 13, 1991.

(2) Have an approved plan for the reduction of VOC emissions as required by 252:100-39-49(b) by February 13, 1991.

(A) The plan shall be submitted by August 13, 1990, and shall:

(i) detail those emissions which will be controlled;

(ii) detail the means by which control will be achieved; and,

(iii) demonstrate that compliance will be achieved by February 13, 1992.

(B) The Air Quality Council shall have approval authority for the plans.

(C) All approved plans shall be submitted to the EPA as SIP revisions. [NOTE: This was 252:100-39-49(a).] [NOTE: Missing dates will be supplied.]

(d) Demonstration of compliance.

(1) The Division Director may require an owner or operator of a source to demonstrate at his expense, compliance with the requirements of 252:100-39-49(b).

(2) The testing shall be accomplished using the appropriate EPA test method or methods. These include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444.

(3) Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.

(4) Testing for the emissions plan described in 252:100-39-49(c)(2) shall be conducted by the owner or operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan. [NOTE: 252:100-39-49(d)(1) through (3) was 252:100-39-49(b) and 252:100-39-49(d)(4) was 252:100-39-49(c).]

(e) Recordkeeping.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports that include:

(A) details of specific VOC sources;

(B) the quantity of VOC used during specific months;

(C) a description of the VOC used;

(D) control equipment efficiencies;

(E) details of maintenance performed on all control equipment;

(F) equipment downtime; and,

(G) any other information pertinent to the calculation of VOC emissions from the facility.

(2) The records required in 252:100-39-49(e)(1) shall be maintained by the source for at least two years. [252:100-390-49, Effective February 12, 1990] [NOTE: This was 252:100-39-49(d).]

LIST OF ORGANIC COMPOUNDS WITH NEGLIGIBLE
PHOTOCHEMICAL REACTIVITY

40 CFR 51.100(s)(1) as it existed on July 1, 1998

From the Federal Register dated 4/9/98

Sec. 51.100 Definitions.

(s) Volatile organic compounds (VOC)

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
ethane;
methylene chloride (dichloromethane);
1,1,1-trichloroethane (methyl chloroform);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
chlorodifluoromethane (HCFC-22);
trifluoromethane (HFC-23);
1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1-dichloro 1-fluoroethane (HCFC-141b);
1-chloro 1,1-difluoroethane (HCFC-142b);
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
pentafluoroethane (HFC-125);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trifluoroethane (HFC-143a);
1,1-difluoroethane (HFC-152a);
parachlorobenzotrifluoride (PCBTF);
cyclic, branched, or linear completely methylated siloxanes;
acetone;
perchloroethylene (tetrachloroethylene);
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
difluoromethane (HFC-32);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);

chlorofluoromethane (HCFC-31);
1 chloro-1-fluoroethane (HCFC-151a);
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCH_2OCH_3$);
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCH_2OC_2H_5$);
methyl acetate

and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

REVISIONS TO THE PROPOSED MODIFICATION OF SUBCHAPTER 39 FOR THE
OCTOBER 20, 1998, AIR QUALITY COUNCIL MEETING

Below is a list of the revisions that will be proposed to the proposed modification of Subchapter 39 that was presented at the August 18, 1998, AQC meeting. This list is furnished to facilitate review of the modification for the October 20, 1998 AQC meeting

1. Subchapter title. Changed (VOC) to (VOCs).
2. 252:100-39-1. "and carbon monoxide" was delete from the end of second sentence
3. 252:100-39-1. Changed "emissions of VOC" to "emissions of VOCs"
4. 252:100-39-2. Deleted (D) under the definition of "Submerged fill pipe" and added a NOTE
5. 252:100-39-2. "Volatile organic compound (VOC)" Removed language incorporating 40 CFR 51.100(s)(1) by reference. Added language that states if an organic compound is listed in 40 CFR 51.100(s)(1) we will presume it has negligible photochemical reactivity and it will not be considered a VOC. Revised the NOTE
6. 252:100-39-3. Deleted "and any areas designated nonattainment for ozone unless clearly indicated otherwise" from this Section.
7. 252:100-39-15(c)(3). Replaced "gaseous" with "gas" and deleted "VOC" prior to "service". This was done because "gas service" is defined and "gaseous VOC service" is not.
8. 252:100-39-15(d). Deleted ", or within 60 days of the date the area where the refinery is located was designated as a nonattainment area."
9. 252:100-39-15(f)(1)(D). Replaced "immediately" with "Within 24 hours"
10. 252:100-39-15(g)(2). "Copies of" was deleted from the beginning of this paragraph, "the" at the beginning of the sentence was replaced with "The", and "on site" was inserted after "be retained"
11. 252:100-39-15(g)(3). This paragraph has been rewritten as follows. "Copies of the monitoring log shall be made available for inspection at any reasonable time and copies of the log shall be provided to the Executive Division Director, upon written request, at any reasonable time of the AQD."
12. 252:100-39-17(d). Within the parentheses inserted "Control of Refinery Vacuum Producing systems, Wastewater Separators and Process Unit Turnarounds" prior to "EPA 450/2-77-025" and inserted "October, 1977" afterward.
13. 252:100-39-30(c)(1)(B)(iii). Deleted the period after "in"
14. 252:100-39-40(b). Corrected spelling error by replacing "liquified" with "liquefied"
15. 252:100-39-41(a)(1). In the first sentence replaced "A" with "An external"; inserted a hyphen between "pontoon" and "type"; deleted "internal floating cover," after "double-deck type" replaced "roof" with "cover"; inserted "or a fixed roof with an internal-floating cover." after "double-deck type cover"; and deleted "which". Began the second sentence by inserting "The cover" prior to "will rest", deleted the period after "liquid contents" and added "at all times (i.e. off the leg supports), except during initial fill, when the storage vessel is completely empty, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be

continuous and shall be accomplished as rapidly as possible." Replaced "roof edge" with "cover edge", "11 psia" with "11.1 psia", and "75.8 kPa" with "76.6 kPa" In the last sentence in the paragraph inserted between "seals" and "will", "for a fixed roof vessel with an internal floating cover". Added a new sentence "Closure seals for vessels with external floating roofs will meet the requirements of 252:100-39-30(c)(1)(B)(i), (ii), and (iii).

16. 252:100-39-41(a)(2) Changed "VOC" following "80 mg/liter of" to "VOCs"
17. 252:100-39-41(c)(1). Replaced "2,000 gallons" with "10,000 gallons"
18. 252:100-39-42(a)(4). Inserted "guidance" between "EPA" and "document". Added "Control of Volatile Organic Emissions from Solvent Metal Cleaning," before "450/2-77-022."
19. 252:100-39-42(b)(1)(C)(iv). Replaced "cfm/ft.²" with "cfm/ft²"
20. 252:100-39-42(b)(2)(B)(ii) Changed "min." to "min"
21. 252:100-39-42(b)(2)(I). Changed "min." to "min"
22. 252:100-39-42(b)(3). Deleted "which is incorporated by reference,"
23. 252:100-39-42(c)(1)(A). Changed "min." to "min"
24. 252:100-39-42(c)(1)(C)(ii). Changed "ft./min." to "ft/min" and "m/min. to "m/min".
25. 252:100-39-42(c)(2)(C)(ii). Deleted period after "4 in"
26. 252:100-39-42(c)(2)(D). Deleted period after "4 in"
27. 252:100-39-47(d)(7)(B). Changed (*B)) to (B)
28. 252:100-39-47(e)(3). Deleted "written " prior to "request"

SUMMATION AND EXPLANATION OF THE PROPOSED
REVISIONS TO SUBCHAPTER 39

The proposed revisions to Subchapter 39 are the result of the DEQ program to simplify, clarify and correct all its rules. Unless otherwise noted no substantive changes are intended in the following revisions. *The substantive changes are summarized in Section III of this document.* This summation has been updated to reflect the substantive changes proposed after the August 18, 1998, Air Quality Council meeting. The only changes to this document are to III; IV.B.3.; IV.C.; V.A.4.; VII.B.1.; and VII.B.3. The document entitled "Revisions to the Proposed Modification of Subchapter 39 for the October 20, 1998, Air Quality Council Meeting" lists all proposed revisions to the draft presented at the August 18, 1998, meeting.

- I. Staff proposes to revise the title of the subchapter to make it clear that it applies to sources that are located not only in ozone nonattainment areas, but also in areas that were previously designated as nonattainment for ozone.
- II. Revisions made throughout the Subchapter
 - A. Revisions in terminology
 1. Environmental Protection Agency has been replaced by EPA - simplification
 2. Executive Director has been replaced, in most cases, by Division Director - clarification
 3. Organic material has been replaced by VOC - simplification
 4. Organic solvent has been replaced by VOC - simplification
 5. When appropriate hydrocarbon has been replaced by VOC - simplification
 6. Volatile organic compound (VOC) has been replaced by VOC - simplification
 7. Photochemical oxidants has been replaced by ozone - clarification
 8. Tank has been replaced by vessel - consistency in terminology
 9. Person has been replaced by owner or operator - clarification
 - B. Revised or deleted language
 1. "or permit the building or installation of" has been deleted throughout the rule - simplification and clarification
 2. Unless otherwise noted herein, changes in language were for simplification, clarification, correction of grammar, or consistency of format
- III. Only three of the revisions proposed by the staff are intended to be substantive. These are:
 - A. The revision of the definition of "Volatile organic compound (VOC) in 252:100-39-2;
 - B. The correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b); and
 - C. The addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons to 252:100-39-41(c).
- IV. PART 1. GENERAL PROVISIONS
 - A. 252:100-39-1. Purpose. The proposed revisions are to set forth as clearly as possible the purpose of the rule. and to make it clear that the rule also applies to sources located in areas that were previously designated as nonattainment for ozone.
 - B. 252:100-39-2. Definitions..

1. The staff proposes to delete the definition of REFINERY since this term is not used in Subchapter 39.
 2. Staff proposes to move the definition of CUTBACK ASPHALT to 252:100-39-40(a) and the definition of EFFLUENT WATER SEPARATOR to 252:100-39-18(a). These terms appear only in those sections.
 3. The staff proposes to revise the definition OF VOLATILE ORGANIC COMPOUND (VOC) to be consistent with the EPA definition, 40 CFR 51.100(s)(1) contains the list of organic compounds that EPA has designated as having negligible photochemical reactivity and therefore has excluded from the definition of VOC. Staff has added language that states if an organic compound is listed in 40 CFR 51.100(s)(1) it will be presume to have negligible photochemical reactivity and will not be considered a VOC.
 - ◆ This is part of the simplification process. What EPA classifies as VOC has been classified as organic material in Chapter 100 and divided into VOC, organic solvents, and volatile organic solvents. The Chapter contains two definitions of VOC, two definitions of organic solvents., and a definition of volatile organic solvent (VOS). The staff feels having one definition of VOC that is consistent with the EPA definition will simplify the Chapter as well as Subchapter 39.
 - ◆ Ozone is the NAAQS pollutant of concern in Subchapter 39. The rule provides for control of ozone by controlling the emissions of ozone precursors - photochemically reactive organic compounds. The proposed revision of the definition of VOC reflects this purpose.
 - ◆ A petition from the Chemical Manufacturers Association to exclude acetone from the definition of VOC was presented to the Air Quality Council at the meeting of December 19, 1995. The Council directed the staff to give consideration to this petition. Subsequent to this event, other requests have been received requesting that perchloroethylene, methylated siloxanes, and methyl acetate also be excluded from the definition of VOC. The proposed revision of VOC excludes these three compounds since they have been designated by EPA as having negligible photochemical reactivity.
 - ◆ **THE REVISION MAY RESULT IN SOME SUBSTANTIVE CHANGES**, although care has been taken throughout the rest of the Subchapter to minimize any such substantive changes that may result from the revised definition of VOC.
 4. Staff proposes to delete the definitions of ORGANIC MATERIALS AND VOLATILE ORGANIC SOLVENT (VOS) as part of the simplification process. These terms will no longer be used in Chapter 100.
 5. Staff proposes to move the definitions of PETROLEUM REFINERY from 252:100-39-15(a)(4) and REFINERY UNIT from 252:100-39-15(a)(5) to 252:100-39-2 because these terms are used in more than one section in this Subchapter.
- C. **252:100-39-3. General applicability.** Deleted previously proposed language that made the requirements of Subchapter 39 applicable to any area that may be designated as nonattainment for ozone in the future..

- D. **252:100-39-4. Exceptions.** The addition of this section prevents substantive changes due to the new definition of VOC and the use of the term VOC in place of VOS. This revision insures that those sections of Subchapter 39 which previously applied only to VOCs with vapor pressure of 1.5 psia or greater continue to apply only to VOCs with vapor pressure of 1.5 psia or greater.

V. PART 3. PETROLEUM REFINERY OPERATIONS

A. **252:100-39-15. Petroleum refinery equipment leaks**

1. (a) **Definitions.** Staff proposes to add a definition for LEAKING COMPONENT. This language was in 252:100-39-15(c)(1)(C).
2. (b) **Applicability.** Staff proposes to add paragraph (2) to exempt VOCs with vapor pressures less than 0.0435 psia under actual storage conditions from the requirements of Section 15. This exemption prevents a substantive change in this Section due to the revised definition of VOC.
3. (c) **Provisions for specific processes.** Staff proposes to rename the subsection "Standards and operating requirements" to better reflect its content..
4. (d) **Compliance schedule.** Staff proposes to delete the previously proposed language that would require a refinery located in an area that becomes nonattainment for ozone to submit a written monitoring program within 60 days of the date the area is designated as nonattainment. This language was part of the attempt to make Subchapter 39 applicable to new ozone nonattainment areas.

- B. **252:100-39-16. Refinery process unit turnaround,** Staff proposes to change this to "Petroleum refinery process unit turnaround" for clarity. The proposed revision to 252:100-39-16(b)(4) make it clear which months are included in the non-oxidant season.

- C. **252:100-39-17. Refinery vacuum producing system.** Staff proposes to change the title to "Petroleum refinery vacuum producing system" for consistency.

- D. **252:100-39-18. Refinery effluent water separators.** Staff proposes to change this to "Petroleum refinery effluent water separators" for consistency.

VI. PART V. PETROLEUM PROCESSING AND STORAGE

- A. **252:100-39-30. Petroleum liquid storage in external floating roof tanks** Staff proposes to change this to "Petroleum liquid storage in vessels with external floating roofs" for consistency in terminology.

1. (a) **Definitions.** The proposed revisions to the definitions OF EXTERNALLY FLOATING ROOF, LEASE CUSTODY TRANSFER, and VAPOR-MOUNTED SEAL are to correct errors and replace the term tanks with vessels for consistency in terminology.
2. (b) **Applicability** Staff proposes to correct the placement of "prior to lease custody transfer" in 252:100-39-30(b). This phrase was located in paragraph (2) and was, therefore, applicable to all the exemptions listed in that paragraph. Research in the Air Quality Council records and in the Control Technology Guideline, Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450/2-78-047, indicates that this phrase should apply only to 252:100-39-30(b)(2)(B). Staff proposes moving this phrase to 252:100-39-30(b)(2)(B). **THIS IS A SUBSTANTIVE CHANGE**

3. (c) **Provisions for specific processes.** Staff proposes to rename this subsection "Equipment and operating requirements" to better reflect its contents and to add taglines to each paragraph in the subsection.
4. (d) **Compliance schedule.** The proposed revision to this subsection replaces the compliance deadline with a date certain.

VII. PART 7. SPECIFIC OPERATIONS

- A. **252:100-39-40. Cutback asphalt (paving).** Staff proposes to add taglines to subsections (a) and (b) and to clarify which months are included in the non-oxidant season.
- B. **252:100-39-41. Vapor recovery systems.** Staff proposes to rename this section "Storage, loading and transport/delivery of VOCs" to better reflect its contents.
 1. (a) **Storage of volatile organic compounds - greater than 40,000 gallons (953 bbls).** Staff proposes to rename this subsection "Storage of VOCs in vessels with storage capacities greater than 40,000 gallons."
 - ◆ (1). Staff has proposed language to make clear that the cover of an external floating roof may rest on the leg supports during filling, emptying, or refilling.
 2. (b) **Storage of volatile organic compounds - 400-40,000 gallons (9.5-953 bbls).** Staff proposes to rename this subsection "Storage of VOCs in vessels with storage capacities of 400-40,000 gallons."
 3. (c) **Loading of volatile organic compounds.** Staff proposes to rename this subsection Loading of VOCs. Staff proposes to add a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons in paragraph (1) for determining applicability of this subsection. **THIS IS A SUBSTANTIVE CHANGE.**
 4. (e) **Additional requirements for Tulsa County.** Staff proposes to add the requirements in 252:100-39-48 that apply only to Tulsa County and that are not already included in 252:100-39-41 to this subsection and delete 252:100-39-48. This will simplify the rule by putting all the requirements regarding storage, loading, transport/delivery of VOCs in one Section. The proposed revision will also eliminate the necessity for two Sections with the same title in Subchapter 39.
- C. **252:100-39-44. Manufacture of pneumatic rubber tires.** Staff proposes to delete paragraph (4) since the provision for alternative controls was not used prior to the deadline of September 15, 1981, for submitting a petition to the DEQ.
- D. **252:100-39-46. Coating of parts and products.**
 1. (f) **Emission limit.** Staff proposes to rename this section "Compliance" to better reflect its contents. Staff proposes to move the first sentence of this subsection to 252:100-39p46(d) for simplification and clarification.
 2. (j) **Emission plan. (1) Development of a plant-wide emission plan.** The term "voluntary" was added to subparagraph (B) in describing the types of decreases that could be included in a plant-wide reduction plan. This is to make clear that even if a reduction is part of a permit, if it was a voluntary reduction and has not been relied on to meet or avoid some other requirement, it can be used in the plant-wide reduction plan.

3. **(k) Compliance.** Staff proposes to change the title to "**Compliance, testing, and monitoring requirements**" to better reflect the contents of the subsection. Staff proposes to move 252:100-39-46(k)(3)(B) and (C) regarding maintenance of records to 252:100-39-46(l), Reporting and recordkeeping.
- E. **252:100-39-47. Control of VOS emissions from aerospace industries coating operations.** Proposed revision to the title is for consistency in terminology.
 1. **(a) Applicability.** Staff proposes to move paragraph (3) to 252:1000-39-46(d)(7)(B) as part of the simplification and clarification process.
 2. **(c) General requirements.** Staff proposes to reformat this subsection for clarity and to delete the requirement for review of the Emission Reduction Plan and ARACT determination if Tulsa County is still in nonattainment for ozone within five years of the approval of ARACT. The five year period ended 1/1/96 and Tulsa was not at that time and is not in nonattainment for ozone.
 3. **(d) Emissions reduction plan.** The staff proposes to add taglines to each paragraph of this subsection for clarity.
 - ◆ **(3) Action on plan.** The proposed revision is to include the actual effective date.
 - ◆ **(4) Public hearing.** Staff proposes to divide paragraph (4) into three paragraphs for clarity.
 - ◆ **(7) Submission of SIP revision.** (7)(B) was moved from 252:100-39-47(A)(3) because this appears to be a more logical location for it.
 4. **(f) Testing and monitoring.** Staff proposes to add taglines for clarity. Subparagraphs (B) and (C), except for the effective date, were deleted because the information they contained is included in 252:100-39-47(e)(1)(E) and 252:100-39-47(e)(3).
- F. **252:100-39-48. Vapor recovery systems.** The portions of this section that were in addition to the requirements of 252:100-39-41 were moved to 252:100-39-41(e). Staff proposes to delete the remainder of the section because it is redundant language.

VIII. Manufacturing of fiberglass reinforced plastic products. It is proposed to reformat this section for clarity and consistency in formatting with the rest of the rule. Actual deadline dates have been inserted.

MINUTES

AIR QUALITY COUNCIL

OCTOBER 20, 1998

Tulsa City-County Health Department Auditorium
5051 South 129th Street East
Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce

Council Members Absent

Larry Canter
Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 20, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye. Mr. Kilpatrick, Ms. Slagell and Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 18, 1998 Public Meeting/Hearings. Motion was made by Mr. Wilson to approve the Minutes as presented and second to the motion was made by Dr. Grosz. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

1999 Meeting Schedule - Mr. Dyke presented Council with proposed schedule for 1999 meetings with the suggestion that the December 21 date mentioned in the packet memo be changed to December 14. Ms. Myers made motion to accept the schedule as proposed: Wednesday, February 17, Tuesday, April 20, Tuesday, August 17, and Tuesday, December 14 at OKC, DEQ Multi-Purpose Room; with Tuesday, June 15 and October 19 at Tulsa, TCCHD Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out proposed revisions would modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits stating that actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of “de minimis facility.” Also, she stated that proposed revision would delete the lower limit of five tons per year for PBR facilities allowing those facilities with less than five tons per year emissions which are subject to NSPS or NESHAP to apply for a PBR instead of having to obtain an individual permit. Ms. Buttram advised that staff proposed that a new Part 9 be added that would outline the requirements necessary for a facility to qualify for a PBR. A third point she brought out was the proposed revision to delete the lower limit for general permits allowing facilities that may have less than 40 tons per year of emissions, but for which no PBR had been written, the opportunity to apply for coverage under an applicable general permit. Lastly, she added that the Department proposed to amend 252-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council’s October 20, 1998 meeting. Ms. Myers made that motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff’s position on this rule. Ms. Buttram pointed out that the proposed amendments would fulfill an EPA requirement concerning Continuous Emissions Monitoring proposing to incorporate by reference the Federal opacity monitoring requirements for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators as specified in 40 CFR 51, Appendix P. She noted that the Department proposed to exempt from Appendix P requirements for those sources already subject to a new source performance standard and for sources scheduled for retirement within five years after the

amended rule takes effect. Ms. Buttram added that the amended rule would also provide criteria for approval of alternative monitoring requirements with additional changes that would clarify how the opacity standard is determined.

Mr. Breisch asked for a motion to recommend the rule as proposed to the Environmental Quality Board for permanent adoption. Mr. Wilson made the motion with David Branecky making the second. Roll call was as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out that the proposed revisions add a new Permit by Rule section that would streamline the permitting process by creating a mechanism that eliminates the necessity for some cotton gins to obtain an individual air quality permit. Ms. Martinez added that additional changes would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Following discussion, Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Ms. Myers made the motion with second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who advised that the proposed revisions would simplify the language under the agency-wide re-right/de-wrong initiative and would add a new Permit by Rule section to streamline the permitting process by creating a mechanism that would eliminate the necessity for some grain elevators to obtain an individual air quality permit. Ms. Martinez added that a new Appendix L proposed would contain PM-10 emission factors for PBR grain elevators. Additional changes follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the

opacity standard allowing exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Mr. Breisch entertained a motion to recommend the rule to the Environmental Quality Board for permanent adoption at its November 10 meeting. Mr. Wilson made that motion with second made by Ms. Myers. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She then pointed out four substantive changes that were proposed for Subchapter 37 as well as Subchapter 39:

- 1) to change the definition of “volatile organic compounds (VOC)” per Council’s direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;
- 2) to remove of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a);
- 3) a change regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences; and
- 4) to add a new Part 9, Permit by Rule for Volatile Organic Liquid Storage and Loading Facilities.

Mr. Breisch entertained a motion to continue this rule to Council’s December meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She stated that one substantive change affects both Subchapters 39 and 37

which is to change the definition of "volatile organic compounds" per Council's direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;

In Subchapter 39, Dr. Sheedy pointed out the need for correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2) which would be a substantive change along with the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c).

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's December 15 meeting. Mr. Branecky made that motion with the second made by Mr. Wilson. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the proposed revisions would update the adoption by reference of 40 CFR Part 63 to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. She pointed out that the new standards are Subpart S - NESHAP for Pulp and Paper Production and Subpart LL - NESHAP for Aluminum Production Plants. The proposed revisions will also update the adoption by reference of the NESHAP as found in 40 CFR Part 61 (with the exception of Subparts B, H, I, K, Q, R, T, and W. and Appendices D and E which address radionuclides) to July 1, 1998. Dr. Sheedy advised the Council that these modifications were necessary to obtain EPA's delegation of authority to implement the federal hazardous air pollutant program in Oklahoma.

Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Mr. Wilson made that motion with the second made by Mr. Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Shawna McWaters-Khalousi for staff recommendation. Ms. Khalousi advised that the Department is proposing to amend 252:100-5-2.2 to increase annual operating fees assessed to minor facilities; amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits; and amend 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. Ms. Khalousi stated that if was staff's recommendation that this rule be continued to Council's December 15 meeting.

Mr. Breisch entertained motion to continue these rules to the December meeting. Ms. Myers made the motion and second was made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes.

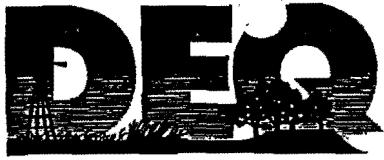
NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being December 15, 1998 at Lincoln Plaza Office Complex Burgundy Room, 4545 North Lincoln, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

OCTOBER 20, 1998

SIGN-IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Bonnie McGilbra	2122 S. VUKON TULSA	583-392
2. John Snow HAROVER	1600 W VANDAMENI	405-640-961
3. Carlos J. Nazario	Tinker AFB	405-734-70
4. Connie White	TINKER AFB	U " "
5. Rhonda Jeffries	ODEQ IRON	(918) 488 889
6. HERB NEUMANN	" "	" "
7. Nadene Barton	CASE	481-0474
8. FRANK CONDON	EQ BOARD	
9. Carol Barker	Tinker AFB	736-7246
10. Perry Friedrich	GRNA Chateau	476-8268
11. SANDRA RENNIE	EPA REGION 6	(214) 665-7367
12. Terry Thomas	" "	214-665-7160
13. Stanley M. Spruicll	" "	(214) 665-7212
14. Anne Schaefer	Tinker AFB	405.734.7071
15. Rose Williams	Tinker AFB	405-734 3002
16. Bruce Russell	DEQ	918 488 8895
17. BILL CLARK	Sun Co. Inc.	918-594-63
18. JACK FLY	TULSA	918-488-8895
19. Deann Hughes	Cardinal Engueery	405-842-106
20. Dustin Givens	Fort James	918 683-767
21. Steve Landers	" " "	" " "
22. GERALD BUTCHER	WFEC	405-247-434
23. Howard Ground	CSW	24-777-1711
24. Deborah Kern	Enercor	918-665-769
25. Joel Nelson	Boeing P.O. Box 592808 Tulsa, OK 74158	918-832-3215



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Rick Trethma	Box 1307 Enid, OK 73702	580-293-582
27. Kim Warram	6545 So Meridian St 214	405-722-7
28. Ron Sobber	10830 East 45th St ^{OKC} Tulsa	918-663-92
29. Edling Jim	4115 N. Perkins Rd Stillwater	405-377-129
30. Dan Melley	1408 S Denver Tulsa	918-582
31. Don Pugh	American Airlines PO Box 582809, MD 508 Tulsa	918-74158
32. Cathy Osban	Mintech/Perrow Piv 4608 S Garnett Tulsa	7446 641
33. David Emery	12 AZ Phillips Building Bartlesville	OK 746
34. Cheryl Bradley	DEQ AQD	
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BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Tuesday - December 15, 1998 9:30 A.M.
4545 North Lincoln Boulevard
Burgundy Room
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Division Director's Report - Staff**
 - A. Update of current events and AQD activities
 - B. Discussion by Council / Public
3. **OAC 252:100-7 Permits for Minor Facilities [AMENDED]**

Proposed revisions will delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will also be referenced under this new Part. Continued from August 18 and October 20, 1998 Air Quality Council meeting.

 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
4. **OAC 252:100-8-4(a)(2) Permits for Part 70 Sources [AMENDED]**

The Department proposes to update the incorporation by reference of the case-by-case MACT rules in 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
5. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

6. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18 and October 20, 1998 Air Quality Council meeting.

- A. Presentation – Joyce Sheedy
- B. Questions and discussion by Council / Public

7. **OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

OAC 252:100-7-3 Permits for Minor Facilities [AMENDED]

OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

In Subchapter 5, the Department is proposing increases in annual operating fees for both minor facilities and Part 70 sources, with increases of specific permit application fees in Subchapters 7 and 8.

- A. Presentation – Shawna McWaters-Khalousi
- B. Questions and discussion by Council / Public

HEARING/MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Tuesday December 15, 1998 1:00 P.M.
4545 North Lincoln Boulevard
Burgundy Room
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the October 20, 1998 Regular Meeting**
4. **OAC 252:100-7 Permits for Minor Facilities [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will also be referenced under this new Part. Continued from August 18 and October 20, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
5. **OAC 252:100-8-4(a)(2) Permits for Part 70 Sources [AMENDED]**
The Department proposes to update the incorporation by reference of the case-by-case MACT rules in 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

6. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18 and October 20, 1998 Air Quality Council meetings.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

7. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18 and October 20, 1998 Air Quality Council meetings.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

8. **OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits for Minor Facilities [AMENDED]
OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is proposing increases in annual operating fees for both minor facilities and Part 70 sources, with increases of specific permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

9. **NEW BUSINESS**
 - A. Discussion/consideration of subjects / business arising within past 24 hours
 - B. Possible action by Council

10. **ADJOURNMENT -- Next Regular Meeting**
WEDNESDAY, FEBRUARY 17, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson, Oklahoma City, Oklahoma

December 1, 1998

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director 
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 39
EMISSIONS OF ORGANIC MATERIALS IN NONATTAINMENT AREAS

Enclosed is a copy of the proposed modifications to OAC 252:100-39. These revisions were brought to the Air Quality Council for the first time on August 18, 1998 and again on October 20, 1998. At the October meeting the staff recommended that the rule be considered again at the December 15, 1998 Council meeting.

The proposed revisions primarily simplify and clarify language, correct grammar, and impose consistency in format on the rule without involving substantive changes. A number of small changes were made to the rule following the October 20, 1998, Council meeting. None of these additional changes is intended to be substantive in nature. The following substantive revisions to the rule are proposed.

1. The definition of "volatile organic compound (VOC)" in 252:100-39-2 has been revised. As part of the simplification process the staff propose to have only one definition of volatile organic compound which will be consistent with the EPA definition and replace the terms "volatile organic solvent (VOS)" and "organic solvents." The new definition provides that any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity and will not be considered to be a VOC. This revision will also serve as a response to requests to exempt acetone, methylated siloxanes, perchloroethylene, and methyl acetate from being considered VOCs. These four substances are on the list in 40 CFR 51.100(s)(1) and, therefore, will not be considered to be VOCs.
2. The staff proposes to correct the placement of "prior to lease custody transfer" in 252:100-39-30(b). This phrase was located in paragraph (2) and was, therefore, applicable to all the exemptions listed in that paragraph. Research in the Air Quality Council records and in the Control Technology Guideline, Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450/2-78-047, indicates that this phrase should apply only to 252:100-39-30(b)(2)(B). Staff recommends moving this phrase to 252:100-39-30(b)(2)(B).
3. 252:100-39-41(c), Loading of volatile organic compounds, currently has no provisions to exclude small loading facilities. The staff proposes to add language that will limit the requirements of this subsection to facilities that have a minimum annual throughput of 120,000 gallons or storage capacity greater than 10,000 gallons..

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Comments from the informational meeting held on July 7, 1998 were given consideration in the proposed draft enclosed with this memorandum.

Because there are still unresolved issues regarding redundancy of certain requirements, staff will recommend the rule be considered again at the next Air Quality Council meeting on February 17, 1999.

In addition to the proposed draft revisions to Subchapter 39, a copy of 40 CFR 51.100(s)(1), a rule impact statement, a summary of comments and staff responses, and a list of the revisions that were made to the rule after the October 20, 1998, Air Quality Council meeting are also included in the packet.

Enclosures 5

**SUBCHAPTER 39. EMISSION OF VOLATILE ORGANIC MATERIALS COMPOUNDS
(VOCs) IN NONATTAINMENT AREAS AND FORMER NONATTAINMENT AREAS**

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PART 1. GENERAL PROVISIONS

252:100-39-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources located in nonattainment areas and to specify the additional control measures required to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration is prevented.~~ The purpose of this Subchapter is to prevent the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains requirements for the control of emissions of VOCs from stationary sources located in areas that are nonattainment or were formerly nonattainment for ozone.

252:100-39-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~

~~"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.~~

~~"Organic materials" means any chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~

"Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions:

(A) ~~the~~The bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) ~~the~~The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) ~~the~~The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel.

~~(D) other equivalent methods acceptable to the Executive Director.~~

~~"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity.~~

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-39-3. General applicability

In addition to any application of the requirements contained in OAC 252:100-37, the additional ~~control/prohibitions~~ requirements contained in this Subchapter shall be required ~~on~~ of existing and new facilities located in Tulsa and Oklahoma Counties.

252:100-39-4. Exemptions

VOCs with vapor pressures less than 1.5 pounds per square inch (psia) under actual storage conditions are exempt from 252:100-39-16 through 252:100-39-18, 252:100-39-30, 252:100-39-41, and 252:100-48.

PART 3. PETROLEUM REFINERY OPERATIONS

252:100-39-15. Petroleum refinery equipment leaks

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Component"** means any piece of equipment which has the potential to leak ~~volatile organic compounds~~ VOCs when tested in the manner described in EPA Test Method 21 of 40 CFR Part 60. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated.

(2) **"Gas service"** means any equipment which processes, transfers or contains a ~~volatile organic compound~~ VOC or mixture of ~~volatile organic compounds~~ VOCs in the gaseous phase.

(3) **"Leaking component"** means a component which has a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e).

~~(3)~~(4) **"Liquid service"** means any equipment which processes, transfers or contains a ~~volatile organic compound~~ VOC or mixture of ~~volatile organic compounds~~ VOCs in the liquid phase.

~~(4) "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.~~

~~(5) "Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.~~

~~(6) (4) "Valves not externally regulated" means valves that have no external controls, such as in-line check valves.~~

~~(7) "Volatile organic compounds" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 0.3 kilopascals (0.0435 pounds per square inch absolute) or greater under actual storage conditions. (Effective 2-12-90)~~

~~(b) Applicability. This Section applies to all source facility petroleum refineries located in the following counties: Tulsa and Oklahoma.~~

~~(1) This Section applies to all petroleum refineries located in Tulsa County and Oklahoma County.~~

~~(2) VOCs with vapor pressures less than 0.0435 psia (0.3 kilopascals (kPa)) under actual storage conditions are exempt from 252:100-39-15. (Effective 2-12-90.)~~

~~(c) Provisions for specific processes. Standards and operating requirements~~

~~(1) The owner or operator of a petroleum refinery complex subject to this Section shall:~~

~~(A) develop and conduct a monitoring program consistent with the provisions in 252:100-39-15(d) and 252:100-39-15(f);~~

~~(B) conduct a monitoring program consistent with the provisions in 252:100-39-15(f);~~

~~(C) record all leaking components which have a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e) and place an identifying tag on each component consistent with the provisions in 252:100-39-15(f)(3);~~

~~(D) (C) repair and retest the leaking components, as defined in 252:100-39-15(e)(1)(C), as soon as possible but no later than 15 days after the leak is found; and,~~

~~(E) (D) identify all leaking components, as defined in 252:100-39-15(e)(1)(C), which cannot be repaired until the unit is shutdown for turnaround; and, Assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.~~

~~(E) assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.~~

~~(2) The Executive Division Director, may, at his/her/his or her discretion, take require the owner or operator to take appropriate remedial action, including early unit turnaround, based on the number and severity of tagged leaks awaiting repair.~~

(3) Pipeline valves and pressure relief valves in ~~gaseous gas~~ ~~volatile organic compound~~ service shall be marked in some manner that will be readily obvious to both petroleum refinery or contract personnel performing monitoring and the ~~Executive Director~~ DEQ.

(d) ~~Compliance schedule~~ schedule. The owner or operator of a petroleum refinery, ~~in order to comply with 252:100-39-15,~~ shall adhere to the increments of progress contained in the following schedule:

~~(1) Submit~~ submit to the ~~Executive Division~~ Director a monitoring program by July 30, 1981. This program shall contain, at a minimum, a list of the refinery units ~~only~~ and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this Section.

~~(2) Submit quarterly monitoring report to the Executive Director.~~

(e) Testing and monitoring procedures. Testing and calibration procedures to determine compliance with this Section must be consistent with EPA Test Method 21 of 40 CFR Part 60.

(f) Monitoring.

(1) The owner or operator of a petroleum refinery ~~subject to this Section~~ shall conduct a monitoring program consistent with the following provisions: The owner or operator shall:

(A) monitor yearly by the methods referenced in ~~Test Method 21 of 40 CFR Part 60~~ 252:100-39-15(e) all:

~~(i) pump seals~~ +

~~(ii) pipeline valves in liquid service~~ + and +

~~(iii) process drains;~~

(B) monitor quarterly by the methods referenced in ~~252:100-39-15(d)~~ 252:100-39-15-(e) + all:

~~(i) compressor seals~~ +

~~(ii) pipeline valves in gaseous gas service~~ + and +

~~(iii) pressure relief valves in gaseous gas service;~~

(C) monitor weekly by visual methods all pump seals;

(D) monitor immediately within 24 hours any pump seal from which VOC liquids are observed dripping;

(E) monitor any relief valve within 24 hours after it has vented to the atmosphere; and,

(F) monitor immediately after repair any component that was found leaking.

(2) Pressure relief devices ~~which that~~ are connected to an operating flare header, vapor recovery ~~device~~ devices, inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in paragraph (1) of this subsection: Provided provided, however, such inaccessible valves will be monitored during annual shutdown.

(3) The owner or operator of a petroleum refinery, upon the detection of a leaking component, ~~as defined in 252:100-39-~~

~~15(e)(1)(C), which that~~ is not repaired on discovery, shall affix a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leaking component is repaired.

(g) **Recordkeeping.**

(1) The owner or operator of a petroleum refinery shall maintain a leaking components monitoring log ~~as specified in 252:100-39-15(e)(1)(C) which shall contain, at a minimum, the following data:~~

- (A) the name of the process unit where the component is located;
- (B) the type of component (e.g., valve, seal);
- (C) the tag number of the component, if not repaired immediately on discovery;
- (D) the date on which a leaking component is discovered;
- (E) the date on which a leaking component is repaired;
- (F) the date and instrument reading of the recheck procedure after a leaking component is repaired;
- (G) the date of the calibration of the monitoring instrument. ~~The record of calibration which~~ shall be made available for inspection on request;
- (H) those leaks that cannot be repaired until turnaround; and,
- (I) the total number of components checked and the total number of components found leaking.

(2) ~~Copies of the~~ The monitoring log shall be retained on site by the owner or operator for at least two years after the date on which the record was made or the report prepared.

(3) ~~Copies of the~~ The monitoring log shall be made available for inspection at any reasonable time and copies of the log shall be provided to the Executive Division Director, upon written request, at any reasonable time of the AOD.

(h) **Reporting.** The owner or operator of a petroleum refinery, ~~upon the completion of each monitoring procedure,~~ shall:

(1) submit a report to the Executive Division Director by the 30th day following the end of each calendar quarter that lists all leaking components that were located during the previous quarter but not repaired within 15 days, all leaking components awaiting unit turnaround, and the total number of components found leaking; and,

(2) submit a signed statement with the report attesting to the fact that, all monitoring and, with the exception of those leaking components listed in 252:100-39-15(h)(1), all ~~monitoring and~~ repairs were performed as stipulated in the monitoring program.

252:100-39-16. Petroleum Refinery refinery process unit turnaround

(a) **Definition.** ~~"Turn around"~~ "Turnaround" means the planned procedure of shutting down a unit, inspecting and repairing it, and restarting it.

(b) **Procedures required.** For the shutdown, purging and blowdown

operation of any ~~processing~~ petroleum refinery processing unit the following procedures are required:

(1) Recovery of ~~volatile organic compounds (VOC)~~ VOCs shall be accomplished during the shutdown or turnaround to a process unit pressure compatible with the flare or vapor system pressure. The unit will then be purged or flushed to a flare or vapor recovery system with using a suitable material such as steam, water or nitrogen, ~~to a flare or vapor recovery system.~~ The unit shall not be vented to the atmosphere until pressure is reduced to less than 5 psig through control devices.

(2) Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no person shall emit ~~organic~~ VOC gases to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the ~~Executive~~ Division Director.

(3) At least fifteen days prior to a scheduled turnaround, a written notification shall be submitted to the ~~Executive~~ Division Director. As a minimum, the notification shall indicate the unit to be shutdown, the date of shutdown, and the approximate quantity of ~~hydrocarbons~~ VOCs to be emitted to the atmosphere.

(4) Scheduled refinery unit turnaround may be accomplished without the controls specified in 252:100-39-16(b)(1) and 252:100-39-16(b)(2) during non-oxidant seasons provided the notification to the ~~Executive~~ Division Director as required in 252:100-39-16(b)(3), specifically contains such a request for such an exemption. ~~The Non-oxidant~~ non-oxidant season is ~~understood to be between the months of October and April~~ from November 1 through March 31.

252:100-39-17. Petroleum Refinery refinery vacuum producing system

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Accumulator" means the vessel in the overhead stream of any fractionating tower, after the overhead condenses and separates noncondensable gases, liquid ~~hydrocarbons~~ VOCs and water.

(2) "Hotwell" means the tank at the bottom of the barometer leg in a barometric condenser system to receive the water, condensate and entrained ~~hydrocarbons~~ VOCs generated by the barometric condenser.

(b) **Requirements.** Noncondensable ~~volatile organic compounds~~ VOCs ~~from the following equipment~~ shall be incinerated or reduced by 90 percent of what would be emitted without controls when emitted from the following vacuum producing system:

- (1) steam ejectors with barometric condensers;
- (2) steam ejectors with surface condensers; or,
- (3) mechanical vacuum pumps.

(c) **Hotwells and accumulators.**

- (1) Hot wells and accumulators shall be covered and the

noncondensable vapors shall be vented to a fire-box or incinerator.

(2) The presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame. (Effective February 12, 1990)

(d) **Compliance.** Compliance shall be determined in accordance with the provision of the CTG document ("Control of Refinery Vacuum Producing systems, Wastewater Separators and Process Unit Turnarounds," EPA 450/2-77-025, October, 1977). Test reports and maintenance records will be maintained for at least two years. If emission testing is required, the appropriate test method(s) selected from EPA Reference Methods 1 through 4, 21, and/or 25, will be utilized.

252:100-39-18. Petroleum Refinery refinery effluent water separators

(a) **Definition.** "Effluent water separator" means any container in which any VOC floating on, entrained in, or contained in water entering the container is physically separated and removed from the water prior to discharge of the water from the container.

(b) **Requirements.** No ~~person~~owner or operator shall operate, or install or permit the operation or installation of a ~~single~~single-compartment or multiple-compartment ~~volatile organic compound~~water/VOC/water separator from any equipment processing, refining, treating, storing or handling ~~volatile organic compound~~VOC unless the compartment receiving ~~said~~ the effluent water is equipped to control emissions in one of the following ways, ~~with one of the following vapor control devices, properly installed, in good working order and in operation:~~

(1) ~~A~~The container totally encloses the liquid contents and having all openings are sealed, and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) ~~A~~The container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the ~~organic material~~VOC vapors and gases discharged and a vapor-disposal system capable of processing such ~~organic material~~VOC vapors and gases ~~so as~~ to prevent their emission to the atmosphere, ~~and with all~~All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The ~~organic material~~VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) ~~A~~ Containerscontainer that is equipped with controls of equal efficiency, provided the plans and specifications ~~of such equipment are submitted and are~~ approved by the ~~Executive~~Division Director prior to their use.

PART 5. PETROLEUM PROCESSING AND STORAGE

252:100-39-30. Petroleum liquid storage in vessels with external floating roof tanks

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "**Condensate**" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at ~~normal operating~~ standard conditions.

(2) "**Crude oil**" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

(3) "**Externally External floating roof**" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(4) "**Lease custody transfer**" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage ~~tanks~~ vessels or automatic transfer facilities to pipelines or any other ~~forms~~ form of transportation.

(5) "**Liquid-mounted seal**" means primary seal mounted in continuous contact with the liquid between the ~~tank~~ vessel wall and the floating roof.

(6) "**Petroleum liquid**" means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery.

(7) "**Vapor-mounted seal**" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the ~~tank~~ vessel wall, the liquid surface, and the floating roof.

(8) "**Waxy, high pour point crude oil**" means a crude oil with a pour point of 50°F or higher as determined by the American Society of Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) **Applicability.**

(1) This Section applies to ~~all source facilities with petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 40,000 gallons (150,000 liters) (40,000 gallons), that are located in Tulsa and Oklahoma Counties.~~

(2) This Section does not apply to petroleum liquid storage vessels ~~which that; prior to custody transfer:~~

(A) are used to store waxy, high pour point crude oil;

(B) have capacities less than ~~1,600,000 liters~~ 422,675 gallons (~~420,000 gallons~~ 1,600 m³) and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) contain a petroleum liquid with a true vapor pressure less than 1.5 psia (10.5 kPa) ~~(1.5 psia);~~

(D) ~~contain a petroleum liquid with a true vapor pressure less than 27.6 Kpa (4.0 psia); and,~~

~~(i) are of welded construction;~~
~~(ii) presently possess a metallic type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Executive Director; or, contain a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa) if the vessels are of welded construction and have a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Division Director; or,~~

(E) are of welded construction, are equipped with a metallic-type shoe primary seal and ~~has~~ have a secondary seal from the top of the shoe seal to the tankvessel wall (shoe-mounted secondary seal).

(c) Provisions for specific processes Equipment and operating requirements.

(1) Standards. No owner of a petroleum liquid storage vessel subject to this Section shall store a petroleum liquid in that vessel unless the following conditions are met.

(A) The vessel has been fitted with:

(i) a continuous secondary seal extending from the floating roof to the tankvessel wall (rim-mounted secondary seal); or,

(ii) a closure device or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required ~~above under~~ in 252:100-39-30(c)(1)(A)(i) and approved by the ~~Executive~~ Division Director.

(B) All seal closure devices meet the following requirements:

(i) ~~there~~ There are no visible holes, tears, or other openings in the seal(s) or seal fabric.

(ii) ~~the~~ The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the tankvessel wall, ~~and.~~

(iii) ~~for~~ For vapor mounted primary seals, the accumulated area of gaps exceeding ~~0.32 cm~~ 1/8 inch (0.32 cm) in width between the secondary seal and the tankvessel wall shall not exceed ~~21.2 cm²~~ 1.0 square inch per ~~meter~~ foot of tankvessel diameter (~~1.0 in.~~ 21.2 cm² per ~~foot~~ meter of tankvessel diameter), ~~as.~~ This shall be determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 1/8 inch (0.32 cm) uniform diameter probe passes freely between the seal and the tankvessel wall, and summing the ~~area~~ areas of the individual gaps.

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, ~~are:~~

(i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,

(ii) equipped with projections into the tankvessel which

remain below the liquid surface at all times~~7.~~
(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports~~7.~~

(E) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended settings~~7. and 7.~~

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening.

(2) Monitoring. The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this Section shall:

(A) perform routine inspections semi-annually in order to ensure compliance with 252:100-39-30(c)(1)(B)(i), i.e., no visible holes, tears, or other openings in the seals or seal fabric;

(B) measure the secondary seal gap annually in accordance with 252:100-39-30(c)(1)(B)(iii), when the floating roof is equipped with a vapor-mounted primary seal; and,

(C) maintain records of the types of volatile petroleum liquids stored, the true vapor pressure of the liquid as stored, and the results of the inspections performed in 252:100-39-30(c)(2)(A) and 252:100-39-30(c)(2)(B).

(3) Recordkeeping.

~~(3)~~ (A) Copies of all records under 252:100-39-30(c)(2) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

~~(4)~~ (B) Copies of all records under this Section shall be made available to the Executive Division Director, upon verbal ~~or~~ written request, at any reasonable time.

(d) Compliance schedule. Compliance with this Section will be accomplished by affected facilities ~~within two years of approval of this Section by the Oklahoma Environmental Quality Board by May 23, 1982.~~

PART 7. SPECIFIC OPERATIONS

252:100-39-40. Cutback asphalt (paving)

(a) Definitions. "Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

(b) Requirements. No owner, operator and/or contractor shall prepare or apply cutback ~~liquified~~ liquefied asphalt without the prior written consent of the Executive Division Director, ~~or the Executive Director's designee.~~ Such consent may be granted during Oklahoma's non-oxidant season, i.e., ~~October through April~~ November 1 through March 31.

252:100-39-41. ~~Vapor recovery systems~~ Storage, loading and transport/delivery of VOCs

(a) Storage of ~~volatile organic compounds~~ VOCs in vessels with storage capacities —greater than 40,000 gallons —~~(953 bbls)~~. No

~~personowner or operator shall store or permit the storage of gasoline or any volatile organic compoundVOC in tanks or vessels a vessel havingwith a storage capacity greater than 40,000 gallons (953 bbls) unless such tank, reservoir or other container it is to be a pressure tankvessel capable of maintaining working pressures sufficient at all times tothat prevent organicVOC vapor or gas loss to the atmosphere, or it is equipped with one or more of the following vapor control devices:~~

(1) ~~aAn external floating roof, consisting of penteen type, pontoon-type internal floating cover or double-deck type reef, cover or a fixed roof with an internal-floating cover. whichThe cover will rest on the surface of the liquid contents at all times (i.e. off the leg supports), except during initial fill, when the storage vessel is completely empty, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space between the reefcover edge and tankvessel wall. Such floating roofs are not appropriate control devices if the organic compoundsVOCs have a vapor pressure of 11.011.1 pounds per square inch absolute psia (568 mm Hg) (76.6 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. Closure seals for fixed roof vessels with an internal-floating cover will meet the requirements of 252:100-39-30(e)(1)(B), 252:100-39-30(c)(1)(B)(i) and (ii). Closure seals for vessels with external floating roofs will meet the requirements of 252:100-39-30(c)(1)(B)(i), (ii), and (iii).~~

(2) ~~aA vapor-recovery system consisting of a vapor-gathering system capable of collecting 90 percent by weight or more of the uncontrolled volatile organic compoundsVOCs that would otherwise be emitted to the atmosphere and a vapor-disposal system capable of processing such organic compoundsVOCs so as to prevent emissions in excess of 80 mg/liter of gasolineVOCs transferred to the atmosphere. All tankvessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place, or,~~

(3) ~~otherOther equipment or methods of equal efficiency for purposes of air pollution control as may bewhen approved by the ExecutiveDivision Director and are in concert with federal guidelines.~~

(b) ~~Storage of volatile organic compoundsVOCs in vessels with storage capacities of 400-40,000 gallons (9.5-953 bbls).~~

(1) ~~No personowner or operator shall store or permit the storage of gasoline or other volatile organic compoundsVOCs in any stationary storage containervessel with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (953 bbls) unless such containerit is equipped with a submerged fill pipe or is bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compound in any stationary storage container with an average daily~~

~~throughput of 30,000 gallons or greater unless the displaced vapors from the storage container are processed by a system that has a total collection efficiency no less than 90 percent by weight of total hydrocarbon compounds in said vapors.~~

(2) No owner or operator shall store gasoline or other VOCs in any stationary storage vessel with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage vessel are processed by a system that has a total collection efficiency no less than 90 percent by weight of total VOCs in the vapors.

~~(2)(A) The vapor recovery system shall include one or more of the following:~~

~~(A)(i) a vapor-tight return line from the storage container vessel to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds VOCs can be transferred into the container storage vessel; or,~~

~~(B) (ii) other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds VOCs in the displaced vapor provided that if approval of the proposed design installation, and operation is obtained from the Executive Division Director prior to start of construction.~~

~~(3)(B) Provided, however, that the The requirements for vapor collection of displaced vapors shall not apply to operations that are not major sources.~~

(c) Loading of volatile organic compounds VOCs.

(1) No person owner or operator shall install or operate, install or permit the building, operation or installation of a stationary volatile organic compound VOC loading facility with an annual throughput of 120,000 gallons or greater or storage capacity greater than 10,000 gallons unless such loading facility it is equipped with a vapor-collection and/or disposal system properly installed, in good working order and in operation.

(2) When While volatile organic compounds VOCs are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.

(3) A means shall be provided to prevent organic material VOC drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.

(4) When loading is effected through by means other than hatches, all loading and vapor lines shall be equipped with fittings which that make vapor-tight connections and which close automatically when disconnected.

(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels: Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as

specified in 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.

(A) ~~an~~An absorption/adsorption system or condensation system ~~with that~~ has a minimum recovery efficiency of 90 percent by weight of all the ~~volatile organic compound~~VOC vapors and gases entering such disposal system~~+~~.

(B) ~~a~~A vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent~~+~~+.

(C) ~~either~~Other equipment ~~of that~~ has at least a 90 percent efficiency, provided plans for such equipment are ~~submitted to and approved by the Executive Division Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

(6) Subsection 252:100-39-41(c) shall apply to any facility ~~which that~~ loads ~~volatile organic compounds~~VOCs into any transport vessel designed for transporting ~~volatile organic compounds~~VOCs.

(d) Transport/delivery.

(1) The vapor-laden delivery vessel shall meet one of the following requirements~~+~~.

(A) ~~the~~The delivery vessel must be ~~so~~ designated and operated ~~as to be~~ vapor tight except when sampling, gauging, or inspecting~~+~~+.

(B) ~~the~~The delivery vessel must be equipped and operated ~~so that to deliver~~ the ~~volatile organic compound~~VOC vapors are ~~delivered to a vapor recovery/disposal system.~~

(2) No ~~owner/operator~~ owner or operator ~~will~~shall allow a delivery vessel to be filled at a facility unable to receive displaced ~~organic~~VOC vapors nor service ~~tanks/vessels~~ unable to deliver displaced vapors except for ~~tanks/facilities/vessels and facilities~~ exempted in 252:100-39-41(b) and 252:100-39-41(c).

(3) Testing of the tank trucks for compliance with the vapor tightness requirements must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA 450/2-78-051, or an equivalent method as determined by the Executive Division Director.

(e) Additional requirements for Tulsa County. Also see 252:100-39-48 for additional requirements pertaining to Tulsa County.

(1) Applicability. This subsection applies only in Tulsa County.

(2) Storage of VOCs.

(A) 2,000 - 40,000 gallons capacity. No owner or operator shall store gasoline or other VOCs in any stationary storage vessel with a nominal capacity greater than 2,000 gallons and less than 40,000 gallons unless, in addition to being equipped with a submerged fill pipe or being bottom loading, it is equipped with a vapor control system that has an efficiency of

no less than 90 percent by weight of the VOCs contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum. The vapor recovery system shall include one or more of the following.

(i) A vapor-tight return line from the storage vessel to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or VOCs can be transferred into the storage vessel (i.e., popped connectors from the storage vessel to the delivery vessel.).

(ii) A float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the vessel will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole.

(iii) The cross-sectional area of the vapor recovery line must be at least half of the cross-sectional area of the liquid delivery line.

(iv) Instead of 252:100-39-41(e)(2)(B)(i) through 252:100-39-41(e)(2)(B)(iii), other equipment that has a total collection efficiency no less than 90 percent by weight of the total VOCs in the displaced vapor may be used if approved by Division Director prior to start of construction.

(B) Applicability.

(i) The applicability of 252:100-39-41(e)(2) shall be determined by the most restrictive of the 2,000 gallon vessel size as required in 252:100-39-41(e)(2)(A) or the 120,000 gallon annual throughput required in 252:100-39-41(e)(2)(B)(ii). Once a facility places a 2,000 gallon vessel in-service or exceeds the 120,000 gallon annual throughput, that facility shall always be subject to the provisions of 252:100-39-41(e)(2). (effective February 12, 1990)

(ii) Exemptions to 252:100-39-41(e)(2) may be granted if the owner or operator shows to the satisfaction of the Division Director that the vessel is used exclusively for agricultural purposes or that the facility, based on the most current 12 months' data, dispenses 120,000 gallons per year or less.

(C) Emission testing. If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized.

(D) Compliance. Compliance with 252:100-39-41(e)(2) will be accomplished by the owner or operator of affected facilities by December 31, 1986.

(E) Certification. The owner or operator of a facility shall obtain, by whatever means practicable, certification from the owner or operator of the transport/delivery vessels that all

deliveries of gasoline or other VOCs made to their 400-gallon to 40,000-gallon storage facility located in Tulsa County shall be made by transport/delivery vessels that comply with the requirements contained in 252:100-39-41(e)(4). Compliance with 252:100-39-41(e)(2) shall be accomplished by owners or operators of affected facilities no later than December 31, 1990. (Effective February 12, 1990)

(3) Loading of VOCs. In addition to those requirements contained in 252:100-39-41(c), stationary loading facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for at least two years.

(4) Transport/delivery vessel requirements. In addition to the requirements contained in 252:100-39-41(d), facilities located in Tulsa County must meet the following requirements.

(A) Maintenance.

(i) The delivery vessel must be maintained so that it is vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.

(ii) The delivery vessel must be equipped, maintained, and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and 252:100-39-41(b)(2) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.

(iii) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies that would impair the vessels' ability to retain vapors or liquid shall be repaired within 5 days.

(iv) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-41(e)(4)(B)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.

(v) No owner or operator will allow a delivery vessel to be filled at a facility unable to receive displaced VOCs nor service vessels unable to deliver displaced vapors except for vessels/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels that do not display a current tag.

(vi) Delivery vessels may be inspected by representatives of the DEQ in order to determine their state of repair. Such a test may consist of a visual inspection or a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner or operator to make the necessary repairs within 10 days. Failure to certify within 10 days of a vapor test that the necessary repairs have been made will subject the owner or operator to sanctions. Upon certification of repairs, the vessel will be allowed to resume normal operation.

(B) Testing requirements.

(i) Pressure test.

(I) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Division Director.

(II) The vessel will be considered to pass the test prescribed in 252:100-39-41(e)(4)(B)(i)(I) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O. There shall be no avoidable visible liquid leaks.

(ii) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(e)(4)(A)(vi) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-41(e) took effect December 15, 1988.

252:100-39-42. Metal cleaning

(a) Cold cleaning facility requirements.

(1) Equipment requirements. No personowner or operator shall allow the construction or operation of any cold cleaning unit for metal degreasing using ~~an organic solvent~~ a VOC unless the following requirements are met:

(A) ~~a~~ cover or door shall be installed on the facility that can be easily operated with one hand.

(B) ~~an~~ internal drain board will be provided in such a manner that will allow lid closure if practical; if not practical, the drainage facility may be external and.

(C) ~~a~~ permanent, conspicuous label summarizing the operating requirements specified in 252:100-39-42(a)(2) will be permanently attached to the facility.

(2) Operating requirements. ~~The operating requirements specified in 252:100-39-42(a)(1)(C) shall as a minimum specify~~ Owners or operators shall at a minimum:

(A) drain clean parts at least 15 seconds or until dripping ceases before removal;

(B) close degreaser cover when not handling parts in cleaner and;

(C) store waste solventVOC in covered containers. ~~Do not dispose or allow disposition in such a manner that more than 20 percent by weight can evaporate into the atmosphere.~~

(D) Do not dispose or allow disposition of waste VOC in such a manner that more than 20 percent by weight can evaporate

into the atmosphere.

~~(3)(E) If used, a solvent spray will be of a solid fluid stream (not atomized or spray) Use a solid stream, not an atomized spray, when VOC is sprayed.~~

~~(4)(3) Requirements for controls. If the solvent volatility vapor pressure of the VOC is greater than 33 mm Hg (0.6 psi) 0.6 psi (4.1 kPa) measured at 38°C (100°F) (100°F) (38°C) or if solvent VOC is heated to 120 degrees C (248°F) (120°C), one or more of the following control devices will be required.~~

~~(A) freeboard Freeboard that gives a free board freeboard ratio greater than or equal to 0.7.~~

~~(B) water Water cover and where the solvent VOC is insoluble in and heavier than water or such equivalent, or.~~

~~(C) ether Another system of equivalent control as approved by the Executive Division Director.~~

~~(5)(4) Compliance and recordkeeping. Compliance will be determined in accordance with EPA guidance document "Control of Volatile Organic Emissions from Solvent Metal Cleaning," 450/2-77-022. Test reports and maintenance and repair records of control equipment will be maintained by the source for at least two years.~~

(b) Vapor-type metal degreasing requirements.

(1) Equipment requirements. No person owner or operator shall allow the construction or operation of any vapor-type metal degreasing unit using an ~~organic solvent~~ a VOC unless the following requirements are met.

(A) ~~the~~ The unit has a cover or door that can easily be opened and closed without disturbing the vapor zone.

(B) ~~the~~ The unit will have the following safety switches.

(i) ~~condenser~~ Condenser flow switch and thermostat or equivalent capable of shutting off the sump heat if condenser coolant is not circulating or coolant exceeds solvent VOC manufacturer's recommended level, and.

(ii) ~~spray~~ Spray safety switch capable of shutting off spray pumps if the vapor level drops in excess of four inches (10 cm).

(C) ~~the~~ The unit will have one or more of the following control devices/techniques.

(i) ~~freeboard~~ Freeboard ratio not less than 0.75, i.e., the ratio of the freeboard to the width of the degreaser wherein the term freeboard is defined as the distance from the top of the vapor zone to the top of the degreaser tank.

(ii) ~~refrigerated~~ Refrigerated chiller, i.e., condenser coils in the upper limit of the vapor zone.

(iii) ~~enclosed~~ Enclosed design, i.e., cover or door is opened only when part is actually entering or exiting the facility, or.

(iv) ~~a~~ A carbon adsorption system with ventilation greater than 50 ~~cfm/ft.²~~ cfm/ft² of air/vapor area when cover is open and exhausting less than 25 ppm solvent VOC average over one adsorption cycle, or.

- (v) ~~a~~A control system demonstrated to have a control efficiency equal to or greater than any of the systems in (C) of this paragraph.
- (D) ~~a~~A permanent conspicuous label summarizing operating procedures in 252:100-39-42(b)(2) will be attached to the ~~facility~~unit.
- (2) Operating requirements. ~~The operating requirements referred to in 252:100-39-42(b)(1)(D) As a minimum operators shall do the following as a minimum specify.~~
- (A) ~~keep~~Keep cover closed at all times except when ~~processing work~~degreasing parts.
- (B) ~~minimize~~Minimize solvent VOC carry-out by the following measures:
- (i) ~~rack~~racking parts to allow full drainage;
- (ii) ~~move~~moving parts in and out of the degreaser at less than ~~3.3 m/sec~~11 ft/min ~~(11 ft/min.)~~ (3.3 m/min);
- (iii) ~~degrease~~degreasing the workload in the vapor zone at least 30 ~~sec.~~seconds or until condensation ceases;
- (iv) ~~tip~~tipping out any pools of solvent VOC on the cleaned parts before removal; and,
- (v) ~~allow~~allowing parts to dry within the degreaser for at least 15 ~~sec.~~seconds or until visually dry.
- (C) ~~do not~~Not degrease porous or absorbent materials, such as cloth, leather, wood or rope.
- (D) ~~workloads should not~~Not allow workloads to occupy more than half of the degreaser's open top area.
- (E) ~~never~~Never spray above the vapor level.
- (F) ~~assure~~Assure that solvent VOC leaks are immediately repaired or the degreaser is shut down.
- (G) ~~do not~~Not dispose of waste solvent VOC or transfer it to another party in such a manner that greater than 20 percent of the waste (by weight) will evaporate into the atmosphere.
- ~~(H)~~ (I) Store waste solvent VOC only in closed containers.
- ~~(H)~~ (I) ~~Not allow exhaust ventilation should not to~~ exceed ~~20 m³/min. per m²~~ 65 cfm per ft² ~~(65 cfm per ft²)~~ (20 m³/min per m²) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans should not be used near the degreaser opening; and,
- ~~(I)~~ (J) ~~Not allow water should not to~~ be visually detectable in solvent VOC exiting the water separator.
- (3) Compliance and recordkeeping. Compliance will be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records ~~will~~shall be retained by the source for at least two years.
- (c) Conveyorized degreasing unit requirements.
- (1) Operating requirements. No ~~person~~owner or operator shall operate a conveyorized degreasing unit unless the following requirements are met.
- (A) ~~exhaust~~Exhaust ventilation should not exceed ~~20 m³/min. per m²~~ 65 cfm per ft² ~~(65 cfm per ft²)~~ (20 m³/min per m²) of degreaser opening, unless necessary to meet OSHA requirements. ~~Work place fans should not be used near the degreaser opening;~~

(B) Work place fans should not be used near the degreaser opening.

~~(B)~~ (C) minimize ~~Minimize~~ carry-out emissions by:

- (i) racking parts for best drainage; and,
- (ii) maintaining vertical conveyor speed at less than 3.3 m/min. 11 ft/min ~~(11 ft./min.)~~ (3.3 m/min).

~~(C)~~ (D) Waste VOC should not be disposed of waste solvent or ~~transfer~~ transferred it to another party in such a manner that greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. ~~Store waste solvent VOC only in covered containers.~~

(E) Store waste VOC only in covered containers.

~~(D)~~ (F) repair solvent VOC leaks must be repaired immediately, or ~~shut down the degreaser~~ must be shut down.

~~(E)~~ (G) water ~~Water~~ should not be visibly detectable in the ~~solvent VOC~~ exiting the water separator, ~~and.~~

~~(F)~~ (H) a permanent conspicuous label ~~will~~ must be attached to the ~~facility~~ unit summarizing the operating requirements listed in 252:100-39-42(b) and 252:100-39-42(c).

(2) Control requirements. In addition to the requirements in 252:100-39-42(c) (1), any unit that has an air/vapor interface of more than 21.5 ft² 2.0 m² (2.0 m²) will be subject to the following control requirements.

(A) Major control devices. The degreaser must be controlled by either:

- (i) a refrigerated chiller;
- (ii) a carbon adsorption system, with ventilation equal to or greater than 15 m³/min per m² 50 cfm/ft² ~~(50 cfm/ft²)~~ (15 m³/min per m²) of air/vapor area (when down-time covers are open), and exhausting less than 25 ppm of ~~solvent VOC~~ by volume averaged over a complete adsorption cycle, ~~or.~~
- (iii) a system demonstrated to have control efficiency equivalent to or better than either of the above.

(B) Carryover prevention. Either a drying tunnel, or another means such as rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out ~~solvent VOC~~ liquid or vapor subject to space limitations must be installed.

(C) Safety switches. The following safety switches must be installed and be operational.

(i) Condenser flow switch and thermostat ~~that~~ ~~(shuts off sump heat if coolant is either not circulating or too warm).~~

(ii) Spray safety switch ~~that~~ ~~(shuts off spray pump or conveyor if the vapor level drops excessively, e.g. more than 10 cm (4 in.))~~ 4 in (10 cm).

(iii) Vapor level control thermostat ~~that~~ ~~(shuts off sump heat when vapor level rises too high).~~

(D) Minimized openings. Entrances and exits should silhouette work loads so that the average clearance ~~(between parts and the edge of the degreaser opening)~~ is either less than 10 cm (4 in.) 4 in (10 cm) or less than 10 percent of the width of the opening.

(E) Covers. Down-time ~~cover~~covers must be placed over entrances and exits of conveyorized degreasers immediately after the conveyor and exhaust are shutdown and removed just before they are started up.

(3) Compliance and recordkeeping. Compliance will be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records will be retained by the source for at least two years.

(d) Alternative control methods. As an alternative to the requirements of 252:100-39-42(a) through 252:100-39-42(c) and subject to EPA approval, an operator may request the approval by the Division Director of other methods of control. ~~may be approved by, subject to EPA approval, the Executive Director upon application by a source, provided, the~~The applicant can must demonstrate that the proposed method will preclude no less than prevent at least 80 percent of the emissions from each source from being emitted to the atmosphere, as determined by the appropriate test methods selected from EPA Methods 1 through 4, 18, 25, 25A and 25B.

252:100-39-43. Graphic arts systems

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(2) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, ~~which~~that are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(3) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(4) "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

(5) "Rotogravure printing" means the application of works, designs and pictures to a substrate by means of a roll printing technique ~~which~~that involves an intaglio or recessed image areas in the form of cells.

(b) Applicability.

~~(1) This Section applies to all packaging rotogravure, publication rotogravure, and flexographic printing facilities located in Tulsa and Oklahoma counties.~~

~~(2) This Section applies only to only packaging rotogravure, publication rotogravure, and flexographic printing facilities whose potential emissionemissions of organic solventVOC isare equal to or more than 100 tons/year (90 megagrams/year) (106~~

grams) per year (100 tons/yr.). Potential emissions are to be calculated based on historical records of actual consumption of solvent VOC and ink.

(c) Provisions for specific processes.

(1) No owner or operator of a ~~packaging rotogravure, publication rotogravure or flexographic printing~~ facility subject to this Section and employing solvent VOC containing ink may operate, ~~cause, allow or permit the operation of the~~ facility unless one of the following conditions applies.

(A) ~~the~~The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of ~~organic solvent~~VOC and 75.0 percent by volume or more of water.

(B) ~~the~~The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more of nonvolatile material.

(C) ~~the~~The owner or operator installs and operates:

(i) a carbon adsorption system ~~which~~that reduces the ~~organic solvent~~VOC emissions from the capture system by at least 90.0 percent by weight;

(ii) an incineration system ~~which~~that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic solvent~~VOC measured as total combustible carbon to carbon dioxide and water; or,

(iii) an alternative ~~organic solvent~~VOC emission reduction system demonstrated to have at least 90.0 percent reduction efficiency, measured across the control system, ~~and~~that has been approved by the Executive Division Director.

(2) A capture system must be used in conjunction with the emission control systems in 252:100-39-43(c)(1)(C). The design and operation of the capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in ~~volatile organic compound~~VOC emissions of at least:

(A) 75.0 percent where a publication rotogravure process is employed;

(B) 65.0 percent where a packaging rotogravure process is employed; or,

(C) 60.0 percent where a flexographic printing process is employed.

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities ~~within two (2) years of approval of this Subchapter by the Oklahoma Environmental Quality Board by May 23, 1982.~~

(e) **Testing.** Test procedures to determine compliance with this Subchapter must be consistent with EPA Reference Method 24 or equivalent ASTM Methods.

252:100-39-44. Manufacture of pneumatic rubber tires

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Automatic tread end cementing" means the application of a

~~solvent~~VOC based cement to the tire tread ends by automated devices.

(2) "Bead dipping" means the dipping of an assembled tire bead into a ~~solvent~~VOC based cement.

(3) "Green tires" means assembled tires before molding and curing have occurred.

(4) "Green tire spraying" means the spraying of green tires, both inside and outside, with release compounds ~~which~~that help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

(5) "Manual tread end cementing" means the application of a ~~solvent~~VOC based cement to the tire tread ends by manufacturers.

(6) "Passenger type tire" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches.

(7) "Pneumatic rubber tire manufacture" means the production of pneumatic rubber, passenger type tires on a mass production basis.

(8) "Undertread cementing" means the application of a ~~solvent~~VOC based cement to the underside of a tire tread.

(9) "Water based sprays" means release compounds, sprayed on the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for ~~organic solvents~~VOCs. These sprays may contain an average of up to five percent ~~organic solvent~~VOC.

(b) **Applicability.**

(1) This Section applies to VOC emissions ~~from the following operations~~ infrom all major source pneumatic rubber tire manufacturing facilities located in Oklahoma County from:

- (A) undertread cementing;
- (B) automatic tread end cementing; and,
- (C) green tire spraying.

(2) The provisions of this Section do not apply to the ~~productions~~production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs. This exemption applies only to tires produced on equipment separate from normal production lines for passenger type tires.

(3) Manual tread end cementing operations are exempt from the provisions of this Section.

(c) **Provisions for specific processes Control requirements.**

(1) **Undertread cementing or automatic tread end cementing.** The owner or operator of an undertread cementing, or automatic tread end cementing, operation subject to this Section shall install and operate the following.

- (A) ~~install and operate~~ a capture system, designed to achieve maximum reasonable capture from all undertread cementing, and automatic tread end cementing operations. Maximum reasonable capture would require that hood enclosures be designed in such a manner to minimize open areas and

enclose as much of the emission source as practical while maintaining a minimum in-draft velocity of 200 feet per minute except during times when the enclosure must be opened to allow work inside or for the inspections of the product in progress. Maximum reasonable capture shall be consistent with the following documents:

- (i) Industrial Ventilation, A Manual of Recommended Practices, 14th Edition, American Federation of Industrial Hygienists; and
 - (ii) Recommended Industrial Ventilation guidelines, U.S. Department of Health Education and Welfare, National Institute of Occupational Safety and Health.
- (B) ~~install and operate a~~ control device that meets the requirements of one of the following systems:
- (i) A carbon adsorption system designed and operated ~~in a manner such so~~ that there is at least an initial 95.0 percent removal of VOC by weight from the gases ducted to the control device with at least a 90 percent 3 year removal average; ~~or,~~
 - (ii) An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~ (VOC VOCs (measured as total combustible carbon) which enter the incinerator to carbon dioxide and water.
 - (iii) An ~~alternative volatile organic compound~~ VOC emission reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, and that has been approved by the ~~Executive Division~~ Director.
- (2) Green tire spraying. The owner or operator of a green tire spraying operation subject to this Section shall implement one of the following means of reducing ~~volatile organic compound~~ VOC emissions:
- (A) ~~substitute~~ Substitute water-based sprays for the normal ~~solvent based~~ VOC-based mold release compound; ~~or,~~
 - (B) ~~install~~ Install a capture system designed and operated in a manner that will capture and transfer at least 90.0 percent of the VOC emitted by the green tire spraying operation to a control device, and install and operate a control device that meets the requirements of one of the following systems:
- (i) ~~a~~ A carbon adsorption system designed and operated ~~in a manner such so~~ that there is at least 95.0 percent removal of VOC by weight from the gases ducted to the control device; ~~or,~~
 - (ii) ~~an~~ An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~ (VOC VOCs (measured as total combustible carbon) to carbon dioxide and water; ~~or,~~
 - (iii) ~~an~~ An ~~alternative volatile organic compound~~ VOC emission reduction system approved by the Division Director and certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system; ~~that has been approved by the Executive~~

Director.

(3) Exemption. If the total volatile organic compound VOC emissions from all undertread cementing, tread-end cementing, bead dipping, and green tire spraying operations at a pneumatic rubber tire manufacturing facility do not exceed 57 grams per tire, 252:100-39-44(c)(1) and 252:100-39-44(c)(2) shall not apply.

~~(4) An owner or operator of an undertread cementing, tread end cementing, bead dipping or green tire spraying operation subject to this Section may, instead of implementing measures required by 252:100 39 44(c)(1) and 252:100 39 44(c)(2), submit to the Executive Director a petition for alternative controls. The petition must be submitted in writing before September 15, 1981 and must contain:~~

~~(A) the name and address of the company and the name and telephone number of a responsible company representative over whose signature the petition is submitted;~~

~~(B) a description of all operations conducted at the location to which the petition applies and the purpose the volatile organic compound emitting equipment serves within the operations;~~

~~(C) reference to the specific emission limits, operational and/or equipment controls for which alternative emission limits, operational and/or equipment controls are proposed;~~

~~(D) a detailed description of the proposed alternative emission limits, operational and/or equipment controls, the magnitude of volatile organic compound emission reduction which will be achieved, and the quantity and composition of volatile organic compounds which will be emitted if the alternative emission limits, operational and/or equipment controls are instituted;~~

~~(E) a schedule for the installation and/or institution of the alternative operational and/or equipment controls in conformance with the appropriate compliance schedule section; and,~~

~~(F) a demonstration that the alternative control program constitutes reasonably available control technology for the petitioned facility. The factors to be presented in this demonstration include but are not limited to:~~

~~(i) the capital expenditure necessary to achieve the petitioned level of control;~~

~~(ii) the impact of these costs on the firm;~~

~~(iii) the energy requirements of the petitioned level of control;~~

~~(iv) the impact on the environment in terms of any increase in air, water and solid waste effluent discharge of the petitioned level of control;~~

~~(v) any adverse worker or product safety implications of the petitioned level of control; and,~~

~~(vi) an analysis for each of the factors in 252:100 39-44(c)(4)(F)(i) through 252:100 39 44(c)(4)(F)(v) for the control levels specified in 252:100 39 44(c)(1) and~~

~~252:100-39-44(c)(2).~~

~~(5) The Executive Director may approve a Petition for Alternative Control if:~~

~~(A) the petition is submitted in accordance with 252:100-39-44(c);~~

~~(B) the petition demonstrates that the alternative controls represent reasonable available control technology; or,~~

~~(C) the petition contains a compliance schedule for achieving and maintaining a reduction of volatile organic compound emissions as expeditiously as practicable, but no later than the photochemical oxidant attainment date.~~

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities on or before December 31, 1982.

(e) **Testing and monitoring.**

(1) Test procedures to determine compliance with this Section must be approved by the Executive Division Director and be consistent with:

(A) EPA Guideline Series Document "Measurement of Volatile Organic Compounds," EPA-450/2-78-041, ~~and,~~

(B) Appendix A of "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008.

(2) The Executive Division Director may accept, instead of green tire spray analysis, a certification by the manufacturer of the composition of the green tire spray, if supported by actual batch formulation records.

(3) If add-on control equipment is used, continuous monitors of ~~the following parameters~~ shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating to measure:

(A) exhaust gas temperatures of incinerators;

(B) temperature rise across a catalytic incinerator bed;

(C) breakthrough of VOC on a carbon adsorption unit; and,

(D) any other parameter for which a continuous monitoring or recording device is required by the Executive Division Director.

252:100-39-45. Petroleum (solvent) dry cleaning

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Cartridge filters" means perforated canisters containing filtration paper and/or activated carbon that are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden petroleum solvent.

(2) "Containers and conveyors ~~and of petroleum~~ solvent" means piping, ductwork, pumps, storage tanks, and other ancillary equipment that are associated with the installation and operation of washers, dryers, filters, stills, and settling tanks.

(3) "Dry cleaning" means a process of the cleaning of textiles and fabric products in which articles are washed in a non-aqueous solution (petroleum solvent) and then dried by exposure to a heated air stream.

(4) "Housekeeping" means those measures and precautions necessary to minimize the release of petroleum solvent to the atmosphere.

(5) "Operations parameters" means the activities required to insure that the equipment is operated in a manner to preclude the loss of petroleum solvents to the atmosphere.

(6) "Perceptible leaks" means any petroleum solvent vapor or liquid leaks that are conspicuous from visual observation, such as pools or droplets of liquid, or buckets or barrels of petroleum solvent or petroleum solvent-laden waste standing open to the atmosphere.

(7) "Petroleum solvent" means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms per organic molecule that exists as a liquid under standard conditions.

(b) **Applicability.** This Section applies to petroleum solvent washers, dryers, ~~solvent~~-filters, settling tanks, vacuum stills, and other containers and conveyors of petroleum solvent that are used in petroleum solvent dry cleaning facilities in Tulsa County only.

(c) ~~Provisions for specific processes~~ **Operating requirements.**

(1) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any dry cleaning equipment using petroleum solvents unless:

(A) there are no perceptible liquid or vapor leaks from any portion of the equipment;

(B) all washer lint traps, button traps, access doors and other parts of the equipment where petroleum solvent may be exposed to the atmosphere are kept closed at all times except when required for proper operation or maintenance;

(C) the still residue is stored in sealed containers, ~~and~~ ~~The~~ ~~the~~ used filtering material is ~~to be~~ placed into a sealed container suitable for use with petroleum solvents, immediately after removal from the filter and ~~be~~-disposed of in the prescribed manner; or,

(D) cartridge filters containing paper or carbon or a combination thereof, which are used in the dry cleaning process are ~~to be~~ drained in the filter housing for at least 24 hours prior to removal.

(2) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any drying tumblers and cabinets that use petroleum solvents unless tumblers and cabinets are operated in ~~such~~ a manner as to control petroleum solvent vapor leaks by reducing the number of sources where petroleum solvent is exposed to the atmosphere. Under no circumstances should there be any open containers (can, buckets, barrels) of petroleum solvent or petroleum solvent-containing material. Equipment containing solvent (washers, dryers, extractors, and filters)

should remain closed at all times other than during maintenance or load transfer. Lint filter and button trap covers should remain closed except when petroleum solvent-laden lint and debris are removed. Gaskets and seals should be inspected and replaced when found worn or defective. Petroleum solvent-laden solvent-laden clothes should never be allowed to ~~sit~~remain exposed to the atmosphere for longer periods than are necessary for load transfers. Finally, vents on petroleum solvent-containing waste and new petroleum solvent storage tanks should be constructed and maintained in a manner that limits petroleum solvent vapor emissions to the maximum possible extent.

(3) The owner or operator shall repair all petroleum solvent vapor and liquid leaks within 3 working days after identifying the sources of the leaks. If necessary repair parts are not on hand, the owner or operator shall order these parts within 3 working days, and repair the leaks no later than 3 working days following the arrival of the necessary parts.

(d) **Disposal of filters.** Filters from the petroleum dry cleaning facility shall be disposed of by:

- (1) incineration at a facility approved by the fire marshall's office for such disposal;
- (2) by recycling through an approved vendor of this service;
- or,
- (3) by any other method approved by the Executive Division Director.

(e) **Compliance schedule.** Compliance with 252:100-39-45(c)(1) through 252:100-39-45(c)(3), will be accomplished by affected facilities on or before October 1, 1986.

252:100-39-46. Coating of parts and products

(a) **Applicability.** This Section shall apply only to these industries located in Tulsa County which manufacture and/or coat metal parts and products, such as ~~This Section is applicable to~~ large farm machinery, small farm machinery, small appliances, commercial machinery, industrial machinery and fabricated metal products. Architectural coating, aerospace coating, and automobile refinishing are not included.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Air or forced air dry coatings**" means coatings ~~which~~that are dried by the use of air or forced warm air at temperatures up to 194°F.

(2) "**Clear coat**" means a coating ~~which~~that lacks color and opacity or is transparent and uses the undercoat as a reflectant base.

(3) "**Extreme performance coatings**" mean coatings designed for harsh exposure or extreme environmental conditions (~~i.e.e.g.,~~ exposure to the weather, all of the time, temperature above 200°F, detergents, abrasive and scouring agents, solvents, corrosive atmosphere or similar conditions).

(4) "Facility" means all emission sources located on a contiguous ~~property~~properties under common control which are affected by the surface coating provisions of ~~0AC~~ 252:100-37 and 252:100-39.

(5) "Powder" means a coating ~~which~~that is applied in a finely divided ~~(powder)~~ state by various methods, and becomes a continuous, solid film when the metal part or product is moved to an oven for curing.

(6) "Transfer efficiency" means the weight (or volume) of coating solids adhering to the surface being coated divided by the total weight (or volume) of coating solids delivered to the applicator.

(c) ~~Existing source requirement.~~ No owner or operator ~~subject to the provisions of this Section~~ shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any ~~organic solvent~~VOC in excess of the amounts listed in 252:100-39-46(d) as calculated by EPA method 24, 40 CFR Part 60.

(d) Standards. The following table enumerates the limitations for surface coatings in pounds of ~~solvent~~VOC per gallon of coating as applied (less water/exempt solvent water and exempt compounds)+. If more than one limit listed in the table is applicable to a specific coating, then the least stringent limitation shall be applied.

Coating type	Limitations	
	lbs/gal	kg/liter
Air or Forced Air Dry	3.5	4 <u>20.42</u>
Clear Coat	4.3	5 <u>20.52</u>
Extreme Performance	3.5	4 <u>20.42</u>
Powder	0.4	0 <u>50.05</u>
Other	3.0	3 <u>60.36</u>

(e) Emission factor. For the purposes of calculating an emission factor (EF) in pounds ~~VOC~~VOC per gallon of coating solids for use in the development of a plant-wide emission plan as described in 252:100-39-46(j)(1), the following formula will be utilized:

$$EF = V D / 1 - (V+W) = V D / S$$

where: V = volume fraction of ~~solvent~~VOC in coating_T
 D = density of ~~solvent~~VOC in the coating_T
 W = volume fraction of water in coating_T ~~and~~
 S = 1 - (V+W) = volume fraction of solids in coating.

(f) ~~Emission limit Compliance.~~ If more than one emission limit as listed in 252:100-39-46(d) is applicable to a specific coating, then the least stringent emission limitation shall be applied. Compliance with the coating limits listed in 252:100-39-46(d) is to be calculated on a daily weighted average basis.

(g) ~~Solvent-containing~~VOC-containing materials.

~~Solvent containing~~VOC-containing materials used for clean up shall be considered in the ~~emissions~~VOC content limits listed in 252:100-39-46(d) unless:

- (1) the ~~solvent~~VOC containing materials are maintained in a closed container when not in use;
- (2) closed containers are used for the disposal of cloth or paper or other materials used for surface preparation and cleanup;
- (3) the spray equipment is disassembled and cleaned in a ~~solvent~~VOC vat and the vat is closed when not in use; or,
- (4) the ~~solvent~~VOC containing materials used for the clean up of spray equipment are sprayed directly into closed containers.

(h) ~~Exemptions. Exemptions to this Section shall be permitted for combined emissions at one site/facility, which do not exceed a 10 tons/year emissions cutoff based on the facility's~~Facilities with a potential to emit 10 tons/year or less of ~~VOC~~VOC from coating operations are exempt from this Section. Once this limit is exceeded, the ~~source~~facility will always be subject to the ~~limits of this Section.~~

(i) ~~Alternate standard. Emissions~~ Coatings with VOC contents in excess of those ~~permitted~~allowed by 252:100-39-46(d) ~~are allowable~~may be used if both of the following conditions are met:

(1) ~~emissions~~Emissions that ~~would result in the absence of control~~ are reduced to levels equivalent to those ~~permitted by that would occur if the VOC content of the coatings met the limits contained in~~ 252:100-39-46(d) and ~~meet~~there is an overall control efficiency of at least:

(A) 85 percent, ~~by incineration, or,~~

(B) 85 percent, ~~by absorption, or, any other equipment of equivalent reliability and effectiveness, and,~~

(C) 85 percent by any other equipment of equivalent reliability and effectiveness.

(2) ~~no~~No air pollution, as defined by the Clean Air Act, results.

(j) Emission plan.

(1) Development of a plant-wide emission plan. An ~~owner/operator~~owner or operator may develop a plant-wide emission plan consistent with EPA's Emission Trading Policy as published in the December 4, 1986 Federal Register instead of having each coating line comply with the ~~emission VOC content limitations prescribed contained in subsection (d) of this Section~~ 252:100-39-46(d), provided if the following conditions are met:

~~(1)(A)~~ (A) The owner or operator demonstrates, ~~by means of approved material balance or manual emission test methods, by the methods prescribed in 252:100-5-2.1(d) that sufficient reductions in organic solvent VOC emissions may be obtained by controlling other~~ facilities ~~sources~~ within the plant to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be made ~~described in writing and shall include:~~

~~(A)(i)~~ a complete description of the coating line or lines ~~which that~~ will not comply with the emission VOC content limitation in 252:100-39-46(d);

~~(B)(ii)~~ quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, which are in excess of the prescribed emission VOC content limitation for each coating line described in ~~252:100-39-46(d)~~ 252:100-39-46(j)(A)(i);

~~(C)(iii)~~ a complete description of each ~~facility~~ and the related control system, if any, for these facilities within the plant wherehow emissions will be decreased at specific sources to compensate for excess emissions from each coating line described in ~~252:100-39-46(d)~~ 252:100-39-46(j)(A)(i) and the date on which such reduction will be achieved;

~~(D)(iv)~~ a transfer efficiency based on a 60 percent baseline with emissions expressed in pounds of VOC per gallon of solids when transfer efficiency is used to compensate for excess emissions from spray painting operations, ~~the transfer efficiency shall be based on a 60 percent baseline, with emissions expressed in pounds of solvent per gallon of solids. Credits for improvements in transfer efficiency shall be demonstrated with in plant testing which complies with approved EPA methods.~~

(v) a demonstration of credits for improvements in transfer efficiency with in plant testing that complies with EPA methods.

~~(E)(vi)~~ quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, for each source both before and after the improvement or installation of any applicable control system, or any physical or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

~~(F)(vii)~~ a description of the procedures and methods used to determine the emissions of ~~organic solvents~~ VOCs.

~~(2)(B)~~ The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan as described in the Emissions Trading Policy may include voluntary decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to ~~facilities~~ emission units, including permanently reduced production or closing a facility, located on the premises of a surface-coating operation.

~~(3)(2)~~ Compliance with a plant-wide emission plan. The implementation of a plant-wide emission reduction plan instead of compliance with the emissions VOC content limitation prescribed in 252:100-39-46(d) has been expressly approved by the Executive Director and the EPA Administrator. Upon approval of a plan, any emissions in excess of those established for each facility under the plan shall be a violation of these rules.

(k) Compliance, testing, and monitoring requirements.

(1) The ~~Executive Division~~ Director may require the ~~owner/operator~~ owner or operator of a source to demonstrate at his expense, compliance with the emission limits using EPA Methods 24, 24A, 1-4, 25, 25A, 25B in 40 CFR 60.444 or EPA Document 450/3-84-019. At a minimum, such test must show that the overall capture efficiency and destruction efficiency are equal to 85 percent, (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). The one hour bake option in Method 24 is required when doing compliance testing.

(2) Testing for plant-wide emission plans shall be conducted by the ~~owner/operator~~ owner or operator at his expense to demonstrate compliance with the emission VOC content limits contained in 252:100-39-46(d).

(3) Monitoring shall be required of any ~~owner/operator~~ owner or operator subject to this Section who uses add-on control equipment for compliance. Such monitoring shall include:

~~(A)~~ installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(i)~~ (A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;

~~(ii)~~ (B) the total amount of ~~volatile organic substances~~ VOCs recovered by carbon adsorption or other ~~solvent~~ VOC recovery system during a calendar month; and,

~~(iii)~~ (C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of ~~volatile organic substance~~ emissions during such activities;

~~(B)~~ maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in ~~252:100-39-46(k)(3)(A)(i)~~; and,

~~(C)~~ maintenance of all records at the affected facility for at least two years and make such records available to representative of the State or local air pollution control agency upon request.

~~(1) Reporting and recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request, reports detailing specific VOS sources; the quantity of coatings used for a specific time period, VOS content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOS emissions. The data necessary to supply the requested information shall be retained by the owner/operator for a minimum of two years.~~

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports detailing specific VOC sources; the quantity of coatings used for a specific time period, VOC content of each coating; capture and control efficiencies; and any other information

pertinent to the calculation of VOC emissions. The data necessary to supply the requested information shall be retained by the owner or operator for a minimum of two years.

(2) The owner or operator of a facility subject to this Sections shall maintain records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k), as well as all other records for at least two years. These records shall be available to representatives of the DEQ upon request.

(m) **Compliance date.** The date of compliance with the requirements of this Section will be is December 31, 1990.

252:100-39-47. Control of ~~VOS~~VOC emissions from aerospace industries coatings operations

(a) Applicability.

(1) This Section applies to all aerospace facilities located in Tulsa County. Sources once subject to this Section are always subject.

(2) This Section does not apply to individual coating formulations ~~which that~~, when aggregated, do not exceed fifty-five (55) gallons per year for the facility.

~~(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in OAC 252:100-7 and will be submitted to EPA as source-specific SIP revision, unless:~~

~~(A) the new coatings meet the presumption norm (3.5 pound VOS per gallon less water and exempt solvents limit); or,~~

~~(B) the total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation.~~

~~(4)(3) Exemptions to this Section shall be permitted for combined emissions at one site/facility which do not exceed a ten ten per year emission cut off based on the Facilities with a potential of the facility to emit 10 tons/year or less of VOS VOC from coatings operations are exempt from this Section.~~

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Aerospace"** means the industries, air bases and depots that ~~design and manufacture, rework, or repair~~ aircraft or military equipment components for either commercial or military customers.

(2) **"Aircraft"** means any machine designed to travel through the earth's atmosphere. This group includes but is not limited to: airplanes, balloons, dirigibles, drones, helicopters, missiles, and rockets.

(3) **"Alternate ~~reasonablereasonably~~ available control technology (ARACT)"** means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility as determined on a case-by-case basis.

(4) **"Coating"** means a material which covers a surface which

alters the surface characteristics and from which Volatile Organic Solvents VOCs can be emitted during the application and/or curing process.

(5) "CTG" means the Control Techniques Guidance Document "Control of Volatile Organic Emissions From Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," EPA No. 450/2-78-015.

(6) "Facility" means all of the pollutant-emitting activities which that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.

(7) "Low organic solvent VOC coating (LOSE) (LVOCC)" means a coating which that contain contains less organic solvent VOC than the conventional coatings used by the industry. Low organic solvent VOC coatings include waterborne, higher solids, electrodeposition, and powder coatings.

(8) "Reasonable Reasonably available control technology (RACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility and the need to impose such controls to attain and maintain a National Ambient Air Quality Standard.

(c) ~~General requirements. All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). Said plan, upon approval, shall constitute the determination of ARACT for that particular facility. ARACT must be installed and operating as approved in the plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan. Provided, however, that in the case that Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification.~~

(1) All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). This plan, upon approval, shall constitute ARACT for that particular facility.

(2) ARACT must be installed and operating as provided in the approved plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are approved in the plan.

(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in 252:100-7 or 252:100-8, and will be submitted to EPA as source-specific SIP revisions, unless one of the following applies.

(A) The new coatings meet the presumptive norm of 3.5 pounds of VOC per gallon less water and exempt compounds.

(B) The total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation.

(d) Emissions reduction plan.

(1) Plan development. Each owner/operator shall develop an

~~emissions reduction plan for all affected facilities. Each plan shall include the following:~~

~~(A) a detailed, reasoned and exhaustive review of:~~

- ~~(i) each source of emissions within the facility and~~
- ~~(ii) (2) the entire plant collectively;~~

(A) a detailed, reasoned and exhaustive review of each source of emissions within the facility and the entire plant collectively;

(B) identification and quantification of emissions, in terms of pounds per day, of all ~~organic solvents~~ VOC both before and after the application of ARACT;

(C) a detailed, innovative engineering effort directed toward finding alternative air management schemes that can be incorporated in order to abate emissions at costs which are reasonable;

(D) a consideration of the level of control that is achievable using available alternative coatings, to include LVOCC for every application, ~~low organic solvent coatings (LOSC);~~

~~(E) a consideration of the level of control achievable using available add on control devices. This demonstration shall include, at a minimum, a demonstration of the feasibility/infeasibility of the following control options:~~

- ~~(i) carbon absorption;~~
- ~~(ii) incineration/flaring;~~
- ~~(iii) condensation; and~~
- ~~(iv) a combination of 252:100 39 47(d)(1)(E)(i) and 252:100 39 47(d)(1)(E)(ii).~~

(E) a demonstration of the level of control achievable using available add-on control devices which shall include, at a minimum, the feasibility/infeasibility of carbon adsorption, incineration/flaring, condensation, and a combination of carbon adsorption and incineration/flaring;

~~(F) a consideration of facility redesign, including the following:~~

- ~~(i) recirculation;~~
- ~~(ii) reduced air flows;~~
- ~~(iii) consolidation of spray operations; and,~~
- ~~(iv) installation of common control devices for two or more separate coatings operations.~~

(F) a consideration of facility redesign, including recirculation, reduced air flows, consolidation of spray operations, and installation of common control devices for two or more separate coating operations;

~~(G) a consideration of alternative applications, to improve transfer efficiency, including:~~

- ~~(i) high volume low pressure spray equipment;~~
- ~~(ii) heated spray guns; and,~~
- ~~(iii) electrostatic spray equipment/powder coatings.~~

(G) a consideration of alternative applications, to improve transfer efficiency, including high-volume-low-pressure spray equipment, heated spray guns, and electrostatic spray

equipment/powder coatings;

(H) an explanation why each source is not a typical coating source covered by the CTG as defined in 252:100-39-47(b);

(I) a cost/benefit analysis for all control technology considered; and,

(J) a detailed compliance schedule ~~which~~that includes the emission limit and/or control techniques for each emission source. ~~This schedule, which~~ together with other relevant considerations, shall be set forth in a separate section of the plan ~~which~~that summarizes and outlines ARACT for the referenced facility.

(2) Submission of emission reduction plans. ~~Upon completion, the~~The emissions reduction plan shall be submitted in triplicate to the Air Quality Division. The preparer shall also submit a copy of the plan to ~~Region VI Environmental Protection Agency (EPA) EPA,~~ Region VI.

(3) Action on plan. Within 30 days of submittal, or of the ~~effective date of this Section May 25, 1990,~~ whichever is later, the Air Quality Division shall, considering any comments submitted by EPA, either approve, modify or disapprove the plan.

(4) Public hearing. The Division shall, at the first meeting of the Air Quality Council following the approval, modification, or disapproval of the plan, present at public hearing, the staff's findings and ARACT determination. ~~Upon consideration of comments and recommendations from the Council, the owner/operator of the affected facility, the public and EPA, the Department shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility. The owner/operator shall be responsible for installation and operational provisions of the approved ARACT, including any specific provisions set forth therein. Any violation of the plan or of its provisions shall constitute a violation of this Section.~~

(5) Final approval. Upon consideration of comments and recommendations from the Council, the owner or operator of the affected facility, the public, and EPA, the DEQ shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility.

(6) Compliance. The owner or operator shall be responsible for installation and operational provisions of the approved ARACT. Any violation of the plan or of its provisions shall constitute a violation of this Section.

~~(5)~~(7) Submission of SIP revision. Upon approval by the ~~Department~~DEQ, the ARACT determination shall be submitted to EPA as a SIP revision.

(e) Reporting and recordkeeping.

(1) Recordkeeping requirements. ~~The owner/operator~~owner or operator shall maintain the following:

(A) a material data sheet which documents the ~~volatile organic solvent~~VOC content, composition, solids content, ~~solvent~~VOC density and other relevant information regarding

each coating and solvent VOC available for use in the affected surface coating processes; ~~information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits. Information as to the amounts of each type coating used and the amounts of solvents used for dilution in each coating type shall be maintained for each coating operation. Daily usage records will be kept for all coatings used that do not comply with the applicable control limits specified in the plan;~~

(B) information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits;

(C) information as to the amounts of each type coating used and the amounts of VOC used for dilution in each coating type for each coating operation;

(D) daily usage records for all coatings used that do not comply with the applicable control limits specified in the plan; and,

~~(B)~~ (E) records shall be maintained of any monitoring and testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f) τ_i .

~~(C)~~ (2) Method of calculating VOC content in coatings. records
Records required by 252:100-39-47(e) (1) (A) and 252:100-39-47(e) (1) (B) through 252:100-39-47(e) (1) (E) detailing VOSVOC in pounds per gallon of coating (less water and exempt compounds) shall be calculated as follows:

$$\text{VOSVOC in lbs/gal of coating} = \frac{Wv - Wx - WxWv - Ww - Wx}{Vm - Vw - Vx}$$

where: Wv = weight of all volatiles τ_i

Ww = weight of water τ_i

Wx = weight of exempt solvent compounds τ_i

Vm = 1 (one) τ_i

Vw = volume fraction of water τ_i ; and,

Vx = volume fraction of exempt solvent compounds.

~~(D)~~ (3) Maintenance of records. records
Records required by 252:100-39-47(e) (1) (A) and 252:100-39-47(e) (1) (B) through 252:100-39-47(e) (1) (E) shall be maintained for at least two years and shall be made available upon written request by representatives of the Air Quality Division, AOD U.S. Environmental Protection Agency or EPA or the Tulsa City County Health Department.

~~(2)~~ (4) Alternative recordkeeping provision. Alternatively to 252:100-39-47(e) (1) through 252:100-39-47(e) (3), an equivalent recordkeeping provision which that satisfies the substantive requirements of 252:100-39-47(e) (1) through 252:10-39-47(e) (3) may be approved under the plan.

(f) Testing and monitoring.

(1) Testing. Each ~~owner/operator~~ owner or operator shall, upon a determination by the ~~Air Quality Division~~ that testing is

required to establish emission from any particular source or sources, conduct such tests at his own expense. Test methods may include 1-4, 18, 24, 24A, 25A, 25B found in the Appendix A of 40 CFR Part 60, including the procedures found at 40 CFR 60.444.

(2) Monitoring. Monitoring shall be required of any ~~owner/operator~~ owner or operator ~~subject to this section~~ who uses add-on control equipment for compliance. Such monitoring shall include: accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(A) installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:~~

~~(i)(A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;~~

~~(ii)(B) the total amount of volatile organic substances VOCs recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,~~

~~(iii)(C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance VOC emissions during such activities.~~

~~(B) maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f)(2)(A)(i); and,~~

~~(C) maintenance of all records at the affected facility for at least two years and make such records available to representatives of the State or local air pollution control agencies upon request. (252:100-39-47 Effective May 25, 1990)~~

252:100-39-48. Vapor recovery systems [AMENDED AND RENUMBERED TO 252:100-39-41(e)]

~~(a) Applicability. This Section applies only in Tulsa County.~~

~~(b) Storage of volatile organic compounds 400-40,000 gallons (9.5-953 bbls).~~

~~(1) No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a submerged fill pipe or is bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compounds contained in the displaced vapors and~~

~~is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum.~~

~~(2) The vapor recovery system shall include one or more of the following:~~

~~(A) a vapor tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds can be transferred into the container (i.e., pipped connectors from the storage container to the delivery vessel.);~~

~~(B) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole;~~

~~(C) the cross sectional area of the vapor recovery line must be at least half of the cross sectional area of the liquid delivery line, or;~~

~~(D) instead 252:100 39 48(b)(2)(A) through 252:100 39 48(b)(2)(C), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Executive Director prior to start of construction.~~

~~(3) Exemptions to this Section may be granted provided the owner/operator shows to the satisfaction of the appropriate authority that the container is used exclusively for agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less.~~

~~(4) The applicability of this Section shall be determined by the most restrictive of the 2,000 gallon tank size as specified in 252:100 39 48(b)(1) or the 120,000 gallon annual throughput described in 252:100 39 48(b)(3). However, once a facility places a 2,000 gallon tank in service or exceeds the 120,000 gallon annual throughput described in 252:100 39 48(b)(3), that facility shall always be subject to the provisions of this Section. (effective February 12, 1990)~~

~~(5) If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized.~~

~~(6) Compliance with this subsection will be accomplished by affected owner/operator by December 31, 1986.~~

~~(7) The owner/operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds made to their facility or facilities located in Tulsa County, shall be made by vessels which comply with the requirements contained~~

~~in 252:100-39-48(d). Compliance with this Section shall be accomplished by affected owner/operators no later than December 31, 1990. (Effective February 12, 1990)~~

~~(c) Loading of volatile organic compounds.~~

~~(1) No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound loading facility unless such loading facility is equipped with a vapor collection and/or disposal system properly installed, in good working order and in operation.~~

~~(2) When volatile organic compounds are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor tight seal at the hatch.~~

~~(3) A means shall be provided to prevent organic material drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.~~

~~(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor tight connections and which close automatically when disconnected.~~

~~(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels:~~

~~(A) an absorption/adsorption system or condensation system with a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound vapors and gases entering such disposal system;~~

~~(B) a vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent; or,~~

~~(C) other equipment of at least 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-48(c)(5)(A) through 252:100-39-48(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

~~(6) Subsection 252:100-39-48(c) shall apply to any facility which loads volatile organic compounds into any transport vessel designed for transporting volatile organic compounds.~~

~~(7) Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for two years.~~

~~(d) Transport/delivery vessel requirements.~~

~~(1) Maintenance.~~

~~(A) The delivery vessel must be maintained so as to be vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.~~

~~(B) The delivery vessel must be equipped, maintained and~~

~~operated to receive vapors from sources identified in 252:100-39 41(b) (1) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.~~

~~(C) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which would impair the vessels ability to retain vapors or liquid shall be repaired within 5 days.~~

~~(D) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100 39 48(d) (2) (A) (i). The vessel must also display on the rear panel a tag showing the date of the pressure test.~~

~~(E) No owner/operator will allow a delivery vessel to be filled at a facility unable to receive displaced organic vapors nor service tanks unable to deliver displaced vapors except for tanks/facilities exempted in 252:100 39 41(b). Terminal owners shall not fill vessels which do not display a current tag.~~

~~(F) Delivery vessels may be inspected by representatives of the appropriate health agency in order to determine their state of repair. Such a test may consist of a visual inspection, a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner/operator to effect the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days the vessel will be removed from service by the owner/operator. Failure to certify that the cited repairs have been effected will subject the vessel to sanctions. Upon certification of repairs the vessel will be allowed to operate in a normal manner.~~

~~(2) Testing requirements.~~

~~(A) Pressure test.~~

~~(i) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2 78 051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Executive Director.~~

~~(ii) The vessel will be considered to pass the test prescribed in 252:100 39 48(d) (2) (A) (i) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O in addition there shall be no avoidable visible liquid leaks.~~

~~(B) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39 41(d) (1) (F) must be consistent with Appendix "B" EPA~~

~~Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-48 will become effective December 15, 1988.~~

252:100-39-49. Manufacturing of fiberglass reinforced plastic products

~~(a) General provisions. Within 12 months after promulgation of this Section all affected facilities shall limit emissions of VOS from fiberglass manufacturing to those listed in 252:100-39-49(a)(1), or have an approved plan for the reduction of such emissions. The plan must be submitted to the Executive Director within 6 months after promulgation of this Section, and shall detail those emissions which will be controlled, the means by which control will be achieved and will demonstrate that compliance will be achieved within two years from the date of promulgation of this Section. The approval authority for such plans shall reside with the Air Quality Council. All approved plans shall be submitted as SIP revisions.~~

~~(1) Compliance with 252:100-39-49(a) shall be accomplished by use of control equipment which can demonstrate an 85 percent reduction in the VOS released from each process gas stream, e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency.~~

~~(2) Exemptions to the limits listed in 252:100-39-49(a)(1) may be allowed for any process gas stream which does not exceed six tons per year actual emissions based on 6240 hours per year. However, once this limit is exceeded, controls must be put in place and maintained at any operating level.~~

~~(b) Demonstration of compliance. The Executive Director may require the owner/operator of a source to demonstrate at his expense, compliance with the prescribed emissions limits. The testing shall be accomplished using the appropriate EPA test method or methods, these include methods 1, 4, 18, 25, 25A, 25B and 40 CFR 60.444. Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.~~

~~(c) Testing. Testing for the alternate emissions plan shall be conducted by the owner/operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.~~

~~(d) Recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request reports detailing specific VOS sources, the quantity of solvents used during specific months, a description of the solvent used, control equipment efficiencies, equipment downtime and any other information pertinent to the calculation of VOS emissions from the facility. The owner/operator must also maintain records which detail the maintenance performed on all control equipment as well as a record of the downtime with the reason for each occurrence. Such records shall be maintained by the source for a minimum of two years. (252:100-39-49, Effective February 12, 1990)~~

(a) Applicability.

(1) This Section applies to any process gas stream with actual VOC emissions that exceed six tons per year based on 6,240 hours of operation per year.

(2) Once the limit in 242:100-39-49(a)(1) is exceeded, the controls required in 252:100-39-49(b) must be put in place and maintained and used at any operating level.

(b) Standards. Affected facilities shall limit emissions of VOC from fiberglass manufacturing by use of control equipment which can demonstrate an 85 percent reduction in the VOC released from each process stream (e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency).

(c) Compliance. All affected facilities must comply with one of the following.

(1) Meet the requirements of 252:100-39-49(b) by February 13, 1991.

(2) Have an approved plan for the reduction of VOC emissions as required by 252:100-39-49(b) by February 13, 1991.

(A) The plan shall be submitted by August 13, 1990, and shall:

(i) detail those emissions which will be controlled;

(ii) detail the means by which control will be achieved; and,

(iii) demonstrate that compliance will be achieved by February 13, 1992.

(B) The Air Quality Council shall have approval authority for the plans.

(C) All approved plans shall be submitted to the EPA as SIP revisions.

(d) Demonstration of compliance.

(1) The Division Director may require an owner or operator of a source to demonstrate at his expense, compliance with the requirements of 252:100-39-49(b).

(2) The testing shall be accomplished using the appropriate EPA test method or methods. These include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444.

(3) Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.

(4) Testing for the emissions plan described in 252:100-39-49(c)(2) shall be conducted by the owner or operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.

(e) Recordkeeping.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports that include:

(A) details of specific VOC sources;

(B) the quantity of VOC used during specific months;

(C) a description of the VOC used;

(D) control equipment efficiencies;

(E) details of maintenance performed on all control

equipment;

(F) equipment downtime; and,

(G) any other information pertinent to the calculation of VOC emissions from the facility.

(2) The records required in 252:100-39-49(e)(1) shall be maintained by the source for at least two years. [252:100-390-49, Effective February 12, 1990]

LIST OF ORGANIC COMPOUNDS WITH NEGLIGIBLE
PHOTOCHEMICAL REACTIVITY
40 CFR 51.100(s)(1) as it existed on July 1, 1998
From the Federal Register dated 4/9/98

Sec. 51.100 Definitions.

(s) Volatile organic compounds (VOC)

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
ethane;
methylene chloride (dichloromethane);
1,1,1-trichloroethane (methyl chloroform);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
chlorodifluoromethane (HCFC-22);
trifluoromethane (HFC-23);
1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1-dichloro 1-fluoroethane (HCFC-141b);
1-chloro 1,1-difluoroethane (HCFC-142b);
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
pentafluoroethane (HFC-125);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trifluoroethane (HFC-143a);
1,1-difluoroethane (HFC-152a);
parachlorobenzotrifluoride (PCBTF);
cyclic, branched, or linear completely methylated siloxanes;
acetone;
perchloroethylene (tetrachloroethylene);
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
difluoromethane (HFC-32);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);

chlorofluoromethane (HCFC-31);
1 chloro-1-fluoroethane (HCFC-151a);
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$);
1-ethoxy-1,1,2,2,3,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$);
methyl acetate

and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

REVISIONS TO THE PROPOSED MODIFICATION OF SUBCHAPTER 39 FOR THE
DECEMBER 15, 1998, AIR QUALITY COUNCIL MEETING

Following is a list of the revisions that have been made to the modification of Subchapter 39 that was presented at the October 20, 1998, AQC meeting. In addition to these changes, the Notes which are not part of the rule have been deleted and the "underlined strikeouts" and double underlines have been deleted from 252:100-39-18(a); 252:100-39-41(e); and 252:100-39-47(c).

1. In the title of the Subchapter "NON-ATTAINMENT" has been replaced by "NONATTAINMENT" for consistency.
2. 252:100-39-18(a) [page 8] Undeleted "discharge of the water" on line 4.
3. 252:100-39-30(a)(1) [page 9] Replaced "normal operating conditions" with "standard conditions".
4. 252:100-39-30(a)(5) [page 9] Replaced "tank" in the definition of liquid-mounted seal with "vessel".
5. 252:100-39-30(b)(2)(B) [page 9] Reversed the positions of "1,600,000 liters" and "420,000 gallons". Replaced "420,000 gallons with 422,675 gallons" and replaced "1,600,000 liters" with "1,600 m³".
6. 252:100-39-30(b)(2)(E) [page 10] Inserted "are" prior to "equipped" on line 1 and changed "has" to "have" on line 2.
7. 252:100-39-30(c)(1)(B)(iii) [page 10] Changed "tank diameter" to "vessel diameter" on line 6. In the second line reversed the positions of "1/8 in" and "0.32 cm" and replaced "in" with "inch". In lines 4 and 5 changed the order of tank diameter limits putting the English units first. In line 6 replaced ", as" with "This shall be" to make the last portion of this long sentence a new sentence. In line 9 added "1/8 inch" prior to "0.32 cm" and enclosed "0.32 cm" in parenthesis. In line 11 deleted the semicolon and changed "area" to "areas".
8. 252:100-39-41(b)(2)(A)9i) [page 14] In line 5 added "storage" in front of "vessel".
9. 252:100-39-41(e)(2)(A) [page 14] In line 3 changed "container" to "vessel".
10. 252:100-39-41(e)(2)(A)(i) [page 15] In lines 1 and 6 replaced "container" with "vessel", in line 4 replaced "container" with "storage vessel".
11. 252:100-39-41(e)(2)(A)(ii) [page 15] Replaced "tank" with "vessel".
12. 252:100-39-41(3)(2)(B)(ii) [page 15] Undeleted "the" prior to "owner" and changed "month's" to "months".
13. 252:100-39-41(e)(4)(A)(ii) [page 16] Inserted a comma after "maintained"..
14. 252:100-39-42(b)(2)(A) [page 19] Deleted "processing work" and added "degreasing parts".
15. 252:100-39-42(b)(2)(B)(iii) and (iv) [page 19] Changed "sec." to "seconds".
16. 252:100-39-42(c)(2) [page 20] Added "21.5 ft²" prior to "2.0 m²" and enclosed the later in parentheses.
17. 252:100-39-42(c)(2)(A)(ii) [page 20] Corrected "(15 m²/min per m²)" to "(15 m³/min per m²)".

18. 252:100-39-44(c)(2)(B)(iii) [page 25] Undeleted the period at the end of the sentence.
19. 252:100-39-46(e) [page 29] Added "for use in the development of a plant-wide emission plan as described in 252:100-39-46(j)(1) after "solids".
20. 252:100-39-46(j)(1) [page 30] Deleted "owner/operator" and added "owner or operator".
21. 252:100-39-47(b)(2) [page 33] Deleted "design and" and added ", rework, and repair" after "manufacture".
22. 252:100-39-47(b)(5) [page 34] Added "Techniques" after "Control".
23. 252:100-39-47(c)(3) [page 34] Added paragraph (3) Which was 252:100-39-47(d)(7)(B). It had originally been 252:39-47(a)(3).
24. 252:100-39-47(d)(7)(B) Moved this to 252:100-39-47(c)(3).

MINUTES
AIR QUALITY COUNCIL
DECEMBER 15, 1998
Lincoln Plaza Office Complex
Burgundy Room
4545 North Lincoln Boulevard
Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Larry Canter
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Jeanette Buttram
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce
Cheryl Bradley
Becky Mainord

Council Members Absent

Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for December 15, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye; Mr. Kilpatrick and Ms. Slagell did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 20, 1998 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Mr. Branecky. Roll call as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye.

PUBLIC HEARINGS

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered into the hearing records the Hearing Agenda and Oklahoma Register Notice.

OAC 252:100-7 Permits [AMENDED]

Mr. Dyke called upon Ms. Jeanette Buttram for staff recommendation to Council. Ms. Buttram advised that proposed revisions delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emission standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit.

Also a new Part 9 is proposed which will outline the requirements necessary for a facility to qualify for F . . . Each subchapter containing a PBR for specific facilities would also be referenced under this new Part. Within Part 9, Section 252:100-7-60.3 was written due to the proposed PBR section for VOC storage and loading facilities in Subchapter (SC) 37. Staff recommendation for SC 37 will be to continue the rule until the February AQC meeting. Therefore, staff suggests the proposed new section be deleted from the rule and added once the PBR in SC 37 is approved. Mr. Branecky requested clarification of which part of the rule was being deleted. Ms. Buttram confirmed the suggestion to recommend the proposed rule, excluding Section 252:100-7-60.3, to the Environmental Quality Board for permanent adoption.

Following discussion and comments, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality board at the next meeting. Dr. Grosz made that motion with second made by Ms. Myers. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100:8-4(a)(2) Permits for Part 70 Sources [AMENDED]

Mr. Dyke called upon Ms. Joyce Sheedy for staff recommendation regarding this rule. Dr. Sheedy advised that these amendments update the incorporation by reference of the case-by-case MACT determinations for Part 70 sources in 252:100-8-4 (a)(2)(C) by adopting 40 CFR 63.41, 63.43, and 63.44 as they exist on July 1, 1998. Dr. Sheedy advised that this update would be made annually.

Mr. Breisch entertained motion recommending adoption as permanent rule by the Environmental Quality Board. Mr. Branecky made the motion with the second being made by Mr. Wilson. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

Mr. Dyke called upon Dr. Joyce Sheedy who advised that proposed changes primarily simplify language and correct grammar and format but also include various substantive changes. Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. Dr. Sheedy then stated the staff's recommendation to continue this rule until the February Council meeting because of remaining controversy.

Council discussion followed. Mr. Wilson expressed concern about SC 37 being open for so long with no action taken. During public discussion, Mr. Bradshaw from Boeing reiterated Mr. Wilson's concern. Mr. Bradshaw further explained that the specific point of concern for Boeing and American Airlines is the definition of VOC. He said the members of his industry would like to see the definition amended as soon as possible. Ms. Hoffman responded by explaining that it is the intent of the staff to have all remaining issues with SC 37 resolved and to recommend approval of the rule by the Council. She further explained that if the rule is

approved by the Council in February, there would be time to get the packet of information to the Environmental Quality Board before the March 5, 1999 meeting.

Mr. Breisch entertained a motion to continue this rule to Council's February meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]
Mr. Dyke called upon Dr. Joyce Sheedy for staff recommendation. Dr. Sheedy pointed out that the proposed changes primarily simplify language and correct grammar and format but also include some substantive changes. Dr. Sheedy explained that written comments, staff responses and details of the substantive changes were summarized in the Council packet. Dr. Sheedy submitted the written letters from EPA and EFO for hearing record.

There were no questions or comments from the Council or from the public.

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's February 17, 1999 meeting. Mr. Branecky made that motion with the second made by Ms. Myers. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

This subject was first brought before the Council on October 20, 1998 at which time the Council voted to continue the hearing until the December 15, 1998 Council meeting. The presentation for this public hearing consisted of several staff members. Mr. David Dyke began by informing those present that written comments have been received from the Environmental Federation of Oklahoma, Mid-Continent Oil and Gas Association, and the Small Business Advisory Panel. These comments and staff responses were submitted for official record. Mr. Dyke continued to explain the Division's anticipated increase in workload and discussed other factors contributing to the request for fee increases.

Mr. Dyke called upon Mr. Scott Thomas to describe the upcoming rulemaking activities. Mr. Thomas explained that the Division's rulemaking goals were designed according to proposed rules received from the EPA, instruction from the State Legislature to review all of our rules by December 2000, and efforts to go forward with the agencies directive and goals of the permit continuum. Mr. Thomas also stated that in order to accomplish these goals, additional staff would be required or the rulemaking priorities would have to be refined. Mr. Ray Bishop came forward to elaborate upon the need for additional permitting staff. He stated that even though the Permit program has instituted a number of time-saving and efficiency efforts, the Division does not anticipate meeting the impending Title V time frames and deadlines with the current staff. He also reviewed the non-Title V activities required of the permitting

staff. Mr. Terrill commented regarding potential actions that could occur at the federal level and consequently affect the Division.

Finally, Mr. Dyke called upon Ms. Shawna McWaters-Khalousi to explain the proposed fee increases and how they were derived. Staff recommended approval by the Council. Mr. Dyke summarized staff's position by stating that even though services and spending levels are reduced from previous years, the current level of services and management of oncoming issues cannot be maintained without additional staff. Mr. Dyke assured that the Division would not compromise the environmental protection, but be forced to shift and prioritize resources ultimately resulting in reduced services provided.

After extensive comment and discussion from the Council, the public and members of industry, Mr. Breisch entertained, and Mr. Branecky made the motion that: In SC 5, annual operating fees for minor facilities and for Part 70 sources be increased to \$17.12 per ton; In SC 7, the fee for minor source applicability determinations be increased to \$250 and the fees for all types of individual minor source permits be doubled; and In SC 8, the fee for major source applicability determinations be increased to \$250. Ms. Myers made the second to Mr. Branecky's motion with roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

NEW BUSINESS The Council requested a monthly financial statement from Mr. Coleman's office. This information would enable the Finance Committee to monitor the cash flow of the AQD and work toward avoiding future budgetary shortfalls. Additionally, the Council requested that a comprehensive and detailed list of tasks that would be billed to Title V expenditures be created. This list would be a guideline for staff to follow when accounting time and effort. Finally, a request was made for additional state appropriations for a workload study that will determine staffing priorities.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 17, 1999 at the Department of Environmental Quality Multi-Purpose Room, First Floor, 707 North Robinson, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the copies of hearing records are attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 15, 1998

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Robert A. Fishburne, Jr	ARMSTRONG	405-377-1283 x14
2. Bill Fishburne	MOBILE	405-348-8683
3. Kim Warram	ENERCON	405- 500 ⁷²² 7693
4. Stanley M. Spruiell - EPA P.O. Box 177	EPA - Air Permits	714 739-0804
5. Carol Baker, TAFB	EMV	736-7246
6. Carlos Nazario TAFB	EMV	734-7071
7. Kevin Cannon TAFB	LAPREP	736-5986
8. Pat Sawyerford	National Std.	405/3775050
9. Nancy Bradshaw	Tulsa	918/832/2073
10. Kip Ruff	Tulsa	918/832/3178
11. Jim Am	OKC	405-672-3400
12. Mike Wood/Weyco	Hot Springs, AR	501-624-8569
13. Rick Rogers (GCS)	ANADARKO, OK P.O. Box 168AA	405/577-3186
14. Dustin Givens	Fort Jones	918/683-7671
15. Steve Lenders	" "	" " "
16. Howard Ground	CSW	214-777-1711
17. Nadine Porter	CASE	
18. Kyle Brown	OTDQA	405-702-6112
19. John COAKLEY	EQ Board	580-726-2189
20. John Wheeler	Trinity	972-661-8100
21. Shauna McWater-Khalazi	AAD	(405) 702-4100
22. David Emery	Phillips Pet	918-661-3041
23. Andrew Livingston	Sinclair Oil Corp	918-588-1127
24.		
25.		

HEARING/MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Wednesday February 17, 1999 1:00 P.M.
707 North Robinson
DEQ Multi-Purpose Room, First Floor
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the December 15, 1998 Regular Meeting**
4. **Election of Officers Calendar Year 1999**
Nominations and election by Council

5. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from December 15, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

6. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from December 15, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

7. **New Business**
 - A. Discussion/consideration of subjects/business arising within past 24 hours
 - B. Possible action by Council
8. **Adjournment – Next Regular Meeting**
Tuesday, April 20, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson, Oklahoma City, Oklahoma

BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Wednesday February 17, 1999 9:30 A.M.
707 North Robinson
DEQ Multi-Purpose Room, First Floor
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Division Director's Report – Staff**
 - A. Update of current events and AQD activities
 - B. Discussion by Council / Public
3. **Election of Officers – Calendar Year 1999**

Discussion by Council
4. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from December 15, 1998 Air Quality Council meeting.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
5. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from December 15, 1998 Air Quality Council meeting.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

February 3, 1999

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director ^{ET}
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 39

Enclosed is a copy of the proposed modifications to OAC 252:100-39, EMISSIONS OF ORGANIC MATERIALS IN NONATTAINMENT AREAS. These revisions were brought to the Air Quality Council for the first time on August 18, 1998, and again on October 20, 1998, and December 15, 1998. At the December meeting the staff recommended that the rule be considered again at the February 17, 1999, Council meeting.

The proposed revisions primarily simplify and clarify language, correct grammar, and impose consistency in format on the rule without involving substantive changes. A number of non-substantive changes and two substantive changes were made to the rule following the December 15, 1998, Council meeting. The substantive changes are listed as items 3 and 5 below. The following substantive revisions to the rule are proposed.

1. The definition of "volatile organic compound (VOC)" in 252:100-39-2 has been revised. As part of the simplification process, staff proposes to have only one definition of volatile organic compound which will be consistent with the EPA definition and replace the terms "volatile organic solvent (VOS)" and "organic solvents." The new definition provides that any organic compound listed in 40 CFR 51.100(s)(1) shall be presumed to have negligible photochemical reactivity and will not be considered to be a VOC. This revision will also serve as a response to requests to exempt acetone, methylated siloxanes, perchloroethylene, and methyl acetate from being considered VOCs. These four substances are on the list in 40 CFR 51.100(s)(1), and, therefore, will not be considered to be VOCs.
2. The staff proposes to correct the placement of "prior to lease custody transfer" in 252:100-39-30(b). This phrase was located in paragraph (2) and was, therefore, applicable to all the exemptions listed in that paragraph. Research in the Air Quality Council records and in the Control Technology Guideline, Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450/2-78-047, indicates that this phrase should apply only to 252:100-39-30(b)(2)(B). Staff recommends moving this phrase to 252:100-39-30(b)(2)(B).
3. The addition of 252:100-39-30(b)(3) and (4) is proposed, which would exempt storage vessels subject to the equipment standards in 40 CFR 60, Subparts Ka or Kb and/or the equipment standards in 40 CFR 63, Subparts CC or G from the requirements of 252:100-39-30.

4. 252:100-39-41(c), Loading of volatile organic compounds, currently has no provisions to exclude small loading facilities. The staff proposes to add language that will limit the requirements of this subsection to facilities that have a minimum annual throughput of 120,000 gallons or storage capacity greater than 10,000 gallons.
5. Staff proposes to amend the definition of "aerospace" in 252:100-39-47((b) to make clear that the term includes rework or repair.

Staff will suggest that the proposed rule be recommended to the Board for permanent adoption.

In addition to the proposed draft revisions to Subchapter 39, a copy of 40 CFR 51.100(s)(1), a rule impact statement, two summaries of comments and staff responses, and a list of the revisions that were made to the rule after the December 15, 1998, Air Quality Council meeting are also included in the packet.

Enclosures 6

SUBCHAPTER 39. EMISSION OF VOLATILE ORGANIC MATERIALS COMPOUNDS (VOCs) IN NONATTAINMENT AREAS AND FORMER NONATTAINMENT AREAS

PART 1. GENERAL PROVISIONS		
252:100-39-1.	Purpose	1
252:100-39-2.	Definitions	1
252:100-39-3.	General applicability	2
252:100-39-4.	Exemptions	2
 PART 3. PETROLEUM REFINERY OPERATIONS		
252:100-39-15.	Petroleum refinery equipment leaks	2
252:100-39-16.	<u>Petroleum Refinery</u> refinery process unit turnaround	5
252:100-39-17.	<u>Petroleum Refinery</u> refinery vacuum producing system	6
252:100-39-18.	<u>Petroleum Refinery</u> refinery effluent water separators	7
 PART 5. PETROLEUM PROCESSING AND STORAGE		
252:100-39-30.	Petroleum liquid storage in <u>vessels with</u> <u>external floating reef tanks</u> roofs	8
 PART 7. SPECIFIC OPERATIONS		
252:100-39-40.	Cutback asphalt (paving)	11
252:100-39-41.	Vapor recovery systems <u>Storage, loading and</u> <u>transport/delivery of VOCs</u>	11
252:100-39-42.	Metal cleaning	16
252:100-39-43.	Graphic arts systems	21
252:100-39-44.	Manufacture of pneumatic rubber tires	22
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PART 1. GENERAL PROVISIONS

252:100-39-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources located in nonattainment areas and to specify the additional control measures required to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration is prevented.~~ The purpose of this Subchapter is to prevent the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains requirements for the control of emissions of VOCs from stationary sources located in areas that are nonattainment or were formerly nonattainment for ozone.

252:100-39-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~

~~"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.~~

~~"Organic materials" means any chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~

"Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

~~"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions.~~

(A) ~~the~~The bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) ~~the~~The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) ~~the~~The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel, ~~or,~~

~~(D) other equivalent methods acceptable to the Executive Director.~~

~~"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.~~

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions, that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-39-3. General applicability

In addition to any application of the requirements contained in OAG 252:100-37, the additional ~~control/prohibitions~~requirements contained in this Subchapter shall be required ~~on~~of existing and new facilities located in Tulsa and Oklahoma Counties.

252:100-39-4. Exemptions

VOCs with vapor pressures less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from 252:100-39-16 through 252:100-39-18, 252:100-39-30, 252:100-39-41, and 252:100-48.

PART 3. PETROLEUM REFINERY OPERATIONS

252:100-39-15. Petroleum refinery equipment leaks

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Component"** means any piece of equipment which has the potential to leak ~~volatile organic compounds~~ VOCs when tested in the manner described in EPA Test Method 21 of 40 CFR Part 60. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated.

(2) **"Gas service"** means any equipment which processes, transfers or contains a ~~volatile organic compound~~ VOC or mixture of ~~volatile organic compounds~~ VOCs in the gaseous phase.

"Leaking component" means a component which has a VOC concentration exceeding 10,000 ppmv when tested according to the provisions in 252:100-39-15(e).

(3) **"Liquid service"** means any equipment which processes, transfers or contains a ~~volatile organic compound~~ VOC or mixture

of volatile organic compounds (VOCs) in the liquid phase.

~~(4) "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.~~

~~(5) "Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.~~

~~(6) "Valves not externally regulated" means valves that have no external controls, such as in-line check valves.~~

~~(7) "Volatile organic compounds" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 0.3 kilopascals (0.0435 pounds per square inch absolute) or greater under actual storage conditions. (Effective 2-12-90)~~

(b) Applicability. This Section applies to all source facility petroleum refineries located in the following counties: Tulsa and Oklahoma.

(1) This Section applies to all petroleum refineries located in Tulsa County and Oklahoma County.

(2) VOCs with vapor pressures less than 0.0435 psia (0.3 kilopascals (kPa)) under actual storage conditions are exempt from 252:100-39-15. (Effective 2-12-90.)

(c) Provisions for specific processes. Standards and operating requirements

(1) The owner or operator of a petroleum refinery complex subject to this Section shall:

(A) develop and conduct a monitoring program consistent with the provisions in 252:100-39-15(d) and 252:100-39-15(f);

~~(B) conduct a monitoring program consistent with the provisions in 252:100-39-15(f);~~

~~(C) record all leaking components which have a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e) and place an identifying tag on each component consistent with the provisions in 252:100-39-15(f)(3);~~

~~(D) (C) repair and retest the leaking components, as defined in 252:100-39-15(e)(1)(C), as soon as possible but no later than 15 days after the leak is found; and,~~

~~(E) (D) identify all leaking components, as defined in 252:100-39-15(e)(1)(C), which cannot be repaired until the unit is shutdown for turnaround; and, Assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.~~

(E) assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.

(2) The Executive Division Director, may, at his/her discretion, take require the owner or operator to take appropriate remedial action, including early unit turnaround, based on the number and severity of tagged leaks awaiting repair.

(3) Pipeline valves and pressure relief valves in ~~gaseous gas~~ ~~volatile organic compound~~ service shall be marked in some manner that will be readily obvious to both petroleum refinery or contract personnel performing monitoring and the ~~Executive Director~~ DEQ.

(d) ~~Compliance schedule~~ schedule. The owner or operator of a petroleum refinery, ~~in order to comply with 252:100-39-15,~~ shall adhere to the increments of progress contained in the following ~~schedule~~.

~~(1) Submit~~ submit to the ~~Executive Division~~ Division Director a monitoring program by July 30, 1981. This program shall contain, at a minimum, a list of the refinery units ~~only~~ and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this Section.

~~(2) Submit quarterly monitoring report to the Executive Director.~~

(e) **Testing and monitoring procedures.** Testing and calibration procedures to determine compliance with this Section must be consistent with EPA Test Method 21 of 40 CFR Part 60.

(f) **Monitoring.**

(1) The owner or operator of a petroleum refinery ~~subject to this Section~~ shall conduct a monitoring program consistent with the following provisions. The owner or operator shall:

(A) monitor yearly by the methods referenced in ~~Test Method 21 of 40 CFR Part 60~~ 252:100-39-15(e) all:

~~(i) pump seals~~ +

~~(ii) pipeline valves in liquid service~~ + and +

~~(iii) process drains;~~

(B) monitor quarterly by the methods referenced in ~~252:100-39-15(d)~~ 252:100-39-15(e) + all:

~~(i) compressor seals~~ +

~~(ii) pipeline valves in gaseous gas service~~ + and +

~~(iii) pressure relief valves in gaseous gas service;~~

(C) monitor weekly by visual methods all pump seals;

(D) monitor immediately within 24 hours any pump seal from which VOC liquids are observed dripping;

(E) monitor any relief valve within 24 hours after it has vented to the atmosphere; and,

(F) monitor immediately after repair any component that was found leaking.

(2) Pressure relief devices ~~which that~~ are connected to an operating flare header, vapor recovery ~~device~~ devices, inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in paragraph (1) of this subsection. ~~Provided~~ provided, however, such inaccessible valves will be monitored during annual shutdown.

(3) The owner or operator of a petroleum refinery, upon the detection of a leaking component, ~~as defined in 252:100-39-~~

~~15(e)(1)(C), which~~ that is not repaired on discovery, shall affix a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leaking component is repaired.

(g) **Recordkeeping.**

(1) The owner or operator of a petroleum refinery shall maintain a leaking components monitoring log ~~as specified in 252:100-39-15(e)(1)(C) which shall contain, at a minimum, the following data:~~

- (A) the name of the process unit where the component is located;
- (B) the type of component (e.g., valve, seal);
- (C) the tag number of the component, if not repaired immediately on discovery;
- (D) the date on which a leaking component is discovered;
- (E) the date on which a leaking component is repaired;
- (F) the date and instrument reading of the recheck procedure after a leaking component is repaired;
- (G) the date of the calibration of the monitoring instrument. ~~The record of calibration~~ which shall be made available for inspection on request;
- (H) those leaks that cannot be repaired until turnaround; and,
- (I) the total number of components checked and the total number of components found leaking.

(2) ~~Copies of the~~ The monitoring log shall be retained on site by the owner or operator for at least two years after the date on which the record was made or the report prepared.

(3) ~~Copies of the~~ The monitoring log shall be made available for inspection at any reasonable time and copies of the log shall be provided to the Executive Division Director, upon written request, at any reasonable time of the AOD.

(h) **Reporting.** The owner or operator of a petroleum refinery, ~~upon the completion of each monitoring procedure,~~ shall:

(1) submit a report to the Executive Division Director by the 30th day following the end of each calendar quarter that lists all leaking components that were located during the previous quarter but not repaired within 15 days, all leaking components awaiting unit turnaround, and the total number of components found leaking; and,

(2) submit a signed statement with the report attesting to the fact that, all monitoring and, with the exception of those leaking components listed in 252:100-39-15(h)(1), all ~~monitoring and~~ repairs were performed as stipulated in the monitoring program.

252:100-39-16. Petroleum Refinery refinery process unit turnaround

(a) **Definition.** ~~"Turn-around"~~ **"Turnaround"** means the planned procedure of shutting down a unit, inspecting and repairing it, and restarting it.

(b) **Procedures required.** For the shutdown, purging and blowdown

operation of any processing petroleum refinery processing unit the following procedures are required:

(1) Recovery of ~~volatile organic compounds (VOC)~~ VOCs shall be accomplished during the shutdown or turnaround to a process unit pressure compatible with the flare or vapor system pressure. The unit ~~will~~ shall then be purged or flushed to a flare or vapor recovery system with using a suitable material such as steam, water or nitrogen, ~~to a flare or vapor recovery system.~~ The unit shall not be vented to the atmosphere until pressure is reduced to less than 5 psig through control devices.

(2) Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no person shall emit ~~organic~~ VOC gases to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the ~~Executive~~ Division Director.

(3) At least fifteen days prior to a scheduled turnaround, a written notification shall be submitted to the ~~Executive~~ Division Director. As a minimum, the notification shall indicate the unit to be shutdown, the date of shutdown, and the approximate quantity of ~~hydrocarbons~~ VOCs to be emitted to the atmosphere.

(4) Scheduled refinery unit turnaround may be accomplished without the controls specified in 252:100-39-16(b)(1) and 252:100-39-16(b)(2) during non-oxidant seasons provided the notification to the ~~Executive~~ Division Director as required in 252:100-39-16(b)(3) ~~specifically contains such a request for such an exemption.~~ The Non-oxidant ~~non-oxidant~~ season is ~~understood to be between the months of October and April~~ from November 1 through March 31.

252:100-39-17. Petroleum Refinery refinery vacuum producing system

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

~~(1)~~ "Accumulator" means the vessel in the overhead stream of any fractionating tower, after the overhead condenses and separates noncondensable gases, liquid ~~hydrocarbons~~ VOCs and water.

~~(2)~~ "Hotwell" means the tank at the bottom of the barometer leg in a barometric condenser system to receive the water, condensate and entrained ~~hydrocarbons~~ VOCs generated by the barometric condenser.

(b) **Requirements.** ~~Noncondensable volatile organic compounds~~ VOCs ~~from the following equipment emitted from any of the vacuum producing systems listed in paragraphs (1) through (3) of this subsection shall be incinerated or reduced by 90 percent of what would be emitted without controls.~~ from the following vacuum producing system:

- (1) ~~steam~~ Steam ejectors with barometric condensers, ~~or,~~
- (2) ~~steam~~ Steam ejectors with surface condensers, ~~or,~~
- (3) ~~mechanical~~ Mechanical vacuum pumps.

(c) **Hotwells and accumulators.**

(1) Hot wells and accumulators shall be covered and the noncondensable vapors shall be vented to a fire-box or incinerator.

(2) The presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame. (Effective February 12, 1990)

(d) **Compliance.** Compliance shall be determined in accordance with the provision of the CTG document ("Control of Refinery Vacuum Producing systems, Wastewater Separators and Process Unit Turnarounds," EPA 450/2-77-025, October, 1977). Test reports and maintenance records ~~will~~shall be maintained for at least two years. If emission testing is required, the appropriate test method(s) selected from EPA Reference Methods 1 through 4, 21, and/or 25, ~~will~~shall be utilized.

252:100-39-18. Petroleum Refinery~~refinery~~ effluent water separators

(a) **Definition.** "Effluent water separator" means any container in which any VOC floating on, entrained in, or contained in water entering the container is physically separated and removed from the water prior to discharge of the water from the container.

(b) **Requirements.** No ~~person~~owner or operator shall operate, or install or permit the operation or installation of a ~~single~~single-compartment or multiple-compartment ~~volatile organic compound water~~effluent water separator from any equipment processing, refining, treating, storing or handling ~~volatile organic compound~~ unless the compartment receiving ~~said~~ the effluent water is equipped to control emissions in one of the following ways. ~~with one of the following vapor control devices, properly installed, in good working order and in operation:~~

(1) ~~A~~The container totally encloses the liquid contents and having all openings are sealed, and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) ~~A~~The container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the ~~organic material~~VOC vapors and gases discharged and a vapor-disposal system capable of processing such ~~organic material~~VOC vapors and gases ~~so as~~ to prevent their emission to the atmosphere. ~~and with all~~All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The ~~organic material~~VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) ~~A~~Containerscontainer that is equipped with controls of equal efficiency, provided the plans and specifications of such equipment are submitted and are approved by the Executive Division Director prior to their use.

PART 5. PETROLEUM PROCESSING AND STORAGE

252:100-39-30. Petroleum liquid storage in vessels with external floating roof tanks

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at ~~normal operating standard~~ conditions.

(2) "Crude oil" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

"Drilling or production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

(3) "Externally External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(4) "Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage ~~tank vessels~~ or automatic transfer facilities to pipelines or any other ~~forms~~ form of transportation.

(5) "Liquid-mounted seal" means primary seal mounted in continuous contact with the liquid between the ~~tank vessel~~ wall and the floating roof.

(6) "Petroleum liquid" means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery.

(7) "Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the ~~tank vessel~~ wall, the liquid surface, and the floating roof.

(8) "Waxy, high pour point crude oil" means a crude oil with a pour point of 50°F or higher as determined by the American Society of Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) Applicability.

(1) This Section applies to ~~all source facilities with petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 40,000 gal (150,000 liters) (40,000 gallons), that are located in Tulsa and Oklahoma Counties.~~

(2) This Section does not apply to petroleum liquid storage vessels ~~which that: prior to custody transfer.~~

(A) are used to store waxy, high pour point crude oil;

(B) have capacities less than ~~1,600,000 liters~~422,675 gal
~~(420,000 gallons, 1,600 m³)~~ and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) contain a petroleum liquid with a true vapor pressure less than 1.5 psia (10.5 kPa) ~~(1.5 psia)~~;

(D) ~~contain a petroleum liquid with a true vapor pressure less than 27.6 Kpa (4.0 psia)~~; and,

~~(i) are of welded construction;~~

~~(ii) presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Executive Director; or, contain a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa) if the vessels are of welded construction and have a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Division Director; or,~~

(E) are of welded construction, are equipped with a metallic-type shoe primary seal and ~~has~~have a secondary seal from the top of the shoe seal to the ~~tank~~vessel wall (shoe-mounted secondary seal).

(3) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 60 Subparts Ka or Kb are exempt from the requirements of 252:100-39-30.

(4) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 63 Subparts CC (63.646) or G shall be exempt from the requirements of 252:100-39-30 upon the date compliance with the standards in Subparts CC and G is required.

(c) ~~Provisions for specific processes~~ Equipment and operating requirements.

(1) ~~Standards.~~ No owner of a petroleum liquidEach storage vessel subject to this Section shallused to store a petroleum liquid in that vessel unlessshall meet the following conditions.

(A) The vessel has been fitted with:

(i) a continuous secondary seal extending from the floating roof to the ~~tank~~vessel wall (rim-mounted secondary seal); or,

(ii) a closure device or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required ~~above~~ under in 252:100-39-30(c)(1)(A)(i) and approved by the ~~Executive~~Division Director.

(B) All seal closure devices meet the following requirements:

(i) ~~there~~There are no visible holes, tears, or other openings in the seal(s) or seal fabric;

(ii) ~~the~~The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the ~~tank~~vessel wall; ~~and~~;

(iii) ~~for vapor mounted primary seals, the~~The accumulated

area of gaps exceeding ~~0.32 cm~~ 1/8 in. (~~1/8 in.~~ 0.32 cm) in width between the secondary seal and the ~~tankvessel~~ wall when the secondary seal is used in combination with a vapor mounted primary seal shall not exceed ~~21.2 cm²~~ 1.0 in.²/ft per meter of ~~tankvessel~~ diameter (~~1.0 in.~~ 221.2 cm²/m per foot of ~~tankvessel~~ diameter), ~~as.~~ This shall be determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 1/8 in. (0.32 cm) uniform diameter probe passes freely between the seal and the ~~tankvessel~~ wall, and summing the ~~area~~ areas of the individual gaps.

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

- (i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,
- (ii) equipped with projections into the ~~tankvessel~~ which remain below the liquid surface at all times.

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports.

(E) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended settings, and.

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening.

(2) Monitoring. The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this Section shall:

(A) perform routine inspections semi-annually in order to ensure compliance with 252:100-39-30(c)(1)(B)(i), i.e., no visible holes, tears, or other openings in the seals or seal fabric;

(B) measure the secondary seal gap annually in accordance with 252:100-39-30(c)(1)(B)(iii), when the floating roof is equipped with a vapor-mounted primary seal; and,

(C) maintain records of the types of volatile petroleum liquids stored, the true vapor pressure of the liquid as stored, and the results of the inspections performed in 252:100-39-30(c)(2)(A) and 252:100-39-30(c)(2)(B).

(3) Recordkeeping.

~~(3)~~ (A) Copies of all records under 252:100-39-30(c)(2) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

~~(4)~~ (B) Copies of all records under this Section shall be made available to the Executive Division Director, upon verbal or written request, at any reasonable time.

(d) Compliance schedule. Compliance with this Section will ~~shall~~ be accomplished by affected facilities ~~within two years of approval of this Section by the Oklahoma Environmental Quality Board by May 23, 1982.~~

PART 7. SPECIFIC OPERATIONS

252:100-39-40. Cutback asphalt (paving)

(a) Definitions. "Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

(b) Requirements. No owner, operator and/or contractor shall prepare or apply cutback ~~liquified~~liquefied asphalt without the prior written consent of the ~~Executive~~Division Director, or the ~~Executive Director's~~ designee. Such consent may be granted during Oklahoma's non-oxidant season, i.e., ~~October through April~~November 1 through March 31.

252:100-39-41. ~~Vapor recovery systems~~Storage, loading and transport/delivery of VOCs

(a) Storage of ~~volatile organic compounds~~VOCs in vessels with storage capacities — greater than 40,000 gallons — ~~(953 bbls)~~. No person shall store or permit the storage of gasoline or any volatile organic compound in tanks or vessels. Each vessel having with a storage capacity greater than 40,000 gallons gal (151 m³) (953 bbls) which stores gasoline or any VOC unless such tank, reservoir or other container is toshall be a pressure tankvessel capable of maintaining working pressures sufficient at all times ~~to~~that prevent the loss of organicVOC vapor or gas less to the atmosphere, or ~~is~~shall be equipped with one or more of the following vapor control devices+.

(1) aAn external floating roof, consistingthat consists of a ~~pontoon-type, pontoon-type internal floating cover or double-deck type reef, cover or a fixed roof with an internal-floating cover.~~ whichThe cover willshall rest on the surface of the liquid contents at all times (i.e. off the leg supports), except during initial fill, when the storage vessel is completely empty, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space between the ~~reef~~cover edge and tankvessel wall. ~~Such floating~~Floating roofs are not appropriate control devices if the organic compoundsVOCs have a vapor pressure of ~~11.011.1 pounds per square inch absolute psia (568 mm Hg) (76.6 kPa)~~ or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. Closure seals for fixed roof vessels with an internal-floating cover willshall meet the requirements of 252:100-39-30(e) (1) (B), 252:100-39-30(c) (1) (B) (i) and (ii). Closure seals for vessels with external floating roofs shall meet the requirements of 252:100-39-30(c) (1) (B) (i), (ii), and (iii).

(2) aA vapor-recovery system consistingthat consists of a vapor-gathering system capable of collecting 90 percent by weight or more of the uncontrolled ~~volatile organic compounds~~VOCs that would otherwise be emitted to the atmosphere and a vapor-disposal system capable of processing such organic

~~compounds~~ VOCs so as to prevent emissions in excess of 6.68×10^{-4} lb/gal (80 mg/liter/mg/l) of gasoline VOCs transferred to the atmosphere. All tank/vessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place, or, (3) ~~other~~ Other equipment or methods that are of equal efficiency for purposes of air pollution control as may be used when approved by the Executive Division Director and are in concert with federal guidelines.

(b) Storage of volatile organic compounds VOCs in vessels with storage capacities of —400-40,000 gallons (9.5-953 bbls).

(1) ~~No person shall store or permit the storage of~~ Each gasoline or other volatile organic compounds VOC in any stationary storage container/vessel with a nominal capacity greater than 400 gallons/gal (1.5 m³) (9.5 bbls) and less than 40,000 gallons/gal (151 m³) (953 bbls) unless such container is/shall be equipped with a submerged fill pipe or is/be bottom filled. ~~No person shall store or permit the storage of gasoline or other volatile organic compound in any stationary storage container with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage container are processed by a system that has a total collection efficiency no less than 90 percent by weight of total hydrocarbon compounds in said vapors.~~

(2) The displaced vapors from each storage vessel with an average daily throughput of 30,000 gal (113,562 l) or greater which stores gasoline or other VOCs shall be processed by a system that has a total collection efficiency no less than 90 percent by weight of total VOCs in the vapors.

~~(2)(A)~~ (A) The vapor recovery system shall include one or more of the following:

~~(A)(i)~~ (i) a vapor-tight return line from the storage container/vessel to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds VOCs can be transferred into the container/storage vessel; or,

~~(A)(ii)~~ (ii) other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds VOCs in the displaced vapor provided that if approval of the proposed design installation, and operation is obtained from the Executive Division Director prior to start of construction.

~~(3)(B)~~ (B) Provided, however, that the/The requirements for vapor collection of displaced vapors shall not apply to operations that are not major sources.

(c) Loading of volatile organic compounds VOCs.

(1) ~~No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound~~ Each VOC loading facility with an annual throughput of 120,000 gal (454,249 l) or greater or storage capacity greater than 10,000 gal (38 m³) unless such loading facility is/shall be equipped with a vapor-collection and/or disposal system properly installed, in good working order and in operation.

(2) ~~When~~ While volatile organic compounds VOCs are loaded through

the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.

(3) A means shall be provided to prevent ~~organic material~~VOC drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.

(4) When loading is effected ~~throughby~~ means other than hatches, all loading and vapor lines shall be equipped with fittings ~~which~~that make vapor-tight connections and which close automatically when disconnected.

(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the ~~following elements listed in 252:100-39-41(c)(5)(A) through 252:100-39-42(c)(5)(C)~~ in addition to bottom loading or submerged fill of transport vessels. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as specified in 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.

(A) ~~an~~An absorption/adsorption system or condensation system ~~with that~~ has a minimum recovery efficiency of 90 percent by weight of all the ~~volatile organic compound~~VOC vapors and gases entering such disposal system.

(B) ~~a~~A vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent ~~or~~.

(C) ~~either~~Other equipment ~~ef~~that has at least a 90 percent efficiency, provided plans for such equipment are ~~submitted to and approved by the Executive Division Director.~~ Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.

(6) Subsection 252:100-39-41(c) shall apply to any facility ~~which~~that loads ~~volatile organic compounds~~VOCs into any transport vessel designed for transporting ~~volatile organic compounds~~VOCs.

(d) Transport/delivery.

(1) The vapor-laden delivery vessel shall meet one of the following requirements.

(A) ~~the~~The delivery vessel must be ~~so~~ designated and operated ~~as~~ to be vapor tight except when sampling, gauging, or inspecting ~~or~~.

(B) ~~the~~The delivery vessel must be equipped and operated ~~so~~ that to deliver the ~~volatile organic compound~~VOC vapors are ~~delivered to~~ a vapor recovery/disposal system.

(2) No ~~owner/operator~~ owner or operator ~~will~~shall allow a delivery vessel to be filled at a facility unable to receive displaced ~~organic~~VOC vapors nor service ~~tanks/vessels~~ unable to deliver displaced vapors except for ~~tanks/facilities~~vessels and facilities exempted in 252:100-39-41(b) and 252:100-39-41(c).

(3) Testing of the tank trucks for compliance with the vapor tightness requirements must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA 450/2-78-051, or an equivalent method as determined by the Executive Division Director.

(e) ~~Additional requirements for Tulsa County. Also see 252:100-39-48 for additional requirements pertaining to Tulsa County.~~

(1) Applicability. This subsection applies only in Tulsa County.

(2) Storage of VOCs.

(A) 2,000 - 40,000 gallons capacity. Each storage vessel with a nominal capacity greater than 2,000 gal (7.6 m³) and less than 40,000 gal (151 m³) that stores gasoline or other VOCs or each storage vessel located at a facility that dispenses more than 120,000 gal/yr of gasoline or other VOCs, in addition to being equipped with a submerged fill pipe or being bottom loading, shall be equipped with a vapor control system. The vapor control system shall have an efficiency of no less than 90 percent by weight of the VOCs contained in the displaced vapors and shall be equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 oz/in.² and 1/2 oz/in.² vacuum. The vapor recovery system shall include one or more of the following.

(i) A vapor-tight return line from the storage vessel to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or VOCs can be transferred into the storage vessel (i.e., popped connectors from the storage vessel to the delivery vessel.).

(ii) A float vent valve assembly installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending 6 in. (15 cm) below the top of the vessel will be allowed. Sleeves may be equipped with a 1/16 in. (0.16 cm) air bleed hole.

(iii) A vapor recovery line with a cross-sectional area that is at least half of the cross-sectional area of the liquid delivery line.

(iv) Other equipment that has a total collection efficiency no less than 90 percent by weight of the total VOCs in the displaced vapor if approved by Division Director prior to start of construction.

(B) Applicability.

(i) Any vessel with a capacity greater than 2,000 gal (7.6 m³) or any vessel located at a facility that dispenses more than 120,000 gal/yr (454,249 l/yr) shall be and will always remain subject to 252:100-39-41(e)(2). (effective February 12, 1990)

(ii) Exemptions to 252:100-39-41(e)(2) may be granted if the owner or operator shows to the satisfaction of the Division Director that the vessel is used exclusively for

agricultural purposes.

(C) Emission testing. If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B shall be utilized.

(D) Compliance. Compliance with 252:100-39-41(e)(2) shall be accomplished by the owner or operator of affected facilities by December 31, 1986.

(E) Certification. The owner or operator of a facility shall obtain, by whatever means practicable, certification from the owner or operator of the transport/delivery vessels that all deliveries of gasoline or other VOCs made to their 400-gallon to 40,000-gallon storage facility located in Tulsa County shall be made by transport/delivery vessels that comply with the requirements contained in 252:100-39-41(e)(4). Compliance with 252:100-39-41(e)(2) shall be accomplished by owners or operators of affected facilities no later than December 31, 1990. (Effective February 12, 1990)

(3) Loading of VOCs. In addition to those requirements contained in 252:100-39-41(c), stationary loading facilities shall be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5,000 ppmv shall be repaired within 15 days. Facilities shall retain inspection and repair records for at least two years.

(4) Transport/delivery vessel requirements. In addition to the requirements contained in 252:100-39-41(d), facilities located in Tulsa County must meet the following requirements.

(A) Maintenance.

(i) The delivery vessel must be maintained so that it is vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.

(ii) The delivery vessel must be equipped, maintained, and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and 252:100-39-41(b)(2) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.

(iii) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies that would impair the vessels' ability to retain vapors or liquid shall be repaired within 5 days.

(iv) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-41(e)(4)(B)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.

(v) No owner or operator shall allow a delivery vessel to be filled at a facility unable to receive displaced VOCs nor service vessels unable to deliver displaced vapors except for vessels/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels that do not display a current tag.

(vi) Delivery vessels may be inspected by representatives

of the DEO in order to determine their state of repair. Such a test may consist of a visual inspection or a vapor test with vapors not to exceed 5,000 ppmv. Failure of a vapor test shall require the owner or operator to make the necessary repairs within 10 days. Failure to certify within 10 days of a vapor test that the necessary repairs have been made shall subject the owner or operator to sanctions. Upon certification of repairs, the vessel will be allowed to resume normal operation.

(B) Testing requirements.

(i) Pressure test.

(I) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Division Director.

(II) The vessel shall be considered to pass the test prescribed in 252:100-39-41(e)(4)(B)(i)(I) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 in. H₂O. There shall be no avoidable visible liquid leaks.

(ii) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(e)(4)(A)(vi) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-41(e) took effect December 15, 1988.

252:100-39-42. Metal cleaning

(a) Cold cleaning facility requirements.

(1) ~~Equipment requirements. NoAn personowner or operator shall allow the construction or operation of any cold cleaning unit for metal degreasing usingwhich uses an organic solventa VOC shall unless the following requirements are met:~~

(A) ~~install~~ a cover or door shall be installed on the facility that can be easily operated with one hand;

(B) ~~provide~~ an internal drain board will be provided in such a manner that will allow lid closure if practical; if not practical, the drainage facility may beprovide an external drainage facility; and,

(C) ~~attach~~ a permanent, conspicuous label summarizing the operating requirements specified in 252:100-39-42(a)(2) will be permanently attached to the facility.

(2) Operating requirements. The operating requirements

~~specified in 252:100-39-42(a)(1)(C) shall as a minimum specify~~ Owners or operators shall at a minimum:

(A) drain clean parts at least 15 seconds or until dripping ceases before removal;

(B) close degreaser cover when not handling parts in cleaner; and,

(C) store waste solvent/VOC in covered containers; ~~Do not dispose or allow disposition in such a manner that more than 20 percent by weight can evaporate into the atmosphere.~~

(D) not dispose or allow disposition of waste VOC in such a manner that more than 20 percent by weight can evaporate into the atmosphere.

~~(3)(E) If used, a solvent spray will be of a solid fluid stream (not atomized or spray)~~ use a solid fluid stream, not an atomized spray, when VOC is sprayed.

~~(4)(3) Requirements for controls.~~ If the solvent volatility/vapor pressure of the VOC is greater than 33 mm Hg (0.6 psi) 0.6 psi (4.1 kPa) measured at 38°C (100°F) (100°F) (38°C) or if solvent/VOC is heated to 120 degrees C (248°F) (120°C), the owner or operator shall apply one or more of the following control devices/techniques will be required.

(A) ~~freeboard~~ Freeboard that gives a free board/freeboard ratio greater than or equal to 0.7.

(B) ~~water~~ Water cover and where the solvent/VOC is insoluble in and heavier/denser than water or such equivalent; or,

(C) ~~other~~ Another system of equivalent control as approved by the Executive/Division Director.

~~(5)(4) Compliance and recordkeeping.~~ Compliance will/shall be determined in accordance with EPA guidance document "Control of Volatile Organic Emissions from Solvent Metal Cleaning," 450/2-77-022. Test reports and maintenance and repair records of control equipment will/shall be maintained by the source for at least two years.

(b) Vapor-type metal degreasing requirements.

(1) ~~Equipment requirements.~~ ~~No~~ An person/owner or operator shall allow the construction or operation of any vapor-type metal degreasing unit using an organic solvent a VOC unless/shall ensure that the following requirements are met.

(A) ~~the~~ The unit shall have a cover or door that can easily be opened and closed without disturbing the vapor zone.

(B) ~~the~~ The unit will/shall have the following safety switches.

(i) ~~condenser~~ Condenser flow switch and thermostat or equivalent capable of shutting off the sump heat if condenser coolant is not circulating or coolant exceeds solvent/VOC manufacturer's recommended level; and,

(ii) ~~spray~~ Spray safety switch capable of shutting off spray pumps if the vapor level drops in excess of ~~four~~ 4 inches (10 cm).

(C) ~~the~~ The unit will/shall have one or more of the following control devices/techniques.

(i) ~~freeboard~~ Freeboard ratio not less than 0.75, i.e., the

ratio of the freeboard to the width of the degreaser wherein the term freeboard is defined as the distance from the top of the vapor zone to the top of the degreaser tank.

(ii) ~~refrigerated~~ Refrigerated chiller, i.e., condenser coils in the upper limit of the vapor zone.

(iii) ~~enclosed~~ Enclosed design, i.e., cover or door is opened only when a part is actually entering or exiting the facility.

(iv) ~~a~~ A carbon adsorption system with ventilation greater than 50 ~~cfm/ft²~~ cfm/ft² of air/vapor area when cover is open. ~~and exhausting~~ The system shall exhaust less than 25 ppmv solvent VOC average over one adsorption cycle.

(v) ~~a~~ A control system demonstrated to have a control efficiency equal to or greater than any of the systems in ~~(C) of this paragraph~~ 252:100-39-42(b)(1)(C).

(D) ~~a~~ A permanent conspicuous label summarizing operating ~~procedures~~ requirements in 252:100-39-42(b)(2) will ~~shall~~ be attached to the facility ~~unit~~.

(2) Operating requirements. ~~The operating requirements referred to in 252:100-39-42(b)(1)(D) shall as a minimum specify:~~ An owner or operator of a vapor type metal degreasing unit using VOC shall ensure that the following requirements are met.

(A) As a minimum operators shall:

(i) ~~keep the cover closed at all times except when processing work~~ degreasing parts;

~~(B) minimize solvent carry out by the following measures:~~

~~(i)~~ (ii) rack parts to allow full drainage;

~~(ii)~~ (iii) move parts in and out of the degreaser at less than 3.3 m/sec 11 ft/min (11 ft/min.) (3.4 m/min);

~~(iii)~~ (iv) degrease the workload in the vapor zone at least 30 sec-seconds or until condensation ceases;

~~(iv)~~ (v) tip out any pools of solvent VOC on the cleaned parts before removal;

~~(v)~~ (vi) allow parts to dry within the degreaser for at least 15 sec-seconds or until visually dry;

(vii) assure that VOC leaks are immediately repaired or the degreaser is shut down; and,

(viii) store waste VOC only in closed containers.

(B) As a minimum operators shall not:

~~(C)~~ (i) do not degrease porous or absorbent materials, such as cloth, leather, wood or rope;

~~(D)~~ (ii) workloads should not allow workloads to occupy more than half of the degreaser's open top area;

~~(E)~~ (iii) never spray above the vapor level;

~~(F) assure solvent leaks immediately repaired or the degreaser is shut down,~~

~~(G)~~ (iv) do not dispose of waste solvent or transfer it to another party in such a manner that allow greater than 20 percent of the VOC waste (by weight) will to evaporate into the atmosphere when disposing of the waste or transferring

~~the waste to another party~~ ~~Store waste solvent only in closed containers;~~

~~(H)(v) allow exhaust ventilation should not exceed 20m³/min. per m² 65 cfm/ft² (65 cfm per ft²) (20 m³/min/m²) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans should not be used near the degreaser opening; and,~~

~~(vi) use ventilation fans near the degreaser opening; or,~~
~~(I)(vii) allow water should not be visually detectable in solvent VOC exiting the water separator.~~

(3) **Compliance and recordkeeping.** Compliance ~~will~~ shall be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records ~~will~~ shall be retained by the source for at least two years.

(c) **Conveyorized degreasing unit requirements.**

(1) **Operating requirements.** ~~No~~ An ~~person~~ owner or operator shall operate of a conveyorized degreasing unit using VOC shall ensure that unless the following requirements are met:

(A) ~~exhaust~~ Exhaust ventilation ~~should~~ shall not exceed ~~20m³/min. per m² 65 cfm/ft² (65 cfm per ft²) (20 m³/min/m²)~~ of degreaser opening, unless necessary to meet OSHA requirements. ~~Work place fans should not be used near the degreaser opening;~~

(B) Work place fans shall not be used near the degreaser opening.

~~(B)(C) minimize~~ carry out Carry-out emissions shall be minimized by:

(i) racking parts for best drainage; and,

(ii) maintaining vertical conveyor speed at less than ~~3-3 m/min. 11 ft/min (11 ft./min.) (3.4 m/min).~~

~~(C)(D) do~~ Evaporation of waste VOC into the atmosphere shall not be dispose of waste solvent or transfer it to another party in such a manner that greater than 20 percent of the waste (by weight) can evaporate into the atmosphere when disposing of the waste or transferring the waste to another party. Store waste solvent VOC only in covered containers;

(E) Waste VOC shall be stored only in covered containers.

~~(D)(F) repair~~ solvent VOC leaks must be repaired immediately, or shut down the degreaser must be shut down.

~~(E)(G) water~~ Water ~~should~~ shall not be visibly detectable in the ~~solvent~~ VOC exiting the water separator; ~~and.~~

~~(F)(H) a~~ A permanent conspicuous label ~~will be attached to the facility summarizing the operating requirements listed in 252:100-39-42(b) and 252:100-39-42(c) shall be attached to the unit.~~

(2) **Control requirements.** In addition to the requirements in 252:100-39-42(c) (1), any ~~unit~~ that has an air/vapor interface of more than 21.5 ft² 2.0m² (2.0 m²) ~~will~~ shall be subject to the following control requirements.

(A) **Major control devices.** The degreaser must be controlled by either:

(i) a refrigerated chiller;

(ii) a carbon adsorption system that exhausts less than 25

ppmv of VOC averaged over a complete adsorption cycle and has, with ventilation equal to or greater than $15 \text{ m}^3/\text{min}$ per m^2 $50 \text{ cfm}/\text{ft}^2$ ($50 \text{ cfm}/\text{ft}^2$) ($15 \text{ m}^3/\text{min}/\text{m}^2$) of air/vapor area (when down-time covers are open), and exhausting less than 25 ppm of solvent by volume averaged over a complete adsorption cycle. ~~or,~~

(iii) a system demonstrated to have control efficiency equivalent to or better than either of the above.

(B) **Carryover prevention.** Either a drying tunnel, or another means such as rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent/VOC liquid or vapor subject to space limitations must be installed.

(C) **Safety switches.** The following safety switches must be installed and be operational.

(i) Condenser flow switch and thermostat ~~that~~ ~~(shuts off sump heat if coolant is either not circulating or too warm).~~

(ii) Spray safety switch ~~that~~ ~~(shuts off spray pump or conveyor if the vapor level drops excessively, e.g. more than 10 cm (4 in.))~~ 4 in. (10 cm).

(iii) Vapor level control thermostat ~~that~~ ~~(shuts off sump heat when vapor level rises too high).~~

(D) **Minimized openings.** Entrances and exits ~~should~~ shall silhouette work loads so that the average clearance ~~(between parts and the edge of the degreaser opening)~~ is either less than ~~10 cm (4 in.)~~ 4 in. (10 cm) or less than 10 percent of the width of the opening.

(E) **Covers.** Down-time ~~cover~~ covers must be placed over entrances and exits of conveyORIZED degreasers immediately after the conveyor and exhaust are shutdown and removed just before they are started up.

(3) **Compliance and recordkeeping.** Compliance ~~will~~ shall be determined in accordance with EPA document 450/2-77-022. ~~and all~~ All test and maintenance records ~~will~~ shall be retained by the source for at least two years.

(d) **Alternative control methods.** As an alternative to the requirements of 252:100-39-42(a) through 252:100-39-42(c) and subject to EPA approval, an operator may request the approval by the Division Director of other methods of control. ~~may be approved by, subject to EPA approval, the Executive Director upon application by a source; provided, the~~ The applicant ~~can~~ must demonstrate that the proposed method will ~~preclude no less than prevent at least~~ 80 percent of the emissions from each source from being emitted to the atmosphere, as determined by the appropriate test methods selected from EPA Methods 1 through 4, 18, 25, 25A and 25B.

252:100-39-43. Graphic arts systems

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "Flexographic printing" means the application of words,

designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

~~(2)~~ "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, ~~which that~~ are, in subsequent operations, formed into packaging products and labels for articles to be sold.

~~(3)~~ "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

~~(4)~~ "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

~~(5)~~ "Rotogravure printing" means the application of works, designs and pictures to a substrate by means of a roll printing technique ~~which that~~ involves an intaglio or recessed image areas in the form of cells.

(b) **Applicability.**

~~(1) This Section applies to all packaging rotogravure, publication rotogravure, and flexographic printing facilities located in Tulsa and Oklahoma counties.~~

~~(2) This Section applies only to only packaging rotogravure, publication rotogravure, and flexographic printing facilities whose potential emissionemissions of organic solventVOC isare equal to or more than 100 tons/yr (90 megagramsMg/yr) (106 grams) per year (100 tons/yr.). Potential emissions are toshall be calculated based on historical records of actual consumption of solventVOC and ink.~~

(c) **Provisions for specific processes.**

~~(1) NoAn owner or operator of a packaging rotogravure, publication rotogravure or flexographic printing facility subject to this Section and employingwhich uses solventVOC containing ink may operate, cause, allow or permit the operation of the facility unlessshall ensure that one of the following conditions is met+.~~

~~(A) theThe volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of organic solventVOC and 75.0 percent by volume or more of water+.~~

~~(B) theThe ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more of nonvolatile material, or+.~~

~~(C) theThe owner or operator installs and operates:~~

~~(i) a carbon adsorption system whichthat reduces the organic solventVOC emissions from the capture system by at least 90.0 percent by weight;~~

~~(ii) an incineration system whichthat oxidizes at least 90.0 percent of the nonmethane volatile organic solventVOC measured as total combustible carbon to carbon dioxide and water; or,~~

~~(iii) an alternative organic solventVOC emission reduction~~

system demonstrated to have at least 90.0 percent reduction efficiency, measured across the control system, ~~and which~~ has been approved by the ~~Executive Division~~ Director.

(2) A capture system must be used in conjunction with the emission control systems in 252:100-39-43(c)(1)(C). The design and operation of the capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in ~~volatile organic compound~~ VOC emissions of at least:

(A) 75.0 percent where a publication rotogravure process is employed;

(B) 65.0 percent where a packaging rotogravure process is employed; ~~or,~~

(C) 60.0 percent where a flexographic printing process is employed.

(d) **Compliance schedule.** Compliance with this Section ~~will~~ shall be accomplished by affected facilities ~~within two (2) years of approval of this Subchapter by the Oklahoma Environmental Quality Board by May 23, 1982.~~

(e) **Testing.** Test procedures to determine compliance with this Subchapter must be consistent with EPA Reference Method 24 or equivalent ASTM Methods.

252:100-39-44. Manufacture of pneumatic rubber tires

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Automatic tread end cementing"** means the application of a ~~solvent~~ VOC based cement to the tire tread ends by automated devices.

(2) **"Bead dipping"** means the dipping of an assembled tire bead into a ~~solvent~~ VOC based cement.

(3) **"Green tires"** means assembled tires before molding and curing have occurred.

(4) **"Green tire spraying"** means the spraying of green tires, both inside and outside, with release compounds ~~which~~ that help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

(5) **"Manual tread end cementing"** means the application of a ~~solvent~~ VOC based cement to the tire tread ends by manufacturers.

(6) **"Passenger type tire"** means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches.

(7) **"Pneumatic rubber tire manufacture"** means the production of pneumatic rubber, passenger type tires on a mass production basis.

(8) **"Undertread cementing"** means the application of a ~~solvent~~ VOC based cement to the underside of a tire tread.

(9) **"Water based sprays"** means release compounds, sprayed on the inside and outside of green tires, in which solids, water

and emulsifiers have been substituted for ~~organic solvents~~VOCs. These sprays may contain an average of up to five percent ~~organic solvent~~VOC.

(b) Applicability.

(1) This Section applies to VOC emissions ~~from the following operations~~infrom all major source pneumatic rubber tire manufacturing facilities located in Oklahoma County from:

- (A) undertread cementing;
- (B) automatic tread end cementing; and,
- (C) green tire spraying.

(2) The provisions of this Section do not apply to the ~~productions~~production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs. This exemption applies only to tires produced on equipment separate from normal production lines for passenger type tires.

(3) Manual tread end cementing operations are exempt from the provisions of this Section.

(c) Provisions for specific processes Control requirements.

(1) Undertread cementing or automatic tread end cementing. The owner or operator of an undertread cementing, or automatic tread end cementing, operation subject to this Section shall install and operate the following.

(A) ~~install and operate a~~a capture system, designed to achieve maximum reasonable capture from all undertread cementing, and automatic tread end cementing operations. Maximum reasonable capture would require that hood enclosures be designed ~~in such a manner~~ to minimize open areas and enclose as much of the emission source as practical while maintaining a minimum in-draft velocity of 200 ~~feet per minute~~ft/min (61 m/min) except during times when the enclosure must be opened to allow work inside or for the inspections of the product in progress. Maximum reasonable capture shall be consistent with ~~the following documents~~:

- (i) Industrial Ventilation, A Manual of Recommended Practices, 14th Edition, American Federation of Industrial Hygienists~~;~~ and,
- (ii) Recommended Industrial Ventilation guidelines, U.S. Department of Health Education and Welfare, National Institute of Occupational Safety and Health.

(B) ~~install and operate a~~a control device that meets the requirements of one of the following systems.

- (i) A carbon adsorption system designed and operated ~~in a manner such so~~ that there is at least an initial 95.0 percent removal of VOC by weight from the gases ducted to the control device with at least a 90 percent 3 year removal average ~~or,~~
- (ii) An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~ (VOCs) (measured as total combustible carbon) which enter the incinerator to carbon dioxide and water.
- (iii) An alternative ~~volatile organic compound~~VOC emission

reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, and that has been approved by the ~~Executive~~Division Director.

(2) Green tire spraying. The owner or operator of a green tire spraying operation subject to this Section shall implement one of the following means of reducing ~~volatile organic compound~~VOC emissions~~+~~.

(A) ~~substitute~~Substitute water-based sprays for the normal ~~solvent-based~~ VOC-based mold release compound~~;~~er,

(B) ~~install~~Install a capture system designed and operated ~~in a manner that will~~to capture and transfer at least 90.0 percent of the VOC emitted by the green tire spraying operation to a control device, and install and operate a control device that meets the requirements of one of the following systems~~+~~.

(i) ~~a~~An carbon adsorption system designed and operated ~~in a manner such~~ so that there is at least 95.0 percent removal of VOC by weight from the gases ducted to the control device~~;~~er,

(ii) ~~an~~An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~(VOC VOCs (measured as total combustible carbon) to carbon dioxide and water~~;~~er,

(iii) ~~an~~An alternative ~~volatile organic compound~~VOC emission reduction system approved by the Division Director and certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, ~~that has been approved by the Executive Director.~~

(3) Exemption. If the total ~~volatile organic compound~~VOC emissions from all undertread cementing, tread-end cementing, bead dipping, and green tire spraying operations at a pneumatic rubber tire manufacturing facility do not exceed 57 ~~grams per tire~~g/tire, 252:100-39-44(c)(1) and 252:100-39-44(c)(2) shall not apply.

~~(4) An owner or operator of an undertread cementing, tread-end cementing, bead dipping or green tire spraying operation subject to this Section may, instead of implementing measures required by 252:100-39-44(c)(1) and 252:100-39-44(c)(2), submit to the Executive Director a petition for alternative controls. The petition must be submitted in writing before September 15, 1981 and must contain:~~

~~(A) the name and address of the company and the name and telephone number of a responsible company representative over whose signature the petition is submitted;~~

~~(B) a description of all operations conducted at the location to which the petition applies and the purpose the volatile organic compound emitting equipment serves within the operations;~~

~~(C) reference to the specific emission limits, operational and/or equipment controls for which alternative emission~~

~~limits, operational and/or equipment controls are proposed;~~
~~(D) a detailed description of the proposed alternative emission limits, operational and/or equipment controls, the magnitude of volatile organic compound emission reduction which will be achieved, and the quantity and composition of volatile organic compounds which will be emitted if the alternative emission limits, operational and/or equipment controls are instituted;~~
~~(E) a schedule for the installation and/or institution of the alternative operational and/or equipment controls in conformance with the appropriate compliance schedule section; and,~~
~~(F) a demonstration that the alternative control program constitutes reasonably available control technology for the petitioned facility. The factors to be presented in this demonstration include but are not limited to:~~

- ~~(i) the capital expenditure necessary to achieve the petitioned level of control;~~
- ~~(ii) the impact of these costs on the firm;~~
- ~~(iii) the energy requirements of the petitioned level of control;~~
- ~~(iv) the impact on the environment in terms of any increase in air, water and solid waste effluent discharge of the petitioned level of control;~~
- ~~(v) any adverse worker or product safety implications of the petitioned level of control; and,~~
- ~~(vi) an analysis for each of the factors in 252:100 39-44(c)(4)(F)(i) through 252:100 39-44(c)(4)(F)(v) for the control levels specified in 252:100 39-44(c)(1) and 252:100 39-44(c)(2).~~

~~(5) The Executive Director may approve a Petition for Alternative Control if:~~

- ~~(A) the petition is submitted in accordance with 252:100-39-44(c);~~
- ~~(B) the petition demonstrates that the alternative controls represent reasonable available control technology;~~
- ~~or,~~
- ~~(C) the petition contains a compliance schedule for achieving and maintaining a reduction of volatile organic compound emissions as expeditiously as practicable, but no later than the photochemical oxidant attainment date.~~

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities on or before December 31, 1982.

(e) **Testing and monitoring.**

(1) Test procedures to determine compliance with this Section must be approved by the Executive Division Director and be consistent with:

- (A) EPA Guideline Series Document "Measurement of Volatile Organic Compounds," EPA-450/2-78-041, and,
- (B) Appendix A of "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty

Trucks," EPA-450/2-77-008.

(2) The ~~Executive~~Division Director may accept, instead of green tire spray analysis, a certification by the manufacturer of the composition of the green tire spray, if supported by actual batch formulation records.

(3) If add-on control equipment is used, continuous monitors ~~of the following parameters~~ shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating. These monitors shall measure:

(A) exhaust gas ~~temperature~~temperature of ~~incinerators~~an incinerator;

(B) temperature rise across a catalytic incinerator bed;

(C) breakthrough of VOC on a carbon adsorption unit; and,

(D) any other parameter for which a continuous monitoring or recording device is required by the ~~Executive~~Division Director.

252:100-39-45. Petroleum (solvent) dry cleaning

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) "**Cartridge filters**" means perforated canisters containing filtration paper and/or activated carbon that are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden petroleum solvent.

(2) "**Containers and conveyors ~~and of~~ petroleum solvent**" means piping, ductwork, pumps, storage tanks, and other ancillary equipment that are associated with the installation and operation of washers, dryers, filters, stills, and settling tanks.

(3) "**Dry cleaning**" means a process of the cleaning of textiles and fabric products in which articles are washed in a non-aqueous solution (petroleum solvent) and then dried by exposure to a heated air stream.

(4) "**Housekeeping**" means those measures and precautions necessary to minimize the release of petroleum solvent to the atmosphere.

(5) "**Operations parameters**" means the activities required to insure that the equipment is operated in a manner to preclude the loss of petroleum solvents to the atmosphere.

(6) "**Perceptible leaks**" means any petroleum solvent vapor or liquid leaks that are conspicuous from visual observation, such as pools or droplets of liquid, or buckets or barrels of petroleum solvent or petroleum solvent-laden waste standing open to the atmosphere.

(7) "**Petroleum solvent**" means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms per organic molecule that exists as a liquid under standard conditions.

(b) **Applicability.** This Section applies to petroleum solvent washers, dryers, ~~solvent~~-filters, settling tanks, vacuum stills, and other containers and conveyors of petroleum solvent that are

used in petroleum solvent dry cleaning facilities in Tulsa County only.

(c) ~~Provisions for specific processes~~ Operating requirements.

(1) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any dry cleaning equipment using petroleum solvents unless:

(A) there are no perceptible liquid or vapor leaks from any portion of the equipment;

(B) all washer lint traps, button traps, access doors and other parts of the equipment where petroleum solvent may be exposed to the atmosphere are kept closed at all times except when required for proper operation or maintenance;

(C) the still residue is stored in sealed containers and ~~the~~ the used filtering material is ~~to be~~ placed into a sealed container suitable for use with petroleum solvents, immediately after removal from the filter and ~~be~~ disposed of in the prescribed manner; or,

(D) cartridge filters containing paper or carbon or a combination thereof, which are used in the dry cleaning process are ~~to be~~ drained in the filter housing for at least 24 hours prior to removal.

(2) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any drying tumblers and cabinets that use petroleum solvents unless tumblers and cabinets are operated in such a manner as to control petroleum solvent vapor leaks by reducing the number of sources where petroleum solvent is exposed to the atmosphere. Under no circumstances should there be any open containers (can, buckets, barrels) of petroleum solvent or petroleum solvent-containing material. Equipment containing solvent (washers, dryers, extractors, and filters) should remain closed at all times other than during maintenance or load transfer. Lint filter and button trap covers should remain closed except when petroleum solvent-laden lint and debris are removed. Gaskets and seals should be inspected and replaced when found worn or defective. Petroleum solvent-laden solvent-laden clothes should never be allowed to ~~sit~~ remain exposed to the atmosphere for longer periods than are necessary for load transfers. Finally, vents on petroleum solvent-containing waste and new petroleum solvent storage tanks should be constructed and maintained in a manner that limits petroleum solvent vapor emissions to the maximum possible extent.

(3) The owner or operator shall repair all petroleum solvent vapor and liquid leaks within 3 working days after identifying the sources of the leaks. If necessary repair parts are not on hand, the owner or operator shall order these parts within 3 working days, and repair the leaks no later than 3 working days following the arrival of the necessary parts.

(d) Disposal of filters. Filters from the petroleum dry cleaning facility shall be disposed of by:

(1) incineration at a facility approved by the fire marshall's office for such disposal;

- (2) by recycling through an approved vendor of this service;
or,
(3) by any other method approved by the ~~Executive~~Division
Director.

(e) **Compliance schedule.** Compliance with 252:100-39-45(c)(1) through 252:100-39-45(c)(3), will~~shall~~ be accomplished by affected facilities on or before October 1, 1986.

252:100-39-46. Coating of parts and products

(a) **Applicability.** This Section shall apply only to these industries located in Tulsa County which manufacture and/or coat metal parts and products, such as ~~This Section is applicable to~~ large farm machinery, small farm machinery, small appliances, commercial machinery, industrial machinery and fabricated metal products. Architectural coating, aerospace coating, and automobile refinishing are not included.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Air or forced air dry coatings"** means coatings ~~which~~that are dried by the use of air or forced warm air at temperatures up to 194°F.

(2) **"Clear coat"** means a coating ~~which~~that lacks color and opacity or is transparent and uses the undercoat as a reflectant base.

(3) **"Extreme performance coatings"** mean coatings designed for harsh exposure or extreme environmental conditions (~~i.e.e.g.,~~ exposure to the weather, all of the time, temperature above 200°F, detergents, abrasive and scouring agents, solvents, corrosive atmosphere or similar conditions).

(4) **"Facility"** means all emission sources located on a contiguous ~~property~~properties under common control which are affected by the surface coating provisions of ~~OAC~~ 252:100-37 and 252:100-39.

(5) **"Powder"** means a coating ~~which~~that is applied in a finely divided (~~powder~~) state by various methods, and becomes a continuous, solid film when the metal part or product is moved to an oven for curing.

(6) **"Transfer efficiency"** means the weight (or volume) of coating solids adhering to the surface being coated divided by the total weight (or volume) of coating solids delivered to the applicator.

(c) **Existing source requirement.** No owner or operator ~~subject to the provisions of this Section~~ shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any ~~organic solvent~~VOC in excess of the amounts listed in 252:100-39-46(d) as calculated by EPA method 24, 40 CFR Part 60.

(d) **Standards.** The following table enumerates the limitations for surface coatings in pounds of ~~solvent~~VOC per gallon of coating as applied (less ~~water/exempt solvent water and exempt compounds~~). If more than one limit listed in the table is applicable to a

specific coating, then the least stringent limitation shall be applied.

Coating type	Limitations	
	lbs/gal	kg/liter l
Air or Forced Air Dry	3.5	420.42
Clear Coat	4.3	520.52
Extreme Performance	3.5	420.42
Powder	0.4	050.05
Other	3.0	360.36

(e) **Emission factor.** For the purposes of calculating an emission factor (EF) in pounds ~~VOC~~ per gallon of coating solids for use in the development of a plant-wide emission plan as described in 252:100-39-46(j)(1), the following formula will be utilized:

$$EF = V D / 1 - (V+W) = V D / S$$

where: V = volume fraction of ~~solvent~~VOC in coating~~;~~
D = density of ~~solvent~~VOC in the coating~~;~~
W = volume fraction of water in coating~~;~~ and
S = 1 - (V+W) = volume fraction of solids in coating.

(f) ~~Emission limit Compliance.~~ ~~If more than one emission limit as listed in 252:100-39-46(d) is applicable to a specific coating, then the least stringent emission limitation shall be applied.~~ Compliance with the coating limits listed in 252:100-39-46(d) is to be calculated on a daily weighted average basis.

(g) ~~Solvent-containing~~VOC-containing materials. ~~Solvent-containing~~VOC-containing materials used for clean up shall be considered in the emissionsVOC content limits listed in 252:100-39-46(d) unless:

- (1) the ~~solvent~~VOC containing materials are maintained in a closed container when not in use;
- (2) closed containers are used for the disposal of cloth or paper or other materials used for surface preparation and cleanup;
- (3) the spray equipment is disassembled and cleaned in a ~~solvent~~VOC vat and the vat is closed when not in use; or,
- (4) the ~~solvent~~VOC containing materials used for the clean up of spray equipment are sprayed directly into closed containers.

(h) ~~Exemptions.~~ ~~Exemptions to this Section shall be permitted for combined emissions at one site/facility, which do not exceed a 10 tons/year emissions cutoff based on the facility's~~ Facilities with a potential to emit 10 tons/year or less of ~~VOC~~ from coating operations are exempt from this Section. Once this limit is exceeded, the ~~source~~facility will always be subject to the ~~limits of this Section.~~

(i) **Alternate standard.** Emissions Coatings with VOC contents in excess of those permitted ~~allowed~~ by 252:100-39-46(d) are ~~allowable~~ may be used if both of the following conditions are met~~;~~

(1) ~~emissions~~ Emissions that would result in the absence of control are reduced to levels equivalent to those permitted by that would occur if the VOC content of the coatings met the limits contained in 252:100-39-46(d) and ~~meet~~ there is an overall control efficiency of at least:

(A) 85 percent, ~~by incineration; or,~~

(B) 85 percent, ~~by absorption; or, any other equipment of equivalent reliability and effectiveness; and,~~

(C) 85 percent by any other equipment of equivalent reliability and effectiveness.

(2) ~~no~~ No air pollution, as defined by the Clean Air Act, results.

(j) Emission plan.

(1) Development of a plant-wide emission plan. An ~~owner/operator~~ owner or operator may develop a plant-wide emission plan consistent with EPA's Emission Trading Policy as published in the December 4, 1986 Federal Register instead of having each coating line comply with the ~~emission~~ VOC content limitations prescribed contained in subsection (d) of this Section 252:100-39-46(d), provided if the following conditions are met+.

~~(1)(A)~~ The owner or operator demonstrates, by means of approved material balance or manual emission test methods, by the methods prescribed in 252:100-5-2.1(d) that sufficient reductions in organic solvent VOC emissions may be obtained by controlling other ~~facilities~~ sources within the plant to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be made ~~described in writing and shall include:~~

~~(A)(i)~~ a complete description of the coating line or lines ~~which that will~~ can not comply with the ~~emission~~ VOC content limitation in 252:100-39-46(d);

~~(B)(ii)~~ quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, which are in excess of the prescribed ~~emission~~ VOC content limitation for each coating line described in 252:100-39-46(d) 252:100-39-46(j)(A)(i);

~~(C)(iii)~~ a complete description of each ~~facility and the related control system, if any, for those facilities within the plant where~~ how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described in ~~252:100-39-46(d) 252:100-39-46(j)(A)(i)~~ and the date on which such reduction will be achieved;

~~(D)(iv)~~ a transfer efficiency based on a 60 percent baseline with emissions expressed in pounds of VOC per gallon of solids when transfer efficiency is used to compensate for excess emissions from spray painting operations, ~~the transfer efficiency shall be based on a 60 percent baseline, with emissions expressed in pounds of solvent per gallon of solids. Credits for improvements in transfer efficiency shall be demonstrated with in plant~~

~~testing which complies with approved EPA methods.;~~

(v) a demonstration of credits for improvements in transfer efficiency with in plant testing that complies with EPA methods.

~~(E)(vi)~~ quantification of emissions, in terms of pounds per day of ~~organic solvents~~VOCs, for each source both before and after the improvement or installation of any applicable control system, or any physical or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

~~(F)(vii)~~ a description of the procedures and methods used to determine the emissions of ~~organic solvents~~VOCs.

~~(2)(B)~~ The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan as described in the Emissions Trading Policy may include voluntary decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to ~~facilities~~emission units, including permanently reduced production or closing a facility, located on the premises of a surface-coating operation.

~~(3)(2)~~ Compliance with a plant-wide emission plan. The implementation of a plant-wide emission reduction plan instead of compliance with the emissionsVOC content limitation prescribed in 252:100-39-46(d) has been expressly approved by the Executive Director and the EPA Administrator. Upon approval of a plan, any emissions in excess of those established for each facility under the plan shall be a violation of these rules.

(k) Compliance, testing, and monitoring requirements.

(1) The ~~Executive~~Division Director may require the ~~owner/operator~~at the expense of the owner or operator a demonstration of a ~~source to demonstrate at his expense,~~ compliance with the emission limits using EPA Methods 24, 24A, 1-4, 25, 25A, 25B in 40 CFR 60.444 or EPA Document 450/3-84-019. At a minimum, such test must show that the overall capture efficiency and destruction efficiency are equal to 85 percent, (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). The one hour bake option in Method 24 is required when doing compliance testing.)

(2) Testing for plant-wide emission plans shall be conducted by ~~the owner/operator~~at the expense of the owner or operator ~~at his expense~~ to demonstrate compliance with the emission VOC content limits contained in 252:100-39-46(d).

(3) Monitoring shall be required of any ~~owner/operator~~ owner or operator subject to this Section who uses add-on control equipment for compliance. Such monitoring shall include:

~~(A)~~— installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those

devices in accordance with design specifications, including:

~~(i)(A)~~ the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;

~~(ii)(B)~~ the total amount of ~~volatile organic substances~~VOCs recovered by carbon adsorption or other ~~solvent~~VOC recovery system during a calendar month; and,

~~(iii)(C)~~ the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of ~~volatile organic substance~~ emissions during such activities;

~~(B)~~ maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k)(3)(A)(i); and,

~~(C)~~ maintenance of all records at the affected facility for at least two years and make such records available to representative of the State or local air pollution control agency upon request.

(1) Reporting and recordkeeping. ~~The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request, reports detailing specific VOS sources, the quantity of coatings used for a specific time period, VOS content of each coating, capture and control efficiencies, and any other information pertinent to the calculation of VOS emissions. The data necessary to supply the requested information shall be retained by the owner/operator for a minimum of two years.~~

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request reports detailing specific VOC sources; the quantity of coatings used for a specific time period, VOC content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOC emissions. The data necessary to supply the requested information shall be retained by the owner or operator for a minimum of two years.

(2) The owner or operator of a facility subject to this Section shall maintain records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k), as well as all other records, for at least two years. These records shall be available to representatives of the DEQ upon request.

(m) Compliance date. The date of compliance with the requirements of this Section will be is December 31, 1990.

252:100-39-47. Control of ~~VOS~~VOC emissions from aerospace industries coatings operations

(a) Applicability.

(1) This Section applies to all aerospace facilities located in Tulsa County. Sources once subject to this Section are always subject.

(2) This Section does not apply to individual coating formulations ~~which that~~, when aggregated, do not exceed ~~fifty-five (55) gallons per year~~55 gal/yr for the facility.

~~(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in OAC 252.100-7 and will be submitted to EPA as source-specific SIP revision, unless:~~

~~(A) the new coatings meet the presumption norm (3.5 pound VOC per gallon less water and exempt solvents limit); or,~~

~~(B) the total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation.~~

~~(4)(3) Exemptions to this Section shall be permitted for combined emissions at one site/facility which do not exceed a ten-ton per year emission cut-off based on the facilities with a potential of the facility to emit 10 tons/year or less of VOC VOC from coatings operations are exempt from this Section.~~

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise-

(1) **"Aerospace"** means the industries, air bases and depots that design and manufacture, rework, or repair aircraft or military equipment components for either commercial or military customers.

(2) **"Aircraft"** means any machine designed to travel through the earth's atmosphere. This group includes but is not limited to airplanes, balloons, dirigibles, drones, helicopters, missiles, and rockets.

(3) **"Alternate ~~reasonable~~ reasonably available control technology (ARACT)"** means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility as determined on a case-by-case basis.

(4) **"Coating"** means a material which covers a surface which alters the surface characteristics and from which ~~Volatile Organic Solvents~~ VOCs can be emitted during the application and/or curing process.

(5) **"CTG"** means the Control Techniques Guidance Document "Control of Volatile Organic Emissions From Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," EPA No. 450/2-78-015.

(6) **"Facility"** means all of the pollutant-emitting activities ~~which~~ that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.

(7) **"Low ~~organic solvent~~ VOC coating (~~LOSC~~) (LVOCC)"** means a coating ~~which~~ that ~~contains~~ contains less ~~organic solvent~~ VOC than the conventional coatings used by the industry. Low ~~organic solvent~~ VOC coatings include waterborne, higher solids, electrodeposition, and powder coatings.

(8) **"Reasonable ~~Reasonably~~ available control technology (RACT)"** means the lowest emission limit ~~that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility~~ and the need to impose such controls to attain and

maintain a National Ambient Air Quality Standard.

(c) ~~General requirements. All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). Said plan, upon approval, shall constitute the determination of ARACT for that particular facility. ARACT must be installed and operating as approved in the plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan. Provided, however, that in the case that Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification.~~

(1) All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). This plan, upon approval, shall constitute ARACT for that particular facility.

(2) ARACT must be installed and operating as provided in the approved plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are approved in the plan.

(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in 252:100-7 or 252:100-8, and will be submitted to EPA as source-specific SIP revisions, unless one of the following applies.

(A) The new coatings meet the presumptive norm of 3.5 pounds of VOC per gallon less water and exempt compounds.

(B) The total usage of the new coating does not exceed 55 gal/yr of each coating formulation.

(d) Emissions reduction plan.

~~(1) Plan development. Each owner/operator shall develop an emissions reduction plan for all affected facilities. Each plan shall include the following:~~

~~(A) a detailed, reasoned and exhaustive review of:~~

~~(i) each source of emissions within the facility and~~

~~(ii) (2) the entire plant collectively;~~

(A) a detailed, reasoned and exhaustive review of each source of emissions within the facility and the entire plant collectively;

(B) identification and quantification of emissions, in terms of pounds per day, of all organic solvents VOC both before and after the application of ARACT;

(C) a detailed, innovative engineering effort directed toward finding alternative air management schemes that can be incorporated in order to abate emissions at costs which are reasonable;

(D) a consideration of the level of control that is achievable using available alternative coatings, to include LVOCC for every application, low organic solvent coatings (LOSC);

~~(E) a consideration of the level of control achievable using available add on control devices. This demonstration shall~~

~~include, at a minimum, a demonstration of the feasibility/ infeasibility of the following control options:~~

- ~~(i) carbon absorption;~~
- ~~(ii) incineration/flaring;~~
- ~~(iii) condensation; and~~
- ~~(iv) a combination of 252:100-39-47(d)(1)(E)(i) and 252:100-39-47(d)(1)(E)(ii).~~

(E) a demonstration of the level of control achievable using available add-on control devices which shall include, at a minimum, the feasibility/infeasibility of carbon adsorption, incineration/flaring, condensation, and a combination of carbon adsorption and incineration/flaring;

~~(F) a consideration of facility redesign, including the following:~~

- ~~(i) recirculation;~~
- ~~(ii) reduced air flows;~~
- ~~(iii) consolidation of spray operations; and,~~
- ~~(iv) installation of common control devices for two or more separate coatings operations.~~

(F) a consideration of facility redesign, including recirculation, reduced air flows, consolidation of spray operations, and installation of common control devices for two or more separate coating operations;

~~(G) a consideration of alternative applications, to improve transfer efficiency, including:~~

- ~~(i) high volume low pressure spray equipment;~~
- ~~(ii) heated spray guns; and,~~
- ~~(iii) electrostatic spray equipment/powder coatings.~~

(G) a consideration of alternative applications, to improve transfer efficiency, including high-volume-low-pressure spray equipment, heated spray guns, and electrostatic spray equipment/powder coatings;

(H) an explanation why each source is not a typical coating source covered by the CTG as defined in 252:100-39-47(b);

(I) a cost/benefit analysis for all control technology considered; and,

(J) a detailed compliance schedule ~~which that~~ includes the emission limit and/or control techniques for each emission source. ~~This schedule, which~~ together with other relevant considerations, shall be set forth in a separate section of the plan ~~which that~~ summarizes and outlines ARACT for the referenced facility.

(2) Submission of emission reduction plans. ~~Upon completion, the three copies of the emissions reduction plan shall be submitted in triplicate to the Air Quality Division and one shall be submitted to EPA, Region VI. The preparer shall also submit a copy of the plan to Region VI Environmental Protection Agency (EPA), Region VI.~~

(3) Action on plan. Within 30 days of submittal, or of the effective date of this Section ~~May 25, 1990~~, whichever is later, the Air Quality Division shall, considering any comments submitted by EPA, either approve, modify or disapprove the plan.

(4) Public hearing. The Division shall, at the first meeting of the Air Quality Council following the approval, modification, or disapproval of the plan, present at public hearing, the staff's findings and ARACT determination. ~~Upon consideration of comments and recommendations from the Council, the owner/operator of the affected facility, the public and EPA, the Department shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility. The owner/operator shall be responsible for installation and operational provisions of the approved ARACT, including any specific provisions set forth therein. Any violation of the plan or of its provisions shall constitute a violation of this Section.~~

(5) Final approval. Upon consideration of comments and recommendations from the Council, the owner or operator of the affected facility, the public, and EPA, the DEQ shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility.

(6) Compliance. The owner or operator shall be responsible for installation and operational provisions of the approved ARACT. Any violation of the plan or of its provisions shall constitute a violation of this Section.

~~(5)~~ (7) Submission of SIP revision. Upon approval by the Department ~~DEQ~~, the ARACT determination shall be submitted to EPA as a SIP revision.

(e) Reporting and recordkeeping.

(1) Recordkeeping requirements. The ~~owner/operator~~ owner or operator shall maintain the following:

(A) ~~a material safety data sheet which documents the volatile organic solvent VOC content, composition, solids content, solvent VOC density and other relevant information regarding each coating and solvent VOC available for use in the affected surface coating processes; information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits. Information as to the amounts of each type coating used and the amounts of solvents used for dilution in each coating type shall be maintained for each coating operation. Daily usage records will be kept for all coatings used that do not comply with the applicable control limits specified in the plan;~~

(B) information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits;

(C) information as to the amounts of each type coating used and the amounts of VOC used for dilution in each coating type for each coating operation;

(D) daily usage records for all coatings used that do not comply with the applicable control limits specified in the plan; and,

~~(B)~~ (E) records shall be maintained of any monitoring and

testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f) ~~7.~~

~~(C)~~ (2) Method of calculating VOC content in coatings. ~~records~~ Records required by 252:100-39-47(e) (1) (A) and ~~252:100-39-47(e) (1) (B)~~ through 252:100-39-47(e) (1) (E) detailing VOSVOC in pounds per gallon of coating (less water and exempt compounds) shall be calculated as follows:

$$\text{VOSVOC in lbs/gal of coating} = \frac{W_v - W_x - W_x W_v - W_w - W_x}{V_m 1 - V_w - V_x}$$

where: W_v = weight of all volatiles T_i
 W_w = weight of water T_i
 W_x = weight of exempt solvent compounds T_i
 V_m = 1 (one),
 V_w = volume fraction of water T_i and,
 V_x = volume fraction of exempt solvent compounds.

~~(D)~~ (3) Maintenance of records. ~~records~~ Records required by 252:100-39-47(e) (1) (A) and ~~252:100-39-47(e) (1) (B)~~ through 252:100-39-47(e) (1) (E) shall be maintained for at least two years and shall be made available upon written request by representatives of the Air Quality Division, AOD U.S. Environmental Protection Agency or EPA or the Tulsa City County Health Department.

~~(2)~~ (4) Alternative recordkeeping provision. Alternatively to 252:100-39-47(e) (1) through 252:100-39-47(e) (3), an equivalent recordkeeping provision ~~which~~ that satisfies the substantive requirements of 252:100-39-47(e) (1) through 252:10-39-47(e) (3) may be approved under the plan.

(f) Testing and monitoring.

(1) Testing. ~~Each owner/operator~~ The Division may require testing at the expense of the owner or operator shall, upon a determination by the Air Quality Division that testing is required to establish emission from any particular source or sources, ~~conduct such tests at his own expense.~~ Test methods may include 1-4, 18, 24, 24A, 25A, 25B found in the Appendix A of 40 CFR Part 60, including the procedures found at 40 CFR 60.444.

(2) Monitoring. Monitoring shall be required of any ~~owner/operator~~ owner or operator subject to this section who uses add-on control equipment for compliance. Such monitoring shall ~~include~~ accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(A) installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:~~

~~(i)~~ (A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalytic bed;

~~(ii)(B) the total amount of volatile organic substances VOCs recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,~~
~~(iii)(C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance VOC emissions during such activities.~~
~~(B) maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f)(2)(A)(i); and,~~
~~(C) maintenance of all records at the affected facility for at least two years and make such records available to representatives of the State or local air pollution control agencies upon request. (252:100-39-47 Effective May 25, 1990)~~

252:100-39-48. Vapor recovery systems [AMENDED AND RENUMBERED TO 252:100-39-41(e)]

~~(a) Applicability. This Section applies only in Tulsa County.~~
~~(b) Storage of volatile organic compounds — 400 40,000 gallons (9.5 953 bbls).~~

~~(1) No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a submerged fill pipe or is bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compounds contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum.~~

~~(2) The vapor recovery system shall include one or more of the following:~~

~~(A) a vapor tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds can be transferred into the container (i.e., popped connectors from the storage container to the delivery vessel.);~~

~~(B) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations, however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole;~~

~~(C) the cross sectional area of the vapor recovery line must be at least half of the cross sectional area of the liquid~~

delivery line, or,

~~(D) instead 252:100 39 48(b) (2) (A) through 252:100 39 48(b) (2) (C), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Executive Director prior to start of construction.~~

~~(3) Exemptions to this Section may be granted provided the owner/operator shows to the satisfaction of the appropriate authority that the container is used exclusively for agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less.~~

~~(4) The applicability of this Section shall be determined by the most restrictive of the 2,000 gallon tank size as specified in 252:100 39 48(b) (1) or the 120,000 gallon annual throughput described in 252:100 39 48(b) (3). However, once a facility places a 2,000 gallon tank in service or exceeds the 120,000 gallon annual throughput described in 252:100 39 48(b) (3), that facility shall always be subject to the provisions of this Section. (effective February 12, 1990)~~

~~(5) If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized.~~

~~(6) Compliance with this subsection will be accomplished by affected owner/operator by December 31, 1986.~~

~~(7) The owner/operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds made to their facility or facilities located in Tulsa County, shall be made by vessels which comply with the requirements contained in 252:100 39 48(d). Compliance with this Section shall be accomplished by affected owner/operators no later than December 31, 1990. (Effective February 12, 1990)~~

~~(c) Loading of volatile organic compounds.~~

~~(1) No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound loading facility unless such loading facility is equipped with a vapor collection and/or disposal system properly installed, in good working order and in operation.~~

~~(2) When volatile organic compounds are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor tight seal at the hatch.~~

~~(3) A means shall be provided to prevent organic material drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.~~

~~(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings~~

~~which make vapor tight connections and which close automatically when disconnected.~~

~~(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels:~~

~~(A) an absorption/adsorption system or condensation system with a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound vapors and gases entering such disposal system;~~

~~(B) a vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent; or,~~

~~(C) other equipment of at least 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39 48(c)(5)(A) through 252:100 39 48(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

~~(6) Subsection 252:100 39 48(c) shall apply to any facility which loads volatile organic compounds into any transport vessel designed for transporting volatile organic compounds.~~

~~(7) Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for two years.~~

~~(d) Transport/delivery vessel requirements.~~

~~(1) Maintenance.~~

~~(A) The delivery vessel must be maintained so as to be vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.~~

~~(B) The delivery vessel must be equipped, maintained and operated to receive vapors from sources identified in 252:100-39 41(b)(1) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.~~

~~(C) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which would impair the vessels ability to retain vapors or liquid shall be repaired within 5 days.~~

~~(D) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100 39 48(d)(2)(A)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.~~

~~(E) No owner/operator will allow a delivery vessel to be filled at a facility unable to receive displaced organic vapors nor service tanks unable to deliver displaced vapors except for tanks/facilities exempted in 252:100 39 41(b). Terminal owners shall not fill vessels which do not display a current tag.~~

~~(F) Delivery vessels may be inspected by representatives of the appropriate health agency in order to determine their state of repair. Such a test may consist of a visual inspection, a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner/operator to effect the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days the vessel will be removed from service by the owner/operator. Failure to certify that the cited repairs have been effected will subject the vessel to sanctions. Upon certification of repairs the vessel will be allowed to operate in a normal manner.~~

~~(2) Testing requirements.~~

~~(A) Pressure test.~~

~~(i) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Executive Director.~~

~~(ii) The vessel will be considered to pass the test prescribed in 252:100-39-48(d)(2)(A)(i) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O in addition there shall be no avoidable visible liquid leaks.~~

~~(B) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(d)(1)(F) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-48 will become effective December 15, 1988.~~

252:100-39-49. Manufacturing of fiberglass reinforced plastic products

~~(a) General provisions. Within 12 months after promulgation of this Section all affected facilities shall limit emissions of VOS from fiberglass manufacturing to those listed in 252:100-39-49(a)(1), or have an approved plan for the reduction of such emissions. The plan must be submitted to the Executive Director within 6 months after promulgation of this Section, and shall detail those emissions which will be controlled, the means by which control will be achieved and will demonstrate that compliance will be achieved within two years from the date of promulgation of this Section. The approval authority for such plans shall reside with the Air Quality Council. All approved plans shall be submitted as~~

~~SIP revisions.~~

~~(1) Compliance with 252:100-39-49(a) shall be accomplished by use of control equipment which can demonstrate an 85 percent reduction in the VOS released from each process gas stream, e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency.~~

~~(2) Exemptions to the limits listed in 252:100-39-49(a)(1) may be allowed for any process gas stream which does not exceed six tons per year actual emissions based on 6240 hours per year. However, once this limit is exceeded, controls must be put in place and maintained at any operating level.~~

~~(b) Demonstration of compliance. The Executive Director may require the owner/operator of a source to demonstrate at his expense, compliance with the prescribed emissions limits. The testing shall be accomplished using the appropriate EPA test method or methods, these include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444. Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.~~

~~(c) Testing. Testing for the alternate emissions plan shall be conducted by the owner/operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.~~

~~(d) Recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request reports detailing specific VOS sources, the quantity of solvents used during specific months, a description of the solvent used, control equipment efficiencies, equipment downtime and any other information pertinent to the calculation of VOS emissions from the facility. The owner/operator must also maintain records which detail the maintenance performed on all control equipment as well as a record of the downtime with the reason for each occurrence. Such records shall be maintained by the source for a minimum of two years. (252:100-39-49, Effective February 12, 1990)~~

(a) Applicability.

(1) This Section applies to any process gas stream with actual VOC emissions that exceed six tons per year based on 6,240 hours of operation per year.

(2) Once the limit in 242:100-39-49(a)(1) is exceeded, the controls required in 252:100-39-49(b) must be put in place and maintained and used at any operating level.

(b) Standards. Affected facilities shall limit emissions of VOC from fiberglass manufacturing by use of control equipment which can demonstrate an 85 percent reduction in the VOC released from each process stream (e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency).

(c) Compliance. All affected facilities must comply with one of the following.

(1) Meet the requirements of 252:100-39-49(b) by February 13, 1991.

(2) Have an approved plan for the reduction of VOC emissions as required by 252:100-39-49(b) by February 13, 1991.

(A) The plan shall be submitted by August 13, 1990, and shall:

(i) detail those emissions which will be controlled;

(ii) detail the means by which control will be achieved;

and,

(iii) demonstrate that compliance will be achieved by February 13, 1992.

(B) The Air Quality Council shall have approval authority for the plans.

(C) All approved plans shall be submitted to the EPA as SIP revisions.

(d) Demonstration of compliance.

(1) The Division Director may require at the expense of the owner or operator a demonstration of compliance with the requirements of 252:100-39-49(b).

(2) The testing shall be accomplished using the appropriate EPA test method or methods. These include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444.

(3) Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.

(4) Testing for the emissions plan described in 252:100-39-49(c)(2) shall be conducted at the expense of the owner or operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.

(e) Recordkeeping.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports that include:

(A) details of specific VOC sources;

(B) the quantity of VOC used during specific months;

(C) a description of the VOC used;

(D) control equipment efficiencies;

(E) details of maintenance performed on all control equipment;

(F) equipment downtime; and,

(G) any other information pertinent to the calculation of VOC emissions from the facility.

(2) The records required in 252:100-39-49(e)(1) shall be maintained by the source for at least two years. [252:100-39-49, Effective February 12, 1990]

LIST OF ORGANIC COMPOUNDS WITH NEGLIGIBLE
PHOTOCHEMICAL REACTIVITY
40 CFR 51.100(s)(1) as it existed on July 1, 1998
From the Federal Register dated 4/9/98

Sec. 51.100 Definitions.

(s) Volatile organic compounds (VOC)

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
ethane;
methylene chloride (dichloromethane);
1,1,1-trichloroethane (methyl chloroform);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
chlorodifluoromethane (HCFC-22);
trifluoromethane (HFC-23);
1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1-dichloro 1-fluoroethane (HCFC-141b);
1-chloro 1,1-difluoroethane (HCFC-142b);
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
pentafluoroethane (HFC-125);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trifluoroethane (HFC-143a);
1,1-difluoroethane (HFC-152a);
parachlorobenzotrifluoride (PCBTF);
cyclic, branched, or linear completely methylated siloxanes;
acetone;
perchloroethylene (tetrachloroethylene);
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
difluoromethane (HFC-32);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);

chlorofluoromethane (HCFC-31);
1 chloro-1-fluoroethane (HCFC-151a);
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCF_2OCH_3$);
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCF_2OC_2H_5$);
methyl acetate

and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

REVISIONS TO THE PROPOSED MODIFICATION OF SUBCHAPTER 39 FOR THE
FEBRUARY 17, 1999, AIR QUALITY COUNCIL MEETING

Numerous changes have been made to the version of Subchapter 39 that was presented at the December 15, 1998, Air Quality Council meeting. Most of these changes are minor non-substantive changes consisting of replacing "will" and "should" with "shall", "gallons" with "gal", "liters" with "l", and "inch" with "in." Some portions of the rule were extensively rewritten for clarity without involving substantive changes. These include: 252:100-38-41(a), 252:39-41(b)(1), 252:100-39-41(e)(2)(A) and (B), 252:100-39-42(a)(1)(D), 252:100-39-42(b)(2)(A) and (B), 252:39-46(k)(1), 252:100-39-47(d)(2), 252:100-39-47(f)(a), and 252:100-39-49(d)(1).

One definition was added and one was modified. A definition of "drilling or production facility" was added to 252:100-39-30(a)(3). This definition is identical to that in 40 CFR 60, Subpart K. The definition of "aerospace" in 252:100-39-47(b) was revised to make clear that it does include rework.

Only one substantive change has been proposed since the December meeting. It is the addition of 252:100-39-30(b)(3) and (4) which exempts storage vessels subject to 40 CFR 60, Subparts Ka or Kb or 40 CFR 63, Subparts CC or G from the requirements of 252:100-39-30.

MINUTES

AIR QUALITY COUNCIL

FEBRUARY 17, 1999

Department of Environmental Quality
707 North Robinson, Oklahoma City, OK
Multi-Purpose Room

Council Members Present

William B. Breisch, Chairman
Larry Canter
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz
Gary Kilpatrick

Council Members Absent

Meribeth Slagell

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Guests Present

**see attached list

Staff Present

Scott Thomas
Joyce Sheedy
Max Price
Leon Ashford
Myrna Bruce

PUBLIC MEETING

Notice of Public Meeting for February 17, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Slagell did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the December 15, 1998 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Dr. Canter. Roll call as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Election of Officers - Floor was opened for nominations for Chairman for Calendar Year 1999. Dr. Canter nominated Mr. Breisch for Chairman and the second was made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - abstain. Nominations were then requested for Vice Chairman. Mr. Kilpatrick nominated Dr. Canter and Dr. Grosz made the second. Roll call as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - abstain; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARINGS

Protocol Statement – As protocol officer, Mr. Terrill convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Terrill entered into the hearing records the Hearing Agenda and Oklahoma Register Notice.

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

Mr. Terrill called upon Dr. Joyce Sheedy who advised that proposed changes primarily simplify language and correct grammar and format but also include fourteen substantive changes. Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. The other changes include:

1. an added definition of drilling or production facility
2. an added definition of lease custody transfer
3. an added new subsection 252:100-37-3(c)
4. a revised 252:100-37-4(b) to exempt methanol storage vessels at drilling or production sites
5. a revised the alternate standard 252:100-37-25(d)
6. and added new subparagraphs (A), (B) (C) to 252:100-37-41(2)

Dr. Sheedy reiterated eight substantive changes that had been previously proposed.

1. a revision of the definition of Volatile Organic Compound (VOC) 252:100-37-2
2. a deleted 252:100-37-3(a)
3. an added 252:100-37-15(c) to exempt storage tanks subject to NSPS subpart K, Ka, Kb
4. an added 252:100-37-16(c) to exempt loading facilities that are subject to NSPS subpart XX or NESHAP subpart R
5. a deleted 252:100-37-25(c)
6. a deleted first sentence in 252:100-37-36 to eliminate an impossible requirement
7. an added 252:100-37-38(b) to exempt pumps and compressors that are subject to equipment leak standards in NSPS subparts VV, GGG, or KKK from Section 38
8. an added part 9 Permit by Rule for VOC storage and loading facilities

Dr. Sheedy submitted the written letter from EPA dated February 10, 1999 indicating support for the proposed revisions for hearing record.

Dr. Sheedy then stated it was staff's recommendation that Council forward to the Environmental Quality Board at its March 5, 1999 meeting.

Council discussion followed which included question from Ms. Myers regarding the meaning of "expressly" in 252:100-37-25(b)(2). Ms. Hoffman explained the intent of the word to be that the approval must be in writing from the Division Director. Wording was changed.

Ms. Sandra Rennie, EPA, stated that these changes supported the SIP and also complimented EPA's own current program of simplifying language in their rules.

Mr. Breisch entertained a motion to send to this rule to the EQ Board in March. Mr. Wilson made motion with second made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

Mr. Terrill called upon Dr. Joyce Sheedy who advised that proposed changes primarily simplify language and correct grammar and format but also include substantive changes. Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. She then submitted, for the record, the written letter from EPA dated February 10, 1999 indicating support for these proposed revisions.

Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. The other changes include:

1. an added definition of drilling or production facility to 252:100-39-30(a)
2. a revised the definition of aerospace in 252:100-39-47(b) to make clear that it includes rework
3. an added 3252:100-9-30(b)(3) and (4) to exempt storage vessels subject to NSPS Ka and Kb or MACT standards CC or G from Section 30

Previous proposals were:

1. a definition of VOC
2. a correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)
3. an addition of language to 252:100-39-41(c) that exempts facilities that have an annual throughput less than 120,000 gallons or storage capacity less than 10,000 gallons from Section 41

Sandra Rennie re-stated EPA's support of subchapter 37 also applies to subchapter39.

Following discussion, Mr. Breisch entertained a motion to recommend this rule to the EQBoard at its March 5 meeting. Mr. Kilpatrick made that motion with the second made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Dr. Grosz - aye; Dr. Canter - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

NEW BUSINESS

Council discussed the possibility of changing the format of the Council meetings to make the briefing session shorter and less formal and the hearing sessions to include more of the discussions involved in the changes to rules as matter of record through court reporter transcripts. It was decided to make this discussion an agenda item at the next meeting to obtain additional input from audience.

Mr. Terrill advised that the monthly financial information and detailed list of tasks that would be billed to Title V expenditures requested at Council's last meeting is in rough draft form and would be made available to the Council Subcommittee at a meeting in March.

Mr. Breisch suggested that a management efficiency study that would determine staffing priorities should involve Council, staff, and industry to formulate scope and funding.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be April 20, 1999 at the Department of Environmental Quality Multi-Purpose Room, First Floor, 707 North Robinson, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

Eddie Terrill, Director
Air Quality Division



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

FEBRUARY 17, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
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18.		
19.		
20.		
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-39

Subchapters or Sections Involved – [new, amended or revoked]

Emissions of Organic Materials in Nonattainment Areas [AMENDED]

On FEBRUARY 17, 1999 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: 2-17-99

Chair or Designee

VOTING TO APPROVE:

Joel Wilson
Fred Grosz
Larry Canter
Gary Kilpatrick
Sharon Myers
David Braneky
William B. Breisch

ABSTAINING:

VOTING AGAINST:

ABSENT:

Meribeth Slagell

Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, March 5, 1999
Association of County Commissioners of Oklahoma
429 NE 50th Street, Oklahoma City, Oklahoma

1. Call to Order - Herschel Roberts
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 10, 1998 Regular Meeting
4. Election of Officers (Chair and Vice-Chair) for 1999

5. **OAC 252:100 Air Pollution Control:**

Changes are proposed to five subchapters. The changes fall into three general groups.

- Proposed revisions to both Subchapters 37 (Control of Emissions of Organic Materials) and 39 (Emission of Organic Materials in Nonattainment Areas) include 1) definitional changes, including most notably the term "volatile organic compound (VOC)" and related terms; 2) exemption of certain types or sizes of VOC loading and storage vessels and facilities and certain pumps and compressors from some state requirements and standards, especially when the equipment or facilities are subject to related federal requirements; 3) deletion of a rule which allows the emission of 3,000 pounds per day or 450 pounds per hour of organic materials before controls are required; 4) revision of an alternate emission standard for coating operations; 5) correction of the impossible requirement that no emission of hydrocarbons or organic material is allowed from fuel-burning or refuse-burning equipment; and 6) addition of provisions for permit by rule for VOC storage and loading facilities.
- Proposed amendments to Subchapter 7 (Permits for Minor Facilities) will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the current lower tonnage limits for PBR and general permits. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Proposed amendments to Subchapter 8 (Permits for Part 70 Sources) will update the adoption by reference of the requirements for case-by-case MACT determinations contained in federal rules to July 1, 1998.
- Proposed amendments to Subchapter 5 would increase the annual operating fees for both Part 70 and minor emission sources. Proposed revisions to Subchapter 7 will increase the applicability determination fee and individual application fees for minor facilities. Subchapter 8 is revised to increase the fee for applicability determinations, consistent with the proposed increase in Subchapter 7.

- A. Presentation – David Branecky, Air Quality Council member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

6. **OAC 252:200 and 205 Hazardous Waste Management:**

The state hazardous waste rules have been revised as part of the DEQ's effort to simplify and streamline its rules. The rewrite is not intended to change the requirements of the rules, but to make them clearer and more concise. Due to extensive reworking of the language and rearrangement of the text, the DEQ believes it is more understandable and straightforward to revoke Chapter 200 in its entirety and replace it with a new chapter. Chapter 205, than to present an underline/strike-out version of Chapter 200. This revocation and replacement was done last year by emergency rulemaking; it is proposed to repeat the action as permanent rulemaking.

Chapter 205 as proposed also contains three categories of substantive changes. The first is update of the adoption by reference of federal hazardous waste regulations to July 1, 1998. The second is to delineate certain hazardous waste regulatory duties which remain with the U.S. Environmental Protection Agency. The third is to clarify that although federal hazardous waste regulations allow conditionally exempt small quantity generators of hazardous waste to dispose of their hazardous waste in certain solid waste landfills, this practice is prohibited by Oklahoma statute.

- A. Presentation— David Bradshaw, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

7. **OAC 252:400 Radiation Management:**

The proposed new rules support Oklahoma's pending application to the U.S. Nuclear Regulatory Commission (NRC) for State Agreement status. NRC approval of Oklahoma's application will shift regulation of source, byproduct and special nuclear material from the NRC to the DEQ.

New Subchapter 2 forms the framework for the State Agreement Program and the incorporation by reference of federal NRC regulations from Title 10 of the Code of Federal Regulations. Appendices G through P mirror NRC categories and set fees for Oklahoma's State Agreement Program. All fees in these Appendices are less than the current federal fees. Due to the requirement that fees must be adopted during the time the legislature is in session, these Appendices are presented to the Board before the remainder of Subchapter 2's State Agreement rules. However, these fee schedules will not go into effect until the date the State Agreement program becomes effective.

- A. Presentation— Dr. David Gooden, Radiation Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

8. **OAC 252:510 Municipal Solid Waste Landfills:**

The proposed addition of Subchapter 16 addresses new standards for the exclusion of hazardous, PCB, radioactive, or other restricted wastes from disposal in a municipal solid waste landfill (MSWLF). The rules require owners/operators to submit a new or amended Waste Exclusion Plan for approval by January 1, 2000, and sets standards for the plan. The amendment to 252:510-17-5 incorporates the Subchapter 16 provisions in the current rule requiring exclusion of unacceptable wastes.

The proposed amendment to 252:510-17-2(d) would require owners/operators of MSWLFs and nonhazardous industrial waste landfills to establish and maintain vegetative cover, or other

alternatives approved by DEQ, over waste areas that extend above the natural horizon if that area will not be receiving more waste in the upcoming year. The rule is designed to enhance dust control, erosion control and aesthetics at MSWLFs and nonhazardous industrial waste landfills once they begin placing waste above ground.

The amendment to 252:510-21-6 would clarify that the pay-in period under the Trust Fund financial assurance mechanism, which may be used to ensure the costs for closure and post-closure of the landfill, is limited to a maximum of 15 years. This change is consistent with the change in law provided by SB 1025 passed during the 1998 legislative session.

- A. Presentation— Steve Mason, Solid Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

9. OAC 252:520 Solid Waste Management:

The proposed amendment to 252:520-9-11 would require owners/operators of landfills to establish and maintain vegetative cover, or other alternatives approved by DEQ, over waste areas that extend above the natural horizon if that area will not be receiving more waste in the upcoming year. The rule is designed to enhance dust control, erosion control and aesthetics at landfills once they begin placing waste above ground.

Changes to Subchapter 21 implement revisions to the waste tire recycling program as required by SB 1218 and SB 986 passed during the 1998 session.

The amendment to 252:510-23-51 would clarify that the pay-in period under the Trust Fund financial assurance mechanism, which may be used to ensure the costs for closure and post-closure of solid waste disposal sites, is limited to a maximum of 15 years. This change is consistent with the change in law provided by SB 1025 passed during the 1998 legislative session.

- A. Presentation— Steve Mason, Solid Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

10. OAC 252:640 and 641 Individual and Small Public On-Site Sewage Disposal Systems:

252:640 is being revoked. The rules in Chapter 640 were clarified, substantially rewritten and reorganized through the re-right/de-wrong process and moved to 252:641. Subchapter 11 of Chapter 700 has also been rewritten and moved to new Chapter 641; among the revisions is a recategorization of certified installers. The purpose of these rules is to establish procedures for the construction, installation and operation of individual and small public on-site sewage disposal systems and to establish procedures for persons seeking certification as installers of individual sewage disposal systems.

- A. Presentation— Gary Collins, Director, Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

11. **OAC 252:700 Water and Wastewater Works Operator Certification:**

This action is a corresponding action to agenda item 10. This rule change would revoke current Subchapter 11 of Chapter 700 (relating to certification for septic tank system installers), the provisions of which are included in new Chapter 641.

- A. Presentation— Gary Collins, Director, Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

12. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)

13. Executive Director's Report

14. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak..

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

SUBCHAPTER 39. EMISSION OF VOLATILE ORGANIC MATERIALS COMPOUNDS (VOCs) IN NONATTAINMENT AREAS AND FORMER NONATTAINMENT AREAS

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PART 1. GENERAL PROVISIONS

252:100-39-1. Purpose

~~The purpose of this Subchapter is to control the emission of organic materials from stationary sources located in nonattainment areas and to specify the additional control measures required to protect and enhance the air quality to insure that the Oklahoma air quality standard is not exceeded and significant deterioration is prevented.~~ The purpose of this Subchapter is to reduce the formation of ozone by controlling the emissions of volatile organic compounds (VOCs). This Subchapter contains requirements for the control of emissions of VOCs from stationary sources located in areas that are nonattainment or were formerly nonattainment for ozone.

252:100-39-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

~~"Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.~~

~~"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.~~

~~"Organic materials" means any chemical compounds of carbon excluding carbon monoxides, carbon dioxide, carbonic acid, metallic carbides, metal carbonates and ammonium carbonates.~~

"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.

~~"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking or reforming of unfinished hydrocarbon derivatives.~~

"Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

"Submerged fill pipe" means any fill pipe or discharge nozzle which that meets any one of the following conditions.

(A) ~~the~~The bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) ~~the~~The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) ~~the~~The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel, ~~or~~.

~~(D) other equivalent methods acceptable to the Executive~~

Director.

"Volatile organic compound (VOC)" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.

~~"Volatile organic solvent (VOS)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the EPA Administrator designates as having negligible photochemical reactivity. VOS may be measured by the EPA VOC reference method.~~

252:100-39-3. General applicability

In addition to any application of the requirements contained in OAC 252:100-37, the additional ~~control/prohibitions~~ requirements contained in this Subchapter shall be required ~~on~~ of existing and new facilities located in Tulsa and Oklahoma Counties.

252:100-39-4. Exemptions

VOCs with vapor pressures less than 1.5 pounds per square inch absolute (psia) under actual storage conditions are exempt from 252:100-39-16 through 252:100-39-18, 252:100-39-30, 252:100-39-41, and 252:100-48.

PART 3. PETROLEUM REFINERY OPERATIONS

252:100-39-15. Petroleum refinery equipment leaks

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) ~~"Component"~~ "Component" means any piece of equipment which has the potential to leak ~~volatile organic compounds~~ VOCs when tested in the manner described in EPA Test Method 21 of 40 CFR Part 60. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated.

(2) ~~"Gas service"~~ "Gas service" means any equipment which processes, transfers or contains a ~~volatile organic compound~~ VOC or mixture of ~~volatile organic compounds~~ VOCs in the gaseous phase.

"Leaking component" means a component which has a VOC concentration exceeding 10,000 ppmv when tested according to the provisions in 252:100-39-15(e).

(3) ~~"Liquid service"~~ "Liquid service" means any equipment which processes, transfers or contains a ~~volatile organic compound~~ VOC or mixture of ~~volatile organic compounds~~ VOCs in the liquid phase.

~~(4) "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil or other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives.~~

~~(5) "Refinery unit" means a set of components which are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.~~

~~(6) "Valves not externally regulated" means valves that have no external controls, such as in-line check valves.~~

~~(7) "Volatile organic compounds" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 0.3 kilopascals (0.0435 pounds per square inch absolute) or greater under actual storage conditions. (Effective 2-12-90)~~

~~(b) Applicability. This Section applies to all source facility petroleum refineries located in the following counties: Tulsa and Oklahoma.~~

(1) This Section applies to all petroleum refineries located in Tulsa County and Oklahoma County.

(2) VOCs with vapor pressures less than 0.0435 psia (0.3 kilopascals(kPa)) under actual storage conditions are exempt from 252:100-39-15. (Effective 2-12-90.)

(c) Provisions for specific processes. Standards and operating requirements

(1) The owner or operator of a petroleum refinery complex subject to this Section shall:

(A) develop and conduct a monitoring program consistent with the provisions in 252:100-39-15(d) and 252:100-39-15(f);

~~(B) conduct a monitoring program consistent with the provisions in 252:100-39-15(f);~~

~~(C) record all leaking components which have a VOC concentration exceeding 10,000 ppm when tested according to the provisions in 252:100-39-15(e) and place an identifying tag on each component consistent with the provisions in 252:100-39-15(f)(3);~~

~~(D) (C) repair and retest the leaking components, as defined in 252:100-39-15(e)(1)(C), as soon as possible but no later than 15 days after the leak is found; and,~~

~~(E) (D) identify all leaking components, as defined in 252:100-39-15(e)(1)(C), which cannot be repaired until the unit is shutdown for turnaround. Assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap; and,~~

(E) assure all lines or pipes terminating with a valve are sealed with a second valve, a blind flange, a plug or a cap.

(2) The Executive Division Director, may, at his/her discretion, take require the owner or operator to take appropriate remedial action, including early unit turnaround, based on the number and severity of tagged leaks awaiting repair.

(3) Pipeline valves and pressure relief valves in gaseous

~~volatile organic compound~~ gas service shall be marked in some manner that will be readily obvious to both petroleum refinery or contract personnel performing monitoring and the ~~Executive Director~~ DEQ.

(d) **Compliance ~~schedule~~ schedule.** The owner or operator of a petroleum refinery, ~~in order to comply with 252:100-39-15,~~ shall adhere to the increments of progress contained in the following ~~schedule~~.

~~(1) Submit~~ submit to the ~~Executive~~ Division Director a monitoring program by July 30, 1981. This program shall contain, at a minimum, a list of the refinery units ~~only~~ and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this Section.

~~(2) Submit quarterly monitoring report to the Executive Director.~~

(e) **Testing and monitoring procedures.** Testing and calibration procedures to determine compliance with this Section must be consistent with EPA Test Method 21 of 40 CFR Part 60.

(f) **Monitoring.**

(1) The owner or operator of a petroleum refinery ~~subject to this Section~~ shall conduct a monitoring program consistent with the following provisions. The owner or operator shall:

(A) monitor yearly by the methods referenced in ~~Test Method 21 of 40 CFR Part 60~~ 252:100-39-15(e) all:

~~(i) pump seals~~ 1

~~(ii) pipeline valves in liquid service~~ 1 and 7

~~(iii) process drains;~~

(B) monitor quarterly by the methods referenced in ~~252:100-39-15(d)~~ 252:100-39-15-(e) 7 all:

~~(i) compressor seals~~ 1

~~(ii) pipeline valves in gaseous~~ gas service 1 and 7

~~(iii) pressure relief valves in gaseous~~ gas service;

(C) monitor weekly by visual methods all pump seals;

(D) monitor ~~immediately~~ within 24 hours any pump seal from which VOC liquids are observed dripping;

(E) monitor any relief valve within 24 hours after it has vented to the atmosphere; and,

(F) monitor immediately after repair any component that was found leaking.

(2) Pressure relief devices ~~which~~ that are connected to an operating flare header, vapor recovery ~~device~~ devices, inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in paragraph (1) of this subsection. ~~Provided~~ provided, however, such inaccessible valves will be monitored during annual shutdown.

(3) The owner or operator of a petroleum refinery, upon the detection of a leaking component, ~~as defined in 252:100-39-15(e)(1)(C), which~~ that is not repaired on discovery, shall affix

a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leaking component is repaired.

(g) **Recordkeeping.**

(1) The owner or operator of a petroleum refinery shall maintain a leaking components monitoring log ~~as specified in 252:100-39-15(e)(1)(C) which shall contain, at a minimum, the following data:~~

- (A) the name of the process unit where the component is located;
- (B) the type of component (e.g., valve, seal);
- (C) the tag number of the component, if not repaired immediately on discovery;
- (D) the date on which a leaking component is discovered;
- (E) the date on which a leaking component is repaired;
- (F) the date and instrument reading of the recheck procedure after a leaking component is repaired;
- (G) the date of the calibration of the monitoring instrument. ~~The record of calibration which~~ shall be made available for inspection on request;
- (H) those leaks that cannot be repaired until turnaround; and,
- (I) the total number of components checked and the total number of components found leaking.

(2) ~~Copies of the~~The monitoring log shall be retained on site by the owner or operator for at least two years after the date on which the record was made or the report prepared.

(3) ~~Copies of the~~The monitoring log shall be made available for inspection at any reasonable time and copies of the log shall be provided to the Executive Division Director, upon written request, ~~at any reasonable time of the AOD.~~

(h) **Reporting.** The owner or operator of a petroleum refinery, ~~upon the completion of each monitoring procedure,~~ shall:

(1) submit a report to the Executive Division Director by the 30th day following the end of each calendar quarter that lists all leaking components that were located during the previous quarter but not repaired within 15 days, all leaking components awaiting unit turnaround, and the total number of components found leaking; and,

(2) submit a signed statement with the report attesting to the fact that all monitoring and, with the exception of those leaking components listed in 252:100-39-15(h)(1), ~~all monitoring and~~ repairs were performed as stipulated in the monitoring program.

252:100-39-16. Refinery~~Petroleum refinery~~ process unit turnaround

(a) **Definition.** ~~"Turn-around"~~"Turnaround" means the planned procedure of shutting down a unit, inspecting and repairing it, and restarting it.

(b) **Procedures required.** For the shutdown, purging and blowdown operation of any ~~processing~~ petroleum refinery processing unit the

following procedures are required:

(1) Recovery of ~~volatile organic compounds (VOC)~~ VOCs shall be accomplished during the shutdown or turnaround to a process unit pressure compatible with the flare or vapor system pressure. The unit ~~will~~ shall then be purged or flushed ~~with~~ to a flare or vapor recovery system using a suitable material such as steam, water or nitrogen ~~to a flare or vapor recovery system~~. The unit shall not be vented to the atmosphere until pressure is reduced to less than 5 psig through control devices.

(2) Except where inconsistent with the "Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline," or any State of Oklahoma regulatory agency, no person shall emit ~~organic~~ VOC gases to the atmosphere from a vapor recovery blowdown system unless these gases are burned by smokeless flares, or an equally effective control device as approved by the ~~Executive~~ Division Director.

(3) At least fifteen days prior to a scheduled turnaround, a written notification shall be submitted to the ~~Executive~~ Division Director. As a minimum, the notification shall indicate the unit to be shutdown, the date of shutdown, and the approximate quantity of ~~hydrocarbons~~ VOCs to be emitted to the atmosphere.

(4) Scheduled refinery unit turnaround may be accomplished without the controls specified in 252:100-39-16(b)(1) and 252:100-39-16(b)(2) during non-oxidant seasons provided the notification to the ~~Executive~~ Division Director as required in 252:100-39-16(b)(3) ~~specifically contains such a request for such an exemption. Non-oxidant~~ The non-oxidant season is ~~understood to be between the months of October and April~~ from November 1 through March 31.

252:100-39-17. Refinery Petroleum refinery vacuum producing system

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) ~~"Accumulator"~~ "Accumulator" means the vessel in the overhead stream of any fractionating tower, after the overhead condenses and separates noncondensable gases, liquid ~~hydrocarbons~~ VOCs and water.

(2) ~~"Hotwell"~~ "Hotwell" means the tank at the bottom of the barometer leg in a barometric condenser system to receive the water, condensate and entrained ~~hydrocarbons~~ VOCs generated by the barometric condenser.

(b) **Requirements.** ~~Noncondensable volatile organic compounds from the following equipment~~ VOCs emitted from any of the vacuum producing systems listed in paragraphs (1) through (3) of this subsection shall be incinerated or reduced by 90 percent of what would be emitted ~~from the following vacuum producing system without controls.~~

- (1) ~~steam~~ Steam ejectors with barometric condensers, ~~or,~~
- (2) ~~steam~~ Steam ejectors with surface condensers, ~~or,~~
- (3) ~~mechanical~~ Mechanical vacuum pumps.

(c) **Hotwells and accumulators.**

(1) Hot wells and accumulators shall be covered and the noncondensable vapors shall be vented to a fire-box or incinerator.

(2) The presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame. (Effective February 12, 1990)

(d) **Compliance.** Compliance shall be determined in accordance with the provision of the CTG document ("Control of Refinery Vacuum Producing systems, Wastewater Separators and Process Unit Turnarounds," EPA 450/2-77-025, October, 1977). Test reports and maintenance records ~~will~~shall be maintained for at least two years. If emission testing is required, the appropriate test method(s) selected from EPA Reference Methods 1 through 4, 21, and/or 25, ~~will~~shall be utilized.

252:100-39-18. ~~Refinery~~Petroleum refinery effluent water separators

(a) **Definition.** "Effluent water separator" means any container in which any VOC floating on, entrained in, or contained in water entering the container is physically separated and removed from the water prior to discharge of the water from the container.

(b) **Requirements.** ~~No person~~owner or operator shall operate, or install or permit the operation or installation of a ~~single~~single-compartment or multiple-compartment ~~volatile organic compound~~water effluent water separator from any equipment processing, refining, treating, storing or handling ~~volatile organic compound~~ unless the compartment receiving ~~said~~the effluent water is equipped with one of the following vapor control devices, properly installed, in good working order and in operation to control emissions in one of the following ways.

(1) ~~A~~The container ~~having~~totally encloses the liquid contents and all openings are sealed ~~and totally enclosing~~ the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The oil removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(2) ~~A~~The container is equipped with a vapor-recovery system, consisting of a vapor-gathering system capable of collecting the ~~organic material~~VOC vapors and gases discharged and a vapor-disposal system ~~capable of processing such organic material~~VOC vapors and gases ~~so as to prevent their emission to the atmosphere and with all.~~ All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. The ~~organic material~~VOC removal devices shall be gas-tight except when manual skimming, inspection and/or repair is in progress.

(3) ~~Containers~~A container that is equipped with controls of equal efficiency, provided the plans and specifications ~~of such equipment are submitted and are~~ approved by the ~~Executive~~Division Director prior to their use.

PART 5. PETROLEUM PROCESSING AND STORAGE

252:100-39-30. Petroleum liquid storage in vessels with external floating roof tanks

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) — "**Condensate**" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at ~~normal operating~~ standard conditions.

(2) — "**Crude oil**" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

"Drilling or production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

(3) — "**Externally External floating roof**" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(4) — "**Lease custody transfer**" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage ~~tanks~~ vessels or automatic transfer facilities to pipelines or any other ~~forms~~ form of transportation.

(5) — "**Liquid-mounted seal**" means primary seal mounted in continuous contact with the liquid between the ~~tank~~ vessel wall and the floating roof.

(6) — "**Petroleum liquid**" means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery.

(7) — "**Vapor-mounted seal**" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the ~~tank~~ vessel wall, the liquid surface, and the floating roof.

(8) — "**Waxy, high pour point crude oil**" means a crude oil with a pour point of 50°F or higher as determined by the American Society of Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) **Applicability.**

(1) This Section applies to ~~all source facilities with petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (40,000 gallons), that are located in Tulsa and Oklahoma Counties~~ 40,000 gal (150,000 l).

(2) This Section does not apply to petroleum liquid storage vessels ~~which prior to custody transfer~~ that:

(A) are used to store waxy, high pour point crude oil;

(B) have capacities less than ~~1,600,000 liters~~ 422,675 gal (420,000 gallons, 1,600 m³) and are used to store produced crude

oil and condensate prior to lease custody transfer;
(C) contain a petroleum liquid with a true vapor pressure less than 1.5 psia (10.5 kPa) ~~(1.5 psia)~~;
(D) ~~contain a petroleum liquid with a true vapor pressure less than 27.6 Kpa (4.0 psia)~~, and,

~~(i) are of welded construction;~~
~~(ii) presently possess a metallic type shoe seal, a liquid-mounted foam seal, a liquid mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Executive Director;~~ or, contain a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa) if the vessels are of welded construction and have a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Division Director; or,

(E) are of welded construction, are equipped with a metallic-type shoe primary seal and ~~have~~ a secondary seal from the top of the shoe seal to the ~~tank~~vessel wall (shoe-mounted secondary seal).

(3) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 60 Subparts Ka or Kb are exempt from the requirements of 252:100-39-30.

(4) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 63 Subparts CC (63.646) or G shall be exempt from the requirements of 252:100-39-30 upon the date compliance with the standards in Subparts CC and G is required.

(c) ~~Provisions for specific processes~~Equipment and operating requirements.

(1) ~~Standards.~~ No owner of a petroleum liquidEach storage vessel ~~subject to this Section shall~~used to store a petroleum liquid ~~in that vessel unless~~shall meet the following conditions.

(A) The vessel has been fitted with:

(i) a continuous secondary seal extending from the floating roof to the ~~tank~~vessel wall (rim-mounted secondary seal); or,

(ii) a closure device or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required ~~above~~underin 252:100-39-30(c) (1) (A) (i) and approved by the ~~Executive~~Division Director.

(B) All seal closure devices meet the following requirements:

(i) ~~there~~There are no visible holes, tears, or other openings in the seal(s) or seal fabric.

(ii) ~~the~~The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the ~~tank~~vessel wall, ~~and~~.

(iii) ~~for vapor mounted primary seals, the~~The accumulated area of gaps exceeding 0.32 cm ($1/8 \text{ in.}$) 1/8 in. (0.32 cm) in width between the secondary seal and the ~~tank~~vessel wall

when the secondary seal is used in combination with a vapor mounted primary seal shall not exceed 21.2 cm^2 per meter 1.0 in.^2 /ft of tankvessel diameter (1.0 in.^2 per foot (21.2 cm^2 /m of tankvessel diameter), as. This shall be determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm $1/8 \text{ in.}$ (0.32 cm) uniform diameter probe passes freely between the seal and the tankvessel wall, and summing the areaareas of the individual gaps.

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

- (i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,
- (ii) equipped with projections into the tankvessel which remain below the liquid surface at all times.

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports.

(E) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended settings, and.

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening.

(2) Monitoring. The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this Section shall:

(A) perform routine inspections semi-annually in order to ensure compliance with 252:100-39-30(c)(1)(B)(i), i.e., no visible holes, tears, or other openings in the seals or seal fabric;

(B) measure the secondary seal gap annually in accordance with 252:100-39-30(c)(1)(B)(iii), when the floating roof is equipped with a vapor-mounted primary seal; and,

(C) maintain records of the types of volatile petroleum liquids stored, the true vapor pressure of the liquid as stored, and the results of the inspections performed in 252:100-39-30(c)(2)(A) and 252:100-39-30(c)(2)(B).

(3) Recordkeeping.

~~(3)~~ (A) Copies of all records under 252:100-39-30(c)(2) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

~~(4)~~ (B) Copies of all records under this Section shall be made available to the Executive Division Director, upon ~~verbal or~~ written request, at any reasonable time.

(d) Compliance schedule. Compliance with this Section ~~will~~ shall be accomplished by affected facilities ~~within two years of approval of this Section by the Oklahoma Environmental Quality Board~~ by May 23, 1982.

PART 7. SPECIFIC OPERATIONS

252:100-39-40. Cutback asphalt (paving)

(a) Definitions. "Cutback asphalt" means a basic asphalt or asphaltic concrete containing a petroleum distillate.

(b) Requirements. No owner, operator and/or contractor shall prepare or apply cutback ~~liquified~~liquefied asphalt without the prior written consent of the ~~Executive Division~~ Director ~~or the Executive Director's designee.~~ Such consent may be granted during Oklahoma's non-oxidant season, i.e., ~~October through April~~November 1 through March 31.

252:100-39-41. ~~Vapor recovery systems~~Storage, loading and transport/delivery of VOCs

(a) ~~Storage of volatile organic compounds~~VOCs in vessels with storage capacities greater than 40,000 gallons (953 bbls). ~~No person shall store or permit the storage of gasoline or any volatile organic compound in tanks or vessels having~~Each vessel with a storage capacity greater than 40,000 gallons (953 bbls) unless such tank, reservoir or other container is total (151 m³) which stores gasoline or any VOC shall be a pressure tankvessel capable of maintaining working pressures sufficient at all times tethat prevent organiethe loss of VOC vapor or gas less to the atmosphere, or isshall be equipped with one or more of the following vapor control devices.

(1) ~~aAn external floating roof, consistingthat consists of pontoon type, internal floating covera pontoon-type or double-deck type reef, which willcover or a fixed roof with an internal-floating cover.~~ The cover shall rest on the surface of the liquid contents at all times (i.e. off the leg supports), except during initial fill, when the storage vessel is completely empty, or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space between the reefcover edge and tankvessel wall. Such floatingFloating roofs are not appropriate control devices if the organic compoundsVOCs have a vapor pressure of ~~11.0 pounds per square inch absolute (568 mm Hg)~~11.1 psia (76.6 kPa) or greater under actual conditions. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place. Closure seals willfor fixed roof vessels with an internal-floating cover shall meet the requirements of 252:100-39-30(e)(1)(B), 252:100-39-30(c)(1)(B)(i) and (ii). Closure seals for vessels with external floating roofs shall meet the requirements of 252:100-39-30(c)(1)(B)(i), (ii), and (iii).

(2) ~~aA vapor-recovery system consistingthat consists of a vapor-gathering system capable of collecting 90 percent by weight or more of the uncontrolled volatile organic compoundsVOCs that would otherwise be emitted to the atmosphere and a vapor-disposal system capable of processing such organic~~

~~compounds so as~~ VOCs to prevent emissions in excess of 80 mg/liter of gasoline 6.68×10^{-4} lb/gal (80 mg/l) of VOCs transferred to the atmosphere. All ~~tank~~vessel gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place, ~~or,~~

(3) ~~other~~Other equipment or methods that are of equal efficiency for purposes of air pollution control ~~as may be used when approved by the Executive Division Director and are in concert with federal guidelines.~~

(b) Storage of volatile organic compounds—VOCs in vessels with storage capacities of 400-40,000 gallons (9.5-953 bbls).

(1) ~~No person shall store or permit the storage of~~Each gasoline or other volatile organic compounds in any stationary VOC storage container ~~vessel~~ with a nominal capacity greater than 400 gallons (9.5 bbls) gal (1.5 m³) and less than 40,000 gallons (953 bbls) unless such container ~~is gal (151 m³) shall be~~ equipped with a submerged fill pipe or ~~is be~~ bottom filled. ~~No person shall store or permit the storage of gasoline or other volatile organic compound in any stationary storage container with an average daily throughput of 30,000 gallons or greater unless the displaced vapors from the storage container are processed by a system that has a total collection efficiency no less than 90 percent by weight of total hydrocarbon compounds in said vapors.~~

(2) The displaced vapors from each storage vessel with an average daily throughput of 30,000 gal (113,562 l) or greater which stores gasoline or other VOCs shall be processed by a system that has a total collection efficiency no less than 90 percent by weight of total VOCs in the vapors.

~~(2)(A)~~ (A) The vapor recovery system shall include ~~one or more of the following:~~

~~(A)(i)~~ (i) a vapor-tight return line from the storage container ~~vessel~~ to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds VOCs can be transferred into the container ~~storage vessel~~; or,

~~(B)(ii)~~ (ii) other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds VOCs in the displaced vapor provided that if approval of the proposed design installation, and operation is obtained from the Executive Division Director prior to start of construction.

~~(3)(B)~~ (B) Provided, however, that ~~the~~The requirements for vapor collection of displaced vapors shall not apply to operations that are not major sources.

(c) Loading of volatile organic compounds VOCs.

(1) ~~No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound~~Each VOC loading facility unless such loading facility ~~is with an annual throughput of 120,000 gal (454,249 l) or greater or storage capacity greater than 10,000 gal (38 m³) shall be~~ equipped with a vapor-collection and/or disposal system properly installed, in good working order and in operation.

(2) ~~When volatile organic compounds~~ While VOCs are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor-tight seal at the hatch.

(3) A means shall be provided to prevent ~~organic material~~ VOC drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.

(4) When loading is effected ~~through~~ by means other than hatches, all loading and vapor lines shall be equipped with fittings ~~which~~ that make vapor-tight connections and which close automatically when disconnected.

(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the ~~following~~ elements listed in 252:100-39-41(c)(5)(A) through 252:100-39-42(c)(5)(C) in addition to bottom loading or submerged fill of transport vessels. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as specified in 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.

(A) ~~an~~ An absorption/adsorption system or condensation system ~~with that~~ has a minimum recovery efficiency of 90 percent by weight of all the ~~volatile organic compound~~ VOC vapors and gases entering such disposal system.

(B) ~~a~~ A vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent, ~~or,~~

(C) ~~either~~ Other equipment ~~of that~~ has at least a 90 percent efficiency, provided plans for such equipment are ~~submitted to and approved by the Executive Division Director.~~ Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-41(c)(5)(A) through 252:100-39-41(c)(5)(C) if they are designed to prevent the release of vapors during use.

(6) Subsection 252:100-39-41(c) shall apply to any facility ~~which~~ that loads ~~volatile organic compounds~~ VOCs into any transport vessel designed for transporting ~~volatile organic compounds~~ VOCs.

(d) **Transport/delivery.**

(1) The vapor-laden delivery vessel shall meet one of the following requirements.

(A) ~~the~~ The delivery vessel must be ~~so~~ designated and operated ~~as~~ to be vapor tight except when sampling, gauging, or inspecting, ~~or,~~

(B) ~~the~~ The delivery vessel must be equipped and operated ~~so that~~ to deliver the ~~volatile organic compound~~ VOC vapors are ~~delivered to~~ a vapor recovery/disposal system.

(2) No ~~owner/operator~~ owner or operator shall allow a delivery vessel to be filled at a facility unable to receive displaced ~~organic~~ VOC vapors nor service ~~tanks~~ vessels unable to deliver displaced vapors except for ~~tanks/facilities~~ vessels and

facilities exempted in 252:100-39-41(b) and 252:100-39-41(c).

(3) Testing of the tank trucks for compliance with the vapor tightness requirements must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA 450/2-78-051, or an equivalent method as determined by the Executive Division Director.

(e) Additional requirements for Tulsa County.—~~Also see 252:100-39-48 for additional requirements pertaining to Tulsa County.~~

(1) Applicability. This subsection applies only in Tulsa County.

(2) Storage of VOCs.

(A) 2,000 - 40,000 gallons capacity. Each storage vessel with a nominal capacity greater than 2,000 gal (7.6 m³) and less than 40,000 gal (151 m³) that stores gasoline or other VOCs or each storage vessel located at a facility that dispenses more than 120,000 gal/yr of gasoline or other VOCs, in addition to being equipped with a submerged fill pipe or being bottom loading, shall be equipped with a vapor control system. The vapor control system shall have an efficiency of no less than 90 percent by weight of the VOCs contained in the displaced vapors and shall be equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 oz/in.² and 1/2 oz/in.² vacuum. The vapor recovery system shall include one or more of the following.

(i) A vapor-tight return line from the storage vessel to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or VOCs can be transferred into the storage vessel (i.e., popped connectors from the storage vessel to the delivery vessel.).

(ii) A float vent valve assembly installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending 6 in. (15 cm) below the top of the vessel will be allowed. Sleeves may be equipped with a 1/16 in. (0.16 cm) air bleed hole.

(iii) A vapor recovery line with a cross-sectional area that is at least half of the cross-sectional area of the liquid delivery line.

(iv) Other equipment that has a total collection efficiency no less than 90 percent by weight of the total VOCs in the displaced vapor if approved by Division Director prior to start of construction.

(B) Applicability.

(i) Any vessel with a capacity greater than 2,000 gal (7.6 m³) or any vessel located at a facility that dispenses more than 120,000 gal/yr (454,249 l/yr) shall be and will always remain subject to 252:100-39-41(e)(2). (effective February 12, 1990)

(ii) Exemptions to 252:100-39-41(e)(2) may be granted if the owner or operator shows to the satisfaction of the

Division Director that the vessel is used exclusively for agricultural purposes.

(C) Emission testing. If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B shall be utilized.

(D) Compliance. Compliance with 252:100-39-41(e)(2) shall be accomplished by the owner or operator of affected facilities by December 31, 1986.

(E) Certification. The owner or operator of a facility shall obtain, by whatever means practicable, certification from the owner or operator of the transport/delivery vessels that all deliveries of gasoline or other VOCs made to their 400-gallon to 40,000-gallon storage facility located in Tulsa County shall be made by transport/delivery vessels that comply with the requirements contained in 252:100-39-41(e)(4). Compliance with 252:100-39-41(e)(2) shall be accomplished by owners or operators of affected facilities no later than December 31, 1990. (Effective February 12, 1990)

(3) Loading of VOCs. In addition to those requirements contained in 252:100-39-41(c), stationary loading facilities shall be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5,000 ppmv shall be repaired within 15 days. Facilities shall retain inspection and repair records for at least two years.

(4) Transport/delivery vessel requirements. In addition to the requirements contained in 252:100-39-41(d), facilities located in Tulsa County must meet the following requirements.

(A) Maintenance.

(i) The delivery vessel must be maintained so that it is vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.

(ii) The delivery vessel must be equipped, maintained, and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and 252:100-39-41(b)(2) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.

(iii) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies that would impair the vessels' ability to retain vapors or liquid shall be repaired within 5 days.

(iv) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-41(e)(4)(B)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.

(v) No owner or operator shall allow a delivery vessel to be filled at a facility unable to receive displaced VOCs nor service vessels unable to deliver displaced vapors except for vessels/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels that do not display a current tag.

(vi) Delivery vessels may be inspected by representatives of the DEQ in order to determine their state of repair. Such a test may consist of a visual inspection or a vapor test with vapors not to exceed 5,000 ppmv. Failure of a vapor test shall require the owner or operator to make the necessary repairs within 10 days. Failure to certify within 10 days of a vapor test that the necessary repairs have been made shall subject the owner or operator to sanctions. Upon certification of repairs, the vessel will be allowed to resume normal operation.

(B) Testing requirements.

(i) Pressure test.

(I) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2-78-051. Tests shall be performed by the owner or a transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Division Director.

(II) The vessel shall be considered to pass the test prescribed in 252:100-39-41(e)(4)(B)(i)(I) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 in. H₂O. There shall be no avoidable visible liquid leaks.

(ii) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39-41(e)(4)(A)(vi) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2-78-051, as modified for this purpose and contained in 252:100-43-15. The requirements of 252:100-39-41(e) took effect December 15, 1988.

252:100-39-42. Metal cleaning

(a) Cold cleaning facility requirements.

(1) Equipment requirements. ~~No person~~An owner or operator shall allow the construction or operation of any cold cleaning unit for metal degreasing using an organic solvent unless the following requirements are met~~which uses a VOC shall~~:

(A) install a cover or door shall be installed on the facility that can be easily operated with one hand;

(B) provide an internal drain board will be provided in such a manner that will allow lid closure if practical~~71~~ if not practical, the drainage facility may be provide an external drainage facility; and,

(C) attach a permanent, conspicuous label summarizing the operating requirements will be permanently attached~~specified~~ in 252:100-39-42(a)(2) to the facility.

(2) Operating requirements. ~~The operating requirements specified in 252:100 39 42(a)(1)(C) shall as a minimum specify~~ Owners or operators shall at a minimum:

(A) drain clean parts at least 15 seconds or until dripping ceases before removal;

(B) close degreaser cover when not handling parts in cleaner and

(C) store waste solvent VOC in covered containers. Do not dispose or allow disposition in such a manner that more than 20 percent by weight can evaporate into the atmosphere.

(D) not dispose or allow disposition of waste VOC in such a manner that more than 20 percent by weight can evaporate into the atmosphere.

~~(3)(E) If used, a solvent spray will be of a solid fluid stream (not atomized or spray)~~ use a solid fluid stream, not an atomized spray, when VOC is sprayed.

~~(4)(3)~~ Requirements for controls. If the solvent volatility/vapor pressure of the VOC is greater than 33 mm Hg (0.6 psi) 0.6 psi (4.1 kPa) measured at 38°C (100°F) 100°F (38°C) or if solvent VOC is heated to 120 degrees C 248°F (120°C), the owner or operator shall apply one or more of the following control devices will be required devices/techniques.

(A) freeboard Freeboard that gives a free board/freeboard ratio greater than or equal to 0.7.

(B) water Water cover and where the solvent VOC is insoluble in and heavier/denser than water or such equivalent, or

(C) ether Another system of equivalent control as approved by the Executive/Division Director.

~~(5)(4)~~ Compliance and recordkeeping. Compliance will shall be determined in accordance with EPA guidance document "Control of Volatile Organic Emissions from Solvent Metal Cleaning," 450/2-77-022. Test reports and maintenance and repair records of control equipment will shall be maintained by the source for at least two years.

(b) Vapor-type metal degreasing requirements.

(1) Equipment requirements. ~~No person shall allow the construction or operation~~ An owner or operator of any vapor-type metal degreasing unit using an organic solvent unless A VOC shall ensure that the following requirements are met.

(A) ~~the~~ The unit has shall have a cover or door that can easily be opened and closed without disturbing the vapor zone.

(B) ~~the~~ The unit will shall have the following safety switches.

(i) ~~condenser~~ Condenser flow switch and thermostat or equivalent capable of shutting off the sump heat if condenser coolant is not circulating or coolant exceeds solvent VOC manufacturer's recommended level, and

(ii) ~~spray~~ Spray safety switch capable of shutting off spray pumps if the vapor level drops in excess of four inches 4 in. (10 cm).

(C) ~~the~~ The unit will shall have one or more of the following control devices/techniques.

(i) ~~freeboard~~Freeboard ratio not less than 0.75, i.e., the ratio of the freeboard to the width of the degreaser wherein the term freeboard is defined as the distance from the top of the vapor zone to the top of the degreaser tank~~;~~.

(ii) ~~refrigerated~~Refrigerated chiller, i.e., condenser coils in the upper limit of the vapor zone~~;~~.

(iii) ~~enclosed~~Enclosed design, i.e., cover or door is opened only when a part is actually entering or exiting the facility~~;~~~~or~~.

(iv) ~~a~~A carbon adsorption system with ventilation greater than 50 ~~cfm/ft²~~cfm/ft² of air/vapor area when cover is open and ~~exhausting~~. The system shall exhaust less than 25 ppm ~~solvent~~ppmv VOC average over one adsorption cycle~~;~~~~or~~.

(v) ~~a~~A control system demonstrated to have a control efficiency equal to or greater than any of the systems in ~~(C)~~ of this paragraph~~252:100-39-42(b)(1)(C)~~.

(D) ~~a~~A permanent conspicuous label summarizing operating procedures ~~will~~requirements in 252:100-39-42(b)(2) shall be attached to the ~~facility~~unit.

(2) Operating requirements. The ~~operating~~ requirements referred to in 252:100-39-42(b)(1)(D) shall as a minimum ~~specify~~An owner or operator of a vapor type metal degreasing unit using VOC shall ensure that the following requirements are met.

(A) As a minimum operators shall:

(i) keep the cover closed at all times except when processing workdegreasing parts;

~~(B) minimize solvent carry out by the following measures:~~

~~(i)~~(ii) rack parts to allow full drainage~~;~~

~~(ii)~~(iii) move parts in and out of the degreaser at less than ~~3.3 m/sec (11 ft/min.)~~11 ft/min (3.4 m/min);

~~(iii)~~(iv) degrease the workload in the vapor zone at least 30 ~~sec~~seconds or until condensation ceases~~;~~

~~(iv)~~(v) tip out any pools of ~~solvent~~VOC on the cleaned parts before removal~~;~~

~~(v)~~(vi) allow parts to dry within the degreaser for at least 15 ~~sec~~seconds or until visually dry~~;~~

(vii) assure that VOC leaks are immediately repaired or the degreaser is shut down; and,

(viii) store waste VOC only in closed containers.

(B) As a minimum operators shall not:

~~(C)~~(i) ~~do not~~ degrease porous or absorbent materials, such as cloth, leather, wood or rope;

~~(D)~~(ii) ~~workloads should not~~allow workloads to occupy more than half of the degreaser's open top area;

~~(E)~~(iii) ~~never~~ spray above the vapor level;

~~(F)~~ ~~assure solvent leaks immediately repaired or the degreaser is shut down,~~

~~(G)~~(iv) ~~do not dispose of waste solvent or transfer it to another party in such a manner that~~allow greater than 20 percent of the VOC waste (by weight) ~~will~~to evaporate into

~~the atmosphere. Store waste solvent only in closed containers when disposing of the waste or transferring the waste to another party;~~

~~(H)(v) allow exhaust ventilation should not exceed 20m³/min. per m² (65 cfm per ft²) 65 cfm/ft² (20 m³/min/m²) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans should not be used near the degreaser opening; and,~~

~~(i) use ventilation fans near the degreaser opening; or,~~
~~(I)(vii) allow water should not be visually detectable in solvent VOC exiting the water separator.~~

(3) **Compliance and recordkeeping.** Compliance ~~will~~ shall be determined in accordance with EPA document 450/2-77-022 and all test and maintenance records ~~will~~ shall be retained by the source for at least two years.

(c) **Conveyorized degreasing unit requirements.**

(1) **Operating requirements.** ~~No person shall operate~~ An owner or operator of a conveyorized degreasing unit using VOC shall ensure that unless the following requirements are met:.

(A) ~~exhaust~~ Exhaust ventilation ~~should~~ shall not exceed 20m³/min. per m² (65 cfm per ft²) 65 cfm/ft² (20 m³/min/m²) of degreaser opening, unless necessary to meet OSHA requirements.

~~Work place fans should not be used near the degreaser opening;~~
(B) Work place fans shall not be used near the degreaser opening.

~~(B)(C) minimize~~ Carry-out emissions shall be minimized by:

(i) racking parts for best drainage; and,

(ii) maintaining vertical conveyor speed at less than ~~3-3~~ 11 m/min. (11 ft./min.); 11 ft/min (3.4 m/min).

~~(C)(D) do~~ Evaporation of waste VOC into the atmosphere shall not dispose of waste solvent or transfer it to another party in such a manner that be greater than 20 percent of the waste (by weight) can evaporate into the atmosphere. ~~Store waste solvent VOC only in covered containers, when disposing of the waste or transferring the waste to another party.~~

(E) Waste VOC shall be stored only in covered containers.

~~(D)(F) repair~~ solvent VOC leaks must be repaired immediately, or shut down the degreaser, must be shut down.

~~(E)(G) water should~~ Water shall not be visibly detectable in the solvent VOC exiting the water separator, and,

~~(F)(H) a~~ A permanent conspicuous label will be attached to the facility summarizing the operating requirements listed in 252:100-39-42(b) and 252:100-39-42(c) shall be attached to the unit.

(2) **Control requirements.** In addition to the requirements in 252:100-39-42(c)(1), any unit that has an air/vapor interface of more than ~~2.0m²~~ 21.5 ft² (2.0 m²) shall be subject to the following control requirements:.

(A) **Major control devices.** The degreaser must be controlled by either:

(i) a refrigerated chiller;

(ii) a carbon adsorption system, with that exhausts less than 25 ppmv of VOC averaged over a complete adsorption cycle and has ventilation equal to or greater than 15 m²/min per m² (50 cfm/ft²) 50 cfm/ft² (15 m³/min/m²) of air/vapor area (when down-time covers are open), and exhausting less than 25 ppm of solvent by volume averaged over a complete adsorption cycle, or,

(iii) a system demonstrated to have control efficiency equivalent to or better than either of the above.

(B) **Carryover prevention.** Either a drying tunnel, or another means such as rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out ~~solvent~~VOC liquid or vapor subject to space limitations must be installed.

(C) **Safety switches.** The following safety switches must be installed and be operational.

(i) Condenser flow switch and thermostat -that (shuts off sump heat if coolant is either not circulating or too warm).

(ii) Spray safety switch -that (shuts off spray pump or conveyor if the vapor level drops excessively, e.g. more than 10 cm (4 in.) 4 in (10 cm).

(iii) Vapor level control thermostat -that (shuts off sump heat when vapor level rises too high).

(D) **Minimized openings.** Entrances and exits ~~should~~shall silhouette work loads so that the average clearance (between parts and the edge of the degreaser opening) is either less than ~~10 cm (4 in.) 4 in. (10 cm)~~ or less than 10 percent of the width of the opening.

(E) **Covers.** Down-time ~~cover~~covers must be placed over entrances and exits of conveyorized degreasers immediately after the conveyor and exhaust are shutdown and removed just before they are started up.

(3) **Compliance and recordkeeping.** Compliance ~~will~~shall be determined in accordance with EPA document 450/2-77-022 ~~and all.~~ All test and maintenance records ~~will~~shall be retained by the source for at least two years.

(d) **Alternative control methods.** As an alternative to the requirements of 252:100-39-42(a) through 252:100-39-42(c), and subject to EPA approval, an operator may request the approval by the Division Director of other methods of control may be approved by, subject to EPA approval, the Executive Director upon application by a source; provided, the. The applicant can must demonstrate that the proposed method will ~~preclude no less than~~prevent at least 80 percent of the emissions from each source from being emitted to the atmosphere, as determined by the appropriate test methods selected from EPA Methods 1 through 4, 18, 25, 25A and 25B.

252:100-39-43. Graphic arts systems

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) — "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(2) — "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, ~~which that~~ are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(3) — "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(4) — "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

(5) — "Rotogravure printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique ~~which that~~ involves an intaglio or recessed image areas in the form of cells.

(b) **Applicability.**

(1) ~~This Section applies to all packaging rotogravure, publication rotogravure, and flexographic printing facilities located in Tulsa and Oklahoma counties.~~

(2) ~~This Section applies only to enlypackaging rotogravure, publication rotogravure, and flexographic printing facilities whose potential emissionemissions of organic solvent isVOC are equal to or more than 90 megagrams (106 grams) per year (100 tens/yr.) 100 tons/yr (90 Mg/yr). Potential emissions are teshall be calculated based on historical records of actual consumption of solventVOC and ink.~~

(c) **Provisions for specific processes.**

(1) ~~NoAn~~ owner or operator of a ~~packaging rotogravure, publication rotogravure or flexographic printing facility~~ subject to this Section and ~~employing solventwhich uses VOC containing ink may operate, cause, allow or permit the operation of the facility unless~~ shall ensure that one of the following conditions is met.

(A) ~~the~~The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of ~~organic solventVOC~~ and 75.0 percent by volume or more of water~~;~~.

(B) ~~the~~The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more of nonvolatile material~~;~~ or~~;~~.

(C) ~~the~~The owner or operator installs and operates:

(i) a carbon adsorption system ~~which that~~ reduces the ~~organic solventVOC~~ emissions from the capture system by at least 90.0 percent by weight;

(ii) an incineration system ~~which that~~ oxidizes at least 90.0 percent of the ~~nonmethane volatile organic solventVOC~~ measured as total combustible carbon to carbon dioxide and water; or,

(iii) an alternative ~~organic solvent~~VOC emission reduction system demonstrated to have at least 90.0 percent reduction efficiency, measured across the control system, ~~and which~~ has been approved by the ~~Executive Division~~ Director.

(2) A capture system must be used in conjunction with the emission control systems in 252:100-39-43(c)(1)(C). The design and operation of the capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in ~~volatile organic compound~~VOC emissions of at least:

(A) 75.0 percent where a publication rotogravure process is employed;

(B) 65.0 percent where a packaging rotogravure process is employed; ~~or,~~

(C) 60.0 percent where a flexographic printing process is employed.

(d) **Compliance schedule.** Compliance with this Section ~~will~~shall be accomplished by affected facilities ~~within two (2) years of approval of this Subchapter by the Oklahoma Environmental Quality Board by May 23, 1982.~~

(e) **Testing.** Test procedures to determine compliance with this Subchapter must be consistent with EPA Reference Method 24 or equivalent ASTM Methods.

252:100-39-44. Manufacture of pneumatic rubber tires

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Automatic tread end cementing"** means the application of a ~~solvent~~VOC based cement to the tire tread ends by automated devices.

(2) **"Bead dipping"** means the dipping of an assembled tire bead into a ~~solvent~~VOC based cement.

(3) **"Green tires"** means assembled tires before molding and curing have occurred.

(4) **"Green tire spraying"** means the spraying of green tires, both inside and outside, with release compounds ~~which~~that help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

(5) **"Manual tread end cementing"** means the application of a ~~solvent~~VOC based cement to the tire tread ends by manufacturers.

(6) **"Passenger type tire"** means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches.

(7) **"Pneumatic rubber tire manufacture"** means the production of pneumatic rubber, passenger type tires on a mass production basis.

(8) **"Undertread cementing"** means the application of a ~~solvent~~VOC based cement to the underside of a tire tread.

(9) **"Water based sprays"** means release compounds, sprayed on

the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for ~~organic solvents~~ VOCs. These sprays may contain an average of up to five percent ~~organic solvent~~ VOC.

(b) **Applicability.**

(1) This Section applies to VOC emissions ~~from the following operations infrom~~ all major source pneumatic rubber tire manufacturing facilities located in Oklahoma County from:

- (A) undertread cementing;
- (B) automatic tread end cementing; and,
- (C) green tire spraying.

(2) The provisions of this Section do not apply to the ~~productions~~ production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs. This exemption applies only to tires produced on equipment separate from normal production lines for passenger type tires.

(3) Manual tread end cementing operations are exempt from the provisions of this Section.

(c) **~~Provisions for specific processes~~ Control requirements.**

(1) Undertread cementing or automatic tread end cementing. The owner or operator of an undertread cementing, or automatic tread end cementing, operation subject to this Section shall install and operate the following.

(A) ~~install and operate a~~ capture system, designed to achieve maximum reasonable capture from all undertread cementing, and automatic tread end cementing operations. Maximum reasonable capture would require that hood enclosures be designed ~~in such a manner~~ to minimize open areas and enclose as much of the emission source as practical while maintaining a minimum in-draft velocity of 200 feet ~~per minute~~ ft/min (61 m/min) except during times when the enclosure must be opened to allow work inside or for the inspections of the product in progress. Maximum reasonable capture shall be consistent with ~~the following documents:~~

(i) Industrial Ventilation, A Manual of Recommended Practices, 14th Edition, American Federation of Industrial Hygienists; and,

(ii) Recommended Industrial Ventilation guidelines, U.S. Department of Health Education and Welfare, National Institute of Occupational Safety and Health.

(B) ~~install and operate a~~ control device that meets the requirements of one of the following systems.

(i) A carbon adsorption system designed and operated ~~in a manner such so~~ that there is at least an initial 95.0 percent removal of VOC by weight from the gases ducted to the control device with at least a 90 percent 3 year removal average, ~~or,~~

(ii) An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~ (VOC/VOCs) (measured as total combustible carbon) which enter the incinerator to carbon dioxide and water.

(iii) ~~An alternative volatile organic compound~~VOC emission reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, and that has been approved by the Executive Division Director.

(2) Green tire spraying. The owner or operator of a green tire spraying operation subject to this Section shall implement one of the following means of reducing ~~volatile organic compound~~VOC emissions~~+~~.

(A) ~~substitute~~Substitute water-based sprays for the normal ~~solvent-based~~VOC-based mold release compound~~+~~+.

(B) ~~install~~Install a capture system designed and operated ~~in a manner that will~~to capture and transfer at least 90.0 percent of the VOC emitted by the green tire spraying operation to a control device, and install and operate a control device that meets the requirements of one of the following~~+~~ systems.

(i) ~~a~~A carbon adsorption system designed and operated ~~in a manner such~~ so that there is at least 95.0 percent removal of VOC by weight from the gases ducted to the control device~~+~~+.

(ii) ~~an~~An incineration system that oxidizes at least 90.0 percent of the ~~nonmethane volatile organic compounds~~(VOC/VOCs (measured as total combustible carbon) to carbon dioxide and water~~+~~+.

(iii) ~~an~~An alternative ~~volatile organic compound~~VOC emission reduction system approved by the Division Director and certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, that has been approved by the Executive Director.

(3) Exemption. If the total ~~volatile organic compound~~VOC emissions from all undertread cementing, tread-end cementing, bead dipping, and green tire spraying operations at a pneumatic rubber tire manufacturing facility do not exceed 57 ~~grams per tire~~g/tire, 252:100-39-44(c)(1) and 252:100-39-44(c)(2) shall not apply.

~~(4) An owner or operator of an undertread cementing, tread end cementing, bead dipping or green tire spraying operation subject to this Section may, instead of implementing measures required by 252:100-39-44(c)(1) and 252:100-39-44(c)(2), submit to the Executive Director a petition for alternative controls. The petition must be submitted in writing before September 15, 1981 and must contain:~~

~~(A) the name and address of the company and the name and telephone number of a responsible company representative over whose signature the petition is submitted;~~

~~(B) a description of all operations conducted at the location to which the petition applies and the purpose the volatile organic compound emitting equipment serves within the operations;~~

~~(C) reference to the specific emission limits, operational~~

~~and/or equipment controls for which alternative emission limits, operational and/or equipment controls are proposed;~~
~~(D) a detailed description of the proposed alternative emission limits, operational and/or equipment controls, the magnitude of volatile organic compound emission reduction which will be achieved, and the quantity and composition of volatile organic compounds which will be emitted if the alternative emission limits, operational and/or equipment controls are instituted;~~

~~(E) a schedule for the installation and/or institution of the alternative operational and/or equipment controls in conformance with the appropriate compliance schedule section; and,~~

~~(F) a demonstration that the alternative control program constitutes reasonably available control technology for the petitioned facility. The factors to be presented in this demonstration include but are not limited to:~~

~~(i) the capital expenditure necessary to achieve the petitioned level of control;~~

~~(ii) the impact of these costs on the firm;~~

~~(iii) the energy requirements of the petitioned level of control;~~

~~(iv) the impact on the environment in terms of any increase in air, water and solid waste effluent discharge of the petitioned level of control;~~

~~(v) any adverse worker or product safety implications of the petitioned level of control; and,~~

~~(vi) an analysis for each of the factors in 252:100 39-44(e)(4)(F)(i) through 252:100 39-44(e)(4)(F)(v) for the control levels specified in 252:100 39-44(e)(1) and 252:100 39-44(e)(2).~~

~~(5) The Executive Director may approve a Petition for Alternative Control if:~~

~~(A) the petition is submitted in accordance with 252:100-39-44(e);~~

~~(B) the petition demonstrates that the alternative controls represent reasonable available control technology; or,~~

~~(C) the petition contains a compliance schedule for achieving and maintaining a reduction of volatile organic compound emissions as expeditiously as practicable, but no later than the photochemical oxidant attainment date.~~

(d) **Compliance schedule.** Compliance with this Section will be accomplished by affected facilities on or before December 31, 1982.

(e) **Testing and monitoring.**

(1) Test procedures to determine compliance with this Section must be approved by the Executive Division Director and be consistent with:

(A) EPA Guideline Series Document "Measurement of Volatile Organic Compounds," EPA-450/2-78-041, and,

(B) Appendix A of "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface coating of

Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008.

(2) The ~~Executive~~ Division Director may accept, instead of green tire spray analysis, a certification by the manufacturer of the composition of the green tire spray, if supported by actual batch formulation records.

(3) If add-on control equipment is used, continuous monitors ~~of the following parameters~~ shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating. These monitors shall measure:

(A) exhaust gas ~~temperature~~ temperature of ~~incinerators~~ an incinerator;

(B) temperature rise across a catalytic incinerator bed;

(C) breakthrough of VOC on a carbon adsorption unit; and,

(D) any other parameter for which a continuous monitoring or recording device is required by the ~~Executive~~ Division Director.

252:100-39-45. Petroleum (solvent) dry cleaning

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:.

~~(1)~~ **"Cartridge filters"** means perforated canisters containing filtration paper and/or activated carbon that are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden petroleum solvent.

~~(2)~~ **"Containers and conveyors ~~and~~ of petroleum solvent"** means piping, ductwork, pumps, storage tanks, and other ancillary equipment that are associated with the installation and operation of washers, dryers, filters, stills, and settling tanks.

~~(3)~~ **"Dry cleaning"** means a process of the cleaning of textiles and fabric products in which articles are washed in a non-aqueous solution (petroleum solvent) and then dried by exposure to a heated air stream.

~~(4)~~ **"Housekeeping"** means those measures and precautions necessary to minimize the release of petroleum solvent to the atmosphere.

~~(5)~~ **"Operations parameters"** means the activities required to insure that the equipment is operated in a manner to preclude the loss of petroleum solvents to the atmosphere.

~~(6)~~ **"Perceptible leaks"** means any petroleum solvent vapor or liquid leaks that are conspicuous from visual observation, such as pools or droplets of liquid, or buckets or barrels of petroleum solvent or petroleum solvent-laden waste standing open to the atmosphere.

~~(7)~~ **"Petroleum solvent"** means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms per organic molecule that exists as a liquid under standard conditions.

(b) **Applicability.** This Section applies to petroleum solvent washers, dryers, ~~solvent~~ filters, settling tanks, vacuum stills,

and other containers and conveyors of petroleum solvent that are used in petroleum solvent dry cleaning facilities in Tulsa County only.

(c) ~~Provisions for specific processes~~ Operating requirements.

(1) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any dry cleaning equipment using petroleum solvents unless:

(A) there are no perceptible liquid or vapor leaks from any portion of the equipment;

(B) all washer lint traps, button traps, access doors and other parts of the equipment where petroleum solvent may be exposed to the atmosphere are kept closed at all times except when required for proper operation or maintenance;

(C) the still residue is stored in sealed containers. ~~The and the~~ used filtering material is to be placed into a sealed container suitable for use with petroleum solvents, immediately after removal from the filter and be disposed of in the prescribed manner; or,

(D) cartridge filters containing paper or carbon or a combination thereof, which are used in the dry cleaning process are ~~to be drained~~ in the filter housing for at least 24 hours prior to removal.

(2) The owner or operator of a petroleum solvent dry cleaning facility shall not operate any drying tumblers and cabinets that use petroleum solvents unless tumblers and cabinets are operated in ~~such a manner as to control~~ petroleum solvent vapor leaks by reducing the number of sources where petroleum solvent is exposed to the atmosphere. Under no circumstances should there be any open containers (can, buckets, barrels) of petroleum solvent or petroleum solvent-containing material. Equipment containing solvent (washers, dryers, extractors, and filters) should remain closed at all times other than during maintenance or load transfer. Lint filter and button trap covers should remain closed except when petroleum solvent-laden lint and debris are removed. Gaskets and seals should be inspected and replaced when found worn or defective. ~~Solvent-laden~~ Petroleum solvent-laden clothes should never be allowed to ~~sit remain~~ exposed to the atmosphere for longer periods than are necessary for load transfers. Finally, vents on petroleum solvent-containing waste and new petroleum solvent storage tanks should be constructed and maintained in a manner that limits petroleum solvent vapor emissions to the maximum possible extent.

(3) The owner or operator shall repair all petroleum solvent vapor and liquid leaks within 3 working days after identifying the sources of the leaks. If necessary repair parts are not on hand, the owner or operator shall order these parts within 3 working days, and repair the leaks no later than 3 working days following the arrival of the necessary parts.

(d) Disposal of filters. Filters from the petroleum dry cleaning facility shall be disposed of by:

(1) incineration at a facility approved by the fire marshall's

office for such disposal;

(2) by recycling through an approved vendor of this service;
or,

(3) by any other method approved by the Executive Division
Director.

(e) **Compliance schedule.** Compliance with 252:100-39-45(c) (1) through 252:100-39-45(c) (3), will shall be accomplished by affected facilities on or before October 1, 1986.

252:100-39-46. Coating of parts and products

(a) **Applicability.** This Section shall apply only to ~~these~~ industries located in Tulsa County which manufacture and/or coat metal parts and products. ~~This Section is applicable to, such as~~ large farm machinery, small farm machinery, small appliances, commercial machinery, industrial machinery and fabricated metal products. Architectural coating, aerospace coating, and automobile refinishing are not included.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Air or forced air dry coatings"** means coatings ~~which that~~ are dried by the use of air or forced warm air at temperatures up to 194°F.

(2) **"Clear coat"** means a coating ~~which that~~ lacks color and opacity or is transparent and uses the undercoat as a reflectant base.

(3) **"Extreme performance coatings"** mean coatings designed for harsh exposure or extreme environmental conditions ~~(i.e., (e.g.,~~ exposure to the weather, all of the time, temperature above 200°F, detergents, abrasive and scouring agents, solvents, corrosive atmosphere or similar conditions).

(4) **"Facility"** means all emission sources located on a contiguous ~~property~~ properties under common control which are affected by the surface coating provisions of ~~OAC-252:100-37 and~~ 252:100-39.

(5) **"Powder"** means a coating ~~which that~~ is applied in a finely divided ~~(powder)~~ state by various methods, and becomes a continuous, solid film when the metal part or product is moved to an oven for curing.

(6) **"Transfer efficiency"** means the weight (or volume) of coating solids adhering to the surface being coated divided by the total weight (or volume) of coating solids delivered to the applicator.

(c) **Existing source requirement.** No owner or operator ~~subject to the provisions of this Section~~ shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any ~~organic solvent~~ VOC in excess of the amounts listed in 252:100-39-46(d) as calculated by EPA method 24, 40 CFR Part 60.

(d) **Standards.** The following table enumerates the limitations for surface coatings in pounds of ~~solvent~~ VOC per gallon of coating as applied ~~(less water/exempt solvent)~~ (water and exempt compounds).

If more than one limit listed in the table is applicable to a specific coating, then the least stringent limitation shall be applied.

Coating type	Limitations	
	lbs/gal	kg/liter
Air or Forced Air Dry	3.5	<u>.420.42</u>
Clear Coat	4.3	<u>.520.52</u>
Extreme Performance	3.5	<u>.420.42</u>
Powder	0.4	<u>.050.05</u>
Other	3.0	<u>.360.36</u>

(e) **Emission factor.** For the purposes of calculating an emission factor (EF) in pounds ~~VOC~~ per gallon of coating solids for use in the development of a plant-wide emission plan as described in 252:100-39-46(j)(1), the following formula will be utilized:

$$EF = V D / 1 - (V+W) = V D / S$$

where: V = volume fraction of ~~solvent~~VOC in coating,
 D = density of ~~solvent~~VOC in the coating,
 W = volume fraction of water in coating, and
 S = 1 - (V+W) = volume fraction of solids in coating.

(f) **Emission limit**~~Compliance.~~ If more than one emission limit as listed in 252:100-39-46(d) is applicable to a specific coating, then the least stringent emission limitation shall be applied. Compliance with the coating limits listed in 252:100-39-46(d) is to be calculated on a daily weighted average basis.

(g) **Solvent containing**~~VOC-containing~~ materials. Solvent containing ~~VOC-containing~~ materials used for clean up shall be considered in the ~~emissions~~VOC content limits listed in 252:100-39-46(d) unless:

- (1) the ~~solvent~~VOC containing materials are maintained in a closed container when not in use;
- (2) closed containers are used for the disposal of cloth or paper or other materials used for surface preparation and cleanup;
- (3) the spray equipment is disassembled and cleaned in a ~~solvent~~VOC vat and the vat is closed when not in use; or,
- (4) the ~~solvent~~VOC containing materials used for the clean up of spray equipment are sprayed directly into closed containers.

(h) **Exemptions.** ~~Exemptions to this Section shall be permitted for combined emissions at one site/facility, which do not exceed a 10 tons/year emissions cutoff based on the facility's~~ Facilities with a potential to emit ~~VOC~~10 tons/year or less of VOC from coating operations are exempt from this Section. Once this limit is exceeded, the ~~source~~facility will always be subject to the limits of this Section.

(i) **Alternate standard.** ~~Emissions~~Coatings with VOC contents in excess of those ~~permitted~~allowed by 252:100-39-46(d) are

allowable may be used if both of the following conditions are met:

(1) ~~emissions that would result in the absence of control~~ Emissions are reduced to levels equivalent to those permitted by that would occur if the VOC content of the coatings met the limits contained in 252:100-39-46(d) and meet there is an overall control efficiency of at least:

(A) 85 percent, by incineration ~~or,~~

(B) 85 percent, by absorption; ~~or any other equipment of equivalent reliability and effectiveness; and,~~

(C) 85 percent by any other equipment of equivalent reliability and effectiveness.

(2) ~~no~~ No air pollution, as defined by the Clean Air Act, results.

(j) **Emission plan.**

(1) Development of a plant-wide emission plan. A ~~owner/operator~~ owner or operator may develop a plant-wide emission plan consistent with EPA's Emission Trading Policy as published in the December 4, 1986 Federal Register instead of having each coating line comply with the ~~emission~~ VOC content limitations prescribed contained in subsection (d) of this Section, provided 252:100-39-46(d), if the following conditions are met.

~~(1)(A)~~ The owner or operator demonstrates, ~~by means of approved material balance or manual emission test methods,~~ by the methods prescribed in 252:100-5-2.1(d) that sufficient reductions in ~~organic solvent~~ VOC emissions may be obtained by controlling other ~~facilities~~ sources within the plant to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be made ~~described in writing~~ and shall include:

~~(A)(i)~~ a complete description of the coating line or lines ~~which will that~~ can not comply with the emission VOC content limitation in 252:100-39-46(d);

~~(B)(ii)~~ quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, which are in excess of the prescribed ~~emission~~ VOC content limitation for each coating line described in 252:100-39-46(d) 252:100-39-46(j)(A)(i);

~~(C)(iii)~~ a complete description of each ~~facility and the related control system, if any, for those facilities within the plant where~~ how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described in 252:100-39-46(d) 252:100-39-46(j)(A)(i) and the date on which such reduction will be achieved;

~~(D)(iv)~~ a transfer efficiency based on a 60 percent baseline with emissions expressed in pounds of VOC per gallon of solids when transfer efficiency is used to compensate for excess emissions from spray painting operations, the transfer efficiency shall be based on a 60 percent baseline, with emissions expressed in pounds of solvent per gallon of solids. Credits for improvements in

~~transfer efficiency shall be demonstrated with in plant testing which complies with approved EPA methods.~~

(v) a demonstration of credits for improvements in transfer efficiency with in plant testing that complies with EPA methods.

~~(E)(vi)~~ (vi) quantification of emissions, in terms of pounds per day of ~~organic solvents~~ VOCs, for each source both before and after the improvement or installation of any applicable control system, or any physical or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

~~(F)(vii)~~ (vii) a description of the procedures and methods used to determine the emissions of ~~organic solvents~~ VOCs.

~~(2)(B)~~ (B) The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan as described in the Emissions Trading Policy may include voluntary decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to ~~facilities~~ emission units, including permanently reduced production or closing a facility, located on the premises of a surface-coating operation.

~~(3)(2)~~ (2) Compliance with a plant-wide emission plan. The implementation of a plant-wide emission reduction plan instead of compliance with the emissions VOC content limitation prescribed in 252:100-39-46(d) has been expressly approved by the Executive Director and the EPA Administrator. Upon approval of a plan, any emissions in excess of those established for each facility under the plan shall be a violation of these rules.

(k) Compliance, testing, and monitoring requirements.

(1) The ~~Executive Division~~ Director may require the ~~owner/operator~~ at the expense of the owner or operator a demonstration of a source to demonstrate at his expense, compliance with the emission limits using EPA Methods 24, 24A, 1-4, 25, 25A, 25B in 40 CFR 60.444 or EPA Document 450/3-84-019. At a minimum, such test must show that the overall capture efficiency and destruction efficiency are equal to 85 percent (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). The one hour bake option in Method 24 is required when doing compliance testing.

(2) Testing for plant-wide emission plans shall be conducted by ~~the owner/operator at his expense~~ at the expense of the owner or operator to demonstrate compliance with the emission VOC content limits contained in 252:100-39-46(d).

(3) Monitoring shall be required of any ~~owner/operator~~ owner or operator subject to this Section who uses add-on control equipment for compliance. Such monitoring shall include-

~~(A)~~ installation and maintenance of monitors to accurately measure and record operational parameters of all required

control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(i)(A)~~ the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;

~~(ii)(B)~~ the total amount of ~~volatile organic substances~~VOCs recovered by carbon adsorption or other ~~solvent~~VOC recovery system during a calendar month; and,

~~(iii)(C)~~ the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of ~~volatile organic substance~~ emissions during such activities;

~~(B)~~ maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k)(3)(A)(i); and,

~~(C)~~ maintenance of all records at the affected facility for at least two years and make such records available to representative of the State or local air pollution control agency upon request.

(1) ~~Reporting and recordkeeping.~~—The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request, reports detailing specific VOS sources, the quantity of coatings used for a specific time period, VOS content of each coating, capture and control efficiencies, and any other information pertinent to the calculation of VOS emissions. The data necessary to supply the requested information shall be retained by the owner/operator for a minimum of two years.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request reports detailing specific VOC sources; the quantity of coatings used for a specific time period, VOC content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOC emissions. The data necessary to supply the requested information shall be retained by the owner or operator for a minimum of two years.

(2) The owner or operator of a facility subject to this Section shall maintain records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k), as well as all other records, for at least two years. These records shall be available to representatives of the DEQ upon request.

(m) ~~Compliance date.~~ The date of compliance with the requirements of this Section will be is December 31, 1990.

252:100-39-47. Control of ~~VOS~~VOC emissions from aerospace industries coatings operations

(a) Applicability.

(1) This Section applies to all aerospace facilities located in Tulsa County. Sources once subject to this Section are always subject.

(2) This Section does not apply to individual coating formulations ~~which~~that, when aggregated, do not exceed ~~fifty~~

~~five (55) gallons per year~~ 55 gal/yr for the facility.

~~(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in OAC 252:100-7 and will be submitted to EPA as source-specific SIP revision, unless:~~

~~(A) the new coatings meet the presumption norm (3.5 pound VOS per gallon less water and exempt solvents limit); or,~~

~~(B) the total usage of the new coating does not exceed fifty-five (55) gallons per year of each coating formulation.~~

~~(4) (3) Exemptions to this Section shall be permitted for combined emissions at one site/facility which do not exceed a ten-ton per year emission cut-off based on the Facilities with a potential of the facility to emit VOS 10 tons/year or less of VOC from coatings operations are exempt from this Section.~~

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

~~(1) "Aerospace" means the industries, air bases and depots that design and manufacture, rework, or repair aircraft or military equipment components for either commercial or military customers.~~

~~(2) "Aircraft" means any machine designed to travel through the earth's atmosphere. This group includes but is not limited to airplanes, balloons, dirigibles, drones, helicopters, missiles, and rockets.~~

~~(3) "Alternate reasonable reasonably available control technology (ARACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility as determined on a case-by-case basis.~~

~~(4) "Coating" means a material which covers a surface which alters the surface characteristics and from which Volatile Organic Solvents VOCs can be emitted during the application and/or curing process.~~

~~(5) "CTG" means the Control Techniques Guidance Document "Control of Volatile Organic Emissions From Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," EPA No. 450/2-78-015.~~

~~(6) "Facility" means all of the pollutant-emitting activities which that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.~~

~~(7) "Low organic solvent VOC coating (LOSE) (LVOCC)" means a coating which that contains less organic solvent VOC than the conventional coatings used by the industry. Low organic solvent VOC coatings include waterborne, higher solids, electrodeposition, and powder coatings.~~

~~(8) "Reasonable Reasonably available control technology (RACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic~~

feasibility and the need to impose such controls to attain and maintain a National Ambient Air Quality Standard.

~~(c) General requirements.—All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). Said plan, upon approval, shall constitute the determination of ARACT for that particular facility. ARACT must be installed and operating as approved in the plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are otherwise approved in the plan. Provided, however, that in the case that Tulsa County is still nonattainment for ozone within five (5) years of approval of ARACT, the Emission Reductions Plan and the ARACT determination shall be subject to review and modification.~~

(1) All affected facilities shall develop an emissions reduction plan as set forth in 252:100-39-47(d). This plan, upon approval, shall constitute ARACT for that particular facility.

(2) ARACT must be installed and operating as provided in the approved plan no later than January 1, 1991 for existing facilities, unless additional phased compliance dates are approved in the plan.

(3) New and modified sources and coating applications not included in the plan are subject to the permit requirements set forth in 252:100-7 or 252:100-8, and will be submitted to EPA as source-specific SIP revisions, unless one of the following applies.

(A) The new coatings meet the presumptive norm of 3.5 pounds of VOC per gallon less water and exempt compounds.

(B) The total usage of the new coating does not exceed 55 gal/yr of each coating formulation.

~~(d) Emissions reduction plan.~~

~~(1) Plan development. Each owner/operator shall develop an emissions reduction plan for all affected facilities. Each plan shall include the following:~~

~~(A) a detailed, reasoned and exhaustive review of:~~

~~(i) each source of emissions within the facility and~~

~~(ii) (2) the entire plant collectively;~~

(A) a detailed, reasoned and exhaustive review of each source of emissions within the facility and the entire plant collectively;

(B) identification and quantification of emissions, in terms of pounds per day, of all organic solvents/VOC both before and after the application of ARACT;

(C) a detailed, innovative engineering effort directed toward finding alternative air management schemes that can be incorporated in order to abate emissions at costs which are reasonable;

(D) a consideration of the level of control that is achievable using available alternative coatings, to include LVOCC for every application, low organic solvent coatings (LOSC);

~~(E) a consideration of the level of control achievable using~~

~~available add on control devices. This demonstration shall include, at a minimum, a demonstration of the feasibility/infeasibility of the following control options:~~

- ~~(i) carbon absorption;~~
- ~~(ii) incineration/flaring;~~
- ~~(iii) condensation; and~~
- ~~(iv) a combination of 252:100-39-47(d)(1)(E)(i) and 252:100-39-47(d)(1)(E)(ii).~~

(E) a demonstration of the level of control achievable using available add-on control devices which shall include, at a minimum, the feasibility/infeasibility of carbon adsorption, incineration/flaring, condensation, and a combination of carbon adsorption and incineration/flaring;

~~(F) a consideration of facility redesign, including the following:~~

- ~~(i) recirculation;~~
- ~~(ii) reduced air flows;~~
- ~~(iii) consolidation of spray operations; and,~~
- ~~(iv) installation of common control devices for two or more separate coatings operations.~~

(F) a consideration of facility redesign, including recirculation, reduced air flows, consolidation of spray operations, and installation of common control devices for two or more separate coating operations;

~~(G) a consideration of alternative applications, to improve transfer efficiency, including:~~

- ~~(i) high volume low pressure spray equipment;~~
- ~~(ii) heated spray guns; and,~~
- ~~(iii) electrostatic spray equipment/powder coatings.~~

(G) a consideration of alternative applications, to improve transfer efficiency, including high-volume-low-pressure spray equipment, heated spray guns, and electrostatic spray equipment/powder coatings;

(H) an explanation why each source is not a typical coating source covered by the CTG as defined in 252:100-39-47(b);

(I) a cost/benefit analysis for all control technology considered; and,

(J) a detailed compliance schedule ~~which~~that includes the emission limit and/or control techniques for each emission source. ~~This schedule, which~~ together with other relevant considerations, shall be set forth in a separate section of the plan ~~which~~that summarizes and outlines ARACT for the referenced facility.

(2) Submission of emission reduction plans. ~~Upon completion, the three copies of the emissions reduction plan shall be submitted in triplicate to the Air Quality Division and one shall be submitted to EPA, Region VI. The preparer shall also submit a copy of the plan to Region VI Environmental Protection Agency (EPA), Region VI.~~

(3) Action on plan. Within 30 days of submittal, or of the effective date of this Section ~~May 25, 1990~~, whichever is later, the Air Quality Division shall, considering any comments

submitted by EPA, either approve, modify or disapprove the plan.

(4) Public hearing. The Division shall, at the first meeting of the Air Quality Council following the approval, modification, or disapproval of the plan, present at public hearing, the staff's findings and ARACT determination. ~~Upon consideration of comments and recommendations from the Council, the owner/operator of the affected facility, the public and EPA, the Department shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility. The owner/operator shall be responsible for installation and operational provisions of the approved ARACT, including any specific provisions set forth therein. Any violation of the plan or of its provisions shall constitute a violation of this Section.~~

(5) Final approval. Upon consideration of comments and recommendations from the Council, the owner or operator of the affected facility, the public, and EPA, the DEQ shall, within ten (10) days after the public hearing, issue a final ARACT approval. Final approval shall constitute ARACT for the affected facility.

(6) Compliance. The owner or operator shall be responsible for installation and operational provisions of the approved ARACT. Any violation of the plan or of its provisions shall constitute a violation of this Section.

~~(5)~~(7) Submission of SIP revision. Upon approval by the Department ~~DEQ~~, the ARACT determination shall be submitted to EPA as a SIP revision.

(e) Reporting and recordkeeping.

(1) Recordkeeping requirements. ~~The owner/operator~~ owner or operator shall maintain the following:

(A) ~~a material safety data sheet which documents the volatile organic solvent~~ VOC content, composition, solids content, ~~solvent~~ VOC density and other relevant information regarding each coating and ~~solvent~~ VOC available for use in the affected surface coating processes ~~information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits. Information as to the amounts of each type coating used and the amounts of solvents used for dilution in each coating type shall be maintained for each coating operation. Daily usage records will be kept for all coatings used that do not comply with the applicable control limits specified in the plan;~~

(B) information detailing the operational parameters of the coating process sufficient to determine continuous compliance with the applicable control limits;

(C) information as to the amounts of each type coating used and the amounts of VOC used for dilution in each coating type for each coating operation;

(D) daily usage records for all coatings used that do not comply with the applicable control limits specified in the plan; and,

~~(B)(E)~~ records shall be maintained of any monitoring and testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f) ~~7~~.

~~(C)(2)~~ Method of calculating VOC content in coatings. ~~records~~ Records required by 252:100-39-47(e)(1)(A) and ~~252:100-39-47(e)(1)(B)~~ through 252:100-39-47(e)(1)(E) detailing ~~VOC~~VOC in pounds per gallon of coating (less water and exempt compounds) shall be calculated as follows:

$$\text{VOC in lbs/gal of coating} = \frac{W_v - W_x - W_x W_v - W_w - W_x}{V_m - V_w - V_x}$$

where: W_v = weight of all volatiles ~~7~~;

W_w = weight of water ~~7~~;

W_x = weight of exempt solvent ~~7~~ compounds;

$V_m = 1$ (one) ~~7~~;

V_w = volume fraction of water ~~7~~; and,

V_x = volume fraction of exempt solvent ~~7~~ compounds.

~~(D)(3)~~ Maintenance of records. ~~records~~ Records required by 252:100-39-47(e)(1)(A) and ~~252:100-39-47(e)(1)(B)~~ through 252:100-39-47(e)(1)(E) shall be maintained for at least two years and shall be made available upon written request by representatives of the Air Quality Division, U.S. Environmental Protection Agency or the Tulsa City County Health Department ~~AOD~~ or EPA.

~~(2)(4)~~ Alternative recordkeeping provision. Alternatively to 252:100-39-47(e)(1) through 252:100-39-47(e)(3), an equivalent recordkeeping provision ~~which~~ that satisfies the substantive requirements of 252:100-39-47(e)(1) through 252:10-39-47(e)(3) may be approved under the plan.

(f) Testing and monitoring.

(1) Testing. ~~Each owner/operator~~ The Division may require testing at the expense of the owner or operator shall, upon a determination by the Air Quality Division that testing is required to establish emission from any particular source or sources, conduct such tests at his own expense. Test methods may include 1-4, 18, 24, 24A, 25A, 25B found in the Appendix A of 40 CFR Part 60; including the procedures found at 40 CFR 60.444.

(2) Monitoring. Monitoring shall be required of any ~~owner/operator subject to this section~~ owner or operator who uses add-on control equipment for compliance. Such monitoring shall include accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

~~(A) installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:~~
~~(i)(A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of~~

any catalyst bed;

~~(ii)(B) the total amount of volatile organic substances VOCs recovered by carbon adsorption or other solvent VOC recovery system during a calendar month; and,~~

~~(iii)(C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic substance VOC emissions during such activities.~~

~~(B) maintenance of records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-47(f)(2)(A)(i); and,~~

~~(C) maintenance of all records at the affected facility for at least two years and make such records available to representatives of the State or local air pollution control agencies upon request. (252:100-39-47 Effective May 25, 1990)~~

252:100-39-48. Vapor recovery systems [AMENDED AND RENUMBERED TO 252:100-39-41(e)]

~~(a) Applicability. This Section applies only in Tulsa County.~~

~~(b) Storage of volatile organic compounds — 400 40,000 gallons (9.5 953 bbls).~~

~~(1) No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 400 gallons (9.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a submerged fill pipe or is bottom filled. No person shall store or permit the storage of gasoline or other volatile organic compounds in any stationary storage container with a nominal capacity greater than 2,000 gallons (47.5 bbls) and less than 40,000 gallons (952.4 bbls) unless such container is equipped with a vapor control system that has an efficiency of no less than 90 percent by weight of the volatile organic compounds contained in the displaced vapors and is equipped with a pressure relief valve in the atmospheric vent system which maintains a pressure of 16 ounces per square inch and 1/2 ounce per square inch vacuum.~~

~~(2) The vapor recovery system shall include one or more of the following:~~

~~(A) a vapor tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline or volatile organic compounds can be transferred into the container (i.e., popped connectors from the storage container to the delivery vessel.);~~

~~(B) a float vent valve assembly must be installed in the vapor return/vent line on new and existing dual point installations; however, for coaxial installations on existing stations, a vent sleeve extending six inches below the top of the tank will be allowed. Sleeves may be equipped with a 1/16 inch air bleed hole;~~

~~(C) the cross sectional area of the vapor recovery line must be at least half of the cross sectional area of the liquid~~

delivery line, or,

~~(D) instead 252:100 39 48 (b) (2) (A) through 252:100 39 48 (b) (2) (C), other equipment that has a total collection efficiency no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Executive Director prior to start of construction.~~

~~(3) Exemptions to this Section may be granted provided the owner/operator shows to the satisfaction of the appropriate authority that the container is used exclusively for agricultural purposes or that the facility, based on the most current 12 month's data, dispenses 120,000 gallons per year or less.~~

~~(4) The applicability of this Section shall be determined by the most restrictive of the 2,000 gallon tank size as specified in 252:100 39 48 (b) (1) or the 120,000 gallon annual throughput described in 252:100 39 48 (b) (3). However, once a facility places a 2,000 gallon tank in service or exceeds the 120,000 gallon annual throughput described in 252:100 39 48 (b) (3), that facility shall always be subject to the provisions of this Section. (effective February 12, 1990)~~

~~(5) If emission testing is conducted, the appropriate test methods selected from EPA Methods 1 through 4, 18, 21, 25, 25A and 25B will be utilized.~~

~~(6) Compliance with this subsection will be accomplished by affected owner/operator by December 31, 1986.~~

~~(7) The owner/operator of a facility or facilities shall obtain, by whatever means practicable, certification from the owner/operator of the transport/delivery vessels that all deliveries of gasoline or other volatile organic compounds made to their facility or facilities located in Tulsa County, shall be made by vessels which comply with the requirements contained in 252:100 39 48 (d). Compliance with this Section shall be accomplished by affected owner/operators no later than December 31, 1990. (Effective February 12, 1990)~~

~~(e) Loading of volatile organic compounds.~~

~~(1) No person shall operate, install or permit the building, operation or installation of a stationary volatile organic compound loading facility unless such loading facility is equipped with a vapor collection and/or disposal system properly installed, in good working order and in operation.~~

~~(2) When volatile organic compounds are loaded through the hatches of a transport vessel, a pneumatic, hydraulic or mechanical means shall be provided to ensure a vapor tight seal at the hatch.~~

~~(3) A means shall be provided to prevent organic material drainage from the loading device when it is removed from the transport vessel, or to accomplish complete drainage before removal.~~

~~(4) When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings~~

~~which make vapor tight connections and which close automatically when disconnected.~~

~~(5) The vapor collection and/or disposal portion of the system shall consist of one or more of the following in addition to bottom loading or submerged fill of transport vessels:~~

~~(A) an absorption/adsorption system or condensation system with a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound vapors and gases entering such disposal system;~~

~~(B) a vapor handling system which directs all vapors to a fuel gas incineration system with a minimum disposal efficiency of 95 percent; or,~~

~~(C) other equipment of at least 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Executive Director. Storage vessels at service stations and bulk plants may be used for intermediate storage prior to recovery/disposal of vapors as per 252:100-39-48(c)(5)(A) through 252:100-39-48(c)(5)(C) if they are designed to prevent the release of vapors during use.~~

~~(6) Subsection 252:100-39-48(c) shall apply to any facility which loads volatile organic compounds into any transport vessel designed for transporting volatile organic compounds.~~

~~(7) Facilities will be checked annually in accordance with EPA Test Method 21, Leak Test. Leaks greater than 5000 ppm will be repaired within 15 days. Facilities will retain inspection and repair records for two years.~~

~~(d) Transport/delivery vessel requirements.~~

~~(1) Maintenance.~~

~~(A) The delivery vessel must be maintained so as to be vapor tight except when sampling, gauging, or inspecting. These activities shall not occur while the vehicle is loading or unloading or is in a pressurized state.~~

~~(B) The delivery vessel must be equipped, maintained and operated to receive vapors from sources identified in 252:100-39-41(b)(1) and retain these and all other vapors until they are delivered into an authorized vapor recovery/disposal system.~~

~~(C) Vessels with defective equipment such as boots, seals, and hoses, or with other deficiencies which would impair the vessels ability to retain vapors or liquid shall be repaired within 5 days.~~

~~(D) The certified testing facility must certify to the approving agency that the proper testing and repairs have occurred in accordance with 252:100-39-48(d)(2)(A)(i). The vessel must also display on the rear panel a tag showing the date of the pressure test.~~

~~(E) No owner/operator will allow a delivery vessel to be filled at a facility unable to receive displaced organic vapors nor service tanks unable to deliver displaced vapors except for tanks/facilities exempted in 252:100-39-41(b). Terminal owners shall not fill vessels which do not display a current tag.~~

~~(F) Delivery vessels may be inspected by representatives of the appropriate health agency in order to determine their state of repair. Such a test may consist of a visual inspection, a vapor test with vapors not to exceed 5000 ppm. Failure of a vapor test will require the owner/operator to effect the necessary repairs within 10 days. Unless certification is made to the appropriate health agency within 5 days the vessel will be removed from service by the owner/operator. Failure to certify that the cited repairs have been effected will subject the vessel to sanctions. Upon certification of repairs the vessel will be allowed to operate in a normal manner.~~

~~(2) Testing requirements.~~

~~(A) Pressure test.~~

~~(i) Delivery vessels, delivering or receiving gasoline must be tested one time per year for vapor tightness. The vapor tightness test must be consistent with Appendix "A" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 450/2 78 051. Tests shall be performed by the owner or a reputable transport service company. Test methods used to test these vessels by owners or testing companies must be approved for use by the Executive Director.~~

~~(ii) The vessel will be considered to pass the test prescribed in 252:100 39 48(d)(2)(A)(i) when the test results show that the vessel and its vapor collection systems do not sustain a pressure change of more than 3 inches of H₂O in addition there shall be no avoidable visible liquid leaks.~~

~~(B) Vapor test. Testing of the tank trucks for compliance with vapor tightness requirements as required under 252:100-39 41(d)(1)(F) must be consistent with Appendix "B" EPA Guideline Series Document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA 405/2 78 051, as modified for this purpose and contained in 252:100 43 15. The requirements of 252:100 39 48 will become effective December 15, 1988.~~

252:100-39-49. Manufacturing of fiberglass reinforced plastic products

~~(a) General provisions. Within 12 months after promulgation of this Section all affected facilities shall limit emissions of VOS from fiberglass manufacturing to those listed in 252:100 39-49(a)(1), or have an approved plan for the reduction of such emissions. The plan must be submitted to the Executive Director within 6 months after promulgation of this Section, and shall detail those emissions which will be controlled, the means by which control will be achieved and will demonstrate that compliance will be achieved within two years from the date of promulgation of this Section. The approval authority for such plans shall reside with the Air Quality Council. All approved plans shall be submitted as~~

SIP revisions.

~~(1) Compliance with 252:100-39-49(a) shall be accomplished by use of control equipment which can demonstrate an 85 percent reduction in the VOC released from each process gas stream, e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency.~~

~~(2) Exemptions to the limits listed in 252:100-39-49(a)(1) may be allowed for any process gas stream which does not exceed six tons per year actual emissions based on 6240 hours per year. However, once this limit is exceeded, controls must be put in place and maintained at any operating level.~~

~~(b) Demonstration of compliance. The Executive Director may require the owner/operator of a source to demonstrate at his expense, compliance with the prescribed emissions limits. The testing shall be accomplished using the appropriate EPA test method or methods, these include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444. Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.~~

~~(c) Testing. Testing for the alternate emissions plan shall be conducted by the owner/operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.~~

~~(d) Recordkeeping. The owner/operator of a facility subject to this Section shall submit to the Executive Director upon written request reports detailing specific VOC sources, the quantity of solvents used during specific months, a description of the solvent used, control equipment efficiencies, equipment downtime and any other information pertinent to the calculation of VOC emissions from the facility. The owner/operator must also maintain records which detail the maintenance performed on all control equipment as well as a record of the downtime with the reason for each occurrence. Such records shall be maintained by the source for a minimum of two years. (252:100-39-49, Effective February 12, 1990)~~

(a) Applicability.

(1) This Section applies to any process gas stream with actual VOC emissions that exceed six tons per year based on 6,240 hours of operation per year.

(2) Once the limit in 242:100-39-49(a)(1) is exceeded, the controls required in 252:100-39-49(b) must be put in place and maintained and used at any operating level.

(b) Standards. Affected facilities shall limit emissions of VOC from fiberglass manufacturing by use of control equipment which can demonstrate an 85 percent reduction in the VOC released from each process stream (e.g. 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency).

(c) Compliance. All affected facilities must comply with one of the following.

(1) Meet the requirements of 252:100-39-49(b) by February 13, 1991.

(2) Have an approved plan for the reduction of VOC emissions as required by 252:100-39-49(b) by February 13, 1991.

(A) The plan shall be submitted by August 13, 1990, and shall:

- (i) detail those emissions which will be controlled;
- (ii) detail the means by which control will be achieved;
- and,
- (iii) demonstrate that compliance will be achieved by February 13, 1992.

(B) The Air Quality Council shall have approval authority for the plans.

(C) All approved plans shall be submitted to the EPA as SIP revisions.

(d) Demonstration of compliance.

(1) The Division Director may require at the expense of the owner or operator a demonstration of compliance with the requirements of 252:100-39-49(b).

(2) The testing shall be accomplished using the appropriate EPA test method or methods. These include methods 1-4, 18-25, 25A, 25B and 40 CFR 60.444.

(3) Initial compliance testing shall be accomplished within 180 days of the applicable compliance date.

(4) Testing for the emissions plan described in 252:100-39-49(c)(2) shall be conducted at the expense of the owner or operator at his expense and shall demonstrate compliance with the emission limits contained in the approved plan.

(e) Recordkeeping.

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request, reports that include:

- (A) details of specific VOC sources;
- (B) the quantity of VOC used during specific months;
- (C) a description of the VOC used;
- (D) control equipment efficiencies;
- (E) details of maintenance performed on all control equipment;
- (F) equipment downtime; and,
- (G) any other information pertinent to the calculation of VOC emissions from the facility.

(2) The records required in 252:100-39-49(e)(1) shall be maintained by the source for at least two years. [252:100-390-49, Effective February 12, 1990]

Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 39. EMISSION OF ORGANIC MATERIALS
IN NONATTAINMENT AREAS

EXECUTIVE SUMMARY: The proposed revisions to 252:100-39, Emission of Organic Materials in Nonattainment Areas, include the following non-substantive changes: 1) simplification and clarification of language, 2) correction of typographical errors, 3) removal of redundant language, and 4) reformatting. The proposed revisions also include the following substantive changes: 1) the redefinition of the term "volatile organic compound (VOC)" and the substitution of this term for "organic materials", "organic solvents", "volatile organic solvent (VOS)" and in some instances "hydrocarbons"; 2) the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b); 3) the addition of 252:100-39-30(b)(3) and (4), exempting storage vessels subject to the equipment standards in 40 CFR 60 Subparts Ka or Kb and/or the equipment standards in 40 CFR 63 Subparts CC or G from the requirements of 252:100-39-30; 4) the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons for determining applicability of 252:100-39-41(c); and 5) the clarification of the definition of "aerospace" in 252:100-39-47(b)(1), adding the words "rework or repair".

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

COMMENT: A letter from Dow Corning supports the proposed revisions to the definition of VOC that will exempt methylated siloxanes from being considered a VOC. EPA has determined that methylated siloxanes have negligible photochemical reactivity. This allows the use of methylated siloxanes as replacement for VOCs in manufacturing operations.

COMMENT: A letter written on behalf of Eastman Chemical Company supports the revision of the definition of VOC which results in methyl acetate, a substance with negligible photochemical reactivity, not being considered a VOC.

COMMENT: In 252:100-39-1 "to prevent the formation of ozone" should be replaced by "to reduce the ormatation of ozone".

RESPONSE: Staff agrees and this change has been made.

COMMENT: The definitions of "refinery" and "refinery process unit" in 252:100-39-2 are redundant because 40 CFR 63, Subpart CC defines the same terms.

RESPONSE: The definition of "refinery" has been deleted since the term used in Subchapter 39 is "petroleum refinery". However, staff feels that the definition of "refinery unit" should remain since this term continues to be used in Subchapter 39 and does not conflict with the definition in Subpart CC.

COMMENT: 252:100-39-15 is redundant since EPA promulgated 40 CFR Part 63, Subpart CC, that applies to refineries which are major sources of HAPs. All refineries in Oklahoma became major sources of HAPs after the compliance date of August 18, 1998, and are, therefore, subject to Subpart CC. Subpart CC is more stringent and covers all the same sources as Section 15 which should be removed.

RESPONSE: Staff does not agree. 252:100-39-15 applies to leaks of any VOC, unlike 40 CFR 63.648 (Subpart CC) which sets leak standards for equipment that either contains or contacts a liquid or gas that is in organic HAPs service (has at least 5 percent by weight of total HAPs).

COMMENT: 252:100-39-15(f)(3) refers to monitoring any leak in a pump seal, but does not require that the leak be fixed.

RESPONSE: 252:100-39-15(c)(1)(C) requires leaks to be fixed as soon as possible, but no later than 15 days after the leak is found.

COMMENT: 252:100-39-16 is redundant. 40 CFR 63, Subpart CC contains a provision for minimizing emissions during startup, shutdown, and malfunction of refinery units, referred to as the SSMP plan which is required by the General Provisions of Part 63 and Subpart CC. Recommend removal of Section 16.

RESPONSE: Staff does not agree that the requirements for turnaround in 252:100-39-16 are redundant. The rule applies to all VOCs, not just HAPs, and its requirements are more specific than those in 40 CFR 63.

COMMENT: 40 CFR 63, Subpart CC covers sources covered by 252:100-39-17 regarding petroleum refinery vacuum producing systems, therefore, Section 17 is redundant and should be removed.

RESPONSE: Staff does not agree. Staff is not certain that 40 CFR 63 Subpart CC covers everything covered by 252:100-39-17, which covers the emissions of all VOCs from vacuum producing systems. These systems are covered as miscellaneous process vents in Subpart CC. The requirements in 40 CFR 63.643 are for Group 1 miscellaneous process vents. These are limited to vents for which the total organic HAP concentration prior to discharge to the atmosphere is greater than or equal to 20 ppmv and total VOC emissions are equal to or greater than 33 kilograms/day for existing sources and 6.8 kilograms/day for new sources. 252:100-39-17 has no such limitations.

COMMENT: 40 CFR 63, Subpart CC covers the sources covered by 252:100-39-18 in refineries, therefore, Section 18 is redundant and should be removed.

RESPONSE: Staff does not agree. 40 CFR 63.647 requires each owner or operator of a Group 1 wastewater stream to comply with 61.340 through 61.355 of 40 CFR Part 61, Subpart FF. Group 1 wastewater stream is defined as a wastewater stream at a refinery with a total annual benzene loading of 10 megagrams/year or greater and a flow

rate of 0.02 liters/minute or greater, a benzene concentration of 10 ppmw or greater, and a stream that is not exempted from control requirements under 40 CFR Part 61, Subpart FF. Thus, it does not appear that Subparts CC and FF cover all the equipment that 252:10-39-18 does.

COMMENT: 252:100-39-30 is redundant in those cases when a source is also subject to NSPS 40 CFR 60, Subparts K, Ka, or Kb or 40 CFR 63, Subparts CC or RR. Recommend exempting those tanks subject to federal rule, which is as stringent or more stringent than Section 30, from the requirements of Section 30.

RESPONSE: Staff agrees and proposes the addition of 252:100-39-30(b)(3) and (4) exempting vessels subject to the equipment standards of 40 CFR 60, Subparts Ka or Kb or to 40 CFR 63, Subparts CC or G from the requirements of Section 30.

COMMENT: EPA commented that "...and remain liquid at normal operating conditions" in the definition of "condensate" found in 252:100-39-30(a)(1) should be changed to "...and remain liquid at standard conditions".

RESPONSE: Staff agrees and this change has been made. Research indicates that the current definition is identical to the EPA definition found in 40 CFR 60, Subpart K, except for the use of "normal operating conditions" instead of "standard conditions".

COMMENT: Where did the vessel size limits and pressure in 252:100-39-30(b) originate?

RESPONSE: These limits were taken from an EPA Control Techniques Guidance (CTG) "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks", EPA-450/2-78-047. This CTG was designed to help states draft rules to bring nonattainment areas into attainment with NAAQS.

COMMENT: EPA commented that "...per foot of tank diameter" in 252:100-39-42(c)(1)(B) should be changed to "...per foot of vessel diameter" for consistency.

RESPONSE: Staff could not locate this language in 252:100-42(c)(1)(B). However, a word search located such language in 252:100-39-30(c)(1)(B)(iii). "...per foot of tank diameter" has been replaced with ".../ft of vessel diameter".

COMMENT: Exemptions should be added for those sources subject to 252:100-39-41 that are also subject to one of the new MACT rules in 40 CFR 63 or NSPS 40 CFR 60, Subpart XX.

RESPONSE: Staff does not agree. It is not immediately evident that the requirements in the new MACT standards in 40 CFR 63 or the NSPS in 40 CFR 60 Subpart XX are as stringent as Section 41.

COMMENT: What does "work" mean in 252:100-39-42(b)(2)(A)?

RESPONSE: Staff feels that this term means the degreasing of metal parts and has replaced "processing work" with "degreasing parts".

COMMENT: EPA commented that "...m²/min per m²" found in 252:100-39-42(c)(2)(A) should be corrected to read "...m³/min per m²".

RESPONSE: Staff has changed "...m²/min per m²" to "...m³/min/m²".

COMMENT: How were the numbers in 252:100-39-46(d) derived and why is the least stringent limitation applied?

RESPONSE: These limits represent a compromise worked out between the industries involved, the State, the Air Quality Council, and EPA that was acceptable to all parties. The least stringent limitation applies because often when a coating falls into more than one category, it will by its nature be unable to meet the most stringent limit. For example a clear coat may be air or forced air dried, but could not meet the limitation for other coatings that are found only in the air or forced air dried category.

COMMENT: The separation in the letters in the word "an" in 252:100-39-46(j)(1) and "the" in 252:100-39-46(j)(2) should be corrected.

RESPONSE: This has been corrected.

COMMENT: EPA commented that "owner/operator" found in 252:100-39-46(j)(1) should be changed to "owner and/or operator" for consistency.

RESPONSE: Staff agrees and this change has been made.

COMMENT: In the current definition of "aerospace" found in 252:100-39-47(b), the terminology "design and manufacture" is arbitrary in definition with regard to the nature and frequency of the work performed and the specific functions to which it may or may not apply. A clarification of the terminology that would either 1) reflect that found in the federal regulation under "affected facility" for applicability to 40 CFR 63, Subpart GG, or 2) explicitly exempt facilities that are engaged in routine maintenance and rework of aerospace vehicles would be helpful.

RESPONSE: Research indicates that the term "aerospace" was intended to and does covers rework. Staff has added language to the definition of "aerospace" to make clear that it does include rework.

COMMENT: Where was the presumptive norm limit in 252:100-39-47(d)(7)(i) found?

RESPONSE: This limit is from the CTG on coating of metal parts and products.

COMMENT: Should "material data sheet" in 252:100-39-47(e)(1)(A) be

"material safety data sheet"?

RESPONSE: Research indicates that it should be "material safety data sheet" and this change has been made.

COMMENT: How were the limits in 252:100-39-49(a) determined?

RESPONSE: At the time this section was added to the rule, there was no CTG and the State had no standard for manufacture of fiberglass reinforced plastic products. The limits were worked out by the State, the Air Quality Council, and the industry involved and approved by EPA Regional Office and Headquarters as a RACT equivalent rule.

RESPONSE TO WRITTEN COMMENTS FROM INDUSTRY AND THE PUBLIC
SUBCHAPTER 39

Below is a summation of written comments along with staff responses regarding the proposed revisions to Subchapter 39. This includes only those comments that were received prior to the mail-out of the Air Quality Council packets for the October 20, 1998 meeting.

EPA LETTER (received by FAX on 8/14/98, signed by Thomas H. Diggs, Region 6)

1. COMMENT: 252:100-39-30(a)(1). Change "...and remain liquid at normal operating conditions" in the definition of condensate to "...and remains liquid at standard conditions."

RESPONSE: Normal operating conditions and standards conditions are not necessarily the same thing. Additional research shows that this definition is identical to the EPA definition found in 40 CFR 60 Subpart K except for the use of "normal operating conditions" instead of "standard conditions." Staff will recommend this change at the October 20, 1998 Air Quality Council meeting.

2. COMMENT: 252:100-39-42(c)(1)(B). Change "...per foot of tank diameter" to "...per foot of vessel diameter" for consistency.

RESPONSE: Staff could not locate this language in 252:100-39-42(c)(1)(B). A word search located such language in 252:100-39-30(c)(1)(B)(iii). Staff will recommend that "tank" be replaced with "vessel" at the October 20, 1998, Air Quality Council meeting.

3. COMMENT: 252:100-39-42(c)(2)(A). Change "...m²/min per m²" to "...m³/min per m²".

RESPONSE: Staff concurs. This change to 252:100-39-42(c)(2)(A)(ii) was inadvertently omitted from the revisions to Subchapter 39 that were available to the public on September 15, 1998. This change will be recommended to the Council at the October Council meeting.

4. COMMENT: 252:100-39-46(j)(1) (*on page 30*). Change "owner/operator?" to "owner or operator" for consistency.

RESPONSE: Staff Concurs. This change was inadvertently omitted from the revisions to Subchapter 39 that were available to the public on September 15, 1998. Staff will recommend this change at the October Air Quality Council meeting.

DOW CORNING LETTER (dated 8/14/98, received 8/14/98, signed by Michael E. Thelen)

5. COMMENT; Dow Corning Corporation supports the proposed revisions to the definition of VOC to exempt methylated siloxanes due to its low photochemical

reactivity. This allows the use of methylated siloxanes as replacement for VOCs in manufacturing operations.

RESPONSE: The Staff appreciates Dow Corning Corporations support.

KILPATRICK STOCKTON LLP LETTER (dated August 13, 1998, received august 18, 1998, written on behalf of Eastman chemical Company and signed by W. Clark Jordan.)

6 COMMENT: A letter supporting the revision of the definition of VOC which results in methyl acetate not being considered a VOC.

RESPONSE: Staff appreciates the support.

**CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 39. EMISSIONS OF ORGANIC MATERIALS IN
NONATTAINMENT AREAS**

SUMMARY OF COMMENTS AND RESPONSES

Air Quality Council Meeting: August 18, 1998

Comment Period: July 15, 1998 - August 18, 1998

Comment:

EPA suggested that "...and remain liquid at normal operating conditions" in the definition of condensate located in 252:100-39-30(a)(1) be changed to "...and remains liquid at standard conditions."

Response:

Staff agrees. Although normal operating conditions and standards conditions are not necessarily the same thing, research shows that this definition is identical to the EPA definition found in 40 CFR 60 Subpart K except for the use of "normal operating conditions" instead of "standard conditions." This change has been made.

Comment:

EPA suggested that "...per foot of tank diameter" located in 252:100-39-42(c)(1)(B). be changed to "...per foot of vessel diameter" for consistency.

Response:

Staff could not locate this language in 252:100-39-42(c)(1)(B). A word search located such language in 252:100-39-30(c)(1)(B)(iii). Staff agrees with the comment and the change has been made.

Comment:

EPA suggested that "...m²/min per m²" located in that 252:100-39-42(c)(2)(A) be changed to "...m³/min per m²".

Response:

Staff concurs and this change has been made.

Comment:

EPA suggested that "owner/operator" located in 252:100-39-46(j)(1) be changed to "owner or operator" for consistency.

Response:

Staff agrees and this change has been made.

Comment:

Dow Corning Corporation supports the proposed revisions to the definition of VOC to exempt methylated siloxanes due to its low photochemical reactivity. This allows the use of methylated siloxanes as replacement for VOCs in manufacturing operations.

Comment:

Response:

This limit is from the CTG on coating of metal parts and products.

Comment:

Should "material data sheet" in 252:100-39-47(e)(A) be "material safety data sheet"?

Response:

Staff could find no reference to this in Council records and is therefore not certain that material safety data sheets was meant.

Comment:

How were the limits in 252:100-39-49(a) determined?

Response:

Staff has been unable to locate any explanation for these limits in the Council records.

Comment:

In the current definition of "aerospace" found in 252:100-39-47(b), the terminology "design and manufacture" is arbitrary in definition with regard to the nature and frequency of the work performed and the specific functions that it may or may not apply to. A clarification of the terminology that would either 1) reflect that found in the federal regulation under "affected facility" for applicability to 40 CFR 63, Subpart GG, or 2) explicitly exempt facilities that are engaged in routine maintenance and rework of aerospace vehicles would be helpful.

Response:

Research indicates that the term "aerospace" covers rework. Staff has added language to the definition of "aerospace" to make clear that it does include rework.

Air Quality Council Meeting: December 15, 1998

Comment Period: October 16, 1998 - December 15, 1998

Comment:

The definitions of "refinery" and "refinery process unit" in 252:100-39-2 are redundant to EPA's Subpart CC MACT rules, which have definitions of the same sources.

Response:

Staff does not agree. These definitions are meant for use with Subchapter 39 and are not necessarily the same as those included in 40 CFR 63, Subpart CC. Staff was unable to locate a definition of "refinery" in Subpart CC.

Comment:

252:10-39-15 is entirely redundant since EPA promulgated 40 CFR Part 63, Subpart CC, which applies to refineries, which are major sources of HAPs. All refineries are major sources of HAPs when the compliance date of August 18, 1998 passed, therefore all refineries are subject to Subpart CC. Subpart CC is more stringent and covers all the same sources as 39-15. Therefore 39-15 no longer serves any purpose and can only confuse

sources, the public and regulators who are responsible for inspections in Oklahoma. Recommend removal of 39-15.

Response:

Staff does not agree. 252:100-39-15 applies to leaks of any VOC, unlike 40 CFR 63.648 (Subpart CC) which sets equipment leak standards for equipment that either contains or contacts a liquid or gas that is in organic HAPs service (has at least 5 percent by weight of total HAPs).

Comment:

252:100-39-16 is redundant. Subpart CC also contains a provision for minimizing emissions during startup, shutdown and malfunction of refinery units, referred to the SSMP plan required by the General Provisions of Part 63 and Subpart CC. Recommend removal of 39-16.

Response:

Staff does not agree that the requirements for turnaround in 252:100-39-16 are redundant. The rule applies to all VOCs, not just HAPs, and its requirements are more specific than those in the NESHAP.

Comment:

252:100-39-17. Petroleum refinery vacuum producing system. Subpart CC already covers the sources covered by 252:100-39-17, therefore, this regulation is now redundant and should be removed.

Response:

Staff does not agree. Staff is not certain that 40 CFR 63 Subpart CC covers everything covered by 252:100-39-17. 252:100-39-17 covers the emissions of all VOCs from vacuum producing systems. These systems are covered as miscellaneous process vents in Subpart CC. The requirements in 40 CFR 63.643 are for Group 1 miscellaneous process vents. Group 1 miscellaneous process vents are those for which the total organic HAP concentration at the outlet of the final recovery device (if any) prior to discharge to the atmosphere is greater than or equal to 20 ppm by volume and total VOC emissions are equal to or greater than 33 kilograms/day for existing sources and 6.8 kilograms/day for new sources

Comment:

Subpart CC covers the sources covered by 252:100-39-18 in refineries, therefore this is redundant. Recommend removal of 39-18.

Response:

Staff does not agree. 40 CFR 63.647 requires each owner or operator of a Group 1 wastewater stream to comply with 61.340 through 61.355 of 40 CFR Part 61, Subpart FF. Group 1 wastewater stream is defined as a wastewater stream at a refinery with a total annual benzene loading of 10 megagrams/year or greater and a flow rate of 0.02 liters/minute or greater, a benzene concentration of 10 ppm by weight or greater, and a

stream that is not exempted from control requirements under 40 CFR Part 61, Subpart FF. Thus, it does not appear that Subparts CC and FF cover all the equipment that 252:100-39-18 does.

Comment:

252:100-39-30 covers existing as well as new sources, therefore, it is not redundant except in those cases when a source is also subject to NSPS K, Ka, or Kb or one of the new MACT rules (Refinery Subpart CC, Gasoline Distribution Subpart RR, or Marine loading Subpart Y (if the Port of Catoosa is covered)). An exemption should be written for those sources. Recommend exempting those tanks also subject to federal rule, which is more stringent, or equally as stringent.

Response:

252:100-39-30 covers storage of petroleum liquid in vessels with external floating roofs with a design capacity greater than 40,000 gallons. Petroleum liquid is defined as crude oil, condensate, and any finished or intermediate liquid product manufactured or extracted in a petroleum refinery. However, the provisions of 40 CFR 63.646 apply to Group 1 storage vessels, which are defined as (1) a storage vessel at an existing source that has a design capacity equal to or greater than 177 cubic meters and stored-liquid maximum true vapor pressure equal to or greater than 10.4 kPa and stored-liquid annual average true vapor pressure equal to or greater than 8.3 kPa and an annual average HAP liquid concentration greater than 4 percent by weight total organic HAP; or (2) a storage vessel at a new-source that has a design storage capacity equal to or greater than 151 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 3.4 kPa and annual average HAPs liquid concentration greater than 2 percent by weight total organic HAP; or (3) a storage vessel at a new source that has a design storage capacity equal to or greater than 76 cubic meters and less than 151 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 77 kPa and an annual average HAP liquid concentration greater than 2 percent by weight total organic HAP. Thus, it does not appear that all the storage vessels covered by 252:100-39-30 are covered by Subpart CC.

Comment:

Similar to 39-30 exemptions should be added for those sources subject to 252:100-39-41 that are also subject to one of the new MACT rules or NSPS Subpart XX.

Response:

Staff's response is similar to that for 39-30. For the same reasons, it is not evident that all the storage vessels covered by 252:100-39-30 are covered by Subpart CC. The loading facilities and transport/delivery trucks covered by 252:100-39-41 are not limited to gasoline as Subpart XX is.

**CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 39. EMISSIONS OF ORGANIC MATERIALS IN
NONATTAINMENT AREAS**

SUMMARY OF COMMENTS AND RESPONSES

Air Quality Council Meeting: August 18, 1998

Comment Period: July 15, 1998 - August 18, 1998

Comment:

EPA commented that "...and remain liquid at normal operating conditions" in the definition of "condensate" located in 252:100-39-30(a) should be changed to "...and remains liquid at standard conditions."

Response:

Staff agrees and this change has been made. Research indicates that the current definition is identical to the EPA definition found in 40 CFR 60, Subpart K, except for the use of "normal operating conditions" instead of "standard conditions."

Comment:

EPA commented that "(...per foot of tank diameter)" located in 252:100-39-42(c)(1)(B). should be changed to "(...per foot of vessel diameter)" for consistency.

Response:

Staff could not locate this language in 252:100-39-42(c)(1)(B). A word search located such language in 252:100-39-30(c)(1)(B)(iii). "(...per foot of tank diameter)" has been replaced with "(.../ft of vessel diameter)".

Comment:

EPA commented that "(...m²/min per m²)" located in that 252:100-39-42(c)(2)(A) should be corrected to "(...m³/min per m²)".

Response:

Staff agrees and "(...m²/min per m²)" has been changed to "(m³/min/m²)".

Comment:

EPA commented that "owner/operator" located in 252:100-39-46(j)(1) should be changed to "owner or operator" for consistency.

Response:

Staff agrees and this change has been made.

Comment:

Dow Corning Corporation supports the proposed revisions to the definition of VOC to exempt methylated siloxanes due to its low photochemical reactivity. This allows the use of methylated siloxanes as replacement for VOCs in manufacturing operations.

Comment:

A letter written on behalf of Eastman Chemical Company supported the revision of the definition of VOC which results in methyl acetate not being considered a VOC.

Air Quality Council Meeting: October 20, 1998

Comment Period: September 15, 1998 - October 20, 1998

Comment:

A comment letter from EPA, Region 6 supported the adoption of the proposed changes to Subchapter 39.

Comment:

252:100-39-15(f)(3) refers to monitoring any leak in a pump seal, but does not require that the leak be fixed.

Response:

252:100-39-15(c)(1)(C) requires leaks to be fixed as soon as possible, but no later than 15 days after the leak is found.

Comment:

Where did the vessel size limits and pressure in 252:100-39-30(b) and originate?

Response:

These limits were taken from an EPA Control Techniques Guidance (CTG) "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA 450/2-78-047. This CTG was designed to help states draft rules to bring nonattainment areas into attainment with the NAAQS.

Comment:

What does "work" mean in 252:100-39-42(b)(2)(A)?

Response:

Staff feels this term means the degreasing of metal parts and has replaced "processing work" with "degreasing parts".

Comment:

How were the numbers in 252:100-39-46(d) derived and why is the least stringent limitation applied?

Response:

These limits represent a compromise worked out between the industries involved, the State, the Air Quality Council, and EPA that was acceptable to all parties. The least stringent limitation applies because often when a coating falls into more than one category, it will by its nature be unable to meet the most stringent limit. For example a clear coat may be air or forced air dried, but could not meet the limitation for other coatings that are found only in the air or forced air dried category.

Comment:

The separation in the letters in the words "an" and "the" in 252:100-39-46(j)(1) and (2) should be corrected.

Response:

This has been done.

Comment:

Where was the presumptive norm limit in 252:100-39-47(d)(7)(i) found?

Response:

This limit is from the CTG on coating of metal parts and products.

Comment:

Should "material data sheet" in 252:100-39-47(e)(A) be "material safety data sheet"?

Response:

Research indicates that it should be "material safety data sheet" and this change has been made.

Comment:

How were the limits in 252:100-39-49(a) determined?

Response:

At the time this section was added to the rule, there was no CTG and the State had no standard for the manufacture of fiberglass reinforced plastic products. The limits were worked out between the State, the Air Quality Council, and the industry involved and approved by EPA Regional Office and Headquarters as a RACT equivalent rule.

Comment:

In the current definition of "aerospace" found in 252:100-39-47(b), the terminology "design and manufacture" is arbitrary in definition with regard to the nature and frequency of the work performed and the specific functions to which it may or may not apply. A clarification of the terminology that would either 1) reflect that found in the federal regulation under "affected facility" for applicability to 40 CFR 63, Subpart GG, or 2) explicitly exempt facilities that are engaged in routine maintenance and rework of aerospace vehicles would be helpful.

Response:

Research indicates that the term "aerospace" was intended to and does covers rework. Staff has added language to the definition of "aerospace" to make clear that it does include rework.

Air Quality Council Meeting: December 15, 1998

Comment Period: October 16, 1998 - December 15, 1998

Comment:

The definitions of "refinery" and "refinery process unit" in 252:100-39-2 are redundant because 40 CFR 63, Subpart CC defines the same terms.

Response:

Staff does not agree. Staff was unable to find definitions of "refinery" or "refinery unit" in Subpart CC. The definition of "refinery" has been deleted since the term used in

Subchapter 39 is "petroleum refinery". However, staff feels that the definition of "refinery unit" should remain since this term continues to be used in Subchapter 39.

Comment:

252:10-39-15 is redundant since EPA promulgated 40 CFR Part 63, Subpart CC, that applies to refineries, which are major sources of HAPs. All refineries in Oklahoma became major sources of HAPs after the compliance date of August 18, 1998, and are, therefore, subject to Subpart CC. Subpart CC is more stringent and covers all the same sources as Section 15 which should be removed..

Response:

Staff does not agree. 252:100-39-15 applies to leaks of any VOC, unlike 40 CFR 63.648 (Subpart CC) which sets leak standards for equipment that either contains or contacts a liquid or gas that is in organic HAPs service (has at least 5 percent by weight of total HAPs).

Comment:

252:100-39-16 is redundant. 40 CFR 63, Subpart CC contains a provision for minimizing emissions during startup, shutdown and malfunction of refinery units, referred to the SSMP plan which is required by the General Provisions of Part 63 and Subpart CC. Recommend removal of Section 16.

Response:

Staff does not agree that the requirements for turnaround in 252:100-39-16 are redundant. The rule applies to all VOCs, not just HAPs, and its requirements are more specific than those in 40 CFR 63.

Comment:

40 CFR 63, Subpart CC covers the sources covered by 252:100-39-17 regarding petroleum refinery vacuum producing systems, therefore, Section 17 is redundant and should be removed.

Response:

Staff does not agree. Staff is not certain that 40 CFR 63, Subpart CC covers everything covered by 252:100-39-17, which covers the emissions of all VOCs from vacuum producing systems. These systems are covered as miscellaneous process vents in Subpart CC. The requirements in 40 CFR 63.643 are for Group 1 miscellaneous process vents. These are limited to vents for which the total organic HAP concentration prior to discharge to the atmosphere is greater than or equal to 20 ppmv and total VOC emissions are equal to or greater than 33 kilograms/day for existing sources and 6.8 kilograms/day for new sources. 252:100-39-17 has no such limitations.

Comment:

40 CFR 63, Subpart CC covers the sources covered by 252:100-39-18 in refineries, therefore Section 18 is redundant and should be removed.

Response:

Staff does not agree. 40 CFR 63.647 requires each owner or operator of a Group 1 wastewater stream to comply with 61.340 through 61.355 of 40 CFR Part 61, Subpart FF.

Group 1 wastewater stream is defined as a wastewater stream at a refinery with a total annual benzene loading of 10 megagrams/year or greater and a flow rate of 0.02 liters/minute or greater, a benzene concentration of 10 ppm by weight or greater, and a stream that is not exempted from control requirements under 40 CFR Part 61, Subpart FF. Thus, it does not appear that Subparts CC and FF cover all the equipment that 252:100-39-18 does.

Comment:

252:100-39-30 is redundant in those cases when a source is also subject to NSPS 40 CFR 60, Subparts K, Ka, or Kb or 40 CFR 63, Subparts CC or RR. Recommend exempting those tanks subject to federal rule, which is as stringent as or more stringent than Section 30 from the requirements of Section 30.

Response:

Staff agrees and proposes to add 252:100-39-30(b)(3) and (4) exempting vessels subject to the equipment standards of 40 CFR 60, Subparts Ka or Kb and 40 CFR 63, Subparts CC or G from the requirements of Section 30.

Comment:

Exemptions should be added for those sources subject to 252:100-39-41 that are also subject to one of the new MACT rules in 40 CFR 63 or NSPS 40 CFR 60, Subpart XX.

Response:

Staff does not agree. It is not immediately evident that the requirements in the new MACT standards in 40 CFR 63 or the NSPS in 40 CFR 60, Subpart XX are as stringent as Section 41.

**COMMENTS ON SUBCHAPTER 39 COPIED FROM THE COUNCIL PACKETS
OF MS. MYERS AND DR. GROSZ AT THE
DECEMBER 15, 1998 AIR QUALITY COUNCIL MEETING**

1. **COMMENT:** 252:100-39-15(a) In the definition of "leaking component" is the 10,000 ppm by weight or volume?

RESPONSE: Although the definition of a leak in 40 CFR 60, Subpart VV does not indicate if the ppm is by weight or by volume, 40 CFR 61, Subpart BB for benzene defines a leak in terms of ppmv and Method 21 examples use ppmv. Staff feels that this should be ppm by volume and has changed "ppm" to "ppmv".

2. **COMMENT:** 252:100-39-17(b) This is awkward.

RESPONSE: Staff has rewritten Subsection (b) in an attempt to make the sentence less awkward.

3. **COMMENT:** 252:100-39-30(c)(1)(B)(iii) There was a question mark by (iii).

RESPONSE: Staff has rewritten this in an effort to clarify the meaning.

4. **COMMENT:** 252:100-39-40(b) Prepare or apply to what?

RESPONSE: The requirements apply anytime cutback asphalt is prepared regardless of the reason and the requirements apply any time cutback asphalt is applied to any substrate. Cutback asphalt is often used in paving of roads.

5. **COMMENT:** 252:100-39-41(a)(2) "80 mg/liter" was circled and question marks appeared in the margin beside this paragraph..

RESPONSE: This limit was added in response to an EPA comment included in an enclosure to a letter from Thomas H. Diggs dated September 16, 1988. Staff has changed "80 mg/liter" to "80 mg/l" and enclosed it in parentheses and has added the English counterpart in parentheses for consistency in units. Upon further consideration staff has reinstated the word "transferred" which was struck out..

6. **COMMENT:** 252:100-39-41(c)(6) Should "loads" be "transfers"?

RESPONSE: Staff feels that "loads" should remain since subsection (c) is titled "Loading of VOCs."

7. **COMMENT:** 252:100-39-41(e)(3) Is "5000 ppm" by weight or by volume?

RESPONSE: See Item 1 above.

8. **COMMENT:** 252:100-39-41(e)(4)(B)(i)(I) "no avoidable" prior to "visible liquid leaks" was circled.

RESPONSE: CTG "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection systems" EPA-450/2-78-051, states "...there are to be no avoidable visible liquid leaks. Invariably there will be a few drops of liquid

from disconnection of dry breaks in liquid lines even when well maintained; these few drops should be allowed."

9. **COMMENT:** 252:39-42(a)(2)(E) Should "solid stream" be "liquid stream"?
RESPONSE: Staff agrees that inadvertently deleting "fluid" from the term "solid stream" is confusing and has revised the term to be "solid fluid stream".
10. **COMMENT:** 252:100-39-42(a)(3)(B) "heavier" should be "denser"..
RESPONSE: Staff agrees and has made this change.
11. **COMMENT:** 252:100-39-42(a)(3) "will" should be "shall".
RESPONSE: The sentence has been rewritten and "will" has been replaced by "shall".
12. **COMMENT:** 252:100-39-42(a)(4)- "will" should be "replaced" with "shall" in two places in this paragraph.
RESPONSE: Staff agrees and has made these changes.
13. **COMMENT:** 252:100-39-42(b)(1)(B), (C), and (D). "will" should be replaced with "shall".
RESPONSE: Staff agrees and has replaced "will" with "shall".
14. **COMMENT:** 252:100-39-42(b)(2) The mixing of what an owner or operator should do with those things an owner or operator should not do is confusing and the grammar may not be correct.
RESPONSE: Staff has rewritten this paragraph.
15. **COMMENT:** In 252:100-39-42(b)(2)(B)(v) (which was 252:100-39-42(b)(2)(I)) "per" should be replaced by a "/". e.g. "65 cfm per ft²" should be "65 cfm/ft²" .and "should" should be changed to "shall".
RESPONSE: Staff agrees and these changes have been made.
16. **COMMENT:** 252:100-39-42(b)(3) "will be" should be changed to "shall be".
RESPONSE: Staff agrees and this change has been made.
17. **COMMENT:** 252:100-39-42(c)(1)(A) and 252:100-39-42(c)(2)(A)(ii) As stated in item 17 above, "per" should be changed to "/".
RESPONSE: Staff agrees and the changes have been made.
19. **COMMENT:** 252:100-39-42(c)(1)(A) and (B) and 252:100-39-42(c)(2)(D) "should" should be changed to "shall".
RESPONSE: Staff agrees and the changes have been made.
20. **COMMENT:** 252:100-39-42(c)(3) "will" should be "shall".
Response: Staff agrees and "will" has been changed to "shall".

21. **COMMENT:** 252:100-39-43(b) and (d) "are to be" should be "shall be" and "will" should be "shall".

RESPONSE: These changes have been made.

22. **COMMENT:** 252:100-39-44(c)(1)(A)(i) Should the reference cited be updated to the latest edition.

RESPONSE: Research indicates that the latest edition of the cited reference is the 21st. Staff does not recommend that the edition cited be changed at this time. It was not intended that what constitutes the maximum reasonable capture should be changed with each new edition without evaluation. Staff recommends that this reference remains as is until such time as the industry and DEQ staff evaluate the new edition and recommend that the citation be updated.

23. **COMMENT:** 252:100-39-44(e)(2) At whose discretion will the certification by manufacturer be accepted instead of green tire spray analysis?

RESPONSE: At the discretion of the Division Director.

24. **COMMENT:** 252:100-39-44(e)(3) This paragraph is awkward.

RESPONSE: Staff has revised this paragraph.

25. **COMMENT:** 252:100-39-44(e)(3) "periodically" was circled.

RESPONSE: Staff assumes this was circled because it is somewhat vague. We believe that this term was used so that implementation of the rule would be flexible and case-specific. To choose a specific period of time, for example, daily calibration, would be a substantive change that would require another comment period. We have not heard of any compliance or enforcement problems with this language, and we currently have no support for another period of time.

26. **COMMENT:** 252:100-39-45(c)(3) What if there is a lengthy delay ?

RESPONSE: If the owner or operator does not repair the leaks within 3 working days after identification or if parts that are not on hand are not ordered within 3 working days and repair of leaks made no later than 3 working days following the arrival of the parts, the owner or operator is not in compliance this paragraph. The only place where a lengthy delay might occur that is not in violation of this paragraph is the amount of time it takes for the parts to arrive after they are ordered. The paragraph contains no limit on the time that may elapse between the ordering of the parts and their arrival. The time involved here is beyond the control of the owner or operator. There is no provision in the paragraph for shutting down the source because of a delay at this juncture.

27. **COMMENT:** 252:100-39-46(d) Why is the least stringent limitation used?

RESPONSE: These limits represent a compromise worked out between the industries involved, the State and EPA that was acceptable to all parties. The least stringent limitation applies because often when a coating falls into more than one category, it will by its nature be unable to meet the most stringent. For example a clear coat may

be air or forced air dried, but could not meet the limitation for other coatings that are found only in the air or forced air dried category.

28. **COMMENT:** 252:100-39-46(f) "daily weighted average basis" was circled .

RESPONSE: The use of daily weighted average is necessary because, for example, if more than one clear coat is used, the different colors of clear coat could have different pounds of VOC per gallon of coating. The number of gallons of each color of clear coat used in a day would be multiplied by the pounds of VOC per gallon for that color, the results would be added and an average taken.

29. **COMMENT:** 252:100-39-46(j)(1)(A)(i) "will" should be "can"..

RESPONSE: Staff has made this change.

30. **COMMENT:** 252:100-39-46(j)(1)(B) "may" in the second sentence was circled.

RESPONSE: Staff did not change "may" to "shall". An applicant for a plant-wide emission plan may not want to include voluntary decreases in the plan. If the plan does not need such decreases to be approved, the applicant can save those decreases for future netting purposes.

31. **COMMENT:** 252:100-39-47(d)(1)(A) Should "reasoned" be "reasonable"?

RESPONSE: Staff feels that "reasoned" is the correct term.

32. **COMMENT:** 252:100-39-47(d)(2) This paragraph is awkward.

RESPONSE: Staff has revised this paragraph.

33. **COMMENT:** 252:100-39-47(d)(5) and (7) Should "DEQ" be "AQD"?

RESPONSE: Staff feels that "DEQ" is the proper term.

34. **COMMENT:** 252:100-39-47(e)(1)(A) Should "material data sheet" be "material safety data sheet"?

RESPONSE: Staff researched this and discovered at the time this subparagraph was written, these two terms were sometimes used interchangeably. Staff has changed "material data sheet" to "material safety data sheet" for clarity.

35. **COMMENT:** 252:100-39-47(f)(1) The pronoun "his" referring to the owner or operator was circled.

RESPONSE: Staff rewrote this eliminating the necessity for the pronoun.

36. **COMMENT:** 252:100-39-49(d)(1) and (4) The pronoun "his" referring to the owner or operator was circled in these two paragraphs.

RESPONSE: Staff rewrote these two paragraphs eliminating the necessity for the pronoun.

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA
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10 TRANSCRIPT OF PROCEEDINGS
11 OAC 252:100-39, EMISSIONS OF ORGANIC
12 MATERIALS IN NONATTAINMENT AREAS
13 HELD ON AUGUST 18, 1998
14 AT 1:00 P.M.
15 AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
16 IN OKLAHOMA CITY, OKLAHOMA
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25 REPORTED BY: Christy A. Myers, CSR

26
27 MYERS REPORTING SERVICE
28 (405) 721-2882
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1 COUNCIL MEMBERS

2
3 MS. SHARON MYERS, CHAIR
4 DR. FRED GROSS, MEMBER
5 MR. GARY KILPATRICK, MEMBER
6 MR. JOEL WILSON, MEMBER
7 MR. DAVID BRANECKY, MEMBER
8 MS. MERIBETH SLAGELL, MEMBER
9 MR. BILL BRUESCH, CHAIRMAN
10 MS. MYRNA BROCK, SECRETARY
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1 PROCEEDINGS

2 MR. BYRN: This hearing is
3 convened by the Air Quality Council in
4 compliance with the Oklahoma Administrative
5 Procedures Act, Title 46 of the Code of
6 Federal Regulations, as well as the
7 Authority of Title 27A of the Oklahoma
8 Statutes. This hearing was advertised in
9 the Oklahoma Register, for the purpose of
10 receiving comments pertaining to the
11 proposed new rule, OAC 252:100-39,
12 Emissions of Organic Materials in
13 Nonattainment Areas.

14 If you wish to make a statement,
15 please complete the form at the
16 registration table. At this time I will
17 call upon Dr. Joyce Shedy.

18 DR. SHEDY: Mr. Chairman,
19 Members of the Council, ladies and
20 gentlemen, I am Joyce Shedy of the Rules
21 and Planning Unit. As stated in the
22 hearing on the proposed revisions of
23 Subchapter 37, these proposed revisions are
24 part of a rewrite wrong project that the
25 DEQ has undertaken.

26 The staff held a workshop on July
27 7th, requesting public input regarding
28 problems, inconsistencies and errors in
29 Subchapter 39. The comments from that
30 meeting have been considered in the

1 proposed revision.

2 Most of the proposed revisions are
3 changes in language, format, spelling and
4 correction of errors. These are summarized
5 in the Summary and Explanation of the
6 Proposed Revisions of Subchapter 39,
7 contained in the Council packets and
8 available at this meeting.

9 Most of the changes are not intended
10 to be substantive. However, five of the
11 proposed revisions are substantive.

12 The first one, the proposed revision
13 of the definition of "Volatile organic
14 compound (VOC)" in 252:100-39-1 on page 1
15 of the rules, and the replacement of
16 organic material, organic solvent and
17 volatile organic solvent by the term
18 volatile organic compound were discussed
19 previously in the hearing on subchapter 37.

20 The second change the staff proposes
21 to add language to 252:100-39-3 on page 2,
22 to make clear that Subchapter 39 applies
23 not only to Tulsa and Oklahoma Counties,
24 but to any other areas that may be
25 designated nonattainment for ozone in the
26 future.

27 The third change, the staff proposes
28 to add language to 252:100-39-15(d) on page
29 4, that sets a deadline of 60 days for a
30 refinery located in an area that becomes

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3 program. This puts a
4 time frame on the requirement for sources
5 in new nonattainment areas to submit the
6 written monitoring program and it also
7 makes it applicable in any area that
8 becomes nonattainment for ozone.

9 The fourth revision, the staff
10 proposes to correct the placement of "prior
11 to lease custody transfer" in 252:100-39-
12 30(b)(2) on page 9, by moving this phrase
13 to 252:100-39-30(b)(2)(B). This phrase was
14 located in paragraph (2) and was,
15 therefore, applicable to all the exemptions
16 listed in that paragraph. Research in the
17 Air Quality Council records and in the
18 Control Technology Guideline, Control of
19 Volatile Organic Emissions from Petroleum
20 Liquid Storage in External Floating Roof
21 Tanks, indicates that this phrase should
22 apply only to 252:100-39-30(b)(2)(B).

23 The fifth change the staff proposes
24 is to add a minimum annual throughput of
25 120,000 gallons and a minimum storage
26 capacity of 2,000 gallons to 252:100-39-
27 41(c) on page 13, for determining
28 applicability to subsection (c) which is
29 Loading of VOCs.

30 Currently there are no provisions to
include small loading facilities. Air

5

1 Quality Division has received a letter by
2 FAX on Friday, August 14th, from EPA and a
3 letter from Dow Corning on August 17th,
4 making comments. I would like to enter
5 these two letters in the hearing record.

6 Staff recommends that the rule be
7 considered again at the next Air Quality
8 Council meeting on October the 20th, 1990.

9 MR. DYER: Any questions of Dr.
10 Sheedy from the Council, or comments?

11 MR. BRANECKY: Yes. Under
12 paragraph 1, purpose. We talked about this
13 this morning, the inclusion of carbon
14 monoxide. I guess I would like to have
15 that researched a little bit and see why
16 carbon monoxide is included in that
17 sentence under former nonattainment areas.

18 DR. SHEEDY: Yes. We'll research
19 that to see if there is still any valid
20 reason --

21 MR. BRANECKY: Right.

22 DR. SHEEDY: -- to include that.
23 I believe that was originally included
24 quite some time ago.

25 MR. BRANECKY: Okay.

26 MR. DYER: Additional questions
27 or comments from the Council? From the
28 public?

29 MR. FISBACK: Joyce -- Bill
30 Fishback. Joyce, could you tell us where

6

1 you derived the source of the 120,000
2 gallons throughput, and then 2,000 gallons
3 tank size.

4 DR. SHEEDY: Well -- Barbara?

5 MS. HOFFMAN: We derived this
6 together. Well, we took it from the rule --
7 -- we added this one to the loading.

8 DR. SHEEDY: This is for the
9 loading of VOCs.

10 MS. HOFFMAN: And that minimum
11 was in the -- I think the storage section.

12 DR. SHEEDY: We kind of put it in
13 there to see what kind of comments we get
14 on that size as a cutoff.

15 MR. FISBACK: Test the water?
16 Well, most gasoline storage tanks at
17 service stations, which I assume this is
18 applicable to -- or not?

19 DR. SHEEDY: Well, I thought we
20 meant smaller.

21 MR. FISBACK: Yes. Most of
22 those -- most of those are 10,000 gallons
23 or larger underground storage tanks. Now,
24 I'm not even sure that this covers that.

25 DR. SHEEDY: I don't think it was
26 our intention to exempt them. We had been
27 told that there was some really small
28 operations where they were loading really
29 small containers. And they had to put on
30 the same kinds of controls that -- as if

7

1 they were doing large, major loading
2 operations.

3 MR. FISBACK: I mean, obviously
4 your intent here is to exempt small
5 sources.

6 DR. SHEEDY: That's right.

7 MR. FISBACK: I don't mean to be
8 critical at all. 2,000 is better than
9 zero. But I'm wondering why it should be
10 2,000 as opposed to 3,000 or 10,000. I
11 mean, I don't know the basis for that. I --
12 -- I don't know of a whole bunch of 2,000
13 gallon tanks in any application. I mean,
14 that's my question.

15 MS. MYERS: Some industrial sites
16 have 2,000 or 3,000 gallon tanks for use of
17 their company vehicles and whatever. Now
18 would that impact them?

19 DR. SHEEDY: Well, I don't think
20 we were thinking entirely of -- I didn't
21 think of just gasoline service stations. I
22 don't think it was our intention to -- for
23 big service stations to be exempted.

24 MR. FISBACK: This is
25 nonattainment areas only, correct?

26 DR. SHEEDY: Yes. This is just --
27 -- and therefore we have to be somewhat
28 careful about exempting sources that would
29 impact really negatively on the ozone
30 content -- not content, whatever that other

8

1 word is.
2 MR. FISBACK: I guess my comment
3 is, I'm not sure that 2,000 is going to do
4 anybody any good.
5 DR. SNEEDY: Well, I think that
6 is one thing we were curious to know. And
7 we had hoped to get some public comment
8 whether 2,000 would help anyone. Larry,
9 did you have a --
10 MR. BYNUM: Larry Byrum. My
11 recollection of when we were doing the
12 Stage 1 vehicle recovery rule for Tulsa, a
13 service station who doesn't go through
14 120,000 gallons per month limit is a very,
15 very small operation. Those we exempted.
16 The tank size, though, I think we were
17 looking at a little bit larger than 2,000.
18 But those records exist, and I would be
19 glad to help you try to find these.
20 DR. SNEEDY: I would appreciate
21 that, to get a better idea of --
22 MR. BYNUM: But I do know that
23 looking at the Tulsa situation and the
24 Oklahoma City situation for nonattainment,
25 that there are a lot of loading facilities
26 that load things besides gasoline in
27 smaller quantities. Well, you name it,
28 there is just a lot of them out there,
29 especially in association with the
30 aerospace industry in Tulsa.

9

1 DR. SNEEDY: I had heard that.
2 MR. BYNUM: So, there will be --
3 I guess I'm saying there will be some
4 relief at the 2,000 gallon level with what
5 you set up. But I don't know that -- I
6 think you probably need to look at that
7 size again.
8 DR. SNEEDY: If you would like to
9 help us, we would welcome that.
10 MR. BYNUM: Okay.
11 DR. SNEEDY: We'll look at that
12 size again. Barbara, did you have anything
13 additional to say about it?
14 MS. HOFFMAN: No.
15 DR. SNEEDY: Okay.
16 MR. DYKE: Any additional
17 questions of Dr. Sneed on this matter
18 today from the Council?
19 MR. CHAIRMAN: Is it your
20 recommendation that we continue this
21 hearing?
22 MR. DYKE: Yes.
23 MR. CHAIRMAN: I'll entertain the
24 motion.
25 DR. GROSS: So moved.
26 MR. BRANECKY: Second.
27 MR. CHAIRMAN: Motion has been
28 made and seconded. We will continue this
29 hearing until the October 20th meeting.
30 Any more questions or comments? If not,

10

1 Myrna, call roll.
2 MS. BRUCE: Ms. Myers?
3 MS. MYERS: Aye.
4 MS. BRUCE: Dr. Gross?
5 DR. GROSS: Aye.
6 MS. BRUCE: Mr. Kilpatrick?
7 MR. KILPATRICK: Aye.
8 MS. BRUCE: Mr. Wilson?
9 MR. WILSON: Aye.
10 MS. BRUCE: Mr. Branecky?
11 MR. BRANECKY: Aye.
12 MS. BRUCE: Ms. Slagell?
13 MS. SLAGELL: Aye.
14 MS. BRUCE: Mr. Breisch?
15 MR. BREISCH: Aye.
16 MR. CHAIRMAN: That concludes the
17 hearing portion of this meeting.

(HEARING CONCLUDED)

11

1 CERTIFICATE
2 STATE OF OKLAHOMA)
3) ss:
4 COUNTY OF OKLAHOMA)

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6
7 I, CHRISTY A. MYERS, Certified
8 Shorthand Reporter in and for the State of
9 Oklahoma, do hereby certify that the above
10 proceedings is the truth, the whole truth,
11 and nothing but the truth; and said
12 proceedings was taken by me in shorthand
13 and thereafter transcribed under my
14 direction; that said proceedings was taken
15 on the 18th day of August, 1998 at Oklahoma
16 City, Oklahoma; and that I am neither
17 attorney for nor relative of any of said
18 parties, nor otherwise interested in said
19 proceedings.

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand and official seal on this, the
22 18th day of August, 1998.

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27 CHRISTY A. MYERS, C.S.R.
28 Certificate No. 00310
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DEPARTMENT OF ENVIRONMENT LITY

AIR QUALITY DIVISION
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS

OF THE PUBLIC HEARING ON THE OAC 252:100-39
EMISSIONS OF ORGANIC MATERIALS IN NONATTAINMENT AREAS [AMENDED]
HELD ON OCTOBER 20, 1998, AT 1:00 P.M.
AT TULSA CITY-COUNTY
HEALTH DEPARTMENT AUDITORIUM
IN TULSA, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE

(405) 721-2882

MEMBERS OF THE COUNCIL

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2. MS. SLAGELL - MEMBER
3. MR. WILSON - MEMBER
4. MS. MYERS - MEMBER
5. MR. BRANECKY - MEMBER
6. DR. CANTER - VICE CHAIRMAN
7. DR. GROSZ - MEMBER
8. MR. BREISCH - CHAIRMAN
9. MR. DYKE - PROTOCOL OFFICER
10. MS. BRUCE - SECRETARY

PROCEEDINGS

MR. DYKE: The next item on the agenda, Item Number 11. This hearing was advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed new Rule OAC 252:100-39, Emissions of Organic Materials in Nonattainment Areas.

At this time, I will ask Dr. Joyce Sheedy to give the proposal on this new rule.

DR. SHEEDY: Mr. Chairman, Members of the Council, ladies and gentlemen, I am Joyce Sheedy of the Rules and Planning Unit. As stated in the hearing on proposed --- on Subchapter 37, the proposed revisions to Subchapter 39 are part of the Rewrite Dewrong project that the DEQ has undertaken.

They were brought to the Council the first time at the August 18th meeting. A number of changes have been made to the rule since the August 18th Council Meeting. The majority of these are insignificant and not intended to be substantive.

Simple revisions, unfortunately EPA submitted letters of comment that were received just prior to the August 18th, 1998 meeting, however, inadvertently omitted from the draft, and we feel that these are -- that these need to be made a part of the rule.

In addition to those revisions suggested by EPA, a number of minor changes for consistency of format and correction of errors have come to light, which also need to be

Christy A. Myers
Certified shorthand reporter

addressed.

The revisions to the rule at this point include only 3 substantive changes, which are the revision of the definition of "Volatile organic compounds" that we discussed in in Subchapter 37 will be identical to that revision. The staff proposes to correct the placement of the "prior to lease custody transfer" in 252:100-39-30(b)(2) on page 9. The staff also proposes to add a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons, which we have increased from the 2,000 gallons. This would be added to 252:100-39-41(c) on page 11, to be used for determining applicability to Subsection C, Loading of VOCs.

No new letters or comments have been received since the August Council Meeting. In light of additional changes that still need to be made to the rule, the staff recommends that this rule be continued, again, until the December meeting.

MR. DYKE: Comment or questions from the Council?

MS. MYERS: Yes, Joyce, I just want to go on record that I've asked for some kind of explanation on page 29 on the standards, for the least stringent limit versus the most stringent.

DR. SHEEDY: Page 29?

MS. MYERS: Page 29, under Part D, Standards, 39-46 D.

Christy A. Myers
Certified shorthand reporter

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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF PUBLIC HEARING OAC 252:100-39
EMISSIONS OF ORGANIC MATERIALS IN NONATTAINMENT AREAS
HELD ON DECEMBER 15, 1998, AT 1:00 P.M.
AT 4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

MEMBERS OF THE COUNCIL

1. MR. GARY KILPATRICK - MEMBER
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10. MS. MYRNA BRUCE - SECRETARY
11. MR. EDDIE TERRILL - DIRECTOR

PROCEEDINGS

MR. DYKE: The next item on the agenda is Item Number 7, OAC 252:100-39, Emissions of Organic Materials in Nonattainment Areas Amended. Dr. Sheedy.

DR. SHEEDY: Mr. Chairman, Members of the Council, ladies and gentlemen, my name is Joyce Sheedy and I work in the Rules and Planning Unit.

The proposed revisions to Subchapter 39, Emissions of Organic Materials in Nonattainment Areas, were brought to the Council for the first time on August 18th, and again on October 20th.

The proposed revisions primarily simplify and clarify language and correct grammar and format without involving substantive changes. There were three substantive changes proposed, all of which were included in the proposed rule presented in the October Council meeting. A number of changes have been made to the rule following the October 20 meeting. None of these changes were intended to be substantive. The Council packet includes a list of the revisions that have been made after October 20th, as well as a summary of written comments received and staff responses to those comments.

Letters of comments have been received from EPO and from EPA, Region 6 since the October Council meeting. The EPO comments and the staff responses are summarized in the Council packet and the material available to the public on this table.

Christy A. Myers
Certified shorthand reporter

The EPA letter was dated December 10th, and mainly supports the adoption of the proposed changes to Subchapter 39. These letters will be made part of the hearing record. Because there remain unresolved issues regarding redundancy of some of the requirements contained in Part 3, regarding the petroleum refinery operations, the staff recommends that the rule be considered again at the next Air Quality Council meeting in February of 1999.

MR. DYKE: Questions and comments from the Council? Is there anyone from the public wishing to make a statement? Any additional questions or comments from the Council?

MR. BREISCH: What's the Council's pleasure on this?

MR. BRANECKY: I move that we continue this until February, our February meeting.

MR. MYERS: I second it.

MR. BREISCH: I've got a motion and a second to continue this to our regular meeting in February. Any further comments, questions? If not, Myrna, call the roll.

MS. BRUCE: Dr. Canter.

DR. CANTER: Aye.

MS. BRUCE: Ms. Myers.

MS. MYERS: Aye.

MS. BRUCE: Dr. Gross.

Christy A. Myers
Certified shorthand reporter

DR. GROSZ: Aye.
 MS. BRUCE: Mr. Bra. y.
 MR. BRANECKY: Aye.
 MS. BRUCE: Mr. Wilson.
 MR. WILSON: Aye.
 MS. BRUCE: Mr. Breisch.
 MR. BREISCH: Aye.

(PROCEEDINGS CONCLUDED)

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Christy A. Myers
 Certified Shorthand Reporter

CERTIFICATE

STATE OF OKLAHOMA)
) ss:
 COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings are the truth, the whole truth, and nothing but the truth, in the proceedings aforesaid; that the foregoing proceeding was taken by me in shorthand and thereafter transcribed under my direction; that said proceedings was taken on the 15th day of December, 1998, at Oklahoma City, Oklahoma, and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 23rd day of December, 1998.

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

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Christy A. Myers
 Certified Shorthand Reporter

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE OAC 252:100-39
EMISSIONS OF ORGANIC MATERIALS IN
NONATTAINMENT AREAS

[AMENDED]

HELD ON FEBRUARY 17, 1999

AT 1:00 P.M.

AT 707 NORTH ROBINSON

IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR,

MEMBERS OF THE COUNCIL

- 1. MR. FRED GROSZ - MEMBER
- 2. MR. GARY KILPATRICK - MEMBER
- 3. MS. MERIBETH SLAGELL - MEMBER
- 4. MR. JOEL WILSON - MEMBER
- 5. MS. SHARON MYERS - MEMBER
- 6. MR. DAVID BRANECKY - MEMBER
- 7. DR. LARRY CANTER - VICE CHAIRMAN
- 8. MR. BILL BREISCH - CHAIRMAN
- 9. MS. MYRNA BRUCE - SECRETARY
- 10. MR. EDDIE TERRILL - DIRECTOR

1 this morning's briefing, it was requested
 2 that "prevent" be changed to "reduce" in
 3 252:100-39-1 on page 1. The staff agrees
 4 that change be made.
 5 The majority of the proposed
 6 revisions to Subchapter 39 are to simplify
 7 and clarify language and to correct grammar
 8 and format, without involving substantive
 9 changes. A number of changes were made to
 10 the rule following the December 15, 1998,
 11 Council meeting. Most of these changes are
 12 minor nonsubstantive changes consisting of
 13 replacing "will" and "should" with "shall"
 14 and "inch" with "i-n period" (in.),
 15 "gallons" with "g-a-l", and "liters" with
 16 "l". Some portions of the rule -- I'm
 17 sorry.
 18 The staff added a definition of
 19 "drilling or production facility" to
 20 252:100-39-30(a) on page 8. This
 21 definition is essentially identical to that
 22 in 40 CFR 60, Subpart K.
 23 Staff revised the definition of
 24 "aerospace" in 252:100-39-47(b) on page 33,
 25 to make clear that it does include rework.

PROCEEDINGS

MR. TERRILL: The next item on
 the agenda for this hearing is Item 6, OAC
 252:100-39, Emissions of Organic Materials
 in Nonattainment Areas. And I'll call upon
 Dr. Joyce Sheedy to make the staff
 presentation on this proposed rule.

DR. SHEEDY: Mr. Chairman,
 Members of the Council, ladies and
 gentlemen, my name is Joyce Sheedy, and I
 work in the Rules and Planning Unit of the
 Air Quality Division of the Department of
 Environmental Quality. The proposed
 revisions to Subchapter 39, Emissions of
 Organic Materials in Nonattainment Areas,
 were brought to the Council for the first
 time on August the 18, 1998, and again on
 October 20, 1998, and December 15, 1998.
 At the December Council meeting, staff
 requested that the rule be considered again
 at the February meeting because of
 unresolved issues regarding redundancy of
 some of the requirements contained in Part
 3, petroleum refinery operations. These
 issues have been resolved. However, in

1 Only one truly substantive change has been
 2 proposed since the December meeting. It is
 3 the addition of 252:100-39-30(b)(3) and (4)
 4 on page 9. These paragraphs exempt storage
 5 vessels subject to the NSPS in 40 CFR 60,
 6 Subparts Ka or Kb or the MACT standards in
 7 40 CFR 63, Subparts CC or G from the
 8 requirements of 252:100-39-30.
 9 Three substantive changes were
 10 previously proposed. These are the
 11 revisions of the definition of "volatile
 12 organic compound" in 252:100-39-2 on page
 13 2. As part of the simplification process,
 14 staff proposes to have only one definition
 15 of VOC, and that that definition be
 16 consistent with the EPA definition and
 17 replaces the terms in Subchapter 39 of
 18 "volatile organic solvent (VOS)" and
 19 "organic solvents".
 20 The second previously proposed
 21 substantive change is the correction of the
 22 placement of "prior to lease custody
 23 transfer" in 252:100-39-30(b) on pages 8
 24 and 9. This phrase was located in
 25 paragraph 2 and was, therefore, applicable

1 to all the exemptions listed in that
 2 paragraph. Research in the Air Quality
 3 Council records and in the Control
 4 Techniques Guideline, Control of Volatile
 5 Organic Emissions from Petroleum Liquid
 6 Storage in External Floating Roof Tanks,
 7 indicates that this phrase should apply
 8 only to 252:100-39-30(b)(2)(B). So, we
 9 recommended moving that phrase.
 10 The addition of language to 252:100-
 11 39-41(c), Loading of VOCs on page 12. That
 12 limits the requirements of this subsection
 13 to facilities that have a minimum annual
 14 throughput of 120,000 gallons or storage
 15 capacity greater than 10,000 gallons.
 16 The Council packet includes a list
 17 of substantive revisions that have been
 18 made to the rule after December 15, 1998,
 19 as well as a summary of written comments
 20 received and the staff responses to those
 21 comments. One letter of comment has been
 22 received since the December Council
 23 meeting, a letter dated February 10, 1999,
 24 from Tom Diggs, EPA Region 6, which
 25 supports the proposed changes to Subchapter

1 exclude the internal floating roofs as
 2 well. But I see the purpose of the reg.
 3 MR. TERRILL: Any further
 4 questions from the Council at this time?
 5 I've got one request from EPA, Region 6,
 6 Sandra Rennie again to speak on 39.
 7 MS. RENNIE: The comments that we
 8 made with regard to Subchapter 37 also
 9 apply to Subchapter 39.
 10 MR. TERRILL: Those are the only
 11 request for comments that I received from
 12 the audience. Is there anyone else that
 13 would like to make a comment at this time?
 14 Seeing none, anything else from the
 15 Council?
 16 MR. WILSON: I would just like to
 17 say I appreciate Joyce and what she's done
 18 on this, and for the grammar lesson this
 19 morning.
 20 DR. SHEEDY: I was trained
 21 recently.
 22 MR. TERRILL: I guess we're ready
 23 to vote.
 24 MR. BREISCH: I'll entertain a
 25 motion to send this to the DEQ Board with a

1 39. I would like to make that letter a
 2 part of the record.
 3 Staff recommends that the proposed
 4 rule be recommended to the Board for
 5 permanent adoption.
 6 MR. TERRILL: Questions of Dr.
 7 Sheedy from the Council?
 8 MR. WILSON: I have a question.
 9 We make it a point in Part 5 to use the
 10 word external prior to the word, floating -
 11 - the words, floating roof. Is there a
 12 purpose for distinguishing external from
 13 those that are also internal?
 14 DR. SHEEDY: For what reason I do
 15 not know. This is obviously meant just to
 16 cover external floating roof tanks.
 17 MR. WILSON: Okay.
 18 DR. SHEEDY: And it may mean
 19 something to SIP requirements at the time.
 20 And Subchapter 39 is, like, in addition to
 21 the things that are in Subchapter 37. So
 22 there are some requirements for tanks in
 23 37, and this would be in addition to that.
 24 MR. WILSON: Okay. That's fine.
 25 I just wanted to make sure that we didn't

1 recommendation of passing this rule on a
 2 permanent basis.
 3 MS. MYERS: With the additions
 4 that were added?
 5 MR. BREISCH: I'm sorry. With
 6 the additions that we have added in
 7 previous meetings and in this meeting.
 8 DR. CANTER: I'll so move.
 9 MR. GROSZ: Second.
 10 MR. BREISCH: I've got a motion
 11 and a second. Any other comments or
 12 questions? If not, Myrna, call the roll.
 13 MS. BRUCE: Mr. Wilson.
 14 MR. WILSON: Aye.
 15 MS. BRUCE: Dr. Grosz.
 16 DR. GROSZ: Aye.
 17 MS. BRUCE: Dr. Canter.
 18 DR. CANTER: Aye.
 19 MS. BRUCE: Mr. Kilpatrick.
 20 MR. KILPATRICK: Aye.
 21 MS. BRUCE: Ms. Myers.
 22 MS. MYERS: Aye.
 23 MS. BRUCE: Mr. Branecky.
 24 MR. BRANECKY: Yes.
 25 MS. BRUCE: Mr. Breisch.

1 MR. BREISCH: Aye.
 2 MR. TERRILL: There is no further
 3 business for the hearing, so that concludes
 4 the hearing portion of this meeting.

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 6 (PROCEEDINGS CONCLUDED)
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C E R T I F I C A T E

1
 2 STATE OF OKLAHOMA)
 3 COUNTY OF OKLAHOMA) ss:

4 I, CHRISTY A. MYERS, Certified

5 Shorthand Reporter in and for the State of
 6 Oklahoma, do hereby certify that the above
 7 proceedings are the truth, the whole truth,
 8 and nothing but the truth, in the
 9 proceedings aforesaid; that the foregoing
 10 proceeding was taken by me in shorthand and
 11 thereafter transcribed under my direction;
 12 that said proceedings was taken on the 17th
 13 day of February, 1999, at Oklahoma City,
 14 Oklahoma; and that I am neither attorney
 15 for nor relative of any of said parties,
 16 nor otherwise interested in said
 17 proceedings.

18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 28th day of February, 1999.

21 *Christy Myers*
 22
 23 CHRISTY A. MYERS, C.S.R.
 24 Certificate No. 00310
 25

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-45 Monitoring of Emissions

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-45 SIP Revision

SUBCHAPTER 45. MONITORING OF EMISSIONS

Section

252:100-45-1. Purpose

252:100-45-2. Monitoring equipment required

252:100-45-3. Records required

252:100-45-4. Compliance certifications

252:100-45-5. Enforceability

252:100-45-1. Purpose

The purpose of this Subchapter is to outline the basic requirements for monitoring of emissions and their recording and reporting.

252:100-45-2. Monitoring equipment required

The Executive Director may require the owner or operator of any air contaminant source to:

- (1) install, use, and maintain such monitoring equipment;
- (2) sample such emissions in accordance with methods as the Executive Director shall prescribe;
- (3) establish and maintain such records; and
- (4) make such periodic emission reports as required in 252:100-45-3.

252:100-45-3. Records required

Records and reports as the Executive Director shall prescribe on air contaminants or fuel shall be recorded, compiled, and submitted on forms furnished by the Executive Director. (The procedures below are examples of such requirements.)

- (1) Emissions of particulate matter, sulfur dioxide, and oxides of nitrogen shall be expressed as follows:
 - (A) in pounds per hour and pounds per million BTU of heat input for fuel-burning equipment;
 - (B) in pounds per hour and pounds per 100 pounds of refuse burned for incinerators; and
 - (C) in pounds per hour and in pounds per hourly process weight or production rate or in terms of some other easily measured and meaningful process unit specified by the Executive Director.
- (2) Sulfur dioxide and oxides of nitrogen emission data shall be averaged over a 24-hour period and shall be summarized monthly. Daily averages and monthly summaries shall be submitted to the Executive Director biannually. Data should be calculated daily and available for inspection at any time.
- (3) Particulate matter emissions shall be sampled and submitted biannually.
- (4) Visible emissions shall be measured continuously and records kept indicating total minutes per day in which stack discharge effluent exceeds 20 percent opacity. Data should be summarized biannually. Current daily results shall be available for inspection at any time.
- (5) The sulfur content of fuels, as burned, except natural gas, shall be determined in accordance with current recognized ASTM procedures. Daily and monthly averages

shall be submitted biannually. Daily records shall be kept current and be available for inspection.

252:100-45-4. Compliance certifications

Notwithstanding any other provision in the State of Oklahoma implementation plan approved by the Administrator, for the purpose of submission of compliance certifications an owner or operator is not prohibited from using monitoring as required under 252:100-8-6 (a) (3) and incorporated into a federally enforceable operating permit in addition to any specified compliance methods.

252:100-45-5. Enforceability

Notwithstanding any other provision in the State of Oklahoma implementation plan approved by the Administrator, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such plan.

(1) Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

(A) A monitoring method approved for the source pursuant to 252:100-8-6 (a) (3) and incorporated in a federally enforceable operating permit.

(B) Compliance methods specified in the applicable plan.

(2) The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information gathering methods:

(A) Any federally-enforceable monitoring or testing methods, including those in 40 CFR parts 51, 60, 61 and 75.

(B) Other testing, monitoring or information-gathering methods that produce information comparable to that produced by any method in (1) or (2) (A) of this section.

Oklahoma Register

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Proposed Rules: OAC 252:100-24, Control of Emissions from Grain Elevators [NEW].

Summary: This rule would subject all new and existing grain facilities to state permitting requirements and establish industry-specific emission and control standards. Includes facilities that handle, store, or process grain.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-2-101; 2-5-1-1 et seq.

COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Program or may, before September 28, 1994, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Wednesday, September 28, 1994, in Broken Bow, Oklahoma, at a location to be announced later.

PUBLIC HEARINGS: Wednesday, September 28, 1994, at 9:30 a.m., in Broken Bow, Oklahoma, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, OK 73105-3483.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Service at the above address.

CONTACT PERSON: Mr. Doyle McWhirter, (405) 271-5220.

ADDITIONAL INFORMATION: These rules were recommended by the Air Quality Council pursuant to public hearing on June 14, 1994.

[Okla. Reg. 94-1284; filed August 8, 1994]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.

Proposed Rules: OAC 252:100-45, Monitoring of Emissions; and OAC 252:100-8, Operating Permits (Part 70) [AMENDED].

Summary: The intent of the revision to Subchapter 45 is to correct deficiencies in Oklahoma's Air Quality implementation plan with respect to Oklahoma's ability to use any credible evidence in determining a source's compliance. This action is a result of the Environmental Protection Agency's finding that Oklahoma's State Implementation Plan (SIP) is inadequate to fully implement Section 114(a)(3) of the Federal Clean Air Act. The proposed rule states that for the purpose of compliance certifications, an owner is not prohibited from using monitoring required under the Federal Part 70 Operating Permit rules. It also states that any credible evidence may be used for the purpose of establishing whether a person has violated provisions of the State Implementation Plan.

The revision to Subchapter 8 has two parts. The first incorporates by reference 40 CFR Part 72, the Federal rules regarding acid rain permits. The second revision is to adjust the fees for Part 70 sources. Part 70 sources are proposed to be subject to these new fee requirements on January 1, 1995. The owners or operator of a Part 70 source will be required to pay annual fees that are sufficient to cover the Part 70 program costs. The fee is proposed at \$15.19 per ton of regulated pollutant except carbon monoxide and is to be adjusted annually by increases or decreases in the Consumer Price Index.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-5-106.

COMMENT PERIOD: Written comments will be accepted prior to and during the regularly scheduled meeting of the Oklahoma Air Quality Council. The meeting will be held Tuesday, October 11, 1994, in the Lincoln Boulevard Plaza office complex, Brown Room, 4545 N. Lincoln Blvd, Oklahoma City, Oklahoma. Briefing is scheduled for 9:30 AM; meeting and hearing, for 1:00 PM. Oral comments will be accepted during the hearing; written comments on the proposed change may be mailed to Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, OK 73105-3483 % Mr. Scott Thomas for Subchapter 8.

PUBLIC HEARINGS: Tuesday, October 11 and, if necessary, Wednesday, October 12, 1994, in the Brown Room, Lincoln Plaza office complex, 4545 N. Lincoln Blvd., Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Division at the above address.

CONTACT PERSON: Subchapter 45: Mr. Scott Thomas (405) 271-5220.

Subchapter 8: Mr. Scott Thomas (405) 271-5220.

ADDITIONAL INFORMATION: It is anticipated that the above public hearings will initially take two days, October 11 and 12, and will probably be continued to future council meetings.

[Okla. Reg. 94-1285; filed August 8, 1994]

11 OCT 26 4584 09/01/94

Volume 11 NUMBER 21, SEP 1, '94

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.
Proposed Rules: OAC 252:100-31, Control of Emissions of Sulfur Compounds [AMENDED]

Summary: The intent of the revision is to resolve any discrepancies and inequities as applied to all new sulfur recovery units in the state. The result would be a relaxation of standards applicable to new sulfur recovery plants operated in conjunction with processes other than natural gas processing.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-2-101; 2-5-1-1 et seq.

COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Program or may, before November 30, 1994, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Wednesday, November 30, 1994, Council and Court Room, City of Stroud, Administration Building, 220 W. Second Street, Stroud, OK.

PUBLIC HEARINGS: Wednesday, November 30, 1994, at 9:30 a.m., in Stroud, Oklahoma, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, OK 73105-3483.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Service at the above address.

CONTACT PERSON: Mr. Scott Thomas, (405) 271-5220.

ADDITIONAL INFORMATION: These rules were recommended by the Air Quality Council pursuant to public hearings on June 14, and August 9, 1994.

[Okla. Reg. 94-1401; filed October 6, 1994]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.
Proposed Rules: OAC 252:100-45, Monitoring of Emissions [AMENDED]

Summary: The intent of the revision to Subchapter 45 is to correct deficiencies in Oklahoma's Air Quality implementation plan with respect to Oklahoma's ability to use any credible evidence in determining a source's compliance. This action is a result of the Environmental Protection Agency's finding that Oklahoma's State Implementation Plan (SIP) is inadequate to fully implement Section 114(a)(3) of the Federal Clean Air Act. The proposed rule states that for the purpose of compliance certifications, an owner is not prohibited from using monitoring required under the Federal Part 70 Operating Permit rules. It also states that any credible evidence may be used for the purpose of establishing whether a person has violated provisions of the State Implementation Plan.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-2-101; 2-5-1-1 et seq.

COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Program or may, before November 30, 1994, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Wednesday, November 30, 1994, Council and Court Room, City of Stroud, Administration Building, 220 W. Second Street, Stroud, OK.

PUBLIC HEARINGS: Wednesday, November 30, 1994, at 9:30 a.m., in Stroud, Oklahoma, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, OK 73105-3483.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Service at the above address.

CONTACT PERSON: Mr. Scott Thomas, (405) 271-5220.

ADDITIONAL INFORMATION: These rules were recommended by the Air Quality Council pursuant to public hearing on October 11, 1994.

[Okla. Reg. 94-1402; filed October 6, 1994]

**TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 002. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT/EMERGENCY rulemaking.
Proposed Rules: Procedures of the Department of Environmental Quality OAC 252:002 [AMENDMENTS]

Summary: The proposed amendments concern the procedure for logging complaints received after working hours, the procedure for referral of complaints occurring on Indian Country as defined by 42 U.S.C. 1151, and the procedure for complaints involving issues in litigation.

AUTHORITY: Environmental Quality Board, 27A Supp. 1993, §2-2-101 and 75 O.S. 1991, §302.

COMMENT PERIOD: Deliver or mail comments November 1 through November 21, 1994, to contact person listed below.

PUBLIC HEARINGS: Oral and written comments will be received by the Environmental Quality Board at its meeting in Stroud, Oklahoma, at 9:30 on November 30, 1994.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the contact person below.

RULE IMPACT STATEMENT: May be obtained from contact person.

CONTACT PERSON: Office of the General Counsel, 12th Floor, Department of Environmental Quality, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; Barbara Rauch, (405) 271-8140

[Okla. Reg. 94-1427; filed October 14, 1994]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking.
Proposed Rules: OAC 252:100-8, Operating Permits (Part 70) [AMENDED].

Summary: The revision to Subchapter 8 has two parts. The first incorporates by reference 40 CFR Part 72, the federal rules regarding acid rain permits. The second revision is to adjust the fees for Part 70 sources. The owner or operator of a Part 70 source will be required to pay annual fees that are sufficient to cover the Part 70 program costs. These fees, as proposed for recommendation by the Air Quality Council will approximate \$15 per ton of emissions regulated pollutants (excluding carbon monoxide) in 1995.

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993, §§ 2-2-101; 2-5-1-1 et seq.

COMMENT PERIOD: Interested persons may informally discuss the proposed rules with the Air Quality Program or may, before November 30, 1994, submit written comments to the Department of Environmental Quality, c/o Robert Kellogg, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1212. Comments will be accepted during the Environmental Quality Board meeting scheduled for 9:30 a.m., Wednesday, November 30, 1994, Council and Court Room, City of Stroud, Administration Building, 220 W. Second Street, Stroud, OK.

PUBLIC HEARINGS: Wednesday, November 30, 1994, at 9:30 a.m., in Stroud, Oklahoma, as noted above.

COPIES OF PROPOSED RULES: Copies of the proposed rules may be obtained from the Department of Environmental Quality, Air Quality Program, 4545 North Lincoln, Suite 250, Oklahoma City, OK 73105-3483.

RULE IMPACT STATEMENT: A rule impact statement will be prepared prior to the final action by the Environmental Quality Board. The rule impact statement may be obtained from the Air Quality Service at the above address.

CONTACT PERSON: Mr. Scott Thomas, (405) 271-5220.

ADDITIONAL INFORMATION: The acid rain rule was recommended by the Air Quality Council pursuant to Public Hearing on August 9; the permit fees are scheduled for Public Hearing before the Air Quality Council on October 11, 1994.

[Okla. Reg. 94-1400; filed October 6, 1994]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

RULE-MAKING ACTION: PERMANENT final adoption.

RULES: 252:100-45-4, Compliance certifications [NEW]; and
252:100-45-5, Enforceability [NEW]

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993,
§§ 2-2-101, 2-5-101 et seq.

DATES:

Comment period: October 6, 1994 through November 30, 1994.

Public hearing: November 30, 1994.

Adoption: November 30, 1994.

Submitted to Governor: December 9, 1994.

Submitted to House: December 9, 1994.

Submitted Senate: December 9, 1994.

Gubernatorial approval: January 23, 1995.

Legislative approval: Failure of the Legislature to disapprove
the rules resulted in approval on March 29, 1995.

Final adoption: March 29, 1995.

Effective: July 1, 1995.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules: 252:100-45-4, Compliance certifications [NEW];
and 252:100-45-5, Enforceability [NEW].

Gubernatorial approval: January 5, 1995.

Register publication: 12 Ok Reg 743.

Docket number: 95-3.

INCORPORATIONS BY REFERENCE: None

ANALYSIS: The intent of this revision is to correct inadequacies
in the Oklahoma State Implementation Plan (SIP) as identified by
EPA. The corrections allow a permitted source to use any credible
evidence to demonstrate compliance and allow the EPA to use any
credible evidence to establish violations and enforce the Oklahoma
SIP. The net result would be an EPA-approvable SIP, as required by
the 1990 Clean Air Act Amendments.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

This revision corrects possible differences in interpretation of
state rules and federal law. The Air Quality Council recommended
the permanent adoption of this revision at their meeting on October
11, 1994. The Air Quality Council began receiving comments on this
new rule on August 8, 1994.

CONTACT PERSON: Mr. Scott Thomas, DEQ Air Quality Division, Suite
250, Lincoln Plaza Office Complex, 4545 N. Lincoln Blvd. Oklahoma
City, Oklahoma 73105. (405) 271-5220.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE
CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION
308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 1995.

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 45. MONITORING OF EMISSIONS

252:100-45-4. Compliance certifications

Notwithstanding any other provision in the State of Oklahoma
implementation plan approved by the Administrator, for the purpose
of submission of compliance certifications an owner or operator is
not prohibited from using monitoring as required under 252:100-8-6
(a) (3) and incorporated into a federally enforceable operating
permit in addition to any specified compliance methods.

252:100-45-5. Enforceability

Notwithstanding any other provision in the State of Oklahoma
implementation plan approved by the Administrator, any credible
evidence may be used for the purpose of establishing whether
person has violated or is in violation of any such plan.

(1) Information from the use of the following methods is
presumptively credible evidence of whether a violation has
occurred at the source:

(A) A monitoring method approved for the source pursuant to
252:100-8-6 (a) (3) and incorporated in a federally
enforceable operating permit.

(B) Compliance methods specified in the applicable plan.

(2) The following testing, monitoring or information gathering
methods are presumptively credible testing, monitoring or
information gathering methods:

(A) Any federally-enforceable monitoring or testing methods,
including those in 40 CFR parts 51, 60, 61 and 75.

(B) Other testing, monitoring or information-gathering methods
that produce information comparable to that produced by any
method in (1) or (2) (A) of this section.

[Okla. Reg. 95-615; filed April 26, 1995]

Air Quality Council

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

A Public Meeting: TUESDAY, OCTOBER 11, 1994 1:00 P.M.
AND (IF NECESSARY)
WEDNESDAY, OCTOBER 12, 1994 9:30 A.M.

LINCOLN PLAZA OFFICE COMPLEX
4545 NORTH LINCOLN BOULEVARD
BROWN ROOM
OKLAHOMA CITY, OKLAHOMA

HEARING/MEETING

- | | | |
|----|--|-----------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | Public Rulemaking Hearings | |
| | A. OAC 252:100-8 Operating Permits (Part 70)
Fee Requirements, Fee Timing | Thomas |
| | 1. Discussion by Council/Public | |
| | B. OAC 252:100-45 Monitoring of Emissions
SIP Call, Credible Evidence, Enhanced Monitoring | Ward |
| | 1. Discussion by Council/Public | |
| 4. | Approval of Minutes of August 9, 1994 | Chairman |
| 5. | New Business | Chairman |
| | Discussion/consideration of subjects/business
arising within the past 24 hours. | |
| 6. | ADJOURNMENT | Chairman |
| | Next Regular Meeting -
December 13, 1994
Lincoln Plaza Office Complex Brown Room
4545 N. Lincoln
Oklahoma City, OK | |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 271-5220.

September 28, 1994

*Recommended
10/11/94*

MEMORANDUM

TO: AIR QUALITY COUNCIL

THRU: Larry D. Byrum, Director *LDB*
AIR QUALITY DIVISION

FROM: Randy Ward, Supervisor *RW*
Analysis and Planning Unit

SUBJECT: REVISIONS TO OAC 252:100-45, MONITORING OF EMISSIONS

Please find enclosed the staff's suggested revisions to Oklahoma Air Pollution Rule OAC 252-100-45. These revisions are in response to an EPA SIP call dated June 9, 1994.

Also enclosed are copies of the SIP call letter and supporting information, the AQD's workplan, and EPA's comments on our proposed rule language. Included as additional information about Enhanced Monitoring are an Executive Summary and a clipping from the Clean Air Technology News.

SUBCHAPTER 45. MONITORING OF EMISSIONS

252:100-45-1. Purpose

The purpose of this Subchapter is to outline the basic requirements for monitoring of emissions and their recording and reporting.

252:100-45-2. Monitoring equipment required

The Executive Director may require the owner or operator of any air contaminant source to:

- (1) install, use, and maintain such monitoring equipment;
- (2) sample such emissions in accordance with methods as the Executive Director shall prescribe;
- (3) establish and maintain such records; and
- (4) make such periodic emission reports as required in 252:100-45-3.

252:100-45-3. Records required

Records and reports as the Executive Director shall prescribe on air contaminants or fuel shall be recorded, compiled, and submitted on forms furnished by the Executive Director. (The procedures below are examples of such requirements.)

(1) Emissions of particulate matter, sulfur dioxide, and oxides of nitrogen shall be expressed as follows:

(A) in pounds per hour and pounds per million BTU of heat input for fuel-burning equipment;

(B) in pounds per hour and pounds per 100 pounds of refuse burned for incinerators; and

(C) in pounds per hour and in pounds per hourly process weight or production rate or in terms of some other easily measured and meaningful process unit specified by the Executive Director.

(2) Sulfur dioxide and oxides of nitrogen emission data shall be averaged over a 24-hour period and shall be summarized monthly. Daily averages and monthly summaries shall be submitted to the Executive Director biannually. Data should be calculated daily and available for inspection at any time.

(3) Particulate matter emissions shall be sampled and submitted biannually.

(4) Visible emissions shall be measured continuously and records kept indicating total minutes per day in which stack discharge effluent exceeds 20 percent opacity. Data should be summarized biannually. Current daily results shall be available for inspection at any time.

(5) The sulfur content of fuels, as burned, except natural gas, shall be determined in accordance with current recognized ASTM procedures. Daily and monthly averages shall be submitted biannually. Daily records shall be kept current and be available for inspection.

252:100-45-4. Compliance Certifications

Notwithstanding any other provision in the State of Oklahoma implementation plan approved by the Administrator, for the purpose of submission of compliance certifications an owner or operator is not prohibited from using monitoring as required under 252:100-8-6 (a) (3) and incorporated into a federally enforceable operating permit in addition to any specified compliance methods.

252:100-45-5. Enforcibility

Notwithstanding any other provision in the State of Oklahoma implementation plan approved by the Administrator, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such plan.

(1) Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

(A) A monitoring method approved for the source pursuant to 252:100-8-6 (a) (3) and incorporated in a federally enforceable operating permit.

(B) Compliance methods specified in the applicable plan.

(2) The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information gathering methods:

(A) Any federally-enforceable monitoring or testing methods, including those in 40 CFR parts 51, 60, 61 and 75.

(B) Other testing, monitoring or information-gathering methods that produce information comparable to that produced by any method in (1) or (2) (A).

AIR QUALITY COUNCIL

Minutes

OCTOBER 11, 1994

1:00 p.m.

OKLAHOMA STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
4545 NORTH LINCOLN, SUITE 250
OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Larry Canter, Ph.D., Vice Chairman
Gary A. Kilpatrick
Mary Tillman
Kathryn Hinkle
David Branecky

Council Members Absent

Pierre Taron
Meribeth Slagell
Bill Fishback

Staff Present

Larry Byrum
David Dyke
Scott Thomas
Randall Ward
Dennis Doughty
Myrna Bruce

Guests Present

(See attached list)

PUBLIC MEETING

Notice of Public Meeting was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room at the Lincoln Plaza location, and the entrance to the Air Quality Division.

Call to Order - Mr. Breisch called the meeting to order and roll call was taken. Members not in attendance were Ms. Slagell, Mr. Fishback, and Mayor Taron. Mr. Breisch turned the meeting over to Mr. Byrum.

Acting as protocol officer for Public Rulemaking Hearing OAC 252:100-45 Monitoring of Emissions.

Giving staff recommendations, Mr. Randall Ward advised Council that as part of a nationwide SIP call, Governor Walters received a letter on June 9, 1994 from Jane Saginaw, Regional Administrator for the Environmental Protection Agency, notifying that our State Implementation Plan was substantially inadequate to meet the Clean Air Acts requirements concerning enhanced monitoring, compliance certification, and the use of any credible evidence for enforcement purposes. Oklahoma's current SIP may be interpreted to limit the types of testing or monitoring data that may be used for determining compliance and establishing violations and to limit the EPA's ability to assess penalties. The EPA is requiring that the states revise their SIPs to allow any monitoring data that is approved and regarded as credible evidence for determining

compliance and for establishing violations of any standards specified in the permit. Mr. Ward pointed out that through consultation and correspondence with the EPA, the staff has developed new language to address these concerns and that the SIP letter and other material are part of the Council packets. OAC 252-100-45-4 Compliance Certification, allows a source to use the monitoring required by their Title V permit under OAC 252-100-8-6-a-3 for the purposes of compliance certification. The second section, OAC 252-100-45-5 Enforceability, allows the use of any credible evidence to determine violations and establishing presumptively credible methods and information sources. Mr. Ward entered into the official record a copy of the EPA comments approving staff's proposed rule language.

The staff's recommendation was that the Council take action to recommend this rule to the Environmental Quality Board for adoption as an emergency and permanent rule because it is important that the SIP be approved as soon as possible and no substantive comments to the rule had been received.

After discussion, the Chairman entertained a motion to recommend this rule change to the Environmental Quality Board. Mr. Kilpatrick made the motion to recommend the rule to the Board as a permanent and emergency rule with second made by Ms. Tillman. Roll call as follows: Dr. Canter - aye; Mr. Branecky - aye; Ms. Hinkle - aye; Mr. Kilpatrick - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Mr. Byrum, as protocol officer, convened the Public Rulemaking Hearing OAC 252-100-8 Operating Permits Part 70, Fees and Fee Timing.

Giving staff recommendation, Mr. Scott Thomas advised that the Hearing was a continuation of the August 9 Hearing held in Tulsa, OK concerning proposed changes to subchapter 8 of Oklahoma's Air Pollution Control rules. These proposed changes specifically deal with the annual operating fee to be assessed to Title V sources in the State of Oklahoma. The revisions provide for an annual operating fee of \$15.19/ton of regulated pollutant, including carbon monoxide, be assessed on Part 70 sources. Due to some of the discussions held in the Briefing Session, staff also provided to the Council suggested language to support a surcharge that in the event that either the Oklahoma City-County Health Department or the Tulsa City-County Health Department should fail to permanently renew or shall declare their intent not to renew their contract for services necessary to implement the requirements of the Oklahoma Clean Air Act in either of their jurisdictions, the fee in each event shall increase an additional \$1.00/ton of regulated pollutant.

Mr. Thomas went on to say that the \$15.19/ton fee is consistent with the findings of the Theodore Barry & Associates (TB&A) Workload Analysis and will be effective January 1, 1995 for Part 70 sources and these sources will no longer be subject to the current \$10/ton fee specified in subchapter 7. The revisions also provide

for the fee to be adjusted annually in accordance with changes in the Consumer Price Index.

Mr. Thomas entered a letter, received from Hans J. Mueller, Manager of Regional Regulatory Affairs of Browning-Ferris Industries dated October 4, 1994 into the record and noted that Mr. Mueller supported adjustment of the fee and the previously recommended acid rain provisions and recommended that the Department revise the definition of major source to insure consistency with EPA's proposed changes to Part 70. Mr. Thomas advised that the staff felt that such change should only be considered after the proposed federal language becomes final as the current definition of major source in subchapter 8 is identical to the current Part 70 language.

Per Mr. Thomas, in order for the new fee to be effective January 1, 1995 the Council's recommendations would need to be adopted as a permanent and emergency rule at the Environmental Quality Board meeting on November 30, 1994, and subsequently signed by the Governor. After the Board acts, staff plans to send the rule to the EPA as an amendment to our Title V operating permit plan along with justification that the fee will be sufficient to cover the anticipated cost of a Title V program. There was not a representative from EPA present.

With much discussion between Council, staff, and commenters, suggested language was changed to read as follows: "...In the event that by January 15, 1995, either the Oklahoma City/County Health Department or the Tulsa City/County Health Department shall fail to permanently renew, or shall declare their intent not to renew their contract to provide the services necessary to implement the requirements of the Oklahoma Clean Air Act in either of their jurisdictions, the fees, in each event, shall increase an additional One dollar (\$1.00) per ton of regulated pollutant..."

Other discussion included Ms. Barton's concern for the possibility that Tulsa will go into nonattainment, and that this rulemaking body cannot define all the necessary things that will have to be done if that happens. She pointed out that it was her understanding that if nonattainment occurs, efforts have to be started right away for compliance with nonattainment regulations. She felt that the Council should produce language for an emergency to fund all of the people and the things that would need to be done to be in compliance with EPA's regulations under the nonattainment status.

Discussion was held regarding the fact that Tulsa may go into nonattainment and the possibility of having to pass a fee increase. It was felt that the fact that the fees must be billed January 1 precludes the ability to do anything at this time; and there would be plenty of time to take action when nonattainment occurs.

Ms. Tillman felt that nonattainment compliance would most likely not happen until next summer which would leave time for the rule

language. Mr. Byrum agreed and advised that if EPA found either area to be in nonattainment and if the Agency chose to go into nonattainment status, EPA could handle in one of two ways (1) they can say the SIP is insufficient to protect the ozone max which is not a "nonattainment" situation; that finding would have to be made on the data that was generated the day of the event and the earliest that data could get to EPA would be 45 days after the event; and it would take time for the federal wheels to grind; or (2) EPA could find a SIP deficiency; then the Agency would choose a SIP call rather than have the city designated nonattainment.

For the record, comment was made by Howard Ground, Public Service of Oklahoma, who asked if it was intentional that the sentence from the last packet "This fee is consistent with reasonable costs of operating permit program as a management consultant study" was left out. Mr. Doughty advised that he had struck it intentionally as he felt it was not relevant but was a reiteration of other things in the law. Mr. Ground felt that the sentence provided a bit of history. Dr. Canter agreed but Mr. Kilpatrick took the opposite viewpoint as he felt the hearing records demonstrates the history. In order to save time in this meeting, both agreed to leave the sentence out.

For the record, Mr. Breisch asked Mr. Byrum to go through the scenario of the expected timeframe using the date of June 15, 1995, if Tulsa would go into nonattainment. Mr. Byrum related that:

- The June 15 data would be submitted in 45-days (end of July)
- EPA would take 2 - 3 weeks to crunch that data
- EPA would generate a letter to the Governor setting forth the necessary action, and would give AQD a 30-day period to respond to that letter (end of August, first of September)
- Then by September 15, AQD would have to have a response detailing the agreement and that we would put together a plan with the timeframes.
- That response would go to EPA in mid-September and probably not require action other than looking at rulemaking until further into the next year.

Mr. Breisch believed there would be no expense due to this nonattainment status in 1995; Mr. Byrum agreed that any expense to the State would be minor expense for handling paper and putting together a plan.

Ms. Medley reiterated that Ms. Barton was trying to get across the fact that necessary fee increases can only be addressed on a yearly basis and wanted the Council to be aware of the potential need of an increase.

Mr. Byrum added that a significant portion of the cost for nonattainment would be Title V and that EPA is looking at the impacts of Title I on Part 70. EPA is ruling that any changes required on Title I are Part 70 and will remain Part 70 for the remainder of the life of the facility.

To Mr. Kilpatrick's question whether Title V would cover most of the sources, Mr. Byrum answered that he did not see a major impact in the emissions inventory in the metropolitan areas due to nonattainment for stationary sources. We have 90/95% control across the board but most of those reductions would have to come from mobile sources and area sources which would cause a minor impact, but not a major impact, on the amount of the fees currently being collected. Some sources that were not previously Title V sources may become Title V sources due to nonattainment.

Mr. Breisch stated that it appears the cost per ton of nonattainment status cannot be quantified as we are not 100% certain it will happen.

Mr. Byrum stated that he had not been comfortable in recommending a \$/ton amount for nonattainment at this point because various issues will effect that number dramatically such as the level of nonattainment, the timing, the pollutants involved, or federal court actions concerning interpretations of the Act. Staff is working on some of those issues and is trying to evaluate what those issues will be. He believed that some of the funding for nonattainment activities will have to come from different sources than Title V such as some of the states have proposed a surcharge on their automobile license plates to offset those costs; or looking for fees from area sources such as dry cleaners or minor source fees. Those would have to be in combination with anything we would do under this fee scenario to come up with an equitable distribution of the cost to those who are the responsible parties.

Mr. Kilpatrick felt that the key issue Ms. Medley and Ms. Barton was hitting upon was the issue that the Council should be aware of the need for adequate funding to last through an entire year in the event of nonattainment. He wanted all to know that the proposal now has areas built in to allow for adequate funding at this point: 1) the potential of a surplus of the \$10/ton fees; 2) the \$15.19 is based on the assumption of 142 FTEs of which only 90 have been hired plus the 18 at the counties for a total of 108; therefore, spending would not be done at the \$15.19 rate throughout 1995; 3) plus the additional \$2 potentially added with neither of those programs fully staffed now. When the program is at full speed it will be very close. He did not think at this time it is prudent to start adding in too many additional kitties. He was hopeful that next July when staff submits the proposal for the 1996 fees, it will provide good accounting data that will show how good the TB&A assumptions were and can be fine-tuned at that time.

Dr. Canter appreciated the longer term concern but wanted staff to consider doing a special study of various nonattainment scenarios that would provide in writing some justification for what a fee increase might need to be. He stated he would feel more comfortable with more detail about a rationale for whatever the future cost might be.

Mr. Byrum advised that the staff is currently working on options

available to the metropolitan areas. The metropolitan areas have choices that can be made and each affects the mix of the cost. The staff would consider the least-cost option.

Ms. Barton asked if this rule goes to EPA for approval what happens to the whole rule if EPA disagrees with the \$15.19 figure. Mr. Byrum answered that when the rule goes to EPA it will be adopted as a state rule and the billing will be taking place before EPA replies. If they determine it is an insufficient amount, EPA will tell us to adjust our fee to obtain interim approval of our Title V program. EPA has suggested federally \$25.00/ton, or an amount sufficient to cover the demonstrated cost of the Title V program. The burden on the staff, once the rule is passed, is to complete the analysis to show the fee set is sufficient to cover the costs. The TB&A Workload Analysis, as backup, helps significantly.

Howard Ground, Public Service of Oklahoma (PSO) recommended that everything be stricken that was talked about in the Briefing Session regarding and additional \$2/ton because of everything that will happen, an increase will not be needed until 1996.

Mr. Kilpatrick pointed out that Mr. Ground had hit the crux of the matter. He felt that when industry decided to try to limit the fee, they made a major error by going to the Legislature rather than going to the Council and using the Council as a mechanism of funding the study. He felt the TB&A study is good but the Legislature authorized \$150,000 which was spent, therefore, there were no state funds available for TB&A to travel to Oklahoma and present the report to the Council. He felt that originally if people had a concern with the fee they should have come to the Council. The idea of a study was not to limit the \$15 per ton but to be able to provide a basis for justifying the right amount to EPA, and was a good idea; but if it had been done via the Council, the Council could have then had the ability to spend the additional \$4,000 to fly TB&A here and be able to ask these additional questions.

He added that the issue on the Tulsa City County Health Department (TCCHD) and Oklahoma City County Health Department (OCCHD) counties is an area that was not discussed in New York because we had no knowledge of the current situation but the other issues discussed made us come away feeling that it is a very good report, the 53% is well substantiated, and is one that the EPA will have to accept as justifying the \$15.19.

Ms. Tillman added that everything the committee asked TB&A was thoroughly explained, the numbers did calculate, and that she was very pleased as was the other members.

Mr. Braneky pointed out that one of the difficulties in doing a report like this is trying to come up with a number for something that has never been done before.

Mr. Breisch agreed that the theory and the philosophy used to put

together this report is sound and supported the report.

Ron Truelove, representing Environmental Federation of Oklahoma's (EFO) Air Committee, commented for the record that EFO supported the study and would support similar studies for future rulemaking; this is a good way to approach rulemaking by developing the supporting data. EFO also supported the \$15.19/ton permitting fee associated with the study.

With no more discussion, comments, or questions from the Council, Mr. Breisch entertained a motion to accept the staff's recommendation to recommend to the DEQ Board for permanent and emergency rulemaking and that in turn will be forwarded to the EPA after DEQ has acted upon it.

Ms. Tillman made the motion and clarified her reasoning by saying that because of the length of time it does take to get authorization to add on staff, and due to what seems to be eminent from the county health departments, there is a need to be proactive. Mr. Kilpatrick made the second.

With the motion and second, discussion was as follows:

Mr. Branecky wanted the Council be sure that accounting procedures show accurate tracking so that if there are overages they can be applied to the following year.

Mr. Byrum felt that the accounting staff has been made abundantly aware of that situation.

Mr. Kilpatrick added that in the discussions with the accounting staff, one of the statements made was that the process of changing the fees for 1996 could start next July with staff providing accounting data to show that the money was spent on Title V. He wanted for the AQD staff to present to the Council some of the procedures used in the Time and Effort (T&E) study and also the allocation procedures, how to allocate some of the things that do not come directly out of salaries.

Mr. Breisch suggested that the accounting staff be invited to the next meeting to answer questions and also wanted to continue the committee, with Mr. Branecky in lieu of Dr. Hughes, at least through next year to monitor the difference in fees, if any, and the carryover of any fees from the \$10/ton original fee.

Mr. Kilpatrick agreed to continue to serve on the Committee because the questions will be accounting-type questions, and it will take a little study of the data. Ms. Tillman and Mr. Branecky agreed to remain on the Committee and Mr. Breisch spoke for Mr. Fishback.

With a motion and a second and no further discussion, roll was called as follows: Mr. Branecky - aye; Dr. Canter - aye; Ms. Hinkle - aye; Mr. Kilpatrick - aye; Ms. Tillman - aye; Mr. Breisch - aye.

The Hearing Session was closed and discussion was had under New Business as follows:

Ms. Barton wanted to make the Council aware that INCOG submitted a proposal to the EPA for the Maximizing Emission Reductions Intersource Trading (MERIT) program and it has been turned back to the state. She described the MERIT program to Council stating that INCOG initiated the ozone alert program along with MERIT where industry trades pollution credits back and forth. Her question to Mr. Byrum was how long before a draft plan from the State would be forthcoming that would institute the MERIT program.

Mr. Byrum answered that Air Quality has submitted draft comments back to INCOG, as INCOG had drafted the proposal, and are waiting for follow up. He further stated that INCOG is proposing that the trading transaction program be codified as a rule under the Air Quality Act and be part of the State SIP. He advised that at a meeting last month, INCOG agreed to help draft language on how it would apply to attainment areas to pass EPA's SIP requested information. In most cases, these emissions trading rules have always applied to nonattainment areas and they were questioning whether reductions could be used later in the event of nonattainment.

Ms. Barton wanted the Council to know that as an original member of the committee that started the MERIT program she felt that the original spirit of the committee was for citizen oversight.

Mr. Byrum advised that when the rule comes forward, it will be open for public hearing.

Ms. Hinkle made known the information she had received when she telephoned the Chair of the TCCHD Board during the lunch break stating that the TCCHD view is not nearly as negative about renewing the contract as Council had been thinking because negotiations were presently going on. Some of TCCHD concerns included some of the expenses they are incurring, more responsibilities, more supervision, and more say-so they might want to have since it involves some of their money. These negotiations are going on with DEQ. There is a meeting coming up with Mark Coleman and there are some letters as recently as yesterday that we would not know about. TCCHD feels they are at a negotiating standpoint and Ms. Hinkle felt that at least TCCHD wants to say the contract will be renewed after this negotiating process; and of course, negotiations could not be done over the phone. Essentially what TCCHD wanted to convey was that there is a lot of talking going on.

Mr. Byrum pointed out that most of the DEQ/health department contracts run from January 1 to December 31, but that the AQD contract runs from October 1 to September 30. Air Quality did not actually have a contract as of October 1 and bills cannot legally be paid until there is a contract.

Ms. Hinkle expressed hope that there has been some lack of communications and hoped the TCCHD Board had been alerted to the fact that Council is concerned and would like to be kept informed.

Mr. Byrum reiterated that these were last minute concerns to be brought forth at this meeting.

Approval of Minutes - Mr. Breisch requested a motion for approval of the August 9, 1994, meeting. Mr. Kilpatrick moved to accept the Minutes as presented with second by Dr. Canter. Roll call taken as follows: Dr. Canter - aye; Mr. Branecky - aye; Ms. Hinkle - aye; Mr. Kilpatrick - aye; Ms. Tillman - aye; Mr. Breisch - aye.

Other Business - Mr. Byrum advised the Council that Dr. Hughes had resigned and been replaced. Mr. Byrum recommended that Council invite Dr. Hughes to the next regular meeting and present to him a Certificate of Appreciation for his term of service. Mr. Breisch asked staff to prepare the proper documents and invite him to appear.

Next Meeting - The next regular meeting will be held December 13, 1994, at the Lincoln Plaza Office Complex Brown Room.

ADJOURNMENT - Meeting adjourned with a unanimous roll call vote.



William B. Breisch, Chairman
AIR QUALITY COUNCIL



Larry D. Byrum, Director
AIR QUALITY DIVISION

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

October 11, 1994

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Howard Ground	PSO	212 E. 6 th , Tulsa	
2 BARRY PIERCE	Williams Natural Gas	ONE WILLIAMS CENTER TULSA, OK	
3 Randy Jankowski	Williams Natural Gas Company	ONE WILLIAMS CENTER - TULSA, OK	
4 E.D. Mize	"	"	
5 Doug Byee	Dalhi Gas Pipeline	1700 Pacific, Dallas TX	
6 Kent Sales	" " "	7301 NW Expressway OKC, OK	
7 GERALD GRIMES	OATA	3820 NW 8 th OKC	
8 Anna Clapper	OCCA	12104 Camelot Pl. OKC 73120	
9 Joyce D. Sheeley	AGD	4545 N Lincoln Suite 250, OKC	
10 B.W. PROFT	^{STEEL} SHEFFIELD	P.O. Box 218 SAND SPRINGS, OK	NO
11 FRANK CONDON	DER BOARD		
12 Dave Schmidt	InchWitch	P.O. Box 66 PERRY OK 73077	NO
13 Dave Cox	TCHD	4616 E. 15 th Tulsa, OK 74112	NO
13 Jim OBLAK	TEXACO	Box 2760 PAMPA, TX 79066	NO
14 Rick Bolgers	WFEC	Box 429 ANADARKO OK	NO
15 Susie King	Conoco	201 NW 63 rd St. OKC OK 73116	
16 DICK REID	Dayha Tire	P.O. Box 24011 OK City 73122	
17 ALAN DOME	Western Gas	14000 QUAIL SPRING PKWY OKC 73133	
18 Lee Peden	TEO Board	P.O. Box 20 TULSA, OK 74102	NO
19 DALE LOVELLY	UNOCAL	13939 NW Bridgeway Ext. OKC	
Terry James	"	"	"

- 20 Joe Staska Williams Field Services P.O. Box 3102 Tulsa NO
- 21 Carol Barker Tinker AFB OC-ACC/EMCS OK ~~73034~~ 73145
- 22 Dena Maher Tinker AFB OC-ALCIEM OK ~~73034~~ 73145 NO
- 23 MAJ. KEITH KLEIN Tinker AFB OC-MC/JA OK ~~73034~~ 73145 NO
- 24 Ray Bishop ODEQ
- 25 RON SOFER RFS CONSULTING 10830 E 45th 512200 TULSA NO
- 26 Clay Smith Delhi Gas Pipeline 1700 Pacific Ave Dallas, TX 75201 NO
- 27 Eth Kyle Okla Railroad Assn. OKC
- 28 Beverly Smith AQD OKC
- 29 John Parry AQD OKC
- 30 Joel Nelson Rockwell Tulsa
- 31 David Dyle AQD OKC
- 32 Kandy Ward AQD OKC
- 33 MAURIE COOPER OMST 2122 S. Yukon Tulsa 74107
- 34 Regina Clear AQD
- 35 Melba Johnson AQD
- 36 NORRIS KING TULSA CITY BUSINESS DEVELOPMENT NO
- 37 Rod Oxford Attorney 10 East Third Suite 500 Tulsa 74103
- 38 Ray Wood Amoco Prod. 1110 W. Stovall, W. Bartlesville, OK
- 39 Morris Maffett AQD OKC
- 40 ~~Ray Wood~~ ~~AMOCO PROD.~~ TULSA
- 41 ~~MARVIN BARTON~~ CASE 6609 E 81st Rd Tulsa 74133
- 42 Kathy Martin ODEQ/CAP 1000 NE 10th OKC
- 43 Monty Williams ODEQ/AQD 4545 N. Lincoln OKC
- 44 Tom Yee ODEQ/AQD 4545 N. Lincoln OKC
- 45 ROBERT GRAY ARD 1500 JFK BLDG, SUITE 300 HOUSTON TX 77032
- 46 Colleen Crawford Kaled

- 47 Mel Driver PPC PRC 941 Bartlesville OK 74004
- 48 Ron Truelove RSA 3700 W. Robin ^{Suite 200} Norman, OK
- 49 Randy Pitler OXY USA Inc. P.O. Box 26100, OKC, OK 73129
- 50 LEO FACIANE TEXAS INDUSTRIES, INC 7610 STEMMOUR, DALLAS 75247 Nc
- 51 Nancy Garnett Texas Industries, Inc 7610 Stemmour Dallas 75247 Nc
- 52 Galen Madison Comoco Inc. P.O. Box 1267, F.B. 1104, Ponca City, OK 74602-1104
- 53 ~~Lynn W. Williams~~ CCHDOC, 921 NE 23rd St, OKC, OK 73105
- 54 Susie King Comoco 201 NW 63rd OKC OK 73116
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TO BE USED FOR PERMANENT AND EMERGENCY RULES
RECOMMENDATION
TO THE
ENVIRONMENTAL QUALITY BOARD

FROM THE
AIR QUALITY **COUNCIL**

The members of this Council, acting pursuant to the authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, Section 2-2-201, by roll call vote, make formal recommendation to the Environmental Quality Board that the rule(s) specified below be adopted as (a) permanent rule(s) and by emergency and that the Board find that adoption of the rule(s) by emergency is warranted by the compelling extraordinary circumstance of the need for the rule to be in effect for delegation of the Title V program from the Environmental Protection Agency by March, 1995.

OAC 252:100-45 MONITORING OF EMISSIONS

Prior to making this recommendation, this Council considered the rules and comments received thereon and determined, to the best of its knowledge, that all requirements of the Oklahoma Administrative Procedures Act applicable to this rulemaking have been followed.

With the understanding that such changes shall not invalidate this recommendation, this Council authorizes the Department staff to make any amendments approved by the Council, appropriate corrections of typographical errors, additions and deletions indicated by ~~strikeout~~/underline, and formatting as required by the Office of Administrative Rules.

Respectfully,



Chair or Designee

Signed this 11th day of October, 1994.

VOTING TO APPROVE:

Larry Canter
David Branecky
Kathryn Hinkle
Gary Kilpatrick
Mary Tillman
William B. Breisch

VOTING AGAINST:

ABSTAINING:

ABSENT

Pierre Taron
Meribeth Slagell
J.W. (Bill) Fishback

Environmental Quality Board

Oklahoma Environmental Quality Board

Department of Environmental Quality

Air Quality Division

November 30, 1994

SUBCHAPTER 45. MONITORING OF EMISSIONS

252:100-45-1. Purpose

The purpose of this Subchapter is to outline the basic requirements for monitoring of emissions and their recording and reporting.

252:100-45-2. Monitoring equipment required

The Executive Director may require the owner or operator of any air contaminant source to:

- (1) install, use, and maintain such monitoring equipment;
- (2) sample such emissions in accordance with methods as the Executive Director shall prescribe;
- (3) establish and maintain such records; and
- (4) make such periodic emission reports as required in 252:100-45-3.

252:100-45-3. Records required

Records and reports as the Executive Director shall prescribe on air contaminants or fuel shall be recorded, compiled, and submitted on forms furnished by the Executive Director. (The procedures below are examples of such requirements.)

- (1) Emissions of particulate matter, sulfur dioxide, and oxides of nitrogen shall be expressed as follows:
 - (A) in pounds per hour and pounds per million BTU of heat input for fuel-burning equipment;
 - (B) in pounds per hour and pounds per 100 pounds of refuse burned for incinerators; and
 - (C) in pounds per hour and in pounds per hourly process weight or production rate or in terms of some other easily measured and meaningful process unit specified by the Executive Director.
- (2) Sulfur dioxide and oxides of nitrogen emission data shall be averaged over a 24-hour period and shall be summarized monthly. Daily averages and monthly summaries shall be submitted to the Executive Director biannually. Data should be calculated daily and available for inspection at any time.
- (3) Particulate matter emissions shall be sampled and submitted biannually.
- (4) Visible emissions shall be measured continuously and records kept indicating total minutes per day in which stack discharge effluent exceeds 20 percent opacity. Data should be summarized biannually. Current daily results shall be available for inspection at any time.
- (5) The sulfur content of fuels, as burned, except natural gas, shall be determined in accordance with current recognized ASTM procedures. Daily and monthly averages shall be submitted biannually. Daily records shall be kept current and be available for inspection.

252:100-45-4. Compliance Certifications

Notwithstanding any other provision in the State of Oklahoma implementation plan approved by the Administrator, for the purpose of submission of compliance certifications an owner or operator is not prohibited from using monitoring as required under 252:100-8-6 (a) (3) and incorporated into a federally enforceable operating permit in addition to any specified compliance methods.

252:100-45-5. Enforceability

Notwithstanding any other provision in the State of Oklahoma implementation plan approved by the Administrator, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such plan.

(1) Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

(A) A monitoring method approved for the source pursuant to 252:100-8-6 (a) (3) and incorporated in a federally enforceable operating permit.

(B) Compliance methods specified in the applicable plan.

(2) The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information gathering methods:

(A) Any federally-enforceable monitoring or testing methods, including those in 40 CFR parts 51, 60, 61 and 75.

(B) Other testing, monitoring or information-gathering methods that produce information comparable to that produced by any method in (1) or (2) (A).

Additional Comments

SUBCHAPTER 45. MONITORING OF EMISSIONS

EXECUTIVE SUMMARY:

The intent of the revision to OAC 252:100-45 is to correct inadequacies in the Oklahoma State Implementation Plan(SIP) as identified by the federal Environmental Protection Agency(EPA). The corrections allow a permitted source to use any credible evidence to demonstrate compliance, and allow the EPA to use any credible evidence to establish violations and enforce the Oklahoma SIP. The net result would be an EPA-approvable SIP, as required by the 1990 Clean Air Act Amendments.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

The revision to Subchapter 45 corrects possible differences in interpretation of Oklahoma rules and federal law by allowing the use of any credible evidence for compliance and enforcement purposes.

Comments and Responses:

Comment: EPA, in correspondence dated Sept. 26, 1994, concurred with the staff's proposed language.

ENHANCED MONITORING

EXECUTIVE SUMMARY

Background

The United States Environmental Protection Agency (EPA) is initiating an Enhanced Monitoring Program. The implementation strategy is to require enhanced monitoring of major stationary sources of air pollution pursuant to Section 114(a)(3) and 110(a)(2)(A), (C) and (F) and 113(a) and (e) and 504(c) of the Clean Air Act Amendments of 1990. This new program represents a shift away from the historical process of using a performance test to demonstrate a source's ability to comply with applicable emission limits and agency surveillance to show compliance. Enhanced monitoring will place the burden upon the source's owner or operator to demonstrate compliance.

The proposed regulations will establish criteria and procedures that owners or operators must satisfy when selecting an enhanced monitoring protocol. The reporting and recordkeeping requirements will identify the basis, content, frequency and other requirements for enhanced monitoring reports. Appendices will consist of enhanced monitoring performance and quality assurance requirements. The implementation will be through the permitting process pursuant to 70.6(a)(3). The information collected will be used to determine compliance with applicable emission limitations for enforcement purposes, benefitting regulatory agencies. Conversely, the enhanced monitoring data will be used by an owner or operator to certify compliance pursuant to 70.6(a)(3) and/or as evidence for the compliance certificate pursuant to 70.5(d), benefitting regulated industries.

Issuance of a SIP Call

In anticipation of the enhanced monitoring provisions, the EPA has reviewed the Oklahoma Air Pollution Control Rules. The Oklahoma State Implementation Plan (SIP) has been found to be substantially inadequate to meet the requirements pertaining to enhanced monitoring at Sections 110(a)(2)(A), (C), and (F), 113(a) and (e), and 114(a)(3) of the Act. Oklahoma's present SIP may be interpreted to limit the types of testing or monitoring data that may be used for compliance certification purposes or establishing violations. Because the SIP becomes Federal law when approved by the EPA, some courts may inappropriately interpret Oklahoma's SIP to restrict the EPA's authority to assess penalties pursuant to the Clean Air Act section 113(e) and 504(c): thus EPA has determined the Federal enforceability of Oklahoma's SIP provisions are inadequate. Therefore, the Governor of Oklahoma has been issued a

SIP call to ensure consistent interpretation in Federal and State enforcement actions. The EPA is requiring that any monitoring data that is approved for the source is regarded as credible evidence for determining compliance with and for establishing violations of the underlying emissions standards specified in the permit. The EPA is requiring a SIP revision by the later of the final promulgation of the enhanced monitoring regulations or November 15, 1994. This will insure that the language is placed in Oklahoma's SIP prior to the time the Air Quality Division begins to issue Part 70 CFR 40 permits (Oklahoma Subchapter 8 Permits). Ostensively, this change in Oklahoma's SIP provides the premise which will become Oklahoma's enhanced monitoring program. Notwithstanding any action by Oklahoma, the Federal EPA is proposing a Federal Implementation plan language for those areas that fail to submit a SIP revision or submit a revision the EPA does not approve.

Staff Recommendations

The staff of the Air Quality Division has been restricted when establishing violations of Oklahoma Air Pollution Control Rules. Currently, enforcement actions are limited to emission limitations, operating scenarios, or control technology as stipulated in the operating permit. After full implementation, information from the enhanced monitoring protocol, as well as any other credible evidence may be presented in Federal court to establish whether a violation has occurred. The court would rule on the credibility of the evidence and the existence of a violation based on all the evidence presented. The allowing of any credible evidence yields flexibility to the industrial source when producing evidence in the proposal of enhanced monitoring protocol and, in defense of an enforcement action. The Federal EPA has issued a SIP call to the Governor and provided suggested language to correct the deficiencies in our existing SIP. The staff recommends adoption of these changes.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 13 1993

DEC 15 1993

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Enhanced Monitoring SIP Call Language and Schedule

FROM: John B. Rasnic, Director *John B. Rasnic*
Stationary Source Compliance Division (6306W)
Office of Air Quality Planning and Standards

TO: Air, Pesticides and Toxics Management Division Directors
Regions I and IV

Air and Waste Management Division Director
Region II

Air, Radiation and Toxics Division Director
Region III

Air and Radiation Division Director
Region V

Air, Pesticides and Toxics Division Director
Region VI

Air and Toxics Division Director
Regions VII, VIII, IX and X

Attached to this memorandum is language for the State Implementation Plan (SIP) call component of the Enhanced Monitoring (EM) rulemaking. The EM rule, proposed September 30, 1993, requires that a direct link be established between EM data and compliance certifications, and that the resulting data be used for direct enforcement of an underlying emission limit or standard. The SIP call described in the rulemaking is in agreement with the decisions made during the Air Division Directors' conference call held on June 4, 1993. These decisions were in turn delineated in the July 26, 1993, memorandum from my office to the Air Division Directors.

As noted, this SIP call is necessary to allow Part 64 and Part 70 monitoring data to be used directly for compliance certifications and enforcement. Enclosed are two options for the SIP language. Option 1 is the preferred option, as it is more explicit as to what is both allowed and required. Option 2, which is significantly less desirable from the point of view of the



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workgroup, may be used where States feel that they can not directly refer to regulations that have not yet been promulgated. On February 15, 1994, the Regions would issue a SIP call to each State that had not voluntarily submitted a SIP revision. The basis for the SIP call would be that the SIP does not allow compliance with the enforceability provisions of section 110(a)(2) of the Clean Air Act, in light of the new monitoring requirements of sections 114 and 504. This call would require the States to revise their SIPs by the later of two events: 1) The issuance of the final EM rule (scheduled, per a settlement agreement, for September 30, 1994); or 2) November 15, 1994, the anticipated date for final permit program approval. The EPA has drafted Federal Implementation Plan (FIP) language in the proposed EM rule, which would be used in the event that a State fails to submit anything by the final date. If the State submits a response that should be disapproved, EPA would finalize the FIP in its final disapproval action of the State submittal. A goal of June 30, 1995 has been set for promulgation of final SIPs and FIPs. Please note that under the current schedule, permit applications would be due approximately November 15, 1995.

The EM subworkgroup is of the opinion that the above described SIP call process is legally sound, and that it offers the best opportunity for the successful implementation of the monitoring rules. I look forward to continued cooperation with your offices, and in turn your respective States, as we work through the process. If you have any questions, please contact me or Keith Brown of my staff at (703) 308-8600.

Attachments

ENHANCED MONITORING (EM) SIP CALL
(Example State Schedule)

<u>Date</u>	<u>Milestone</u>
A. <u>\$105 Grant Objectives:</u>	
1. "10/22/93"	Date FedRegister EM proposed FIP rule published
2. 12/21/93, (or 1/21/94)	State submits draft workplan & schedule to EPA for review.
3. Within 30 days	EPA provides comments.

Skip to #B.2.

Note: Defer this next milestone (to B. SIP Call Schedule, #2).

4. W/i 30 days	State submits final schedule for revising, adopting, and submitting the EM changes as a SIP revision [for SIP Call].
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B. SIP Call Schedule:

1. 2/15/94	EPA issues SIP Call letter to Governor.
2. 4/15/94	Governor submits proposed schedule to EPA to correct SIP deficiency.

C. Example State Schedule:

1. By 3/15/94	State will review its regulations, and general rules to determine what changes are necessary to comply with the SIP call and provide a letter summarizing the results of the review. [Note: For example in New Mexico, Regulation 707 (PSD) and 709 (Nonattainment NSR), & General Rules].
2. 5/30/94	State submits draft SIP revision to EPA for review.
3. Within 45 days	EPA provides comments.
4. By 9/30/94	State conducts public hearing on proposed SIP revision. Deadline for submittal of final SIP revision to EPA is 11/15/94.
5. By 10/30/94	State adopts SIP revision.
6. By 11/15/94	Governor submits final SIP revision.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 17 1993

OFFICE OF
AIR AND RADIATION

NOTE

SUBJECT: Enhanced Monitoring SIP Call Language Correction

FROM: Keith Brown, Workgroup chair (6306W)
Enhanced Monitoring Program Workgroup

TO: Air, Pesticides and Toxics Management Division Directors
Regions I and IV

Air and Waste Management Division Director
Region II

Air, Radiation and Toxics Division Director
Region III

Air and Radiation Division Director
Region V

Air, Pesticides and Toxics Division Director
Region VI

Air and Toxics Division Director
Regions VII, VIII, IX and X

Attached to this note please find the correct version of the SIP call language contained in John Rasnic's 12/13/93 memorandum. You will note that for Option 2 of the Rasnic memo, Enforcement, (a)(1)(A) has been deleted, and (B) and (C) have correspondingly moved up. Please replace the 12/13 version with the attached. If you have any questions, please contact me at (703) 308-8676. Thanks.

Attachments

cc: Workgroup members



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Proposed SIP Language

Option 1

[Section] Compliance Certifications. Notwithstanding any other provision in any plan approved by the Administrator, for the purpose of submission of compliance certifications the owner or operator is not prohibited from using the following in addition to any specified compliance methods:

- (1) An enhanced monitoring protocol approved for the source pursuant to 40 CFR Part 64.
- (2) Any other monitoring method approved for the source pursuant to 40 CFR 70.6(a)(3) and incorporated into a federally enforceable operating permit.

[Section] Enforcement. (a) Notwithstanding any other provision in the [name of State or area] implementation plan approved by the Administrator, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such plan.

- (1) Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at a source:
 - (A) An enhanced monitoring protocol approved for the source pursuant to 40 CFR Part 64.
 - (B) A monitoring method approved for the source pursuant to 40 CFR 70.6(a)(3) and incorporated in a federally enforceable operating permit.
 - (C) Compliance test methods specified in the applicable plan approved in this part.
- (2) The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information-gathering methods:
 - (A) Any federally-enforceable monitoring or testing methods, including those in 40 CFR parts 51, 60, 61 and 75.
 - (B) Other testing, monitoring or information-gathering methods that produce information comparable to that produced by any method in (1) or (2)(A).

Option 2

[Section] Compliance Certifications. Notwithstanding any other provision in any plan approved by the Administrator, for the purpose of submission of compliance certifications an owner or operator is not prohibited from using monitoring as required under 40 CFR 70.6(a)(3) and incorporated into a federally enforceable operating permit in addition to any specified compliance methods.

[Section] Enforcement. (a) Notwithstanding any other provision in the [name of State or area] implementation plan approved by the Administrator, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such plan.

(1) Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

- (A) An enhanced monitoring protocol approved for the source pursuant to 40 CFR Part 64.
- (B) A monitoring method approved for the source pursuant to 40 CFR 70.6(a)(3) and incorporated in a federally enforceable operating permit.
- (C) Compliance methods specified in the applicable plan.

(2) The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information gathering methods:

- (A) Any federally-enforceable monitoring or testing methods, including those in 40 CFR parts 51, 60, 61 and 75.
- (B) Other testing, monitoring or information-gathering methods that produce information comparable to that produced by any method in (1) or (2) (A).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAY 10 1994

Mr. Larry D. Byrum
Director, Air Quality Division
Oklahoma Department of
Environmental Quality
4545 North Lincoln Blvd. Suite 250
Oklahoma City, Oklahoma 73105-3483

Re: Work Plan and Schedule for Developing and Adopting
Regulations for Enhanced Monitoring

Dear Mr. Byrum:

The Environmental Protection Agency (EPA) proposed regulations pertaining to the use of enhanced monitoring on October 22, 1993. In that proposal, at section IV (K) of the preamble (SIP call), EPA stated that the State Implementation Plans (SIP) must be revised to incorporate provisions to enable the use of any credible evidence to determine compliance and violations of Prevention of Significant Deterioration (PSD) permits, nonattainment New Source Review (NNSR) permits, and operating permits issued pursuant to Title V of the Clean Air Act Amendments. Furthermore, the state plan must adopt these corrective SIP call regulations and submit them to EPA by November 15, 1994 in order that they will be included in PSD permits, NNSR permits, and Title V permits issued after November 15, 1994.

As stated above, it is essential that Oklahoma Department of Environmental Quality (ODEQ) adopt and submit regulations not later than November 15, 1994, to allow the use of any credible evidence to determine compliance and violations of PSD permits, NNSR permits and Title V permits. We request that you provide us, within 30 days, a draft schedule by which you will propose the regulations, hold public hearings, adopt the regulations, and submit the regulations to EPA as a SIP revision. Enclosed herein is information to assist you in developing regulatory language, and a sample schedule for your consideration.

We commend you for your efforts to date and we encourage you to proceed with the development and adoption of enhanced monitoring regulations.

Your cooperation will be greatly appreciated. If you have any questions please call me at (214) 655-7252 or Mr. Daron Page at (214) 655-7222 .

Sincerely yours,



Jole C. Luehrs
Chief

New Source Review Section (6T-AN)

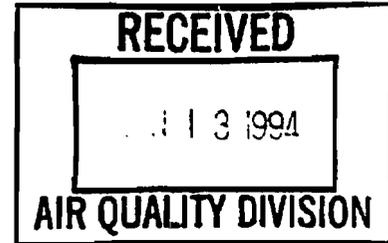
bcc: Mikus (6T-AG)
Diggs (6T-AP)
Luehrs (6T-AN)
Whaley (6T-AN)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JUN 09 1994



Honorable David Walters
Governor of Oklahoma
Oklahoma City, OK 73105

Dear Governor Walters:

The purpose of this letter is to notify you pursuant to Section 110(k)(5) of the Clean Air Act (the Act), 42 U.S.C. § 7410(k)(5), that we find the Oklahoma State Implementation Plan (SIP) substantially inadequate to meet the requirements pertaining to enhanced monitoring at Sections 110(a)(2)(A), (C), and (F), 113(a) and (e), and 114(a)(3) of the Act, 42 U.S.C. §§ 7410(a)(2)(A), (C), and (F), 7413(a) and (e), and 7414(a)(3), respectively (see Enclosure 1).

As discussed in the preamble to the proposed Enhanced Monitoring Rules published in the Federal Register on October 22, 1993, the Environmental Protection Agency (EPA) believes that existing SIPs are inadequate for States as permitting authorities or the EPA to fully implement Section 114(a)(3) of the Clean Air Act. This section was added to the Act as part of the 1990 Amendments for purposes of compliance certification and enforceability as required by Section 110(a)(2), because the SIPs may be interpreted to limit the types of testing or monitoring data that may be used for determining compliance and establishing violations. Further, these SIP's may be interpreted to restrict the EPA's or the State's ability to use any credible evidence of a violation in enforcement actions. The EPA is also requiring States to revise their SIPs to clarify that any monitoring required under 40 C.F.R. part 64 or part 70 that is approved for the source and included in a federally-enforceable operating permit may form the basis of the compliance certification and that any credible evidence may be used for purposes of enforcement in Federal court. In addition, because the SIP becomes Federal law when approved by the EPA, the EPA is concerned that some courts may inappropriately interpret a SIP to restrict EPA's authority

under Section 113(e) and other promulgated Federal regulations concerning enforcement of the SIPs (e.g., 40 CFR 52.12). The EPA believes that any ambiguity with respect to the issue should be eliminated and States should revise their SIPs to ensure consistent interpretation of Section 113(e) in all Federal actions.

The EPA is therefore requesting the State of Oklahoma to cure the identified inadequacies by revising the SIP. In order to provide sufficient time to adopt and submit revisions, the State is required to revise its SIP by November 15, 1994. The State must submit a schedule for the development of the necessary enhanced monitoring SIP revision to the EPA not more than 15 days from the date of this letter. (In anticipation of this necessary SIP revision, a sample schedule has been forwarded to the State for their consideration.) If the State does not submit the curative enhanced monitoring SIP revisions to the EPA by November 15, 1994, the Clean Air Act requires the EPA to take action. In that event, the EPA believes that it would have to promulgate a corrective Federal Implementation Plan (FIP) to cure the deficiencies.

I recognize that the above schedule is ambitious, but I believe it can be met if we work together. I look forward to this cooperative effort.

Sincerely yours,

/s/ William B. Hathaway for

Jane N. Saginaw
Regional Administrator

Enclosures

cc: Mark S. Coleman
Oklahoma Department of
Environmental Quality

Larry Byrum
Air Quality Program
Oklahoma Department of
Environmental Quality

RECEIVED

JUN 13 1994

Office of the
Executive Director

MARK S. COLEMAN
Executive Director



DAVID WALTERS
Governor

State of Oklahoma
DEPARTMENT OF ENVIRONMENTAL QUALITY

June 21, 1994

Gerald Fontenot, Branch Chief
Air Programs Branch (6T-A)
United States Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

Dear Mr. Fontenot:

We are in receipt of Ms. Saginaw's June 9, 1994, letter to Governor Walters which finds the Oklahoma State Implementation Plan substantially inadequate in regards to the Clean Air Act's enhanced monitoring requirements.

Please find attached Oklahoma's proposed developmental schedule and workplan outlining the steps we plan to take in correcting these deficiencies.

An area that still concerns us is that we may have difficulty in formally referring in our SIP revision to federal rulemaking that has not yet been finalized. We plan to work closely with your staff in addressing this problem so that we can develop revisions that will be acceptable to all parties concerned.

Sincerely,

A handwritten signature in cursive script that reads "Larry D. Byrum for".

Larry D. Byrum, Director
AIR QUALITY DIVISION

LDB:ST:mb

**ENHANCED MONITORING WORKPLAN
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY**

DATE	MILESTONE DESCRIPTION	ASSIGNED
06-09-94	SIP call issued (accomplished)	EPA
06-24-94	Developmental schedule submitted to Region VI (accomplished)	ODEQ
Ongoing	Dialogue between staff and EPA to determine problem areas	ODEQ/EPA
07-15-94	Oklahoma completes review of rules to determine what changes are necessary to comply with the NSR/PSD SIP	ODEQ
08-01-94	Oklahoma submits draft of revisions to EPA for review	ODEQ
09-01-94	EPA provides comments on SIP revision	EPA
10-11-94	Public hearing on proposed changes before the Air Quality Council	ODEQ
by 11-15-94	Adoption by DEQ Board as permanent and emergency rules	ODEQ
within 45 days of adoption	Governor signs rules and submits to EPA as SIP revision	Governor



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

Mr. Larry Byrum, Director
Air Quality Division
Oklahoma Department of
Environmental Quality
4545 North Lincoln Blvd., Suite 250
Oklahoma City, OK 73105-3483

Re: Enhanced Monitoring SIP Call - Proposed Revisions to OAC
252:100-45 "Monitoring of Emissions"

Dear Mr. Byrum:

We have reviewed the regulatory changes outlined in your letter to Mr. Gerald Fontennot, dated August 2, 1994 which proposed language for OAC 252:100-45 "Monitoring of Emissions" in response to the June 9, 1994 SIP call. There were two versions of proposed regulation language attached. In the first version the proposed regulatory changes follow closely with the language outlined in Option 2 of the December 17, 1993 memorandum from Keith Brown, Workgroup chair, Enhanced Monitoring Program Workgroup to Regional Air Directors. We suggest that the more detailed language in the first version be adopted.

On the basis of our review of the proposed regulatory changes, we have no further comments or items of concern. The office of Regional Counsel will not be reviewing this draft; we strongly urge you to elicit the advise and counsel of your attorneys on this matter.

If you have any questions, please call Daron Page of my staff at (214) 665-7222.

Sincerely yours,

A handwritten signature in cursive script that reads "Jole C. Luehrs".

Jole C. Luehrs
Chief
New Source Review Section (6T-AN)



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
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SEP 27 1994

Mr. Larry Byrum, Director
Air Quality Division
Oklahoma Department of
Environmental Quality
4545 North Lincoln Blvd., Suite 250
Oklahoma City, OK 73105-3483

Re: Enhanced Monitoring SIP Call - Proposed Revisions to OAC
252:100-45 "Monitoring of Emissions"

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If you have any questions, please call Daron Page of my staff at (214) 665-7222.

Sincerely yours,

A handwritten signature in cursive script that reads "Jole C. Luehrs".

Jole C. Luehrs
Chief

New Source Review Section (6T-AN)



December 9, 1994

Mr. Greg Heiser
Deputy General Counsel
Office of the Governor, Suite 212
State Capitol Building
Oklahoma City, Oklahoma 73105

Re: Emergency Rules
Environmental Quality Board, 11/30/94
252:100-45 (emissions monitoring) Air Pollution Control
[amended]

Dear Mr. Heiser:

Enclosed as required by 75 O.S.Supp. 1992, Section 253, is one copy of the referenced rules. Please note that these rules were adopted by the Environmental Quality Board, not the Department as is reflected on the rules heading. This is one of eight emergency rulemaking actions taken that day, and identical permanent rules were also adopted for all of these actions.

Please be advised that notice and hearing were accomplished; thus, the emergency is sought to achieve timely effectiveness of the rules.

We request your approval of the rules. If you find that such may not be warranted, please call. Also, feel free to call on me if I can in any way assist in the processing of this material under the Administrative Procedures Act.

Sincerely,

Robert D. Kellogg
General Counsel
271-8060

Enclosure

Ms. Peggy Wilhoit
Project Manager
Oklahoma Advisory Committee on
Intergovernmental Relations
State Capitol Building, Room 307

December 9, 1994

Regarding Rules Adopted by the Department of
Environmental Quality on 11/30/94

Dear Ms. Wilhoit:

As provided by recent amendment to the Administrative Procedures Act (Laws 1994, c. 182, § 2 and §4), enclosed is a copy of several rules adopted by the Environmental Quality Board on September 28, 1994. These rules may have an impact on political subdivisions, according to the referenced law.

Please note that there are identical permanent and emergency rules for each action. The rules enclosed are:

1. 252:100-8, Air Pollution Control (acid rain) [AMENDED];
2. 252:100-8, Air Pollution Control (permit fees) [AMENDED];
3. 252:100-45, Air Pollution Control (emissions monitoring) [NEW];
4. 252:605, Discharges - OPDES (NPDES) [AMENDED];
5. 252:615-3-4, Industrial Wastewater Systems (permit fees) [AMENDED];
6. 252:620-1-5, Non-Industrial Impoundments (fees) [NEW]; and
7. 252:647, Sludge and Land Application of Wastewater [AMENDED].

Please call on me if I can in any way assist in the processing of this material under the Administrative Procedures Act.

Sincerely,

Robert D. Kellogg
General Counsel
271-8060

Enclosures

RECEIVED

AIR QUALITY

ICAC

INSTITUTE OF
CLEAN
AIR
COMPANIES

MECA

MANUFACTURERS OF
EMISSION CONTROLS
ASSOCIATION1707 L Street, NW
Suite 570
Washington, DC 20036

TECHNOLOGY NEWS

SUMMER 1994

Clean Air

Industry Readies Itself for the Enhanced Monitoring Rule

RICHARD A. HOVAN
KVB/Analect, a Research-Cottrell Company

On October 22, 1993, the U.S. Environmental Protection Agency (EPA) proposed a new enhanced monitoring program which included both new regulations and amendments to several existing regulations. The proposed rule, which has been estimated to cost industry between \$830 million and \$1.64 billion, will be finalized under a court-ordered deadline of September 30, 1994. If the final rule reflects the magnitude of the proposed rule, approximately 34,000 total sources will be affected.

The Regulation

The Clean Air Act Amendments (CAAA) of 1990 envision two goals for the enhanced monitoring (EM) provisions:

- 1) To provide real assurance that standards (New Source Performance Standards, NESHAPS) are being met;
- 2) To achieve emissions reductions. There is sufficient evidence that greater levels of emissions reductions are achieved when some kind of continuous compliance demonstration is required.

Five criteria pollutants are regulated under the proposed EM rule: ozone, i.e. volatile organic compounds (VOCs) and nitrogen dioxides (NO_x); total suspended particulates (TSP); carbon monoxide (CO); and sulfur dioxide (SO₂). Enhanced monitoring designated HAPs will be integrated in individual Title III regulations. The EM requirements apply to existing facilities; new or modified facilities will become subject to new standards for pollutant monitoring.

The Monitoring Techniques

Each source/facility that is required to obtain a Title V operating permit must, in the permit application that it submits for approval, identify an enhanced monitoring program and protocol, correlate it with the applicable monitoring or reference standards, and demonstrate that its implementation will be sufficient to show continuous compliance. To assist affected sources—as well as permit writers—EPA will publish a separate "Enhanced Monitoring Reference Document," a com-

pendium of established monitoring techniques.

Depending on the nature of the emissions unit being monitored, an enhanced monitoring protocol could include elements such as the following:

- continuous emission monitoring systems;
- continuous process or control device parameter monitoring systems or procedures;
- emission calculations based on accepted engineering estimation techniques;

- continued on page 2

LEV Program Technologies are on Track

BRUCE I. BERTELSEN
Executive Director, MECA

When California adopted its now famous Low Emission Vehicle and Clean Fuel Program in 1990, many simply shook their heads and said the standards could not possibly be met within the ambitious schedule set out by the program. But now, four years later, as a result of an unprecedented development effort 1) to reduce emissions from gasoline, diesel, and alternative fuel vehicles, 2) to improve fuel quality, and 3) to develop electric-powered vehicles, the California Air Resources Board recently concluded that compliance with the tough emission standards is on track.

This article will focus on some of the notable development efforts to reduce emissions from gasoline-fueled vehicles. Watch for articles in future issues of Clean Air Tech-

nology News on technological developments being made to reduce emissions from alternative- and diesel-fueled vehicles.

The California LEV Program

The cornerstone of the California LEV Program is a series of increasingly more stringent emission standards for light- and medium-duty vehicles phased in over a ten year period beginning in 1994. For passenger cars and light trucks there are four sets of standards — transitional low emission vehicle (TLEV), low emission vehicle (LEV), ultra-low emission vehicle (ULEV) and zero emission vehicle (ZEV) as shown in Table 1. Comparable standards have been established for light-duty trucks and medium duty vehicles, although no ZEV requirement is present.

The ZEV mandate is phased in over several years beginning with a two percent - continued on page 7

Enhanced Monitoring Rule

—continued from page 1

- maintenance and analysis of records, fuel or raw materials usage;
- periodic verification of emissions, process parameters or control device parameters using portable or in situ measurement devices;
- recording results of a program or protocol to conduct specific operation and maintenance procedures, leak detection, fugitive dust control, or other work practices;
- any other form of measuring emissions, process parameters or control device parameters that can achieve the requirements of the proposed regulations.

Traditional Technology Choices

While EPA's proposal made it clear that EM does not require sources to install CEMS, many facilities will opt for the "tried and true" CEMS technologies which are successfully operating on industrial and utility sources throughout the nation.

All CEMS incorporate three basic systems: sampling, monitoring or analyzing, and data acquisition and reporting/handling. CEMS either are extractive or in situ, depending on the location of the sampling system relative to the analyzer. Extractive systems use a sampling probe to remove and transport a gas sample to a remote analyzer, while in situ systems directly monitor and sample the gas within the stack or duct. Extractive systems can employ two varieties of sampling probe: fully extractive or dilution-extraction. The choice of probe type must be made on a case-by-case basis, and is dependent on the application and gas stream.

Emerging Technologies—Air Toxics Monitoring

The technology which has received a great deal of attention and associated testing under the EPA's Emission Measurement Branch has been fourier transform infrared (FTIR) spectrometry. FTIR uses infrared light absorption patterns to determine the emitted component. The heart of the FTIR spectrometer is an optical device called an interferometer which uses a beam splitter and mirrors to measure the infrared spectrum of a gas sample. The infrared source is split into a pair of

beams that recombine in the device to form a pattern. A computer algorithm converts the pattern into quantitative data.

Unlike traditional CEMS, FTIR potentially can measure thousands of components at a time. Currently, FTIR can measure up to 80 constituents at one time, with 135 out of the 189 Title III (Air Toxics) CAAA regulated pollutants able to be measured by the technology. The other clear advantage of FTIR over multi-component analytical techniques is the speed, accuracy, and reliability of the method. Results typically are available within minutes of analysis. Since many FTIR systems were designed for harsh process environments they are extremely rugged, with maintenance requirements typically limited to a once-a-year light source changeout.

FTIR testing and piloting have been underway for several years, and FTIR has proven to be extremely successful in numerous applications including utility, pulp and paper, cement manufacturing, waste incineration, and primary and secondary metals manufacturing.

Analyzer Advances

In response to industry's needs for greater reliability and increased accuracy from their monitoring devices, important advances in the actual analyzers have been achieved. One of the most impressive of these advances applies to the old industry standby, the opacity monitor. This new monitor differentiates itself by using a laser source which operates on the principle of light attenuation. While a traditional opacity-light source disintegrates over time and tends to misalign readily, the laser source does not waver in intensity, greatly improving both reliability and accuracy. The laser source operates without traditional filters,

resulting in a simpler operating system. Furthermore, beam collimation is a natural characteristic of the laser, producing a dramatic improvement in alignment (up to 10⁶ times).

The stability of the laser, coupled with its high intensity, results in a rugged and highly practical system for process conditions where high dust loads are common. The system is light, easy to install, and requires minimal maintenance. Since almost 40% of the sources under the proposed enhanced monitoring regulation will need to monitor for opacity, the laser system offers a simple, cost-effective response.

Software-Based Monitoring Systems

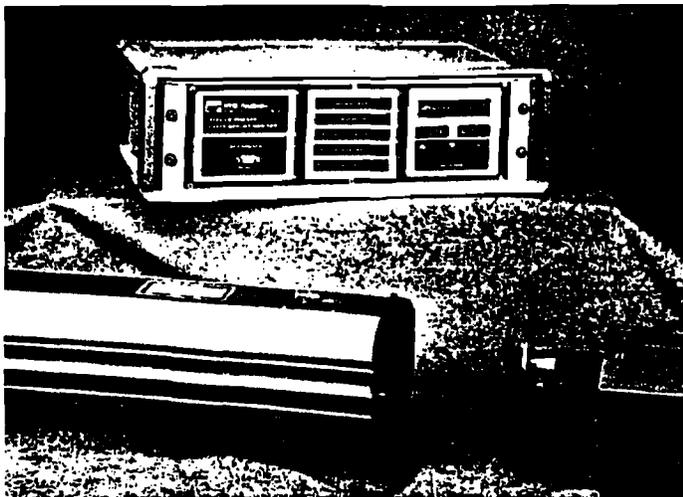
For years, engineers have designed process control models which have been used to predict downstream process output based on upstream process factors. However, these models were basically linear, able to create process approximations based only on a few parameters. Now, software advances have expanded modeling capabilities multidimensionally using techniques of fuzzy logic, neural networks, and chaotic system theory. These advances are proving to be applicable to modeling and predicting emissions generated from various combustion and chemical processes.

In practice, each model—for each individual source—must be "taught" to predict using historical operating and emissions data that has been generated by conventional CEMS. The model predicts emissions using a myriad of operating data integrated through the process' existing distributed control system (DCS). In addition to using this model to predict emissions for compliance purposes, the system can be used for pollution prevention and process optimization.

Anticipating the Regulations

The court-ordered deadline for EPA to finalize the EM rule is fast approaching, and industries are paying close attention to the anticipated requirements of the rule. Although the exact requirements of the final rule remain unknown, likely sources can get an important head-start on the compliance process by determining the likelihood that they will be regulated, by examining the available technical alternatives, and by understanding both the potential and the limits of new emissions monitoring technologies.

CATN



The KVB/MIP opacity monitor uses advanced laser technology to improve performance, reliability and accuracy.

BEFORE THE OKLAHOMA AIR QUALITY CONTROL COUNCIL

ORIGINAL

* * * * *
HEARING BEFORE THE
OKLAHOMA AIR QUALITY CONTROL COUNCIL
ON PROPOSED RULE OAC-252:100-45
AT 4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA
* * * * *

COUNCIL MEMBERS PRESENT:

Mr. William B. Breisch, Chairman
Ms. Mary Tillman
Dr. Larry Canter
Mr. Gary Kilpatrick
Mr. David Branecky
Ms. Kathryn B. Hinkle

ALSO PRESENT:

Mr. Larry Byrum, Protocol Officer
Ms. Myrna Bruce, Secretary of Council

Reported by:

Christina L. Stevens, CSR
PRIDE REPORTING SERVICES
2601 N.W. Expressway, Suite 103E
Oklahoma City, OK 73112
(405) 843-6498

INCIDENTS OF COMMISSION MEETING

	<u>PAGE</u>
MOTION BY MR. KILPATRICK08
SECOND BY MS. TILLMAN	08
ROLL CALL VOTE08

October 11, 1994
Oklahoma City, Oklahoma
1:15 o'clock p.m.

* * * * *

THE CHAIRMAN: We will call the board meeting to order. First on the agenda is the hearing portion of the meeting. Larry Byrum will act as protocol officer for the hearing portion of the meeting.

Larry.

MR. BYRUM: Ladies and gentlemen, my name is Larry Byrum. I am the director of the air quality division. As such, I will act as the protocol officer for this hearing. This hearing was convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 of the Code of Federal Regulations, part 51, as well as the authority of Title 63 of the Oklahoma Statutes, Section 1-1801 and following. This hearing was advertised in the Oklahoma Register for the purposes of receiving comments pertaining to the revisions of OAC 252:100-45 "Monitoring of Emissions."

If you wish to make comments on this, there are slips that are available at the registration table. If you would fill those out, they will be passed to me, and I will call upon you at the appropriate time to make

1 those statements.

2 At this time, I would call upon Mr. Randall
3 Ward of the staff to give the staff's position on these
4 proposed changes.

5 THE CHAIRMAN: Larry, may I interrupt for a
6 minute. I did not have the roll call. And I need -- we
7 better do that for the record.

8 Go ahead and call the roll.

9 MS. BRUCE: Dr. Canter.

10 DR. CANTER: Here.

11 MS. BRUCE: Mr. Branecky.

12 MR. BRANECKY: Here.

13 MS. BRUCE: Ms. Hinkle.

14 MS. HINKLE: Here.

15 MS. BRUCE: Mr. Kilpatrick.

16 MR. KILPATRICK: Here.

17 MS. BRUCE: Ms. Tillman.

18 MS. TILLMAN: Here.

19 MS. BRUCE: Mr. Breisch.

20 MR. BREISCH: Here.

21 MS. BRUCE: Members absent are Mr. Fishback,
22 Mayor Taron, and Ms. Slagell.

23 THE CHAIRMAN: Go ahead and continue.

24 MR. BYRUM: Mr. Ward.

25 MR. WARD: Mr. Chairman, members of the

1 Council, ladies and gentlemen: My name is Randall Ward,
2 representing the staff of the air quality division of
3 the Oklahoma Department of Environmental Quality. I am
4 currently the supervisor of the analysis and planning
5 unit.

6 On June 9, 1994, Governor Walters received a
7 letter from Jane Saginaw, Regional Administrator for the
8 Environmental Protection Agency, as part of a nationwide
9 SIP call. We were notified that our state
10 implementation plan was subsequently inadequate to meet
11 the Clean Air Act requirements concerning enhanced
12 monitoring, compliance certification, and the use of any
13 credible evidence for enforcement purposes.

14 Oklahoma's current SIP may be interpreted to
15 limit the types of testing or monitoring data that may
16 be used for determining compliance and establishing
17 violations and to limit the EPA's ability to assess
18 penalties. The EPA is requiring that the states revise
19 their SIP to allow any monitoring data that is approved
20 for a source be regarded as credible evidence for
21 determining compliance and for establishing violations
22 of any standards specified in the permit.

23 Through consultation and correspondence with
24 the EPA, the staff has developed new language to address
25 these concerns. SIP letter and other material are part

1 of the Council packets. Staff is proposing to add new
2 language to OAC 252:100-45 "Monitoring of Emissions."
3 The new language is indicated by underlining and
4 consists of two new sections: OAC 252:100-45-4
5 "Compliance Certification" allows a source to use the
6 monitoring required by their Title 5 permit under OAC
7 252:100-8-6 (a)(3) for the purposes of compliance
8 certification.

9 The second section, OAC 252:100-45-5
10 "Enforcability," allows the use of any credible evidence
11 to determine violations and establishes presumptively
12 credible methods and information sources. Copies of the
13 rule are in the Council packet and available to the
14 audience today. Also included in the packet is a letter
15 from Region 6 EPA approving our proposed rule language.

16 I will now officially enter a copy of the EPA
17 comments into the record. Because it is important that
18 SIP be approved as soon as possible and we have received
19 no substantive comments to the rule, the staff
20 recommends that the Council take action to recommend
21 this rule to the Environmental Quality Board for
22 adoption as an emergency and permanent rule.

23 I and the rest of the staff will now answer any
24 questions.

25 MR. BYRUM: Any questions of the Council for

1 Mr. Ward or other members of the staff? Any questions
2 from the audience for Mr. Ward? Are you raising your
3 hand? Okay. B.J.

4 MS. MEDLEY: I just want to make sure that we
5 are of the understanding that additional rules may be
6 added later regarding enhanced monitoring as soon as EPA
7 deals with that and adopts their final rules. Am I
8 correct on that?

9 MR. BYRUM: Additional rule making will be
10 required to put the provisions of the enhanced
11 monitoring program as proposed by the Federal Register
12 in place.

13 MS. MEDLEY: Thank you.

14 MR. BYRUM: Any other questions? Thank you. I
15 have notices on oral comments from B.J. Did you want to
16 address this rule further?

17 MS. MEDLEY: You mean on the sulfur? Did Tom
18 Diggs call you?

19 MR. BYRUM: No.

20 MS. MEDLEY: No. I'm fine.

21 MR. BYRUM: Nadine, did you --

22 MS. BARTON: I would like to defer my time. Is
23 that possible? To later? Or do we have to make a
24 statement at this time?

25 MR. BYRUM: On this particular rule, I think we

1 are getting ready to find out what the will of the
2 Council is as to whether to pass this rule at this point
3 and time or not.

4 MS. BARTON: I don't have a comment at this
5 time.

6 MR. BYRUM: I have no other indications that
7 anyone wishes to speak to this subject. Anyone else
8 wishing to speak?

9 Mr. Chairman, I find no other persons wishing
10 to speak.

11 THE CHAIRMAN: Any questions from the council?
12 I will entertain a motion on this matter to recommend it
13 to the DEQ.

14 MR. KILPATRICK: I will move that we recommend
15 this to the DEQ as a permanent and emergency rule.

16 MS. TILLMAN: Second.

17 THE CHAIRMAN: We've got a motion and a second.
18 Anymore comments? Any questions? Myrna, will you call
19 the roll?

20 MS. BRUCE: Dr. Canter.

21 DR. CANTER: Aye.

22 MS. BRUCE: Mr. Branecky.

23 MR. BRANECKY: Yes.

24 MS. BRUCE: Ms. Hinkle.

25 MS. HINKLE: Yes.

1 MS. BRUCE: Mr. Kilpatrick.

2 MR. KILPATRICK: Yes.

3 MS. BRUCE: Ms. Tillman.

4 MS. TILLMAN: Aye.

5 MS. BRUCE: Mr. Breisch.

6 MR. BREISCH: Aye.

7 (The hearing adjourned.)

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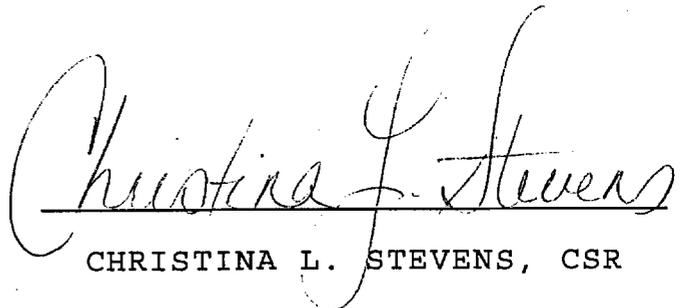
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6 I, CHRISTINA L. STEVENS, CSR, having been
7 duly appointed as Official Court Reporter herein, do
8 hereby certify that the foregoing pages number from 1 to
9 9, inclusive, constitute a full, true, and accurate
10 transcript of all the proceedings had in the above
11 matter, all done to the best of my skill and ability.

12 DATED the 26th day of October, 1994.
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CHRISTINA L. STEVENS, CSR

Christina Lynn Stevens
Oklahoma Certified Shorthand Reporter
Exp. Date: December 31, 1994
Certificate No. 01579



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

Mr. Larry Byrum, Director
Air Quality Division
Oklahoma Department of
Environmental Quality
4545 North Lincoln Blvd., Suite 250
Oklahoma City, OK 73105-3483

Re: Enhanced Monitoring SIP Call - Proposed Revisions to OAC
252:100-45 "Monitoring of Emissions"

Dear Mr. Byrum:

We have reviewed the regulatory changes outlined in your letter to Mr. Gerald Fontennot, dated August 2, 1994 which proposed language for OAC 252:100-45 "Monitoring of Emissions" in response to the June 9, 1994 SIP call. There were two versions of proposed regulation language attached. In the first version the proposed regulatory changes follow closely with the language outlined in Option 2 of the December 17, 1993 memorandum from Keith Brown, Workgroup chair, Enhanced Monitoring Program Workgroup to Regional Air Directors. We suggest that the more detailed language in the first version be adopted.

On the basis of our review of the proposed regulatory changes, we have no further comments or items of concern. The office of Regional Counsel will not be reviewing this draft; we strongly urge you to elicit the advise and counsel of your attorneys on this matter.

If you have any questions, please call Daron Page of my staff at (214) 665-7222.

Sincerely yours,

A handwritten signature in cursive script that reads "Jole C. Luehrs".

Jole C. Luehrs
Chief
New Source Review Section (6T-AN)



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8063

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees

<u>Tab</u>	<u>Page</u> ¹
100-5[1] SIP Revisions	1465
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Additional Comments	1585
Hearing Transcripts	1589 to 1620

¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-5[1]
SIP Revision

SUBCHAPTER 5

COUNCIL MEETING DATES

AUGUST 19, 1997

OCTOBER 21, 1997

DECEMBER 16, 1997 (CONTINUED)

JANUARY 9, 1998

BOARD MEETING DATE

JANUARY 27, 1998 (CONTINUED)

MARCH 20, 1998

SUMMARY OF RULE CHANGE:

The changes to Subchapter 5 simplify and clarify the rule. Requirements to file an emission inventory moved from Subchapter 7 to Subchapter 5 and were revised. Also, requirements to pay annual operating fees moved from Subchapters 7 and 8 to Subchapter 5. The annual operating fees for minor facilities and non-part 70 sources were revised.

CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 5. REGISTRATION, OF AIR CONTAMINANT SOURCES EMISSION INVENTORY AND ANNUAL OPERATING FEES

Outline-Section

252:100-5-1. Purpose

252:100-5-1.1. Definitions

252:100-5-2. Registration of potential sources of air contaminants

252:100-5-2.1. Emission inventory

252:100-5-3. Confidentiality of proprietary information

252:100-5-1. Purpose

~~The purpose of this subchapter is to provide the Council with data whereby they might determine conditions of air pollution, as between particular air contaminant sources and as between particular areas of the state, such as urban, suburban and rural areas~~ This Subchapter requires potential sources of air contaminants to register with the Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.

[NOTE: 252:100-5-1.1 below is a new Section for Subchapter 5. It consists of new definitions and definitions moved from 252:100-7-4, 252:100-8-2, and 252:100-8-9 with necessary amendments. The definitions highlighted in yellow are not part of the SIP, and it is not our intention to make them part of the SIP since they refer to fee provisions. JDS 12/7/00]

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"Allowable emissions" means:

(A) The total amount of regulated air pollutant emitted based on limits contained in a federally enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"Date of billing" means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

"Emission inventory" means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

(b) Necessary information. The following information may be included for each source: total weight of the contaminant released per day; period or periods of operation; composition of the contaminant; physical state of the contaminant; temperature and moisture content of the air or gas stream at the point where released into the atmosphere and such other information as may be specifically requested by the Director. Where an air or gas cleaning device is incorporated in the air or gas stream preceding discharge to the atmosphere, the weight of material removed by the cleaning device, as well as the weight emitted, shall be stated.

(1) Total weight of the contaminant released per day.

(2) Period or periods of operation.

(3) Composition of the contaminant.

(4) Physical state of the contaminant.

(5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.

(6) Efficiency of any control device.

(7) Such other information as may be specifically requested by the Director.

[NOTE: 252:100-5-2.1 below was formerly in 252:100-7-4(d) and is not and never has been part of the SIP. JDS 12/7/00]

252:100-5-2.1. Emission inventory

(a) Requirement to file an emission inventory. The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the Division.

(1) The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless a 30-day extension has been granted by the Division. An additional 30-day extension may be granted for good cause shown.

(2) Facilities registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated pollutant are required to submit an emission inventory once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) Content. All inventories submitted to the Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

(4) For those emissions not the subject of a permit and when requested by the AQD, a list of all 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with 252:100-5-2.1(d), below, must

~~furnished or obtained pursuant to this regulation Emission data must be made available at all times to the public during normal working hours.~~

~~(b) Upon the request of the interested party or parties, all hearings in which proprietary information is to be divulged shall be held "in camera" and such information shall be sealed and access otherwise limited. Emission data shall never be considered to be 'proprietary' for purposes of these regulations and must be available at all times to the public during normal working hours.~~

[Refer to 27A O.S. § 2-5-105.18.]

OAC 252:100-5[1]
Oklahoma Register

OAC 252:100-5[1]
Oklahoma Register

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #97-1067]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

Proposed rules:

Subchapter 5. Registration of Air Contaminant Sources [AMENDED]

Subchapter 7. Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED].

Summary:

The proposed amendments to Subchapter 5 include moving the requirements to file an emission inventory from Subchapter 7 to Subchapter 5 and moving and revising the requirements to pay annual operating fees from Subchapters 7 and 8 to Subchapter 5. The proposed amendments to Subchapter 5 are designed to simplify and clarify the rules. The proposed amendments to Subchapter 7 are necessary to incorporate a new permit classification system into the Air Quality program. The proposed changes include: remove any requirements for Part 70 and major sources (which will be moved to Subchapter 8); define and exempt "de minimis" facilities from the requirements of Subchapter 7; revise minor permit application fees; and introduce two new types of construction and operating permits, permit by rule and general permit. The proposed amendments to Subchapter 41 include adopting by reference the existing Maximum Available Control Technology ("MACT") standards for hazardous air pollutants found in 40 C.F.R. Part 63, Subparts A, B, F, G, H, I, M, N, O, Q, R, T, W, X, CC, DD, EE, GG, JJ, KK, OO, PP, QQ, RR, VV, JJJ. The Division is requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Tuesday, July 15, 1997, through Wednesday, August 13, 1997, to contact person.

Also scheduled before the Environmental Quality Board at their meeting on Monday, September 15, 1997 - 9:30 a.m. in Enid, Oklahoma (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, August 19, 1997 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available July 15, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1067; filed 6-25-97]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 510. MUNICIPAL SOLID WASTE LANDFILLS

[OAR Docket #97-1079]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking

Proposed rules:

252:510-1-7. Consideration of other law [AMENDED]

252:510-21-6. Types of financial assurance [AMENDED]

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

[OAR Docket #97-1189]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

252:2. Procedures of the Department of Environmental Quality Subchapter 15. Uniform Permitting Procedures [AMENDED]

Summary:

The proposed amendments of 252:2-15-40 and 252:2-15-41 result from the U.S. Environmental Protection Agency's (EPA) review of the Department of Environmental Quality's (DEQ) air quality permitting program for Title V. Per EPA request and other comments received, the Air Quality Tier I and II rules of the uniform permitting program are being amended. Amendments include format changes for purposes of clarity and substantive changes to move certain permits from Tier I to Tier II to allow more public participation - e.g., acid rain permits, temporary permits, some operating permits, and general permit authorizations required to have compliance schedules under OAC 252:100-8.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Tuesday, September 15, 1997, through Wednesday, October 15, 1997, to contact person. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 18, 1997 - 9:30 a.m., in Oklahoma City, Oklahoma (Location to be determined. See contact person).

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, October 21, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 4616 East 15th Street, Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1189; filed 8-22-97]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #97-1190]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

Proposed rules:

Subchapter 5. Registration of Air Contaminant Sources [AMENDED]

Subchapter 7. Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources [AMENDED]

Subchapter 8. Operating Permits (Part 70) [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

Summary:

The proposed amendments to Subchapter 5 include moving the requirements to file an emission inventory from Subchapter 7 to Subchapter 5, moving the requirements to pay annual operating fees from Subchapters 7 and 8 to Subchapter 5, and revising the annual operating fees for

minor facilities, non-part 70 sources and part 70 sources. The proposed amendments to Subchapter 5 are designed to simplify and clarify the rules. The proposed amendments to Subchapter 7 are necessary to incorporate a new permit classification system into the Air Quality program. The proposed changes include: remove any requirements for Part 70 sources and major facilities (which will be moved to Subchapter 8); define and exempt "de minimis" facilities from the requirements of Subchapter 7; revise minor permit application fees; and introduce two new types of construction and operating permits, permit by rule and general permit. The proposed amendments to Subchapter 8 are necessary to incorporate a new permit classification system; move the requirements for construction permits for Part 70 sources and major facilities from Subchapter 7 to Subchapter 8; move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5; and meet the federal permitting requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The proposed amendments include: introduction of general permits for construction of Part 70 sources and major facilities not subject to Part 70 and general permits for operating major sources not subject to Part 70; addition of the requirements for construction permits for Part 70 sources and construction and operating permits for major facilities not subject to Part 70; revision of the permit application fees; deletion of annual operating fees (which will be moved to Subchapter 5); and amendments to meet the requirements for final approval of the Title V program including the incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§63.40, 63.41, 63.43 and 63.44). The following changes were set forth by EPA in the interim approval of the Oklahoma Program published in the Federal Register at 62 FR 4220, Monday, February 5, 1996: (1) Revise Subchapter 8 to Include Transition Schedule; (2) Revise Subchapter 8 definition of "Major Source"; (3) Revise Subchapter 8 Insignificant Activities Provision; (4) Revise Subchapter 8 Permit Content Language; (5) Revise Subchapter 8 Judicial Review Provision; (6) Revise Subchapter 8 Administrative Amendment Provision; and (7) Submission of a SIP Revision for Subchapter 7. The proposed amendments to Subchapter 41 include adopting by reference the existing Maximum Available Control Technology ("MACT") standards for hazardous air pollutants found in 40 CFR Part 63, Subparts F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, CC, DD, EE, GG, II, JJ, KK, OO, PP, QQ, RR, VV, JJJ. The Division is requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Tuesday, September 15, 1997, through Wednesday, October 15, 1997, to contact person. Also scheduled before the

Environmental Quality Board at their meeting on Tuesday, November 18, 1997 - 9:30 a.m., in Oklahoma City, Oklahoma (Location to be determined. See contact person).

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, October 21, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 4616 East 15th Street, Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for Subchapters 5, 7, and 41 represent a continuation of a hearing held on August 19, 1997, in Oklahoma City, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247

[OAR Docket #97-1190; filed 8-22-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 200. HAZARDOUS WASTE MANAGEMENT**

[OAR Docket #97-1191a]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking

Proposed rules:

252:200-3-1 [AMENDED]

252:200-3-2 [AMENDED]

252:200-9-7(b)(1) [AMENDED]

252:200-19-29 through 252:200-19-34 [AMENDED]

Summary:

The proposed amendment to 252:200-3-1 changes the "Reference to 40 CFR" Section of Subchapter 3, to allow the State of Oklahoma to continue to implement a hazardous waste management program in Oklahoma in lieu of the United States Environmental Protection Agency. The Section 3-1 amendment will update the reference of 40

Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 17, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for 252:2-15-40 and 41 represent a continuation of a hearing held on October 21, 1997, in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1271; filed 10-24-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #97-1272]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

- 252:100. Air Pollution Control
- Subchapter 5. Registration of Air Contaminant Sources [AMENDED]
- Subchapter 8. Operating Permits (Part 70) [AMENDED]
- Subchapter 17. Incinerators [AMENDED]

SUMMARY:

In Subchapter 5 at 252:100-5-2.2(b)(2), it is proposed to review the annual operating fees for Part 70 sources. The proposed amendments to Subchapter 8 are necessary to incorporate a new permit classification system; move the requirements for construction permits for Part 70 sources and major facilities from Subchapter 7 to Subchapter 8; move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5; and meet the federal requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The proposed amendments include: introduction of general permits for construction of Part 70

sources and major facilities not subject to Part 70 a general permits for operating major sources not subject Part 70; addition of the requirements for const permits for Part 70 sources and construction and opera permits for major facilities not subject to Part 70; revision the permit application fees; deletion of annual operati fees (which will be moved to Subchapter 5); a amendments to meet the requirements for final approval the Title V program including the incorporation reference of federal rules governing case-by-case MAC determinations (40 CFR §§63.40, 63.41, 63.43 and 63.44). The following changes were set forth by EPA in the interi approval of the Oklahoma program published in th Federal Register at 62 FR 4220, Monday, February 5, 1999 (1) Revise Subchapter 8 to Include Transition Schedule; (2) Revise Subchapter 8 definition of "Major Source"; (3) Revise Subchapter 8 Insignificant Activities Provision; (4) Revise Subchapter 8 Permit Content Language; (5) Revise Subchapter 8 Judicial Review Provision; (6) Revise Subchapter 8 Administrative Amendment Provision; and (7) Submission of a SIP Revision for Subchapter 7. It is proposed to amend Subchapter 17 by adding a new Part and a new Appendix K to address Municipal Was Combustors (MWC). This amendment is necessary to meet federal requirements for State plans under Section 111(c) of the federal Clean Air Act applicable to existing source. This change would adopt standards published on December 19, 1995, in the Federal register at 40 CFR 60, Subpart C and amended on August 25, 1997. These standards apply to MWC units with the capacity to combust more than 250 tons per day of municipal solid waste. In addition, the existing portions of Subchapter 17 are revised and redesignated as Part 1, General Provisions, and Part 2, Incinerators. Proposed revisions include deletion of references to Ringelmann standards and substitution of relative opacity. Revisions were also made to Appendices A and B for reasons of simplification. The Division is requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Monday, November 17, 1997, through Tuesday, December 16, 1997. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Wednesday, December 10, 1997. Also scheduled before the Environmental Quality Board is their meeting on Tuesday, January 27, 1998 - 9:30 a.m. [Location to be determined. See contact person.]

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, December 16, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 17, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for Subchapters 5 and 8 represent a continuation of hearings held on October 21, 1997, in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1272; filed 10-24-97]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCESS AND PROCEDURES

[OAR Docket #97-1278]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

OAC 317:2-1-2.1 through 317:2-1-2.2 [AMENDED]
(Reference APA WF # 97-13)

SUMMARY:

Grievance Procedures and Process rules are revised to more accurately reflect the intent of the agency's grievance rules. The agency adopted rules on 2-19-97 which provide a wage and salary adjustment to long term care facilities. However, current rules do not specify the process for a facility to appeal an agency decision to recoup monies paid when the monies have not been used for the purpose intended, as allowed by agency rules. Revisions are needed to include the appeal process in the rules. Other revisions are needed to revise the process for non-payment or denial of provider claims. Current rules allow complaints regarding non-payment or denial of claims to be heard by the agency's Reimbursement Appeals Committee. This committee assures that payments are made equitably and within federal and state guidelines. Revised rules delete the requirement for a formal Level I proceeding hearing for complaints regarding claims payments to providers. Federal law does not require the formal hearing. Further

revisions are needed to allow for a process to reschedule a hearing on the basis of good cause. When an individual has duly exercised their rights and a hearing set, current rules do not address situations when the person does not appear for the hearing but later shows the absence was clearly beyond the person's control. Revised rules will allow the Administrative Law Judge to reschedule the hearing when good cause does exist.

AUTHORITY:

Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted through December 8, 1997 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-530-3272.

PUBLIC HEARING:

No public hearing is scheduled at this time but will be scheduled if a written request is submitted to the contact person listed above by 1) at least twenty-five persons, 2) a political subdivision, 3) an agency, or 4) an association having not less than twenty-five members.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Joanne Terlizzi at 405-530-3272.

[OAR Docket #97-1278; filed 10-24-97]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 25. SOONERCARE

[OAR Docket #97-1279]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

Chapter 25. ~~Managed Care~~ *SoonerCare*
Subchapter 1. ~~Health Plan~~ *Competitive Bid*
Requirements

OAC 317:25-1-1 through 317:25-1-2 [AMENDED]

Subchapter 3. Health Maintenance Organizations

OAC 317:25-3-2.1 [REVOKED]

OAC 317:25-3-3 [AMENDED]

Subchapter 5. *SoonerCare Plus*

Part 1. General Provisions

Beck, Jr.

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 30. MANUFACTURERS, WHOLESALEERS, BREWERS, NONRESIDENT SELLERS AND CLASS B WHOLESALEERS

[OAR Docket #97-1446]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Proposed rules:

45:30-3-7. Wholesalers Price Registration
[AMENDED]

Summary:

The Wholesaler's price registration rule requires wholesalers to post their proposed selling prices for their products so that the Commission may track and prevent any discrimination in sales to retailers. The Commission is required to prevent discrimination by statute. The proposed rule would remove flavored vodkas and flavored gins from the category of cordials and specialties and place them in the category of spirits. The proposed party believes that the category of spirits is a more appropriate listing for flavored vodkas and flavored gins. The intended effect of the rule change is to move flavored vodkas and flavored gins into the proper category for price registration purposes.

AUTHORITY:

Alcoholic Beverage Laws Enforcement Commission; 37 O.S., Section 502 et seq.

COMMENT PERIOD:

Any interest party may present their views by submitting them in writing by 4:30 p.m., February 19, 1998 to the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma 73105.

PUBLIC HEARING:

A public hearing regarding the proposed rule change will be held before the ABLE Commission at 10:00 a.m. on February 20, 1998, at 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

A copy of the proposed rule may be obtained for review the public from the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The ABLE Commission will prepare a rule impact statement which will be available on February 5, 1998, from the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma.

CONTACT PERSON:

Donna Elledge - (405) 521-3484

[OAR Docket #97-1446; filed 12-5-97]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #97-1451]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking.

Proposed rules:

- 252:100. Air Pollution Control
- Subchapter 5. Registration of Air Contaminant Sources [AMENDED]
- Subchapter 7. Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources [AMENDED].

Summary:

The proposed amendments to Subchapter 5 include moving the requirements to file an emission inventory from Subchapter 7 to Subchapter 5, moving the requirements to pay annual operating fees from Subchapters 7 and 8 to Subchapter 5, and revising the annual operating fees for minor facilities, non-Part 70 sources and Part 70 sources. The proposed amendments to Subchapter 5 are designed to simplify and clarify the rules. The proposed amendments to Subchapter 7 are necessary to incorporate a new permit classification system into the Air Quality program. The proposed changes include: remove any requirements for Part 70 sources and major facilities (which will be moved to Subchapter 8); define and exempt "de minimis" facilities from the requirements of Subchapter 7; revise minor permit application fees; and introduce two new types of construction and operating permits, permit by rule and general permit.

1483

Notices of Rulemaking Intent

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act.

COMMENT PERIOD:

The period for written comments closed on October 15, 1997. Oral comments may be made before the Environmental Quality Board at their meeting on Tuesday, January 27, 1998 - 9:30 a.m., in Chickasha.

PUBLIC HEARINGS:

Subchapter 5 and Subchapter 7 were presented to the Air Quality Council August 19, 1997 and October 21, 1997. Before the Environmental Quality Board at their meeting on Tuesday, January 27, 1998 - 9:30 a.m., in Chickasha.

COPIES OF PROPOSED RULES:

Copies of the rules are available for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

With the exception of 252:100-5-2.2(b)(2), which establishes the annual operating fees for Part 70 sources, the hearing record for Subchapter 5 and the hearing record for Subchapter 7 were closed during the council meeting on October 21, 1997. A vote on whether to recommend the revised rules to the Environmental Quality Board was taken at the Air Quality Council meeting on December 16, 1997.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1451; filed 12-8-97]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #97-1409]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Proposed rules:

Subchapter 31. Office of Management Services
Part 3. Research, Evaluation and Statistics Unit
[REVOKED]

OAC 340:2-31-3 through 340:2-31-3.1 [REVOKED]

OAC 340:2-31-5 [REVOKED]

(Reference APA WF#97-61)

Summary:

The Coordination Unit, Planning and Systems Development Unit, and the Research Unit are being combined to create the Planning and Research Unit, and are moved to the Office of Finance.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Title 62 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted through January 22, 1998 during regular business hours by contacting, Kelly Freeman, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4319.

PUBLIC HEARING:

No public hearing is scheduled at this time but will be scheduled if a written request is submitted to the contact person listed above by (1) at least twenty-five persons, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Janelle Arden at 405-521-3611.

[OAR Docket #97-1409; filed 12-4-97]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE

[OAR Docket #97-1407]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Proposed rules:

Subchapter 16. Services to Children In Need of Treatment

OAC 340:75-16-16 [AMENDED]

(Reference APA WF# 97-55)

Summary:

The rule is revised to address compliance with the Terry D. Consent Decree. The proposed rule guides CW staff in obtaining inpatient psychiatric care for custody children.

Permanent Final Adoptions

majority is required for approval or that the margin between the votes for the issue and the number required for approval when more than a majority is required for approval is narrow enough to allow a recount. See 230:45-3-33. If the margin is narrow enough to allow a recount, the County Election Board shall not certify the results of the question election until after the close of the contest period at 5 p.m. on the Friday following the election. [26:8-109] If the margin is not close enough to allow a recount, the County Election Board may certify the results of the question on election night as outlined in 230:35-3-91.

SUBCHAPTER 7. FRAUD AND IRREGULARITIES

230:45-7-2.1. Allegations of fraud or irregularities involving two or more counties

(a) Petitions filed with State Election Board. When a petition alleging fraud or irregularities in two or more counties in an election for a state, legislative, or Congressional office is filed with the Secretary of the State Election Board, the Secretary shall notify the Supreme Court. The Supreme Court shall assign a single judge to hear the petition and to determine the issue for all the counties affected by the petition. [26:8-121.1]

(b) Petitions filed with County Election Board. When a petition alleging fraud or irregularities in two or more counties in an election for a multi-county school district or municipality is filed with the Secretary of the parent County Election Board, the Secretary shall schedule the hearings for all the counties affected by the petition. [26:8-121.1] See 230:45-7-1(b) and 230:45-7-2(b).

[OAR Docket #98-940; filed 5-11-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1049]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

252:100-5. Registration of Air Contaminant Sources Emission Inventory and Annual Operating Fees [AMENDED]

252:100-7. Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources Facilities [AMENDED]

252:100-8. Operating Permits (Part 70) for Part 70 Sources [AMENDED]

Appendix H [NEW]

Appendix I [NEW]

Appendix J [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1994, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

For Subchapter 5, July 15, 1997, through August 13, 1997; September 15, 1997, through October 15, 1997; November 17, 1997, through December 16, 1997; January 27, 1998; and March 20, 1998.

For Subchapter 7, July 15, 1997, through August 13, 1997; September 15, 1997, through October 15, 1997; January 27, 1998; and March 20, 1998.

For Subchapter 8, September 15, 1997 through October 15, 1997; November 17, 1997 through December 16, 1997; January 27, 1998; and March 20, 1998.

Public hearing:

For Subchapter 5, August 19, 1997, October 21, 1997 and December 16, 1997.

For Subchapter 7, August 19, 1997 and October 21, 1997.

For Subchapter 8, October 21, 1997, December 16, 1997 and January 9, 1998.

Adoption:

March 20, 1998.

Submitted to Governor:

March 26, 1998.

Submitted to House:

March 26, 1998.

Submitted to Senate:

March 26, 1998.

Gubernatorial approval:

May 8, 1998.

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 21, 1998.

Final adoption:

May 21, 1998.

Effective:

June 25, 1998.

SUPERSEDED EMERGENCY ACTIONS:

None.

INCORPORATIONS BY REFERENCE:

None for Subchapters 5 and 7. For Subchapter 8:

Incorporated standards:

40 CFR §§ 63.41, 63.43, 63.44; 40 CFR Part 72.

Incorporating rule:

252:100-8-4(a)(2)(C); 252:100-8-6.3(h).

Availability:

The standards are available to the public for examination at the Department of Environmental Quality office at 707 N. Robinson, 4th Floor, Oklahoma City, Oklahoma.

ANALYSIS:

The changes to Subchapter 5 simplify and clarify the rule. Requirements to file an emission inventory moved from Subchapter 7 to Subchapter 5 and were revised. Also, requirements to pay annual operating fees moved from Subchapters 7 and 8 to Subchapter 5. The annual operating fees for minor facilities and non-part 70 sources were revised.

The changes to Subchapter 7 simplify and clarify the rule. Also, a new permit classification system is incorporated into the subchapter according to the environmental impact, emission levels, and source categories here in Oklahoma. Other changes include removing any requirements for Part 70 and major sources (which will be moved to Subchapter 8); defining and exempting "de

minimis" facilities from the requirements of Subchapter 7; revising minor permit application fees; and introducing two new types of construction and operating permits, permit by rule and general permit.

The changes in Subchapter 8 incorporate a new permit classification system, move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5, move the requirements for construction permits for Title V sources from Subchapter 7 to Subchapter 8, make corrections to meet the federal requirements for final approval of the Oklahoma Operating Permit Program under Title V of the Federal Clean Air Act and 40 CFR Part 70, adopt by reference the federal rules governing case-by-case MACT determinations found in 40 CFR §§63.41, 63.43 and 63.44 as they exist on July 1, 1997, and update the adoption of 40 CFR 72 by adopting the provisions published in the Federal Register on October 24, 1997.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on January 9, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

CONTACT PERSON:

For Subchapters 5 and 7: Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th floor, Oklahoma City, Oklahoma 73102. (405) 702-4100.

For Subchapter 8: Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th floor, Oklahoma City, Oklahoma 73102. (405) 702-4100.

DUE TO THE EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT DEPARTMENT OF ENVIRONMENTAL QUALITY, 707 N. ROBINSON, FOURTH FLOOR, OKLAHOMA CITY, OKLAHOMA 73102 AND AT THE OFFICE OF ADMINISTRATIVE RULES, SECRETARY OF STATE, WILL ROGERS BUILDING, 2ND FLOOR NORTH, OKLAHOMA CITY, OKLAHOMA 73105. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., § 255(B):

Subchapters 5, 7, and 8 of the Air Pollution Control rules have been simplified and clarified. To assist in this effort, certain rules were moved from one subchapter to another. For example, requirements to file emission inventory reports were moved from Subchapter 7 to Subchapter 5. The annual operating fees, which are calculated based on the emission inventory reports, were moved from Subchapters 7 and 8 to Subchapter 5. The construction permit requirements and application fee rules for Part 70 sources have been moved from Subchapter 7 to Subchapter 8.

Other revisions to Subchapter 5 involve changing the fees for non-Part 70 sources from a stepped schedule to a flat rate of \$10.00 per ton.

Subchapter 7 was also amended to incorporate the Department's permit continuum. The continuum provides for 1) *de minimis* facilities, which emit less than five tons per year of any regulated pollutant and which are not required to obtain a permit; 2) permit-by-rule facilities, which emit less than 40 tons per year of any regulated pollutant and which belong to an industry group for which a rule has been promulgated; 3) general permit facilities, which emit 40 tons per year or more of any regulated pollutant and which belong to an industry group for which a general permit has been issued; and 4) individual permit facilities, which are not eligible for any of the

previous permit categories and must, therefore, apply for individual permits. In addition, the permit application fees were revised to reflect the new permit categories. The purpose of revising the fees was not to increase them, but to reapportion them according to the new permit categories.

The construction permit rules now in Subchapter 8 contain one new requirement: Federal regulations (40 CFR §§ 63.41, 63.43 and 63.44) concerning case-by-case determinations of maximum achievable control technology ("MACT") standards were incorporated by reference. In promulgating these rules, the State has adopted a program to implement section 112(g) of the Federal Clean Air Act with respect to construction or reconstruction of major sources of hazardous air pollutants. The permit fee rules in Subchapter 8 establish a new fee of \$900.00 for authorizations under general permits. Other new additions to the Part 70 permit rules include definitions for "insignificant activities" and "trivial activities" and additional rules for general permits. The latter rules explain how authorizations are obtained, revised, and renewed. Subchapter 8 rules were also revised to make changes required by the U. S. Environmental Protection Agency in order for Oklahoma to obtain final approval of its Part 70 operating permit program.

The full text of the rule may be obtained from Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th Floor, Oklahoma City, Oklahoma 73102.

[OAR Docket #98-1049; filed 5-22-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-1047]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 252:100-17-1 [AMENDED]
- 252:100-17-1.1 and 252:100-17-1.2 [NEW]
- 252:100-17-2 [AMENDED]
- 252:100-17-2.1 and 252:100-17-2.2 [NEW]
- 252:100-17-3 through 252:100-17-5 [AMENDED]
- 252:100-17-6 [REVOKED]
- 252:100-17-7 [NEW]
- 252:100-17-14 [NEW]
- 252:100-17-14.1 [NEW]
- 252:100-17-15 through 252:100-17-27 [NEW]
- Appendix A [REVOKED AND REENACTED]
- Appendix B [REVOKED AND REENACTED]
- Appendix K [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1994, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

- September 16, 1996, through October 8, 1996
- January 16, 1997, through February 12, 1997
- November 17, 1997, through December 16, 1997
- January 27, 1998
- March 20, 1998

OAC 252:100-5[1]
Air Quality Council

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL
MORNING BRIEFING

9:30 A.M.

TUESDAY, AUGUST 19, 1997
Lincoln Plaza Office Park
4545 North Lincoln Boulevard
Oklahoma City, OK 73105-3483

BRIEFING AGENDA

- | | | |
|----|--|----------|
| 1. | Call to Order | Chairman |
| 2. | Division Director's Report - Informational
An update of current events and AQD activities <ul style="list-style-type: none">• Title V Status• OTAG• Final Ozone and PM Standards• Other Discussion by Council/Public | Director |
| 4. | Public Hearing
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT
SOURCES [AMENDED]
Discussion by Council/Public | Staff |
| 5. | Public Hearing
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR
SOURCES; OPERATING AND RELOCATION PERMITS
FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public | Staff |
| 6. | Public Hearing
OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND
TOXIC AIR CONTAMINANTS PART 3. HAZARDOUS AIR
CONTAMINANTS -15 National emission standards for
hazardous air pollutants [AMENDED]
Discussion by Council/Public | Staff |

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 290-8247.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL
REGULAR MEETING

1:00 P.M.

TUESDAY, AUGUST 19, 1997
Lincoln Plaza Office Park
4545 North Lincoln Boulevard
Oklahoma City, OK 73105-3483

HEARING / MEETING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of Minutes Chairman
June 17, 1997
4. Public Hearing Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT
SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
5. Public Hearing Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR
SOURCES; OPERATING AND RELOCATION PERMITS
FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
6. Public Hearing Staff
OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND
TOXIC AIR CONTAMINANTS PART 3. HAZARDOUS AIR
CONTAMINANTS -15 National emission standards for
hazardous air pollutants [AMENDED]
Discussion by Council/Public; possible action by Council
7. New Business Chairman
Discussion/consideration of subjects/business
arising within the past 24 hours; possible action by Council
6. Adjournment Chairman
Next Regular Meeting
DATE: October 21, 1997
PLACE: Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City OK

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 290-8247.

August 5, 1997

MEMORANDUM

TO: Air Quality Council

FROM: Larry Byrum, Director
AIR QUALITY DIVISION

LB

SUBJECT: Modifications to Subchapters 5

Enclosed is a copy of the proposed draft modifications to Subchapter 5, Registration of Air Contaminant Sources, that will be brought to public hearing on August 19, 1997. The proposed revisions include moving the requirement to file an emission inventory from Subchapter 7 to Subchapter 5; moving the annual operating fees from Subchapters 7 and 8 to Subchapter 5; changing the annual operating fees for minor facilities from a tiered system to a set cost per ton of pollutant emitted, and simplification and clarification of the rule. Most of the proposed changes are reorganization for clarity and simplification. The change in fees and in the calculation of fees is substantive.

Enclosed in the packet are two copies of Subchapter 5. One copy has OAC 252:100 Air Pollution Control Rules at the bottom left corner of each page. This is the original Title 252 Oklahoma Administrative Code, Chapter 100 Air Pollution Control, 1996 Annotated version. The strikeouts and underlines were removed from the annotated version for ease of reading. This annotated version of the rule was then used to make the proposed changes. The proposed revisions to Subchapter 5 has "Aug19-97/5(8-04).wp" at the bottom left corner of each page.

Enclosures: 2

**SUBCHAPTER 5. REGISTRATION, ~~OF AIR CONTAMINANT SOURCES~~
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

252:100-5-1. Purpose

~~The purpose of this Subchapter is to provide the Council with data whereby they might determine conditions of air pollution, as between particular air contaminant sources and as between particular areas of the state, such as urban, suburban and rural areas. This Subchapter requires potential sources of air contaminants to register with the Air Quality Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.~~

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in ~~OAC 252:100-7-4(e)~~ 252:100-5-2.1(d).

[From 252:100-7-4(a)]

"Allowable emissions" means:

(A) The total amount of regulated air pollutant ~~(for fee calculation)~~ emitted based on limits contained in a federally enforceable permit or potential to emit, or

[From 252:100-8-9(a)]

(B) For grandfathered sources, emission limits based on maximum design capacity, ~~as determined by methods contained in 252:100-7-4(e), and/or~~ and considering all applicable rules.

[From 252:100-7-4(a)]

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

[From 252:100-8-9(a)]

"Emission inventory" means a compilation of ~~the total of~~ all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

[From 252:100-7-4(a)]

"Grandfathered source" means a stationary source that was in existence when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass

through a stack, chimney, vent or other functionally equivalent opening.

[From 252:100-7-4(a)]

"Regulated air pollutant" means:

(A) ~~any~~Any Volatile Organic Compound (VOC), as that term is defined at 252:100-1-3, 252:100-37-2, or 252:100-39-2~~7~~, or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2

(B) Any Volatile Organic Solvent (VOS), as that term is defined at 252:100-37-2 and 252:100-39-2.

~~(B)~~(C) ~~any~~Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act~~7~~.

~~(C)~~(D) ~~any~~Any pollutant for which a national primary ambient air quality standard has been promulgated ~~except Carbon Monoxide~~under the Federal Clean Air Act~~7~~.

~~(D)~~(E) ~~any~~Any Toxic Air Contaminant as defined and regulated under OAC 252:100-41-2~~7~~.

~~(E)~~(F) ~~any~~Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

[From 252:100-7-4(a)]

"Regulated pollutant (for fee calculation)", which is used only for purposes of OAC ~~252:100-8-9~~ this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide~~7~~.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act~~7~~, ~~or~~.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

[From 252:100-8-2]

Agency Note: 252:100-5-1.1. Definitions - new section for Subchapter 5. Definitions were moved from 252:100-7-4, 252:100-8-2, and 252:100-8-9 with necessary amendments.

252:100-5-2. Registration of potential sources of air contaminants

(a) Filing. ~~The owner or operator of any potential air contaminant source on the effective date of this Subchapter shall at such time as requested, file with the Council information as to the nature of the air contamination source including such information as would be needed or useful in evaluating the potential of the source for causing air pollution. In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Air Quality Division with information necessary to evaluate the source's potential for causing air pollution.~~

(b) Necessary information. The following information ~~may~~ shall

be included for each source: ~~total weight of the contaminant released per day, period or periods of operation; composition of the contaminant; physical state of the contaminant; temperature and moisture content of the air or gas stream at the point where released into the atmosphere and such other information as may be specifically requested by the Director. Where an air or gas cleaning device is incorporated in the air or gas stream preceding discharge to the atmosphere, the weight of material removed, by the cleaning device, as well as the weight emitted, shall be stated.~~

- (1) Total weight of the contaminant released per day.
- (2) Period or periods of operation.
- (3) Composition of the contaminant.
- (4) Physical state of the contaminant.
- (5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.
- (6) Efficiency of any control device.
- (7) Such other information as may be specifically requested by the Director.

Agency Note: 252:100-5-2. Original section with necessary amendments.

252:100-5-2.1. Emission inventory

(a) Requirement to file an emission inventory. The owner or operator of any ~~minor source facility that is a source of air emissions shall, by March 1 of 1993, and every succeeding year thereafter,~~ submit a complete emission inventory annually on forms obtained from the Air Quality Division. ~~These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee.~~

[Information from 252:100-7-4(d)(1)]

(1) The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter.

[From 252:100-7-4(d)(1)]

(2) The initial emission inventory for major facilities and Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter.

[From 252:100-8-9(d)(4)]

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) Content. All inventories submitted to the Air Quality Division shall include, but shall not be ~~not~~ limited to, the following:

~~(A) (1) For~~ For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

~~(B) for those emissions not the subject of a permit, a determination of all OAC 252:100 rules setting forth emission~~

~~limitations applicable to the facility in question and the maximum yearly allowable for the facility;~~

~~(C) an election as to the basis, either Actual Emissions or Allowable Emissions, to be used for calculation of the fee;~~

~~(D)(2) if actual emissions are chosen as the basis for fee assessment, the The amount of the actual emissions and the basis for such determination, and;~~

~~(E)(3) if If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference, subject to confidentiality provisions provided in the Oklahoma Clean Air Act.~~

~~(B)(4) forFor those emissions not the subject of a permit, and when requested by the AOD, a determination list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.~~

[Information from 252:100-7-4(d) (1), (A), (B), (C), (D), and (E)]

(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with ~~OAC 252:100-7-4(e)~~ 252:100-5-2.1(d), below, ~~if not submitted with the emission inventory,~~ must be maintained by the current ~~owner/operator~~ owner or operator at the facility in conjunction with facility records of the emission inventory. ~~and This information must either be submitted to the Air Quality Division or made available for inspection upon request, subject to confidentiality provisions provided in the Oklahoma Clean Air Act.~~

[Information from 252:100-7-4(d)(2)]

~~(e)(d) Method of calculation. The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data. Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees. The following shall constitute acceptable methods for determining emissionsintended for use as the basis for assessment and payment of annual operating fees:~~

~~(1) current AP 42 factors or other factors acceptable to EPA and the Air Quality Division;~~

(1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.

(2) stackStack tests using appropriate EPA test methods, approved by the Environmental Protection Agency or the State Air Quality Division, with advance notification and opportunity for observation by the State Air Quality Division. or EPA;

(3) stackStack tests using appropriate EPA test methods performed on identical equipment (i.e., same model) at the same location under the same operating conditions and parameters or similar sources in other jurisdictions according

~~to methods approved by the EPA, the Air Quality Division or another regulatory agency when:~~

- ~~(A) tests~~Tests are actually performed according to the approved method by persons qualified by training and experience to perform said tests.
- ~~(B) copies~~Copies of the tests results and methods are available for review by the Air Quality Division.
- ~~(4) stack tests performed on an identical or similar source, when performed in accordance with OAC 252:100-7-4(e)(2) or (3) above, upon approval by the Air Quality Division;~~
- (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
- (5) Current AP-42 factors or other factors acceptable to the Air Quality Division.
- ~~(5)(6) manufacturer's~~Manufacturer's test data, when approved by the Air Quality Division as reliable.
- ~~(6)(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question;~~ and approved for use in the emission inventory by the Air Quality Division.
- ~~(7)(8) fuel~~Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based; and approved for use in the emission inventory by the Air Quality Division.
- ~~(8) continuous emissions monitoring data, when supported by required certification and calibration data; or,~~
- ~~(9) any~~Any other method ~~which that~~ can be shown to be reasonably accurate when supported by engineering data and calculations, and approved in advance for use in the emission inventory by the Air Quality Division.

[Information from 252:100-7-4(e)]

~~(f)(e) Testing requirements. Emission inventories determined by the Air Quality Division to be substantially incomplete or substantially incorrect;~~ shall, upon the request of the Air Quality Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. shall be subject to verification, upon request by the Air Quality Division, by an appropriate stack test, installation of continuous monitoring equipment or other approvable emissions testing methods. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Air Quality Division.

[Information from 252:100-7-4(f)]

Agency Note: 252:100-5-2.1. Information moved from 252:100-7-4 (except 100-5-2.1(a)(2) which was moved from 252:100-8-9(d)(4)) with necessary amendments.

252:100-5-2.2. Annual Operating permit fees Fees applicable to

~~minor and major sources~~

~~(b)(a) Applicability.~~

~~(1) Sources Affected. OAC 252:100-7-4 This section applies to all major and minor sources facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or is considered grandfathered from such requirement, or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995 and as of this date shall no longer be subject to the major source annual operating fee specified in 252:100-7-4(b)(1)(A). The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the part Part 70 program costs. The permitting authority shall ensure that any the fee fees required by these rules 252:100-5-2.2(b)(2) will be used solely for part Part 70 program costs.~~

~~(2) This section does not apply to de minimis facilities.~~

~~(A) The owner or operator of such major source shall be subject to an annual operating fee assessed in accordance with the provisions in OAC 252:100-8-9.~~

[252:100-5-2.2 - Applicability section is a combination of information taken from 252:100-7-4(b)(1) and (A) along with 252:100-8-9(b) and (c)]

~~(b) Fee schedule.~~

~~(1) Minor facilities and Non-Part 70 sources.~~

~~(B)(A) Until January 1, 1998, The the owner or operator of such a minor source a facility subject to this section shall be subject to pay an annual operating fee beginning January 1, 1994, based on annual emissions of regulated pollutants (for fee calculation), except for total suspended particulates in accordance with the following fee schedule:~~

- ~~(i) 10 - 24.99 tons/year - \$100/year~~
- ~~(ii) 25 - 49.99 tons/year - \$250/year~~
- ~~(iii) 50 - 74.99 tons/year - \$500/year~~
- ~~(iv) 75 - 99.99 tons/year - \$750/year~~

[252:100-5-2.2(b)(1)(A) - Information taken from 252:100-7-4(b)(1)(B) with necessary amendments]

~~(B) Beginning January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee of \$10/ton. This fee is based on total annual emissions of regulated pollutants (for fee calculation).~~

~~(2) Part 70 Sources.~~

~~(i)(A) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant (for fee calculation).~~

[252:100-5-2.2(b)(2)(A) - Information taken from 252:100-8-9(d)(1)(B)(i) with necessary amendments]

~~(ii)(B) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year~~

ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

[252:100-5-2.2(b)(2)(B) - Information taken from 252:100-8-9(d)(1)(B)(ii)]

(c) Payment. The Owner or Operator of an affected facility shall remit to the State Air Quality Division an annual operating fee in accordance with OAC 252:100-7-3. For Part 70 sources fees fees will shall be paid by check or money order made payable to the Oklahoma Air Quality Control Fund, Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division or, upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of The Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp., Sec. 2-5-101 et seq., to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

[252:100-5-2.2(c) Payment - Information taken from 252:100-7-3(d) and combined with 252:100-8-9(d)(3) with necessary amendments.]

~~(3) Registration. The owner or operator of any Federal Major Source which has not submitted an emission inventory for the calendar year 1991 shall register with the Oklahoma Air Quality Division in accordance with the OAC 252:100-5 and submit a complete 1991 emission inventory no later than~~

~~November 1, 1992, or upon the effective date of this OAC 252:100-7-4, whichever is later.~~

~~[From 252:100-7-4(b)(3)]~~

~~(e)(d) Basis for annual operating fees.~~

~~(1) Operating fees shall be calculated on a source-specific basis and may be based on either actual or allowable emissions of regulated pollutants (for fee calculation) (at the option of the owner/operator paying the fee) as set forth in the facility emissions emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year ~~1993~~ 1998 shall be based upon inventory data covering the calendar year ~~1991~~ 1996). All fees shall be determined according to the following:~~

~~(A) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing.~~

~~(B) where both actual and allowable emissions are reflected on the inventory, the lesser of the two shall be used.~~

~~[252:100-5-2.2(d)(1) Basis for annual operating fees - Information taken from 252:100-7-4(c)(1), (A) and (B) along with 252:100-8-9(d)(1), (A)(i) and (ii)]~~

~~(iii)(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a part Part 70 source shall not be considered in the calculation of the annual fee.~~

~~[252:100-5-2.2(d)(2) - Information taken from 252:100-8-9(d)(1)(B)(iii)]~~

~~(2) Requests to exercise an option other than those set forth in OAC 252:100-7-4(c)(1)(A) or (B), must be made no later than November 1, 1992, or within thirty days after the effective date of OAC 252:100-7-4, whichever is later.~~

~~[From 252:100-7-4(c)(2)]~~

Agency Note: 252:100-5-2.2. Emission Inventory - new section for Subchapter 5. Combination of information moved from 252:100-7-3, 252:100-7-4 and 252:100-8-9 with necessary amendments.

252:100-5-3. Confidentiality of proprietary information

~~(a) No person shall disclose to anyone other than the Air Quality Council, the Executive Director, or a Court of competent jurisdiction any process information, except emission data, furnished or obtained pursuant to this Subchapter. Emission data must be made available at all times to the public during normal working hours.~~

~~(b) Upon the request of the interested party or parties, all hearings in which proprietary information is to be divulged shall be held "in camera" and such information shall be sealed and access otherwise limited. Emission data shall never be considered to be "proprietary" for purposes of this Subchapter~~

~~and must be available at all times to the public during normal working hours. [Refer to 27A O.S. Supp. 1993, 2-5-105.18]~~

Agency Note: 252:100-5-3. Information already covered in more detail in the Act - 27A O.S. Supp. 1993, 2-5-105.18. Therefore, deleted and the Oklahoma Clean Air Act referenced.

MINUTES

AIR QUALITY COUNCIL

AUGUST 19, 1997

LINCOLN PLAZA OFFICE PARK

4545 NORTH LINCOLN, BURGUNDY ROOM

OKLAHOMA CITY, OKLAHOMA

Council Members Present

William B. Breisch, Chairman
Larry Canter, Vice-Chairman
Gary Kilpatrick
J. William "Bill" Fishback
David Branecky
Marilyn Andrews
Sharon Myers

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Linn Wainner
Joyce Sheedy
Jeanette Buttram
Larry Trent
Morris Moffett
Myrna Bruce

Council Members Absent

Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for August 19, 1997 was forwarded to the Secretary of State's Office giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken: Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Ms. Andrews - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Slagell - absent.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the June 17, 1997 Public Meeting/Hearing. Motion was made by Mr. Kilpatrick to approve the Minutes and second to the motion was made by Mr. Branecky. Roll call as follows: Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Ms. Andrews - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A Oklahoma Statutes. Mr. Byrum called upon Jeanette Buttram to give staff position on the proposed changes to the rule.

Ms. Buttram pointed out that the major task regarding the proposed changes was to simplify and clarify the rule. She pointed out the title of Subchapter 5 was changed to reflect the addition of emission inventory and operating fees to the subchapter. Ms. Buttram added that the revisions made to the original sections 5-2 and 5-3 were not intended to change the meaning of the rule, but to simplify and clarify it. Ms. Buttram stated that the remaining new proposed additions were moved to Subchapter 5 from other areas of the Air Quality Rules. She reminded that changes in conditions listed in Subchapter 5 are for all sources, major and minor. Ms. Buttram added that Section 5-2.2 included a proposed change in fees for minor sources from a sliding to a flat fee of \$10 a ton based on total annual emissions of regulated pollutants.

Ms. Buttram stated that it was staff recommendation to continue this hearing to the next Council meeting, October 21, 1997. She then opened the floor for discussion.

Discussion included the need for a fee amount that would be revenue neutral. Dr. Canter asked that staff provide additional analysis of the proposed fee changes.

Mr. Kilpatrick also suggested that Council ask staff to determine what per-ton rate would represent a revenue neutral number and asked staff to bring that recommendation, in writing, to the next Council meeting.

Mr. Breisch pointed out that it was the consensus of the Council to have this justification and asked for a motion to continue this hearing to the next meeting. Mr. Fishback moved for the continuation of this hearing with the second made by Mr. Kilpatrick. Roll call as follows: Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Ms. Andrews (left meeting); Mr. Kilpatrick - aye; Mr. Breisch - aye.

PUBLIC HEARING

**OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]**

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes. Mr. Byrum called upon Jeanette Buttram to give staff position on the proposed rule. Ms. Buttram stated that the staff was charged with not only the simplification and clarification of the rule but also to incorporate the new permit continuum according to the environmental impact, emission levels, and source categories in Oklahoma. She pointed out that the initial proposed change was to change the title to "Permits for Minor Facilities" as subchapter 7 will be dedicated to minor facilities only. Ms. Buttram then pointed out additional proposed changes as indicated in the attached hearing record.

Mr. Fishback entered into the record, as with Subchapter 5, the consensus of the Council that staff provide a written justification of the fees necessary for the program to be revenue neutral.

Mr. Kyle Arthur, DEQ Small Business Assistance Program, introduced Mr. Donald Law, a representative of the Small Business Compliance and Advisory Panel. On behalf of the Panel, Mr. Law offered staff support of the proposed changes to Subchapters 5, 7 and 8.

After additional discussion, Mr. Breisch entertained a motion to continue this hearing to the next regularly scheduled Council meeting. Mr. Branecky made the motion and the second was made by Dr. Canter. Roll call as follows: Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Ms. Andrews - (left meeting early); Mr. Kilpatrick - aye; Mr. Breisch - aye.

PUBLIC HEARING

**OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND TOXIC AIR
CONTAMINANTS PART 3. HAZARDOUS AIR CONTAMINANTS-15 NATIONAL
EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS [AMENDED]**

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A Oklahoma

Statutes. Mr. Byrum called upon Dr. Joyce Sheedy to give staff position on the proposed changes to the rule.

Dr. Sheedy stated that the proposed revisions were to update the adoption of 40 CFR 61 to July 1, 1997 and to adopt by reference, in Paragraph (B), the new MACT standards found in 40 CFR-63 as they stand with the exception of Subpart E, approval of state program; Subpart L, coke oven batteries, Subpart U, polymers; and Subpart II shipbuilding. Dr. Sheedy stated that staff proposed to adopt by reference Subparts A,B,C,D. Dr. Sheedy added that the reasoning for the proposed changes was to obtain delegation of the Title III program and to retain the Title V program in order that by July 1998, the program would allow for case-by-case MACT as well as handle other things included in part 63. Dr. Sheedy suggested staff recommendation was to continue the hearing.

Mr. Breisch entertained a motion to continue this hearing to the October meeting. Mr. Kilpatrick made the motion with second by Mr. Branecky. Roll call as follows: Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Ms. Andrews - (left meeting early); Mr. Kilpatrick - aye; Mr. Breisch - aye.

NEW BUSINESS - Mr. Fishback inquired as to the plans to fill the Council position vacated by Ms. Hinkle. Mr. Byrum stated that the governor's office would appoint someone.

ADJOURNMENT: With no further business, Mr. Breisch adjourned the meeting and announced that the next regularly scheduled meeting would be held on October 21, 1997 at the Tulsa City-County Health Department Auditorium, Tulsa, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

LARRY D. BYRUM, DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

August 19, 1997

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Dena Maher	US Air Force	OC-ALC/EM 7701 2nd St, Suite 204 Tinker AFB OK 73145	
2 Kit Wagner	Atm. Infr Sys	P.O. Box 721165 Norman OK 73070	NO
3 Rick Treeman	OGFA	Box 1307 Eliz, OK 73702	
4 Nancy Coleman	RSA	3700 W Robinson Ste 200 Norman, OK 73072	
5 Gary Boengen	Ford Mo Co.	10306 S. 235 E. Ave. Broken Arrow OK 74014	
6 HERMAN MOTLEY	FOMOCO	P.O. 555 129TH AVE Tulsa OK 74102	
7 Frank Erwin	City of Tulsa	2445 S Jackson 74107	
8 GRANT MARBURGER			
9 Nadine Smith	CASE	6609 E 86th Tulsa 74133	
10 Sandy Mason	Sun	1700 S Union Tulsa, OK 74107	
11 Jimmy GREEN	POWERSMITH COGEN	2500 SCOUNCIL OKC OK 73128	
12 Lynn Martin	GPM	210 Park Ave OKC - 73102	
13 Kyle Brown	DEQ/CAP		
14			
15			
16			

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL

1:00 P.M. TUESDAY, OCTOBER 21, 1997
Tulsa City-County Health Department Auditorium
TULSA, OKLAHOMA

HEARING / MEETING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of Minutes (August 19, 1997) Chairman
4. 1998 Meeting Schedule
Discussion and Approval by Council
5. Public Hearing Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
6. Public Hearing Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS
Discussion by Council/Public; possible action by Council
7. Public Hearing Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public; possible action by Council
8. Public Hearing Staff
OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND TOXIC
AIR CONTAMINANTS PART 3. HAZARDOUS AIR CONTAMINANTS
-15 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR
POLLUTANTS [AMENDED]
Discussion by Council/Public; possible action by Council
9. Public Hearing Staff
OAC 252:2-40 and 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public; possible action by Council
10. New Business Chairman
Discussion/consideration of subjects/business arising
within the past 24 hours; possible action by Council
11. Adjournment Chairman
Next Regular Meeting
DATE: December 16 1997
PLACE: Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City OK

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL

9:30 A.M. TUESDAY, OCTOBER 21, 1997
Tulsa City-County Health Department Auditorium
TULSA, OKLAHOMA

BRIEFING AGENDA

1. Call to Order Chairman
2. Division Director's Report - Informational Director
An update of current events and AQD activities
 - §126 Issues
 - Final Ozone and PM Standards
 - OtherDiscussion by Council/Public
3. 1998 Meeting Schedule Byrum
Discussion by Council
4. Public Hearing Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public
5. Public Hearing Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR
SOURCES; OPERATING AND RELOCATION PERMITS FOR
MINOR SOURCES [AMENDED]
Discussion by Council/Public
6. Public Hearing Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public
7. Public Hearing Staff
OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND
TOXIC AIR CONTAMINANTS PART 3. HAZARDOUS AIR CONTAMINANTS
-15. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
[AMENDED]
Discussion by Council/Public
8. Public Hearing Staff
OAC 252:2-40 and 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 290-8247.

October 7, 1997

MEMORANDUM

TO: Air Quality Council

FROM: Larry Byrum, Director *AOB*
Air Quality Division

SUBJECT: Modifications to Subchapter 5

Enclosed is a copy of the proposed draft modifications to Subchapter 5, Registration of Air Contaminant Sources, that will be brought to public hearing on October 21, 1997. The proposed revisions include moving the requirement to file an emission inventory from Subchapter 7 to Subchapter 5; moving the annual operating fees from Subchapters 7 and 8 to Subchapter 5; changing the annual operating fees for minor facilities from a tiered system to a set cost per ton of pollutant emitted, and simplification and clarification of the rule. Most of the proposed changes are reorganization for clarity and simplification. The change in fees and in the calculation of fees is substantive. The modifications to Subchapter 5 also reflect those comments received regarding the modifications presented at the August 19, 1997, Air Quality Council meeting.

Enclosed in the packet is a copy of Subchapter 5 with the proposed revisions.

Enclosures: 1

**SUBCHAPTER 5. REGISTRATION, ~~OF AIR CONTAMINANT SOURCES~~
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

252:100-5-1. Purpose

~~The purpose of this Subchapter is to provide the Council with data whereby they might determine conditions of air pollution, as between particular air contaminant sources and as between particular areas of the state, such as urban, suburban and rural areas. This Subchapter requires potential sources of air contaminants to register with the Air Quality Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.~~

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in ~~OAC 252:100-7-4(e)~~ 252:100-5-2.1(d).

[From 252:100-7-4(a)]

"Allowable emissions" means:

(A) The total amount of regulated air pollutant ~~(for fee calculation)~~ emitted based on limits contained in a federally enforceable permit or potential to emit, or

[From 252:100-8-9(a)]

(B) For grandfathered sources, emission limits based on maximum design capacity, ~~as determined by methods contained in 252:100-7-4(e), and/or~~ and considering all applicable rules.

[From 252:100-7-4(a)]

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

[From 252:100-8-9(a)]

"Emission inventory" means a compilation of ~~the total of~~ all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

[From 252:100-7-4(a)]

"Grandfathered source" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"Major TSP facility" means any stationary facility which directly emits or has the potential to emit 100 tons per year or more of TSP and is not subject to the Part 70 program.

"Minor facility" means a facility with a potential to emit

less than 100 tons per year of each regulated air pollutant and which is not a Part 70 source.

"Part 70 source" means any source subject to the permitting requirements of Part 7 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

[From 252:100-7-4(a)]

"Regulated air pollutant" means:

(A) ~~any~~Any Volatile Organic Compound (VOC), as that term is defined ~~at~~ in 252:100-1-3, 252:100-37-2, or 252:100-39-2 ~~or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.~~

(B) Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.

~~(B)~~(C) anyAny pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act~~.~~

~~(C)~~(D) anyAny pollutant for which a national primary ambient air quality standard has been promulgated ~~except~~ Carbon Monoxide under the Federal Clean Air Act~~.~~

~~(D)~~(E) anyAny Toxic Air Contaminant as defined and regulated under OAC 252:100-41-2~~.~~

~~(E)~~(F) anyAny other substance for which an air emission limitation or equipment standard is set by permit or rule.

[From 252:100-7-4(a)]

"Regulated pollutant (for fee calculation)", which is used only for purposes of ~~OAC 252:100-8-9~~ this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide~~.~~

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act ~~or.~~

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

[From 252:100-8-2]

Agency Note: 252:100-5-1.1. Definitions - new section for Subchapter 5. Section consists of new definitions and definitions moved from 252:100-7-4, 252:100-8-2, and 252:100-8-9 with necessary amendments.

252:100-5-2. Registration of potential sources of air contaminants

(a) Filing. ~~The owner or operator of any potential air contaminant source on the effective date of this Subchapter shall~~

~~at such time as requested, file with the Council information as to the nature of the air contamination source including such information as would be needed or useful in evaluating the potential of the source for causing air pollution. In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Air Quality Division with information necessary to evaluate the source's potential for causing air pollution.~~

(b) Necessary information. ~~The following information may shall be included for each source: total weight of the contaminant released per day, period or periods of operation; composition of the contaminant; physical state of the contaminant; temperature and moisture content of the air or gas stream at the point where released into the atmosphere and such other information as may be specifically requested by the Director. Where an air or gas cleaning device is incorporated in the air or gas stream preceding discharge to the atmosphere, the weight of material removed, by the cleaning device, as well as the weight emitted, shall be stated.~~

- (1) Total weight of the contaminant released per day.
- (2) Period or periods of operation.
- (3) Composition of the contaminant.
- (4) Physical state of the contaminant.
- (5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.
- (6) Efficiency of any control device.
- (7) Such other information as may be specifically requested by the Director.

Agency Note: 252:100-5-2. Original section with necessary amendments.

252:100-5-2.1. Emission inventory

(a) Requirement to file an emission inventory. ~~The owner or operator of any minor source facility that is a source of air emissions shall, by March 1 of 1993, and every succeeding year thereafter, submit a complete emission inventory annually on forms obtained from the Air Quality Division. These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee.~~

[Information from 252:100-7-4(d)(1)]

- (1) The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter.

[From 252:100-7-4(d)(1)]

- (2) The initial emission inventory for major TSP facilities and Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter.

[From 252:100-8-9(d)(4)]

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) Content. All inventories submitted to the Air Quality Division shall include, but shall not be ~~not~~ limited to, the following:

~~(A)(1) For~~ For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein,

~~(B) for those emissions not the subject of a permit, a determination of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility,~~

~~(C) an election as to the basis, either Actual Emissions or Allowable Emissions, to be used for calculation of the fee,~~

~~(D)(2) if actual emissions are chosen as the basis for fee assessment, the~~ The amount of the actual emissions and the basis for such determination, and,

~~(E)(3) if~~ If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference, subject to confidentiality provisions provided in the Oklahoma Clean Air Act.

~~(B)(4) For~~ For those emissions not the subject of a permit, and when requested by the AQD, a determination list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility,

[Information from 252:100-7-4(d) (1), (A), (B), (C), (D), and (E)]

(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with ~~OAC 252:100-7-4(e)~~ 252:100-5-2.1(d), below, ~~if not submitted with the emission inventory,~~ must be maintained for at least 5 years by the current ~~owner/operator~~ owner or operator at the facility in conjunction with facility records of the emission inventory, and This information must either be submitted to the Air Quality Division or made available for inspection upon request, subject to confidentiality provisions provided in the Oklahoma Clean Air Act.

[Information from 252:100-7-4(d)(2)]

~~(e)(d)~~ Method of calculation. The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data. Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees. The following shall constitute acceptable methods for determining emissions ~~intended for use as the basis for assessment and payment of annual operating fees:~~

~~(1) current AP-42 factors or other factors acceptable to EPA and the Air Quality Division;~~

(1) Emission factors utilized in the issuance of a relevant

Oklahoma Air Quality permit(s) for the facility.

~~(2) stackStack tests using appropriate EPA test methods, approved by the Environmental Protection Agency or the State Air Quality Division, with advance notification and opportunity for observation by the State Air Quality Division or EPA,~~

~~(3) stackStack tests using appropriate EPA test methods performed on identical equipment (i.e., same model) at the same location under the same operating conditions and parameters or similar sources in other jurisdictions according to methods approved by the EPA, the Air Quality Division or another regulatory agency when:~~

~~(A) testsTests are actually performed according to the approved method by persons qualified by training and experience to perform said tests,~~

~~(B) copiesCopies of the tests results and methods are available for review by the Air Quality Division,~~

~~(4) stack tests performed on an identical or similar source, when performed in accordance with OAC 252:100-7-4(e)(2) or (3) above, upon approval by the Air Quality Division,~~

~~(4) Continuous emissions monitoring data, when supported by required certification and calibration data.~~

~~(5) Current AP-42 factors or other factors acceptable to the Air Quality Division.~~

~~(5)(6) manufacturer'sManufacturer's test data, when approved by the Air Quality Division as reliable,~~

~~(6)(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question, and approved for use in the emission inventory by the Air Quality Division.~~

~~(7)(8) fuelFuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based, and approved for use in the emission inventory by the Air Quality Division.~~

~~(8) continuous emissions monitoring data, when supported by required certification and calibration data, or,~~

~~(9) anyAny other method which that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved in advance for use in the emission inventory by the Air Quality Division.~~

[Information from 252:100-7-4(e)]

~~(f)(e) Testing requirements Methods of verification. Emission inventories determined by the Air Quality Division to be substantially incomplete or substantially incorrect, shall, upon the request of the Air Quality Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time, shall be subject to verification, upon request by the Air Quality Division, by an appropriate stack test, installation of continuous monitoring equipment or other approvable emissions testing methods. Verification shall be accomplished by an appropriate stack test using EPA approved~~

methods, installation of continuous monitoring equipment, or other methods acceptable to the Air Quality Division.
[Information from 252:100-7-4(f)]

Agency Note: 252:100-5-2.1. Emission inventory - new section for Subchapter 5. Information moved from 252:100-7-4 (except 100-5-2.1(a)(2) which was moved from 252:100-8-9(d)(4)) with necessary amendments.

252:100-5-2.2. Annual Operating permit fees Fees applicable to minor and major sources

~~(b)(a) Applicability.~~

~~(1) Sources Affected. OAC 252:100-7-4 This section applies to all major and minor sources facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or is considered grandfathered from such requirement, or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995 and as of this date shall no longer be subject to the major source annual operating fee specified in 252:100-7-4(b)(1)(A). The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the part Part 70 program costs. The permitting authority shall ensure that any the fee fees required by these rules 252:100-5-2.2(b)(2) will be used solely for part Part 70 program costs.~~

~~(2) This section does not apply to de minimis facilities.~~

~~(A) The owner or operator of such major source shall be subject to an annual operating fee assessed in accordance with the provisions in OAC 252:100-8-9.~~

[252:100-5-2.2 - Applicability section is a combination of information taken from 252:100-7-4(b)(1) and (A) along with 252:100-8-9(b) and (c)]

(b) Fee schedule.

(1) Minor facilities and Non-Part 70 sources.

~~(B)(A) Until January 1, 1998, The the owner or operator of such a minor source a facility subject to this section shall be subject to pay an annual operating fee beginning January 1, 1994, based on annual emissions of regulated pollutants (for fee calculation), except for total suspended particulates in accordance with the following fee schedule:~~

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

[252:100-5-2.2(b)(1)(A) - Information taken from 252:100-7-4(b)(1)(B) with necessary amendments]

(B) Beginning January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual

operating fee of \$10/ton. This fee is based on total annual emissions of regulated pollutants (for fee calculation).

(2) Part 70 Sources.

~~(i)~~ (A) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant (for fee calculation).

[252:100-5-2.2(b)(2)(A) - Information taken from 252:100-8-9(d)(1)(B)(i) with necessary amendments]

~~(ii)~~ (B) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

[252:100-5-2.2(b)(2)(B) - Information taken from 252:100-8-9(d)(1)(B)(ii)]

(c) Payment. The Owner or Operator of an affected facility shall remit to the State Air Quality Division an annual operating fee in accordance with OAC 252:100-7-3. For Part 70 sources Fees fees will shall be paid by check or money order made payable to the Oklahoma Air Quality Control Fund, Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division or, upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of The Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp., Sec. 2-5-101 et seq., to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's

error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

[252:100-5-2.2(c) Payment - Information taken from 252:100-7-3(d) and combined with 252:100-8-9(d)(3) with necessary amendments.]

~~(3) Registration. The owner or operator of any Federal Major Source which has not submitted an emission inventory for the calendar year 1991 shall register with the Oklahoma Air Quality Division in accordance with the OAC 252:100-5 and submit a complete 1991 emission inventory no later than November 1, 1992, or upon the effective date of this OAC 252:100-7-4, whichever is later.~~

[From 252:100-7-4(b)(3)]

~~(e)(d) Basis for annual operating fees.~~

~~(1) Operating fees shall be calculated on a source-specific basis and may be based on either actual or allowable emissions of regulated pollutants (for fee calculation) (at the option of the owner/operator paying the fee) as set forth in the facility emissions emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year ~~1993~~ 1998 shall be based upon inventory data covering the calendar year ~~1991~~ 1996). All fees shall be determined according to the following:~~

~~(A) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing.~~

~~(B) where both actual and allowable emissions are reflected on the inventory, the lesser of the two shall be used.~~

[252:100-5-2.2(d)(1) Basis for annual operating fees - Information taken from 252:100-7-4(c)(1), (A) and (B) along with 252:100-8-9(d)(1), (A)(i) and (ii)]

~~(iii)(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a part Part 70 source shall not be considered in the calculation of the annual fee.~~

[252:100-5-2.2(d)(2) - Information taken from 252:100-8-9(d)(1)(B)(iii)]

~~(2) Requests to exercise an option other than those set forth in OAC 252:100-7-4(c)(1)(A) or (B), must be made no later than November 1, 1992, or within thirty days after the effective date of OAC 252:100-7-4, whichever is later.~~

[From 252:100-7-4(c)(2)]

Agency Note: 252:100-5-2.2. Annual operating fees - new section for Subchapter 5. Combination of information moved from 252:100-7-3, 252:100-7-4 and 252:100-8-9 with necessary amendments.

252:100-5-3. Confidentiality of proprietary information

~~(a) No person shall disclose to anyone other than the Air Quality Council, the Executive Director, or a Court of competent jurisdiction any process information, except emission data, furnished or obtained pursuant to this Subchapter. Emission data must be made available at all times to the public during normal working hours.~~

~~(b) Upon the request of the interested party or parties, all hearings in which proprietary information is to be divulged shall be held "in camera" and such information shall be sealed and access otherwise limited. Emission data shall never be considered to be "proprietary" for purposes of this Subchapter and must be available at all times to the public during normal working hours. [Refer to 27A O.S. Supp. 1993, 2-5-105.18]~~

Agency Note: 252:100-5-3. Information already covered in more detail in the Act - 27A O.S. Supp. 1993, 2-5-105.18. Therefore, deleted and the Oklahoma Clean Air Act referenced.

INDEX

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October 9, 1997

TO: Air Quality Council

FROM: Larry Byrum, Director
Air Quality Division *LB*

SUBJECT: JUSTIFICATION FOR PROPOSED ANNUAL OPERATING FEES
FOR MINOR SOURCES

The proposed annual operating fee system for minor sources found in Subchapter 5 and suggested to be \$10.00 per ton was recommended to resolve several inequities that existed under the old system. The step system resulted in many sources of similar size paying very different fees. The glaring example is the 24 ton source paying \$100 and the 25 ton source paying \$250. A 4% increase in emissions resulted in a 250% increase in fees. Minor sources in the state paid between \$3.68 and \$10.00 per ton with generally the larger the source, the lower the per ton rate. The suggested per ton system would also reduce the discrepancy between the 99 ton minor source and the 100 ton major source. The new system would consolidate the significance levels for "de minimis" sources, permitted sources and feeable sources at the same level of emissions.

At the previous Council meeting we were charged with determining what per ton rate would represent a "revenue neutral" outcome for the suggested revision in the minor source fee scale. Our interpretation of "revenue neutral" is that the overall proceeds for the minor sources in the state would be the same if either system was used. The changeable nature of the inventory due to facilities changing classification, exemptions, changes in the levels of operation, changes in permits for a facility, and the use of different estimation methods suggest unreliability for any projections for next year. We therefore chose to use the past year's information evaluated under both systems.

The 535 minor sources that paid fees in 1997 paid a total of \$174,900 under the step system. The average fee per "billable ton" was \$7.48 1/2, which would have collected \$174,879.54. A suggested \$7.50 rate would collect \$175,230 and be a "revenue equal" solution. The average fee under the old system was \$326.91. Under the new system the average would be \$327.53.

The uncertainty of the number of sources also led us to calculate the fees in the event of an even distribution of numbers of sizes of sources. The total fees under the old system was \$174,879 and gave an average of \$7.95 per ton. A fee of \$7.95 would result in approximately the same amount of revenue as the step system, \$185,743. The actual distribution of sources includes many more sources in the lower steps than in the higher steps.

With all the variation and the changeable nature of the inventory, it appears the most equitable solution will be a per ton rate. A "revenue neutral" system for the total will not be a revenue neutral situation for the individual sources. Even charging the average rate of \$7.50 per ton would result in a fee increase for 283 sources, over half of the minor system.

The attempt to equalize the fees will result in a general increase in fees for most facilities. Whereas the fee for a smaller facility will see a larger percentage change, the actual dollar amount of increase will be greater for the larger minor sources. The change is to assure that as the amount of pollutant increases the fee increases, assuring that larger sources share the burden more equally with the smaller sources.

The attached spreadsheet shows each existing source and the amount it paid in 1997, the fee per ton for these sources in 1997, and various projected fees under a per ton system.

The Division operates its minor source permit program at a cost that is significantly greater than the amount received from fees from minor sources. We anticipate that annual operating fee increases above that of \$10/ton will be needed to help offset the cost of the minor source program.

MINUTES
AIR QUALITY COUNCIL
October 21, 1997
Tulsa City County Health Department Auditorium
4616 East 15th Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
Meribeth Slagell
Gary Kilpatrick
J. William "Bill" Fishback
David Branecky
Sharon Myers

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Barbara Hoffinan
Scott Thomas
Linn Wainner
Joyce Sheedy
Jeanette Buttram
Morris Moffett
Myrna Bruce

Council Members Absent

Larry Canter, Vice-Chairman
Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 21, 1997 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Andrews and Dr. Canter were absent.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 21, 1997 Public Meeting/Hearing. Motion was made by Mr. Branecky to approve the Minutes and second to the motion was made by Ms. Myers. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - abstain; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Meeting Schedule - Mr. Breisch entertained motion to approve the 1998 Meeting Schedule as proposed. Ms. Myers made the motion with the second being made by Mr. Kilpatrick. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. (*Note: Dates proposed were February 18, April 21, June 16, August 18, October 20, December 15*).

PUBLIC HEARING

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCE [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A Oklahoma Statutes. Mr. Byrum called upon Jeanette Buttram to give staff position on the proposed changes to the rule.

After discussion and comments by Council and audience, Mr. Breisch stated that staff recommendation was to close the comment period as of October 21 and vote on SC 5, along with SC 7 and SC 8, at the next regularly scheduled meeting in December. He entertained motion as such.

Mr. Fishback wanted to be leave a portion of SC5 open for the subcommittee report discussion because the fees would have to be changed by the December meeting in order that the DEQ Board could take action.

Mr. Kilpatrick made motion that SC 5 be closed with the exception of consideration of the operating fee for Title V Part 70 sources remaining open. Mr. Fishback seconded the motion. With no other comments or discussion, Mr. Breisch asked for roll call. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES; OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A, Oklahoma Statutes. Mr. Byrum called upon Jeanette Buttram to give staff position on the proposed rule.

Ms. Buttram pointed out that staff was charged with not only simplifying and clarifying the rule, but also incorporating the new permit continuum which takes into account the environmental impact, emission levels, and source categories in Oklahoma. Ms. Buttram then pointed out the areas of change to the rule.

Mr. Byrum opened the floor for discussion. Kyle Arthur, representing the Small Business Assistance Panel, offered the Panel's support for the proposed changes. Ms. Barton, CASE, asked if the EPA representatives were satisfied with the proposed changes. EPA had no comment.

After discussion and comments from Council and audience, Mr. Breisch entertained motion to continue the hearing to the December 16 Air Quality Council meeting to be voted on along with SC 8 and SC 5. Ms. Slagell made that motion and second was by Mr. Kilpatrick. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes. Mr. Byrum called upon Dr. Joyce Sheedy to give staff position on the proposed rule.

Dr. Sheedy stated that it was staff's objective to correct deficiencies listed in the approval of the interim Title V Program to incorporate case-by-case MACT requirements; to incorporate permit continuum; as well as to clarify, simplify, and streamline the rule. Dr. Sheedy advised that staff recommendation was that the hearing on the revisions be continued to Council's December 16 meeting.

Mr. Byrum opened the floor for discussion and comments. Ms. Barton complimented staff on the monumental task accomplished making these changes.

Mr. Breisch entertained motion to continue this item to the next meeting on December 16 and that the comment period would remain open. Ms. Myers made this motion with second being made by Mr. Branecky. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:10041-15 CONTROL OF EMISSIONS OF HAZARDOUS AND TOXIC AIR CONTAMMANTS PART 3: HAZARDOUS AIR CONTAMINANTS -15 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS [AMENDED]

As protocol officer, Mr. Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations (CFR) Part 51, and Title 27A Oklahoma Statutes. Mr. Byrum called upon Dr. Joyce Sheedy to give staff recommendations.

Dr. Sheedy pointed out that the hearing on the proposed revisions to 252:100-41-15 was continued from the August 19, 1997 AQC meeting. She noted that revisions were made based on comments received. Dr. Sheedy outlined proposed changes to 252:100-41-15(a) as follows:

update the adoption of National Emission Standards for Hazardous Air Pollutants (NESHAP) by adopting by reference the NESHAP as found in 40 CFR Part 61 as they existed on 7/1/97 with the exception of the NESHAP which address radionuclides and are contained in Subparts B, H, I, K, Q, R, T, and W and Appendices D and E.

Changes to 252:100-41-15(b) were to adopt by reference the General provisions contained in 40 CFR Part 63, Subpart A and the all the Maximum Achievable Control Technology (MACT) standards as they existed on July 1, 1997.

She advised that adoption of this rule was necessary to obtain delegation of the Title III program and to enable Air Quality Division to include MACT standards in Title V permits. Staff recommended that the Council forward and recommend these provisions to the Environmental Quality Board to be adopted as both emergency and permanent.

Ms. Barton, CASE, felt that a summary of the rules would be advantageous to the public for better understanding to those who do not have copies of written text.

Mr. Breisch entertained a motion to recommend this rule to the Board. Mr. Kilpatrick moved to approve the proposed revisions to SC 41 and recommend them to the DEQ Board for both emergency and permanent adoption. Second was made by Ms. Slagell. With no further discussion, roll call was taken as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Mr. Fishback added a further note for the record pointing out staff's intentions to revisit annually around July 1 to provide an update of the appropriate NESHAP regulations. Byrum affirmed and pointed out that July 1 coincides with publication in the *Federal Register*.

PUBLIC HEARING

OAC 252:2-40 and OAC 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations Part 51, and Title 27A Oklahoma Statutes. Mr. Byrum called upon Ms. Barbara Hoffman to give staff recommendations.

Staff requested that the Council recommend the revisions to the Environmental Quality Board for adoption. Mr. Kilpatrick made motion to continue the hearing until the next regularly scheduled meeting on December 16. Second was made by Ms. Slagell. Roll call was taken as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

NEW BUSINESS - Mr. Byrum advised that a fax had been received from EnerCon Services dealing with a problem anticipated by those who worked on the Aerospace/ARACT rules. In the fax, EnerCon pointed out that at that time EPA had rules under NESHAP provision which could be in conflict with the State rules. He added that now industry petitioned to revisit these rules so that industry is not covered by two different rules that say two different things. Mr. Byrum suggested that a committee be formed with four people from the aerospace industry and four staff to handle most of the items administratively; then to bring any changes to the Council. He also pointed out that no action was required from Council at this time.

Nadine Barton recognized Mr. Byrum's years of service saying 'good luck'.

ADJOURNMENT: With no further business, meeting was adjourned with next meeting being held on December 16, 1997 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

October 21, 1997

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	TODD SMITH	TERACO	PO BOX 177 VERNON, OK 73081	
2	Adrian Summers	ODEQ	1000 NE 10th OKC	
3	Howard Ground	PSO	- P.O. Box 201 Tulsa OK 74102	
4	Kyle Brown	ODEQ	1000 N.E. 10th St. OKC	
5	Deborah Perry	Emercon Services	10820 E 45th, Suite 100 Tulsa 74146	
6	Perry Friedrich	GRDA	PO Box 10 Chauveau OK 74337	
7	FRANK CONDON	EQ BOARD		
8	JOHN JOHNSON	OBDEN MARTIN SYSTEMS	TULSA 2122 S. YAWKON AVE TULSA 74107	
9	Chuck McCune	RSA	TULSA 2488 E 81st STREET 74116	
10	Frank Erwin	City of Tulsa	2445 S. Jackson Av Tulsa	
11	Nadine Barton	CASE	6609 E 86th Pl Tulsa	
12	Thelma Douglas	American Airlines		
13	Rich Truitt	OGEA	Box 1307 E. D PL 73202	
14	DJ Medley		1408 S. Denver Tulsa 74119	
15	Gerald Burcher	WFEC	Anaconda OK 9101 WEST 121ST STREET	
16	DAVID GIBBS	WEBCO IND.	SAND SPRINGS, OK 74063	

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, DECEMBER 16, 1997
9:30 A.M.
LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

BRIEFING AGENDA

1. Call to Order Chairman
2. Division Director's Report - Informational Director
 - An update of current events and AQD activities
 - Upcoming Activities
 - Other
3. PUBLIC HEARING Staff
OAC 252:100-5-2.2(b) (2) PART 70 SOURCES ANNUAL OPERATING FEES [AMENDED]
Discussion by Council/Public
4. PUBLIC HEARING Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public
5. PUBLIC HEARING Staff
OAC 252:100-17 INCINERATORS
Discussion by Council/Public
6. PUBLIC HEARING Staff
OAC 252:2-15-40 and 252:2-15-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public of proposed Council action
7. ACTION ITEM Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public of proposed Council action
8. ACTION ITEM Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public of proposed Council action

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

1533

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, DECEMBER 16, 1997
1:00 P.M.

LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

MEETING/HEARING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of OCTOBER 21, 1997 Minutes Chairman
4. PUBLIC HEARING Staff
OAC 252:100-5-2.2(b)(2) PART 70 SOURCES ANNUAL OPERATING FEE [AMENDED]
Discussion by Council/Public; possible action by Council
5. PUBLIC HEARING Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public; possible action by Council
6. PUBLIC HEARING Staff
OAC 252:100-17 INCINERATORS [AMENDED]
Discussion by Council/Public; possible action by Council
7. PUBLIC HEARING Staff
OAC 252:2-15-40 and 252:2-15-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public; possible action by Council
8. ACTION ITEM Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997
9. ACTION ITEM Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997
10. NEW BUSINESS Chairman
Discussion/consideration of subjects/business arising within
the past 24 hours; possible action by Council
11. Adjournment Chairman
Next Regular Meeting WEDNESDAY, FEBRUARY 18, 1998
LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM, 4545 N. Lincoln, Oklahoma City

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

December 1, 1997

MEMORANDUM

TO: Air Quality Council
FROM: David Dyke, Assistant Director *DD*
SUBJECT: Annual Operating Fee Adjustment for Title V
OAC 252:100-5-2.2 (b)(2) Part 70 Sources

The hearing on Subchapter 5 (specifically 252:100-5-2.2(b)(2) concerning the annual operating fee for Part 70 sources) has been continued to the December 16 meeting of the Council.

At the hearing, the staff will recommend that the annual operating fee billed in 1998 for Part 70 sources be adjusted by the Consumer Price Index as specified in the existing rule. This will provide for a 2.2% increase resulting in raising the fee from \$16.03 to \$16.39 per ton.

The following is a demonstration of how the fee was calculated:

The CPI for August 1997 is 160.8. This CPI represents an increase of 2.2% for the 12-month period. Our fee last year was based on a CPI of 157.3.

160.8 minus 157.3 equals 3.5 (CPI index points)

3.5 divided by 157.3 equals 0.0223

0.0223 multiplied by 100 equals 2.23%

\$16.03 (last year's fee) multiplied by 2.23% equals \$0.3567

\$16.03 plus \$0.3567 equals \$16.3867

Based on the CPI correction, the fee next year is estimated to be \$16.39 per ton.

In the future, the staff intends to bring before the Council on a regular annual basis any proposed adjustments to the fee.

SUBCHAPTER 5. REGISTRATION, ~~OF AIR CONTAMINANT SOURCES~~
EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-2.2. Annual Operating permit fees Fees applicable to minor and major sources

(b) Fee schedule.

(2) Part 70 Sources.

~~(i)(A)~~ Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant (for fee calculation).

[252:100-5-2.2(b)(2)(A) - Information taken from 252:100-8-9(d)(1)(B)(i) with necessary amendments]

~~(ii)(B)~~ The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

[252:100-5-2.2(b)(2)(B) - Information taken from 252:100-8-9(d)(1)(B)(ii)]

December 1, 1997

MEMORANDUM

TO: Air Quality Council

FROM: David Dyke, Assistant Director
Air Quality Division *DD*

SUBJECT: Modifications to Subchapter 5

Enclosed is a copy of the proposed draft modifications to Subchapter 5, Registration of Air Contaminant Sources, that will be brought to public hearing on December 16, 1997. The proposed modifications were brought to public hearing on August 19 and October 21, 1997. Council agreed to close the hearing record for this rule except for 252:100-5-2.2(b)(2) Part 70 sources. They also agreed to consider approving the rule during the same time Subchapter 8 is approved. Along with the original proposed revisions, comments were received during the October council meeting and a modification to the rule was made. A change in the name and content of the definition for "Major TSP facility" to "Major non-part 70 facilities" was made in order to stay consistent with changes made in Subchapter 8.

Enclosed in the packet is a copy of Subchapter 5 with the proposed revisions.

Enclosures: 1

**SUBCHAPTER 5. REGISTRATION, ~~OF AIR CONTAMINANT SOURCES~~
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

252:100-5-1. Purpose

~~The purpose of this Subchapter is to provide the Council with data whereby they might determine conditions of air pollution, as between particular air contaminant sources and as between particular areas of the state, such as urban, suburban and rural areas. This Subchapter requires potential sources of air contaminants to register with the Air Quality Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.~~

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in ~~OAC 252:100-7-4(e)~~ 252:100-5-2.1(d).

[From 252:100-7-4(a)]

"Allowable emissions" means:

(A) The total amount of regulated air pollutant ~~(for fee calculation)~~ emitted based on limits contained in a federally enforceable permit or potential to emit, or

[From 252:100-8-9(a)]

(B) For grandfathered sources, emission limits based on maximum design capacity, ~~as determined by methods contained in 252:100-7-4(e), and/or~~ and considering all applicable rules.

[From 252:100-7-4(a)]

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

[From 252:100-8-9(a)]

"Emission inventory" means a compilation of ~~the total of~~ all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

[From 252:100-7-4(a)]

"Grandfathered source" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated:

"Major non-part 70 facility" means any stationary facility which directly emits or has the potential to emit 100 tons per year or more of any air pollutant for which a rule or standard exists and is not subject to the Part 70 program.

"Minor facility" means a facility with a potential to emit less than 100 tons per year of each regulated air pollutant and which is not a Part 70 source.

"Part 70 source" means any source subject to the permitting requirements of Part 7 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

[From 252:100-7-4(a)]

"Regulated air pollutant" means:

(A) ~~any~~Any Volatile Organic Compound (VOC), as that term is defined ~~at~~ in 252:100-1-3, 252:100-37-2, or 252:100-39-2, ~~or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2~~

(B) Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.

~~(B)~~(C) ~~any~~Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act, ~~or~~

~~(C)~~(D) ~~any~~Any pollutant for which a national primary ambient air quality standard has been promulgated ~~except Carbon Monoxide~~under the Federal Clean Air Act, ~~or~~

~~(D)~~(E) ~~any~~Any Toxic Air Contaminant as defined and regulated under ~~CAE~~ 252:100-41-2, ~~or~~

~~(E)~~(F) ~~any~~Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

[From 252:100-7-4(a)]

"Regulated pollutant (for fee calculation)", which is used only for purposes of ~~CAE 252:100-8-9~~ this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide, ~~or~~

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, ~~or~~

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

[From 252:100-8-2]

Agency Note: 252:100-5-1.1. Definitions - new section for Subchapter 5. Section consists of new definitions and definitions moved from 252:100-7-4, 252:100-8-2, and 252:100-8-9 with necessary amendments.

252:100-5-2. Registration of potential sources of air contaminants

(a) Filing. ~~The owner or operator of any potential air~~

~~contaminant source on the effective date of this Subchapter shall at such time as requested, file with the Council information as to the nature of the air contamination source including such information as would be needed or useful in evaluating the potential of the source for causing air pollution. In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Air Quality Division with information necessary to evaluate the source's potential for causing air pollution.~~

(b) Necessary information. The following information ~~may~~ shall be included for each source: ~~total weight of the contaminant released per day, period or periods of operation, composition of the contaminant, physical state of the contaminant, temperature and moisture content of the air or gas stream at the point where released into the atmosphere and such other information as may be specifically requested by the Director. Where an air or gas cleaning device is incorporated in the air or gas stream preceding discharge to the atmosphere, the weight of material removed, by the cleaning device, as well as the weight emitted, shall be stated.~~

- (1) Total weight of the contaminant released per day.
- (2) Period or periods of operation.
- (3) Composition of the contaminant.
- (4) Physical state of the contaminant.
- (5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.
- (6) Efficiency of any control device.
- (7) Such other information as may be specifically requested by the Director.

Agency Note: 252:100-5-2. Original section with necessary amendments.

252:100-5-2.1. Emission inventory

(a) Requirement to file an emission inventory. The owner or operator of any ~~minor Source~~ facility that is a source of air emissions shall, by March 1 of 1993, and every succeeding year thereafter, submit a complete emission inventory annually on forms obtained from the Air Quality Division. ~~These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee.~~

[Information from 252:100-7-4(d)(1)]

(1) The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter.

[From 252:100-7-4(d)(1)]

(2) The initial emission inventory for major non-part 70 facilities and Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter.

[From 252:100-8-9(d)(4)]

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) Content. All inventories submitted to the Air Quality Division shall include, but shall not be ~~not~~ limited to, the following:

~~(A)(1) for~~For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

~~(B) for~~ those emissions not the subject of a permit, a determination of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

~~(C) an election as to the basis, either Actual Emissions or Allowable Emissions, to be used for calculation of the fee;~~

~~(D)(2) if~~ actual emissions are chosen as the basis for fee assessment, the The amount of the actual emissions and the basis for such determination, ~~and.~~

~~(E)(3) if~~If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference, ~~subject to confidentiality provisions provided in the Oklahoma Clean Air Act.~~

~~(B)(4) for~~For those emissions not the subject of a permit, and when requested by the AOD, a determination list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

[Information from 252:100-7-4(d) (1), (A), (B), (C), (D), and (E)]

(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with ~~OAC 252:100-7-4(e)~~ 252:100-5-2.1(d), below, ~~if not submitted with the emission inventory,~~ must be maintained for at least 5 years by the current ~~owner/operator~~ owner or operator at the facility in conjunction with facility records of the emission inventory. and This information must either be submitted to the Air Quality Division or made available for inspection upon request, ~~subject to confidentiality provisions provided in the Oklahoma Clean Air Act.~~

[Information from 252:100-7-4(d)(2)]

~~(e)(d) Method of calculation.~~ The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data. Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees. The following shall constitute acceptable methods for determining emissions ~~intended for use as the basis for assessment and payment of annual operating fees:~~

~~(1) current AP 42 factors or other factors acceptable to EPA and the Air Quality Division;~~

- (1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.
- (2) ~~stack~~Stack tests using appropriate EPA test methods, approved by the Environmental Protection Agency or the State Air Quality Division, with advance notification and opportunity for observation by the State Air Quality Division or EPA,
- (3) ~~stack~~Stack tests using appropriate EPA test methods performed on identical equipment (i.e., same model) at the same location under the same operating conditions and parameters or similar sources in other jurisdictions according to methods approved by the EPA, the Air Quality Division or another regulatory agency when:
- (A) ~~tests~~Tests are actually performed according to the approved method by persons qualified by training and experience to perform said tests,
- (B) ~~copies~~Copies of the tests results and methods are available for review by the Air Quality Division,
- ~~(4) stack tests performed on an identical or similar source, when performed in accordance with OAC 252:100-7-4(e)(2) or (3) above, upon approval by the Air Quality Division,~~
- (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
- (5) Current AP-42 factors or other factors acceptable to the Air Quality Division.
- ~~(5)(6) manufacturer's~~Manufacturer's test data, when approved by the Air Quality Division as reliable,
- ~~(6)(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question, and approved for use in the emission inventory by the Air Quality Division.~~
- ~~(7)(8) fuel~~Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based, and approved for use in the emission inventory by the Air Quality Division.
- ~~(8) continuous emissions monitoring data, when supported by required certification and calibration data, or,~~
- (9) ~~any~~Any other method which that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved in advance for use in the emission inventory by the Air Quality Division.

[Information from 252:100-7-4(e)]

~~(f)(e) Testing requirements~~ Methods of verification. Emission inventories determined by the Air Quality Division to be substantially incomplete or substantially incorrect, shall, upon the request of the Air Quality Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. ~~shall be subject to verification, upon request by the Air Quality Division, by an appropriate stack test, installation of continuous monitoring equipment or other approvable emissions testing methods.~~ Verification shall be

accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Air Quality Division.
[Information from 252:100-7-4(f)]

Agency Note: 252:100-5-2.1. Emission inventory - new section for Subchapter 5. Information moved from 252:100-7-4 (except 100-5-2.1(a)(2) which was moved from 252:100-8-9(d)(4)) with necessary amendments.

252:100-5-2.2. Annual Operating permit fees Fees applicable to minor and major sources

(b)(a) Applicability.

(1) ~~Sources Affected.~~ OAC 252:100-7-4 This section applies to all ~~major and minor sources~~ facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted ~~or is considered grandfathered from such requirement~~, or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995 and ~~as of this date shall no longer be subject to the major source annual operating fee specified in 252:100-7-4(b)(1)(A)~~. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the ~~part~~ Part 70 program costs. The permitting authority shall ensure that any the fee fees required by ~~these rules~~ 252:100-5-2.2(b)(2) will be used solely for ~~part~~ Part 70 program costs.

(2) This section does not apply to de minimis facilities.

~~(A) The owner or operator of such major source shall be subject to an annual operating fee assessed in accordance with the provisions in OAC 252:100-8-9.~~

[252:100-5-2.2 - Applicability section is a combination of information taken from 252:100-7-4(b)(1) and (A) along with 252:100-8-9(b) and (c)]

(b) Fee schedule.

(1) Minor facilities and Non-Part 70 sources.

~~(B)(A) Until January 1, 1998, The the owner or operator of such a minor source a facility subject to this section shall be subject to pay an annual operating fee beginning January 1, 1994, based on annual emissions of regulated pollutants (for fee calculation), except for total suspended particulates in accordance with the following fee schedule:~~

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

[252:100-5-2.2(b)(1)(A) - Information taken from 252:100-7-4(b)(1)(B) with necessary amendments]

(B) Beginning January 1, 1998, the owner or operator of a

facility subject to this section shall pay an annual operating fee of \$10/ton. This fee is based on total annual emissions of regulated pollutants (for fee calculation).

(2) Part 70 Sources.

~~(i)~~ (A) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant (for fee calculation).

[252:100-5-2.2(b)(2)(A) - Information taken from 252:100-8-9(d)(1)(B)(i) with necessary amendments]

~~(ii)~~ (B) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

[252:100-5-2.2(b)(2)(B) - Information taken from 252:100-8-9(d)(1)(B)(ii)]

(c) Payment. The Owner or Operator of an affected facility shall remit to the State Air Quality Division an annual operating fee in accordance with OAC 252:100-7-3. For Part 70 sources Fees fees will shall be paid by check or money order made payable to the Oklahoma Air Quality Control Fund, Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division or, upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of The Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp., Sec. 2-5-101 et seq., to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee

overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

[252:100-5-2.2(c) Payment - Information taken from 252:100-7-3(d) and combined with 252:100-8-9(d)(3) with necessary amendments.]

~~(3) Registration. The owner or operator of any Federal Major Source which has not submitted an emission inventory for the calendar year 1991 shall register with the Oklahoma Air Quality Division in accordance with the OAC 252:100-5 and submit a complete 1991 emission inventory no later than November 1, 1992, or upon the effective date of this OAC 252:100-7-4, whichever is later.~~

[From 252:100-7-4(b)(3)]

~~(e)(d) Basis for annual operating fees.~~

~~(1) Operating fees shall be calculated on a source-specific basis and may be based on either actual or allowable emissions of regulated pollutants (for fee calculation) (at the option of the owner/operator paying the fee) as set forth in the facility emissions emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year ~~1993~~ 1998 shall be based upon inventory data covering the calendar year ~~1991~~ 1996). All fees shall be determined according to the following:~~

~~(A) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing.~~

~~(B) where both actual and allowable emissions are reflected on the inventory, the lesser of the two shall be used.~~

[252:100-5-2.2(d)(1) Basis for annual operating fees - Information taken from 252:100-7-4(c)(1), (A) and (B) along with 252:100-8-9(d)(1), (A)(i) and (ii)]

~~(iii)(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a ~~part~~ Part 70 source shall not be considered in the calculation of the annual fee.~~

[252:100-5-2.2(d)(2) - Information taken from 252:100-8-9(d)(1)(B)(iii)]

~~(2) Requests to exercise an option other than those set forth in OAC 252:100-7-4(c)(1)(A) or (B), must be made no later than November 1, 1992, or within thirty days after the effective date of OAC 252:100-7-4, whichever is later.~~

[From 252:100-7-4(c)(2)]

Agency Note: 252:100-5-2.2. Annual operating fees - new section for Subchapter 5. Combination of information moved from 252:100-7-3, 252:100-7-4 and 252:100-8-9 with necessary amendments.

252:100-5-3. Confidentiality of proprietary information

~~(a) No person shall disclose to anyone other than the Air Quality Council, the Executive Director, or a Court of competent jurisdiction any process information, except emission data, furnished or obtained pursuant to this Subchapter. Emission data must be made available at all times to the public during normal working hours.~~

~~(b) Upon the request of the interested party or parties, all hearings in which proprietary information is to be divulged shall be held "in camera" and such information shall be sealed and access otherwise limited. Emission data shall never be considered to be "proprietary" for purposes of this Subchapter and must be available at all times to the public during normal working hours. [Refer to 27A O.S. Supp. 1993, 2-5-105.18]~~

Agency Note: 252:100-5-3. Information already covered in more detail in the Act - 27A O.S. Supp. 1993, 2-5-105.18. Therefore, deleted and the Oklahoma Clean Air Act referenced.

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MINUTES
AIR QUALITY COUNCIL
December 16, 1997
Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Gary Kilpatrick
J. William "Bill" Fishback
Meribeth Slagell
Larry Canter, Vice-Chairman
Sharon Myers
David Branecky

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner
Larry Trent
Joyce Sheedy
Jeanette Buttram
Michelle Martinez
Cheryl Bradley
Myrna Bruce

Council Members Absent

Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for December 16, 1997 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Andrews was absent during the hearing session.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 21, 1997 Public Meeting/Hearing. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-5-2.2(B)(2) PART 70 SOURCES ANNUAL OPERATING FEE [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A Oklahoma Statutes, Section 2-5-101 through 2-5-118. Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed changes to the rule.

Ms. Buttram advised that staff's recommendation was that the annual operating fee billed in 1998 for Part 70 sources be adjusted by the Consumer Price Index as specified in the existing rule which would render a 2.2 % increase from \$16.03 to \$16.39 per ton. She also pointed out staff's intention to bring before the Council any proposed adjustments to the fee on an annual basis.

Dr. Canter introduced the committee's report *Title V Fee Committee Findings and Recommendations* dated December 15, 1997 into the record. Members of this committee were Dr. Canter, Mr. Fishback, and Mr. Branecky. The full report is made an official part of these Minutes. Mr. Kilpatrick made motion to accept the committee's report and second was made by Mr. Fishback. With discussion that perhaps Mr. Fishback should not make the second since he was on the committee, Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Ms. Myers made additional motion to leave the fees as stated for 1998 with only the Consumer Price Index increase from \$16.03 to \$16.39. Mr. Fishback made the second. Mr. Doughty, staff attorney, mentioned that Council is recommending no action; therefore, this portion of the rule would not go before the Environmental Quality Board specifically. Roll call was as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke stated that since there was extensive discussion in the briefing session regarding continuation of this subchapter to a later date, Dr. Joyce Sheedy would stand ready to discuss staff proposal for the rule.

Mr. Kilpatrick made motion to continue the hearing to January 9, 1998 at 1:00. Mr. Branecky made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-17 INCINERATORS [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51

and Title 27A Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke called upon Michelle Martinez to give staff position on the proposed changes to the rule. Staff's recommendation was for approval as both emergency and permanent adoption.

Mr. Kilpatrick made motion to continue this hearing until January 9, 1998 at 1:00 p.m. Second was made by Ms. Slagell. During discussion, it was noted that continuing this hearing to February would cause the rule to be adopted by the Board as an emergency rule only, which could possibly put the State Plan at risk. Roll call as follows: Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Fishback – no; Dr. Canter – no; Ms. Myers - no; Mr. Branecky - no; Mr. Breisch - no.

After this discussion, Mr. Branecky made motion that Council accept Subchapter 17 as amended and recommend to the Environmental Quality Board for both emergency and permanent adoption. Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick – no; Ms. Slagell – no; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:2-40 and OAC 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations Part 51, and Title 27A Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke called upon Ms. Barbara Hoffman to give staff recommendations.

Staff requested that the Council recommend the revisions to the Environmental Quality Board for adoption as a permanent rule. After discussion, Ms. Myers made motion to approve the rule as amended and recommend to the Environmental Quality Board for permanent adoption. Mr. Branecky made the second. Roll call as follows: Mr. Kilpatrick – no; Ms. Slagell – aye; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

OLD BUSINESS

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCE [AMENDED]

Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed changes to this rule. After summarizing the changes, Ms. Buttram stated staff's recommendation was that Subchapter 5 be approved by Council and forwarded to the Environmental Quality Board at the same time that Subchapter 8 is approved.

Mr. Branecky moved that Council continue this hearing to January 9, 1998; and Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

**OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]**

Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed rule. After summarizing the changes, Ms. Buttram stated that staff recommended that Subchapter 7 be approved by Council at the same time that Subchapter 8 is approved.

Mr. Kilpatrick moved that Council continue the hearing on to the January 9, 1998 meeting. Second to the motion was made by Ms. Myers. Roll call as follows: Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

NEW BUSINESS Dr. Canter stated that no one member of the public could claim to represent all of the public, and that he believes Council hearings provide the proper forum to hear comments from the public on proposed rules. While it is sometimes difficult to decide what rule changes requested at hearings by AQD staff or the public are substantive, Dr. Canter said he resented the implication that the public was not given adequate opportunity to comment on Subchapter 17, since it had been presented at two Council meetings.

ADJOURNMENT With no further business, meeting was adjourned and an additional meeting scheduled for January 9, 1998 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

DAVID DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

DECEMBER 16, 1997

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 <u>Wayne Eback</u>	<u>Nov Am Energy</u>	<u>Shreveport, La.</u>	
2 <u>Laura Armistead</u>	<u>Nov Am Energy</u>	<u>Shreveport, La.</u>	
3 <u>Joe W Hampton</u>	<u>OKLA Grain & Feed Assn</u>	<u>Emm, OK</u>	
4 <u>Cheryl Bradley</u>	<u>DEQ - AQD</u>		
5 <u>Nancy Coleman</u>	<u>ICSA</u>	<u>Norman 73072 3700 W Robinson Ste 200</u>	
6 <u>TOAA SMITH</u>	<u>TEXACO</u>	<u>AD OK 277 VERMA OK 73091</u>	
7 <u>Frank Erwin</u>	<u>City of Tulsa</u>	<u>2445 S Jackson Av Tulsa 74107</u>	
8 <u>Roger S. Anderson</u>	<u>TAFB</u>		
9 <u>Carol Barker</u>	<u>OCALC/Emv</u>	<u>Tinker AFB</u>	
10 <u>FRANK CONDON</u>	<u>EQ BOARD</u>		
11 <u>Geri Hart</u>	<u>TAFB</u>		
12 <u>Cynthia White</u>	<u>TAFB</u>		
13 <u>Pat Davenport</u>	<u>N-S</u>	<u>Stillwater</u>	
14 <u>Kyle Brown</u>	<u>DEQ/CAP</u>		
15 <u>Sheldy Bessie</u>	<u>WFCC</u>	<u>Andarko</u>	
16 <u>Charles M. [unclear]</u>	<u>EPA</u>	<u>TULSA</u>	

17 Paul Min (DAVID GIBBS) WESCO SAND SPRING

18 Rick Baret EPA DALLAS, TX

19 Mark Baret CASE

20 Adrian Sumner DEW-FSD OKC

21 Shwaleh Young Trinity Dallas

22 Jay Bann ConSaw OKC

23 Robert A. Eldridge Alamogordo

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AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL
CONTINUATION OF REGULAR MEETING/HEARING
(HELD ON DECEMBER 16, 1997)

FRIDAY, JANUARY 9, 1998

1:00 P.M.

LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

CONTINUED
MEETING/HEARING AGENDA

- | | | |
|----|---|-----------|
| 1. | Call to Order | Chairman |
| 2. | Roll Call | Secretary |
| 3. | PUBLIC HEARING
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public; possible action by Council | Staff |
| 4. | ACTION ITEM
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997 | Staff |
| 5. | ACTION ITEM
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997 | Staff |
| 6. | Adjournment
Next Regular Meeting WEDNESDAY, FEBRUARY 18, 1998
LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM, 4545 N. Lincoln, Oklahoma City | Chairman |

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

December 18, 1997

MEMORANDUM

TO: Air Quality Council

FROM: David R. Dyke, Interim Director
AIR QUALITY DIVISION *DRD*

SUBJECT: Modifications to Subchapter 5

Enclosed is a copy of the proposed draft modifications to OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES, that will be brought before the Council for possible action on January 9, 1997. The proposed modifications were brought to public hearing on August 19, October 21 and December 16, 1997.

Staff has made no changes to the draft that was presented at the December meeting. It is staff's position that the Council recommend this proposed rule to the Department of Environmental Quality Board for permanent and emergency adoption at their January 27, 1998 meeting.

Enclosures: 1

**SUBCHAPTER 5. REGISTRATION, ~~OF AIR CONTAMINANT SOURCES~~
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

252:100-5-1. Purpose

~~The purpose of this Subchapter is to provide the Council with data whereby they might determine conditions of air pollution, as between particular air contaminant sources and as between particular areas of the state, such as urban, suburban and rural areas. This Subchapter requires potential sources of air contaminants to register with the Air Quality Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.~~

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"**Actual emissions**" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in ~~OAC 252:100-7-4(e)~~ 252:100-5-2.1(d).

[From 252:100-7-4(a)]

"**Allowable emissions**" means:

(A) The total amount of regulated air pollutant ~~(for fee calculation)~~ emitted based on limits contained in a federally enforceable permit or potential to emit, or

[From 252:100-8-9(a)]

(B) For grandfathered sources, emission limits based on maximum design capacity, ~~as determined by methods contained in 252:100-7-4(e), and/or~~ and considering all applicable rules.

[From 252:100-7-4(a)]

"**Consumer Price Index**" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

[From 252:100-8-9(a)]

"**Emission inventory**" means a compilation of ~~the total of~~ all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

[From 252:100-7-4(a)]

"**Grandfathered source**" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"**Minor facility**" means a facility which is not a Part 70 source.

"**Part 70 source**" means any source subject to the permitting requirements of Part 5 of Subchapter 8 of this Chapter as

provided in 252:100-8-3(a) and 252:100-8-3(b).

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

[From 252:100-7-4(a)]

"Regulated air pollutant" means:

(A) ~~any~~Any Volatile Organic Compound (VOC), as that term is defined ~~at~~ in 252:100-1-3, 252:100-37-2, or 252:100-39-2, ~~or~~ any Volatile Organic Solvent (VOS), as that term is defined in ~~252:100-37-2 and 252:100-39-2~~

(B) Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.

~~(B)~~(C) ~~any~~Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.

~~(C)~~(D) ~~any~~Any pollutant for which a national primary ambient air quality standard has been promulgated ~~except Carbon Monoxide~~ under the Federal Clean Air Act.

~~(D)~~(E) ~~any~~Any Toxic Air Contaminant as defined and regulated under OAC 252:100-41-2.

~~(E)~~(F) ~~any~~Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

[From 252:100-7-4(a)]

"Regulated pollutant (for fee calculation)", which is used only for purposes of ~~OAC 252:100-8-9~~ this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, ~~or~~.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

[From 252:100-8-2]

Agency Note: 252:100-5-1.1. Definitions - new section for Subchapter 5. Section consists of new definitions and definitions moved from 252:100-7-4, 252:100-8-2, and 252:100-8-9 with necessary amendments.

252:100-5-2. Registration of potential sources of air contaminants

(a) Filing. ~~The owner or operator of any potential air contaminant source on the effective date of this Subchapter shall at such time as requested, file with the Council information as to the nature of the air contamination source including such information as would be needed or useful in evaluating the~~

~~potential of the source for causing air pollution. In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Air Quality Division with information necessary to evaluate the source's potential for causing air pollution.~~

(b) Necessary information. ~~The following information may shall be included for each source: total weight of the contaminant released per day, period or periods of operation; composition of the contaminant; physical state of the contaminant; temperature and moisture content of the air or gas stream at the point where released into the atmosphere and such other information as may be specifically requested by the Director. Where an air or gas cleaning device is incorporated in the air or gas stream preceding discharge to the atmosphere, the weight of material removed, by the cleaning device, as well as the weight emitted, shall be stated.~~

- (1) Total weight of the contaminant released per day.
- (2) Period or periods of operation.
- (3) Composition of the contaminant.
- (4) Physical state of the contaminant.
- (5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.
- (6) Efficiency of any control device.
- (7) Such other information as may be specifically requested by the Director.

Agency Note: 252:100-5-2. Original section with necessary amendments.

252:100-5-2.1. Emission inventory

(a) Requirement to file an emission inventory. ~~The owner or operator of any minor source facility that is a source of air emissions shall, by March 1 of 1993, and every succeeding year thereafter, submit a complete emission inventory annually on forms obtained from the Air Quality Division. These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee.~~

[Information from 252:100-7-4(d)(1)]

(1) The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter.

[From 252:100-7-4(d)(1)]

(2) The initial emission inventory for Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter.

[From 252:100-8-9(d)(4)]

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) Content. All inventories submitted to the Air Quality Division shall include, but shall not be ~~not~~ limited to, the following:

~~(A)(1) For~~ For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

~~(B) for those emissions not the subject of a permit, a determination of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility;~~

~~(C) an election as to the basis, either Actual Emissions or Allowable Emissions, to be used for calculation of the fee;~~

~~(D)(2) if actual emissions are chosen as the basis for fee assessment, the~~ The amount of the actual emissions and the basis for such determination, ~~and;~~

~~(E)(3) if~~ If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference, ~~subject to confidentiality provisions provided in the Oklahoma Clean Air Act.~~

~~(B)(4) For~~ For those emissions not the subject of a permit, ~~and when requested by the AOD,~~ a determination list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

[Information from 252:100-7-4(d) (1), (A), (B), (C), (D), and (E)]

(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with ~~OAC 252:100-7-4(e)~~ 252:100-5-2.1(d), below, ~~if not submitted with the emission inventory,~~ must be maintained for at least 5 years by the current ~~owner/operator~~ owner or operator at the facility in conjunction with facility records of the emission inventory, and This information must either be submitted to the Air Quality Division or made available for inspection upon request, ~~subject to confidentiality provisions provided in the Oklahoma Clean Air Act.~~

[Information from 252:100-7-4(d)(2)]

~~(e)(d)~~ Method of calculation. The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data. Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees. The following shall constitute acceptable methods for determining emissions ~~intended for use as the basis for assessment and payment of annual operating fees:~~

~~(1) current AP 42 factors or other factors acceptable to EPA and the Air Quality Division;~~

(1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.

(2) ~~stack~~ Stack tests using appropriate EPA test methods.

~~approved by the Environmental Protection Agency or the State Air Quality Division, with advance notification and opportunity for observation by the State Air Quality Division or EPA,~~

(3) ~~stack~~Stack tests using appropriate EPA test methods performed on identical equipment (i.e., same model) at the same location under the same operating conditions and parameters or similar sources in other jurisdictions according to methods approved by the EPA, the Air Quality Division or another regulatory agency when:

(A) ~~tests~~Tests are ~~actually performed according to the approved method by persons qualified by training and experience to perform said tests,~~

(B) ~~copies~~Copies of the tests results and methods are available for review by the Air Quality Division.

~~(4) stack tests performed on an identical or similar source, when performed in accordance with OAC 252:100-7-4(e)(2) or (3) above, upon approval by the Air Quality Division,~~

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the Air Quality Division.

~~(5)~~(6) manufacturer'sManufacturer's test data, when approved by the Air Quality Division as reliable.

~~(6)~~(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question, and approved for use in the emission inventory by the Air Quality Division.

~~(7)~~(8) fuelFuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based, and approved for use in the emission inventory by the Air Quality Division.

~~(8) continuous emissions monitoring data, when supported by required certification and calibration data, or,~~

(9) ~~any~~Any other method ~~which that~~ can be shown to be reasonably accurate when supported by engineering data and calculations, and approved in advance for use in the emission inventory by the Air Quality Division.

[Information from 252:100-7-4(e)]

~~(f)~~(e) Testing requirements Methods of verification. Emission inventories determined by the Air Quality Division to be substantially incomplete or substantially incorrect, shall, upon the request of the Air Quality Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time, shall be subject to verification, upon request by the Air Quality Division, by an appropriate stack test, installation of continuous monitoring equipment or other approvable emissions testing methods. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Air Quality Division.

[Information from 252:100-7-4(f)]

Agency Note: 252:100-5-2.1. Emission inventory - new section for Subchapter 5. Information moved from 252:100-7-4 (except 100-5-2.1(a)(2) which was moved from 252:100-8-9(d)(4)) with necessary amendments.

252:100-5-2.2. Annual Operating permit fees Fees applicable to minor and major sources

~~(b)(a)~~ Applicability.

(1) Sources Affected. ~~OAC 252:100-7-4~~ This section applies to all ~~major and minor sources~~ facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted ~~or is considered grandfathered from such requirement~~, or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995 and ~~as of this date shall no longer be subject to the major source annual operating fee specified in 252:100-7-4(b)(1)(A)~~. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the ~~part~~ Part 70 program costs. The permitting authority shall ensure that any the fee fees required by ~~these rules~~ 252:100-5-2.2(b)(2) will be used solely for ~~part~~ Part 70 program costs.

(2) This section does not apply to de minimis facilities.

~~(A) The owner or operator of such major source shall be subject to an annual operating fee assessed in accordance with the provisions in OAC 252:100-8-9.~~

[252:100-5-2.2 - Applicability section is a combination of information taken from 252:100-7-4(b)(1) and (A) along with 252:100-8-9(b) and (c)]

(b) Fee schedule.

(1) Minor facilities.

~~(B)(A) Until January 1, 1998, The the owner or operator of such a minor source a facility subject to this section shall be subject to pay an annual operating fee beginning January 1, 1994, based on annual emissions of regulated pollutants (for fee calculation), except for total suspended particulates in accordance with the following fee schedule:~~

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

[252:100-5-2.2(b)(1)(A) - Information taken from 252:100-7-4(b)(1)(B) with necessary amendments]

(B) Beginning January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee of \$10/ton. This fee is based on total annual

emissions of regulated pollutants (for fee calculation).

(2) Part 70 Sources.

~~(i)~~ (A) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant (for fee calculation).

[252:100-5-2.2(b)(2)(A) - Information taken from 252:100-8-9(d)(1)(B)(i) with necessary amendments]

~~(ii)~~ (B) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

[252:100-5-2.2(b)(2)(B) - Information taken from 252:100-8-9(d)(1)(B)(ii)]

(c) Payment. The Owner or Operator of an affected facility shall remit to the State Air Quality Division an annual operating fee in accordance with OAC 252:100-7-3. For Part 70 sources Fees fees will shall be paid by check or money order made payable to the Oklahoma Air Quality Control Fund, Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division or, upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of The Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp., Sec. 2-5-101 et seq., to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was

based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

[252:100-5-2.2(c) Payment - Information taken from 252:100-7-3(d) and combined with 252:100-8-9(d)(3) with necessary amendments.]

~~(3) Registration. The owner or operator of any Federal Major Source which has not submitted an emission inventory for the calendar year 1991 shall register with the Oklahoma Air Quality Division in accordance with the OAC 252:100-5 and submit a complete 1991 emission inventory no later than November 1, 1992, or upon the effective date of this OAC 252:100-7-4, whichever is later.~~

[From 252:100-7-4(b)(3)]

~~(e)~~ (d) Basis for annual operating fees.

(1) Operating fees shall be calculated on a source-specific basis and may be based on either actual or allowable emissions of regulated pollutants (for fee calculation) ~~(at the option of the owner/operator paying the fee)~~ as set forth in the facility ~~emissions~~ emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year ~~1993~~ 1998 shall be based upon inventory data covering the calendar year ~~1991~~ 1996). ~~All fees shall be determined according to the following:~~

~~(A) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing.~~

~~(B) where both actual and allowable emissions are reflected on the inventory, the lesser of the two shall be used.~~

[252:100-5-2.2(d)(1) Basis for annual operating fees - Information taken from 252:100-7-4(c)(1), (A) and (B) along with 252:100-8-9(d)(1), (A)(i) and (ii)]

~~(iii)~~ (2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a ~~part~~ Part 70 source shall not be considered in the calculation of the annual fee.

[252:100-5-2.2(d)(2) - Information taken from 252:100-8-9(d)(1)(B)(iii)]

~~(2) Requests to exercise an option other than those set forth in OAC 252:100-7-4(c)(1)(A) or (B), must be made no later than November 1, 1992, or within thirty days after the effective date of OAC 252:100-7-4, whichever is later.~~

[From 252:100-7-4(c)(2)]

Agency Note: 252:100-5-2.2. Annual operating fees - new section for Subchapter 5. Combination of information moved from 252:100-7-3, 252:100-7-4 and 252:100-8-9 with necessary amendments.

252:100-5-3. Confidentiality of proprietary information

~~(a) No person shall disclose to anyone other than the Air Quality Council, the Executive Director, or a Court of competent jurisdiction any process information, except emission data, furnished or obtained pursuant to this Subchapter. Emission data must be made available at all times to the public during normal working hours.~~

~~(b) Upon the request of the interested party or parties, all hearings in which proprietary information is to be divulged shall be held "in camera" and such information shall be sealed and access otherwise limited. Emission data shall never be considered to be "proprietary" for purposes of this Subchapter and must be available at all times to the public during normal working hours. [Refer to 27A O.S. Supp. 1993, 2-5-105.18]~~

Agency Note: 252:100-5-3. Information already covered in more detail in the Act - 27A O.S. Supp. 1993, 2-5-105.18. Therefore, deleted and the Oklahoma Clean Air Act referenced.

MINUTES
AIR QUALITY COUNCIL
Continued From December 16, 1997
January 9, 1998
Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City, OK

Council Members Present

Larry Canter, Vice-Chairman
J. William "Bill" Fishback
Sharon Myers
Gary Kilpatrick
Meribeth Slagell
David Branecky

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Larry Trent
Joyce Sheedy
Jeanette Buttram
Myrna Bruce

Council Members Absent

William B. Breisch, Chairman
Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Continued Public Meeting for January 9, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. The January 9, 1998 agenda contained items from the December 16, 1997 agenda exclusively. Copies of the agenda were posted at the entrance doors of the meeting room.

Call to Order -- Dr. Canter, Vice-Chairman, called the meeting to order and roll call was taken as follows: Mr. Fishback - aye; Ms. Myers - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Branecky - aye; Dr. Canter - aye. Mr. Breisch and Ms. Andrews were absent.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Section 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy to give staff's position.

Dr. Sheedy stated that the proposed revisions to Subchapter 8 are to correct the deficiencies in the interim Title V Program as identified by EPA in their February 5, 1996 notice of approval of the interim program. After summarizing the changes, Dr. Sheedy stated that staff's recommendation was for Council to forward this rule to the Environmental Quality Board for approval as both emergency and permanent rule.

Mr. Kilpatrick made motion that Council recommend this rule to the Board for permanent and emergency adoption. Second was made by Mr. Fishback. Roll call as follows: Mr. Fishback - aye; Ms. Myers - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Branecky - aye; Dr. Canter - aye.

OLD BUSINESS

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCE [AMENDED]

Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position. With no additional changes made, Ms. Buttram stated that staff recommended that Subchapter 5 be approved by Council and recommended to the Environmental Quality Board for emergency and permanent adoption.

Mr. Fishback moved that Council adopt Subchapter 5, as presented, to the Environmental Quality Board for both emergency and permanent adoption. Mr. Branecky made the second to the motion. Roll call as follows: Mr. Fishback – aye; Ms. Myers – aye; Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Branecky – aye; Dr. Canter – aye.

**OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]**

Mr. Dyke called upon Ms. Jeanette Buttram to give staff's position on this rule. With one additional change, Ms. Buttram stated that staff recommended that Subchapter 7 be approved by Council and recommended to the Environmental Quality Board for emergency and permanent adoption. Mr. Fishback made the motion that Subchapter 7, including the change to Appendix H regarding wire drawing equipment, be approved by the Council and recommended for adoption to the Environmental Quality Board as permanent and emergency rule. The second was made by Ms. Myers. Roll call was as follows: Mr. Fishback – aye; Ms. Myers – aye; Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Branecky – aye; Dr. Canter – aye.

ADJOURNMENT: With no further business, Dr. Canter adjourned stating that the next regularly scheduled meeting would be February 18, 1998 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

LARRY CANTER, VICE-CHAIRMAN
AIR QUALITY COUNCIL

DAVID R. DYKE, DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

JANUARY 9, 1998

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Frank Erwin	City of Tulsa	2445 S Jackson Av No 74107	
2 Robert Eddington	ARMSTRONG	4115 N. Perkins STILLWATER MO	
3 Pat Davenport	National Standard	3602 N. Perkins Rd. Stillwater	
4 Doyle McWhiter			
5 Rick Tetema	OGFA	Box 1307 East, OK 73702	
6 Joe N Hampton	"	2309 N 10 th " " 73701	
7 Adrian Sumner	ODEQ	1000 N.E. 10th	
8 Kyle [unclear]	"	"	No
9 Don [unclear]	RSA		No
10			
11			
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15			
16			

**AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD**

Identification of Proposed Rulemaking:

Chapter Number and Title - OAC 252:100-5

REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]

Subchapters or Sections Involved - [new, amended or revoked]

On JANUARY 9, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

(mark as appropriate)

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,

 Date signed: 1/9/98
Chair or Designee

VOTING TO APPROVE:

Larry Canter
J. William "Bill" Fishback
Sharon Myers
Gary Kilpatrick
Meribeth Slagell
David Branecky

VOTING AGAINST:

ABSTAINING:

ABSENT:

William B. Breisch
Marilyn Andrews

OAC 252:100-5[1]
Environmental Quality Board

SUBCHAPTER 5. REGISTRATION, OF AIR CONTAMINANT SOURCES
EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-1. Purpose

The purpose of this Subchapter is to provide the Council with data whereby they might determine conditions of air pollution, as between particular air contaminant sources and as between particular areas of the state, such as urban, suburban and rural areas. This Subchapter requires potential sources of air contaminants to register with the Air Quality Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"Allowable emissions" means:

(A) The total amount of regulated air pollutant emitted based on limits contained in a federally enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"Emission inventory" means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

"Grandfathered source" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"Minor facility" means a facility which is not a Part 70 source.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

"Regulated air pollutant" means:

(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.

(B) Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.

(C) Any pollutant regulated under section 111 or 112 (except

112(r)) of the Federal Clean Air Act.

(D) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.

(E) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.

(F) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

"Regulated pollutant (for fee calculation)", which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

[Agency Note (1): 252:100-5-1.1. Definitions - new section for Subchapter 5. Section consists of new definitions and definitions moved from 252:100-7-4, 252:100-8-2, and 252:100-8-9 with necessary amendments.]

252:100-5-2. Registration of potential sources of air contaminants

~~(a) **Filing.** The owner or operator of any potential air contaminant source on the effective date of this Subchapter shall at such time as requested, file with the Council information as to the nature of the air contamination source including such information as would be needed or useful in evaluating the potential of the source for causing air pollution. In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Air Quality Division with information necessary to evaluate the source's potential for causing air pollution.~~

~~(b) **Necessary information.** The following information may shall be included for each source: total weight of the contaminant released per day, period or periods of operation, composition of the contaminant, physical state of the contaminant, temperature and moisture content of the air or gas stream at the point where released into the atmosphere and such other information as may be specifically requested by the Director. Where an air or gas cleaning device is incorporated in the air or gas stream preceding discharge to the atmosphere, the weight of material removed, by the cleaning device, as well as the weight emitted, shall be stated.~~

~~(1) Total weight of the contaminant released per day.~~

~~(2) Period or periods of operation.~~

~~(3) Composition of the contaminant.~~

~~(4) Physical state of the contaminant.~~

~~(5) Temperature and moisture content of the air or gas stream~~

at the point where released into the atmosphere.

(6) Efficiency of any control device.

(7) Such other information as may be specifically requested by the Director.

252:100-5-2.1. Emission inventory

(a) Requirement to file an emission inventory. The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the Air Quality Division.

(1) The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter.

(2) The initial emission inventory for Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter.

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) Content. All inventories submitted to the Air Quality Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions and the basis for such determination.

(3) If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

(4) For those emissions not the subject of a permit and when requested by the AOD, a list of all 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Air Quality Division or made available for inspection upon request.

(d) Method of calculation. The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data. Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees. The following shall constitute acceptable methods for determining emissions:

(1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Air Quality Division.

(3) Stack tests using appropriate EPA test methods on identical equipment (i.e., same model) at the same location under the same operating conditions and parameters when:

(A) Tests are performed by persons qualified by training and

experience to perform said tests.

(B) Copies of the tests results and methods are available for review by the Air Quality Division.

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the Air Quality Division.

(6) Manufacturer's test data, when approved by the Air Quality Division as reliable.

(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Air Quality Division.

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Air Quality Division.

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Air Quality Division.

(e) Methods of verification. Emission inventories determined by the Air Quality Division to be substantially incomplete or substantially incorrect shall, upon the request of the Air Quality Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment or other methods acceptable to the Air Quality Division.

[Agency Note (2): 252:100-5-2.1. Emission inventory - new section for Subchapter 5. Information moved from 252:100-7-4 (except 100-5-2.1(a) (2) which was moved from 252:100-8-9(d) (4)) with necessary amendments].

252:100-5-2.2. Annual Operating Fees

(a) Applicability.

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) This section does not apply to de minimis facilities.

(b) Fee schedule.

(1) Minor facilities

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee

calculation), in accordance with the following fee schedule:

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

(B) Beginning January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee of \$10/ton. This fee is based on total annual emissions of regulated pollutants (for fee calculation).

(2) Part 70 Sources

(A) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) Payment. For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp., Sec. 2-5-101 et seq., to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

(d) Basis for annual operating fees.

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility-emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon

inventory data covering the calendar year 1996).

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

[Agency Note (3): 252:100-5-2.2. Annual operating fees - new section for Subchapter 5. Combination of information moved from 252:100-7-3, 252:100-7-4 and 252:100-8-9 with necessary amendments].

252:100-5-3. Confidentiality of proprietary information

~~(a) No person shall disclose to anyone other than the Air Quality Council, the Executive Director, or a Court of competent jurisdiction any process information, except emission data, furnished or obtained pursuant to this Subchapter. Emission data must be made available at all times to the public during normal working hours.~~

~~(b) Upon the request of the interested party or parties, all hearings in which proprietary information is to be divulged shall be held "in camera" and such information shall be sealed and access otherwise limited. Emission data shall never be considered to be "proprietary" for purposes of this Subchapter and must be available at all times to the public during normal working hours. [Refer to 27A O.S. Supp. 1993, § 2-5-105.18.]~~

OAC 252:100-5[1]
Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 5. REGISTRATION OF AIR CONTAMINANT SOURCES

EXECUTIVE SUMMARY:

The original purpose of the modifications to this subchapter was to simplify and clarify the rule. Other amendments include moving the requirements to file an emission inventory from Subchapter 7 to Subchapter 5. Also, payment of annual operating fees was moved from Subchapters 7 and 8 to Subchapter 5. The primary substantive change in the rule is the annual operating fees for minor facilities will change from a tiered system to a set figure per ton of pollutant emitted.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: Request staff add time limits for maintaining emission inventory records under 252:100-5-2.1(c).

Response: Staff agreed and added "for at least 5 years" to the rule to be consistent with the time frames outlined in 252:100-5-2.2(c) and Title V.

Comment: Request staff change the tagline from "Testing requirements" to "Methods of verification" to reflect the information the section is actually requesting.

Response: Staff agreed and changed the tagline to "Methods of verification."

STATE OF OKLAHOMA
DEPARTMENT OF ENVIRONMENTAL QUALITY

PROCEDURE #1

.....
PUBLIC HEARING FOR THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
HELD ON AUGUST 19, 1997
AT 4545 LINCOLN PLAZA, BURGANDY ROOM
OKLAHOMA CITY, OKLAHOMA
.....

PRESENT ON BEHALF OF DEQ:

- Mr. Fishback
- Dr. Canter
- Ms. Myers
- Mr. Branecky
- Ms. Andrews
- Mr. Kilpatrick
- Mr. Breisch
- Mr. Byrum
- Ms. Bruce

Reported by: Janet McIntire
Shorthand Reporter.

OAC 252:100-5

COPY,

P R O C E E D I N G S

MR. BREISCH: We'll call the meeting to order. Myrna, do you want to call the roll?

MS. BRUCE: Mr. Fishback?

MR. FISHBAC: Here.

MS. BRUCE: Dr. Canter?

DR. CANTER: Present.

MS. BRUCE: Ms. Myers?

MS. MYERS: Here.

MS. BRUCE: Mr. Branecky?

MR. BRANECKY: Here.

MS. BRUCE: Ms. Andrews?

MS. ANDREWS: Here.

MS. BRUCE: Mr. Kilpatrick?

MR. KILPATRICK: Here.

MS. BRUCE: Mr. Breisch?

MR. BREISCH: Here.

MS. BRUCE: For the record, Ms. Slagell is absent.

MR. BREISCH: Do you all have the minutes of the June 17th meeting? Do I hear a motion for approval?

MR. KILPATRICK: I'll so move.

MR. BRANECKY: Second.

MR. BREISCH: We've got a motion and a second. Any questions, comments or additions? If not, Myrna, call the roll.

MS. BRUCE: Mr. Fishback?

MR. FISHBAC: Approved.

MS. BRUCE: Dr. Canter?

DR. CANTER: Approved.

MS. BRUCE: Ms. Myers?

MS. MYERS: Yee.

MS. BRUCE: Mr. Branecky?

MR. BRANECKY: Aye.

MS. BRUCE: Ms. Andrewe?

MS. ANDREWS: Aye.

MS. BRUCE: Mr. Kilpatrick?

MR. KILPATRICK: Aye.

MS. BRUCE: Mr. Breisch?

MR. BREISCH: Yes.

MR. FISHBAC: We are individuals, aren't we. That's a given.

MR. BREISCH: Next on agenda are four public hearing items. Larry Byrum will act as protocol officar. We'll break between each one of these and Larry will handle that. So, Larry, take these items up.

MR. BYRUM: Ladies and gentlemen, my name is Larry Byrum. I am the director of the Air Quality Division and as so will act as protocol officer for this hearing.

This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act titled 40 in the Code of Federal Regulations, Part 51, as well as the authority of Title 63 of the Oklahoma Statutee, Sections 1, 1801 and following. This hearing was advertised in the Oklahoma Register for the purposes of receiving comments pertaining to the proposed revisions of OAC 252:100-5 for registration of Air Contaminant Sources.

If you wish to make a statement in regards to this particular rule, would you please complete the form at the regatration table and you will be called upon at the appropriate time. At this time, I would like to call on staff to give the staff position on the proposed changes.

JEANETTE BUTTRAM: Members of the

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1 council, ladies and gentlemen, my name
2 Jeanette Buttram. I'm with the Rules and
3 Planning Unit. First off, I would like to
4 mention on July 23, 1997, an informational
5 meeting was held between the public and the
6 Air Quality Division to discuss the
7 proposed changes to Subchapters 5 and 7.
8 During that meeting comments were received
9 and taken into consideration for the final
10 draft of the proposed rules.

11 A major task for the Rules and
12 Planning Unit regarding changes to
13 Subchapter 5 was to clarify and simplify
14 the rules. So with every change made those
15 two goals were kept in mind. Throughout
16 the Subchapter, you will see revisions that
17 include strike-outs or underlined text.
18 The struck out text is language we are
19 proposing to be deleted and underlined text
20 is proposed the new language. Throughout
21 the Subchapter, you will also notice
22 reference material within the rule enclosed
23 in brackets along with agency notes located
24 at the end of the section. This
25 information can be used as a guide to tell

1 you where a rule came from and where it was
2 moved.

3 Subchapter 5 changes: The title of
4 Subchapter 5 was changed to Registration,
5 Emission Inventory and Annual Operating
6 Fees to reflect the addition of emission
7 inventory and operating fees to the
8 Subchapter. The changes made to the
9 original sections in Subchapter 5, Sections
10 5-2 and 5-3 were not intended to change the
11 meaning of the rule, rather simplify and
12 clarify it. The remaining sections with
13 underlined headings, were moved here from
14 other areas of the Air Quality Rules.
15 Remember, changes in conditions listed in
16 Subchapter 5 are for all sources, major and
17 minor.

18 Section 5-1.1 contains a new
19 definition section. This section consists
20 of definitions moved from Subchapters 7 and
21 8 along with a new definition for
22 grandfathered sources.

23 Section 5-2.1, Emission Inventory
24 moved in its entirety from Subchapter 7
25 along with some information from Subchapter

1 8. This includes important changes made in
2 method of calculation and testing
3 requirements.

4 Section 5-2.2, Annual Operating Fees
5 includes a proposed change in fees from
6 minor sources to a flat fee of \$10 a ton
7 based on total annual emissions of
8 regulated pollutants for fee calculations
9 instead of the previous sliding scale. It
10 also includes a proposed change in payment
11 of fees, establishing time periods from
12 when sources can change their inventories
13 and when the DEQ can collect fees that are
14 past due. Staff recommends that Subchapter
15 5 be continued to the next council meeting.
16 I'll now open the floor for questions.

17 Present today to assist in answering
18 questions is Barbara Hoffman with General
19 Council and Dr. Joyce Sheedy with the Rules
20 and Planning Unit.

21 DR. HYRUM: Questions from the
22 council for Jeanette.

23 DR. CARTER: I have some questions
24 regarding the fees, the operating fees, and
25 I think that it looks like to me that if

1 these fees are changed as proposed that the
2 income to be generated goes up -- depends
3 on what assumptions you want to make, but
4 could go up in excess of 25 percent. And I
5 understand a flat fee concept.

6 It looks like to me that if the
7 average fee was \$8 per ton rather than \$10
8 per ton, that this change would be, I think
9 the term we used this morning was revenue
10 neutral. So having said that, I would feel
11 more comfortable if the staff could provide
12 some additional analysis of these proposed
13 fee changes.

14 I don't -- I think that -- the way I
15 look at it is unless a source was at the
16 minimum of those ranges, that is, 10 tons a
17 year, 25 tons a year, etc., every other
18 source is going to have to pay more money.
19 And I am not at all clear as to the need
20 for that and certainly, you know, what is
21 that money being spent for? So I am
22 asking, or -- at least for me, I need
23 additional information that is
24 justification for this change. And I
25 understand we'll continue this hearing

1 our next meeting, but I just need
2 additional information.

3 I'm not for just changing the fee
4 without any kind of rational basis for such
5 change. And it looks to me like every
6 source in the state is going to have to pay
7 more money with the exception of those who
8 are at the bottom of each of those ranges.
9 That's my comment. Can anybody -- I guess
10 it's a comment not a question.

11 MR. FISHBACK: Do you want to make
12 the request for justification a resolution?

13 DR. CANTER: I will at the
14 appropriate time. That would just --

15 MR. BYRUM: Other questions for
16 Jeanette?

17 DR. CANTER: Let me rephrase that as
18 a question. It was mentioned this morning
19 that staff calculations showed that this
20 was to be a 10, 15 percent overall
21 increase. Could that be explained a little
22 bit, please?

23 MR. MOFFETT: My name is Morris
24 Moffett. I'm in the Emission Inventory
25 section. As I indicated, we have a lot of

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1 sources either coming in from synthetic
2 minors or exiting through the OCC
3 jurisdictional document. I disregarded the
4 '96 data and went back to the '95 data and
5 ran the calculations using those numbers.
6 I had another fellow in the section do the
7 same, working from, sort of from the other
8 end, working from the money end back down
9 these sources or working from how many
10 sources and up to the money.

11 We ended up with like 10 percent
12 differences and that's accounted for by
13 sources that are no longer operating or new
14 sources that have come in after they
15 appeared in one spread sheet and not the
16 other. The increase was -- it could be
17 expected to be like 30 percent to be in the
18 middle, but that's not the way the numbers
19 worked out when we did it. Maybe there is
20 a preponderance of sources that are 15 tons
21 rather than 19 tons. It was done in an
22 attempt to level the playing field for
23 sources that were on either side of the
24 breakovers at 25-50-75.

25 And it's true that if a source was a

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1 10 ton source then his fees are going to go
2 well up, but a source that was in the upper
3 bracket between 75 and 100 tons is going to
4 see a smaller percentage-wise increase. In
5 other words from the difference in 75 and
6 99 is only one third where the difference
7 in 10 and 25 is two and a half tons. The
8 higher dollar figures -- any one higher
9 change will cancel out three of them in the
10 lower bracket. That's for the percentage-
11 wise.

12 I checked the numbers really hard
13 because I came back with a number a lot
14 lower than what I was expecting to see.
15 And the only way that I have been able to
16 find it out is sources coming and going and
17 the fact that there are a lot of sources in
18 the 50, 60, 70 ton range as opposed to the
19 10 to 25 range. So the overall increase
20 was, you know, 15 percent or in that area
21 rather than 50 percent as you believed if
22 you look at the 10 to 25 range.

23 DR. CANTER: Was the purpose of the
24 change to raise more revenue?

25 MS. HOFFMAN: The major purpose was

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1 to try to make it a little more equitable
2 for all the participants. We had received
3 comments from some that indicated that they
4 thought it was unfair that they were on one
5 end of the sliding scale as opposed to the
6 other.

7 MS. BUTTRAM: And we did look at
8 some numbers and one of the comparisons
9 that we talked about before and maybe these
10 numbers could help too, but as you realize
11 being on the higher-end scale -- like with
12 the existing scale if they made it 49.87
13 tons a year they would pay \$250 a year and
14 while sources that emit 50.002 tons would
15 pay \$500 a year. So the difference there
16 if we brought it down to the \$10 ton then
17 it's only, maybe two dollars -- two or
18 three dollar difference. We are trying,
19 like was mentioned, to satisfy the request
20 for industry to have it more equitable.

21 DR. CANTER: It would it seem to me
22 and I don't know how many sources are in
23 these categories, but you kind of assume
24 that equal distribution in each of the
25 category of sources, it looks like to me if

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1 the objective is not to raise the total
2 revenue and kind of assuming equal
3 distributions, you could use a flat fee of
4 \$8 per ton. And looks like to me that's
5 kind of the average as opposed to \$10 a
6 ton.

7 I'm just a little bit concerned
8 about raising another fee when it's not
9 clear to me, and I don't care --
10 personally, I don't care whether this is
11 percent of the total money coming to the
12 division or 30 percent or 5 percent. I
13 just would feel better if there was a
14 written justification, written
15 justification as to what these changes are
16 and what the implications are.

17 MR. KILPATRICK: I don't understand
18 your suggestion to make it \$8 if it was
19 represented that based on the '95 data -- I
20 don't understand why you threw out the '96
21 and went with the '95, but the '95 data
22 indicated a 10 to 15 percent increase.
23 That would suggest to me, if I do the math
24 right, that to be revenue neutral, which is
25 what you are saying, you would either pay

1 \$8.50 or \$9 depending on whether you have
2 10 or 15 percent. But you're suggesting \$8
3 which is collect less money.

4 DR. CANTER: I'm just assuming an
5 equal distribution of all the sources in
6 each category.

7 MR. KILPATRICK: His calculations
8 show -- is not equal.

9 DR. CANTER: See, I'm not sure what
10 sources you left out. I heard you saying
11 that there were sources that were going to
12 be omitted from this program and when you
13 say, overall 10 to 15 percent, does that
14 mean that the sources that haven't been
15 moved out to another program, on average,
16 they're going to have to pay 25 percent
17 more? Am I tracking that or am I mixed up?

18 MR. MOFFETT: I'm not certain that --
19 - I did not use the '96-year data because
20 there are at least one hundred emission
21 inventories that haven't been turned in and
22 entered into the computer yet. We make
23 every effort to get those in as quickly as
24 possible, but we get a lot of people
25 either, for whatever reason can't get it to

1 us on time, and they are not entered yet.
2 And I want to compare apples to apples.

3 The other thing was the synthetic
4 minors who are getting a large number of
5 sources that were -- may just be for, by
6 virtue of potential to emit and now they
7 have got the proper permitting so that now
8 they are under 100 tons, and generally when
9 they are under 100 tons that doesn't drop
10 them down to the 10 to 25 range, it drops
11 them just below 100 tons or a number just
12 below 100. It seems like if there is a
13 category that is growing and it's the
14 synthetic minors, the majors becoming
15 synthetic minors, and they are in the upper
16 portion of that, the '96 is going to show
17 probably 10 times as many synthetic minors
18 as what the '95 did. So I was kind of
19 trying to lean that way with it.

20 MR. KILPATRICK: I would suggest that
21 if the desire of the council is to have a
22 revenue neutral number in here, that we
23 simply just ask the service division to
24 come back at the next meeting with a
25 recommendation for what would a revenue

1 neutral number would be and let them take
2 the data and do the calculations and make a
3 recommendation to us rather than us trying
4 to pick the data. We don't have the data
5 in front of us.

6 DR. CANTER: Right, and I accept
7 that, except I would like to see all of it
8 in writing and not a piece of paper that
9 says we recommend \$8 a ton, because that
10 still doesn't help me because I want to see
11 what the rationale is. So I'm asking for a
12 written justification of whatever the
13 changes are. That doesn't mean I'm not in
14 favor of it. I just don't feel like I've
15 got the information to know what kinds of
16 analysis was done.

17 MR. FISHBACK: And to Gary
18 Kilpatrick's point, you're not proposing \$8
19 a ton, you're not proposing a revenue
20 neutral number --

21 DR. CANTER: Yes.

22 MR. FISHBACK: -- whatever it is,
23 but justified in writing.

24 DR. CANTER: Yes.

25 MR. FISHBACK: Okay. I would agree

1 with that.

2 MR. BYRUM: Other comments for
3 Jeanette?

4 MS. MYERS: I've got one question.
5 We talked about it a little bit this
6 morning. Under the section on the Emission
7 Inventory 5-2.1, the section on
8 documentation, I would like to ask for
9 clarification on how long the records need
10 to be maintained.

11 MS. BUTTRAM: We'll take a closer
12 look at that and any other requirements
13 that we may have, and come up with a
14 recommendation for you.

15 MS. MYERS: Thank you.

16 MR. BYRUM: Any other questions?

17 MR. FISHBAC: Jeanette, could you
18 point out, I believe you mentioned in your
19 opening comments that there was a change in
20 Subsection 5 related to testing procedures?

21 MS. BUTTRAM: Testing and method of
22 calculation 5-2.1 under Emission Inventory.
23 Testing requirements is Number E and there
24 are some changes in there, struck out text
25 and underlined the additional information

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1 that was added.

2 MR. FISHBAC: What is the intent of
3 that change as you see it?

4 MS. BUTTRAM: I think we had
5 comments from staff on the changes for the
6 staff text. If you want to draw my memory,
7 but I think it was.

8 MS. HOFFMAN: Number 3 stack test,
9 using appropriate test methods on identical
10 equipment the same model and the same
11 location and the same operating conditions
12 and parameters and then it goes on. That
13 wording was changed slightly to make it a
14 little more precise. We had some people --
15 and Morris might want to explain this more.
16 He can probably explain it better than I
17 can.

18 MR. MOFFETT: What we were getting
19 at before is, I guess the wording wasn't
20 specific enough so a person that put the
21 same -- I'll use compressors because
22 they're so many of them. Using the same
23 compressor with the same factors for
24 calculating its emissions in the southeast
25 corner of state compared to the identical

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1 equipment in the northwest corner of the
2 state, the gas that flows through, the gas
3 is combusted, the operating parameters
4 conditions things are so widely separated
5 that we wanted to try and narrow down how
6 close -- identical, you know, without
7 trying to define sameness or identical, we
8 wanted to narrow it down so that there
9 would be a smaller range.

10 There have been instances where one
11 engine was tested and applied to 15
12 different facilities around the state and
13 it may have been good on several of them
14 and not on some of them and we didn't
15 really have a way to say, no, I'm sorry but
16 you're going to have to use a different
17 method or a better test or some other way
18 to come up with these numbers.

19 MR. FISHBAC: So the intent of
20 Section E there is, if you receive emission
21 inventory that you determined to be --
22 you, the Air Quality Division, determine to
23 be either incomplete or incorrect, you ask
24 for verification by one of three methods it
25 looks like, EPA, CEMS or other methods

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1 which is a negotiation with the source?

2 MR. MOFFETT: Well, actually, this
3 occurred during the last year and the
4 emission factors were, maybe 10 percent of
5 that. Seeing a thousand of them a year
6 tells me they possibly or should have been.
7 Whenever I spoke to the people about it
8 they said, well, they are not going to run
9 another stack test and I said that will be
10 fine. We can use AP-42 or mass balance or
11 manufacturer. There are a lot of
12 inexpensive and accurate methods to use in
13 lieu of a stack test that I may not or that
14 we may not deem to be accurate or
15 appropriate for a particular facility.

16 MR. FISHBAC: So in your example
17 you had someone coming in at 10 percent of
18 what you would expect and it was clearly an
19 outlier and you said he needs some
20 independent verification.

21 MR. MOFFETT: That's true.

22 MR. FISHBAC: The important point
23 here is that you don't force the source
24 into an expensive stack test.

25 MR. MOFFETT: No, and I try to

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1 stress that to everyone out there. There
2 are a lot of different methods. Another
3 reason these were changed around is some of
4 the methods that were at the top of the
5 list and would seem to be preferred, were
6 not really the most accurate or the best
7 methods to be used and we tried to move
8 them around a little bit.

9 MR. FISHBACK: So this catch-all,
10 the last phrase, other methods acceptable
11 to the Air Quality Division, that's
12 intended to include a lot of options?

13 MR. MOFFETT: Yes.

14 DR. CANTER: I think you capsulized
15 when you said negotiation. The heading of
16 that section is testing, and I have no
17 problem, Morris, with what you said to use
18 other methods. But I wonder -- when I read
19 that other methods, I thought they were
20 other methods of testing and you described
21 other methods that might not necessarily
22 include source-specific testing. So I'm
23 wondering if maybe a qualifier word or
24 something -- I don't have a suggestion
25 right now, but --

1 MR. FISHBACK: I think an
2 appropriate word in line with what you said
3 is other method of verifying the emission
4 inventory. That's really what you are
5 that's a good point. It's not a method
6 be tested.

7 MS. BUTTRAM: Could we just call it
8 verification or methods of verification?

9 MR. FISHBACK: Other methods of
10 verification? Yes.

11 MR. BYRUM: Other questions for
12 Jeanette from the council? Questions from
13 the audience for Jeanette?

14 MS. BARTON: I have a question.
15 Just a note of clarity on 252:8 and 9 about
16 the fee schedule. Are these all related to
17 the Title 5 fees, both of minor sources and
18 the \$15 a ton? Is that all related to the
19 fee that is going into the Title 5 funds
20 for operating?

21 MS. BUTTRAM: Now are you on 15?

22 MS. BARTON: I'm on page six, there
23 under fee schedules.

24 MS. BUTTRAM: Right.

25 MS. BARTON: It doesn't really say

1 that until you get over to the method of
2 payment, but are those fees related to the
3 Title 5 fee funds that we are talking about
4 increasing?

5 MS. BUTTRAM: Well, Number 2, Part
6 70 sources, refers to Title 5 only and the
7 other above it, where it says minor
8 facilities and Non-Part 70 sources are only
9 the minor sources and Non-Part 70 sources
10 and there are two different funds that that
11 money goes into.

12 MS. BARTON: The other question that
13 I have and I don't know whether industry
14 has noted that or not. Over under payment,
15 under C, they talk about in the middle of --
16 -- at the top of the payment where fees are
17 due and payable upon receipt of invoice,
18 fees shall be considered delinquent 30 days
19 from the date of billing at which time
20 simple interest shall accrue at the rate of
21 one and one and a half [sic] percent per
22 month on any unpaid amount. Do you have
23 any provision that if they over pay and you
24 all are keeping the money that the DEQ is
25 going to pay them a percent and a half

1 interest on the money that they haven't
2 used, that's just been sitting there until
3 they decide to refund it? You know, when
4 you are talking about a lot of money -- I
5 know David would be interested in that.

6 MR. BYRUM: I don't know of anybody
7 that sends me extre money.

8 MS. BARTON: Well, I'm talking about
9 those little overages that are supposed to
10 be refunded from the point in time that
11 they are calculated to the point in time
12 that they are refunded. Or should I say,
13 being given credit for. I just wanted to
14 bring that up for industry to look at that.

15 MS. BUTTRAM: That is true, but also
16 we are talking about fees that are due and
17 payable upon receipt of the invoice and
18 that are delinquent, will be charged that
19 interest fee. But further down what we are
20 talking about is a billing error. So those
21 are two different points and if that's what
22 you are referring to the billing error
23 having an interest charge, I don't know if
24 that's just --

25 MS. BARTON: And I don't know wh

1 you mean a billing error, but they just
2 paid too much in there and it just sat
3 because there wasn't enough time for staff
4 to catch up with the invoices and auditing
5 both of them to make sure they did pay
6 enough in and, you know, that a large
7 amount of money just didn't sit there.

8 MS. BUTTRAM: Right, but I don't
9 believe there's anything in here that says
10 they will be charged interest for under
11 payment either.

12 MR. FISHBACK: Morris, do you happen
13 to know what percent if any of any
14 regulated community that pays fees, does
15 not pay it all in one check. Does anybody
16 try to make payments?

17 MR. HOFFETT: There have been a
18 couple of instances where that has
19 happened. It's not a common occurrence.
20 There have been times when they called and
21 said, can I send this much or -- your
22 question is right, yes. Nearly no one does
23 it that way but it has happened in the
24 past.

25 MR. FISHBACK: And you accommodate

1 that there on an individual basis? Do you
2 make a decision yes or no?

3 MR. HOFFETT: Larry Trent handles
4 all that and I think it has only happened
5 like three or four times in seven years.
6 Very seldom.

7 MR. FISHBACK: Since we are on the
8 record, I wanted to correct a statement
9 that Ms. Barton made. Her comment was that
10 we are reviewing a Title 5 fee and her
11 phrase was the fee that we are increasing.
12 We are reviewing it, but it's not
13 necessarily going to be increased. It's
14 being reviewed for possible change and so
15 that can go either way. And I didn't want
16 it to stay on the record that it was just a
17 financial increase.

18 MR. BYRUM: Any other questions in
19 the audience for Jeanette? Additionally,
20 back to the council, any questions for
21 Jeanette?

22 Thank you.

23 MR. BREISCH: I believe that Larry
24 has requested some justification of these
25 fees. I am not sure whether we have to

1 make a resolution out of that. I would
2 think a consensus of the council, and by
3 the looks that I see we do have a consensus
4 of the council to have this justification.
5 And if any council person doesn't agree
6 with that, why I would like to know. If
7 not, we'll leave that stand as a matter of
8 record that we expect to see this at the
9 next hearing. And by the way, when do we
10 formally continue this hearing?

11 MR. BYRUM: We'll do it after we
12 finish. I suggest you make a motion to
13 continue. I have indication that Ms.
14 Nadine Barton would like to speak to this
15 Subchapter. Do I have an indication from
16 anyone else? If anyone else wishes to
17 speak, make that known.

18 MS. BARTON: My name is Nadine
19 Barton. I'm with CASE, Citizens Action for
20 a Safe Environment in Tulsa, Oklahoma. And
21 I wish to make a public comment for the
22 record on Subchapter 5, Registration,
23 Emissions Inventory and Annual Operating
24 Fees.

25 Page 6 of the draft concerning the

1 fee schedule, 252:100-5-2.2. It's probably
2 going to sound funny, but I am really
3 sympathetic with industry here concerning
4 the increasing or changing these fees at
5 all until -- until we have our eggs all in
6 a row on the accounting of the Title 5
7 fees, which the Subcommittee is looking
8 into at this time, so that we can have some
9 type of understanding, as I'm asked many
10 times, that we have enough money to operate
11 this program.

12 And at the Altus meeting of the DEQ
13 board, at that time the board saw fit to
14 vote on a rule to refund any excess that
15 were in that fund, back to industry. And
16 now that we are in the processes of doing
17 all of this I think we are putting the cart
18 before the horse. I think that we should
19 have a complete and total understanding
20 where these fees are going and if we have
21 enough to operate.

22 Now if you'll recall on Part 70
23 sources here, \$15.19 per ton was the least
24 expensive fees that were voted on, it's my
25 understanding in the United States, to run

1099

1 their Title 5 program. So if it appeared
2 at that DEQ board meeting in Altus that
3 there was indeed overages in that account
4 and that the legislation wanted to use up
5 those funds and that's why we needed to
6 look at refunding them, we need to have a
7 clear understanding if we have enough money
8 to operate this program sufficiently before
9 we even talk about doing any of these fees.
10 It would seem premature to me. I thank you
11 for the opportunity to speak at that this
12 hearing. Thank you.

13 MR. BYRUM: Questions from the
14 council for Ms. Barton?

15 MR. KILPATRICK: I understand your
16 comment. The fee we are talking about
17 changing here has nothing to do with the
18 Part 70 fee. We are not changing it. So
19 the two issues are really unrelated. The
20 Part 70 fee is in the committee and whether
21 the committee finishes and gets their
22 recommendation either in October or the
23 December meeting we will consider whether
24 or not \$15.19 gets changed or not. The
25 only thing we are doing now is changing the

1 existing Non-Title 5 fee from a sliding
2 scale fee to a fixed fee with the
3 recommendation to look at -- making it
4 revenue neutral. So it doesn't collect any
5 different amount of money, it just does it
6 a different way.

7 MR. BRANECKY: The intent of that
8 fee is not to fund the entire program.

9 MR. KILPATRICK: And the intent of
10 that fee is not to collect all the money
11 that -- to run that program nor do we have
12 the data to even know how to do that.

13 MS. BARTON: Could I make a comment?
14 I would just like to also bring to your
15 attention, I would like to know that we do
16 have enough fees for the minor sources, the
17 minor facilities, the Non-Part 70 to run
18 that program so that it goes smoothly.

19 MR. KILPATRICK: We know --

20 MS. BARTON: It does go smoothly
21 now?

22 MR. KILPATRICK: No, we don't have -
23 - this fee is not designed to do that. You
24 are talking about changes. If we had a
25 philosophy that the fee would cover the

1 cost of the minor sources then those fees
2 would have to go up.

3 MR. BRANECKY: This is funded by EPA
4 grant money.

5 MS. BARTON: Okay, I did not -- I
6 did not understand that and I appreciate
7 that.

8 MR. KILPATRICK: That's the
9 difference between it and the Title 5. The
10 Title 5 fees cover the cost of the program.
11 Non-Title 5 fees do not cover the cost.
12 It's funded elsewhere.

13 DR. CANTER: If I could comment.
14 I'm not sure what kind of data the DEQ
15 board may have looked at but certainly
16 information that the Subcommittee has
17 suggests that there's not any excess funds
18 for the Title 5 program that won't be
19 spent. In fact, one of our concerns is
20 possible over expenditure or expenses
21 greater than the income. So I know that
22 you can look at it given the snapshot in
23 time, say this much money in the account
24 but hopefully there would be a review, say,
25 over a period of time for that. So I think

1 certainly in the case of the Air Quality
2 Program it's not excess money in terms of
3 Title 5
4 to be sure.

5 MR. BYRUM: Other questions? Mr.
6 Chairman?

7 MR. BREISCH: I'll entertain a
8 motion to continue this hearing.

9 MR. FISHBACK: I'll so move.

10 MR. KILPATRICK: Second.

11 MR. BREISCH: A motion has been made
12 and seconded to continue this hearing until
13 the next meeting which is October
14 21st.

15 MS. BRUCE: Mr. Fishback?

16 MR. FISHBACK: Aye.

17 MS. BRUCE: Dr. Canter?

18 DR. CANTER: Aye.

19 MS. BRUCE: Ms. Myers?

20 MS. MYERS: Aye.

21 MS. BRUCE: Mr. Branecky?

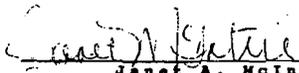
22 MR. BRANECKY: Aye.

23 MS. BRUCE: Mr. Kilpatrick?

24 MR. KILPATRICK: Aye.

25 MS. BRUCE: Mr. Breisch?

1 MR. BREISCH: Aye.
 2 (End of proceeding.)
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1 C E R T I F I C A T E
 2 I, Janet McIntire, a Shorthand Reporter, do
 3 hereby certify that I was present at the
 4 proceedings had August 19, 1997; that I
 5 recorded in stenotype notes said
 6 proceedings; that I thereafter transcribed
 7 my notes so taken and reduced same to
 8 typewritten form, and that the foregoing
 9 transcript is true and correct to the best
 10 of my skill and ability.
 11 I further certify that I am not an
 12 attorney for nor relative of any of said
 13 parties or otherwise interested in the
 14 outcome or event of said action.
 15
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 19 Janet A. McIntire
 20 Shorthand Reporter
 21
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 25

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

1:00 P.M. .

TUESDAY, OCTOBER 21, 1997

TULSA CITY-COUNTY HEALTH DEPARTMENT AUDITORIUM

TULSA, OKLAHOMA

PUBLIC HEARING

OAC 252:100-5

REGISTRATION OF AIR CONTAMINANT SOURCES

(AMENDED)

Reported by: Deanna Szurgot, CSR
1012 Elm
Yukon, Oklahoma 73099

Dick's Transcription Service (405) 525-4111

MEMBERS OF THE COUNCIL:

MR. FISHBACK

MS. SLAGELL

MR. KILPATRICK

MS. MYERS

MR. BRANECKY

MR. BREISCH -- CHAIRMAN

MR. BYRUM -- PROTOCOL OFFICER

MS. MYRNA BRUCE -- SECRETARY

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PUBLIC MEETING:

MR. BYRUM: Ladies and gentlemen, my name is Larry Byrum, Director of the Air Quality Division. As such, I will act as the Protocol Officer for this hearing.

This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, Title 40 of the Federal Regulations, Part 51, as well as the authority in Title 27 A of the Oklahoma Statutes, Section 2-1-101 and following.

This hearing was advertised in the Oklahoma Register for the purposes of receiving comments pertaining to proposed revisions of registration of emissions inventory and annual operating fees, Sub Chapter 5, Section OAC 252:100-5.

And if you wish to make a statement, we have forms at the back of the room. If you will please complete one of those, it will be passed to me, and I will call upon you at the appropriate time.

At this time, I would like to call upon Staff to make a proposed Staff position on these changes.

Ms. Jeanette Buttram.

MS. BUTTRAM: Members of the Council, ladies and gentlemen, my name is Jeanette Buttram. The main objective for proposed changes to Sub Chapter 5 is to

clarify and simplify the rule.

Previously proposed changes to Sub Chapter 5 were presented at the August 19, 1997, Council Meeting, where additional comments were received and considered. The following is a summary of the proposed changes to Sub Chapter 5:

The title of Sub Chapter 5 was changed to Registration, Emission Inventory, and Annual Operating Fees, to reflect the addition of emission inventory and operating fees to the sub chapter. The changes made to the original sections in Sub Chapter 5, Sections 5-2 and 5-3, were not intended to change the meaning of the rule, rather simplify and clarify it. The remaining sections with underlinings were moved here from other areas of the Air Quality Rules. Remember, changes and conditions listed in Sub Chapter 5 are for all sources, major and minor.

Section 5-1.1 contains a new definition section. This section consists of definitions moved from Sub Chapter 7 and 8, along with new definitions for grandfather sources, major TSP facility, minor facility and Part 70 sources.

Section 5-2.1, Emission Inventory, moved in its entirety from Sub Chapter 7 along with some information from Sub Chapter 8. This includes changes made in the

1 method of calculations and testing requirements. A
2 comment was received regarding time limits while
3 maintaining emission inventory records.

4 252:100-5-2.1 (c). Language was added for at least
5 five years to the rule to be consistent in the time
6 frames outlined in 252:100-5-2.2 (c) in Title 5. Also,
7 the tag line in 252:100-5-2.1 (e), testing requirements,
8 was changed to methods of verification to reflect the
9 information this section is actually requesting.

10 Section 5-2.2, Annual Operating Fees, includes a
11 proposed change in fees from minor sources to a flat fee
12 of \$10 a ton based on total annual emissions of
13 regulative pollutants in fee calculations instead of the
14 previous sliding scale. It also includes a proposed
15 change in payments of fees, establishing time periods
16 for when sources can change their inventories and when
17 the DEQ can collect fees that are past due.

18 Comments received requesting Staff provide a
19 written evaluation of the proposed annual operating fee
20 change for minor facilities and non Part 70 sources, a
21 written evaluation was included in the Council packets.

22 Staff recommends the hearing record for
23 Sub Chapter 5 be closed and these rules be recommended
24 for approval at the same time Sub Chapter 8 is
25 approved.

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1 were -- some of the fees, were the lowest in the nation
2 to administer this program.

3 Now, the program has come up short. We are
4 adjusting the fees for the minor sources, which will
5 probably not cover the deficit that we have. I concede
6 to the fact that the Subcommittee of the Air Quality
7 Council has been investigating the fee situation, and
8 due to the absence of Dr. Cantor, who would present that
9 Subcommittee's finding, it kind of leaves a hole as to
10 what we really have here.

11 I am concerned that we do not have enough money to
12 operate this program effectively. We have a hiring
13 freeze on. That also probably means that staff will not
14 get increases in salaries, which compromises the
15 position of the citizens, I believe, because they don't
16 make enough money. They're overworked, overloaded,
17 then industry comes in and pirates them away for their
18 programs.

19 I find this an unfortunate situation that I have to
20 do this. This is not pleasant.

21 MR. BYRUM: Questions for Ms. Barton?

22 (No response from Council.)

23 MR. BYRUM: Thank you. I have no indications
24 that anyone else wishes to address this issue. Is there
25 anyone else who wishes to address the issue?

1 MR. BYRUM: Questions for Ms. Buttram from the
2 Council?

3 (No response from Council.)

4 MR. BYRUM: I have notification that
5 Ms. Medley would like to speak.

6 SPEAKER: (Unidentified.) She's not here.

7 MR. BYRUM: Okay. And then I have a
8 notification that Ms. Barton would like to speak.

9 Thank you, Jeanette.

10 MS. BARTON: My name is Nadine Barton, and I
11 am with CASE, Citizen's Action for a Safe Environment.
12 And I would like to comment, for the record, on this
13 section.

14 I feel that it's my responsibility as the citizen
15 representative on the task force that set these fees,
16 that I need to make a statement for the record, and
17 also, submit a copy of a letter for the record. And I
18 will not read it into the record. I assume that you
19 will type it into the record.

20 I have asked continually about the Title 5 fees,
21 and voiced a concern that at the beginning of this long
22 process two years ago, when we did a study to find out
23 the amount that we needed to charge industry to
24 establish a budget to administer this program, that the
25 fees were what I felt were low considering that they

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1 MR. KILPATRICK: I would like to ask
2 Ms. Barton a question.

3 Nadine, are you suggesting that the Council should
4 take some action on the Title 5 fees right now? Because
5 what we have before us is not Title 5.

6 MS. BARTON: No. It's all of the fees that
7 were for the whole program. And it's my understanding
8 that the Subcommittee was investigating not only the
9 Title 5 fees, but the programs itself, and the
10 administration of the fees; is that not correct?

11 MR. BRANECKY: Our charge was strictly to
12 investigate Title 5.

13 Am I correct on that, Council?

14 MS. BARTON: Okay.

15 MR. KILPATRICK: That's correct.

16 MR. FISHBACK: That's correct. The
17 requirement is to investigate receipts and expenditures,
18 and set the fee for the following year, and that's --
19 but Title 5 operating permit program fee only. We don't
20 have any jurisdiction over other fees. But I concede
21 that it's impossible to investigate one program within
22 the division without looking at the overall receipt
23 expenditures. But we don't have any authority to
24 recommend a fee for anything other than the Title 5
25 operating permit program.

1 MR. BYRUM: Other questions or discussion?

2 MR. FISHBACK: I had a thought, too, when
3 Nadine was speaking. Correct me if I'm wrong, Larry,
4 but I believe the salaries that are paid to the Air
5 Quality Division staff are set by the state, and they're
6 really independent of the amount of the money received
7 from the Title 5 Program.

8 The problem that you alluded to of salary
9 differentials between industry and government has been
10 there probably since 1776. I don't know, but it's been
11 there a long time. And I don't think this program has a
12 significant impact one way or the other on that problem.
13 But the folks that work on Title 5 are not paid any
14 more -- they're paid by their state job classification.
15 They're not paid any more or less depending on how much
16 the program brings in.

17 Now, number of staff is dependent on the amount the
18 program brings in. As Larry said this morning, the TBA
19 study set an amount, and we have considerably fewer than
20 that on staff, but their salaries are not -- the job
21 exists as a result of the Title 5 money, but their
22 salaries are not set by the amount of Title 5 money
23 that's brought in. Is that a correct statement?

24 MR. BYRUM: That's a correct statement.

25 MR. FISHBACK: Okay.

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1 MR. BYRUM: All salaries are set by the Office
2 of Personnel Management, and are basically equivalent
3 throughout the network.

4 Other questions or comments?

5 (No response.)

6 MR. BYRUM: Mr. Chairman.

7 MR. BREISCH: It's my understanding that the
8 staff recommendation is to close this comment period or
9 the comment period on this rule as of today and not vote
10 on it until at least next regular meeting, which is in
11 December, or at whatever time we bring up Sub Chapter 8.
12 Is this true?

13 MR. BYRUM: That's correct. The package that
14 we are looking at needs to be just that, looked at as a
15 package. They're intertwined. If you did it in bits,
16 you would have cross match. And we would prefer that we
17 pass the rules that are in front of you today, as well
18 as Sub Chapter 8, as one package.

19 MR. BRANECKY: Does that mean at the next
20 meeting that there will not be any further discussion on
21 Chapter 5 --

22 MR. BYRUM: That would mean that Sub Chapter 5
23 would not be discussed. It would be just up for a vote.

24 We would be closing the hearing and comment
25 period.

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1 MR. FISHBACK: Since the Subcommittee report
2 is intended to be reviewed at the next Council Meeting,
3 and the Title 5 fees are part of Sub Chapter 5, I would
4 hope that wouldn't preclude discussion of this
5 sub-committee report if that's closed out today.

6 MR. BYRUM: I would think that the
7 sub-committee report would be handled as not part of the
8 rule making as such.

9 MR. FISHBACK: That's right. It's not
10 intended to be an amendment to the rule in any sense,
11 but it's a related topic.

12 MR. BYRUM: Right. It's a related topic, but
13 much similar to some of the other things we talk about.
14 It does not directly influence this particular rule at
15 this time.

16 MR. FISHBACK: What you are talking about is
17 closing out changes to the rule language?

18 MR. BYRUM: Right.

19 MR. FISHBACK: So does that fix the Title 5
20 fee proposal at what is currently in Sub Chapter 5,
21 1519, plus cost of living adjustments? Does that mean
22 that is not open for discussion next time?

23 MR. BYRUM: Depending on how you would close
24 it out. You could close everything but the fee amount.
25 If you wanted to leave that portion of --

1 SPEAKER: (Mr. Doughty) Mr. Byrum.

2 MR. BYRUM: Yes.

3 SPEAKER: (Mr. Doughty) My name Dennis
4 Doughty. I don't believe that the 1519 was even up for
5 hearing, was it, at this time? I don't believe that
6 was an issue for this hearing to determine whether or
7 not --

8 MR. BYRUM: Not at this particular hearing.

9 SPEAKER: (Mr. Doughty) The report can be
10 given simply as an agenda item, Mr. Fishback. And at
11 the time that we propose any changes up or down to the
12 1519, we can discuss whatever's appropriate at that
13 time, and I don't think there is any problem with
14 presenting your committee report just as an agenda item.

15 MR. BRANECKY: Does not the fact that
16 Sub Chapter 5 is up for revision open everything in
17 Sub Chapter 5?

18 SPEAKER: (Mr. Doughty) No, no. I don't
19 think the notice said anything about revising the 1519.
20 I don't believe there was any notice or any intent. And
21 I don't know if we are prepared to adequately
22 demonstrate the need for a change at this time, which we
23 would have to do. Is that not correct?

24 SPEAKER: (Mr. Thomas) The notice, the period
25 of register did have a statement in there that would

1 allow that possibility to do it.
2 MR. FISHBACK: Yeah. We specifically
3 requested at the last Council Meeting that fees be on
4 the agenda today, and --
5 SPEAKER: (Mr. Thomas) It's on -- I might
6 refer ya'll to -- I'm Scott Thomas -- refer you to the
7 notice, first page of your Council packet, and I have to
8 find it. The bottom, right hand column. They're
9 saying.
10 MR. FISHBACK: We can --
11 SPEAKER: (Mr. Thomas) We are revising the
12 annual operating fees for minor facilities and
13 non Part 70 sources and Part 70 sources. That could
14 have been items for discussion.
15 MR. FISHBACK: Yeah, we requested that, so
16 that if we had conclusions or recommendations to bring
17 forth today, we could do so. And in anticipation that
18 if we didn't do so today, we'd do so at the
19 December 16th meeting.
20 But Dennis is correct. We have nothing to bring
21 forward today in the way of recommendation. I was just
22 concerned about if it was closed out, if that -- I think
23 we want to leave it open for discussion on
24 December 16th.
25 MR. BYRUM: You could leave a very narrow

1 portion of that open, is what my recommendation would
2 be.
3 What we are trying to do is, we have got five rules
4 here today we are looking at. We are looking at
5 bringing you in December a couple of additional ones,
6 and juggling those and having the time to discuss them
7 as we had this morning, we ran over. And if we can
8 close those out where we can narrow it, the scope of
9 discussion can be shorter. That's the benefit, and the
10 Staff can focus on those issues and not the expanded
11 issues.
12 MR. FISHBACK. The Title 5 Operating Permit
13 Program Fee will need to be changed or left alone at the
14 December 16th meeting in order that -- and that was the
15 time line that we talked about at the last Council
16 Meeting -- in order that the DEQ Board can approve it in
17 January and the invoices can be mailed out in April.
18 That was this meeting, today, and that meeting, were the
19 last two opportunities to change it if, in fact, it
20 needed to be changed. So, if it still can be changed in
21 December, then that's fine.
22 MR. BYRUM: Yeah, and you can leave that
23 narrow portion open if you chose to.
24 MR. BREISCH: That particular item happens on
25 Page 7 of the Rule. If we want to narrow it down using

1 that part of the Rule, we need to do so on a motion.
2 MR. KILPATRICK: Mr. Chairman, I'll move that
3 the record for Sub Chapter 5 be closed with the
4 exception of consideration of the operating fee for --
5 MR. FISHBACK: Title 5.
6 MR. KILPATRICK: -- Title 5, I guess, or
7 Part 70 sources, operating fee for Part 70 sources
8 remain open.
9 MR. BREISCH: I hear a motion. Do I have a
10 second?
11 MR. FISHBACK: Second.
12 MR. BREISCH: Motion is made and second that
13 we close this hearing with the exception of Part 70
14 source operating fees.
15 Any further comment?
16 (No response.)
17 MR. BREISCH: Myrna.
18 MS. BRUCE: Mr. Fishback?
19 MR. FISHBACK: Aye.
20 MS. BRUCE: Ms. Slagell?
21 MS. SLAGELL: Aye.
22 MS. BRUCE: Mr. Kilpatrick?
23 MR. KILPATRICK: Aye.
24 MS. BRUCE: Mr. Myers?
25 MR. MYERS: Aye.

1 MS. BRUCE: Mr. Branecky?
2 MR. BRANECKY: Yes.
3 MS. BRUCE: Mr. Breisch.
4 MR. BREISCH: Aye.
5
6 (Conclusion.)
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MARK S. COLEMAN
Executive Director

FRANK KEATING
Governor

State of Oklahoma
DEPARTMENT OF ENVIRONMENTAL QUALITY

October 15, 1997

Ms. Nadine Barton
6609 E 86th Place
Tulsa, Oklahoma 74133

Dear Ms. Barton:

I am writing to respond to your inquiry at the September 15, 1997, Public Forum at Enid about Title V fee allocation to the cost of the purchase and renovation of the Southwestern Bell building. Your inquiry was clarified by your subsequent discussion with the press which suggested that we have acted in some way inequitably or improperly in the allocation of the cost of the building to Title V fees.

The amounts allocated to each fee account were based on a calculation of the proportion of the building occupied by the personnel in the program supported by that fund. That calculation produced a building proportional cost of \$556,381 due to the Title V program.

The housing of agency operations will initially be accomplished at the same annual rate as a lease. Space costs about \$9 per square foot per year in the Oklahoma City area. Our calculations of costs for operation of the building are \$3 to \$4 per square foot per year. Assuming the more conservative figure of \$4 per square foot per year, we will "pay out" the building in under five years. Thereafter, the Title V program (and the other programs) will have a reduced cost of \$110,000 per year.

Thank you for your interest in this issue.

Sincerely,

Steven A. Thompson
Deputy Executive Director

SAT:lf

cc: Environmental Quality Board Members

C E R T I F I C A T E

STATE OF OKLAHOMA)
CANADIAN COUNTY) ss.

I, DEANNA J. SZURGOT, Certified Shorthand Reporter in and for the State of Oklahoma, CSR No. 01665, do hereby certify that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 21st day of October, 1997, at Tulsa, Oklahoma; and that I am neither attorney for nor relative of any said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 21st day of November, 1997.

DEANNA J. SZURGOT, CSR

Deanna Szurgot
Oklahoma Certified Shorthand Reporter
Certificate No. 01665
Exp. Date: December 31, 1998

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA

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9 TRANSCRIPT OF PROCEEDINGS
10 OAC 252:100-5, REGISTRATION OF AIR
11 CONTAMINANT SOURCES
12 HELD ON DECEMBER 16, 1997
13 AT 4:00 P.M.

14 AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
15 IN OKLAHOMA CITY, OKLAHOMA
16 * * * * *

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18
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20
21
22 ORIGINAL

23
24
25 REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

1
2 MEMBERS OF THE COUNCIL

- 3
4 1. MR. KILPATRICK - MEMBER
5 2. MS. SLAGELL - MEMBER
6 3. MR. FISHBACK - MEMBER
7 4. DR. CANTER - MEMBER
8 5. MS. MYERS - MEMBER
9 6. MR. BRANECKY - MEMBER
10 7. MR. BREISCH - CHAIRMAN
11 8. MR. DYKE - PROTOCOL OFFICER
12 9. MS. BRUCE - SECRETARY
13

3
1 PROCEEDINGS

2 MR. DYKE: The next item called
3 before the Council is OAC 252:100-5,
4 Registration of Air Contaminant Sources,
5 being brought before the Council for
6 possible action. And I'll call on Jeanette
7 Buttram of the staff.

8 MS. BUTTRAM: Members of the
9 Council, ladies and gentlemen, proposed
10 changes to Subchapter 5 were presented at
11 the August 19th and October 21, 1997
12 Council Meetings. Comments were received
13 at the October Council Meeting and staff
14 proposed changes. However, some additional
15 changes were made to the rules after the
16 Council packets were mailed. The following
17 is a summary of the proposed changes to
18 Subchapter 5.

19 The only changes made since the
20 October 21, 1997 hearing were to conform
21 the language in Subchapter 5 to the changes
22 made in Subchapter 8 concerning major TSP
23 facilities or as they were called in your
24 packet, major non-Part 70 facilities. As
25 Dr. Sheedy has explained that definition

1 has been deleted so that we now have, Part
2 70 sources, minor facilities, and de
3 minimis facilities. Therefore, references
4 to either major TSP facilities or major
5 non-Part 70 facilities has been deleted
6 from Subchapter 5. These changes are found
7 on page 1, 252:100-5-1.1, in the definition
8 section, page 3, 252:100-5-2.1A2, emission
9 inventory.

10 Page 6, 252:100-5-2.2B1, Fee
11 schedule. In addition, the definition of
12 minor facility, on page 2, has been amended
13 by deleting the phrase, with a potential to
14 emit less than a hundred (100) tons per
15 year of each regulated air pollutant. The
16 definition now reads, minor facility, means
17 a facility that is not a Part 70 source.

18 Finally, in the definition of Part
19 70 sources, the part number which changed
20 from, 7 to 5, to be in agreement with
21 Subchapter 8 changes.

22 Staff recommends Subchapter 5 be
23 approved by Council at the same time
24 Subchapter 8 is approved.

25 MR. DYKE: Questions by the

1605

1 Council of Ms. Buttram? Any questions from
2 the public? Anyone wishing to speak on
3 this matter?

4 MR. BREISCH: Is there any other
5 questions from the Council? If not, I'll
6 entertain a motion.

7 MR. BRANECKY: I move that we
8 continue the hearing on this item to the
9 January 9th meeting.

10 MS. MYERS: Second.

11 MR. BREISCH: I have a motion and
12 a second that this item be continued to
13 January 9th. Any questions on that?

14 Myrna, call the roll.

15 MS. BRUCE: Mr. Kilpatrick.

16 MR. KILPATRICK: Aye.

17 MS. BRUCE: Ms. Slagell.

18 MS. SLAGELL: Aye.

19 MS. BRUCE: Mr. Fishback.

20 MR. FISHBACK: Aye.

21 MS. BRUCE: Dr. Canter.

22 DR. CANTER: Aye.

23 MS. BRUCE: Ms. Myers.

24 MS. MYERS: Aye.

25 MS. BRUCE: Mr. Branecky.

1 MR. BRANECKY: Aye.
2 MS. BRUCE: Mr. Breisch.
3 MR. BREISCH: Aye.
4 (PROCEEDINGS CONCLUDED)

Christy A. Myers
Certified Shorthand Reporter

Christy A. Myers
Certified Shorthand Reporter

C E R T I F I C A T E

2 STATE OF OKLAHOMA }
3 COUNTY OF OKLAHOMA } ss:

4 I, CHRISTY A. MYERS, Certified
5 Shorthand Reporter in and for the State of
6 Oklahoma, do hereby certify that the above
7 proceedings is the truth, the whole truth,
8 and nothing but the truth; and said
9 proceedings was taken by me in shorthand
10 and thereafter transcribed under my
11 direction; that said proceedings was taken
12 on the 16th day of December, 1997 at
13 Oklahoma City, Oklahoma; and that I am
14 neither attorney for nor relative of any of
15 said parties, nor otherwise interested in
16 said proceedings.

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand and official seal on this, the
19 5th day of January, 1998.

Christy A. Myers
CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

Christy Myers
Oklahoma Certified Shorthand Reporter
Certificate No. 00310
Exp. Date: December 31, 1998

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA
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9 * * * * *

10 TRANSCRIPT OF PROCEEDINGS
11 APPROVAL OF OCTOBER 21, 1997 MINUTES
12 AND PUBLIC HEARING OAC 252:100-5-2.2 (b)(2)
13 HELD ON DECEMBER 16, 1997
14 AT 1:00 P.M.
15 AT 4545 LINCOLN BLVD., BURGUNDY ROOM
16 IN OKLAHOMA CITY, OKLAHOMA
17 * * * * *

23 REPORTED BY: Christy A. Myers, CSR,

24 ORIGINAL
25

MYERS REPORTING SERVICE
(405) 721-2882

Christy A. Myers
Qualified shorthand Reporter

1 PROCEEDINGS

2 MR. BREISCH: Call the meeting to
3 order. Myrna, will you call the roll?
4 MS. BRUCE: Mr. Kilpatrick.
5 MR. KILPATRICK: Here.
6 MS. BRUCE: Ms. Slagell.
7 MS. SLAGELL: Here.
8 MS. BRUCE: Mr. Fishback.
9 MR. FISHBACK: Here.
10 MS. BRUCE: Dr. Canter.
11 DR. CANTER: Here.
12 MS. BRUCE: Ms. Myers.
13 MS. MYERS: Present.
14 MS. BRUCE: Mr. Branecky.
15 MR. BRANECKY: Here.
16 MS. BRUCE: Mr. Breisch.
17 MR. BREISCH: Here.
18 MS. BRUCE: And for the record,
19 absent is Ms. Andrews.
20 MR. BREISCH: Okay. I need a
21 motion on the Minutes.
22 MR. KILPATRICK: I move that we
23 accept the Minutes.
24 MR. BRANECKY: Second.
25 MR. BREISCH: We have a motion

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1 MEMBERS OF THE COUNCIL
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- 4 1. MR. KILPATRICK - MEMBER
5 2. MS. SLAGELL - MEMBER
6 3. MR. FISHBACK - MEMBER
7 4. DR. CANTER - MEMBER
8 5. MS. MYERS - MEMBER
9 6. MR. BRANECKY - MEMBER
10 7. MR. BREISCH - CHAIRMAN
11 8. MR. DYKE - PROTOCOL OFFICER
12 9. MS. BRUCE - SECRETARY
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1 and a second. Is there any discussion,
2 questions or any additions to the Minutes?
3 If not, Myrna, call the roll.

4 MS. BRUCE: Mr. Kilpatrick.
5 MR. KILPATRICK: Aye.
6 MS. BRUCE: Ms. Slagell.
7 MS. SLAGELL: Aye.
8 MS. BRUCE: Mr. Fishback.
9 MR. FISHBACK: Aye.
10 MS. BRUCE: Dr. Canter.
11 DR. CANTER: Aye.
12 MS. BRUCE: Ms. Myers.
13 MS. MYERS: Aye.
14 MS. BRUCE: Mr. Branecky.
15 MR. BRANECKY: Aye.
16 MS. BRUCE: Mr. Breisch.
17 MR. BREISCH: Aye.

18 We can now go back and continue some
19 of our briefing on a couple or no items.

20 (Whereupon, items from the morning
21 meeting were continued after which the
22 following took place).

23 MR. BREISCH: I'm going to turn
24 the hearing portion of this meeting over to
25 David Dyke who will act as Protocol

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1007

1 Officer.

2 MR. DYKE: Ladies and gentlemen,
3 my name is David Dyke. I'm the Interim
4 Director of the Air Quality Division. As
5 such, I will act as the Protocol Officer
6 for this hearing.

7 This hearing is convened by the Air
8 Quality Council in compliance with the
9 Oklahoma Administrative Procedures Act, in
10 Title 40 of the Code of Federal
11 Regulations, Part 51, as well as the
12 Authority of Title 27A of the Oklahoma
13 Statutes, Sections 2-2-201 and 2-5-101,
14 through 2-5-118.

15 The hearing was advertised in the
16 Oklahoma Register for the purposes of
17 receiving comments pertaining to the
18 proposed revisions of OAC 252:100-5-2.2(b)
19 (2) Part 70 Sources Annual Operating Fees.
20 If you wish to make a statement, please
21 complete the form at the registration
22 table, and you will be called on at the
23 appropriate time.

24 At this time, I will call upon
25 Jeanette Buttram to give the staff position

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1 on these proposed changes.

2 Ms. Buttram.

3 MS. BUTTRAM: Staff recommends
4 the Annual Operating Fee billed in 1998 for
5 Part 70 Sources be adjusted by the Consumer
6 Price Index as specified in the existing
7 rule. This will render a 2.2 percent
8 increase in the fee from \$16.03 to \$16.39
9 per ton. Staff intends to bring before the
10 Council on a regular annual basis any
11 proposed adjustments to the fee.

12 MR. DYKE: Any questions of Ms.
13 Buttram from the Council?

14 MR. BREISCH: When is the
15 appropriate time to introduce this Air
16 Quality Council Title V Fee Committee
17 Findings and Recommendations dated December
18 16, 1997 into the record?

19 MR. DYKE: I would say during the
20 discussion period.

21 MR. BREISCH: I would recommend
22 that the Chairman of that subcommittee
23 introduce this into the record.

24 DR. CANTER: Okay. My name is
25 Larry Canter. And myself, David Branecky

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1 and Bill Fishback, Members of the Council,
2 served as a three person subcommittee to
3 review Title V budgetary matters pursuant
4 to a recommendation relative to either
5 changing, maintaining or decreasing the
6 Title V permit fee for 1998. We have a
7 written report. I would propose that this
8 written report be made a part of the
9 record. I don't know that we need to read
10 this report in at this point. But based
11 upon this written report, it would be, I
12 believe the recommendation of the
13 subcommittee, that other than for the
14 Consumer Price Index Adjustment, that there
15 be no change in the Title V Permit Fee for
16 1998.

17 MS. MYERS: Other than the CPI.

18 DR. CANTER: Other than the CPI,
19 yes.

20 MR. BREISCH: Let me ask a
21 question for clarification. Dennis, does
22 this need a vote of the Council to do one
23 thing or the other with this fee, or is it
24 as we discussed previously, we don't have
25 to take any action on this?

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1 MR. DOUGHTY: Well, Mr.

2 Chairman, my recommendation would be to go
3 ahead and vote that you have no
4 recommendation on change in the fee one way
5 or the other, just for the record. And
6 then introduce this into the record.

7 MR. BREISCH: We've already
8 introduced this into the record. I guess
9 my question is, do we have to vote?

10 MR. DOUGHTY: Since this is a
11 public hearing, I would go ahead and
12 recommend that you vote. If I understand
13 your recommendation correctly, that you're
14 recommending there be no change in the fee,
15 I would suggest that you go ahead and vote
16 on that and get it into the record.

17 MS. MYERS: Other than the CPI
18 percentage increase.

19 MR. DOUGHTY: Well, that passes
20 as a matter of law.

21 MS. MYERS: Okay.

22 MR. BREISCH: Do we need to
23 continue any further comments on this?

24 MR. BRANECKY: The only question
25 I would have at this point is, is that

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1 report, itself, does contain some other
2 recommendations that are not related
3 specifically to the fee. So I presume that
4 -- what happens to those recommendations,
5 that's my question?

6 MR. BREISCH: Well, at this
7 point, they'll be a matter of record.

8 MR. BRANECKY: Okay, fine.

9 MR. FISHBACK: And it would be
10 true, I believe, that Council's vote would
11 demonstration Council's support for the
12 recommendations of the subcommittee.

13 MR. BREISCH: Well, Bill, I would

14 --

15 MR. FISHBACK: Is that correct?

16 MR. BREISCH: I am afraid I can't
17 answer that. I don't know what action
18 needs to be taken for the Council to accept
19 the Committee's report. And that's a good
20 question. The Council can vote, I
21 understand, or should vote, I understand,
22 on leaving the fees as is except for an
23 increase in the Consumer Price Index.
24 That's one issue. And we're going to do
25 that each year, or annually. Now, as to

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11

1 MS. BARTON: Are we going to have
2 a public comment?

3 MR. BREISCH: Sure.

4 MS. BARTON: My name is Nadine
5 Barton, and I'm with CASE, Citizens Action
6 for a Save Environment. And I would like
7 to make a public comment concerning the Key
8 Financial Data for Air Quality Division,
9 Title V Program that the subcommittee is
10 presenting for a vote.

11 The Committee did an excellent job
12 in their investigation of this. As the
13 public representative who sat on the task
14 force to establish the fees for Title V, I
15 want to go on public record as saying that
16 I feel that the report did not go far
17 enough in the extent of establishing the
18 amounts of the funds of Title V that were
19 actually used to purchase the new DEQ
20 building in Oklahoma City.

21 There is a question in my mind as to
22 the 1996 Administrative Indirect Fees. And
23 then in Note Number 3 of the report where
24 it has stated that DEQ realized that they
25 exceeded the amount of money that should

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1 the acceptance of the report, I think
2 that's a question that we haven't ever
3 asked ourselves. But, in my opinion, we
4 should as a Council, accept the Committee's
5 report.

6 MR. FISHBACK: Right. And
7 basically by doing so, endorse the
8 recommendation.

9 MR. BREISCH: That's right.

10 MR. FISHBACK: Right? Okay.

11 MR. KILPATRICK: Mr. Chairman, I
12 move that the Council accept the
13 Committee's report.

14 MR. FISHBACK: Second. Maybe I
15 can't do that since I'm on the Committee.

16 MR. BREISCH: Yes, you can.

17 MR. FISHBACK: Okay.

18 MS. MYERS: I'll second it to
19 make it legal.

20 MR. FISHBACK: Yes. Get somebody
21 that wasn't on the subcommittee. It
22 certainly is an excellent report, though.

23 MR. BREISCH: We have a motion
24 and a second to accept and endorse the
25 Committee's report. Any other comments?

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17

1 have been assessed based on the percentage
2 of the total square footage of the new
3 building of the Title V activities, and
4 consequently, DEQ refunded this amount back
5 to the Title V account. And then it shows
6 a projected negative balance in Operating
7 Expenses for 12-31 of '97, of two hundred
8 and thirty-eight thousand, eight hundred
9 and forty-six dollars (\$238,846) as a
10 problem in hiring the amount of personal,
11 it appears, to adequately administrate the
12 Title V Program.

13 The question of at the point when
14 the building is purchased and the money is
15 given to the seller, are we also going to
16 have a shortage in that money? Because of
17 the amount of money that is collected
18 through Title V, there should be an
19 independent accounting firm that oversees
20 these funds. It has the appearance from
21 the public perspective that there is not
22 adequate accountability as to the
23 administration of these funds. And I'm in
24 full compliance with the recommendation of
25 the subcommittee made in these findings.

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1 But I feel that it falls short and that
2 there should be some type of public
3 oversight or state auditing of these fees.
4 End of comment.

5 MR. DYKE: Is there anybody else
6 wishing to speak on this matter? I see
7 none.

8 MR. BREISCH: All right. At this
9 time I will entertain motions concerning
10 this item.

11 DR. CANTER: We have a motion on
12 the table to accept the report.

13 MR. BREISCH: I think that we're
14 probably a little premature on doing that
15 until we've heard from the public.

16 DR. CANTER: Sorry.

17 MR. BREISCH: So I'll open up for
18 those motions again.

19 MS. SLAGELL: It's still there,
20 though.

21 MR. BREISCH: We can go ahead and
22 accept that motion then, even though it
23 might have been before we heard the
24 comment?

25 MS. SLAGELL: Yes.

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Certified shorthand Reporter

Christy A. Myers
Certified shorthand Reporter

1 motion and a second. Any more comments
2 from the Council?

3 DR. CANTER: Let me clarify a
4 point here. So if we vote on this motion
5 then we still have another motion which is
6 related to the fee excess?

7 MR. FISHBACK: The thirty-eight
8 (38) cents.

9 DR. CANTER: Right.

10 MR. FISHBACK: Yes.

11 MR. BREISCH: Myrna, call the
12 roll.

13 MS. BRUCE: Mr. Kilpatrick.

14 MR. KILPATRICK: Aye.

15 MS. BRUCE: Ms. Slagell.

16 MS. SLAGELL: Aye.

17 MS. BRUCE: Mr. Fishback.

18 MR. FISHBACK: Aye.

19 MS. BRUCE: Dr. Canter.

20 DR. CANTER: Aye.

21 MS. BRUCE: Ms. Myers.

22 MS. MYERS: Aye.

23 MS. BRUCE: Mr. Brenecky.

24 MR. BRANECKY: Aye.

25 MS. BRUCE: Mr. Breisch.

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1 MR. BREISCH: That motion and
2 second stands. Any further comments or
3 questions from Council?

4 MR. FISHBACK: Mr. Chairman, I
5 believe I heard Ms. Barton say that
6 concurred with the recommendation of
7 subcommittee that there be an independent
8 financial audit of Air Quality Division
9 finances. And I would like to point out
10 that that is not the recommendation of the
11 subcommittee. The recommendation of the
12 subcommittee is that the financial
13 oversight of the Air Quality Division by
14 the Air Quality Council, continue. The
15 subcommittee did not recommend an
16 independent audit, and I believe that's
17 what I heard you say.

18 MS. BARTON: I just want to
19 clarify -- Nadine Barton, again, that as a
20 public representative, I stand corrected by
21 Mr. Fishback's comment. And I do recommend
22 that a third party outside audit, or state
23 auditing, audit those funds.

24 Thank you.

25 MR. BREISCH: Okay. We do have a

1 MR. BREISCH: Aye.

2 Do we have another motion
3 pertaining to this item.

4 MS. MYERS: I move that we leave
5 those as they are, with only the Consumer
6 Price Index increase.

7 MR. BREISCH: Do I hear a second.

8 MR. FISHBACK: Second. And that
9 specifically means an increase from 16.03
10 to 16.39 per ton.

11 MR. BREISCH: That's right.

12 DR. CANTER: And I'm presuming
13 this is for 1998.

14 MS. MYERS: Yes.

15 MR. BREISCH: Any further
16 questions or comments from the Council?
17 From anybody else that is present?

18 MR. DOUGHTY: Mr. Chairman, if I
19 may, my name is Dennis Doughty. I
20 mentioned what I mentioned earlier, that
21 you're basically recommending no action,
22 which means it does not have to go to the
23 Board for any action on the part the Board.

24 MR. BREISCH: Any other com
25 or questions?

1 Myrna, call the roll.
 2 MS. BRUCE: Mr. Kilpatrick.
 3 MR. KILPATRICK: Aye.
 4 MS. BRUCE: Ms. Slagell.
 5 MS. SLAGELL: Aye.
 6 MS. BRUCE: Mr. Fishback.
 7 MR. FISHBACK: Aye.
 8 MS. BRUCE: Dr. Canter.
 9 DR. CANTER: Aye.
 10 MS. BRUCE: Ms. Myers.
 11 MS. MYERS: Aye.
 12 MS. BRUCE: Mr. Branecky.
 13 MR. BRANECKY: Aye.
 14 MS. BRUCE: Mr. Breisch.
 15 MR. BREISCH: Aye.
 16 (PROCEEDINGS CONCLUDED)

Christy A. Myers
 Certified Shorthand Reporter

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1 C E R T I F I C A T E
 2 STATE OF OKLAHOMA)
 3 COUNTY OF OKLAHOMA) ss:

4 I, CHRISTY A. MYERS, Certified
 5 Shorthand Reporter in and for the State of
 6 Oklahoma, do hereby certify that the above
 7 proceedings are the truth, the whole truth,
 8 and nothing but the truth, in the
 9 proceedings aforesaid; that the foregoing
 10 proceeding was taken by me in shorthand and
 11 thereafter transcribed under my direction;
 12 that said proceedings was taken on the 16th
 13 day of December, 1997 at Oklahoma City,
 14 Oklahoma; and that I am neither attorney
 15 for nor relative of any of said parties,
 16 nor otherwise interested in said
 17 proceedings.

18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 5th day of January 1998.

Christy A. Myers
 CHRISTY A. MYERS, C.S.R.
 Certificate No. 00310

Christy Myers
 Oklahoma Certified Shorthand Reporter
 Certificate No. 00310
 Exp. Date: December 31, 1998

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AIR QUALITY COUNCIL TITLE V FEE SUBCOMMITTEE
FINDINGS AND RECOMMENDATIONS
DECEMBER 16, 1997

TABLE 1
KEY FINANCIAL DATA FOR AIR QUALITY DIVISION
TITLE V PROGRAM

An Oklahoma Air Quality Council subcommittee was appointed by chairman William B Breisch in early 1996 to fulfill the statutory requirement to review annually the Title V program receipts and expenditures as the basis for setting the Title V operating permit program fee.

Cash Balance at 12-31-95		1,501,326	(5)
Income 1-1-96 through 12-31-96	+	4,003,615	
Total 1996 expenses except administrative indirect	-	4,135,633	
1996 administrative indirects (2)	-	887,133	
Cash Balance at 12-31-96		482,175	
Cash Balance at 12-31-96		482,175	
Income 1-1-97 through 6-30-97 (1)	+	3,395,356	
1997 expenses through 6-30-97 except admin ind	-	2,707,296	
1997 administrative indirects (2)	-	17,436	
Building expenses reallocation 10-7-97 (3)	+	408,355	
Projected expenses 7-1-97 through 12-31-97 (4)	-	1,800,000	
Projected Balance at 12-31-97		(238,846)	NEGATIVE

The subcommittee includes three members of the Air Quality Council:

Dr. Larry Canter, Ph.D.
Mr. David Branecky
J. William Fishback II, P.E.

The subcommittee met several times with Air Quality Division management and staff and representatives of the DEQ Administrative Services Division. Present at most meetings were:

Larry Byrum	Director, Air Quality Division
David Dyke	Assistant Director, Air Quality Division
Marilyn Simpson	Administrative Services Division
Monte Boyce	Administrative Services Division
Travis Monroe	Administrative Services Division

At the subcommittee's request, the Air Quality Division staff with the assistance of the Administrative Services Division began the process of documenting receipts and expenditures related to Title V (and concurrently similar data for non-Title V activities) for 1996 and 1997. Records for prior years (in particular time sheets for AQD personnel) are not available. The results of that effort produced the following key financial data shown in Table 1:

Notes:

- (1) The Title V fee income is essentially all received in the first half of the year. Therefore no additional income is anticipated in the second half of the year.
- (2) The administrative indirect costs are a fixed percentage of the fee income (20% for Title V fees). The dramatic drop in this cost between 1996 and 1997 resulted, not from a reduction in the administrative indirect services provided or percentage charged, but rather a fluke of timing. The assessment date for withdrawal of the administrative indirect cost from the Title V account came after the fees had been deposited in 1996 but before the fees were deposited in 1997. Therefore in 1997 there was very little fee balance on which to make the assessment.
- (3) The DEQ decided on 10-7-97 that previous assessments of Title V funds toward the purchase of a new DEQ headquarters building exceeded the amount that should have been assessed based on the percentage of the total square footage of the new building devoted to Title V activities. Consequently, DEQ refunded this amount to the Title V account.
- (4) Projected expenses for the second half of 1997 are estimated to be \$907,296, or 33% less than actual expenses for the first half of 1997 due, in large part, to AQD's intention to retrain AQD employees to properly code their time sheets so that charges to Title V more accurately reflect only the Title V work being done. In addition, second half costs are projected to be reduced by the deferral of some purchases, the elimination of others, and by not filling vacated positions.
- (5) All data in Table 1 is as supplied to the subcommittee by the Air Quality Division with the assistance of the Administrative Services Division. The subcommittee did not undertake an independent audit of the finances.

After analyzing the financial and other data supplied by the Air Quality Division and Administrative Services Division staff, the Air Quality Council subcommittee has made the following findings and recommendations:

For the Air Quality Council:

December 16, 1997

FINDINGS

- (1) In calendar year 1996, the AQD expenses exceeded income by over \$1,000,000.
- (2) In calendar year 1997, the AQD expenses will exceed income by approximately \$721,000 even with the following three significant cost adjustments:
 - (A) a one time reduction of \$869,697 in administrative indirect costs
 - (B) a one time building expenses reallocation of \$408,355
 - (C) a proposed reduction of more than \$900,000 in 2nd half expenses
- (3) Without the adjustments in 2) above for 1997, AQD expenses would exceed income by approximately \$2,900,000.
- (4) Without continued spending reductions or increased income, future year expenditures could also far exceed income.

RECOMMENDATIONS

- (1) The Air Quality Division, the Administrative Services Division and the Office of the Executive Director of the Department of Environmental Quality, should continue to refine accounting procedures, review financial practices, and closely monitor staffing levels and implement changes wherever necessary to reduce both current and future deficits.
- (2) The AQD should institute spending reductions prior to any consideration of a fee increase by the Air Quality Council.
- (3) The financial oversight of the AQD by the Air Quality Council should continue indefinitely. In addition, monthly financial statements should be provided to the Subcommittee by the AQD.
- (4) The Air Quality Council should not dictate to the AQD how to reduce costs to both balance the annual budget and create the surplus necessary to pay off the current negative balance. The Subcommittee believes, however, that if a reduction in staff (while maintaining current fee levels) is necessary to balance the budget, the Title V program will not be jeopardized, although some lengthening of time to issue permits may occur.

Larry Canter
Dr. Larry Canter

David Branecky
David Branecky

J. William Fishback II
J. William Fishback II

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA

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10 TRANSCRIPT OF PROCEEDINGS
11 OF PUBLIC HEARING OAC 252:100-5
12 REGISTRATION OF AIR CONTAMINANT SOURCES
13 AMENDED

14 HELD ON JANUARY 9, 1998

15 AT 1:20 P.M.

16 AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
17 IN OKLAHOMA CITY, OKLAHOMA

18 * * * * *

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24 REPORTED BY: Christy A. Myers, CSR,
25

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1
2 MEMBERS OF THE COUNCIL
3

- 4 1. MR. KILPATRICK - MEMBER
5 2. MS. SLAGELL - MEMBER
6 3. MR. FISHBACK - MEMBER
7 4. MS. MYERS - MEMBER
8 5. MR. BRANECKY - MEMBER
9 6. DR. CANTER - CHAIRMAN
10 7. MR. DYKE - PROTOCOL OFFICER
11 8. MS. BRUCE - SECRETARY
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PROCEEDINGS

DR. CANTER: Let's move to the next item which is Registration of Air Contaminant Sources. Mr. Dyke.

MR. DYKE: The next item before the Council today is OAC 252:100-5, Registration of Air Contaminant Sources. It has been brought to public hearing on August 19 and October 21, 1997.

Ladies and gentlemen, my name is David Dyke. I'm the Interim Director of the Air Quality Division. As such, I will act as the Protocol Officer for this hearing.

This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, in Title 40 of the Code of the Federal Regulations, Part 51, as well as the Authority of Title 27A of the Oklahoma Statutes, Section 2-5-101 through 2-5-118.

The hearing was advertised in the Oklahoma Register for the purposes of receiving comments pertaining to the proposed revisions of OAC 252:100-5,

1 Registration of Air Contaminant Sources
2 Amended. If you wish to make a statement,
3 please complete the form at the
4 registration table, and you will be called
5 upon at the appropriate time.

6 At this time I will call on Ms.
7 Jeanette Buttram of the Air Quality staff
8 to give our position.

9 MS. BUTTRAM: Members of the
10 Council, ladies and gentlemen, my name is
11 Jeanette Buttram with the Rules and
12 Planning Unit. Proposed changes to
13 Subchapter 5 were presented at the August
14 19, October 21, and December 16, 1997
15 Council Meetings. No additional changes
16 the rule have been made. Staff recommend
17 that the proposed rule be approved and
18 recommended to the Department of
19 Environmental Quality Board for emergency
20 and permanent adoption.

21 MR. DYKE: Questions of Ms.
22 Buttram?

23 MS. MYERS: I have one question
24 Under the fee schedules where it's talkin'
25 about all of the different fees and

1 calculations, there are several different
2 places for fee calculations as a
3 parenthetical expression that is stuck into
4 the definition. I'm on page 6, under minor
5 facilities, for instances. It talks about
6 based on annual emissions, regulated
7 pollutants, and then in parenthesis it says
8 for fee calculations. Is that in there for
9 some reason? We're -- you're talking about
10 the fees that -- I figured there probably
11 was, Joyce. I can't figure it out. Out of
12 curiosity, why?

13 MS. BUTTRAM: Well, I believe, if
14 I remember right, when we were making the
15 changes, we had a question about regulated
16 pollutants for fee calculations and just
17 regulated pollutants. And so we wanted to
18 make sure that they understood that the
19 regulated pollutants for fee calculations
20 is what we're going to fee them on.

21 MS. MYERS: Okay.

22 DR. SHEEDY: This is Joyce
23 Sheedy. And in the -- with Title V you
24 don't have to pay fees on carbon monoxide,
25 for instances. And we're not requiring

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1 page 1, the definition section, there is an
2 intent, apparently, in putting definitions
3 in the rule to bring them close to the
4 place where they are used and applicable in
5 implementing the rule. And I'm,
6 specifically, wanting to ask about the
7 grandfathered source definition there on
8 page 1. There are certain source
9 categories of emission units that are
10 exempted from permitting, exempted from
11 emission inventory and exempted from annual
12 operating fee requirements that are not
13 grandfathered. I'm, specifically,
14 referring to the Drake Engines as one
15 example, and there may be others. I'm
16 wondering if we ought to not also include a
17 definition for exempted from permitting or
18 some such language. Because this
19 particular Subchapter 5, applies to those
20 specific things, emission inventory and fee
21 payment. And those sources don't pay fees,
22 they're not on the emissions inventory, but
23 it's not because they're grandfathered.
24 It's because they were otherwise exempted
25 from permitting.

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1 fees on total suspended solids, or total
2 suspended particulates. But they are
3 regulated pollutants. So there is a
4 separate definition for regulated
5 pollutants for fee purposes that eliminate
6 those.

7 MS. MYERS: I figured there's
8 good reason. Thank you.

9 MR. FISHBACK: Since it's now
10 after January 1, 1998, can we strike b 1?

11 MS. BUTTRAM: Little b, one (1)?

12 MR. FISHBACK: On page 6.

13 MS. BUTTRAM: I don't see why
14 not.

15 MS. HOFFMAN: No, we can't.

16 MR. DYKE: Identify yourself,
17 please.

18 MS. HOFFMAN: I'm Barbara
19 Hoffman, staff attorney. And as I
20 understand it, we will soon be sending out
21 the fee notices or the fee calculations for
22 last year. And so that's still going to be
23 relevant this year.

24 MR. FISHBACK: Okay. I
25 understand. I have a second question. On

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1 MS. HOFFMAN: I think they're
2 suppose to be paying fees.

3 MR. FISHBACK: That's not been
4 the basis of our discussions with the
5 division so far. So that's my suggestion,
6 that there are -- in other words, the only
7 reason you're exempted from emission
8 inventory and fee payments is not
9 grandfathered. There are other reasons.
10 And there may be others besides the one I
11 mentioned.

12 DR. SHEEDY: This is Joyce
13 Sheedy, again. Actually being the
14 grandfather source doesn't exempt you from
15 fee payments and emissions inventory. We
16 have many grandfather sources on the
17 inventory and they pay fees.

18 MR. BRANECKY: How come they
19 don't file an emission inventory?

20 MR. FISHBACK: In the case of the
21 Drake Engines, it's because they're not
22 under the jurisdiction of DEQ. And what
23 you said, Joyce, I believe is correct in
24 theory, put in practice it doesn't happen.
25 Because if there is no permit, it's an

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1 enforcement issue, basically. But if
2 there's no permit then there is no
3 mechanism to track a source and see whether
4 it should be paying emission fees and be on
5 the inventory. So, you're correct. It's
6 not -- and I should correct my earlier
7 statement, technically they're not exempted
8 from fee payment and emission inventory
9 reporting because they're grandfathered.
10 But, in practice that happens a lot.

11 DR. SHEEDY: I'm not sure if we
12 have anyone who inventories, here, but I do
13 believe that we have a number of sources on
14 the inventory without permits.

15 MR. DOUGHTY: My name is Dennis
16 Doughty. If I might just make one comment
17 here. I think everybody is -- basically, I
18 think what everybody said so far is true.
19 There is a distinction between de minimis,
20 where threshold levels of which something
21 is permitted or fee'd or inventoried, and
22 being grandfathered. So I think we're
23 getting two different terms commingled here
24 that -- Bill is right, when he says there
25 are certain facilities out there that are

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11

1 it. You're looking for some statement on
2 exemptions.

3 MR. FISHBACK: Well, since this
4 is the Subchapter in which inventories and
5 fees determination will be made, I mean,
6 the owner/operator of a source will come to
7 this and say, well, am I covered or not?
8 I'm not sure I agree with what you said.
9 Definitions are sometimes used in an
10 explanatory way rather than being there
11 only because they're referenced in the
12 rule. In other words, definitions can be
13 used as information.

14 MR. BRANECKY: You're looking
15 for a statement of applicability.

16 MR. FISHBACK: The concept that I
17 have is, that sources that are exempted
18 from inventory and fees should be
19 identified as exempted in Subchapter 5 as a
20 way of conveying that information to the
21 owner/operator. The owner/operator comes
22 to this Subchapter and says, I operate the
23 X, Y, Z source and this is how I determine
24 if I should file an inventory, or pay a
25 fee. And so he ought to be able to find

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1 not grandfathered that are not kicked into
2 the system based on a threshold, that is a
3 de minimis level at which they're not
4 regulated, permitted or otherwise. Of
5 course, Joyce is right, when she talks
6 about the grandfathered sources that --
7 indeed we have grandfathered sources that
8 are extremely large sources that are Title
9 V, perhaps PSD level that pay fees.
10 Emission inventories will have to get Title
11 V fees. I don't think there is anything
12 inconsistent. I think the situation as it
13 is will handle the issue that Bill is
14 talking about.

15 MR. FISHBACK: My only question
16 is, do we need a definition of exempted
17 from permit as well as a definition for
18 grandfathered?

19 MR. BRANECKY: No. It's not
20 referenced in any regulation. Is there a
21 statement in there about --

22 MR. FISHBACK: Not that specific
23 source category, no. No, there is not.

24 MR. BRANECKY: The definitions
25 or whatever words are used to make note on

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1 out in here if that is a requirement or
2 not. And I'm not sure he can from what's
3 here now.

4 DR. SHEEDY: If that is an
5 exempted source, then just the fact that it
6 had -- I mean, if we have no jurisdiction
7 over that exempted source, then, of course,
8 it stands to reason we wouldn't have the
9 ability to require a fee or inventory.

10 MR. FISHBACK: This is always the
11 concern that comes up. You can't put
12 everything you need to make a determination
13 in one place because then the rules would
14 be huge. And the person that is subject to
15 this, the facility that is subject to this,
16 if they have the correct overall knowledge,
17 the system will come to the correct
18 determination. I'm really just looking to
19 enhance that if we can help them here.
20 Now, if that is a confusing issue, if you
21 offer a definition of exempted facilities,
22 if that's confusing and it's detracting
23 overall, then, I'm not in favor of it.

24 But there is going to be a lot of
25 people who say, well, I need to go to

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1 Subchapter 5 and figure out if I should
2 file an inventory and pay a fee. And they
3 may not have the overall general knowledge.
4 But, you're right, you have to take
5 everything in total to make the
6 determination.

7 MS. BUTTRAM: But, we also have
8 an emission inventory section that can
9 field those type of questions if it's not
10 in the rule. Because like you say, to try
11 to put something like that in the rule may
12 be extreme. But then, for them to be able
13 to call the emission inventory section and
14 ask them if they would be exempted from
15 filing the emission inventory and fees may
16 be adequate.

17 MS. MYERS: Putting in a
18 definition like that at this point in time
19 will be a substantive change and we would
20 have to delay acceptance of this.

21 MS. BUTTRAM: That's true.

22 MR. FISHBACK: I don't think so.

23 MS. BUTTRAM: Unless you came up
24 with a definition right now. But, then
25 we'd have to --

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1 this process.

2 Let me ask Barbara, is there a way
3 in a rule to have information conveyed
4 that's not part of the rule text? Can you
5 have paragraphs of explanation in a formal
6 rule or does that violate some principle of
7 rule?

8 MS. HOFFMAN: Actually, Jeanette
9 can answer that better than I can. She's
10 our rules format expert.

11 MS. BUTTRAM: We can put in
12 agenda notes like I have in some of the
13 rules, now. But, it's not codified and so
14 it won't be seen after it goes through that
15 process.

16 MR. FISHBACK: Okay. So the end
17 user, it's transparent?

18 MS. BUTTRAM: Right.

19 MR. FISHBACK: Okay. So that
20 doesn't accomplish -- you know, if you
21 could just have -- what I'm thinking of is
22 just a paragraph that says exactly what I
23 just said. If you're exempted from
24 permitting for the following reasons,
25 you're not subject to this inventory. But

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1 MR. FISHBACK: You'd have to ha
2 a specific word to vote on, that's correct.
3 I trying to help folks out here. And
4 you're right, anybody that operates these
5 sources that is prudent, is going to ask
6 the question and hopefully get a correct
7 answer.

8 That's another problem, too. If yo
9 have it spelled out, it's not likely to
10 change from time to time or from individu
11 to individual. You know, it's well
12 defined. And so it is consistently
13 applied. I'm not saying this is a critica
14 enough issue to hold up approval of this,
15 but I personally think this would be an
16 enhancement because it's right in the plac
17 where the person will look.

18 It's just like you would look up in
19 a catalogue, if you were looking for
20 something in a store. If you were looking
21 for shoes, you'd look under shoes. If
22 you're looking for emission inventory
23 requirements, you're going to come to this
24 Subchapter and there is no clue here that
25 some source categories are exempted from

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1 you can't do that?

2 MR. HOFFMAN: I'd be happy to
3 work with you on some language, if you
4 wanted to try to come up with a definition

5 MR. FISHBACK: Today?

6 MS. HOFFMAN: No. Not today.

7 MR. FISHBACK: Okay. Are you
8 talking about language to incorporate in
9 the rule?

10 MS. HOFFMAN: Yes.

11 MR. FISHBACK: For future
12 revisions?

13 MS. HOFFMAN: Yes.

14 MR. FISHBACK: Okay. And there
15 is no problem with re-opening this for a
16 change like that in the future?

17 MS. HOFFMAN: I don't know why
18 not.

19 MR. FISHBACK: Okay. Then I'll
20 take Barbara's offer and we'll do that and
21 we won't hold up the process today.

22 DR. CANTER: I was just thinking
23 that maybe -- I know that applicability in
24 the case of Subchapter 5. But, I'm
25 thinking that point might be applica

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1 maybe in a different Subchapter with a
2 whole string of definitions.

3 MR. FISHBACK: It's been my
4 concern for a long time that there is a
5 real opportunity to help the affected
6 industries with the issuance of these
7 rules. And you know, when I take a rule,
8 the first thing I do is try to rewrite it
9 in English instead of in regulatory ease.
10 And that's really what I'm saying here. A
11 major applicability issue I think is
12 important to identify to someone that is
13 potentially covered. So I'll be glad to
14 work with Barbara and do that.

15 But you're right, this process --
16 that's why we have guidance documents and
17 other tools to help the effected industries
18 because you can't put everything in the
19 rule. But this is a fairly simple concept.
20 If you're exempted from permitting for the
21 following reasons, you don't file an
22 emissions inventory and you don't pay a
23 fee.

24 MS. HOFFMAN: It's also a very
25 delicate area. We'll have to be very

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1 careful how we word it.

2 MR. FISHBACK: Yes.

3 MS. BUTTRAM: I'm beginning to
4 wonder if that might be added to something
5 instead of in the rule, the Subchapter
6 itself, it might be added to the package of
7 the rule. Where you're talking about
8 guidance documents instead of putting it
9 directly in that Subchapter, but could be
10 added to the packet that goes out with the
11 rules. And it has other things that
12 industry can read, but sees right offhand
13 that they're applicable in certain cases.
14 That might be something to look at, also.

15 MR. FISHBACK: Okay.

16 MR. DYKE: Additional questions
17 of Ms. Buttram from the Council? Question
18 from the audience? Is there anyone wishing
19 to speak on this matter?

20 Thank you Jeanette.

21 MR. FISHBACK: Did this rule
22 incorporate the current -- I just happened
23 to glance down here at the -- 15-19 was the
24 starting value. Does this incorporate the
25 current escalated fee?

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1 DR. CANTER: Yes. Second
2 paragraph. On page 77

3 MR. FISHBACK: It doesn't -- it
4 gives the method but it doesn't give the
5 number.

6 DR. CANTER: No.

7 MR. FISHBACK: Okay. But, did we
8 not in a previous council meeting, did we
9 not approve a specific number for dollars
10 per ton but we didn't do it as part of a
11 rule? We did it as a recommendation from
12 the staff. Basically, if I remember right,
13 we made -- there was no recommendation,
14 staff would change --

15 MS. MYERS: We approved the
16 increase.

17 MR. FISHBACK: In the --

18 MS. MYERS: We approved the
19 increase --

20 MR. FISHBACK: We approved the 38
21 cent -- yeah.

22 MS. MYERS: We approved it based
23 on the CPI.

24 MR. FISHBACK: Yeah. And the
25 mechanism for that approval was not a rule.

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1 What was it?

2 MR. KILPATRICK: You don't have
3 to approve it.

4 MS. MYERS: We just gave it our
5 blessing.

6 MR. KILPATRICK: We did it for
7 the sake of it. It was an automatic
8 calculation. We don't have to do anything
9 about it.

10 MR. FISHBACK: Yeah. But we did
11 at the last -- but I'm asking what was the
12 mechanism for that? Was that just a motion
13 that was passed and it's not a rule?

14 MR. KILPATRICK: You can make a
15 motion and act on it.

16 MR. FISHBACK: And we did that?

17 MR. KILPATRICK: Yes.

18 MR. FISHBACK: Okay. It was not
19 part of another rule, it didn't appear some
20 place else, that dollar figure?

21 MR. KILPATRICK: No.

22 MR. FISHBACK: Okay.

23 MR. DYKE: Anything further?

24 DR. CANTER: Thank you. I think
25 the Chair will entertain a motion for an

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1 action in conjunction with Subchapter 5.
 2 MR. FISHBACK: I would move that
 3 Subchapter 5 be adopted as presented today.
 4 There were no changes proposed by the staff
 5 and we need to adopt it, I believe, as both
 6 emergency and permanent? So that would
 7 also be part of my motion.

8 DR. CANTER: Thank you. Is there
 9 a second?

10 MR. BRANECKY: Second.

11 DR. CANTER: Any final
 12 questions? Myrna, would you please poll
 13 the Council.

14 MS. BRUCE: Mr. Fishback.

15 MR. FISHBACK: Aye.

16 MS. BRUCE: Ms. Myers.

17 MS. MYERS: Aye.

18 MS. BRUCE: Mr. Kilpatrick.

19 MR. KILPATRICK: Aye.

20 MS. BRUCE: Ms. Slagell.

21 MS. SLAGELL: Aye.

22 MS. BRUCE: Mr. Branecky.

23 MR. BRANECKY: Aye.

24 MS. BRUCE: Dr. Canter.

25 DR. CANTER: Aye.

(PROCEEDINGS CONCLUDED)

Christy A. Myers
 Certified Shorthand Reporter

Christy A. Myers
 Certified Shorthand Reporter

C E R T I F I C A T E

1 STATE OF OKLAHOMA)
 2) ss:
 3 COUNTY OF OKLAHOMA)

4 I, CHRISTY A. MYERS, Certified
 5 Shorthand Reporter in and for the State of
 6 Oklahoma, do hereby certify that the above
 7 proceedings are the truth, the whole truth,
 8 and nothing but the truth, in the
 9 proceedings aforesaid; that the foregoing
 10 proceeding was taken by me in shorthand and
 11 thereafter transcribed under my direction;
 12 that said proceedings was taken on the 9th
 13 day of January, 1998, at Oklahoma City,
 14 Oklahoma; and that I am neither attorney
 15 for nor relative of any of said parties,
 16 nor otherwise interested in said
 17 proceedings.

18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 14th day of January 1998.

Christy Ann Myers
 CHRISTY A. MYERS, C.S.R.
 Certificate No. 00310

Christy Myers
 Oklahoma Certified Shorthand Reporter
 Certificate No. 00310
 Exp. Date: December 31, 1998

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees

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OAC 252:100-5[2]
SIP Revision

SUBCHAPTER 5

COUNCIL MEETING DATES

OCTOBER 20, 1998

DECEMBER 15, 1998

BOARD MEETING DATE

MARCH 05, 1999

SUMMARY OF RULE CHANGE:

The changes to Subchapter 5 modified fees for both Part 70 and minor emission sources. In 252:100-5-2.2(b)(1)(C), new language was proposed which sets the base annual operating fee for minor facilities at \$17.12 per ton of regulated pollutant beginning January 1, 1999. In 252:100-5-2.2(b)(2)(B), the annual operating fee for Part 70 sources will be increased to \$17.12 per ton of regulated pollutant beginning January 1, 1999.

CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

Section:

252:100-5-2-2. Annual operating fees [AMENDED]

252:100-5-2.2. Annual operating fees

(a) Applicability.

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) This section does not apply to de minimis facilities.

(b) Fee schedule.

(1) Minor facilities.

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

~~(B) Beginning January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee of \$10/ton. This fee is based on total annual emissions of regulated pollutants (for fee calculation).~~ In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).

(2) Part 70 Sources.

~~(A) Effective From~~ From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

~~(B)~~(C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the

Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) **Payment.** For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½ %) per month on any amount unpaid. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993-Supp. 1993, Sec. § 2-5-101 ~~et seq.~~ *et seq.*, to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

(d) **Basis for annual operating fees.**

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

OAC 252:100-5[2]
Oklahoma Register

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1358]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]
- Subchapter 7. Permits for Minor Sources [AMENDED]
- Subchapter 8. Permits for Part 70 Sources [AMENDED]
- Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]
- Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]
- Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]
- Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]
- Subchapter 37. Control of Emission of Organic Materials [AMENDED]
- Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]
- Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

SUMMARY:

In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a

PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no PBR has been written, the opportunity to apply for coverage under an applicable general permit. The Department also proposes to delete the definition for "Volatile Organic Solvents (VOS)," because the proposed changes to Subchapters 37 and 39 would exclude that term from the rules.

The Department is considering increases in the permit application fees in both Subchapters 7 and 8.

The proposed revisions to Subchapters 23 and 24 would simplify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to both subchapters follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow such exceedances during one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. Other

proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Three substantive changes are proposed for each Subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; a request dated April 21, 1997, from the Halogenated Solvents Industry Alliance, requesting that perchloroethylene be excluded from the definition of VOC; a request from Dow Corning that methylated siloxanes be excluded from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, that methyl acetate be excluded from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c). In addition, the Department is requesting comments on 252:100-39-47, Control of VOS Emissions from Aerospace Industries Coatings Operations. Options include (1) retain the present (ARACT) rule and enforce the emissions reduction plan specified therein; (2) repeal the present rule and promulgate new rules regulating specialty coatings; or (3) retain the present plan, promulgate new rules for specialty coatings, and allow the facility to choose which of the two they prefer. These options recognize that the new NESHAP for the aerospace industry controls VOC emissions except for specialty coatings. The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40

CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Tuesday, September 15, 1998, through Tuesday, October 20, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, October 13, 1998

Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 10, 1998 - 9:30 a.m. in Poteau (Location to be determined. See contact person)

PUBLIC HEARINGS:

Tuesday, October 20, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (Subchapters 5 and 8), Michelle Martinez (Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37, 39 and 41). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 7, 23, 24, 25, 37 and 39 that were the subject of a public hearing on August 18, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1358; filed 8-26-98]

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1473]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2 [AMENDED]

Subchapter 7. Permits for Minor Facilities [AMENDED]

Subchapter 8. Permits for Part 70 Sources

252:100-8-1.7 [AMENDED]

252:100-8-4 [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

SUMMARY:

The Department is proposing to amend 252:100-5-2.2 to increase annual operating fees for minor facilities and to include a provision for state appropriations and federal grants to be used to offset annual operating fees assessed to minor facilities. The Department is also proposing to increase the base annual operating fee for Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no

PBR has been written, the opportunity to apply for coverage under an applicable general permit.

The Department is also proposing to amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

The Department is proposing amendments to 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. In addition, it is proposed that 252:100-8-4(a)(2) be amended to update the incorporation by reference of 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Substantive changes are proposed for each subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; a request from American Airlines, Boeing, and Nordam, dated January 19, 1998, to exclude acetone from the definition of VOC; a request from the Halogenated Solvents Industry Alliance dated April 21, 1997, to exclude perchloroethylene from the definition of VOC; a request from Dow Corning to exclude methylated siloxanes from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, to exclude methyl acetate from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The fourth substantive change to Subchapter 37 will be the addition of a new Part 9, Permit by Rule for Volatile Organic Compound Storage and Loading Facilities. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive

change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons to 252:100-39-41(c) to determine the applicability of subsection (c).

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments on proposed amendments to 252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7 will be accepted until December 8, 1998. Oral comments may be made at the December 15, 1998 hearing.

Comments on all other proposed amendments and new rules included in this notice will be accepted beginning Monday, November 16, 1998, through Tuesday, December 15, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, December 8, 1998.

Also scheduled before the Environmental Quality Board (Date and location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, December 15, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 16, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7), Jeanette Buttram (Subchapter 7 except 252:100-7-3), and Joyce Sheedy (252:100-8-4 and Subchapters 37 and 39), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1473; filed 10-23-98]

**TITLE 330. OKLAHOMA HOUSING
FINANCE AGENCY
CHAPTER 55. HOME INVESTMENTS
PARTNERSHIP PROGRAM RULES**

[OAR Docket #98-1472]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

330:55-1-1 through 330:55-1-7 [NEW]

330:55-3-1 through 330:55-3-6 [NEW]

330:55-5-1 through 330:55-5-2 [NEW]

330:55-7-1 through 330:55-7-5 [NEW]

SUMMARY:

The Board of Trustees of the Oklahoma Housing Finance Agency (OHFA) a public trust, have in compliance with Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended and codified at 42 U.S.C. 12701-12839; and 24 CFR Part 92, Section 92.1, *et seq.* (Title II) adopted OHFA's Chapter 55. HOME Investments Partnership Program Rules (the 'Rules') for use in the allocation and issuance of HOME Program funds throughout the state of Oklahoma.

The Rules provide guidelines which OHFA follows in allocating HOME funds pursuant to Title II and are intended to provide a description of the procedures to be followed by applicants for evaluating and prioritizing applications. The Rules also provide an overview of Title II and other federal regulations which govern the administration of the HOME Program.

AUTHORITY:

These Chapter 55 rules are authorized by the Trustees of The Oklahoma Housing Finance Agency (OHFA), the Amended Trust Indenture of OHFA, and the Bylaws of OHFA.

COMMENT PERIOD:

Written comments will be accepted November 16, 1998 through December 16, 1998. Comments should reference the section of the rules addressed and be sent to Oklahoma Housing Finance Agency, P. O. Box 26720, Oklahoma City, Oklahoma 73126-0720, Attn: Byron Debruler.

PUBLIC HEARING:

The following public hearing will be held: December 8, 1998, at 10:00 a.m. at the offices of OHFA, 1140 N. W. 63rd Oklahoma City, OK in the 4th floor conference room. All interested persons are invited to attend and present their views.

COPIES OF PROPOSED RULES:

Copies of the proposed Rules may be obtained by contacting Byron Debruler, at OHFA, 1140 Northwest 63rd, P. O. Box 26720, Oklahoma City, Oklahoma 73126-0720, 405-848-1144 Ext. 314. There will be a \$5.00 per copy charge.

Memorial Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the amendments will be prepared, as required by law, and will be available at the Office of the State Board of Education, Room 1-18, Oliver Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Brenda DeShazo, 405-521-3308

[OAR Docket #98-1685; filed 12-17-98]

tons per year of emissions, but for which no PBR has been written, the opportunity to apply for coverage under an applicable general permit.

The Department is also proposing to amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

The Department is proposing amendments to 252:100-8-1.7 to increase applicability determination fees for Part 70 sources. In addition, it is proposed that 252:100-8-4(a)(2) be amended to update the incorporation by reference of 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, et seq.

COMMENT PERIOD:

The comment period through December 8, 1998 was published in the November 16, 1998 Oklahoma Register for the Air Quality Advisory Council meeting held on December 15, 1998.

PUBLIC HEARINGS:

Previously held before the Air Quality Advisory Council on December 15, 1998.

However, oral comments may be made at the meeting of the Environmental Quality Board, March 5, 1999, 9:30 a.m., at the Association of County Commissioners of Oklahoma, 429 NE 50th Street, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules are available for review at the Air Quality Division office at 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Shawna McWaters-Khalousi (252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7), Jeanette Buttram (Subchapter 7 except 252:100-7-3), and Joyce Sheedy (252:100-8-4), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1721; filed 12-22-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-1721]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

252:100. Air Pollution Control

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2 [AMENDED]

Subchapter 7. Permits for Minor Facilities [AMENDED]

Subchapter 8. Permits for Part 70 Sources

252:100-8-1.7 [AMENDED]

252:100-8-4 [AMENDED]

SUMMARY:

The Department is proposing to amend 252:100-5-2.2 to increase annual operating fees for minor facilities and the base annual operating fee for Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of five (5) tons per year for PBR facilities. This will allow those facilities with less than five (5) tons per year emissions which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP) to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part 9 also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-847]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

September 15, 1998 through December 8, 1998; and December 15, 1998

Public hearing:

October 20 and December 15, 1998; and March 5, 1999

Adoption:

March 5, 1999

Submitted to Governor:

March 15, 1999

Submitted to House:

March 15, 1999

Submitted to Senate:

March 15, 1999

Gubernatorial approval:

April 19, 1999

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 7, 1999

Final adoption:

May 7, 1999

Effective:

June 11, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The changes to Subchapter 5 will modify fees for both Part 70 and minor emission sources. In 252:100-5-2.2(b)(1)(C), new language has been proposed which sets the base annual operating fee for minor facilities at \$17.12 per ton of regulated pollutant beginning January 1, 1999. In 252:100-5-2.2(b)(2)(B), the annual operating fee for Part 70 sources would be increased to \$17.12 per ton of regulated pollutant beginning January 1, 1999.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on December 15, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma 73101-1677. (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 1999.

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-2.2. Annual operating fees

(a) Applicability.

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) This section does not apply to de minimis facilities.

(b) Fee schedule.

(1) Minor facilities.

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

- (i) 10 - 24.99 tons/year - \$100/year
(ii) 25 - 49.99 tons/year - \$250/year
(iii) 50 - 74.99 tons/year - \$500/year
(iv) 75 - 99.99 tons/year - \$750/year

(B) Beginning January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee of \$10/ton. This fee is based on total annual emissions of regulated pollutants (for fee calculation) In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).

(2) Part 70 Sources.

(A) Effective From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

(B)(C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent

calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) **Payment.** For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S.-1993-Supp. 1993, Sec. § 2-5-101 *et seq. et seq.*, to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

(d) **Basis for annual operating fees.**

- (1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).
- (2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

[OAR Docket #99-847; filed 5-7-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-848]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 7. Permits for Minor Facilities
 - Part 1. General Provisions
252:100-7-1.1 through 252:100-7-2 [AMENDED]
 - Part 2. Permit Application Fees
252:100-7-3 [AMENDED]
 - Part 3. Construction Permits
252:100-7-15 [AMENDED]
 - Part 4. Operating Permits
252:100-7-18 [AMENDED]
 - Part 9. Permits by Rule
252:100-7-60 through 252:100-7-60.2 [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

For 252:100-7 except 252:100-7-3 - July 15, 1998, through August 18, 1998; September 15, 1998, through October 20, 1998; and November 16, 1998 through December 15, 1998

For 252:100-7-3. Permit Application Fees - September 15, 1998 through December 8, 1998; and December 15, 1998

Public hearing:

For 252:100-7 except 252:100-7-3 - August 18, October 20, and December 15, 1998; and March 5, 1999

For 252:100-7-3. Permit Application Fees - October 20 and December 15, 1998; and March 5, 1999

Adoption:

March 5, 1999

Submitted to Governor:

March 15, 1999

Submitted to House:

March 15, 1999

Submitted to Senate:

March 15, 1999

Gubernatorial approval:

April 19, 1999

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 7, 1999

Final adoption:

May 7, 1999

Effective:

June 11, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The changes to Subchapter 7 will modify language applicable to minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the

OAC 252:100-5[2]
Air Quality Council

**BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL**

**Tuesday October 20, 1998 9:30 A.M.
Tulsa City-County Health Department Auditorium
5051 South 129 East — Tulsa, Oklahoma**

1. **Call to Order – Bill Breisch**
2. **Division Director's Report**
Informational update of current events and AQD activities
 - A. Discussion by Council / Public
3. **CY99 Meeting Schedule**
 - A. Discussion by Council
4. **OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
5. **OAC 272:100-7 Permits [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
6. **OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]**
Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public

7. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – ~~Becky Mainord~~ *Michelle*
 - B. Questions and discussion by Council / Public

8. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public

9. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

10. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

11. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING/HEARING
AIR QUALITY COUNCIL

Tuesday October 20, 1998 1:00 p.m.
Tulsa City-County Health Department Auditorium
5051 South 129 East --- Tulsa, Oklahoma

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the August 18, 1998 Regular Meeting
4. CY99 Meeting Schedule
 - A. Discussion by Council
 - B. Possible action by Council
 - C. Roll call vote
5. OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]
OAC 252:100-7 Permits [AMENDED]
OAC 252:100-8 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources with possible increases of permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
 - C. Roll call vote
6. OAC 272:100-7 Permits [AMENDED]
Proposed revisions will delete the lower limit of 5 tons per year for Permit by rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
7. OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]
Proposed amendments to Subchapter 25 are needed to fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P, and would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. A new subsection would contain methods for determining compliance with the opacity limits. Other proposed amendments to Subchapter 25 are designed to simplify and clarify the rule. Continued from August 18, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

8. **OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
- A. Presentation – Becky Mainord
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
9. **OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and add a new PBR section. Continued from August 18, 1998 Air Quality Council meeting.
- A. Presentation – Michelle Martinez
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
10. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.
- A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
11. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
 Proposal would simplify the language under the agency-wide re-write/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18, 1998 Air Quality Council meeting.
- A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
12. **OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]**
 The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40 CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.
- A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote
13. **NEW BUSINESS**
- A. Discussion/consideration of subjects / business arising within the past 24 hours
 - B. Possible action by Council
14. **ADJOURNMENT – Next Regular Meeting** **TUESDAY, DECEMBER 15, 1998**
 Lincoln Plaza Office Park - Burgundy Room 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma

Should you desire to attend but have a disability and need an accommodation,
 please notify our Department three days in advance at (405) 702-4100.

MINUTES

AIR QUALITY COUNCIL

OCTOBER 20, 1998

Tulsa City-County Health Department Auditorium
5051 South 129th Street East
Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce

Council Members Absent

Larry Canter
Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 20, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye. Mr. Kilpatrick, Ms. Slagell and Dr. Canter did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 18, 1998 Public Meeting/Hearings. Motion was made by Mr. Wilson to approve the Minutes as presented and second to the motion was made by Dr. Grosz. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

1999 Meeting Schedule - Mr. Dyke presented Council with proposed scheduled for 1999 meetings with the suggestion that the December 21 date mentioned in the packet memo be changed to December 14. Ms. Myers made motion to accept the schedule as proposed: Wednesday, February 17, Tuesday, April 20, Tuesday, August 17, and Tuesday, December 14 at OKC, DEQ Multi-Purpose Room; with Tuesday, June 15 and October 19 at Tulsa, TCCHD Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Auditorium. Second to motion was made by David Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 Permits [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram for staff position regarding this rule. Ms. Buttram pointed out proposed revisions would modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits stating that actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of “de minimis facility.” Also, she stated that proposed revision would delete the lower limit of five tons per year for PBR facilities allowing those facilities with less than five tons per year emissions which are subject to NSPS or NESHAP to apply for a PBR instead of having to obtain an individual permit. Ms. Buttram advised that staff proposed that a new Part 9 be added that would outline the requirements necessary for a facility to qualify for a PBR. A third point she brought out was the proposed revision to delete the lower limit for general permits allowing facilities that may have less than 40 tons per year of emissions, but for which no PBR had been written, the opportunity to apply for coverage under an applicable general permit. Lastly, she added that the Department proposed to amend 252-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

Following discussion and comments, Chairman Breisch entertained a motion to continue this rule to the Council’s October 20, 1998 meeting. Ms. Myers made that motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-25 Smoke, Visible Emissions and Particulates [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Jeanette Buttram to give staff’s position on this rule. Ms. Buttram pointed out that the proposed amendments would fulfill an EPA requirement concerning Continuous Emissions Monitoring proposing to incorporate by reference the Federal opacity monitoring requirements for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators as specified in 40 CFR 51, Appendix P. She noted that the Department proposed to exempt from Appendix P requirements for those sources already subject to a new source performance standard and for sources scheduled for retirement within five years after the

amended rule takes effect. Ms. Buttram added that the amended rule would also provide criteria for approval of alternative monitoring requirements with additional changes that would clarify how the opacity standard is determined.

Mr. Breisch asked for a motion to recommend the rule as proposed to the Environmental Quality Board for permanent adoption. Mr. Wilson made the motion with David Branecky making the second. Roll call was as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who related that the draft rule included simplification of language according to the Agency's re-write/de-wrong initiative and the addition of a Permit by Rule section. She then pointed out that the proposed revisions add a new Permit by Rule section that would streamline the permitting process by creating a mechanism that eliminates the necessity for some cotton gins to obtain an individual air quality permit. Ms. Martinez added that additional changes would allow exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Following discussion, Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Ms. Myers made the motion with second made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Michelle Martinez who advised that the proposed revisions would simplify the language under the agency-wide re-right/de-wrong initiative and would add a new Permit by Rule section to streamline the permitting process by creating a mechanism that would eliminate the necessity for some grain elevators to obtain an individual air quality permit. Ms. Martinez added that a new Appendix L proposed would contain PM-10 emission factors for PBR grain elevators. Additional changes follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the

opacity standard allowing exceedances of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

Mr. Breisch entertained a motion to recommend the rule to the Environmental Quality Board for permanent adoption at its November 10 meeting. Mr. Wilson made that motion with second made by Ms. Myers. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She then pointed out four substantive changes that were proposed for Subchapter 37 as well as Subchapter 39:

- 1) to change the definition of “volatile organic compounds (VOC)” per Council’s direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;
- 2) to remove of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a);
- 3) a change regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences; and
- 4) to add a new Part 9, Permit by Rule for Volatile Organic Liquid Storage and Loading Facilities.

Mr. Breisch entertained a motion to continue this rule to Council’s December meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who advised that proposed changes included language consistent with the re-right/de-wrong initiative. She stated that one substantive change affects both Subchapters 39 and 37

which is to change the definition of "volatile organic compounds" per Council's direction and requests from industry to exclude acetone, perchloroethylene, methylated siloxanes, methyl acetate from the definition of VOC and to modify the definition of VOC to be consistent with the EPA definition;

In Subchapter 39, Dr. Sheedy pointed out the need for correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2) which would be a substantive change along with the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c).

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's December 15 meeting. Mr. Branecky made that motion with the second made by Mr. Wilson. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy who stated that the proposed revisions would update the adoption by reference of 40 CFR Part 63 to include Maximum Achievable Control Technology (MACT) standards promulgated or amended between July 1, 1997 and July 1, 1998. She pointed out that the new standards are Subpart S - NESHAP for Pulp and Paper Production and Subpart LL - NESHAP for Aluminum Production Plants. The proposed revisions will also update the adoption by reference of the NESHAP as found in 40 CFR Part 61 (with the exception of Subparts B, H, I, K, Q, R, T, and W. and Appendices D and E which address radionuclides) to July 1, 1998. Dr. Sheedy advised the Council that these modifications were necessary to obtain EPA's delegation of authority to implement the federal hazardous air pollutant program in Oklahoma.

Mr. Breisch entertained a motion to recommend this rule to the Environmental Quality Board for permanent adoption. Mr. Wilson made that motion with the second made by Mr. Branecky. Roll call as follows: Mr. Branecky - aye; Ms. Myers - aye; Mr. Wilson - aye; Dr. Grosz - aye; and Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes

PUBLIC HEARING

**OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees
[AMENDED]**

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke then called upon Ms. Shawna McWaters-Khalousi for staff recommendation. Ms. Khalousi advised that the Department is proposing to amend 252:100-5-2.2 to increase annual operating fees assessed to minor facilities; amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits; and amend 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. Ms. Khalousi stated that it was staff's recommendation that this rule be continued to Council's December 15 meeting.

Mr. Breisch entertained motion to continue these rules to the December meeting. Ms. Myers made the motion and second was made by Mr. Branecky. Roll call as follows: Mr. Branecky – aye; Ms. Myers – aye; Mr. Wilson – aye; Dr. Grosz – aye; Mr. Breisch - aye.

Hearing transcripts will be attached and made an official part of these minutes.

NEW BUSINESS – None

ADJOURNMENT With no further business, meeting was adjourned and next regularly scheduled meeting being December 15, 1998 at Lincoln Plaza Office Complex Burgundy Room, 4545 North Lincoln, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

 12/15/98

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

 12/15/98

DAVID R. DYKE, ASSISTANT DIRECTOR
AIR QUALITY DIVISION



AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

OCTOBER 20, 1998

SIGN-IN SHEET

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Bonnie McGilbra	2122 S. Yukon Tulsa	583-3925
2. John Snow HAROVER	1600 W VANDAMENI	405-640-9610
3. Carlos J. Nazario	Tinker AFB	405-734-707
4. Connie White	Tinker AFB	LL "
5. Phonda Jeffries	ODEQ ROAT	(918) 488 8895
6. HERB NEWMAN	"	"
7. Nadene Barton	CASE	481-0474
8. FRANK GANDON	EQ BOARD	
9. Carol Barker	Tinker AFB	736-7246
10. Perry Friedrich	GRMA Chateau	476-8268
11. SANDRA RENNIE	EPA REGION 6	(214) 665-7367
12. Terry Thomas	" "	214-665-7160
13. Stanley M. Spruill	" "	(214) 665-7212
14. Anne Schaefer	Tinker AFB	405.734.7071
15. Rose Williams	Tinker AFB	405.734.3002
16. Bruce Russell	DEQ	918 488 8895
17. BILL CLARK	Sun Co. Inc.	918-594-636
18. JACK FLY	TULSA	918-488-8895
19. Deann Hughes	Cardinal Engineering	405-842-1066
20. Dustin Givens	Fort James	918 683-7671
21. Steve Landers	" "	" " "
22. GISPALD BUTCHER	W/FEC	405-247-4344
23. Howard Ground	CSW	214-777-1711
24. Deborah Perm	Enercor	918-665-7693
25. Joel Nelson	Boeing P.O. Box 582608 Tulsa, OK 74158	918-832-3215



NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Rick Trema	Box 1307 East, OK 73712	580 233-5800
27. Kim Warram	6545 So Meridian Ste 214	405 722 769
28. Ron Sobber	10830 E 45th St ^{OKC} Tulsa	918 663 9856
29. Edwing Jim	4115 N. Perkins Rd Stillwater	405 377 1293
30. Dan Wally	1408 S Denver Tulsa 74119	918 582 54
31. Don Pugh	American Airlines PO Box 582809, MD 508 Tulsa 74158	918-292
32. Cathy Oshan	Mintech/Perrow Fir 4608 S Garnett Tulsa 74146	641-0
33. David Emery	12 AZ Phillips Building Bartlesville OK 7400	
34. Cheryl Bradley	DEQ AQD	
35.		
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BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Tuesday - December 15, 1998 9:30 A.M.
4545 North Lincoln Boulevard
Burgundy Room
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Division Director's Report - Staff**
 - A. Update of current events and AQD activities
 - B. Discussion by Council / Public
3. **OAC 252:100-7 Permits for Minor Facilities [AMENDED]**

Proposed revisions will delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will also be referenced under this new Part. Continued from August 18 and October 20, 1998 Air Quality Council meeting.

 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
4. **OAC 252:100-8-4(a)(2) Permits for Part 70 Sources [AMENDED]**

The Department proposes to update the incorporation by reference of the case-by-case MACT rules in 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
5. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

6. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18 and October 20, 1998 Air Quality Council meeting.

- A. Presentation – Joyce Sheedy
- B. Questions and discussion by Council / Public

7. **OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

OAC 252:100-7-3 Permits for Minor Facilities [AMENDED]

OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

In Subchapter 5, the Department is proposing increases in annual operating fees for both minor facilities and Part 70 sources, with increases of specific permit application fees in Subchapters 7 and 8.

- A. Presentation – Shawna McWaters-Khalousi
- B. Questions and discussion by Council / Public

HEARING/MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Tuesday December 15, 1998 1:00 P.M.
4545 North Lincoln Boulevard
Burgundy Room
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the October 20, 1998 Regular Meeting**
4. **OAC 252:100-7 Permits for Minor Facilities [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will also be referenced under this new Part. Continued from August 18 and October 20, 1998 Air Quality Council meeting.
 - A. **Presentation – Jeanette Buttram**
 - B. **Questions and discussion by Council / Public**
 - C. **Possible action by Council**
 - D. **Roll call vote**
5. **OAC 252:100-8-4(a)(2) Permits for Part 70 Sources [AMENDED]**
The Department proposes to update the incorporation by reference of the case-by-case MACT rules in 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.
 - A. **Presentation – Joyce Sheedy**
 - B. **Questions and discussion by Council / Public**
 - C. **Possible action by Council**
 - D. **Roll call vote**

6. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18 and October 20, 1998 Air Quality Council meetings.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

7. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18 and October 20, 1998 Air Quality Council meetings.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

8. **OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits for Minor Facilities [AMENDED]
OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is proposing increases in annual operating fees for both minor facilities and Part 70 sources, with increases of specific permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

9. **NEW BUSINESS**
 - A. Discussion/consideration of subjects / business arising within past 24 hours
 - B. Possible action by Council

10. **ADJOURNMENT -- Next Regular Meeting**
WEDNESDAY, FEBRUARY 17, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson, Oklahoma City, Oklahoma

December 4, 1998

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director ^{ET.}
Air Quality Division

SUBJECT: Modifications to Air Quality Fees - Subchapters 5, 7, 8

Enclosed are copies of the proposed draft modifications to the Air Quality Fees (Subchapters 5, 7 and 8). These proposed rule changes were brought before the Air Quality Council during the October 20, 1998 public hearing, and it was recommended that it be heard again on December 15, 1998. These proposed changes increase fees to both major and minor sources.

Subchapter 5 Modifications:

- The annual minor source operating fee changes from \$10.00 to \$31.01 per ton, effective 1/1/99.
- The annual operating fee will be reduced to a level not less than the major source annual operating fee, if additional state appropriations or federal grants are received.
- The annual major source operating fee changes from \$16.39 (\$15.19 + CPI adjustments) to \$17.56 per ton, effective 1/1/99. *This represents a decrease of \$0.16 per ton from the \$17.72 per ton proposal presented at the 10/20/98 meeting.*

Subchapter 7 Modifications:

- The fee for a minor source applicability determination changes from \$100 to \$250.
- The fees for all types of individual minor source permits double.

Subchapter 8 Modifications:

- The fee for a major source applicability determination changes from \$100 to \$250.

Since the 10/20/98 Council meeting, we have presented our original proposal to the Small Business Advisory Panel at their regular meeting on 10/26/98 and further discussed fees at a continued meeting on 11/16/98. We have also met with the Council's Financial Subcommittee on 11/13/98 and hope to meet again before the 12/15/98 Council meeting. Additional documentation and support information will be delivered under separate cover before the meeting.

Staff will suggest that the proposed rules be recommended to the Board for permanent and emergency adoption.

Enclosures: 3

SUBCHAPTER 5. REGISTRATION,
EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-2.2. Annual operating fees

(a) **Applicability.**

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) This section does not apply to de minimis facilities.

(b) **Fee schedule.**

(1) **Minor facilities.**

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

~~(B) Beginning January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee of \$10/ton. This fee is based on total annual emissions of regulated pollutants (for fee calculation). In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).~~

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$31.01 per ton of regulated pollutant (for fee calculation).

(D) State appropriations and federal grants will be used, where possible, to reduce the annual fee to an amount no lower than the annual operating fee calculated under 252:100-5-2.2(b)(2) for that calendar year.

(2) **Part 70 Sources.**

(A) Effective From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.56 per ton of regulated pollutant (for fee calculation).

~~(B)~~ (C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year

DRAFT - Notice Date:

November 16, 1998

ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) **Payment.** For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp., Sec. 2-5-101 et seq., to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

(d) **Basis for annual operating fees.**

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

MINUTES
AIR QUALITY COUNCIL
DECEMBER 15, 1998
Lincoln Plaza Office Complex
Burgundy Room
4545 North Lincoln Boulevard
Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Larry Canter
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Jeanette Buttram
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce
Cheryl Bradley
Becky Mainord

Council Members Absent

Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for December 15, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye; Mr. Kilpatrick and Ms. Slagell did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 20, 1998 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Mr. Branecky. Roll call as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye.

PUBLIC HEARINGS

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered into the hearing records the Hearing Agenda and Oklahoma Register Notice.

OAC 252:100-7 Permits [AMENDED]

Mr. Dyke called upon Ms. Jeanette Buttram for staff recommendation to Council. Ms. Buttram advised that proposed revisions delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emission standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit.

Also a new Part 9 is proposed which will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities would also be referenced under this new Part. Within Part 9, Section 252:100-7-60.3 was written due to the proposed PBR section for VOC storage and loading facilities in Subchapter (SC) 37. Staff recommendation for SC 37 will be to continue the rule until the February AQC meeting. Therefore, staff suggests the proposed new section be deleted from the rule and added once the PBR in SC 37 is approved. Mr. Branecky requested clarification of which part of the rule was being deleted. Ms. Buttram confirmed the suggestion to recommend the proposed rule, excluding Section 252:100-7-60.3, to the Environmental Quality Board for permanent adoption.

Following discussion and comments, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality board at the next meeting. Dr. Grosz made that motion with second made by Ms. Myers. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100:8-4(a)(2) Permits for Part 70 Sources [AMENDED]

Mr. Dyke called upon Ms. Joyce Sheedy for staff recommendation regarding this rule. Dr. Sheedy advised that these amendments update the incorporation by reference of the case-by-case MACT determinations for Part 70 sources in 252:100-8-4 (a)(2)(C) by adopting 40 CFR 63.41, 63.43, and 63.44 as they exist on July 1, 1998. Dr. Sheedy advised that this update would be made annually.

Mr. Breisch entertained motion recommending adoption as permanent rule by the Environmental Quality Board. Mr. Branecky made the motion with the second being made by Mr. Wilson. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

Mr. Dyke called upon Dr. Joyce Sheedy who advised that proposed changes primarily simplify language and correct grammar and format but also include various substantive changes. Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. Dr. Sheedy then stated the staff's recommendation to continue this rule until the February Council meeting because of remaining controversy.

Council discussion followed. Mr. Wilson expressed concern about SC 37 being open for so long with no action taken. During public discussion, Mr. Bradshaw from Boeing reiterated Mr. Wilson's concern. Mr. Bradshaw further explained that the specific point of concern for Boeing and American Airlines is the definition of VOC. He said the members of his industry would like to see the definition amended as soon as possible. Ms. Hoffman responded by explaining that it is the intent of the staff to have all remaining issues with SC 37 resolved and to recommend approval of the rule by the Council. She further explained that if the rule is

approved by the Council in February, there would be time to get the packet of information to the Environmental Quality Board before the March 5, 1999 meeting.

Mr. Breisch entertained a motion to continue this rule to Council's February meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]
Mr. Dyke called upon Dr. Joyce Sheedy for staff recommendation. Dr. Sheedy pointed out that the proposed changes primarily simplify language and correct grammar and format but also include some substantive changes. Dr. Sheedy explained that written comments, staff responses and details of the substantive changes were summarized in the Council packet. Dr. Sheedy submitted the written letters from EPA and EFO for hearing record.

There were no questions or comments from the Council or from the public.

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's February 17, 1999 meeting. Mr. Branecky made that motion with the second made by Ms. Myers. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]
OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

This subject was first brought before the Council on October 20, 1998 at which time the Council voted to continue the hearing until the December 15, 1998 Council meeting. The presentation for this public hearing consisted of several staff members. Mr. David Dyke began by informing those present that written comments have been received from the Environmental Federation of Oklahoma, Mid-Continent Oil and Gas Association, and the Small Business Advisory Panel. These comments and staff responses were submitted for official record. Mr. Dyke continued to explain the Division's anticipated increase in workload and discussed other factors contributing to the request for fee increases.

Mr. Dyke called upon Mr. Scott Thomas to describe the upcoming rulemaking activities. Mr. Thomas explained that the Division's rulemaking goals were designed according to proposed rules received from the EPA, instruction from the State Legislature to review all of our rules by December 2000, and efforts to go forward with the agencies directive and goals of the permit continuum. Mr. Thomas also stated that in order to accomplish these goals, additional staff would be required or the rulemaking priorities would have to be refined. Mr. Ray Bishop came forward to elaborate upon the need for additional permitting staff. He stated that even though the Permit program has instituted a number of time-saving and efficiency efforts, the Division does not anticipate meeting the impending Title V time frames and deadlines with the current staff. He also reviewed the non-Title V activities required of the permitting

staff. Mr. Terrill commented regarding potential actions that could occur at the federal level and consequently affect the Division.

Finally, Mr. Dyke called upon Ms. Shawna McWaters-Khalousi to explain the proposed fee increases and how they were derived. Staff recommended approval by the Council. Mr. D summarized staff's position by stating that even though services and spending levels are reduced from previous years, the current level of services and management of oncoming issues cannot be maintained without additional staff. Mr. Dyke assured that the Division would not compromise the environmental protection, but be forced to shift and prioritize resources ultimately resulting in reduced services provided.

After extensive comment and discussion from the Council, the public and members of industry, Mr. Breisch entertained, and Mr. Branecky made the motion that: In SC 5, annual operating fees for minor facilities and for Part 70 sources be increased to \$17.12 per ton; In SC 7, the fee for minor source applicability determinations be increased to \$250 and the fees for all types of individual minor source permits be doubled; and In SC 8, the fee for major source applicability determinations be increased to \$250. Ms. Myers made the second to Mr. Branecky's motion with roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

NEW BUSINESS The Council requested a monthly financial statement from Mr. Coleman's office. This information would enable the Finance Committee to monitor the cash flow of the AQD and work toward avoiding future budgetary shortfalls. Additionally, the Council requested that a comprehensive and detailed list of tasks that would be billed to Title V expenditures be created. This list would be a guideline for staff to follow when accounting time and effort. Finally, a request was made for additional state appropriations for a workload study that will determine staffing priorities.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 17, 1999 at the Department of Environmental Quality Multi-Purpose Room, First Floor, 707 North Robinson, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the copies of hearing records are attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 15, 1998

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Robert A. Fiddling, Jr.	ARM STRONG	405-377-1283 x146
2. Bill Fishbeck	MOBIL	405-348-8683
3. Kim Wannam	Enercon	405- 300 ⁷³² 7693
4. Stanley M. Spruiell - ETA ^{ETA}	EPA - Air Permits	719 739-0804
5. Carol Barker TAFB	EMV	736-7246
6. Carlos Nazario TAFB	EMV	734-7071
7. Kevin Cannon TAFB	LAPER	736-5986
8. Pat Haverford	National Std.	405/3775050
9. Danish Bradshaw	Tulsa	918/832/2073
10. Kip Ruff	Tulsa	918/832/3178
11. Tom Am	OKC	405-672-3400
12. Mike Wood/Weyco	Hot Springs, AR	501-624-8569
13. Rick Boggs/GCS	PO BOX 6911 ANADARKO, OK	405/577-3186
14. Dustin Givens	Fort Jones	918/683-7() 1
15. Steve Landers	" "	" " "
16. Howard Ground	CSW	214-777-1711
17. Nadine Porter	-CASE	
18. Kyle Arlin	ODEQ	405-702-6112
19. John COAKLEY	EQ Board	580-726-2189
20. John Wheeler	Trinity	972-661-8100
21. Shauna McWater Khalazi	AAD	(405) 702-4100
22. David Emery Phillips Pet		918-661-3041
23. Andrew Livingston	Sinclair Oil Corp	918-588-1127
24.		
25.		

AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100

Subchapters or Sections Involved – [new, amended or revoked]

OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees AMENDED]
OAC 252:100-7-3 Permits for Minor Facilities [AMENDED]
OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

On DECEMBER 15, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

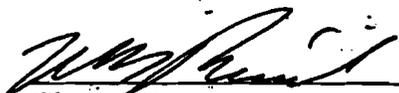
permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,


Chair or Designee

Date signed: 12-15-98

VOTING TO APPROVE:

VOTING AGAINST:

ABSTAINING:

ABSENT:

OAC 252:100-5[2]
Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, March 5, 1999
Association of County Commissioners of Oklahoma
429 NE 50th Street, Oklahoma City, Oklahoma

1. Call to Order - Herschel Roberts
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 10, 1998 Regular Meeting
4. Election of Officers (Chair and Vice-Chair) for 1999

5. **OAC 252:100 Air Pollution Control:**

Changes are proposed to five subchapters. The changes fall into three general groups.

- Proposed revisions to both Subchapters 37 (Control of Emissions of Organic Materials) and 39 (Emission of Organic Materials in Nonattainment Areas) include 1) definitional changes, including most notably the term "volatile organic compound (VOC)" and related terms; 2) exemption of certain types or sizes of VOC loading and storage vessels and facilities and certain pumps and compressors from some state requirements and standards, especially when the equipment or facilities are subject to related federal requirements; 3) deletion of a rule which allows the emission of 3,000 pounds per day or 450 pounds per hour of organic materials before controls are required; 4) revision of an alternate emission standard for coating operations; 5) correction of the impossible requirement that no emission of hydrocarbons or organic material is allowed from fuel-burning or refuse-burning equipment; and 6) addition of provisions for permit by rule for VOC storage and loading facilities.
- Proposed amendments to Subchapter 7 (Permits for Minor Facilities) will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the current lower tonnage limits for PBR and general permits. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Proposed amendments to Subchapter 8 (Permits for Part 70 Sources) will update the adoption by reference of the requirements for case-by-case MACT determinations contained in federal rules to July 1, 1998.
- Proposed amendments to Subchapter 5 would increase the annual operating fees for both Part 70 and minor emission sources. Proposed revisions to Subchapter 7 will increase the applicability determination fee and individual application fees for minor facilities. Subchapter 8 is revised to increase the fee for applicability determinations, consistent with the proposed increase in Subchapter 7.

- A. Presentation— David Branecky, Air Quality Council member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

6. **OAC 252:200 and 205 Hazardous Waste Management:**

The state hazardous waste rules have been revised as part of the DEQ's effort to simplify and streamline its rules. The rewrite is not intended to change the requirements of the rules, but to make them clearer and more concise. Due to extensive reworking of the language and rearrangement of the text, the DEQ believes it is more understandable and straightforward to revoke Chapter 200 in its entirety and replace it with a new chapter, Chapter 205, than to present an underline/strike-out version of Chapter 200. This revocation and replacement was done last year by emergency rulemaking; it is proposed to repeat the action as permanent rulemaking.

Chapter 205 as proposed also contains three categories of substantive changes. The first is update of the adoption by reference of federal hazardous waste regulations to July 1, 1998. The second is to delineate certain hazardous waste regulatory duties which remain with the U.S. Environmental Protection Agency. The third is to clarify that although federal hazardous waste regulations allow conditionally exempt small quantity generators of hazardous waste to dispose of their hazardous waste in certain solid waste landfills, this practice is prohibited by Oklahoma statute.

- A. Presentation— David Bradshaw, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

7. **OAC 252:400 Radiation Management:**

The proposed new rules support Oklahoma's pending application to the U.S. Nuclear Regulatory Commission (NRC) for State Agreement status. NRC approval of Oklahoma's application will shift regulation of source, byproduct and special nuclear material from the NRC to the DEQ.

New Subchapter 2 forms the framework for the State Agreement Program and the incorporation by reference of federal NRC regulations from Title 10 of the Code of Federal Regulations. Appendices G through P mirror NRC categories and set fees for Oklahoma's State Agreement Program. All fees in these Appendices are less than the current federal fees. Due to the requirement that fees must be adopted during the time the legislature is in session, these Appendices are presented to the Board before the remainder of Subchapter 2's State Agreement rules. However, these fee schedules will not go into effect until the date the State Agreement program becomes effective.

- A. Presentation— Dr. David Gooden, Radiation Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

8. **OAC 252:510 Municipal Solid Waste Landfills:**

The proposed addition of Subchapter 16 addresses new standards for the exclusion of hazardous, PCB, radioactive, or other restricted wastes from disposal in a municipal solid waste landfill (MSWLF). The rules require owners/operators to submit a new or amended Waste Exclusion Plan for approval by January 1, 2000, and sets standards for the plan. The amendment to 252:510-17-5 incorporates the Subchapter 16 provisions in the current rule requiring exclusion of unacceptable wastes.

The proposed amendment to 252:510-17-2(d) would require owners/operators of MSWLFs and nonhazardous industrial waste landfills to establish and maintain vegetative cover, or other

alternatives approved by DEQ, over waste areas that extend above the natural horizon if that area will not be receiving more waste in the upcoming year. The rule is designed to enhance dust control, erosion control and aesthetics at MSWLFs and nonhazardous industrial waste landfills once they begin placing waste above ground.

The amendment to 252:510-21-6 would clarify that the pay-in period under the Trust Fund financial assurance mechanism, which may be used to ensure the costs for closure and post-closure of the landfill, is limited to a maximum of 15 years. This change is consistent with the change in law provided by SB 1025 passed during the 1998 legislative session.

- A. Presentation— Steve Mason, Solid Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

9. OAC 252:520 Solid Waste Management:

The proposed amendment to 252:520-9-11 would require owners/operators of landfills to establish and maintain vegetative cover, or other alternatives approved by DEQ, over waste areas that extend above the natural horizon if that area will not be receiving more waste in the upcoming year. The rule is designed to enhance dust control, erosion control and aesthetics at landfills once they begin placing waste above ground.

Changes to Subchapter 21 implement revisions to the waste tire recycling program as required by SB 1218 and SB 986 passed during the 1998 session.

The amendment to 252:510-23-51 would clarify that the pay-in period under the Trust Fund financial assurance mechanism, which may be used to ensure the costs for closure and post-closure of solid waste disposal sites, is limited to a maximum of 15 years. This change is consistent with the change in law provided by SB 1025 passed during the 1998 legislative session.

- A. Presentation— Steve Mason, Solid Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

10. OAC 252:640 and 641 Individual and Small Public On-Site Sewage Disposal Systems:

252:640 is being revoked. The rules in Chapter 640 were clarified, substantially rewritten and reorganized through the re-right/de-wrong process and moved to 252:641. Subchapter 11 of Chapter 700 has also been rewritten and moved to new Chapter 641; among the revisions is a recategorization of certified installers. The purpose of these rules is to establish procedures for the construction, installation and operation of individual and small public on-site sewage disposal systems and to establish procedures for persons seeking certification as installers of individual sewage disposal systems.

- A. Presentation— Gary Collins, Director, Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote for permanent adoption

11. **OAC 252:700 Water and Wastewater Works Operator Certification:**
This action is a corresponding action to agenda item 10. This rule change would revoke current Subchapter 11 of Chapter 700 (relating to certification for septic tank system installers), the provisions of which are included in new Chapter 641.
 - A. Presentation– Gary Collins, Director, Environmental Complaints and Local Services Division
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote for permanent adoption
12. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)
13. Executive Director's Report
14. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak..

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

**SUBCHAPTER 5. REGISTRATION,
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

252:100-5-2.2. Annual operating fees

(a) Applicability.

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) This section does not apply to de minimis facilities.

(b) Fee schedule.

(1) Minor facilities.

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

(B) ~~Beginning January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee of \$10/ton. This fee is based on total annual emissions of regulated pollutants (for fee calculation).~~ In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).

(2) Part 70 Sources.

(A) ~~Effective From~~ From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

~~(B)~~ (C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) Payment. For Part 70 sources fees shall be paid by check or

money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½%) per month on any amount unpaid. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. ~~1993~~ Supp. 1993, ~~Sec. § 2-5-101 et seq. et seq.~~, to an owner or operator of a facility who has failed to pay such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.

(d) Basis for annual operating fees.

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

OAC 252:100-5[2]
Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL
OPERATING FEES

EXECUTIVE SUMMARY: The proposed amendments to Subchapter 5 would increase the annual operating fees for both Part 70 and minor emission sources. In 252:100-5-2.2(b)(1)(C), new language has been proposed which sets the base annual operating fee for minor facilities at \$17.12 per ton of regulated pollutant beginning January 1, 1999. In OAC 252:100-5-2.2(b)(2)(B), the base annual operating fee for Part 70 sources would be increased to \$17.12 per ton of regulated pollutant beginning January 1, 1999.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because no one federal rule corresponds to these rules.

SUMMARY OF COMMENTS AND RESPONSES:

COMMENT: ODEQ has not sufficiently demonstrated publicly that Title V permit fees have been used exclusively for the Title V program and that a fee increase is warranted at this time.

RESPONSE: DEQ disagrees. As discussed at the hearing on October 20, 1998, the Air Quality Division (AQD) of the DEQ instituted a detailed tracking system for Time and Effort (T&E) coding in 1996. Employees received training on how to code their time, and training continues on a regular basis. The 1996 calendar year financial report showed that 66% of employees' time in 1996 was spent on Title V activities. The 1997 report showed that 75% of employees' time in 1997 was spent on Title V activities. In the first half of 1998, approximately 60% of employees' time was spent on Title V activities. To determine what the Title V annual operating fee should be to cover Title V expenses, DEQ took the budget for fiscal year 1999 and added to it necessities that had been cut (such as 17 previously filled, vacant positions, computer replacements and upgrades, and statutorily-authorized salary increases for existing employees), and multiplied the total cost times 60%. From this total, DEQ subtracted projected Title V permit application fees in 1999, then divided the remaining number by 249,276 (the projected Title V emissions in 1999), to arrive at the cost per ton of \$17.72. DEQ has further refined its figures in the last month and has determined that the Title V fee should be \$17.56, which staff will propose at the December 15, 1998 hearing.

DEQ is justified in using Title V fees for 60% of its expenses because the Oklahoma Clean Air Act requires the DEQ to charge an annual operating fee "sufficient to cover the reasonable costs, both direct and indirect, of implementing and enforcing the permit program authorized by the Oklahoma Clean Air Act and the Federal Clean Air Act, including, but not to be limited to:

- a. the costs of reviewing and acting upon any permit renewal,
- b. emissions and ambient monitoring, for those costs incurred under the permitting program,
- c. preparing generally applicable rules or guidance
- d. modeling, monitoring, analyses and demonstrations,
- e. preparing inventories and tracking emissions, and
- f. inspections and enforcement."

Oklahoma Statutes Title 27A, Section 2-5-113.A.2. The budget consists of the costs, both direct and indirect, of doing these activities. The Title V program share of these costs is currently 60%, the minor facility program share is 40%.

COMMENT: DEQ should obtain an independent audit (one commenter specified that the audit should cover all funds received and disbursed by the AQD since 1995) and justify past "overcharges", building allocation charges to Title V, and administrative overhead charges of 15%.

RESPONSE: The only comment here that is relevant to the proposed fee increases is the one concerning administrative overhead charges. Overhead, termed "administrative indirect cost", is a percentage of fees collected by each program. This percentage is set by the DEQ and is charged against fees collected on an April through March timetable. This percentage is set quite low, in that it usually does not cover all overhead costs. The DEQ is operated in accordance with State law and accounting procedures, and its books are open anytime a member of the public or the State Auditor wishes to review them. We would welcome an independent audit, but the extra cost of obtaining one is not in our budget at this time.

COMMENT: DEQ should charge Title V fees quarterly at the option of the fee payer.

RESPONSE: This would have no effect on the proposed fee increases. This is, however, a convenience that we are planning to offer large fee payors in the near future. This policy change would not require a rule change.

COMMENT: Raising fees might jeopardize Oklahoma's industrial and economic strength. DEQ should run a lean program, even if that means permits will be issued at a slower rate.

RESPONSE: There are rules that require DEQ to issue air quality permits within so many days after receiving complete permit applications. See OAC 252:2-15-72. These rules were put into place to protect both the public and permit applicants. DEQ intends to propose fees that will allow it to hire the staff necessary to adequately implement all of the rules that govern the agency.

COMMENT: The proposed annual operating fee for minor facilities is too high, especially since minor facilities emitted only 10% of the

pollutants emitted by Title V sources. DEQ should propose the same fee for major and minor facilities.

RESPONSE: Both the Federal Clean Air Act and the Oklahoma Clean Air Act require that Title V fees support the Title V program. Thus, Title V fees cannot be used to support the minor facility program costs or other costs not attributable to the Title V program. In addition, the DEQ is expected to generate revenue to cover the costs of implementing its minor facility program from fees. Precisely because Title V sources emit more pollutants, the total fee income generated from that program (which are based on tons per year emitted) are much greater than the fees derived from the minor facilities. Yet, 40% of the Air Quality Division's costs must be funded by the minor facility fees, and any federal grants and state appropriations we might receive. State appropriations cannot be used to cover the costs of the Title V program.

COMMENT: Any future increase in state appropriations or other income sources should offset any current annual operating fee increase, and language assuring this should be included in the rule, as the Air Quality Division has proposed.

RESPONSE: We agree.

COMMENT: Fees could be reduced if more facilities covered by the rules were brought into the program.

RESPONSE: DEQ agrees that there are more facilities that need to be participating in the air program. With the new streamlined permitting process, we hope to bring unpermitted facilities into the fold. Finding those individual facilities would incur costs that we cannot afford at this time.

COMMENT: DEQ should hold stakeholder discussions to determine appropriate uses for minor and Title V fees.

RESPONSE: DEQ believes that it has been engaging in such discussions, and certainly intends to continue to do so.

COMMENT: DEQ should develop a process where all new programs assumed by the state have an identified source of funding.

RESPONSE: This is an ongoing process. Like every business that provides a service, we must have the flexibility to proactively handle new mandates or market influences. Given our ever increasing budget shortfalls, each activity - both existing and new, will be increasingly scrutinized by DEQ. Decisions will be made regarding the efforts that we undertake with all our requirements and charges in mind - protection of the environment, citizens and industries. In general, funded activities will get the bulk of our resources. Those programs and projects which are not funded, will be given lower priority. Sometimes DEQ is mandated by the legislature to conduct

a program with no appropriated funding. We have to divert other appropriations, institute a fee, or be directed by the legislature to use an unrelated fee source.

COMMENT: The Small Business Advisory Panel does support an increase of the minor source annual operating fees to a level equal to what Part 70 sources are being charged. However, SBAP does not support tripling the minor source annual operating fees from \$10.00 per ton to \$31.01 per ton. SBAP does support lobbying and will assist in lobbying the Legislature on DEQ's behalf to ask for additional appropriations so that services to small businesses would not have to be reduced. The SBAP also recommends efforts be taken to encourage more small business to participate in the Air Quality program. SBAP believes increased participation in the system will generate additional revenue.

RESPONSE: The Division agrees with the need to obtain additional state appropriations to help offset some of the budgetary shortfall and encourages the SBAP to lobby the Legislature as they see fit. Also, the Division recognizes the necessity of increasing participation of small businesses in our regulatory system. The Division agrees to address the issue of lack of participation by expanding our base primarily through outreach programs assisted by Customer Service Division or through the Trade Associations.

COMMENT: DEQ does not need to increase fees to the proposed amount in order to provide a sufficient level of funding for the entire length of the Title V program. Rather, steps should be taken to evaluate the budget and provide necessary funding on an annual basis.

RESPONSE: DEQ's Air Quality Division (AQD) has been affected by a trend of increasing mandates coupled with decreasing funding. Over the past few years:

- The federal grant contributions have decreased more than 35% over the past 2 years.
- As annual emissions decrease due to more effective pollution controls, funds generated from annual operating fees decrease.
- State appropriations for the statewide program have been minimal.

Budget shortfalls over the past three years have necessitated a self-imposed hiring freeze. As a consequence, our core staff of people is at the lowest level since the Title V requirements were implemented. This creates difficulties when the Division is called upon to react to issues locally, regionally or nationally. It also prevents the Division from strategically planning, which in turn would allow us to operate more efficiently. The AQD faces several issues which should be proactively addressed today. Most worrisome are the potential exceedences of the ozone, and particulate matter standards. Non-attainment area designations may be made for not only Tulsa and Oklahoma City but also many rural communities. If non-attainment areas are designated, the staff faces a burdensome

workload. Additional duties would include:

- Sophisticated modeling efforts
- State implementation plan changes
- Special non-attainment inventory preparations
- Significant outreach to smaller sources
- Possible development and implementation of automobile inspection and maintenance program

COMMENT: When ODEQ Title V fees were originally established they were one of the lowest in the United States. It is now obvious that they were set too low. It is possible that the requested state appropriations and some grant monies may not be made available to the Division and should not be relied upon too heavily when planning the budget. If the Division does not receive the required revenue it will be forced to reduce services which could result in a hindrance to the economic development in Oklahoma. An industry representative commends DEQ on the quality and efficiency of services provided and further stated willingness to pay the cost of increased fees to ensure that the quality of services is not decreased.

RESPONSE: History has clearly demonstrated that the states that have the flexibility to handle issues proactively rather than reactively arrive at solutions that are beneficial to industry, citizens and the environment. Keeping this in mind, there are substantial benefits to these fee increases:

- Timely permit issuance
- More equitable enforcement efforts
- Ability to handle the burdensome workload associated with nonattainment status, if areas in Oklahoma are designated nonattainment
- Ability to use emissions inventories to better address transport issues
- Improved customer service
- Ability to proactively respond to dynamic Air Quality issues at the state and regional levels, resulting in less federal intervention

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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF PUBLIC HEARING OAC 252:100-5 REGISTRATION, EMISSION
INVENTORY AND ANNUAL

OPERATING FEES [AMENDED]
OAC 252:100-7 PERMITS [AMENDED]
OAC 252:100-8 PERMITS
FOR PART 70 SOURCES [AMENDED]
HELD ON OCTOBER 20, 1998, AT 1:00 P.M.
AT TULSA CITY-COUNTY
HEALTH DEPARTMENT AUDITORIUM
IN TULSA, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

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MEMBERS OF THE COUNCIL

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2. MS. SLAGELL - MEMBER
3. MR. WILSON - MEMBER
4. MS. MYERS - MEMBER
5. MR. BRANECKY - MEMBER
6. DR. CANTER - VICE CHAIRMAN
7. DR. GROSZ - MEMBER
8. MR. BREISCH - CHAIRMAN
9. MR. DYKE - PROTOCOL OFFICER
10. MS. BRUCE - SECRETARY

PROCEEDINGS

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MR. DYKE: Now we would like to go back to Item
Number 5 on the Hearing Agenda. This hearing was advertised in
the Oklahoma Register for purposes of receiving comments
pertaining to the proposed new Rule, OAC 252:100-5,
Registration, Emission Inventory and Annual Operating Fees,
Subchapter 7 Permits and Subchapter 8 Permits for Part 70
Sources.

At this time, I will call on Shawna McWaters-Khalousi
to give staff presentation on the proposed rule.

MS. MCWATERS-KHALOUSI: Mr. Chairman, Members of
the Council, and ladies and gentlemen, I am Shawna McWaters-
Khalousi, Supervisor of the Special Air Projects Unit. It is
with the utmost respect and a desire for responsible air
quality protection that I stand before you today, in order to
portray the current financial situation of the Air Quality
Division. Asking for additional fees from our industries is
not popular, but I hope after making this presentation,
everyone will have a better understanding of our position and
the proposals we've set forth.

This presentation is for information only. We are
not asking for action today. We are only seeking comment on
our proposal. Six pages have been provided to the public and
to members of the Council as handouts. Previously today, Mr.
Terrill, Mr. Thomas and Mr. Bishop described the current status
of the Air Quality Division. We are facing a dynamic and

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increasing number of challenges.

Just to reiterate, these nonattainment issues in
Tulsa and Oklahoma City are becoming more and more important.
New fees that we see coming about in response to these are
modeling, SIP revisions, preparations of special nonattainment
inventories, lower limits for major sources, significant
outreach to smaller sources, potential for I&M program
development, which would take both legislative and rulemaking
efforts. Urban toxics is a new issue that is rather an
iceberg.

OTAG 2. Many of the Western states continue to be
pointed at as potential contributors to Eastern states' ozone
problems. Data analysis and committee participation is
imperative, but time consuming on behalf of Air Quality staff.

Agency directives ask us to concentrate efforts on
those facilities and industries which pose the greatest
environmental risk. However, we have backlog of permits and
behind on our inspections. We're operating a skeleton crew --
skeleton crew on skeleton budget, as we continue to face a
serious budget shortfall.

Mr. Coleman gave us a very simple mission with this
project. Set fees to cover the costs to operate an effective
program. At the same time that we ask the Council for rule
changes, DEQ requested additional appropriations from the
Oklahoma Legislature. During the next Legislative Session, we

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1 hope to present the legislators with two options, then allow
2 them to choose. The two options are a fee package or
3 appropriations.

4 To proceed, we developed and used a model year
5 concept. Our permit backlog, the backlog of inspections and
6 the increasing demands on each of our Air Quality staff are
7 evidence of our problems. Our existing program is at rock
8 bottom. In order to truly assess the costs to operate an
9 effective program, we need to develop a model year. We
10 employed a conservative approach by using known and measurable
11 changes to the extent possible. In general, the existing bare
12 bones program was conservatively augmented to acceptable
13 operating levels.

14 Moving to Exhibit 1, which is entitled Model Year,
15 Budget and Expense Projections, with this exhibit we project
16 income -- income at the current fee rates and expenses for a
17 given model year, to arrive at an annual shortfall. The income
18 is defined by Title V emissions, also called annual operating
19 fees, to generate about 4.1 million dollars, at the current
20 16.49 per ton rate.

21 Minor source emissions fees generate about 244,000 at
22 the \$10.00 per ton rate. We collect about \$260,000.00 in
23 permit application fees. State appropriations remain
24 relatively constant at \$235,000.00 annually. Federal grant
25 contributions have decreased in recent years, but our FY 99

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Certified Shortland Reporter

1 expects 1.1 million dollars. Grand total of income of about
2 6.1 million.

3 To generate the expenses, we used our existing
4 skeleton budget and added back in items that are needed to run
5 an effective program. In most cases, these items were
6 originally planned but were cut to meet budget constraints.

7 Given our backlog, we are asking to fill an
8 additional 17 FTEs. This equals a Environmental Specialists
9 and 9 Engineers. We'll detail the Title V/Non-Title V split
10 shortly. The expense grand total is 7.1 million dollars.

11 The overall shortfall of \$950,000.00, detailed with a
12 112,000 for Title V and 637,000.00 for Non-Title V.

13 Moving on to Exhibit No. 2, which is a gridline chart
14 entitled Air Quality Division of a Model Year Projections. Our
15 expenses to break those down, enumerate those -- our expenses,
16 we took our program cost from January to June of this year,
17 added in the base budget for July through December of this
18 year, and then added the modest salary increase for existing
19 staff, then we added the salary cost for 17 vacancies.

20 Operational costs which were not in the budget,
21 includes hardware/software replacements and upgrades. We need
22 to replace about a third of our computers annually. Currently,
23 we are down to one new computer in stock. We have a number of
24 re-built computers, but we have old computers that are being
25 used. We must earmark money for software upgrades to meet

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1 agency standards. Please note that this entire category costs
2 under \$1,000.00 per person annually.

3 Also, contractual database services are needed to
4 handle the data entry services that involve the anti-tampering
5 program. Currently we have 7 staff members which contribute
6 part-time to these data entry services. This will allow them
7 to devote their efforts to emerging Air Quality issues.
8 Likewise, each change to our annual operating fees requires a
9 database programmer to make that change. Ozone monitoring
10 upgrades are needed by updating and replacing monitoring
11 stations.

12 Indirect costs -- there are 2 components to an
13 indirect cost. We pay 15 percent of our fee. 15 percent of
14 our fees go to an indirect cost, as well we pay a federal
15 indirect rate which is negotiated annually and charged solely
16 against salaries. The FY 98 on-site rate was 10.26 percent,
17 and the off-site rate was 21.49 percent. This leads to a total
18 projected expense of 7.1 million dollars, which details a 2.7
19 million Non-Title V and 4.4 million to Title V. Our income
20 projection, as we talked about previously, is a little under
21 6.2 million. Our shortfall is \$950,000.00.

22 Moving on to our next exhibit, Exhibit 3, which is
23 entitled Model Year Projection, Title V Fee Determination. The
24 model year Title V fee is determined as follows: We take the
25 Title V income, add the projected Title V shortfall to obtain

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1 the Title V income requirement. By dividing the income
2 requirement by the Title V tons billed, we project a fee of
3 \$17.72 per ton.

4 With proposed rule changes that will be detailed in a
5 few moments, we provide the necessary revenue to provide the
6 shortfall. The current fee generates a little over
7 \$4,000,000.00. The CPI adjustment of \$0.28 per ton generates
8 another \$69,000.00. By increasing the base fee an additional
9 \$1.05 per ton, we arrive at the proposed fee of \$17.72 per ton.
10 This fee will generate 4.4 million dollars annually.

11 Our meetings with the Air Quality Financial
12 Subcommittee have proved extremely valuable. During these
13 meetings, we were requested by the committee members to
14 recalculate this fee after taking existing cash balances into
15 consideration. We have not obtained hard numbers from DEQ
16 Finance to date, but we expect to come back to the Council at
17 the December meeting with this information. In the meantime,
18 we do have some draft rule changes that we would like to
19 propose for public comment.

20 Exhibit No. 4 is entitled Model Year Projection, Non-
21 Title V Fee. When dealing with the minor source income
22 streams, the only subsets that we can effect are the annual
23 operating fees and the permit application fees. We have
24 attempted to increase fees in both these subsets.

25 For fee determination, we projected the shortfall.

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brought in straightforward from the front sheet. We propose generating additional income of \$124,000.00 in minor source permit application fees. This gives an adjusted shortfall of \$512,810.00. By dividing the shortfall by the Non-Title V billed tons, we arrived at the additional figure of \$21.01 per ton. Then, we had to add back in our existing fee of \$10.00, calculating the new Non-Title V base fee of \$31.01 per ton.

The proof of revenue, we have our existing emissions fee plus the emissions fee increase. The existing application fee, plus the additional fees -- this is simply doubling the fees for individual permit applications. This doubling of the individual permit fees, while not asking for an adjustment in the truly minor source fees, is in line with the agency's philosophy of concentrating our efforts on the pollution sources that presents the greatest environmental risk. Other income streams, which are state appropriations and grants, remain the same. We can see that we do generate the shortfall necessary.

Exhibit 5 is a draft rule on the emissions and annual operating fees. In the Minor Source Arena Rule Number 252:100-5-2.2(b)(1)(C), this is where we add the new language, which sets the base fee at 31.01 per ton.

In 252:100-5-2.2(b)(1)(D), we add new language which allows the fee to be reduced to a rate not lower than that year's adjusted Title V fee, if additional state appropriations

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or federal grant dollars are received. This is proven language from other DEQ programs, that the new -- the new income, either an additional state appropriations or additional grant dollars, will be used to offset the annual operating fee. This is an important change in philosophy, one to that of a ton of pollution equals a ton of pollution.

In the Major Source Emissions Fee Arena in 252:100-5-2-2.2(b)(2)(B), we set the new base fee at \$17.72 per ton, effective January 1st, 1999. Please note that no offset language was included as both the state and federal Clean Air Acts require that Title V be a self-supporting program.

The last exhibit is one of Application Fees, Rule 252:100-7-3(a)(1). This is where we raise the fee from an applicability determination to \$250.00.

Rule 252:100-7-3(a)(2)(C) doubles the existing individual permit fees. Please note that these fees were lowered last year during rulemaking efforts for the Permit Continuum.

Rule Number 252:100-7-3(a)(3)(C)(D) and (E), these are where the individual permit fees are doubled.

When we do comparisons with other states, we would like to point out that our Title V fees, both as they exist now and as we propose them, are well below the national average and those in surrounding states are well below the federal presumptive minimum of \$33.53 per ton. Likewise, we are below

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that rate calculated for fiscal year 1998 for TB&A of \$18.21 per ton. We continue to refine our studies and hope that during the course of this fee case that it will be proven as valuable.

We also can demonstrate that our hourly rates, although we are not proposing one, are well below those that are available in other states.

Our action plan is to take this proposal to the Small Business Assistance Panel on October 16th, 1998. We also plan to perform new calculations, taking the Title V cash flows into account, as well as receiving public comments on the proposed language provided today.

MR. DYKE: Questions or comments from the Council?

MR. WILSON: I have a question. What is the trend in variability in the emission inventory, from one year to the next?

MS. MCWATERS-KHALOUSI: Actually, we have that as a diagram, but we see that you're talking less than a 15 percent trend. Between categories it will be different, but overall we have an increase, but now we have a subtle decrease overall.

MR. WILSON: A decrease in reported emissions?

MS. MCWATERS-KHALOUSI: In total emissions, yes, in total emissions billed.

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MR. WILSON: The \$2,000.00 major source or Title V permit application fee, is that a Title V income?

MS. MCWATERS-KHALOUSI: I'm not sure. I know that -- I know that that goes into a permit application fee, but I'm not sure how that's allocated. I can check on that.

MR. DYKE: It should be.

MR. WILSON: It should be?

MR. DYKE: It should be, but I can't answer that question today. I might have it here in front of me in my documents. It should be.

MR. WILSON: So, it may vary well be than a part of the income, the Title V income, in addition to emissions?

MR. DYKE: It could be. It certainly could be. We could be rolling that into that 4.4 million income.

MR. WILSON: Okay.

MR. DYKE: And then, therefore, that would make our calculations of 17.72, based on these figures, incorrect.

MR. WILSON: Okay.

MR. DYKE: David?

MR. BRANECKY: I would just like to go on the record commending the Air Quality Division for their work that they've done. We've come a long way in the last couple of years, as far as financial accounting. We've got -- we've still got a ways to go, in working with the Subcommittee, the Financial Subcommittee of the Council. I'd like to also say

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1 that the main focus of the Subcommittee is Title V fees. That
 2 was our charge, was to account for Title V fees. So, we don't
 3 -- we're not only not necessarily endorsing the amount that's
 4 put up today, nor the minor source fee. Those are just numbers
 5 that I think are being thrown out, they're not endorsed by the
 6 Subcommittee of the Council. I would like to continue, and I'm
 7 not sure what the schedule is now between now and the next
 8 meeting, but the Subcommittee is more than willing to sit down
 9 with you guys and continue to work.

10 MR. DYKE: We intend to have a Subcommittee
 11 meeting as soon as we get the cash flow balances brought up to
 12 date, and projected through the end of the --

13 MS. MYERS: Have you determined what the time
 14 frame is?

15 MR. DYKE: I think we should have that by the
 16 end of the week.

17 MS. MYERS: Okay.

18 MR. DYKE: So, we're talking about scheduling a
 19 meeting within the next couple of weeks, if that's when we can
 20 get together. Let me add that we would propose, at the very
 21 latest, comments by December 1. It's our intent to have this
 22 matter wrapped up and completed, and a package -- a complete
 23 package, as close to a final package for the Board packets for
 24 the December meeting. And that would give us two weeks before
 25 -- and that's our mailing time, isn't it, Scott, two weeks

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1 before the next one? Comments, written comments as soon as
 2 possible would obviously be good for us. And as soon as we get
 3 a revised -- we go back through, we re-crunch the numbers, we
 4 reach some agreement with the Finance Committee, we'll attempt
 5 to put this proposed rule back out on the web page with the new
 6 figures in it. We will not change them until we've gone
 7 through this process, at the Committee meeting again.

8 MR. WILSON: Another question. The requirement
 9 for a minor source to obtain a synthetic minor, is that
 10 considered Title V expense, or is it Non-Title V?

11 MR. DYKE: I think today that that's being
 12 booked as Non-Title V.

13 MR. WILSON: That's Non-Title V.

14 MS. MYERS: That's not always been.

15 MR. DYKE: Not always been. And that would be a
 16 subject that we would need to review some of our T&Es on.
 17 We're considering a minor source for fees, though.

18 MR. BRBISCH: David, by the time that the
 19 Committee meets, I would like them to have your latest monthly
 20 update on your financial status. And when you ask for that,
 21 remind them that this had been asked for before and promised
 22 that we would have a monthly update. And I don't know whether
 23 you've had that or not, but I don't believe you have. So, if
 24 you don't mind reminding the administrative branch to get this
 25 to you all.

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1 MR. DYKE: We'll carry that message back.
 2 Comments, Bill.

3 MR. PISHBACK: Bill Fishback. I am here
 4 representing Mid-Continent Oil and Gas Association. There are
 5 a few comments that I would like to make. I agree with Mr.
 6 Branecky that there has been tremendous progress on the part of
 7 the Air Quality Division in accounting for and managing their
 8 finances. I served on the subcommittee -- the subcommittee of
 9 the Air Quality Council for a couple of years, and there is a
 10 great -- great deal of progress that's been made. The fact of
 11 having this discussion, and having the figures in front of us
 12 is evidence of to that. We were required by statute to do this
 13 from the very beginning in the Title V program and were -- we
 14 were negligent in not doing so.

15 I think, also, that it's -- it's very important that
 16 we recognize that we -- we do have a program that is adequately
 17 staffed to serve the needs of the citizens of Oklahoma and
 18 protect the environment. Having said that, I have some
 19 concerns which I want to express on the record, and which Mid-
 20 Continent Oil and Gas will also provide written comments by the
 21 December 1st deadline.

22 The major concern that we have, I think, is the
 23 disproportionate growth in this program that's relegated to
 24 Title V. If you look at the 17 vacancies that are proposed to
 25 be filled, 75 percent of those, 12.75 FTEs are allocated to

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1 Title V, and only 4.25 are allocated to the Non-Title V.
 2 Historically, the T&A study estimated that the Title V effort
 3 in Oklahoma would be 53 percent of the total effort of the Air
 4 Quality Division. That was some years ago. It was an
 5 estimate, you understand that. But historically, in 1997, the
 6 most recent year for which we have complete data, during the
 7 first 8 months of 1997, the Title V expenditures were about 81
 8 percent of the total Air Quality Division expenditures. And as
 9 you can well imagine, if you have cost of labor under control,
 10 basically you have the entire program under control, because
 11 it's primarily driven by the cost of salaries and expenses.
 12 After this was pointed out, the Air Quality Division made
 13 tremendous strides, primarily in informing their staff how to
 14 code their -- their time sheets. So, that the -- for the last
 15 -- the last four months of 1997, the total amount of staff time
 16 that went toward Title V was reduced to about 60 percent, which
 17 of course, is much closer to what was originally estimated.

18 Mid-Continent Oil and Gas Association used the first
 19 8 months of 1997, where Title V was charged 83 to 85 percent of
 20 the total, that's basically being overcharged to Title V. The
 21 numbers when you run through them come to about a quarter
 22 million dollars that was erroneously by the Division's own
 23 subsequent corrections, charged to Title V. It is
 24 our concern that that money be recovered by some mechanism.
 25 And I understand from our discussions previously with the State

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1 finance people, that basically it is impossible to go back and
2 adjust those records in the past, so maybe the only option open
3 to us in the future, is to reduce, by some proportion, the
4 Title V fees that would otherwise be increased. That number
5 happens to be about \$1.00 a ton, also, because there is 250,000
6 tons in inventory.

7 And the concern that this would sacrifice air quality
8 in Oklahoma or sacrifice the protection of the environment is a
9 very valid concern. Although I would point out that the Title
10 V program, in theory and by EPA's own white papers, is not
11 supposed to add any additional requirements to regulated
12 sources. It's merely supposed to incorporate all those
13 requirements in one place. So, there are not unregulated
14 sources that are emitting excess emissions into the environment
15 as a result of Title V permits not being issued.

16 So, I would submit for the Council's consideration
17 that the growth in FTEs in the Title V program is really not
18 warranted, based on protection of the environment. It might be
19 warranted based on speeding up the rate at which permits are
20 issued. But as we heard earlier today, there is no practical
21 consequence of delay in permit issues. The environment doesn't
22 suffer and although it looks good to issue permits as quickly
23 as we can, I don't think we really need to invest 75 percent of
24 the growth in staff in issuing permits faster, when there is no
25 good reason to do so.

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1 Another point I wanted to make is about the
2 administrative indirect costs. As Shawna said, this is 15
3 percent of the total fees collected. It is internally assessed
4 fee that's assigned by the -- assigned to the Air Quality
5 Division by the DEQ. And it is twice, at \$615,000.00, it is
6 twice the amount of the shortfall. I would like to see a
7 complete accounting and disclosure of what the administrative
8 indirect fees go for.

9 The reason I'm concerned about that is because, in
10 1996, those administrative indirect fees were \$887,000.00,
11 which was 20 percent of the total fees collected. In 1997,
12 they were \$17,000.00, and this was an adjustment to help
13 balance the books of the program. But the point that has been
14 made in the past, and I'd like to make again, is you either
15 need that fee or you don't. If it's \$887,000.00 one year, and
16 \$17,000.00 the next year, now it's proposed to be \$615,000.00,
17 there needs to be some accounting on what that fee is for. And
18 if you don't need it, as apparently was not needed in 1997, you
19 just eliminated the shortfall by a factor of 2.

20 The other comment I'd like to make is that all the
21 staff in the world, unlimited funds, as we said this morning,
22 is not going to solve the problem of efficiency, turnover,
23 productivity, morale, all the things that affect an
24 organization's abilities to deliver the goods and services that
25 they're paid to deliver. That's out of our control. It's

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1 based on the salaries established by the state government, for
2 the employees of the Division, and there is absolutely no way
3 that we can effect that. So, I think it is a little bit
4 misguided to say that we can just add 17 people, and in effect,
5 if the efficiency and turnover and all the other factors are
6 not improved at the same time --and, of course, I think
7 everyone will admit the salary is the thing that improves that.

8 If you had no control over that, we may not actually
9 experience the gains that we seek.

10 Again, there is another point here about the state
11 appropriations. If you look at the relative numbers that have
12 been presented to us, the state appropriation is almost in the
13 round-off area. It is one-twentieth of the Title V fees.
14 Whether there is state appropriation or not, I think is
15 irrelevant. If this is an effort to get more money from the
16 state, that is great. But if the citizens of the state all
17 benefit from the program, then the citizens should all pay.
18 But as you all know, it is very, very easy for Legislature to
19 pass fee programs that effect rate payers of those fees as
20 opposed to the general public.

21 And the last thing I'd like to make is a suggestion
22 that I made before, which is that the provision be put into
23 this program, so that whatever fee is decided on, whatever fee
24 is ultimately paid, can be paid quarterly instead of annually.

25 This does several things that I think are beneficial for all

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1 parties involved, and I would say that can be just as important
2 here. The company does not have to pay a quarterly fee. If
3 they only owe a few hundred dollars, then the administrative
4 cost of cutting checks overcomes this. But in order to assist
5 DEQ in the great strides that they have made in managing the
6 finances, it's appropriate, I think, to have the money spread
7 out, coming in over quarters instead of annually. The blunt
8 fact is that the Title V program is a cash cow for DEQ, and we
9 all know that in the past, when the money has been there, the
10 Legislature can hide it, with the idea of taking it.

11 So, if we can have one-fourth of the income in one-
12 fourth the year, I think it would solve that problem. It would
13 also let DEQ manage their finances better. And it would also
14 allow companies who pay tremendous in -- hundreds of thousands
15 of dollars a year in fees, to spread out their fee rate.
16 Nobody would like to make a mortgage payment for an entire year
17 all on January 1st or April 1st, so, this is the same concept.

18 All of these things we'll be putting in a letter to
19 submit formally. But I wanted to get it into the record today,
20 because I think they are important concerns that need to be
21 addressed by, not only the Air Quality Council, but also the
22 Finance Subcommittee, and also the DEQ. And again, I must say
23 that we, without a lot of effort and a lot of work, we wouldn't
24 be here today talking about it. And I really do appreciate

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1 everything that's been done to date. The cooperation has been
2 excellent, and I think we are -- I think we're headed in the
3 right direction. Thank you.

4 MR. DYKE: Any additional comments from the
5 public? David?

6 MR. EMERY: My name is David Emery, I'm
7 representing the Environmental Federation of Oklahoma. I would
8 like to echo a little bit of what Bill is saying. You guys
9 have done a wonderful job. This is much, much better than last
10 time. I think you know what we need to do. We talked about
11 the accountability. I think B.J. had some good points earlier
12 when she said business doesn't like to pay any more fees.
13 We're not asking you guys to come out like beggars and ask for
14 money. But it is an accountability of what the money is for.
15 Businesses do not want to write a blank check. So, I think
16 you've done a real good job on Title V, it does look better.

17 But, on the minors, you know it's hard -- it's hard
18 to understand, I still don't understand why there is a
19 \$637,000.00 shortfall in the program as it would exist if there
20 was no Title V program at all. And it may be simple, but if I
21 don't understand it, maybe other people won't. I think you're
22 going to have a hard time convincing them, therefore to pony up
23 money. Obviously, we would all prefer for our costs to go
24 down, but at the same time, we did this a few years ago, I
25 spoke on behalf of Total Petroleum, and Jeff Wallerd spoke on

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1 behalf of Wierhouser and we both reiterated the fact that we
2 want the State of Oklahoma to have a good program, and we feel
3 we have an advantage to having a good permit program for
4 industry. And when you get a permit application in, you can
5 actually get a permit back in a timely manner, then you need
6 the resources to do that. But you are always going to have
7 trouble getting industry to just give you a blank check,
8 because we just don't know what you are doing with the money.
9 So, accountability that you talked about this morning, I think
10 is the key to getting some kind of funding done. I'm sure this
11 will all work out. There is going to be some give and take,
12 but I think some accountability, just a little better
13 explanation of where the \$637,000.00 shortfall for the minors
14 are and would be very helpful in explaining why we need higher
15 fees.

16 MR. DYKE: Yes, ma'am.

17 MS. MEDLEY: Just a quick comment. I think
18 we'll know a lot more as they -- between now and December,
19 produce a little more information and get it down. I assume,
20 hopefully, that we can call you and get a copy of that so we
21 can readjust our comments, if we wanted to, I don't know how
22 you are going to handle that.

23 One other thing I would like to say is, I appreciate
24 the fact that industry doesn't want to write a blank check.
25 First, you haven't been writing a very big check and certainly

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1 in Title V, since this program started. And I think we are
2 paying for it now by having to adjust. I think we made a
3 mistake in the beginning, and I just think we all need to
4 realize that.

5 Again, I don't want industry upset about paying any
6 more. But I do feel that industry is being overseen by Air
7 Quality. Yes, because it's a federal law, but also -- and a
8 state law, but also they're the ones polluting, therefore they
9 have to help pay for permitting and so forth. And we just
10 always need to keep remembering that. And we as taxpayers,
11 individuals pay, also, as we all know. So, it's just, like it
12 or not, if you're going to have something good, if you're going
13 to have something done right, you are going to have to pay for
14 it. I think we all need to come up with, you know, a little
15 more detail on the figures, and then I think we'll have a
16 better idea and hopefully industry and all of us (inaudible).
17 But I think at the end -- I think in the end we'll see that
18 we'll have a pretty good budget. For years, we've never seen a
19 budget. It would be nice to see one.

20 MR. DYKE: Nadine?

21 MS. BARTON: My name is Nadine Barton, I'm with
22 CASE, Citizen's Action for a Safe Environment. I have watched
23 this fee -- Title V fee process from its birth. And as I said
24 this morning, when you all voted for one of the lowest fees in
25 the United States, that you would have problems when it came

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1 down the line, and you are having it now. And I hope that the
2 EPA can see what we, the citizens, are up against here in the
3 State of Oklahoma, with some of the comments made previously by
4 industry, as this Title V program is a cash cow. And that, you
5 know, we have a great program here, we don't need any more
6 people to run this Title V program.

7 Well, in my opinion, the figures speak for themselves
8 as far as how many people that we have, and how many permits
9 that we have coming up, and what the case load or the permit
10 load is per person. And I will state again, as I did this
11 morning, I feel that this is a moral issue. It's not right to
12 overload these people that we have with so much work. And we
13 haven't even gone into the real detailed and heavy duty permits
14 in Title V as we stated this morning. So, what's our future
15 going to be for those people that are qualified to do that? I
16 will have to say that it is refreshing to see some figures, now
17 that we have a change in direction with the director, of this
18 amount. And I would have to -- I would have to concur with Mr.
19 Fishback about all of a sudden, you know, that big amount of
20 money that we had in '97, that deficit, and now we have a
21 different, you know, why do we have that difference?

22 But I will say that it is not right for the industry
23 to be the one that pays for the salaries, a majority of the
24 salaries of state employees, to basically enforce themselves.
25 And it has been seen time and again, both federally and in

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1 state issues, that how is the best way to get away with
2 whatever you can is to de-fund a program so you don't have
3 enough people to run the program, to write the permits, to do
4 the enforcement and to go out. So, therefore, you don't -- you
5 don't, you know, you can get away with pretty much what you
6 want to. And that's the way it has been going on since we've
7 been going into this Title V program. We have to have more
8 people.

9 And I will refer to one of the things that Shawna
10 said in her opening statement concerning ozone. That some of
11 those industries that are doing the most polluting have not
12 been effectively policed where ozone is concerned. Am I
13 correct in reiterating your statement, basically? I don't want
14 to be incorrect. At the beginning of your statement.

15 MS. MCWATERS-KHALOUSI: I remember bringing up
16 some issues regarding OTAG and transportation issues
17 nationally, and talking about attainment issues and that if we
18 were to designate a nonattainment area, we would have to lower
19 our major source definitions, so that those that emit less
20 pollution would actually be major sources.

21 MS. BARTON: And one thing about the minor
22 sources that hasn't been mentioned today, is Chief Supply,
23 which is now -- what is it?

24 MR. MEDLEY: Greenway. It's a nice
25 environmental name.

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1 MS. BARTON: Greenway, you know, has taken an
2 immense amount of time from DEQ, just to police them, of what's
3 going down -- what's going on down there. So, they should be
4 paying -- an industry, hello, you are subsidizing them. Make
5 them pay their own way. That's all I have to say.

6 MR. DYKE: Additional comments? Frank?

7 MR. CONLEY: Frank Conley, DEQ Board.

8 THE REPORTER: I'm sorry, Frank, I can't hear
9 you.

10 MR. CONLEY: Frank Conley, DEQ Board. I want to
11 get it on the record, about the comment period. Are you going
12 to extend this comment period, and if so, for how long?

13 MR. DYKE: Comment period. We're establishing a
14 comment period, a written comment period to end on December 1 -
15 December 1st. Of course, we'll take comments at the hearing
16 on the 15th. So, we'll continue the comment period that's open
17 today until December 1st.

18 MR. BRANECKY: I would like to respond to
19 Nadine, and I'm going to take off my Council hat and put on my
20 OG&E hat for a little while if it's all right. I didn't want
21 people to get the impression that all the industry is doing
22 things underhandedly. OG&E supports a good program for the
23 State of Oklahoma. We've paid well over one and one quarter
24 million dollars in Title V fees since it's inception. And OG&E
25 does the best we can to protect the environment. And I think

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1 most industry in the state does that. We may be talking about
2 a few, but most industry tries their best to do what's good for
3 the environment and the State of Oklahoma.

4 MS. BARTON: I would like to respond back. Just
5 like with any profession, whether there is doctors and lawyers,
6 guess what, you've got to take the bad with the good. I
7 recognize OG&E, but there are some bad people out there, bad
8 industries out there, we have to take it along with the good.

9 MR. DYKE: Additional comments from the public?
10 Additional comments, questions from the Council today? We
11 welcome your comments in writing.

12 MR. BREISCH: I'll entertain a motion that this
13 item be continued until the next regular meeting. David,
14 question. Do we have to put in this that the comment period is
15 ending on the 1st of December, or is that statement in the
16 record?

17 MR. DYKE: I think for this purpose, the
18 statement in the record will be sufficient.

19 MR. BREISCH: Okay. Well, I'll entertain a
20 motion.

21 MS. MYERS: I so move.

22 MR. FISHBACK: David, if I may, do you have --
23 can you designate someone to whom these comments should be
24 addressed? Should it be Shawna?

25 MR. DYKE: Go ahead and send them to Shawna.

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1 MR. FISHBACK: Okay.

2 MS. MYERS: I make a motion that we continue --

3 THE REPORTER: I'm sorry, Sharon, I can't hear
4 you.

5 MS. MYERS: I make a motion that we continue
6 until the December meeting.

7 MR. BRANECKY: Second.

8 MR. BREISCH: We've got a motion and a second
9 that we continue this item to the next regular meeting.

10 Myrna, call the roll.

11 MS. BRUCE: Mr. Branecky.

12 MR. BRANECKY: Aye.

13 MS. BRUCE: Ms. Myers.

14 MS. MYERS: Yes.

15 MS. BRUCE: Mr. Wilson.

16 MR. WILSON: Aye.

17 MS. BRUCE: Dr. Gross.

18 DR. GROSZ: Aye.

19 MS. BRUCE: Mr. Breisch.

20 MR. BREISCH: Aye.

21 MR. BREISCH: That concludes the hearing portion
22 of this meeting.

(PROCEEDINGS CONCLUDED)

Christy A. Myers
Certified shorthand reporter

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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF PUBLIC HEARING OAC 252:100-5-2.2
REGISTRATION, EMISSION INVENTORY AND ANNUAL
OPERATING FEES
PUBLIC HEARING OAC 252:100-7
PERMITS FOR MINOR FACILITIES
PUBLIC HEARING OAC 252:100-8-1.7
PERMITS FOR PART 70 SOURCES
HELD ON DECEMBER 15, 1998, AT 1:00 P.M.
AT 4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

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2. MS. MERIBETH SLAGELL - MEMBER
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11. MR. EDDIE TERRILL - DIRECTOR

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PROCEEDINGS

MR. DYKE: The next item on the agenda is Item
Number 8, OAC 252:100-5-2.2, Registration, Emission Inventory
and Annual Operating Fees; OAC 252:100-7, Permits for Minor
Facilities; OAC 252:100-8-1.7, Permits for Part 70 Sources.

I'd like to start the presentation today, and there
will be several people speaking on behalf of staff. If we
could hold our questions and comments until the staff has
presented all of it's information, it would make things work
smoother today.

I'll point out that this matter was first brought
before the Council on the October 20, 1998 meeting. We have
received public comments from the Environmental Federation of
Oklahoma, Mid-Continent Oil and Gas Association, and the Small
Business Advisory Panel. Copies of those comments and staff's
responses are contained in the Council packets, and I believe
they're here on the front desk. Copies of this presentation of
these overheads will be presented into the record today.

I would like to begin by talking about the Air
Quality Division Program, a statewide program operating in all
77 counties.

I would like to present some information here
regarding our workload. Currently our Monitoring and Quality
Assurance groups are operating 41 monitors at 31 monitoring
sites across the state. We currently are pooling about 130

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data audits a year, and about 950 instrument precision checks.

This is an area where we must maintain this level of service.

In addition to the existing monitoring sites, we have a new
program for PM 2.5. We have added 18 new PM 2.5 monitors.
They are either on-site or will be on-site shortly, and I think
our total will be 20 before the year is out.

The next area I want to talk about is the
Enforcement/Compliance Section. Currently, this -- the
Compliance Section is performing 340 compliance inspections, at
least that's what we performed last year. That's down about 50
from the year before. That's 340 inspections, in most
situations, Title V sources, out of 425 to 450 Title V sources.

We are not inspecting all of our Title V sources in a year.
The reason we were able to maintain this level of compliance
inspections, which was up in the 340 range, was because we
utilized some of our Enforcement staff to cross-train to help
on those inspections.

Regarding formal enforcement actions by our
Enforcement Group, we maintained a reasonable level there with
33 enforcement actions, formal enforcement actions last year.
That was the same as the year before, but that was down about
25 from the previous year. I would like to state that we do
have 74 enforcement referrals waiting to be worked.

Eddie, do you have anything to add in that area?

MR. TERRILL: Well, I might add that we know of

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at least two areas where enforcement is going to be important in the coming year. One of them is the Inspector General's Report that we just issued to Congress. I don't want to go into a lot of detail with it, but what it basically said was that in the regions they audited and the states they looked at, there was a deficiency in the compliance and enforcement effort. One of the things they wanted to tie it to was two things happening. One, a change in the significant violators policy, and also the timely and appropriate guidelines. Once those are issued, which we expect to happen sometime in the first half of '99, we think that EPA is going to make a real effort to insure that the states are following that guideline, and the hammer we're supposed to be used is withholding of our earmarked 105 money, grant money for enforcement, or lack thereof. Lack of enforcement could constitute them to withhold grant money. We need to do a lot of work with them on that, to make sure it is not a onerous type oversight requirement for more of a reasonable requirement to insure the program is done in a proper fashion.

The other item is the national initiatives for the priorities for the year 2000. We just got back from a national meeting where it was agreed that the regions should work with the states to set priorities, and to work together and to pool resources. What that means is that in order for the regents to have an oversight priority in the states, they want to be able

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to come in and do a certain amount of inspections. We don't believe that's an appropriate role for them, unless we cannot get to those that legitimately need to be done. In that case, we don't really have a lot of argument to their point that it needs to be done, because they do need to be inspected. But we feel like if we can get to them, we need to be doing them ourselves. But if we can't, we're probably going to have to work out something where we share our resources in some type of fashion, so that they all get inspected.

MR. DYKE: The next item here is Complaints. We worked 374 or we assisted in working 374 complaints statewide last year. We resolved all of those within the timelines established by the agency.

The next area here that I have on the list is Emissions Inventory. Currently we have about 1600 facilities on the Emissions Inventory. That group, of course, collects the emissions for the criteria of pollutants, they do our annual billing and collecting of emissions fees. This is an area where we cannot reduce services. Our Emissions Inventory must be -- it must be better. It's got to continue to be better. Any modeling that's done for attainment, nonattainment, for OTAG, is going to be utilizing these inventories. We've got to refine them and continue to work on them.

At this time, I'll go ahead and look at Rules and

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Planning. Our Rules and Planning Group is responsible for all of our SIP activities. Most of you know the Rules and Planning Group from the rules that we bring in before the Council. They are also responsible for working on the Dewrong and Rewrite initiative, which is to review and correct, clarify all of our regulations by December 31st, 2000. That in itself is a pretty big task. At this time, I would like to call on Scott Thomas to talk about some of the other things going on in that area.

MR. THOMAS: My name is Scott Thomas, I'm the Program Director of the Analysis and Inventory Section in the Air Quality Division. I'd like to just briefly describe the upcoming rulemaking activities that we see before us on this. Right now we presently have a staff of 5 people working in the rules unit. We are mainly assisted by Barbara Hoffman, and I'd like to take this opportunity now to thank them, they've really been doing a good job. But there is a lot more to do.

There is a lot of rules coming down the pipe, and we're going to probably have to add staff or get priorities somewhere straight to handle it all. We're getting the rules really from two different sources. One is what I would call our Oklahoma driven goals and priorities. The second source would be priorities from EPA. As far as our Oklahoma priorities for establishing rules, we've been directed, as David said, by the Legislature to review all our rules by December of 2000. Right now we have done 10 of the 26 rules.

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So, we look for 16 more coming through, as far as the permit for simplification in the Rewrite/Dewrong and so forth.

We also are going forward with the agencies directive and goals of the permit continuum, regulatory continuum. It's a rule that involves many rulemaking changes. But right off the bat, it's going to involve several Permits by Rules that will be coming before the Council. These will include in the near future chrome electroplating, general manufacturing, rock crushers, concrete plants, asphalt plants, oil and gas compressors, and natural gas liquids. We are also receiving a lot of proposed rules from the Environmental Protection Agency.

Generally we consider these in most cases to be unfunded mandates because there is no money to associate it with. Basically, if we don't do this, EPA will, in most all of these cases.

Some of the rules that we'll be looking at in the near future in this category would include medical waste incinerators. The rules that would be associated with the 8 hour ozone standard in Tulsa or Oklahoma City go nonattainment, which is very likely. I'd like to point out in this case, we may have to submit a set, if we choose to go the transition route for Tulsa or Oklahoma City, as early as May of 2000. We would have to identify nonattainment areas as early as July of next year. That takes quite a bit of staff time and work. It's too early to say what those rules -- what would be in

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those rules, but very likely will contain emission limitations for VOC and NOX sources.

Other things that are out there are -- EPA's proposed new source review requirement rules are supposed to be out in the spring, as well as regional (inaudible) rules,

transportation and conformity rules, in which we would have to establish emission budgets for mobile sources. We would also be involved in promulgating MACT standards for the source categories in a 10 year period that EPA fails to promulgate in.

Other rules we can see coming down from EPA include pathological incinerator rules, biowaste incinerator rules, miscellaneous industrial and commercial incinerator rules, drilling parts and reclaimers, incinerators.

I'm sure there are some rules out there that are coming down that I missed. Needless to say, we're going to be swamped with work in this area. Thank you.

MR. DYKE: I'd like to continue on here with the Special Projects. The Special Projects Group does have some alternate sources for funding and we did discuss the Lead Based Paint Program. We have a Lead Based Paint Graph associated with that. The Special Projects Unit coordinate our Clean Air Alert Programs and work with the ACOG, probably a lot with ACOG in the future.

This group also maintains and produces the daily Pollution Standards Index, the PSI every day. They also do some of our

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general work, such as the newsletter and maintaining our web page.

I'll go back now to permitting, and I would like to put up some information on our permitting program. The blue is Non-Title V permits, the yellow is Title V permits. Going back in history a little bit, in this area right here, '93 and '94, we started wrapping up with people. We also knew we had a tremendous, tremendous backlog of permits at that time. We didn't have any tracking mechanisms. We had one, but it wasn't working very well. We didn't have any timelines for moving those things out. The agency implemented timelines and with the increased staff and those new timelines, knocked out a lot of those permits, about 800 or so in '95, '96 and '97. In '96 we started working on our first Title V permit. We also implemented a great deal of training, negotiations with EPA, on how we were going to do the program. What -- we basically learned how to do it.

In '97 we issued 17 Title V permits. And I'm sure most of those, if not all of them, were associated with that very first general operating permit for crude oil and natural gas that we put in first thing. That's where our first Title V filings were going to be, obviously that's where we need to target. I would imagine that it saved a lot of effort, staff time and effort, and it probably saved a lot of time and effort on the industry as well.

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In 1998, it looks like we're going to issue about 93 Title V permits. You can also tell that our other work, Non-Title V, has dropped off quite a bit. That is probably directly proportional to the time it takes to do Title V permits versus the number of staff that we have.

The last item over here is 264, is what we have to work today. That's our backlog. And with that, I'll call on Ray Bishop to talk a little more about our Title V program.

MR. BISHOP: My name is Ray Bishop and I have worked primarily in the Permits program. The Permit program has instituted a number of time-saving and efficiency moves over the past year. For that reason, we have increased the efficiency of the program. However, we do not feel that the efficiency increases are going to be sufficient to meet the demands of issuing the Title V permits within the time frames that we agreed to do so with the implementation plan.

To date we have issued 91 Title V permits. Sixty-seven (67) of those were individual permits, the rest of them were all synthetic, not synthetic minors, but general operating permits. A general operating permit is simply an authorization to work or to operate under a permit that has already been issued. Therefore, the time required to issue those permits or to issue the authorizations is much less than it is to issue an individual permit. Calculations to date indicate that a Title V permit requires something over twice the time,

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or about twice the time of a Non-Title V permit. We issued -- have issued historically an average of around 600 Non-Title V permits each year. That has gone down slightly to 500 or so, but we feel like that will probably will continue on throughout the time we have to issue Title V's. With the Title V program -- Title V permits that are remaining to be issued, which I calculate to be slightly more than this, because I anticipate somewhere over 400 Title V permit applications being received.

I feel like that when the first Title V permit that we issued expires, which will occur in June of 2002, that we will still have remaining somewhere in the neighborhood of 100 Title V permits that have not been issued. The numbers here don't bear that out exactly. But the reason that is is because the first permits that we have issued have all been the very simplest and least time consuming permits. That was done by design to give us more experience for when we do get to the more difficult permits. It's anticipated that one of the permits that remains to be issued will require in excess of 2,000 hours to issue, and that may be a very, a very conservative estimate. It could be much larger than that. We have already issued one Title V permit that has required more than 2,500 hours. All of the most complicated and time consuming Title V permits are yet to be issued, except for the one that we have issued.

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We do not anticipate meeting the time frames with the staff that we have. Presently there are 22 engineers on staff, 3 of whom are supervisors and do not do a great deal of permit writing, although they do some. Two additional engineers work primarily in developing general operating permits, or Permit by Rule, or working with the permit staff.

An additional burden that we see coming has already started, and that is some of the Title V permits that have already been issued are coming back for modifications. We cannot anticipate how many of those may come back for modifications before the Title V permit expires, but we do know that that can be significant. And some states anticipate as much as 40 percent of the permits needing some type of modification before the permit actually expires.

MR. DYKE: One of the reasons why we're here asking for fee adjustments and appropriations has to do with some of these items. Back in '96, the Financial Committee put together a report that basically says you've got to reduce expenditures. You've got to reduce expenditures because you're spending more than you're bringing in. Today's, this year's budgeted expenditures, is 1.8 million dollars less than we spent in the fiscal year '96. Back when we absorbed the Oklahoma City County Health Department, we lost \$250,000 of match money, money that they put into the program. We hired the staff into our vacancies, but we didn't absorb the

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additional vacancies and the additional people, and we lost \$250,000 of money that went into running the program in the county. If you'll recall, or some of you might remember that - also remember that time we had an option in our fees to add a dollar a ton for any of the Tulsa or Oklahoma, either one of the Tulsa or City County Health Departments. If they went un- and decided not to stay in business, then we would add a dollar a ton. We did, and then the next year, because that rule did not get signed by the Governor's office, we had to refund that \$250,000. We did that through a credit. Federal grant reduction, over the last three years, we've had a 15 -- a little over 15 percent reduction in federal grants equalling \$447,000 less money a year than we're receiving. And as most of you know, and as Ray and Scott both alluded to, a lot of additional federal mandate is coming down. What this has amounted to is reduced staff. A considerable reduction in staff to date. That's also helped us get our budget down to some extent, also.

This is where we're at today. Our organizational chart today has 138 positions on it. Eleven of them are vacancies of the agency, and we have to continue to keep those vacant. Our current level today of actual people is 104, and that includes our legal staff and the secretary in that area. So, 99 people -- 99 people other than our legal staff working on Air.

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Our model year which we based our fee requests -- our fee proposals on, Shawna will talk about it in just a minute, add 17 or at least funding for 17 vacancies. We think 121 FTE's is where we need to be to run our program. I'll point out that we today have 23 vacant positions that previously were filled. Like I say, they were all not filled at one time, but pretty close to it. Twenty-three vacant positions, we've asked for 17 of those back in our fee request proposal.

I've got one other graphic I would like to put up. This was recently calculated for fiscal year '96 through '98, total income for the agency, I'm sorry, for the Division, for the Air Program on all sources of grants and fees. The Title V income, the Title V monies received represents 64 percent of all the income we've got, matched up with those particular years, FY '96 through '98. Our expenditures for those same years, total expenditures for the Air Program, Title V expenditures represented 61.3 percent of all our expenditures over that period of time.

And I think with that, I'll call on Shawna to talk about our model year and our fee proposals.

MS. MCWATERS-KHALOUSI: Mr. Chairman, Members of the Council, ladies and gentlemen, I'm Shawna McWaters-Khalousi, Supervisor of the Special Air Projects Unit. Overheads used in this presentation will be made part of the hearing record.

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Once more, I'm charged to present information concerning our current financial situation and to recommend reasonable and appropriate Air Quality fees.

Since the October Council meeting, we've met on one occasion with the Small Business Assistance Panel, and on two occasions with the Air Quality Council's Financial Subcommittee. As Mr. Terrill, Mr. Dyke, Mr. Thomas, and Mr. Bishop have described previously, we continue to face an increasing regulatory burden, as well as economic hardships. As a reminder, Mr. Coleman gave us a very simple mission: Set fees to cover the costs to operate an effective Air Quality program. Concurrent to this fee proposal, we have requested additional appropriations from the Oklahoma Legislature. We hope to present our legislators with two viable options, leaving the ultimate decision to them.

We approached our fee proposal by developing a model year. Due to cuts and decreases that we have made to our program, to adequately assess the costs to operate an effective program, we needed to develop a model year. We employed a conservative approach by using known and measurable changes to the extent possible.

The first exhibit is entitled Air Quality Division - Model Year Projections. With this exhibit, we forecast expenses and income at current fee rates for a model year. From these two numbers, we calculate an annual shortfall.

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Please note that all income and expenses are appropriately allocated to Title V and Non-Title V.

In the expense projection, we used our existing lean budget and added back items that are needed to run an effective program. In most cases, these items were originally planned but were cut when revenues decreased.

Given our backlog, we are asking for an additional 17 PTEs, 8 Environmental Specialists and 9 Engineers. This gives an expense grand total of just over 7.2 million. These expenses detail to 2.7 million in Non-Title V, and almost \$4 and a half million in Title V.

Looking at the income portion of the projection, state appropriations remain constant at around \$235,000 annually. The Tulsa City County contribution is \$235,000 this year. The future of this income stream is somewhat questionable. A separate request has been made to the Oklahoma Legislature for additional monies to fund the Regional Office at Tulsa. Minor source emissions fees generate about \$244,000 at the \$10 per ton rate. We collect about \$260,000 in permit application fees annually, \$83,200 of which is from Title V permits. Title V emissions or annual operating fees generate about \$4.1 million at the \$16.39 per ton rate. Federal grant contributions have decreased in recent years, but FY 99 expects \$1.1 million. The grand total of income is just over \$6.1 million annually. Our shortfall, our overall shortfall of just

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over \$1 million details to about \$757,000 for Non-Title V, \$274,000 for Title V.

The second exhibit that I have is entitled Title V Fee Calculation. With this, I bring forward the Title V expenses of almost \$4 and a half million from our model year. We then subtract out the Title V permit application fees of \$83,200. This leaves a remaining expense of almost \$4.4 million to be generated through annual operating fees.

Our latest estimate of the Title V or major source funds that will be billed is \$249,276. We divide the billing into the total remaining expenses. We -- the staff recommends a Title V fee of \$17.56 per ton. We compare this fee to the current fee of \$16.39. We see that involves an increase of \$0.89 over the current fee when combined with the current \$0.28 CFI adjustment. Staff recommends that this change occur per the new language contained in OAC 252:100-5-2.2(b)(2)(B). Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.56 per ton of regulated pollutant for fee calculation.

Please note that this staff recommendation differs from the \$17.72 per ton originally recommended at the October Council meeting. In response to questions raised and recommendations made by the Council and Financial Subcommittee members, staff realigned income streams and revisited expenses that lead to a downward adjustment to the Title V

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recommendation.

The third exhibit is entitled Minor Source Fee Calculation. The recommended fee was determined as follows: From the model year, we bring forward the Non-Title V expenses of \$2.7 million. Then, we subtract all forecasted income streams. We expect to generate \$176,800 annually in minor source permit application fees, without an increase in the minor source permit application fees. We subtract out the grant income, the Tulsa match and state appropriations, leaving remaining expenses of around \$1 million to generate via Non-Title V permit income streams.

Staff proposes that we have two mechanisms to generate this \$1 million dollars, through permit application fees and annual operating fees. We have 24,407 minor source tons of emissions currently. If application fees are not increased, the annual operating fee calculates to \$41.05 per ton. If individual permit application fees are increased as recommended, the calculated annual operating fee calculates to \$35.93 per ton. Staff recommends an annual operating fee of \$31.01 per ton and increases to individual permit application fees.

Staff recommends the following changes to our rules. In OAC 252:100-5-2.2(b)(1)(C), to establish the new base fee of \$31.01 per ton. In OAC 252:100-5-2.2(b)(1)(D), this is where we put the offset language so that any new income,

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whether it be state appropriations or federal grants, be used to offset the annual operating fee to an amount not less than the major source fee.

Exhibit 4 is entitled Minor Source Permit Actions, it is a graph. We studied the time spent issuing each subset of individual minor source permit actions. We obtained these numbers from our TEAM database, which tracks all permit actions. From TEAM's average issuance time, we developed a calculated cost. We then compare that calculated cost to the proposed fee and the current fee for each individual minor source permit action type. Please note that TEAM did not track construction permits to the detail of less than 40 tons and between 40 and 99 tons. These permit types were developed after TEAM was developed. Therefore, the average for all minor source construction permits is shown for both subsets.

Please note that without exception, the proposed fee is less than the calculated cost of issuing the permit.

Staff recommends that individual permit application fees change in OAC 252:100-7-1(2) and (3), so the applicability determinations are raised from \$100 to \$250, and so that all individual permit actions double.

Please note that with these increases to individual permit actions, the minor source cost causers will more truly be the cost payers. No increases have been recommended to the

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Permit by Rule registrations and the general permit authorizations.

In OAC 252:100-6-1.7(1), we recommend that applicability determinations for major sources be increased from \$100 to \$250, for the sake of consistency.

The last exhibit concisely represents staff recommendations. We ask that we set the major source emissions fee at \$17.56 per ton. We set the minor source emissions fee at \$31.01 per ton. We include the minor source emissions fee offset language such that they will only be adjusted down to the level of major sources, that minor source individual permit applications fee increase as well as applicability determinations go from \$100 to \$250. We do recommend passage to the Environmental Quality Board.

MR. DYKE: Let me finish with staff's position.

In summary, our services today, as well as our spending levels, are reduced from the previous years. We cannot continue the level of services that we have today without staff, without adding staff. We can't continue, or we cannot pursue a great deal of new oncoming issues without adding staff. However, if we do not get the funding necessary to run the program the way we think it needs to be run, or the way we have requested today, we will not compromise our environmental protection. We will shift our resources to take care of those things, such as compliance inspections, but we will reduce

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services, and we must. Questions and comments of the Council and the staff?

MR. WILSON: David, just to follow up on what you just said, it's my understanding that in order to sustain the current levels of assistance that we've given for minor sources, that that fee has got to be like \$35 per ton, is that right?

MR. DYKE: That's correct.

MR. WILSON: That's just to sustain that level of service. So, if it's any less, the level of service is going to go down, and what -- can we be more specific about the decrease in services?

MR. DYKE: Sure. And I think you can -- I think our response is back to the last graphic where it shows the amount of time that we spend assisting the minor sources with their permit applications and their permit types. I think we spend a great deal of time there providing a form of consulting services for those people.

MR. WILSON: And those consulting services quickly and easily going away, if it's not funded?

MR. DYKE: I think that's an area where we definitely will have to target.

MR. BREISCH: David, if we were to add monies to the state appropriations to bring the fee calculations to the point that they did equal approximately \$17 more or less per

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ton, and we went to the Legislature and said, you know, we're short. If you don't give us this, then we reduce our services.

Is that a reverse of what we're doing, and tell me why we couldn't do that. What we're doing by saying, you know, we've run into a shortfall, and we'll just cut back if you don't give it to us. You guys tell us whether to cut back or not. If you don't give this to us, so we can charge the same amount per ton in both categories, then you are going to cut the services that this division can give to the stakeholders.

MR. DYKE: I think that's exactly what we'll have to tell the Appropriations Committee when we go over there.

MR. BREISCH: You tell them that, but you don't show that here.

MR. DYKE: Well, our directive here was to put before the Legislature the option. Appropriations or fee increase to continue the level of service. That was our proposal with the fee.

MR. TERRILL: Let me comment on that just for a little bit. It is a double edged sword, you're absolutely right. You either go to the Legislature with a fee amount that you know is not enough to cover it, hoping that they'll make up the shortfall, and they probably won't. Or you go there with a fee amount that you know is too much, hoping they will give

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enough money to drop that fee in line with what the major sources are paying. At least with that, you're not going to cut off any sources, or any services to those minor sources. There is still a revenue stream there at \$31 a ton to continue that, and then they have an option, as well as we do, to lobby the Legislature to educate them to say, look, it's not fair for them to pay that much, we know that. But because these programs cut across all counties, there should be some level of appropriations that is appropriate enough to fund it, and hopefully they give it. But there is no good way to do that, and that's just how we elected to do it, with hopes of possibly getting it.

MR. BRANECKY: Aren't the minor sources willing to take that cut? Apparently in their comments from the Small Business Administration or with Council, whatever they are recommending it be equal to, the major source fees, is that what they want?

MR. DYKE: That was in their comments.

MR. BRANECKY: And, so, they understand by doing that they are not going to get the service that you currently provide. Is that what the Small Business people want? Does anybody -- can anybody address that? Are you willing to pay the \$31?

MR. DYKE: Would you like for Kyle to speak on behalf of the Small Business Panel now?

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Certified Marshall Inspector

MR. BRANECKY: Yeah, if they are willing to pay the \$31, then we'll give it to them.

MR. ARTHUR: Let me introduce myself before I answer that. My name is Kyle Arthur, and I'm with the Customer Service Division of the DEQ. And part of my job is to work with the Small Business Compliance Advisory Panel, and we have come before you a couple of times. Unfortunately, Don Lovell was charged with the task of coming before the Council, and I was going to meet him at Love's this morning to usher him here, and I called him yesterday and he said he could not make it. So, the burden fell upon me to come and to basically summarize the key points of their comments.

I do want to draw attention to what David has mentioned, that these comments are, I believe, in the packet. I hope all the Council Members will have or have had a chance to read them. What the -- I want to say first of all, very emphatically, that when this issue came up and obviously staff, and I'm mentioning, specifically Eddie, David and Shawn, when this issue came up, I knew there was some discussion about raising the minor source fees. I did not know to what level. I was down in the Air Quality Division and I was visiting, and David cornered me, and he said we want to come before the Small Business Panel with this proposal. We want to educate them about what the issue is. And I think that spoke volumes about the approach they are trying to take, the staff is trying to

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take here. They came not only once, but twice. They came to the October 26th meeting, which was 6 days after when you guys first heard about the fee increase on October 20th, if I'm not mistaken. And they also came back because the Small Business Panel, the first time they heard it, they wanted to continue their meeting to look over it. They then reconvened in November, I believe it was November 16th, yes, and discussed it further. The presentations were very professional and the people that were involved on the Panel, Panel Members, were very impressed. And so I want to -- I want to be sure and acknowledge that fact of how up front and honest the Air Quality staff was and still is.

My purpose here today is not to state my opinions on the issue, it is simply to state their opinions on the issue since no one is here from their group to do that. I think they are fairly well summarized in their written comments. I do want to highlight a couple of things. Number one, they do support an increase of the minor source annual operating fees to a level equal to that of what you would charge those Part 70 sources or Title V sources, whatever that number may be. Originally that was \$17.72, that's what I quoted in the comments here, but it is now proposed at \$17.56. They do support that. They do not support a tripling, or a slightly higher than tripling of the minor source annual operating fees from \$10 per ton to \$31 per ton. I think, again, I can't

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comment between the lines on that, but I think that probably speaks for itself. I mean, they are just a little uncomfortable with the tripling. But they do understand the financial issues that are before the Division, and that they are very sensitive to those and they are willing to take an increase of 70 percent, roughly, up to \$17.56 per ton. I don't know that they have thought through, David, to respond to your comments, the services that are provided to them. I can't -- I can ask David, I don't know how well that was discussed, or whether it even came up or whether they, if you mentioned it and they didn't think about it. I can't --

MR. DYKE: The way they answered it is that they have agreed to approach the Legislature on our behalf. Who do they contact, help us with the draft letter, tell us what it needs to say to get that difference. They don't want reduced services, they want to make --

MR. BRANECKY: They recognize that that's a possibility that they will get. If they don't get appropriations, they've got reduced services.

MR. ARTHUR: I think that's clear, I believe that's clear. And that is a point that is mentioned in the written comments in your packet, that they support and are willing to support in any way, lobbying if you will, the Legislature. I think they were even ready at their second meeting to get names and write letters, and we said, well,

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those people haven't been appointed yet. So, they are eager to do that and they understand that situation.

Another thing I think, and I'm not going to go over all of these points, but another thing I think that's interesting to note that they recommend and it kind of intertwines in with some of the other things that have been discussed on other rules that have been proposed for changes today, and that is Item Number 6 there. You know, when they look at the raw numbers they see that 10 percent of the total emissions that are out there, roughly, slightly more, maybe, belong to minor sources and the rest of them belong to the, quote, unquote, Part 70 sources. So, on the surface what they are seeing is a tripling of their fees, when they are a small contributor to the total amount of emissions that are out there. But what they also realize, and several of the Panel Members were very emphatic about this, was that does that mean that there is only really 24,407 tons worth of emissions coming out there from small businesses. No, of course that's -- they are fairly unwashed, if you will. There is a lot more of them out there than what participate in the system. And one thing that the Panel is proposing to do, and we have talked about it after the panel meeting and some of us in SBAP, and the program I was involved in before, and that is to get better participation into the system. Now, there is several ways you can do that. In fact, there are several ways that you can

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generate more revenue, if you will, besides raising fees, and that is getting more people into the system. What may be one reason why they are not in the system, maybe they've never heard of us, maybe they never thought about it, maybe they think it's too complicated and they don't participate. And we've come before you and talked about the complication issues for the small businesses. But a lot of that has changed in the last year with the permit continuum, with the regulatory oversight continuum as it's now called Rewrite/Dewrong on all those words and terms and names, it has to be simplified. And they want to encourage a couple of things. That the Council be supportive of general permits and Permits by Rule, that is things that not only make it more efficient for the folk in the Air Quality Division, but also that makes it simpler for the people that are part of those being regulated. A couple of things that will do, that will hopefully make things more efficient obviously, rather than individual permits. Secondly, it will hopefully increase participation. What we want to do is when we get these Permit by Rules and general permits written, is to go out and actively solicit those facilities participation in the regulatory process. Maybe reluctantly on their part, but nevertheless it will be a more simplified approach than anything they would have had to face in the past. And we think that will encourage participation and thus generate hopefully more revenue in the minor source program.

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we're just talking about dollars and cents. That's one way to do it and something we support.

So, in summary, you know, they do not support tripling. They support an increase up to the Title, excuse me, the Title V level. They -- we talked about the phrase of a ton of pollution is a ton of pollution regardless of where it comes from, and that's where they stand on that. So, that's really all I have to say. Do the Council members have questions of me?

MR. DYKE: Questions and comments from the Council?

MS. MYERS: Do the small business people understand that the level of services that they are provided encompasses more effort on the part of the Air Quality Division than maybe to some of the major sources?

MR. ARTHUR: Are they aware of it?

MS. MYERS: Yes.

MR. ARTHUR: Probably not. I mean, I think the Panel Members were made aware of the fact that those services may be decreased. But I don't know that the small businesses, I mean, you're asking my opinion and I'm speaking on behalf of the Panel. But in my opinion, no, I don't think that they probably fully realize the extent to which they are assisted.

MR. WILSON: Did the Panel attempt to go out into those regulated sources or the sources that would be

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impacted by this and say what do you think?

MR. ARTHUR: I think between -- I can't speak for any of them specifically, but I think between the time that we met on October 26th and on November 16th, that some of the trade groups that they were involved with, they did go back and discuss that. You know, they are a Panel that's charged with representing Small Business, obviously. They are appointed a 7 member Panel, just like this Council. One difference is they do not have rulesmaking ability. They can render advice or opinions, and so, yes, they sought input from their constituency of people.

MR. BRANECKY: The Small Business probably ought to be aware that if the level of services decrease and they have to go out and hire a consultant off the street, they could probably end up paying more.

MR. ARTHUR: Right.

MR. BRANECKY: Then they would have if they paid \$11 per ton.

MR. ARTHUR: Right.

MR. TERRILL: Well, if I might just kind of fill in on what he started on. What we told -- what we agreed with them that we would do is we would try to address their issue about lack of participation by expanding our base. But in order for us to do that without exacerbating the minor source problem, we've got to do that as we initiate a Permit by Rule

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or some other mechanism. So that we can cut down our paperwork process, we'll go out and do an outreach program through Customer Service or through the Trade Associations and give -- and EPA doesn't want to hear this, I'm sure, an Amnesty program, if you will, to get those facilities that haven't been in the program, in the program, but give them a drop dead date, if you will. After that, we're going to do some enforcement action. But that's going to take staff to do that. We've got to have people to go out and do the outreach and do the tracking, do the inventorying, all the other stuff that goes along with increasing your permit base or your emissions inventory base. We're also going to do that with the Title V area as well. We're going to sector, target different sectors every year, check our records with the state, and other means to insure that all of the major sources are in the system, as well, and that's only fair. And so that's one thing we'll be doing, as well, to broaden that fee base, too.

MR. WILSON: But the data shows, though, that the more sources we have, the more minor sources we have in this program, the more money we're losing.

MR. TERRILL: You are exactly right, and that's why we have to have a Permit by Rule some other way, so we'll cut down on our paperwork, and give them the permit they needed --

MR. ARTHUR: You don't just get people in the

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system with individual permits, you hopefully get them in --

MR. TERRILL: Right.

MR. ARTHUR: With a more efficient process?

MR. TERRILL: Exactly.

MR. ARTHUR: That's the goal.

MR. DYKE: We're going to monitor that. We should see some success there. If it's not, we'll quit doing those things. As just a point to possibly simplify this, I thought what we might do is go ahead and let -- I have notice that Bill wants to speak and Nadine wants to speak. And if it's okay with Council, we'll let everybody speak, and then let the Council ask questions whether it's of individuals or of us, the staff, or Kyle, as they come up. Is that acceptable to everybody? Bill, I guess I'll have to call on you, because Nadine has stepped out. Are you prepared?

MR. FISHBAC: Certainly.

MR. DYKE: Very good.

MR. FISHBAC: Maybe I don't even need to introduce myself, but I will anyway. Bill Fishback, and today I'm representing Mid-Continent Oil and Gas Association of Oklahoma. We submitted formal comments on December 8th. I'll give you those for the record.

THE REPORTER: Thank you, very much.

MR. FISHBAC: I've been involved in this issue now for about 3 years. Originally as a member of the Air

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Quality Council and now I have the privilege of coming before the Air Quality Council to give Mid-Continent's position.

I don't think it's necessary to read this letter that Mid-Continent submitted, our formal comments. But I would like to highlight the issues that we think are important, some of which we discussed this morning, some of which we did not. And then based on some of the information that we received this morning, I'd like to take you into the arithmetic for just a little bit.

I think I see an opportunity here for us to maybe resolve some of these issues. Mid-Continent had a total of 7 issues that we wanted to bring forward for consideration today in the light of the fee increase.

The first one that we had talked about this morning is to obtain an independent annual audit of the Title V program. I think Mid-Continent fully supports the idea that this audit should be paid for either by Title V fees or legislative appropriations. I think we --

MR. BRANECKY: You are talking financial audit?

MR. FISHBAC: Well, yes. This audit is both financial and as we described earlier, a work study or workload evaluation similar to EPA. We would support an increase in Title V fees, specifically earmarked for that audit, as Dr. Canter said, that's not within our purview today, but we would certainly support that. Because it is a very inexpensive insurance policy. I believe, to guarantee the accuracy and

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integrity of the overall program expenditures. So, that's point number 1. Mid-Continent definitely supports both types of audits.

The second point that we made in our submittal was that in 1997, the Title V program was overcharged by approximately \$250,000, which is approximately \$1 per ton based on incorrect coding of time and effort sheets. And I would like to see any consideration that the Council gives to a fee increase be modified by some mechanism to refund that to all of the rate payers or all of the fee payers. The precise amount of that might be debated, but I think in general the concept is reasonable. And I think the Air Quality Division acknowledges that those problems occurred with time and effort sheets and were corrected. And now the percentage of total time that is charged to Title V is running about 60 to 65 percent. In the first 8 months of 1997 it was running 83 percent, until this problem was identified and to their credit by the agency themselves.

Step number 3 is to justify the administrative overhead charges. Dr. Canter asked questions about those this morning and we understand that they are 15 percent of the total fees. I would like to see -- Mid-Continent would like to see a detailed accounting of what those monies are spent for. Because if you look at the amount of the administrative overhead, and I'm going to put all the comments that I make in

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the context of dollar per ton, that's our common denominator here. So, keep in mind that the agency is asking for \$1.17 a ton. So, if you look at the administrative overhead charges, those administrative overhead charges run about, Title V program only, about \$2.50 per ton. So, we're debating whether to add \$1.17, and we're not clear on where \$2.50 is spent per ton, just to put it in perspective. The issue that David Dyke addressed this morning about the building allocation charges, I'm glad to know that that's finally about to come out and be documented. Whatever, I mean, Title V program benefitted from being -- from a charge being credited back to their program, we would just like to see the before and after calculations. We'd like to see why that occurred. And again, that was on the order of \$1.60 or \$1.70 per ton, just to put it in perspective.

Step 5, which in DEQ's response to Mid-Continent's comments they embraced, we believe that the fee should be charged quarterly. This does several things. It addresses the concern that DEQ and industry have had all along that the Legislature sees that fee balance and they go after it. If we only have the money in four pieces instead of one piece, that tends to solve that problem. Plus, you get better management of the money if you don't get it all at once. Plus, the payers, just like any of us, wouldn't want to have to pay our mortgage in one chunk in January. We like the fact that we get

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to pay it every month, and I think quarterly is the reasonable way to do this. And David Dyke mentioned this morning that there would be some additional administrative burden if we went to a quarterly payment schedule. I think that would be significantly minimized if the agency sent out one billing. Any of you that pay your state income taxes quarterly know how that works. You've got one mailing from the Oklahoma Tax Commission, you send in four checks with four stubs. So, I think we can really reduce the administrative burden in a manner similar to that.

Step 6, is to identify legitimate Title V charges, and we talked about that at length this morning. I certainly embrace the idea that we develop a list of Title V activities that everybody agrees is Title V, another list that everybody agrees isn't, and then as David Dyke said, we're not always going to agree on everything, so there is a third list of at least issues that we have identified where we disagree. Because I've said this many times, but I think it bears saying again. Even if the accounting is perfect, even if there were no questions about how much money was spent where, and even if the T&E coding was perfect, which we've acknowledged is not. Even if both of those things were true, we're still going to have a problem with the Title V program growth if programs or initiatives are charged to it that really shouldn't be. And of course, as Eddie has said, EPA would love to have all their new

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mandates charged off to Title V and that's where the -- that's where the friction comes from. So, I think it's very important that we identify charges that are legitimate for Title V.

And our last point in the letter was that we really should plan for the future. And this is a lead-in to some arithmetic that I want to try to help you work through here. I think it's unreasonable for anybody, any program, any agency, any business, any project, to try to staff for what they think they are going to need in the long term, and make a step change adjustment in the level of staff, and that's what I see here. I'm sure that DEQ thinks that this is -- this is an incremental change, but I think it's really a step change in the level of staff. And the question really revolves around this. What do you do when Title V permit writing is over? Now, of course, Ray Bishop just said well, modifications to existing Title V permits will require some time. And permit renewals, or the five year renewal of Title V permits will require some time, and I think that's true. But by his own admissions, he said we really don't know how much time that's going to take. Therefore, we don't know how much staff it's going to take.

So, when you talk about adding staff, let's narrow the scope and not try to do it for a 1 year time period, maybe let's do it for a 1 year time period. We should revisit this issue every year. We don't have to figure out what the program needs for all eternity today and pass a fee today that takes

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care of that. So, that's a key issue here, planning for the future so that we don't have like Texas has, millions and millions of dollars in their Title V program in an account, and dozens of permit engineers sitting around with not a whole lot to do. In other words, we want to keep it lean because we don't want to hire people and then have to get rid of them. Let me -- let me take you through some arithmetic now, if I may, based on some of the presentations, some of the overheads that we saw this morning.

Could I put up -- or shavna, it is -- could I put up the model year projection slide?

MS. MCWATERS-KHALOUSHI: Certainly.

MR. FISHBACK: Okay. That's the one we have a copy of. Being an engineer, I never go anywhere without my calculator. So I've been busy cracking through the numbers this morning. And I would like to share some thoughts with you that I think may help you resolve the issue we've got here. DEQ's proposal on Title V is to add \$1.17 a ton, and that is this \$274,000. Of that \$1.17, about 40 some cents is CPI?

MS. MCWATERS-KHALOUSHI: Twenty-eight.

MR. FISHBACK: Twenty-eight, okay. Inflation has been real low, so, yeah. Twenty-eight cents of that \$1.17 is CPI. And Mid-Continent definitely supports, as we have in the past, the addition of the CPI. In fact, I don't even think that's a -- that's not even an issue for Council deliberation.

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that's automatic.

Okay. So \$1.17 minus \$0.28 is \$0.89 a ton. That's the amount they are looking for in addition to that. This number right here, \$460,000, is \$1.85 a ton. That's the 12.75 FTEs that are proposed to be added to the Title V program. And as Ray Bishop said this morning, he has about 21 people in permits, 3 supervisors, leaves 18 people doing permit writing. So, when you look at this number and it's equivalent in FTEs, this number is \$1.85 a ton, it's also 12.75 FTEs. Basically, what you're saying is you want to add 70 percent to the permit writing staff. You want to go from 18 to 30.75, okay.

Now, if -- because this is \$1.85 a ton. If there was no increase at all, the \$0.28 is automatic. But if there was no increase in fee at all, in other words, the \$1.85 a ton was not added, fees could go down. That's the conclusion you reach from this data. In other words, that's \$1.85, and so if you didn't add anybody, and you are asking for \$1.17, and you don't add \$1.85, fees would go down. What we support -- and fees would go down by the difference between \$1.85 and \$1.17, which is \$0.68, okay. So, what we're proposing, what Mid-Continent would definitely support is keep the fees exactly the same, add the \$0.28, and now if you work through the arithmetic, you would find that since that's \$1.85 and that represents 12.75 FTEs, if you then say, all right, we're going to give you \$0.28 out of that \$1.85, plus the \$0.89 that the fees would have gone

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down without that, bottom line is keep the fees the same, add the \$0.28, you can add half of the number of people that they are proposing to add based on their own numbers.

Now, what I would like to see is -- I would like to see that done. Mid-Continent would support that, I would support that. See -- and I hope that's clear. I mean, if I had a slicky board, we could go through the numbers. But, what they are proposing to add is \$1.85 a ton, that's this number. And yet the amount of the fee increase that they are asking for is \$1.17. So, that's says that there is \$0.68 -- in other words, one-third of these people, one-third of these people can be added with no increase in fees. You look puzzled, is that --

DR. CANTER: I think part of the problem, Bill, is that you are assuming that the 12.75 would all be in permit writing. And my understanding is that's not necessarily the case. They would be in Title V, but not necessarily in permitting. That would be one comment I would make.

MR. FISBACK: Well, but yeah, but the \$1.17 is not all in permit, either.

DR. CANTER: I understand that. But you are losing me on this -- some kind of a rebate. The way I calculate it is if you just add the \$0.28, forget how they've got it divided there. If you say a \$0.28 increase, the CPI, I would say that you can have 28 over 187, or whatever the number

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was that you had there, one-sixth, okay. So, I would calculate that you could add 2 people, you are saying 6?

MR. FISBACK: Let me try to explain it, again.

DR. CANTER: Okay.

MR. FISBACK: That's the conclusion that I first reached before I did it again. If they add no one, if they add no one, this line goes away.

DR. CANTER: Correct.

MR. FISBACK: Then the total cost goes down by \$1.85 a ton. We all agree that that divided by 250,000 tons is \$1.85. Total cost goes down by \$1.85. They are proposing to increase it by \$1.17. So, the difference between \$1.85 and \$1.17 is \$0.68. So, that says that if they hired no one, the fees would go down by \$0.68 a ton. Does that make sense? We'll do it in 3 steps.

Okay. So this number is now not 12.75 but it is zero (0). So, now fees go down by \$0.68 a ton, because this number includes the \$1.17. Now you say let's keep the fee the same, no CPI, let's leave the \$0.68 in there. Now you've got \$0.68 over \$1.85, which is one-third, now you can hire 4 people out of 12.75. Now, if you add the CPI on it, another \$0.28, now you are up to about \$0.90 out of \$1.85, now you can add half of them, you can add half of 12.75 or 60. And that's what I would propose to do, for the very reason that we have a lot of uncertainties in the program. If you keep -- if you keep the

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fee the same, then you can add -- see, it would go down by \$0.68 if you eliminate it. So, if you keep it the same, you can hire \$0.68 over \$1.85, you can hire one-third of them. That's 4 people, and we know we're going to do that, we're not here to reduce it. Now you give them the CPI, that's \$0.28. Now you can add 6 people. Let's do that, let's see how it works, and as Ray said, let's find out if these Title V permits, the more complex ones, let's find out if they are -- he gave a range of 350 to 500 hours. Let's find out where it is, let's revisit it in a year.

In other words, you don't need to add the full amount here, because all of those permits are not due in the next year. That goes back to my original comment. You don't need to make a step change in the level of funding for the entire length of the program in one year. We need to revisit it every year. So, let's do that. Let's add 6 -- let's add 6 people to the Title V program. And according to this presentation, which is, of course, your folk's numbers, you can add 6 people to the Title V program by voting to increase the fee by the CPI, and that's it. Does that make sense to you, Joel?

MR. WILSON: Your math has made sense to me, yeah.

MR. FISBACK: Okay. Dr. Canter, did that -- am I making myself clear?

DR. CANTER: Yeah. I see what you did.

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MR. FISBACK: That only became evident to me this morning when we saw these numbers. And then -- and that's a beautiful compromise and you are giving them half of what they are asking for. And more next year if it's justified, and we get to work on the two audits, we get to work on our list of Title V and Non-Title V. We buy ourselves more time to figure out what's really important for the long term. I think it's a compromise, I mean, I just sat there and came up with this. This was not something that I could prepare for, because I hadn't worked the numbers that way. Joel, did you have a question?

MR. WILSON: Bill, I have several questions. You and I are in a business where we get to see new regulations working. They are actually forcing us to reduce our emissions, and therefore, we're going to be paying less emission fees. And conversely, the DEQ has increased oversight as a result of these new regulatory programs --

MR. FISBACK: Going in opposite directions.

MR. WILSON: Do you see this and recognize this dichotomy?

MR. FISBACK: Absolutely. And again what I think we need to do -- when I was on the Council and involved in the Subcommittee, to the credit of the DEQ we made tremendous progress in even getting this information assembled and before the public. And if we revisit this every year like

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we're supposed to do, because these fees are supposed to be adjusted for the demonstrative cost to the program every year, not just once, we can take into account things like that. A lot of industry had concern, and it was expressed in Mid-Continent's letter, if you've got regulations that reduce emissions and you've got a program that's, you know, if the denominator is going down, you've got dollars per ton, the denominator is going down and fees are going to go up because you did a good job in complying with regulations. So, yeah, we need to revisit it -- we need to revisit it every year. But the beauty of what I'm proposing here is that they get 6 people, additional people, with no increase in fee above the CPI.

MR. WILSON: Bill, another question that I have is that -- do you agree that EPA should be involved in these unfunded mandates and EPA initiatives that require their time or would --

MR. FISHBACK: Yes. And I have a commitment from our membership that given a targeted audience within EPA, given a targeted audience within the state legislative process, that we will be glad to make any presentations anywhere, anytime, to take that message home. Our feeling is that it is very seductive, for want of a better word, for Congress and EPA to pass regulations that are unfunded, knowing that there is a program in place, where as everybody will recognize, it's

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relatively easy to get additional money. I mean, it's a whole lot easier to get money out of 6 Air Quality Council members than it is the State legislature or the Federal Government. And, so, yeah, it's absolutely essential that we take that message, and we're prepared to do that.

MR. WILSON: Who's going to pay for this?

MR. FISHBACK: Who's going to pay for --

MR. WILSON: Who should pay for the --

MR. FISHBACK: The lobbying effort, for want of a better term?

MR. WILSON: Yes.

MR. FISHBACK: Well, I think whatever time DEQ's staff spends on that, in my opinion, chargeable to Title V. Industry, my industry, my company is willing, because we do it all the time anyway on the federal level, we're willing to pay for my time and my travel to go to Washington D.C., or wherever the proper audience is. I mean it's real easy to go down to the State Capitol. That doesn't cost anything other than time. The companies are willing to pay for their employees to do that, because we participate in trade associations all the time. But if you're asking do I think lobbying to reduce Title V fees and increase appropriations should be Title V chargeable, I'd say yes. And just in the same way that we'd be willing to pay \$0.50 a ton or whatever that number is to get an audit, we'd be willing to pay \$0.10 a ton to lobby to reduce

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it. Yeah, there is a cost of doing business, regardless of what side of the issue you are on.

MR. WILSON: OTAG as an example, I sense from your comments earlier that you didn't feel that that's an entirely a Title V issue?

MR. FISHBACK: I am absolutely convinced that it's not entirely Title V. The best solution I can see is a compromise where it's prorated based on the emissions between stationary and mobile sources. David Dyke said, well, it's primarily related to a NOX SIP call, and 85 percent of the total NOX emissions are from 110 stationary sources. If you use that index, then you conclude that 85 percent of it ought be chargeable to Title V, but still not 100. And if you use another index like VOCs and tailpipe emissions and all of that, you come up with a completely different conclusion, maybe it's fifty-fifty. But I'm absolutely convinced that it's not one hundred/zero, and we need to work out fair and equitable distributions of the burden.

MR. BREISCH: Bill, we're going to have to go on with the meeting.

MR. FISHBACK: Okay.

MR. BREISCH: Have you about concluded?

MR. FISHBACK: I've concluded, unless there are other questions.

MR. BREISCH: Okay. Is there any more questions

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from the Council?

MR. WILSON: I have one more question, Bill, if I could. You are supporting quarterly payments?

MR. FISHBACK: Yes.

MR. WILSON: Quarterly payments means that some money would stay in the accounts of industry and earn interest over a longer period of time than it did before.

MR. FISHBACK: And conversely not in the DEQ account, and not earning interest to their credit. Go ahead.

MR. WILSON: Would you support any increases associated with these accounts of earnings that industry would gain by having the luxury of paying quarterly?

MR. FISHBACK: Well, in this era of low interest rates, that's a good question. If you want to do this like a bank would do it and you look at the DEQ Title V account balance, and you look at the average daily balance, and you say I'm going to assign 5 percent to that. You know, that money that they don't have now could have earned 5 percent. If we did -- the short answer to your question is, yes. But it would not be, as you can well understand, it would not be -- if 5 percent is the interest rate that we agreed on, it would not be a 5 percent of 4.4 million.

MR. WILSON: I understand that.

MR. FISHBACK: Because that money is not in there on January 1st and not in there all year. They are

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spending it, and in fact in some years spent more than that.

1 But, yes, conceptually I would support that. I think that's a
 2 small amount of money, 5 percent -- 1 percent of this number is
 3 \$44,000. Five (5) percent of this number is a dollar a ton.
 4 And, so, the most I could see that being based on average daily
 5 balance is \$0.25 to \$0.50 a ton. But, yeah, because that's to
 6 industry's credit and therefore it's a debit to DEQ, and, yeah,
 7 I think that's a legitimate thing to do.

So, in summary, if you accept my arithmetic here, I
 8 would propose that you increase the fee by the CPI, not any
 9 additional amount, institute the audits, institute the
 10 definition of what's Title V and what's Non-Title V and add
 11 those 6 people and revisit it in a year.

MR. BREISCH: Any more questions of Bill?

MR. FISBACK: Thank you.

MR. BREISCH: Thank you.

MR. DYKE: Nadine.

MS. BARTON: I know you're weary. My name is
 1 Nadine Barton, I'm with CASE, Citizens Action for a Safe
 2 Environment. We are the successful intervenors to stop the
 3 building of the Black Fox Nuclear Plant in Inola. I'm also a
 4 member of the Tulsa City County Health Department's
 5 Environmental Advisory Council. I'm also a member of INCOG. I
 6 do not represent them today, only Case. At the height of our
 7 campaign, we had 3,000 members.

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First of all, I want to commend staff for the job
 1 that they've done. And I'm sure that if all we needed was a
 2 CPI amount, that's what we would have gotten. You know, I have
 3 to say for the record that back when we passed these fees to
 4 begin with for the Title V, they were low, one of the lowest in
 5 the United States. And here we are today, 2 or 3 years down
 6 the line, and we realize that, yeah, they were too low. So,
 7 what we're talking about today is to bringing them up to
 8 something that is just minimum to run the program as it is. I
 9 think that we have to look at the Tulsa City County issue that
 10 we may not have those funds. We can go to the Legislature, ask
 11 for appropriations, where is the appropriations going to come
 12 from? Rainy day fund? Okay. Are we going to have to raise
 13 any more taxes. As a taxpayer I resent the fact that I'm going
 14 to have to fund this. You all, you know, if you make the
 15 profit you are going to have to pay for the pollution. Why
 16 should I as a taxpayer, again, have to basically support
 17 industry. We got raked over the coals with our chicken and pig
 18 legislation that we have, where the taxpayers have to pay for
 19 that. And those folks are getting the profits, but we're
 20 having to pay for the pollution. I don't want to see that
 21 happen here again.

You know, we have to look at the State of Oklahoma.
 1 Here we are today with people that -- with an agency with our
 2 Title V program, which we have so many permits that are off in

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the wings that have to be done, we're short of personnel, how
 1 do you think this looks to companies that have to have these
 2 permits for their operation of business, when they are looking
 3 at states to come in? When they are looking at states to come
 4 in to do business. I don't think it looks very good. And you
 5 can argue the other way, well, it's cheaper, yeah, they're
 6 going to come here. Well, if it's cheaper and you can't get
 7 the work done, no, they are not going to come here and the word
 8 is going to get out. So, I think for economic development, we
 9 haven't even talked about that today. We need to prepare now.
 10 You know, I was really impressed by what Ray had to say about
 11 -- I guess, I'm sorry, it was Scott, about the Special Projects
 12 that are coming on down the line. I don't know how many of you
 13 were really paying attention to what he was talking about, but
 14 we have to look at that. That work has to go on, along with
 15 everything else that we're doing today. I kind of feel like an
 16 attorney for the other side, you know, and you all are the jury
 17 here and we're pleading. And it's, you know, it's like the
 18 wife that goes to the husband and begs for more money to run
 19 the household. You know, it's a terrible position to have to
 20 put your staff in to have to beg.

I support staff's majors. I'm sorry to see -- I have
 1 to make a -- you know, being a small business person myself,
 2 that they are going to have such a large increase. And I'm
 3 thinking, you know, I don't know whether I can support that

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large of an increase. And I don't know why the big guys don't
 1 take up more of that slack of that increase. You all know that
 2 sooner or later that you are going to be passing it on to us,
 3 the consumers, so we're going to pay for it one way or another.
 4 But your stockholders are going to get the profits just the
 5 same.

I think we have to realize that we're going to be
 6 dealing -- this is the last year, '99, the last year of this
 7 century, the last year of this century. And we're going into a
 8 new century and there is going to be things coming up that none
 9 of us can foresee. So, I think that we should allow staff,
 10 their recommendations, to stand. You know, I'll have to say
 11 that I recommended, you know, like when you all ask for a job
 12 you should ask for more than you need, and maybe you'll get
 13 basically what you need. And I was told, hey, we've got it cut
 14 right down to the bone. This is what we need to run this
 15 program. We have to be supportive of our people. And if all
 16 we needed was the CPI, that's all we would have needed and
 17 that's all they would have brought to us.

And industry, if you want to go ahead and have an
 1 audit and a study like we did before, how in the heck do you
 2 know that it's going to support your point of view? Maybe it's
 3 going to be more, so then are you going to ask for another
 4 study? You know, that's the way to defer anything, study,
 5 study, study to death. Meanwhile, we've got all of this, you

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know, these expenses. What can we count on, what can we not count on. Federal grants are not going to be there, folks, so you better be thinking about that. And every year are we going to have to come back and do this pleading again? I hope not. I hope that you paid attention to the wisdom of your Chairman earlier this morning when we talked about this. Anyway, what can I say? Vote your conscience. Let God be your guide and not your pocketbooks. Thank you.

MR. DYKE: Back to questions and comments.

MR. BREISCH: David, how long does it take when you hire an employee, how long -- let me ask it this way. How long does it take you to hire an employee and get him into staff, let alone train him?

MR. DYKE: Two months.

MR. BREISCH: You mean, let's say you could hire 10 people and in 2 months you would have them?

MR. DYKE: No, I would have them on staff. The training part -- Shanna?

MS. MCWATERS-KHALOUSHI: David, if I may enter into the record, the T&A study is the only written document that we have that assesses what a training cost is of a new person. The T&A report issued an amount of 179 percent of the first quarter salary is what it costs to train a new employee in the Air Quality Division.

MR. TERRILL: Time-wise, it would be about a

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year, probably, before they are -- you can do some -- it depends on how well they are trained coming in. If they come from industry, then it takes less time.

MR. BREISCH: Well, really my question was how long it takes to hire them.

MR. DYKE: It takes about 2 months through the process to get them on board.

MR. BREISCH: And there are those people out there, you think that you can get to come to work?

MR. DYKE: There will be at the end of the school system -- school year.

MR. BREISCH: And that's when?

MR. DYKE: April, May.

MR. BREISCH: Well, okay, so, you won't be hiring --

MR. DYKE: I won't be able to hire until July 1st, or around July 1st when I get a projection and forecast of what my budget is going to be next year.

MR. BREISCH: I guess what I'm getting at is --

MR. DYKE: Six months.

MR. BREISCH: -- if you had authorization to hire 17, you are telling me you are going to hire only about 8 this year, anyhow?

MR. DYKE: Probably more than that, because we'll do it in a lump situation like we've done in the past.

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But yeah, that's exactly right. And on our forecast, we used 17 people, which we think we need to design the fee, but we also used that as a surrogate. I mean, the money associated with that, we know we can't spend it on an annual basis. There is always going to be a vacancy beyond that, even with the 17 people. But what you don't have in there, as Shanna was trying to point out, is training costs, and operational cost increases. And my budget this year, my expenditure levels this year is \$200,000 more than this base budget. We probably made a mistake, but we took a simple approach. We only asked for certain things with dollars associated with them from a flat budget, an absolute flat budget. And what we should have done was gone in and elevated all those expense accounts to what it would take to support these kind of people, and then ask for the people on top of them. That would have got us a figure somewhat different than we have today. So, we made a mistake in our presentation by doing that, it appears, especially from the last calculations. Because that's what's not in there. That's why those figures work, is because we don't have that kind of operational expense in there. So, yes, there is no way I can put 17 people on right away. It would take at least 2 different interview teams, because we're looking at 2 types of employees, Engineers and Environmental Specialists.

MR. BREISCH: So, tell me again what the total of \$614,000 represents.

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MR. DYKE: Seventeen vacancies with their salary, with a salary increase. The salary increase put on top of them. Those are -- I'm not sure the details of -- those are seniors, right?

MR. BREISCH: Average of 16,000 a year.

MR. DYKE: We probably won't hire all seniors. We'll hire some ES I's and ES II's, and Senior Environmental Specialists. That's why that's in it, that's a large amount.

MR. BREISCH: It seems like this time next year, though, you will not have spent --

MR. DYKE: That amount of money.

MR. BREISCH: -- anywhere near that amount of money.

MR. DYKE: That's true. That is true.

MR. BREISCH: David, you are the Hearing Officer, but let me just ask the Council, myself. Is there any other questions or comments from the Council before we take a vote on this?

MR. BRANECKY: I'm ready to make a motion whenever the time is right.

MR. EDDINGTON: May I make one comment, please? My name is Robert Eddington, I work for Armstrong Flooring Division, based out of Allentown, Pennsylvania. We are currently putting in a new process in my plant. It is in multiples of tens of millions of dollars. The one reason why

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we chose Oklahoma was because the permit process is quick here.

1 We have had excellent service from DEQ. We couldn't get it in
2 Pennsylvania or in California, or New Jersey. We chose
3 Oklahoma because the system they have in place here, they are
4 fast and efficient for us. We went in there in April for
5 construction permits. I had two (inaudible) for comment
6 period. We got our permit on time. And in like 6 months from
7 now, we'll go back for an operating permit, and then next year
8 probably for a Title V. If they don't have the staff, that's
9 going to hurt us. We want it done quickly. I am racing time
10 with my competitors, the other guys who make floors. And there
11 are two right now with the new technology, first of its kind.
12 They're fighting New Jersey's rule. We're with Oklahoma. So,
13 please give the staff what they need. I defer to the experts.

1 They don't sit down in the morning and figure what they need.

2 They have done hours and hours on this, sitting down what they
3 need to do their job. Give it to them, what they think. You
4 know the people with DEQ, they are good people. Defer to them,
5 their expertise and let them decide what they think. You find
6 a mistake, fine, but right now they are doing a great job. And
7 don't cut them shorthanded. And, hey, 2 or 3 years from now,
8 yeah, okay, if you have to cut back, cut back. But don't
9 nitpick them, a nickel here and a nickel there. I will gladly
10 pay the extra cost if I know I'll get my permit in 90 days. If
11 you hold me up 6 months, my competitor may get his through the
12

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system before me. And we race a November deadline next year at
the floor show. We have to be first on the scene. If we're
not, then we have a problem. So, please don't nitpick them too
much. That's all I have to say.

MR. BREISCH: I don't see anybody else from the
Council that wants to talk, David.

MR. DYKE: Anybody else wishing to make a
statement on this matter from the public?

MR. BREISCH: Okay. I'll entertain a motion
from the Council on this matter.

MR. BRANECKY: I'm ready to throw something out
and see what happens. I guess, there is enough concern in my
mind about finances. I think we still need to get a better
accounting of the finances. I'm not blaming Air Quality. I'll
probably pass that on up to the Finance Division, that they
need to provide better financial information to us. I think
there is some Title V or projects that are attributed to Title
V that are not really Title V. But they should be, the bill
should be paid for by the citizens of Oklahoma or some other
mobile sources. I think there is enough question in my mind
that what I'm going to propose, and Bill, I had this down
before you got up there, and I got language that I will
propose. But basically what I'm going to make a motion for is
that the Title V fee be adjusted by the CPI, that the minor
source fee be equal to the major source fee, and that the

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increase in the minor source application fee be accepted as
proposed by the DEQ. At the same time, I'm going to encourage
industry, both small business and large business, to go to the
legislature and seek appropriations. I think the citizens of
Oklahoma need to provide some base funding for the program.
But there are issues that are not Title V that benefit the
entire state, and that ought to be paid for by the state. And
that's the message the industry needs to take to the
legislature, that we can get additional money. If those 3, the
Title V, minor source fee, and the permitting application fee
are passed, my calculations come up with an additional \$357,000
approximately. And then if we can get additional
appropriations on top of that, that will just be extra money.
With the \$357,000, that is approximately 10 people that DEQ can
add. If there is a workload analysis, that needs to be a
separate funding of appropriations, that the industry needs to
seek out. If we don't get that, then the workload analysis
will not be done. So, in light of that, what I'm going to
propose is actual changes to the rule.

1 In 252:100-5-2.2(b)(1)(A), I think that whole
2 paragraph can be stricken since that's out of date. It says
3 until January 1st, 1998. We can just strike that paragraph.
4 We can strike paragraph B, that's no longer applicable. We can
5 make paragraph C under that section, paragraph A, stating
6 beginning January 1st, 1999, annual operating fees shall be
7

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invoiced at the rate equivalent to that listed in 252:100-5-
2.2(b)(2)(A), which in effect says the minor source fees are
equivalent to the major source fees. We can then delete
paragraph D under that section.

252:100-5-2.2(b)(2), Part 70 Sources, we can leave
paragraph A as is, disregarding the proposed changes, and
delete paragraph B and change paragraph C back to paragraph B.
I think that would accomplish what I stated.

MS. HOFFMAN: I have two quick comments. First
of all, did you want to include in your motion the Subchapter
B?

MR. BRANECKY: Yes. That will be accepted as
proposed by the Air Quality Division.

MS. HOFFMAN: Okay. And secondly, on Subchapter
B, on the fees that were in place prior to January 1, 1999, I
would recommend that you leave those as stated, simply because
it makes it easier for our Enforcement people when they have to
go back and collect fees that haven't been paid in prior years.
Then if it's in the rule, then they know exactly how much they
need to collect.

MR. DYKE: So, we would adopt the CPI as it
comes?

MR. BRANECKY: The CPI would be an automatic
adjustment. We don't have to act on the CPI, is what I
understand.

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MS. HOFFMAN: Right.

MR. BRANECKY: Okay. I take that back, then. Leaving in paragraph A, is that what you are saying?

MS. HOFFMAN: Yes.

MR. BRANECKY: And still striking paragraph B, or leaving that in, also? I guess we'd have to leave paragraph B in, also?

MS. HOFFMAN: Right.

MR. BRANECKY: The only thing we would strike would be paragraph D under that section, and changing paragraph C to read beginning January 1, 1999, annual operating fees shall be invoiced at the rate equivalent to that listed in 252:100-5-2.2(b)(2)(A).

MS. HOFFMAN: Are you --

MR. BRANECKY: I'm trying to set the minor source fee equivalent to the Title V fee.

MS. HOFFMAN: To the base Title V fee or to the Title V fee base plus the CPI?

MR. BRANECKY: Plus the CPI, that's what I'm intending. I'm intending them both to track as they are adjusted every year, they'll both go up.

MR. DYKE: I think we might have a problem with that.

MR. BRANECKY: Okay.

MR. DYKE: I think we're going to have to adjust

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the minor source every year. So we'll need to state a specific amount for the minor source.

MR. BRANECKY: Okay. So, beginning January 1, 1999, annual operating fees shall be invoiced at \$16.67 per ton. That's under paragraph C.

MR. WILSON: I have a question about that.

DR. CANTER: Is there a second on that motion?

MR. BRANECKY: No.

MR. WILSON: Okay. If appropriations are not obtained for this workload analysis, it's not going to get done, is it?

MR. BRANECKY: Right.

MR. WILSON: And we're going to be here doing the same thing next year, a good chance?

MR. BRANECKY: Well, I think we'll probably be here next year.

MR. WILSON: But with the same questions and uncertainty that we're concerned about now. And I heard Mr. Fishback earlier state that he would be willing to, at least as a representative of Mid-Continent Oil and Gas Association, be willing to pay for one of these things through the emission fee and the emission fee increase, as protection of the current Title V charge process.

MR. BRANECKY: I think we discussed that, and I think the difficulty arose in how we would earmark that money

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specifically for that study through the regulation. And that's why we kicked it back to the legislative level.

MR. WILSON: We've killed that, then, due to the lack of the ability to specify how it gets spent?

MR. DYKE: I think the problem is the rub where you have to look at the total program, Title V and Non-Title V, and we're spending Title V fees on Non-Title V program.

MS. MYERS: Because you would have to evaluate all of the programs.

MR. WILSON: But in my opinion, it's Title V requesting -- it's driven solely by Title V.

MR. FISHBAC: As I said earlier, I would definitely -- the Oil and Gas Industry would definitely support that. The problem is what David Dyke said about using a Title V fee increase to analyze the entire program, which includes Non-Title V. If that's the issue, then that strikes to the heart of what we've been talking about, keeping them separate.

But I would submit to you that the incremental cost in a workload analysis, of including Non-Title V programs in a Title V workload analysis, would be very, very small. So, if \$0.50 a ton is the right number, \$125,000 to do this, maybe \$25,000 of that \$125,000 is spent in including additional items in the workload analysis. In other words, putting together the process and hiring the contractor is going to be by far and away the biggest issue. And if they evaluate a few other work

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teams, a few other work processes, it's not a big deal. Now, you know, I'm very sensitive to that issue, don't spend Title V money on Non-Title V. But in this case, I think it would be very minor additional costs to do it all. But I also think that Mr. Wilson is right, you can't do one without doing the other.

MS. MYERS: I don't see how you could legitimately say that the Non-Title V would be a very minor part of it.

MR. FISHBAC: Of the analysis.

MS. MYERS: Of the analysis. I mean, it would have to be very comprehensive of what they are doing in Non-Title V, as well.

MR. FISHBAC: Well, yeah, nobody really knows.

All I'm saying is it's not linear. It's not -- if the amount of effort on Non-Title V was equal to Title V, and let's assume it's either -- well, it's 60/40, it's supposed to be 60/40. I don't think that it would cost an additional 40 percent to analyze it all. But that's strictly a judgement call. I guess said another way -- I guess said another way, I would be willing -- and I speak for my industry, I'd be willing to absorb that additional cost to get it right.

MR. DYKE: And we're not getting it by any means. If our lawyers tell me that's okay, let's do it. You know, I just think maybe we attempt to earmark one depending on

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the other, pay for your part of it.

1 MR. BREISCH: According to these figures, then,
2 that you just made a motion on, Dave, we will have on the -- I
3 don't know what we call it, the typical year --

4 MR. DYKE: Model year.

5 MR. BREISCH: You will have an increase in the
6 deficit for the model year. A decrease in the deficit, an
7 increase in the deficit, you will have less money?

8 MR. BRANKCKY: Right.

9 MR. BREISCH: Okay. Then if you are right and
10 this time next year we break even, we're still at a point that
11 we have decreased the amount that we have to offer for the
12 first quarter. And my question is, if we increased the fee,
13 the other \$0.90 approximately, we can always decrease it, we
14 can always refund it. But we're facing the probability of a
15 year from now of having to play more catch-up. And I either
16 have to believe the staff in what they are saying in the needs
17 that they can't quite quantify here, that we're really going to
18 need that money. And our committee can certainly judge whether
19 it's being spent right. If Mark Coleman's office will send us,
20 supply us, with the proper financial documents, which I would
21 like at this time to make a record that we are requesting those
22 documents on a monthly basis, and I would like this record to
23 be transmitted to the DEQ Board.

24 But I am still very concerned about cutting back just

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1 to the CPI index on this raise. I feel uncomfortable with it
2 from what I've heard from the staff. And I have a very
3 difficult time, though, in telling industry to go ahead and put
4 that money up. It's -- I wouldn't want to. Maybe we lessen
5 the impact by going it on a quarterly basis, you know, but I
6 see a definite shortfall in the Non-Title V. I don't see this --
7 I don't see the legislators being friendly about giving us
8 more money. And I hope you can lobby that in, but this would
9 be one of the first times. And they are very, very difficult
10 to convince to do this thing, because of the difference between
11 the attitudes in the rural areas and the metropolitan areas.
12 So, you are going to have a tough -- a tough time. And I
13 believe with what I've said, I've still got to support the
14 increase recommended by the staff. I hope -- maybe I'm voted
15 down, but I just -- I have fought this thing for a long time,
16 and I've listened to everybody. But I don't think we've made a
17 mistake by increasing it as much as a mistake we would make by
18 not increasing it. So, it kind of comes down to that. A
19 lesser mistake by increasing.

20 MS. MYERS: May I make a comment, please? I'm
21 not saying anything that I haven't already said to the DEQ
22 staff, I think they've done an incredible job of trying to dig
23 themselves out of a mess. They've had difficulty on getting
24 information from the Finance Department. The problem that I
25 have with it is that through sitting through the budget

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1 meetings, every time we come in and sit down with the financial
2 people, there is something different. There is no consistency
3 from meeting to meeting on what the numbers should be. They
4 change anywhere from \$0.25 to over \$1.00 from meeting to
5 meeting. I realize that's a difficulty in the financial part
6 of it. I would not want to penalize or cut Air Quality short
7 by any means, but I'm not totally comfortable with the
8 information that we've been given to try to make this decision
9 today. We have to make a decision. I don't totally disagree
10 with you, but I don't totally disagree with David, either.
11 Honestly, I just really don't know at this point in time. And
12 I'm not saying anything that I haven't already said out loud to
13 a number of folks.

14 DR. CANTER: I would note that I do not pay any
15 of the fees. So, I want to say that at the beginning. I --
16 this has been a very difficult process. I think, for me
17 personally. I have thought about this quite a bit, and one of
18 the -- and I'd like to make 2 or 3 points and then say what I
19 would support. First of all, I -- over the last year and a
20 half or so, I have seen the staff of the Air Quality Division
21 make considerable belt-tightening efforts, organize
22 information, granted that every time we get a report there are
23 differences, but at the same time, I have the sense that we're
24 moving in the right direction. It's a difficult process, but I
25 do believe that the Air Quality Division staff are trying to

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1 move in the right direction and I commend them for their
2 budgetary decision making that has occurred over the last many,
3 many months.

4 I do believe that issues such as changing the
5 consulting services on the minor source makes a lot of sense,
6 as we've discussed today. One of the things that I would be a
7 little concerned about is that the staff has been working very
8 hard, and I am also concerned about the morale of the staff if
9 we continue year after year to not provide any kind of relief,
10 in terms of the staff requirements. If we accept what David
11 has proposed, my calculation is, based upon the model year,
12 that we're still approximately \$640,000 in the deficit, even
13 with David's proposal. I do believe that a quarterly payment
14 plan would make sense, and what I would feel comfortable
15 supporting is the recommendation of the staff for Title V, the
16 entire recommendation for Title V, understanding that if it's a
17 quarterly payment, then those sources that pay the fee, there
18 is at least a little relief in the interest that might be
19 earned there. And even if we went to the entire Title V
20 proposal, that would still leave a deficit of about a half a
21 million dollars, based upon the model year. But, I would feel
22 comfortable for myself in accepting the proposal for the Title
23 V fee, making the changes 2 and 3 that David has suggested,
24 which is change the minor source to the Title V fee and
25 accepting the application fees as recommended. This is, as I

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said, a difficult thing for me, because I've tried to think about these different issues, et cetera, and I do believe that what can be encouraged is for all of the Title V sources to do whatever they can to do pollution prevention and to reduce their inventories, and thus reduce what they are paying, and perhaps that is an offset. But that would be -- what I would certainly feel comfortable in supporting would be that the recommended Title V fee and the second and third points that David recommended.

MR. BREISCH: Is there any way in our motion to cause a study to be made?

DR. CANTER: I would think that would have to be -- you mean, like on the audit of the workload study, the financial audit?

MR. BREISCH: Workload study.

DR. CANTER: It seems to me that ought to be, as part of this recommendation, I don't know. But I would think it should be appropriately taken up under Item 9A, New Business, on the agenda. I mean, that would be what I would suggest on that point.

MR. BRANECKY: Unless you can provide the funding, how can we cause it to be done, force it to be done. There is no money available.

MS. BRADLEY: Bill, can the Council actually --

MR. DYKE: Cheryl Bradley.

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MS. BRADLEY: Cheryl Bradley, excuse me. I was involved in the Water Quality study that was done for NPDS, and to my knowledge, the Council can make a recommendation but couldn't actually take an action that would bring about the study. It was a recommendation of the Council to the Executive Director, and then the Executive Director and the Council worked together to find a funding source through the Legislature. But they couldn't do it with a recommendation that would effect the budget of the agency.

MR. DYKE: And I don't think we're trying to do that. I think we're all on the same sheet of music here.

MR. BRANECKY: Mark Coleman has approached the -- preparing to approach the Legislature asking for \$950,000 --

MR. DYKE: \$950,000, yes.

MR. BRANECKY: Specifically for the Air Quality Division?

MR. DYKE: Yes.

MR. BRANECKY: Okay.

MR. DYKE: Up and above and different from that for the Tulsa Office.

MR. BREISCH: What category is that in, Non-Title V?

MR. BRANECKY: It would be Non-Title V. And I guess what I'm saying is I believe there is some Title V expenditures that could be moved out of Title V, like the

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nonattainment issues in Oklahoma County and Tulsa County, and absorbed in that Non-Title V area, if those appropriations were there, thereby reducing the load on Title V and the need for a larger fee increase, and absorb that in the other areas.

MR. BREISCH: We can't make a contingent recommendation, I think that's the problem there.

MR. WILSON: I would like to enter into the record that I have requested information on criteria for determining what tasks are Title V and which ones are Non-Title V, and I don't have that list. I think that's a big issue here, that there is differences of opinion on how to divvy up these costs. And that's, again, why I would support some workload study and involvement from the Council to determine what's Title V and what's Non-Title V. The last thing that I want as a representative or of an employee of Conoco, a major source, is less service. And I agree with the gentleman from Armstrong. We can't afford less service, that's our competitive edge in some cases.

But we can't sit back and say I want to ignore what's fair or what's not fair, so that I can get quick service from the State. I think the fee payers, the bulk of the fee payers of the major sources, should know very well what tasks are Title V and what tasks are Non-Title V. They are paying the money, they deserve to know, and they deserve to get involved in public hearings such as these, to provide their comments on

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how that -- on what that definition is. That hasn't been done. There has been very little argument here about what's Title V and Non-Title V, because no one knows. And until we can get that definition, it would be very difficult for me to say, yeah, Title V is underfunded, because I don't know what it is.

MR. BREISCH: As a way to get this thing off dead-center, it appears right now that there is a couple of us doubting your motion, and that means it fails. Because you have got to have 5 for it.

MS. MYERS: It needs to be seconded and voted on.

MR. BREISCH: Well, I'm saying if it was seconded and it was voted on, and only 5 people --

MR. BRANECKY: Right, I understand that.

MS. MYERS: Why don't we clear it off the deck real quick?

MR. BREISCH: Well, you know, I kind of like things to go as smooth as possible from this Council. I'm not happy with this, and what I'm going to ask for is a compromise. And the compromise is, split the difference. And I haven't got any reason to do it. But there is enough doubt in everybody's mind, there is enough questions in everybody's mind, you know, on both sides, could you consider that as a -- the motion hasn't been seconded yet. Could you consider that?

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1 MR. BRANECKY: What specifically -- how much are
2 you asking for?

3 MR. BREISCH: Well, I'm asking for about half of

4 MR. BRANECKY: \$0.45?

5 MR. BREISCH: Yeah, \$0.45.

6 MS. MYERS: Plus the CPI.

7 MR. BREISCH: The CPI plus the \$0.45.

8 MR. WILSON: Bill, would that also come with the
9 quarterly payment schedules?

10 MR. BREISCH: Yes, comes with the quarterly
11 payment schedule, and also I can assure you that after the next
12 item that we're going to bring up here is going to request some
13 of these studies that we believe we have to have made, even if
14 we involve ourselves as a Council in making it.

15 MS. MYERS: It was my understanding that we
16 didn't have to put the quarterly payment in, as part of the
17 rule, is that correct?

18 MR. DYKE: That's correct. And if I could, I
19 would like to address that because I never did get to address
20 that totally, and we'll put that to rest. We have agreed to
21 meet with EFO or whoever, to work out the details on a
22 quarterly payment. I want it made clear, though, that we're
23 going to do one billing with the four installments on that
24 situation. We're going to limit that to the large fee payers,

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1 because we don't want to handle 16 times 4 checks. Okay.
2 We're only going to do one billing. We're not going to
3 increase it, but we're going to limit that to some agreeable
4 large fee payers. We're not going to offer that right now to
5 everybody that receives an invoice.

6 MR. BREISCH: I think we need to hear your
7 thinking on that now, David. Is it \$5,000, is it \$10,000, or
8 what?

9 MS. MYERS: I would say -- I don't know -- how
10 many fee payers do you have, over 100,000?

11 MR. DYKE: I have not looked at this
12 information. I have this information. By what they pay, where
13 they are at, and I have not looked at it. I think that -- I'm
14 going to have to work from memory here, totally from memory.

15 MR. THOMAS: \$50,000, payers who pay more than
16 \$50,000 per year pay quarterly. \$25,000 I've heard discussed,
17 too. We've batted this around. I don't remember the exact
18 figures.

19 MR. DYKE: Again, that doesn't have to be in the
20 rule. In fact, we don't want that in the rule so we have some
21 flexibility with it.

22 MR. BREISCH: We just need to know what you're
23 thinking about here.

24 MS. MYERS: Is that something that you could
25 possibly work with some of us that are on the budget committee

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1 or EFO or somebody --

2 MR. DYKE: I think that is exactly where we need
3 to start.

4 MS. MYERS: I think we need to do that outside
5 of this meeting and outside of this hearing.

6 MR. DYKE: And I think we're agreeable and we
7 can come to some agreement on it. We just don't want to send
8 out 1,600 minor sources' bills, and multiply that by 4 coming
9 in. The tracking of the checks, the State's requirement that a
10 check received by the agency has to be deposited within 24
11 hours, we do not have the infrastructure to handle that. We
12 can handle it a couple of times, 4 times a year, we can handle
13 incoming and we can handle some additional. So, I think if we
14 start with the -- if it's agreeable to everybody, we start with
15 the Finance Committee and we bring that proposal. Because
16 we've looked at it, our computer is programmed to do it, the
17 agency has looked at it, they are expecting us to do it. It's
18 just a matter of sitting down and working out the details. We
19 have not cut the lines off yet.

20 MR. BREISCH: Well, that's all right as far as
21 I'm concerned. I just needed to know how it was going to be
22 done and what your thinking was.

23 MR. DYKE: And we can bring that back and
24 discuss it in the Director's meeting before the Council. I
25 think in the briefing session would be the best place to

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1 present that back through.

2 MR. BREISCH: After you've reviewed it.

3 MR. DYKE: After we've reviewed it and worked
4 out the details.

5 MS. MYERS: I think we've got a counter offer
6 for you.

7 MR. DYKE: Just a moment. Bill.

8 MR. FISBACK: Could I ask a point of
9 clarification about Mr. Breisch's statement. Is the vote of
10 the Council, since there are 9 members on the Council, one is
11 yet to be appointed, so there's 8 active members. Does a vote
12 have to pass by the majority of those present, or a majority of
13 the Council? I thought it was majority of those present?

14 MR. DOUGHTY: It takes 5 voting to pass a rule.

15 MR. FISBACK: Regardless of those present or
16 the active members?

17 MR. DOUGHTY: That's correct.

18 MR. DYKE: Back to the Council.

19 MS. MYERS: Go ahead.

20 MR. BRANECKY: I would agree to the additional
21 \$0.45.

22 MS. MYERS: Plus the CPI.

23 MR. BRANECKY: With the CPI, which comes to
24 \$0.73.

25 MR. BREISCH: So, it's \$17 --

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1711

MR. BRANECKY: \$17.12 should be the number.

MR. BREISCH: And that will be reflected up in the other paragraph on the minor sources.

MR. BRANECKY: That would be -- right.

MR. BREISCH: Everything else back to the originally --

MS. MYERS: In his original proposal, his original motion, for the minor sources to be brought up to the same fee paying that the major sources are paying. What was that other thing?

MR. BRANECKY: The other would be the increase in the application fees.

MS. MYERS: The increase in the application fees, approve those, and I would like to add the option to revisit this issue in a year to see how things have turned out.

MR. BREISCH: Absolutely.

MR. BRANECKY: And also perform the --

MS. MYERS: The study.

MR. BRANECKY: -- the workload analysis, if we can get funding for that from the Legislature.

MR. DYKE: We'll go on record that we're agreeable if we get funding from the Legislature.

MR. WILSON: I would like to say that certain things are going to have to be done by DEQ to spend this money in the next year. And if it's not done, do we get a refund?

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MR. BREISCH: I think that will come out in -- as they call the revisit of this next year. But if we see a trend that reflects this, Joel, I would be in favor, no question about it. I will see us building up a fund beyond any -- beyond reasonable amount.

MR. BRANECKY: But we do institute the quarterly payment options for those large sources.

MS. MYERS: But that doesn't need to be in our motion?

MR. DYKE: Let me -- I'll go on record as saying we don't want to start the Legislative Session next year with a large balance. The quarterly payment should help us in this aspect, but we don't want to grow the balance in our Title V account. We want it to be a reasonable reserve, but we don't want to grow that balance because the Tulsa Office is funded out of the Solid Waste fees, just for that reason. We don't want to go in that direction.

DR. CANTER: Let me be sure that I'm clear on what we would vote on. So, I'm looking at page 1 of the Subchapter 5?

MR. BRANECKY: Right.

DR. CANTER: Let me be sure I'm clear on that. So, down on the bottom of the page in paragraph 8, with this proposal--

MR. BRANECKY: Under Part 2 of Paragraph 2?

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DR. CANTER: It would be \$17.12 rather than \$17.56?

MR. BRANECKY: Yes.

MR. BREISCH: Yes.

MR. BRANECKY: And that also will be reflected up in (b)(1)(C), the Minor Sources, the \$17.12.

DR. CANTER: Okay.

MR. BREISCH: Do I have a second to that motion?

MS. MYERS: I'll second it.

MR. BREISCH: Okay. Is everybody clear?

MR. WILSON: I'm sorry, Mr. Fishback had his hand up.

MR. DYKE: I'm sorry.

MR. FISHBACK: I wanted to ask, the DEQ and the Air Quality Division has the authority to contract with outside suppliers for various services without specific authorization of -- I'm asking a question. Do they have that authority without specific authorization of the Legislature or any other Division of the Oklahoma State Government. In other words, if you want to hire someone to come in and fix your software, you just go do it?

MR. DYKE: Not quite.

MR. FISHBACK: Well, you may have to go through a process where you get bids, that type of thing. But you can initiate that process for any service for anything you deem as

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appropriate to provide, is that correct?

MR. DYKE: I can begin that service for any need. It takes a freeze exception from the Secretary of Environment, and I have to use a contracting format and philosophy of the Office of State Finance. It's not an easy process to do, but yes, I can do it.

MR. FISHBACK: Given that ability, is there any reason why you could not contract for an outside firm to come in and do a workload analysis?

MR. BREISCH: Bill, let me ask you this. Is this leading to asking the Council to add this to this rule wording? Yes or no?

MR. FISHBACK: No.

MR. BREISCH: Okay. Why can't we go on with this rule and take it up in other business, because he's got a good point?

MR. BRANECKY: Subchapter 8, is this going to be under a separate motion? I forgot about Subchapter 8.

MR. BREISCH: Well, I did, too.

MR. BRANECKY: Can we address that in a separate motion?

MR. BREISCH: Do we have to?

MR. BRANECKY: Well, there is a change from 100 to 250. Can I amend my motion --

MR. BREISCH: Amend your motion.

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MR. BRANECKY: -- to include the change as suggested and recommended by Air Quality Division in Subchapter 8. Can we include that?

MR. BREISCH: Do I have that same second?

MS. MYERS: Yes. Do we need to read the motion back to see what all we've done to it?

MR. BREISCH: No. I'm on the verge of taking a vote. If I hear no more comments.

MR. BRANECKY: Joyce had a concern.

DR. SHEEDY: You said that the base for the Part 70 is going to be raised to \$17.19?

MR. BRANECKY: \$17.12.

DR. SHEEDY: \$17.12, and you want the CPI to automatically --

MR. BRANECKY: No, that's including the CPI.

MS. MYERS: That's including the CPI.

MR. BREISCH: That's including the CPI.

DR. SHEEDY: Okay, thank you.

MR. BREISCH: No more comments from the Council.

If not, call the roll, Myrna.

MS. BRUCE: Dr. Canter.

DR. CANTER: Aye.

MS. BRUCE: Ms. Myers.

MS. MYERS: Aye.

MS. BRUCE: Dr. Gross.

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DR. GROSZ: Aye.

MS. BRUCE: Mr. Branecky.

MR. BRANECKY: Aye.

MS. BRUCE: Mr. Wilson.

MR. WILSON: Aye.

MS. BRUCE: Mr. Breisch.

MR. BREISCH: Aye.

That motion did say recommend this to the DEQ Board for approval?

MR. DYKE: Yes, it did. Yes, it did in February.

(PROCEEDINGS CONCLUDED)

Christy A. Myers
Certified Shorthand Reporter

CERTIFICATE

STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings are the truth, the whole truth, and nothing but the truth, in the proceedings aforesaid; that the foregoing proceeding was taken by me in shorthand and thereafter transcribed under my direction; that said proceedings was taken on the 15th day of December, 1998, at Oklahoma City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 27th the day of December, 1998.

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

Christy A. Myers
Certified Shorthand Reporter

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees

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OAC 252:100-5[3]
SIP Revision

SUBCHAPTER 5

COUNCIL MEETING DATES

OCTOBER 19, 1999

DECEMBER 14, 1999

BOARD MEETING DATE

FEBRUARY 25, 2000

SUMMARY OF RULE CHANGE:

The changes to Subchapter 5 will allow the agency to bill annual operating fees on a flexible schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language clarifies that an owner or operator of a facility must report quantifiable excess emissions on their annual emission inventory.

Substantive changes include requiring all inventories to be submitted prior to March 1 and providing up to a 60-day extension upon request and good cause shown. It allows fee payers five years after payment is made to notify the DEQ that they overpaid and receive credit for such overpayment, and reduces to six months after inventories are due or submitted the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the method used to calculate the facility's emissions for fee calculation purposes.

CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

Section:

252:100-5-1. Purpose [AMENDED]

252:100-5-1.1 Definitions [AMENDED]

252:100-5-2. Registration of potential sources of air contaminants [AMENDED]

252:100-5-2.1. Emission inventory [AMENDED]

252:100-5-2.2. Annual operating fees [AMENDED]

252:100-5-3. Confidentiality of proprietary information [AMENDED]

252:100-5-1. Purpose

This Subchapter requires potential sources of air contaminants to register with the ~~Air Quality~~ Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"Allowable emissions" means:

(A) The total amount of regulated air pollutant emitted based on limits contained in a federally enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"Date of billing" means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

"Emission inventory" means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

"Error" means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEQ in invoicing or the part of the owner or operator in calculating emissions. It does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

"Grandfathered source" means a stationary source that was in operation in Oklahoma when

an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"Minor facility" means a facility which is not a Part 70 source.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

"Regulated air pollutant" means:

(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.

~~(B) Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.~~

~~(C)~~ (B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.

~~(D)~~ (C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.

~~(E)~~ (D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.

~~(F)~~ (E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

"Regulated pollutant (for fee calculation)", which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

252:100-5-2. Registration of potential sources of air contaminants

(a) **Filing.** In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Air Quality Division with information necessary to evaluate the source's potential for causing air pollution.

(b) **Necessary information.** The following information shall be included for each source:

(1) Total weight of the contaminant released per day.

(2) Period or periods of operation.

(3) Composition of the contaminant.

(4) Physical state of the contaminant.

(5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.

(6) Efficiency of any control device.

(7) Such other information as may be specifically requested by the Director.

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the Air Quality Division.

(1) ~~The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter. The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless a 30-day extension has been granted by the Division. An additional 30-day extension may be granted for good cause shown.~~

(2) ~~The initial emission inventory for Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter. Facilities registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated pollutant are required to submit an emission inventory once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.~~

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) **Content.** All inventories submitted to the Air Quality Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

(4) For those emissions not the subject of a permit and when requested by the AQD, a list of all 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Air Quality Division or made available for inspection upon request.

(d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. ~~The following shall constitute acceptable~~

Acceptable methods of calculation for determining actual emissions are:

- (1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.
 - (2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Air Quality Division.
 - (3) Stack tests using appropriate EPA test methods on identical equipment (i.e., same model) at the same location under the same operating conditions and parameters when may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:
 - (A) Tests are performed by persons qualified by training and experience to perform said tests.
 - (B) Copies of the tests results and methods are available for review by the Air Quality Division.
 - (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
 - (5) Current AP-42 factors or other factors acceptable to the ~~Air Quality Division~~.
 - (6) Manufacturer's test data, when approved by the ~~Air Quality Division~~ as reliable.
 - (7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the ~~Air Quality Division~~.
 - (8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the ~~Air Quality Division~~.
 - (9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the ~~Air Quality Division~~.
- (e) **Methods of verification.** Emission inventories determined by the ~~Air Quality Division~~ to be substantially incomplete or substantially incorrect shall, upon the request of the ~~Air Quality Division~~, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the ~~Air Quality Division~~.

252:100-5-2.2. Annual operating fees

(a) **Applicability.**

- (1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. ~~A Part 70 source shall be subject to fee requirements of this section on January 1, 1995.~~ The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.
- (2) This section does not apply to de minimis facilities.

(b) **Fee schedule.**

(1) **Minor facilities.**

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

(B) In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).

(2) **Part 70 Sources.**

(A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

(C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) **Payment.** ~~For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division.~~

~~(1) Fees are due and payable upon receipt of on the invoice due date(s). Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one-half percent (1½ %) per month on any amount unpaid after the invoice due date(s). Within five (5) years but not before a grace period of 120 days from the date of billing-invoice due date, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S.Supp. 1993, §§ 2-5-101 et seq., to an owner or operator of a facility who has failed to pay or has underpaid such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the~~

DEQ.

(2) If an owner or operator has failed to submit the required annual emission inventory, the DEQ may issue an administrative order to recover fees that would have been invoiced had the emission inventory been submitted when due. The DEQ may issue such order within five (5) years from the date of billing and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 et seq.

(3) When a fee overpayment has been made as a result of an error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ.

(d) Basis for annual operating fees.

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. ~~Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).~~

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

252:100-5-3. Confidentiality of proprietary information

[Refer to 27A O.S. Supp. 1993, § 2-5-105.18.]

OAC 252:100-5[3]
Oklahoma Register

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Events and Issues, or copies may be obtained from Myrna [unclear] by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Michelle Martinez (252:100-4, 252:100-35), Joyce Sheedy (252:100-41), Cheryl Bradley (252:100-47). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 35 was brought to public hearing on August 24, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1302; filed 8-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1303]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]

Subchapter 13. Prohibition of Open Burning [AMENDED]

Subchapter 19. Particulate Matter Emissions from Fuel-Burning Equipment [AMENDED]

Subchapter 21. Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

Subchapter 27. Particulate Matter Emissions from Industrial and Other Processes and Operations [REVOKED]

Appendix C. Particulate Matter Emission Limits for Fuel-Burning Equipment [REVOKED]

Appendix C. Particulate Matter Emission Limits for Fuel-Burning Equipment [NEW]

Appendix D. Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]

Appendix D. Particulate Matter Emission Limits for Wood-Waste Fuel-Burning Equipment [NEW]

SUMMARY:

The proposed changes to Subchapter 5 are designed to allow the agency to bill annual operating fees on a flexible

schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language also requires an owner or operator of a facility to report excess emissions on their annual emission inventory. Substantive changes include requiring inventories to be submitted one month earlier than presently required, allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment, and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.

The proposed changes to Subchapter 9 include correction of typographical and grammatical errors and deletion of redundant language. Also, the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Substantive changes to the rule include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation. The new language establishes a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5 percent of the process's operation time, whichever is greater, in a 3 month period. The burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

The proposed changes to Subchapter 13 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. A few substantive changes were made such as adding definitions for "domestic refuse" and "landclearing operation" and a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were moved to a new section. The rule is proposed to be amended to require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 90 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee. Also, hazardous materials may not be burned in an open-pit incinerator unless prior written approval has been obtained from both the local fire chief and the DEQ.

Subchapters 19, 21 and 27 all deal with particulate matter (PM) emissions. The proposed changes will merge the requirements of Subchapter 21 and Subchapter 27 into Subchapter 19. Subchapters 21 and 27 will then be revoked.

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9-15-99

Subchapter 19 as proposed will be simplified and clarified according to the agency-wide re-right/de-wrong initiative. In addition, a Permit by Rule for particulate matter facilities is being proposed for Subchapter 19. It is also being proposed that both Appendix C and Appendix D be revoked in favor of two new tabular appendices.

The DEQ is requesting comments on all of these proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on October 19, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by October 12, 1999. Oral comments may be made at the October 19, 1999, hearing and at the November 16, 1999, hearing.

PUBLIC HEARINGS:

Tuesday, October 19, 1999 - 9:00 a.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma.

Scheduled before the Environmental Quality Board on Tuesday, November 16, 1999, 9:30 a.m., McAlester, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (252:100-5, 252:100-9 and 252:100-13), Max Price (252:100-19, 252:100-21, 252:100-27 and Appendices C and D). Department of Environmental Quality, Air Quality

Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapters 9, 19, 21, 27, and Appendices C and D were brought to public hearing on August 24, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1303; filed 8-26-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 510. MUNICIPAL SOLID WASTE LANDFILLS [REVOKED]**

[OAR Docket #99-1304]

RULEMAKING ACTION:

Notice of proposed PERMANENT Rulemaking
PROPOSED RULES:

Chapter 510. Municipal Solid Waste Landfills
[REVOKED]

SUMMARY:

Chapter 510 is being revoked subject to the adoption of Chapter 530 as part of the re-right/de-wrong process. Some rules which were in Chapter 510 were deleted. Others were amended and renumbered in Chapter 530. A conversion table is available from the DEQ upon request.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; and the Oklahoma Solid Waste Management Act, 27A O.S. § 2-10-101 *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by this rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Deliver or mail written comments to the contact person from September 15 through October 15, 1999.

PUBLIC HEARINGS:

Before the Solid Waste Management Advisory Council at 9:00 a.m. on October 21, 1999, at the Stillwater Public Library, 1107 S. Duck, Stillwater, Oklahoma, 74074. Before the Environmental Quality Board at 9:30 on November 16, 1999, in McAlester, Oklahoma, at a location to be announced.

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Notices of Rulemaking Intent

of this intended action and the rule impact statement, if available, will be mailed within three days after publication of this Notice to all persons who have made a timely request for advanced notice of proposed rulemaking proceedings.

[OAR Docket #99-1403; filed 10-29-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

[OAR Docket #99-1397]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking PROPOSED RULES:

Subchapter 15. Uniform Permitting Procedures

Part 5. Tier Classifications [AMENDED]

252:2-15-40 [AMENDED]

252:2-15-41 [AMENDED]

Part 7. Review Procedures and Permitting Time Lines

252:2-15-72 [AMENDED]

SUMMARY:

The Department is proposing amendments to the air quality provisions of 252:2-15, Environmental Permit Processing Times, to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

The DEQ is requesting comments on the proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1998, §§ 2-2-101 and 2-5-101, et seq.

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on December 14, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by December 7, 1999. Oral comments may be made at the December 14, 1999 hearing and at the Environmental Quality Board hearing (date, time and location to be determined).

PUBLIC HEARINGS:

Tuesday, December 14, 1999 - 9:00 a.m. hearing, at Department of Environmental Quality, Room 101, 7 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board (date, time and location to be determined).

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 410, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Cheryl Bradley, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1397; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-1398]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 9. Excess Emission and Malfunction Reporting Requirements [AMENDED]

Subchapter 13. Prohibition of Open Burn [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

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SUMMARY:

The proposed changes to Subchapter 5 are designed to allow the agency to bill annual operating fees on a flexible schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language also requires an owner or operator of a facility to report excess emissions on their annual emission inventory. Substantive changes include requiring inventories to be submitted one month earlier than presently required, allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment, and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the methods used to calculate the facility's emissions for fee calculation purposes.

The proposed changes to Subchapter 9 include correction of typographical and grammatical errors and deletion of redundant language. Also, the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Substantive changes to the rule include establishing a time limit on excess emissions caused by properly reported malfunction, startup/shutdowns, and maintenance procedures. The burden of proving that excess emissions occurring more than eight hours or 1.5 percent of the process's operation time in a 3-month period are due to excusable malfunctions, startup/shutdowns or maintenance procedures rather than negligent, marginal, or improper operation is on the owner or operator of the process. Language was added to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement, and additional demonstration requirements for malfunctions, maintenance, and startup/shutdowns were added under proposed section 252:100-9-3.2, Demonstration of cause.

The proposed changes to Subchapter 13 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. A few substantive changes were made, such as adding definitions for "domestic refuse" and "land clearing operation," along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were moved to a new section. The rule is proposed to be amended to require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 30 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee. Also, the rule would only allow material from a land clearing operation to be burned in an open-pit incinerator.

The proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards to what they were prior to July 18, 1997. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

The DEQ is requesting comments on all of these proposed rule changes.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on December 14, 1999. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by December 10, 1999. Oral comments may be made at the December 14, 1999 hearing and at the Environmental Quality Board hearing (date, time and location to be determined).

PUBLIC HEARINGS:

Tuesday, December 14, 1999 - 9:00 a.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Scheduled before the Environmental Quality Board (the date, time and location to be determined).

Contact Myrna Bruce at (405) 702-4177 for exact location.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttrick (252:100-5, 252:100-9 and 252:100-13) and Michael Martinez (Appendices E and F), Department of Environmental Quality, Air Quality Division, P.O. Box

Notices of Rulemaking Intent

1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapters 5, 9, and 13 were brought to public hearing on October 19, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1398; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 615. INDUSTRIAL WASTEWATER SYSTEMS [REVOKED]

[OAR Docket #99-1399]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Chapter 615. Industrial Wastewater Systems
[REVOKED]

SUMMARY:

This rulemaking action revokes Chapter 615 of Title 252 of the Oklahoma Administrative Code, Industrial Wastewater Systems. The revocation of Chapter 615, Industrial Wastewater Systems is part of the agency's re-right/de-wrong process. This chapter is being replaced by a new chapter, OAC 252:616, Industrial Wastewater Systems.

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-2-201, 2-6-402, and 2-6-501

COMMENT PERIOD:

Written comments may be submitted to the contact person listed below from November 15 through December 7, 1999. Oral and written comments will be accepted by the Water Quality Management Advisory Council at its December 7, 1999, meeting. Also scheduled before the Environmental Quality Board (the date, time and location to be determined).

PUBLIC HEARING:

Before the Water Quality Management Advisory Council at its December 7, 1999, meeting at 1:00 p.m. in the Multi-Purpose room of the Department of Environmental Quality, located at 707 N. Robinson, Oklahoma City, Oklahoma 73101.

Also scheduled before the Environmental Quality Board (the date, time and location to be determined).

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement is available from the contact person.

CONTACT PERSON:

Shellie Chard, Water Quality Division, Department of Environmental Quality, 707 N. Robinson, Oklahoma City P.O. Box 1677, Oklahoma City, Oklahoma, 73101-1677. (phone: (405) 702-8100)

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the contact person three (3) days in advance.

[OAR Docket #99-1399; filed 10-26-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 616. INDUSTRIAL WASTEWATER SYSTEMS [NEW]

[OAR Docket #99-1400]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Chapter 616. Industrial Wastewater Systems [NEW]
SUMMARY:

This rulemaking action is part of the agency's re-right/de-wrong process. Changes were made to simplify and clarify requirements, remove unenforceable language and add requirements for land application associated with industrial wastewater systems from a separate chapter to provide a consolidated source for industrial wastewater system requirements. Due to the changes, Chapter 615 is being revoked and replaced with Chapter 616.

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1998, §§ 2-2-101, 2-2-201, 2-6-402, and 2-6-501.

REQUEST FOR COMMENTS:

The DEQ requests that business entities affected by this rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct cost such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COMMENT PERIOD:

Written comments may be submitted to the contact person listed below from November 15 through December 7, 1999. Oral and written comments will be accepted by the Water Quality Management Advisory Council at its December 7, 1999, meeting. Also scheduled before the

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Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (252:100-9) and Joyce Sheedy (252:100-33), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Subchapter 9 was brought to public hearing on June 15, August 24, October 19 and December 14, 1999.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #99-1631; filed 12-27-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-1638]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 13. Prohibition of Open Burning [AMENDED]

SUMMARY:

The proposed changes to Subchapter 5 are designed to allow the agency to bill annual operating fees on a flexible schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language clarifies that an owner/operator of a facility must report quantifiable excess emissions on their annual emission inventory. Substantive changes include requiring all inventories to be submitted prior to March 1 and providing up to a 60-day extension upon request and good cause shown. It allows fee payers five years after payment is made to notify the DEQ that they overpaid and receive credit for such overpayment, and reduces to six months after inventories are due or submitted the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the method used to calculate the facility's emissions for fee calculation purposes.

The proposed changes to Subchapter 13 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for

allowed open burning into a new section. A few substantive changes were made, such as adding definitions for "domestic refuse" and "land clearing operation," along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. New language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. Existing language on open-pit incinerators was expanded and now prohibits accepting any material owned by other persons and from transporting any material to the property where the open-pit incinerator is located in order to burn the material.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. Supp. 1999, Section 2-2-101; and Oklahoma Clean Air Act Section 2-5-101, *et. seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

The comment period for the proposed amendments to Subchapters 5 and 13 were September 15 through October 19, 1999, and November 15 through December 14, 1999.

PUBLIC HEARINGS:

Previously held before the Air Quality Council on October 19 and December 14, 1999. However, additional oral comments may be made at the meeting of the Environmental Quality Board, Friday, February 25, 2000 - 9:30 a.m., at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Contact Myrna Bruce at (405) 702-4177 for additional information.

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

Permanent Final Adoptions

~~(10) Amendments, modifications and renewals of all authorizations.~~

[OAR Docket #00-853; filed 5-4-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-855]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

- ✓ 252:100-5-1 [AMENDED]
- 252:100-5-1.1 [AMENDED]
- 252:100-5-2 [AMENDED]
- 252:100-5-2.1 [AMENDED]
- 252:100-5-2.2 [AMENDED]
- 252:100-5-3 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1999, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

September 15, 1999 through October 19, 1999; and November 15, 1999 through December 14, 1999

Public hearing:

October 19, 1999, December 14, 1999 and February 25, 2000

Adoption:

February 25, 2000

Submitted to Governor:

March 3, 2000

Submitted to House:

March 3, 2000

Submitted to Senate:

March 3, 2000

Gubernatorial approval:

April 10, 2000

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 28, 2000

Final adoption:

April 28, 2000

Effective:

June 12, 2000

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The changes to Subchapter 5 will allow the agency to bill annual operating fees on a flexible schedule. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language clarifies that an owner or operator of a facility must report quantifiable excess emissions on

their annual emission inventory. Substantive changes include requiring all inventories be submitted prior to March 1 and providing up to a 60-day extension upon request and good cause shown. It allows fee payers five years after payment is made to notify the DEQ that they overpaid and receive credit for such overpayment, and reduces to six months after inventories are due or submitted the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the method used to calculate the facility's emissions for fee calculation purposes.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on December 14, 1999.
SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma 73101-1677. (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2000.

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-1. Purpose

This Subchapter requires potential sources of air contaminants to register with the Air Quality Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"Allowable emissions" means:

- (A) The total amount of regulated air pollutant emitted based on limits contained in a federally enforceable permit or potential to emit, or
- (B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"Date of billing" means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the

date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

“Emission inventory” means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

“Error” means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEO in invoicing or the part of the owner or operator in calculating emissions. It does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

“Grandfathered source” means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

“Minor facility” means a facility which is not a Part 70 source.

“Part 70 source” means any source subject to the permitting requirements of Part 5 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

“Process Fugitive Emissions” means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

“Regulated air pollutant” means:

(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.

~~(B)~~ Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.

~~(C)~~(B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.

~~(D)~~(C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.

~~(E)~~(D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.

~~(F)~~(E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

“Regulated pollutant (for fee calculation)”, which is used only for purposes of this Subchapter, means any “regulated air pollutant” except the following:

(A) Carbon monoxide.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

252:100-5-2. Registration of potential sources of air contaminants

(a) **Filing.** In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Air Quality Division with information necessary to evaluate the source’s potential for causing air pollution.

(b) **Necessary information.** The following information shall be included for each source:

- (1) Total weight of the contaminant released per day.
- (2) Period or periods of operation.
- (3) Composition of the contaminant.
- (4) Physical state of the contaminant.
- (5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.
- (6) Efficiency of any control device.
- (7) Such other information as may be specifically requested by the Director.

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the Air Quality Division.

~~(1) The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter. The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless a 30-day extension has been granted by the Division. An additional 30-day extension may be granted for good cause shown.~~

~~(2) The initial emission inventory for Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter. Facilities registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated pollutant are required to submit an emission inventory once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.~~

~~(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.~~

(b) **Content.** All inventories submitted to the Air Quality Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the actual emissions vary from the allowable or

Permanent Final Adoptions

from the previous year's actual by more than 30%, an explanation for the difference.

(4) For those emissions not the subject of a permit and when requested by the AQD, a list of all 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Air Quality Division or made available for inspection upon request.

(d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. The following shall constitute acceptable methods of calculation for determining actual emissions are:

(1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Air Quality Division.

(3) Stack tests using appropriate EPA test methods on ~~identical equipment (i.e., same model) at the same location under the same operating conditions and parameters when may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:~~

(A) Tests are performed by persons qualified by training and experience to perform said tests.

(B) Copies of the tests results and methods are available for review by the Air Quality Division.

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the Air Quality Division.

(6) Manufacturer's test data, when approved by the Air Quality Division as reliable.

(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Air Quality Division.

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Air Quality Division.

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Air Quality Division.

(e) **Methods of verification.** Emission inventories determined by the Air Quality Division to be substantially incomplete or substantially incorrect shall, upon the request of the Air Quality Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Air Quality Division.

252:100-5-2.2. Annual operating fees

(a) Applicability.

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. ~~A Part 70 source shall be subject to fee requirements of this section on January 1, 1995.~~ The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) This section does not apply to de minimis facilities.

(b) Fee schedule.

(1) Minor facilities.

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

(i) 10 - 24.99 tons/year - \$100/year

(ii) 25 - 49.99 tons/year - \$250/year

(iii) 50 - 74.99 tons/year - \$500/year

(iv) 75 - 99.99 tons/year - \$750/year

(B) In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).

(2) Part 70 Sources.

(A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

(C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) ~~Payment. For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division.~~

~~(1) Fees are due and payable upon receipt of on the invoice due date(s). Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1 1/2%) per month on any amount unpaid after the invoice due date(s). Within five (5) years but not before a grace period of 120 days from the date of billing invoice due date, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. Supp. 1993, §§ 2-5-101 et seq., to an owner or operator of a facility who has failed to pay or has underpaid such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.~~

~~(2) If an owner or operator has failed to submit the required annual emission inventory, the DEQ may issue~~

an administrative order to recover fees that would have been invoiced had the emission inventory been submitted when due. The DEQ may issue such order within five (5) years from the date of billing and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 et seq.

(3) When a fee overpayment has been made as a result of an error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ.

(d) Basis for annual operating fees.

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. ~~Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).~~

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

252:100-5-3. Confidentiality of proprietary information

[Refer to 27A O.S. Supp. 1993, § 2-5-105.18.]

[OAR Docket #00-855; filed 5-4-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-854]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 13. Prohibition of Open Burning

252:100-13-1 [AMENDED]

252:100-13-2 [AMENDED]

252:100-13-3 [REVOKED]

252:100-13-4 [REVOKED]

252:100-13-5 [AMENDED]

252:100-13-6 [REVOKED]

252:100-13-7 [AMENDED]

252:100-13-8 [RESERVED]

252:100-13-9 [NEW]

252:100-13-10 [NEW]

252:100-13-11 [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1999, §§ 2-2-101, 2-5-101, et seq.

OAC 252:100-5[3]
Air Quality Council

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
* 9:00 A.M.
Tuesday, October 19, 1999
Tulsa City-County Auditorium
5051 South 129 Street East Avenue
Tulsa, Oklahoma

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. CY 2000 Meeting Schedule
 - A. Discussion by Council
4. Approval of Minutes of the August 24, 1999 Regular Meeting
5. Public Rulemaking Hearings
 - A. OAC 252:100-4 New Source Performance Standards
Proposal would update the incorporations by reference of the federal NSPS from 7-1-97 to 7-1-99. Previously, incorporated NSPS subparts that have been amended by the USEPA since 7-1-97 are: AA, AAA, Da, Db, Eb, and WWW. A new Subpart Ec has been added to the NSPS. Subpart Ce was added to 252:100-4-5 as an exception.
 1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
 - B. OAC 252:100- 5 Registration, Emission Inventory and Annual Operating Fees
Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; requires an owner or operator of a facility to report excess emissions on their annual emission inventory; requires inventories to be submitted one month earlier than presently required allowing fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and reducing the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.
 1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
 - C. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include narrowing the scope of the rule to minor facilities only. A new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation. The new language establishes a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5% of the process's operation time, whichever is greater, in a 3-month period. The burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.
 1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
 - D. OAC 252:100-13. Prohibition of Open Burning
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add certain definitions and notification requirements.
 1. Presentation – Jeanette Buttram
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption

- E. COMBINED**
OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]
OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]
OAC 252:100-27 Particulate Matter Emissions from Industrial and Other Processes and Operations [REVOKED]
Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]
Appendix C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]
Appendix D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]
 Proposal would merge requirements into SC 19 and revoke SC 21 and SC 27. SC 19, as proposed, would simplify the language under the agency-wide re-right/de-wrong initiative. Also a Permit by Rule for particulate matter facilities is being proposed for SC 19. The graphics in Appendices C and D would be replaced by two new tabular appendices.
1. Presentation – Max Price
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for permanent adoption
- F. OAC 252:100-35 Control of Emission of Carbon Monoxide [AMENDED]**
 Proposal would simplify and clarify the language under the agency-wide re-right/de-wrong initiative; and narrow the scope to specific sources that are the primary emitters of carbon monoxide. Other changes include addition of definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". Also, Section 35-3 would be revoked because performance testing requirements are already provided for in SC 8 and SC 43.
1. Presentation – Michelle Martinez
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- H. OAC 252:100-41 Sections 15 and 16, Control of Emission of Hazardous and Toxic Air Contaminant [AMENDED]**
 Proposal would simplify and clarify the language under the agency-wide re-right/de-wrong initiative. The proposed changes to section 15 would incorporate by reference the MACT standards for hazardous air pollutants in 40 CFR 63 promulgated by EPA from 7-1-98 through 7-1-99. The proposed changes to section 16 would update to 7-1-99 the NESHAP found in 40 CFR 61.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- I. OAC 252:100-47 Control of Emission from Existing Municipal Solid Waste Landfills [AMENDED]**
 Proposal would amend to update the incorporation by reference of 40 CFR 60.751 through 60.759 to 7-1-99.
1. Presentation – Cheryl Bradley
 2. Questions and discussion by Council / Public
 3. Possible action by Council
 4. Roll call vote(s) for emergency and permanent adoption
- 6. Division Director's Report – Eddie Terrill**
7. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.
8. Adjournment – Next Regular Meeting
 Tuesday, December 14, 1999 DEQ Multi-Purpose Room

* Council decided at its August 24 meeting to begin early due to the number of agenda items

Lunch Break, if necessary

September 24, 1999

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Division Director
Air Quality Division

SUBJECT: Modifications to Subchapter 5

CT.

Enclosed is a copy of the proposed draft modifications to Subchapter 5, Registration, Emission Inventory and Annual Operating Fees. The rule will be brought to public hearing on October 19, 1999. The proposed changes to the rule are designed to allow the agency to bill fee payers on a flexible schedule. These changes should also allow the fees to be based on the most recent emission data possible. Also, the proposed rule language clarifies that excess emissions must be reported on the annual emission inventory. Substantive changes include inserting a definition for "error" and requiring all inventories be submitted prior to March 1 and providing for a 30-day extension upon request. It allows fee payers five years after payment is made to notify the DEQ that they overpaid and receive credit for such overpayment, and reduces to six months after inventories are due or submitted the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the data or methods used to calculate the facility's emissions. A new subsection is proposed regarding the use of stack tests as a method of calculation.

Comments were received from Fort James and addressed by staff. A copy of the letter and response to comments are included in the packet.

Staff will recommend the rule be considered again at the next Air Quality Council meeting on December 14, 1999.

Enclosures: 3

**SUBCHAPTER 5. REGISTRATION,
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

Section

- 252:100-5-1. Purpose
- 252:100-5-1.1. Definitions
- 252:100-5-2. Registration of potential sources of air
contaminants
- 252:100-5-2.1. Emission inventory
- 252:100-5-2.2. Annual operating fees
- 252:100-5-3. Confidentiality of proprietary information

**DRAFT
SEPTEMBER 15, 1999**

**SUBCHAPTER 5. REGISTRATION,
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

252:100-5-1. Purpose

This Subchapter requires potential sources of air contaminants to register with the ~~Air Quality~~ Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"Allowable emissions" means:

(A) The total amount of regulated air pollutant emitted based on limits contained in a federally enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"Date of billing" means, the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

"Emission inventory" means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

"Error" means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEQ in invoicing or the part of the owner or operator in calculating emissions. It does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

"Grandfathered source" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"Minor facility" means a facility which is not a Part 70 source.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of Subchapter 8 of this Chapter as provided

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SEPTEMBER 15, 1999

in 252:100-8-3(a) and 252:100-8-3(b).

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

"Regulated air pollutant" means:

(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.

~~(B) Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.~~

~~(C)~~ (B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.

~~(D)~~ (C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.

~~(E)~~ (D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.

~~(F)~~ (E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

"Regulated pollutant (for fee calculation)", which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

252:100-5-2. Registration of potential sources of air contaminants

(a) **Filing.** In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the ~~Air Quality~~ Division with information necessary to evaluate the source's potential for causing air pollution.

(b) **Necessary information.** The following information shall be included for each source:

(1) Total weight of the contaminant released per day.

(2) Period or periods of operation.

(3) Composition of the contaminant.

(4) Physical state of the contaminant.

(5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.

(6) Efficiency of any control device.

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SEPTEMBER 15, 1999

(7) Such other information as may be specifically requested by the Director.

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the ~~Air Quality Division~~. The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless a 30-day extension has been granted by the Division.

~~(1) The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter.~~

~~(2) The initial emission inventory for Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter.~~

~~(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.~~

(b) **Content.** All inventories submitted to the ~~Air Quality Division~~ shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions and the basis for such determination.

(3) The amount of excess emissions and the basis for such determination.

~~(3)(4)~~ If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

~~(4)(5)~~ For those emissions not the subject of a permit and when requested by the AQD, a list of all 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the ~~Air Quality Division~~ or made available for inspection upon request.

(d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an

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SEPTEMBER 15, 1999

acceptable method of calculation. Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. The following shall constitute acceptable methods of calculation for determining actual emissions are:

(1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Air Quality Division that meet the requirements of 252:100-5-2.1(e).

(3) Stack tests using appropriate EPA test methods on identical equipment (i.e., same model) at the same location under the same operating conditions and parameters when:

(A) Tests are performed by persons qualified by training and experience to perform said tests.

(B) Copies of the tests results and methods are available for review by the Air Quality Division.

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the Air Quality Division.

(6) Manufacturer's test data, when approved by the Air Quality Division as reliable.

(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Air Quality Division.

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Air Quality Division.

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Air Quality Division.

(e) Method of calculation using stack test.

(1) Stack tests may be used for determining actual emissions when:

(A) Appropriate EPA test methods were used.

(B) The test were conducted during the preceding 5-year period.

(C) The Division was provided advance notification and opportunity for observation.

(D) The testing was performed by persons qualified by training and experience to conduct said tests.

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(E) The testing was performed on sources of NOx and/or VOC emissions between April 1 and October 31 under actual operating conditions or as required by the appropriate EPA test method.

(2) Stack tests may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when the tests are performed according to the requirements listed in 252:100-5.2.1(e)(1).

~~(e)(f)~~ **Methods of verification.** Emission inventories determined by the ~~Air Quality~~ Division to be substantially incomplete or substantially incorrect shall, upon the request of the ~~Air Quality~~ Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the ~~Air Quality~~ Division.

252:100-5-2.2. Annual operating fees

(a) Applicability.

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. ~~A Part 70 source shall be subject to fee requirements of this section on January 1, 1995.~~ The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) This section does not apply to de minimis facilities.

(b) Fee schedule.

(1) Minor facilities.

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

(B) In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated

pollutant (for fee calculation).

(2) **Part 70 Sources.**

(A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

(C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) **Payment.** ~~For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division. Fees are due and payable upon receipt of on the invoice due date(s). Fees shall be considered delinquent 30 days from after the invoice due date(s), date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1½%) per month on any amount unpaid. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. Supp. 1993, §§ 2-5-101 et seq., to an owner or operator of a facility who has failed to pay or has underpaid such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.~~

(d) **Basis for annual operating fees.**

~~(1) Operating fees shall be calculated on a source specific basis and based on actual emissions of regulated pollutants~~

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~~(for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).~~

~~(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.~~

[Refer to 27A O.S. §§ 2-5-113]

252:100-5-3. Confidentiality of proprietary information

[Refer to 27A O.S. ~~Supp. 1993,~~ §§ 2-5-105.18.]

DRAFT
SEPTEMBER 15, 1999

MINUTES
AIR QUALITY COUNCIL
OCTOBER 19, 1999
Department of Environmental Quality
Tulsa City-County Health Department

Council Members Present

William B. Breisch, Chairman
David Branecky
Leo Fallon
Gary Kilpatrick
Sharon Myers
Joel Wilson

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Eric Milligan
Myrna Bruce

Council Members Absent

Larry Canter
Fred Grosz
Meribeth Slagell

Guests Present

**see attached list

Notice of Public Meeting for October 19, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors at the Tulsa City-County Health Department.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye. Dr. Canter, and Dr. Grosz did not attend. Mr. Breisch announced that Ms. Slagell had offered her resignation to the Governor.

CY 2000 Meeting Schedule - Council was presented with dates emulating the past years of the third Tuesday in February, April, June, August, October, and December. There was discussion to change the day of week to Wednesday of these months which would accommodate both staff and Council. Council voted to continue this item to the December 14 meeting. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Branecky to approve the Minutes as presented and second was made by Mr. Kilpatrick. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING
OAC 252:100-4
New Source Performance Standards [AMENDED]

Ms. Michelle Martinez made staff presentation advising Council that the proposed amendments to Subchapter 4 would update the incorporations by reference of the federal NSPS from July 1, 1997 to July 1, 1999. She pointed out that previously incorporated NSPS subparts that had been amended by the EPA since July 1, 1997 were: AA, AAa, Da, Db, Eb, and WWW. She advised that a new Subpart Ec had been added to the NSPS and that Subpart Ce was added to 252:100-4-5. She advised that this was the first time for the proposal to be considered, but staff's recommendation would be to request that the rule be sent to the Environmental Quality Board for permanent and emergency adoption. She pointed out that since the amendments update the incorporation by reference of new federal rules, adoption as an emergency would allow the amended rule to take effect earlier than June 1, 2000 and make state rules consistent with federal rules.

Mr. Breisch entertained motion to forward this rule to the Environmental Quality Board for both emergency and permanent adoption. Motion was made by Mr. Kilpatrick and second to the motion was by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING
OAC 252:100-5
Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram made the staff presentation advising that the proposed changes to Subchapter 5 were designed to allow the agency to bill annual operating fees on a flexible schedule, and that the changes should also allow the fees to be based on the most recent emission data possible. Ms. Buttram advised that the proposed rule language would also require an owner or operator of a facility to report excess emissions on their annual emission inventory. Ms. Buttram pointed out that substantive changes included the requirement that inventories were to be submitted one month earlier than presently required which would allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment. That change would also reduce the period of time to six months in which either the DEQ or the facility owner or operator could challenge the data or methods used to calculate the facility's emissions.

Ms. Buttram advised that comments had been received from Fort James and EPA which were included in this proposal and that comments from Weyerhaeuser received the day before would be considered in the next draft of the rule; therefore, staff recommended that the rule be continued to the December meeting.

Comments and questions were discussed from Council members and the audience. Comments were heard from Stephen Landers of Ft. James; Mike Wood, Weyerhaeuser; Howard Ground, Central and Southwest; Bill Fishback; Mid-Continent Oil and Gas; Tom Bauckham, Reliant Energy; Gary Collins, Terra. Following discussion, Mr. Breisch entertained motion to continue

the rule to Council's December 14 meeting per staff recommendation. Motion to continue was made by Ms. Myers with the second made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram gave the staff presentation advising that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language and was simplified and clarified according to the agency-wide re-right/de-wrong initiative. Ms. Buttram pointed out substantive changes to the rule which included narrowing the scope of the rule to minor facilities only. She advised that a new condition was added to explain when excess emissions from a process are due to a malfunction and when they are due to negligent, marginal, or unsafe operation advising that the new language would establish a rebuttable presumption that the combined time of all excess emissions from a process due to a malfunction does not exceed eight hours or 1.5 % of the process's operation time, whichever is greater, in a three-month period. Ms. Buttram added that the burden of proving that excess emissions occurring more often are due to a malfunction rather than negligent, marginal, or unsafe operation is on the owner or operator of the process.

Ms. Buttram entered into the record comments received from Mid-Continent Oil and Gas Association and from EPA. She further advised that the EPA comments indicated that further changes might need to be made to the rule due to their recent review of Oklahoma's SIP. Ms. Buttram advised that due to these comments, staff recommendation would be to continue this rule to the December meeting to allow staff more time to review the EPA guidance document. Mr. Tom Diggs, EPA, was asked to explain that document in detail and accepted comments regarding same. Additional comments were made by Bill Fishback.

Mr. Breisch entertained motion to continue this rule to the December meeting. Motion was made by Mr. Branecky with the second by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Mr. Dyke again called upon Ms. Jeanette Buttram who advised that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She pointed out that such changes include consolidating the general conditions and requirements for allowed open burning into a new section; and that a few substantive changes were made such as adding definitions for "domestic refuse" and "land clearing operation" and a section on disaster relief procedures. Ms. Buttram continued stating

that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added and that the open-pit incinerator requirements were moved to a new section. She pointed out the proposal would require owners or operators to register with their local DEQ office; however, if the owner or operator anticipates operating an open-pit incinerator in the same pit for more than 90 days in a 365-day period, they would be required to obtain a permit and pay the required permit fee adding that hazardous materials may not be burned in an open-pit incinerator unless prior written approval has been obtained from both the local fire chief and the DEQ.

Ms. Buttram entered written comments from EPA and a letter from the City of Hobart into the record.

Following questions and discussion by Council, Mr. Breisch entertained motion to continue this rule to the December meeting. Motion was made by Ms. Myers with the second by Mr. Fallon. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARINGS (COMBINED HEARINGS ON SC 19, SC 21, and SC 27)

OAC 252:100-19 Particulate Matter Emissions from Fuel-burning Equipment [AMENDED]

OAC 252:100-21 Particulate Matter Emissions from Wood-Waste Burning Equipment [REVOKED]

OAC 252:100-27 Matter Emissions from Industrial and Other Processes and Operation [REVOKED]

APPENDIX C Particulate Matter Emissions Limits for Fuel Burning Equipment [REVOKED]

APPENDIX D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [REVOKED]

APPENDIX C Particulate Matter Emissions Limits for Fuel Burning Equipment [NEW]

APPENDIX D Particulate Matter Emission Limits for Wood-Waste Burning Equipment [NEW]

Mr. Dyke called upon Mr. Max Price to make the staff presentation regarding these combined rules. Mr. Price advised that Subchapters 19, 21, and 27 all deal with particulate matter (PM) emissions and that the proposed changes merged the requirements of Subchapter 21 and Subchapter 27 into Subchapter 19; then Subchapters 21 and 27 would be revoked. Mr. Price pointed out that Subchapter 19 as proposed would be simplified and clarified according to the agency-wide re-right/de-wrong initiative. He advised that a permit by rule for particulate matter facilities is being proposed for Subchapter 19. Mr. Price also advised that the proposal included that Appendix C and Appendix D would be revoked in favor of two new tabular appendices.

Mr. Mike Wood, Weyerhaeuser, commented regarding the definition of "wood fuel". After much discussion, motion was made to by Mr. Wilson to amend Subchapter 19 to include the wording "for any wood derived fuel as approved by the Division"; to revoke subchapters 21 and 27; to revoke both Appendix C and Appendix D in favor of tabular appendices; and to send the rules to the Environmental Quality Board in one package for adoption as a permanent rule. Mr. Kilpatrick seconded that motion. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-35

Control Of Emission Of Carbon Monoxide [AMENDED]

Mr. Dyke called upon Ms. Michelle Martinez to make staff presentation. Ms. Martinez stated that the proposed changes to Subchapter 35 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative; and that the scope of the Subchapter would be narrowed to specific sources that are the primary contributors of carbon monoxide emissions. Ms. Martinez added that other changes included the addition of the definitions "existing source" and "new source" and the replacement of "foundry cupola" with "gray iron cupola". She further advised that Section 35-3, Performance Testing, would be revoked because performance testing requirements are already provided for in Subchapters 8 and 43.

Ms. Martinez advised that staff's recommendation was to send the rule to the Environmental Quality Board for adoption as permanent and emergency. Mr. Breisch entertained motion which was made by Mr. Fallon. The second was made by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-41 Sections 15 and 16

Control Of Emission Of Hazardous and Toxic Air Contaminants [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who advised that changes are being proposed for section 15 would incorporate by reference the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR 63 that have been promulgated by the EPA from July 1, 1998, through July 1, 1999. These are subparts HH, SS, TT, UU, WW, YY, CCC, DDD, EEE, GGG, HHH, III, LLL, MMM, NNN, PPP, TTT, and XXX. Ms. Bradley continued that the DEQ is also proposing to update to July 1, 1999 the incorporation by reference in 252:100-41-16 of the National Emission Standards for Hazardous Air Pollutants (NESHAP) found in 40 CFR 61. She added that other minor revisions are proposed to Section 15 and 16 to clarify, simplify and correct these sections as required by statute.

Ms. Bradley advised that staff's recommendation would be to send to the rule to the Environmental Quality Board for adoption as permanent and emergency rule. She advised that since the amendments update the incorporation by reference of new federal rules, adoption as an emergency rule would allow the amended rules to take effect earlier and minimize the lag time in making the state program consistent with the federal program. Mr. Breisch entertained motion which was made by Mr. Kilpatrick. The second was made by Mr. Wilson. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-47

Control of Emissions from Existing Municipal Solid Waste Landfills [AMENDED]

Mr. Dyke again called upon Ms. Cheryl Bradley who advised that the modifications to Subchapter 47 would update the incorporation by reference of 40 CFR 60.751 through 60.759 to July 1, 1999. She advised that one comment had been received from the EPA in support of the proposed amendments. She continued that it would be staff's recommendation to send to the rule to the Environmental Quality Board for permanent and emergency adoption as adoption as an emergency rule would allow the amended rule to take effect earlier than June 1, 2000 and thereby minimize confusion for regulated landfills. Mr. Breisch entertained motion which was made by Mr. Fallon. The second was made by Ms. Myers. Roll call as follows: Mr. Wilson - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes

DIVISION DIRECTOR'S REPORT

Mr. Dyke announced that the Council representative for agriculture, Meribeth Slagell, had turned in her letter of resignation from the Council. Also, Scott Thomas stated that due to a recent remand of the revised ozone, PM-2.5 and PM-10, staff plans on bringing this matter to public hearing at the December Council.

NEW BUSINESS - It was decided that the next meeting would again begin at 9:00 a.m. due to the number of agenda items and would follow the same format.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be December 14, 1999 in the Multipurpose Room of the DEQ in Oklahoma City beginning at 9:00 a.m.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

October 19, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. John Snow	DAVIS	405-640-96
2. Howard Ground	CSW	214-777-1711
3. Tom Diegs	EPA R-6	214-665-7214
4. Terry Thomas	EPA R-6	214-665-7166
5. FRANK LONDON	ER BOARD	
6. Preston Batula	midland	915 522 1102
7. BILL FISHBACK	MOBIL ^{3424 CYRIL TER} _{EDMOND, OK 73043}	405-348-8683
8. Bonnie M. Gilbra	2122 S. Yukon Tulsa	918- 277-0 ⁵⁸³⁻³⁹²⁵
9. Melody D Drummond	OSU	
10. TERRI Waltman	ENERCON	918-665-7693
11. Ron Sobier	RFS CONSULTING	918 663 9350
12. LE ANNE BURNETT	OLD 20 N. BROADWAY, OKC	405-239-6611
13. ANNE SCHAEFER	TINKER AFB	405. 794. 7071
14. GERI HART	TINKER AFB	405. 784. 7071
15. Merle Fritz	Sinclair Oil Corp	918 584 5025
16. Terrell Mitchell	Fort James	918 683 7671x3
17. Perry Friedrich	GRDA - Chouteau	918 476-8268
18. Mike Wood	Weyerhaeuser	501-624-8569
19. GILL LUTON	Fort James	918-683-7671 ext 3.
20. Steve Landers	"	" " 48.
21. Dustin Givens	"	" " 45
22. GARY COLLINS	TERRA	918 266 1511
23. David Murrell	TERRA	918 266 1511
24. BILL CLARKE	Sunoco	918-594-6368
25. Pat Davenport	National Std. Stillwater	405/377-5050

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
October 19, 1999
SIGN IN SHEET Page Two

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Kirk Rutter Boeing	3330 Mingo Tulsa,	(918) 832-3178
27. JON BEKUS MARIETTA CO	7301 NW EXPWAY, OKC,	
28. Tom BAUCKHAM Reliant Energy	109 N.W. 50 th , OKC.	(405) 556-2421
29. LEE PADEW ODEQ BOARD	P.O. Box 52072 TULSA	918-743-7007
30. Rick Tuckman OSHA	" " 1307 Eric, OKC	73702
31. Dawson Lasseter ODEQ	707 N Robinson OKC	702-4180
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AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING

* 9:00 A.M.

Tuesday, December 14, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson
Oklahoma City Oklahoma

1. Call to Order – Bill Breisch
2. Roll Call – Myrna Bruce
3. CY 2000 Meeting Schedule
 - A. Discussion by Council
 - B. Roll call vote
4. Resolution for Meribeth Slagell
5. Approval of Minutes of the October 19, 1999 Regular Meeting
6. Public Rulemaking Hearings

A. OAC 252:100 Appendices E and F [AMENDED]

Appendix E Primary Ambient Air Quality Standards [REVOKED]

Appendix E Primary Ambient Air Quality Standards [NEW]

Appendix F Secondary Ambient Air Quality Standards [REVOKED]

Appendix F Secondary Ambient Air Quality Standards [NEW]

Proposal would restore the primary and secondary ambient air quality standards for ozone and particulate matter to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

1. Presentation – Michelle Martinez
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

B. OAC 252:100- 5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Proposal is designed to allow the Agency to bill annual operating fees on a flexible schedule; to allow the fees to be based on the most recent emission data possible; to require an owner or operator of a facility to report excess emissions on their annual emission inventory; to require inventories to be submitted one month earlier than presently required; to allow fee payers five years after payment is made to notify the DEQ that they overpaid and to receive credit for such overpayment; and to reduce the period of time to six months in which either the DEQ or the facility owner or operator can challenge the data or methods used to calculate the facility's emissions.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

C. OAC 252:100-9 Excess Emission and Malfunction Reporting [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including correction of typographical and grammatical errors and deletion of redundant language. Substantive changes include establishing a time limit on excess emissions caused by properly reported malfunctions, startup/shutdowns, and maintenance procedures. The burden of proving that excess emissions occurring more than eight hours or 1.5 percent of the process's operation time in a 3-month period are due to excusable malfunctions, startup/shutdowns or maintenance procedures rather than negligent, marginal, or improper operation is on the owner or operator of the process. Language was added to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement; and additional demonstration requirements for malfunctions, maintenance, and startup/shutdowns were added under proposed section 252:100-9-3.2, Demonstration of cause.

1. Presentation – Jeanette Buttram

2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

D. OAC 252:100-13. Prohibition of Open Burning [AMENDED]

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative, including consolidating the general conditions and requirements for allowed open burning into a new section. Substantive changes would add definitions for "domestic refuse" and "land clearing operation" along with a section on disaster relief procedures. In some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. In addition, the open-pit incinerator requirements were expanded and moved to a new section. Also the rule would only allow material from a land clearing operation to be burned in an open-pit incinerator.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

E. OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-23-3(a) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

F. OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

1. Presentation – Max Price
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

Proposal would amend OAC 252:100-24-3(a)(1) and (2) to remove references to OAC 252:100-27, which will be revoked effective June 1, 2000, and replace them with new section OAC 252:100-19-12, to take effect June 1, 2000.

G. OAC 252:2-15 Environmental Permit Processing Times [AMENDED]

The proposal would change the terms used in 252:2-15-40, 41 and 72 to be consistent with those used in 252:100, Air Pollution Control. The terms "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

7. Division Director's Report – Eddie Terrill

8. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

9. Adjournment – Next Regular Meeting

Date and Time: To Be Announced

Place: DEQ Multi-Purpose Room - OKC

* Council decided at its October 19 meeting to begin at 9:00 a.m. due to the number of agenda items.

Lunch Break, if necessary

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 720-4100.

November 30, 1999

MEMORANDUM

TO: Air Quality Council
FROM: Eddie Terrill, Director
Air Quality Division

CT.

Protocol

SUBJECT: Modifications to Subchapter 5

Enclosed is a copy of the proposed draft modifications to Subchapter 5, Registration, Emission Inventory and Annual Operating Fees. The rule was brought before the October 19, 1999, Council meeting and will be brought back to public hearing on December 14, 1999. The proposed changes to the rule are designed to allow the agency to bill fee payers on a flexible schedule and should also allow the fees to be based on the most recent emission data possible. An additional change to the rule reduces the period of time to six months in which either the DEQ or the facility owner or operator can challenge the methods used to calculate the facility's emissions for fee calculation purposes. Since the last hearing, proposed language on stack tests was deleted and will be addressed next year when Subchapter 45, Monitoring of Emissions, undergoes the re-right/de-wrong process. Also, existing language on the option of using actual or allowable emissions for fee calculation was reinstated.

Staff will suggest that the proposed rule as amended be recommended for adoption by the Board as a permanent rule.

Enclosures: 1

SUBCHAPTER 5. REGISTRATION,
EMISSION INVENTORY AND ANNUAL OPERATING FEES

Section

- 252:100-5-1. Purpose
- 252:100-5-1.1. Definitions
- 252:100-5-2. Registration of potential sources of air
contaminants
- 252:100-5-2.1. Emission inventory
- 252:100-5-2.2. Annual operating fees
- 252:100-5-3. Confidentiality of proprietary information

SUBCHAPTER 5. REGISTRATION,
EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-1. Purpose

This Subchapter requires potential sources of air contaminants to register with the ~~Air Quality~~ Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"Allowable emissions" means:

(A) The total amount of regulated air pollutant emitted based on limits contained in a federally enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"Date of billing" means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

"Emission inventory" means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

"Error" means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEQ in invoicing' or the part of the owner or operator in calculating emissions. It

does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

"Grandfathered source" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"Minor facility" means a facility which is not a Part 70 source.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

"Regulated air pollutant" means:

(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.

~~(B) Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.~~

~~(C)(B)~~ Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.

~~(D)(C)~~ Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.

~~(E)(D)~~ Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.

~~(F)(E)~~ Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

"Regulated pollutant (for fee calculation)", which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

252:100-5-2. Registration of potential sources of air contaminants

(a) **Filing.** In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the ~~Air Quality~~ Division with information necessary to evaluate the source's potential for causing air pollution.

(b) **Necessary information.** The following information shall be included for each source:

- (1) Total weight of the contaminant released per day.
- (2) Period or periods of operation.
- (3) Composition of the contaminant.
- (4) Physical state of the contaminant.
- (5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.
- (6) Efficiency of any control device.
- (7) Such other information as may be specifically requested by the Director.

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the ~~Air Quality~~ Division.

~~(1) The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter. The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless a 30-day extension has been granted by the Division.~~ *Add 1 extension*

~~(2) The initial emission inventory for Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter. Facilities registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated pollutant are required to submit an~~

emission inventory once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) Content. All inventories submitted to the ~~Air Quality~~ Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

(4) For those emissions not the subject of a permit and when requested by the AQD, a list of all 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the ~~Air Quality~~ Division or made available for inspection upon request.

(d) Method of calculation. The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. ~~Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees.~~ The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under 252:100-5-2.2 unless challenged by the owner or operator prior to September 1

of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. The following shall constitute acceptable methods of calculation for determining actual emissions are:

(1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Air Quality Division.

(3) Stack tests using appropriate EPA test methods on ~~identical equipment (i.e., same model) at the same location under the same operating conditions and parameters when~~ may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:

(A) Tests are performed by persons qualified by training and experience to perform said tests.

(B) Copies of the tests results and methods are available for review by the Air Quality Division.

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the ~~Air Quality Division.~~

(6) Manufacturer's test data, when approved by the ~~Air Quality Division~~ as reliable.

(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the ~~Air Quality Division.~~

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the ~~Air Quality Division.~~

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the ~~Air Quality Division.~~

(e) **Methods of verification.** Emission inventories determined by the ~~Air Quality Division~~ to be substantially incomplete or substantially incorrect shall, upon the request of the ~~Air Quality Division~~, be subject to verification if not

satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the ~~Air Quality~~ Division.

252:100-5-2.2. Annual operating fees

(a) Applicability.

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. ~~A Part 70 source shall be subject to fee requirements of this section on January 1, 1995.~~ The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) This section does not apply to de minimis facilities.

(b) Fee schedule.

(1) Minor facilities.

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

- (i) 10 - 24.99 tons/year - \$100/year
- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

(B) In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).

(2) Part 70 Sources.

(A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be

\$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

(C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) ~~Payment. For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division. Fees are due and payable upon receipt of on the invoice due date(s). Fees shall be considered delinquent 30 days from after the invoice due date(s), date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1½%) per month on any amount unpaid. Within five (5) years but not before a grace period of 120 days from the date of billing, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. Supp. 1993, §§ 2-5-101 et seq., to an owner or operator of a facility who has failed to pay or has underpaid such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of an DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may~~

~~seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.~~

(d) **Basis for annual operating fees.**

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. ~~Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).~~

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

252:100-5-3. **Confidentiality of proprietary information**
[Refer to 27A O.S. ~~Supp. 1993, §§ 2-5-105.18.~~]

MINUTES
AIR QUALITY COUNCIL
DECEMBER 14, 1999
Department of Environmental Quality
MultiPurpose Room - 707 North Robinson, OKC

Council Members Present

William B. Breisch, Chairman
Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Scott Thomas
Dawson Lasseter
Linn Wainner
Ray Bishop
Shawna McWaters-Khalousi

Staff Present

Cheryl Bradley
Jeanette Buttram
Michelle Martinez
Max Price
Larry Trent
Myrna Bruce

Council Members Absent

Larry Canter
Sharon Myers
Gary Kilpatrick

Guests Present

**see attached list

Notice of Public Meeting for December 14, 1999 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye. Dr. Canter, Ms. Myers, and Mr. Kilpatrick did not attend. Mr. Breisch and Mr. Terrill presented Meribeth Slagell a Resolution from the Council and Certificate of Appreciation from Mr. Coleman and thanked her for her years of dedicated service on the Council. Mr. Breisch introduced new Council member, Rick Treeman, who was appointed by the Governor to replace the position vacated by Mrs. Slagell.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the August 24, 1999 Public Meeting/Hearings. Motion was made by Mr. Fallon to approve the Minutes as presented and second was made by Dr. Grosz. Roll call as follows: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

CY 2000 Meeting Schedule - Staff suggested the following Year 2000 meeting dates:

Wednesday, February 16 at Tulsa
Wednesday, April 19 at Lawton
Wednesday, June 14 at Tulsa
Wednesday, August 16 at Ponca City
Wednesday, October 18 at Oklahoma City
Wednesday, December 14 at Oklahoma City

Motion to accept the schedule was made by Mr. Fallon with second by Mr. Branecky with following vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100- Appendices E & F

Appendix E Primary Ambient Air Quality Standards [AMENDED]

Appendix F Secondary Ambient Air Quality Standards [AMENDED]

Ms. Michelle Martinez made the staff presentation stating that the proposed amendments to Appendices E and F would restore the primary and secondary ambient air quality standards for ozone to what they were prior to June 1, 1999. She advised that the 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored; and that the PM-2.5 standards would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.

Ms. Martinez entered into the record a fax received from EPA Region 6 dated December 10, 1999 which stated that updating these appendices was timely and appropriate. Ms. Martinez then asked that Council recommend proposed Appendices E and F to the Environmental Quality Board for permanent adoption.

Following discussion, Mr. Breisch asked for a motion to recommend the rule for adoption. Mr. Branecky made motion to recommend to the Board for permanent/emergency adoption. Second was made by Mr. Fallon. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-5

Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Ms. Jeanette Buttram presented the staff presentation and advised that the proposed changes to Subchapter 5 were designed to allow the agency the ability to bill annual operating fees on a flexible schedule, and that these changes would also allow the fees to be based on the most recent emission data possible. Ms. Buttram pointed out that the proposed rule clarified that an owner or operator of a facility must report quantifiable excess emissions on their annual emission inventory. She stated that substantive changes included the requirement that all inventories be submitted prior to March 1, and the Agency would provide up to a 30-day extension upon request. Council made a recommendation that the language be changed to allow an additional 30-day extension for good cause shown. Also, the rule will allow fee payers five years after payment is made to notify the DEQ that they overpaid and receive

credit for such overpayment. Also, new language was proposed to reduce to six months after inventories are due or submitted, the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the methods used to calculate the facility's emissions for "fee calculation purposes."

Ms. Buttram advised that comments had been received from Central and Southwest Services and she entered them into the record. She stated that it was staff's recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Following comments from Council members and the audience, changes were made in the wording and Mr. Wilson made a motion to forward this rule, with changes, to the Environmental Quality Board for adoption. Second was made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-9

Excess Emission And Malfunction Reporting [AMENDED]

Ms. Jeanette Buttram was called upon to make the staff recommendation for this rule. She stated that the proposed changes to Subchapter 9 included correction of typographical and grammatical errors and deletion of redundant language; and that the rule was simplified and clarified according to the agency-wide re-right/de-wrong initiative.

Substantive changes include the addition of new definitions and the addition of a new subsection for certification of the information submitted.

Also, language was added under 100-9-3.3, Demonstration of cause, which states excess emissions caused by malfunction and maintenance, start-up/shutdown, can be exempt from compliance which air emission limitations established in permits, rules, orders of the DEQ if the owner/operator properly complies with the requirements in 252:100-9-3.1 and 252:100-9-3.2, respectively; and meets the demonstrations listed in those subsections. Then additional subsections added to 100-9-3.3 were discussed.

Ms. Buttram advised that comments had been received from EPA Region 6 and from Central and Southwest Services and entered them into the record. She stated that staff suggested that the rule be recommended for adoption by the Environmental Quality Board.

After much discussion with staff, Council, and audience members, Mr. Breisch called for a motion. Mr. Fallon made motion to continue this rule to the next regular meeting. Mr. Branecky made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-13

Prohibition of Open Burning [AMENDED]

Ms. Jeanette Buttram was called upon to give the staff recommendation concerning this rule. She stated that the proposed changes to Subchapter 13 would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. She added that such changes included consolidating the general conditions and requirements for allowed open burning into a new section. She pointed out that a few substantive changes were made such as adding definitions for "domestic refuse" and "landclearing operation" and a section on disaster relief procedures; and that in some instances, the requirement to notify the DEQ or other appropriate official for authorization to burn was added. Ms. Buttram stated that new language was added under "land management and land clearing operations" requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators. She stated that existing language on open-pit incinerators was expanded it would now prohibit accepting any material owned by other persons and from transporting any material to be burned to the property where the open-pit incinerator is located. She advised that it was staffs recommendation that Council forward this rule to the Environmental Quality Board for adoption as a permanent rule.

Ms. Buttram entered written comments from Central and Southwest Services into the record. Following questions and discussion by Council, changes were made in the wording after which Mr. Breisch entertained motion to accept the changes made and forward the rule to the Board for adoption as a permanent rule. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-23 Control of Emissions from Cotton Gins [AMENDED]

OAC 252:100-24 Control of Emissions from Grain Elevators [AMENDED]

Mr. Dyke called upon Mr. Max Price who advised Council that the proposed changes to 100-23-3 and 100-24-3, would substitute references to 252:100-19-12 for references to Subchapter 27. He added that these revisions were necessary because the substantive requirements of Subchapter 27 would be moved to 100-19-12 and Subchapter 27 would be revoked in June of 2000. He added that the references to Subchapter 27 would become meaningless unless they are replaced by references to 100-19-12. Mr. Price stated that it was staff's recommendation that Council refer these rules to the Environmental Quality Board for emergency adoption effective June 1, 2000.

Mr. Breisch stated that these two rules would be voted on separately and called for a motion on Subchapter 23. Mr. Wilson made the motion to forward to the Board as recommended

by staff. The second made by Mr. Branecky. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

Mr. Breisch then called for the same motion for Subchapter 24. Mr. Branecky made the motion and Dr. Grosz made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:2-15

Environmental Permit Processing Times [AMENDED]

Mr. Dyke called upon Ms. Cheryl Bradley who stated that the proposed amendments to Sections 40, 41, and 72 would make them consistent with 252:100, Air Pollution Control; and that the references to "minor source(s)" and "major facility(ies)" would be changed to "minor facility(ies)" and Part 70 source(s)", respectively. She added that changes were also made at the Council meeting to section 2-15-72(1)(A) such that the phrase "and part 70 sources" was added along with changing the number of days from 540 to 365. Ms. Bradley stated that comments had been received from EPA Region 6 and she entered them into the record. Following discussion Ms. Bradley advised that it was staff's recommendation that Council refer this rule to the Board for permanent adoption of the proposed amendments. Mr. Breisch called for a motion. Mr. Branecky made motion to accept the changes as stated and forward the rule to the Board for adoption. Mr. Fallon made the second. The roll call vote: Mr. Wilson - aye; Mr. Branecky - aye; Mr. Treeman - aye; Mr. Fallon - aye; Dr. Grosz - aye; Mr. Breisch - aye.

DIVISION DIRECTOR'S REPORT - Mr. Terrill advised that he and Mr. Dyke would be attending a meeting with Central States Air Resources Board (CenSARA) to discuss, among other things, the status of the Regional Planning Body activities. He stated that he would like to take a few minutes at the next regular meeting for an update on these activities.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 16, 2000 at 9:00 a.m. in the Auditorium at OSU-Tulsa (formerly UCAT).

NOTE: The sign-in sheet is attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

David R. Dyke, Assistant Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 14, 1999

SIGN-IN SHEET Page One

NAME/AFFILIATION	CSW	ADDRESS	TELEPHONE
1. Howard Ground	PO Box 460164	Dallas TX	214-777-1711
2. Tom Diggs	U.S. EPA Reg 4	1445 Ross Ave Dallas TX	214-665-7214
3. LEE Moody	Trinity	DALLAS	972 661 8100
4. John Wheeler	"	"	"
5. Marty Smith	Duke Energy	Deno	(303) 589 3331
6. Mike Peters	McKinney & Steiger	(405)	272-1907
7. ^{SUNOCO} Bill CLARK	P.O. Box 2039	Tulsa OK	918-594-6368
8. Preston Batista	Harvard Univ	3805 Douglas Midland TX 79703	915 699 5214
9. FRANK COOPER	EQ BOARD		
10. Mitchell Stogell	#1/204/82	Nurco	405 663 2290
11. BILL FISHBACK	3424 LYAL TER	EDMOND	405-348-8683
12. KEN WILLIAMS	320 S. Barton,	Tulsa OK	918-594-0519
13. LEE PADEN	ODEP Board	P.O. Box 52072, TULSA 74152	918-743-74
14. Laura Armistead	Reliant Energy	P.O. Box 21734 Spout, LA 71118	318 429 370
15. Tom Buckham	Reliant Energy	189 NW 50th OKC	OK 73118 405-556-24
16. DUSTIN GIVENS	Ft. James	4701 Chandler Rd, Mustang	918/685
17. Steve Sanders	"	"	"
18. Adam Kutz	Mayor's Office		
19. Vance McSpadden	5115 N. Western	OKC	842-6625
20. Kirk Rutter	Boeing-Tulsa	3330 N. Minco Tulsa	832-3178
21. Carol Barker	7701 Arndd St, Suite 204,	TAFB OK 73115	736-5986
22. Bob Kellogg	OKC		405 235-0808
23. Travis Tindell	2500 S. Council,	OKC, OK 73128	405 745-4442 ext 2
24. DAVID FARRAND	P.O. Box 3288	Tulsa OK 74101	918-573-4489
25. ERICA Schwenneker	301 NW 63rd Street #215,	OKC	73116

NAME/AFFILIATION	ADDRESS	TELEPHONE
26. Gary Pinc	WYOMING	918 384 7526
27. Gary Collins	TERRA	918 266 1511
28. Pat Davenport	N-S	405 377 5050
29. Jon Pruitt	MARATHON OIL Co	405-920-5532
30. Deanne Hughes	Cardenal Engineering	842-1006
31. Julia Bevers	321 N. Hawley 77101	553-3439
32. Charles Jeffers	DEO / POAT	918 961-7412
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AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-5

Subchapters or Sections Involved – [new, amended or revoked]

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees

On December 14, 1999 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: December 14, 1999

Chair or Designee

VOTING TO APPROVE:

Joel Wilson
David Branecky
Rick Treeman
Leo Fallon
Fred Grosz
Bill Breisch

ABSTAINING:

VOTING AGAINST:

ABSENT:

Larry Canter
Sharon Myers
Gary Kilpatrick

OAC 252:100-5[3]
Environmental Quality Board

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, February 25, 2000
Department of Environmental Quality
707 North Robinson
Oklahoma City, Oklahoma 73102

NOTE: The business meeting of the Board will be preceded at 8:30 a.m. by a continental breakfast. No business will be conducted, but there will be opportunity for an informal interchange among attendees, particularly on matters of interest raised by individual Board members. Board members and DEQ staff will be present, and the public may attend.

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the November 16, 1999 Regular Meeting
4. **Election of Officers**
Election of Chair and Vice-Chair for 2000
5. **Rulemaking – OAC 252:002 Procedures of the DEQ (Administrative Fees)**
The proposed rule relates to administrative fees. The Oklahoma Open Records Act allows an agency to charge a document copying fee, a fee for certified copies, and a reasonable fee for document searches when the search request is solely for a commercial purpose or clearly would cause an excessive disruption of the agency's essential functions. Fees must be promulgated as rules under the Administrative Procedures Act (1999 Okl.Op.Atty.Gen. 55, August 17, 1999). The proposed rule establishes a photocopy fee of \$0.25 per page, a certified copy fee of \$1.00 per document, and a document search fee of \$5.00 per one-half (1/2) hour (with the first 15 minutes free).
 - A. Presentation – Jimmy Givens, DEQ General Counsel
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption
6. **Rulemaking – OAC 252:100 Air Pollution Control**
Four sets of changes are proposed:
 - Subchapter 5: The proposed amendments are designed to allow the agency to bill on a flexible schedule those owners and operators with sources that produce emissions. The changes also allow the fees to be based on the most recent emission data possible. The proposal clarifies that an owner or operator of a facility must report quantifiable excess emissions on the annual emission inventory, which must be submitted prior to March 1 unless an extension is granted. The proposal also establishes time frames for requests for credit based on overpayment and for challenges to the method used to calculate the facility's emissions for fee calculation purposes.
 - Subchapter 13: The proposed amendments simplify and clarify the rule as part of the agency-wide re-right/de-wrong initiative. Such changes include consolidating the general conditions and requirements for allowed open burning into a new section. Some substantive changes were made,

including adding a section on disaster relief procedures; requiring notification to the DEQ or other appropriate official for authorization to burn in some circumstances; requiring those who clear land in areas that are or have been designated nonattainment to burn their vegetation in open-pit incinerators; and prohibiting burning of off-site material in open-pit incinerators.

- Subchapters 23 and 24: The changes replace references to Subchapter 27 with references to 252:100-19-12. These changes are necessary because, based on Board action last November, the substantive requirements of Subchapter 27 will be moved to section 252:100-19-12 and Subchapter 27 will be revoked, effective June of 2000.
- Appendices E and F: The proposed amendments restore the primary and secondary ambient air quality standards to what they were prior to June 1, 1999. The 8-hour ozone standard of 0.08 ppm would be revoked and the 1-hour standard of 0.12 ppm restored. The PM-2.5 standard would be revoked along with the revised form of the PM-10 standard and replaced with the previous form of the PM-10 standard.
 - A. Presentation— David Branecky, Air Quality Council Member
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption of amendments to Subchapters 5 and 13, on emergency adoption* (only) of amendments to Subchapters 23 and 24, and on both permanent and emergency adoptions of amended Appendices E and F

7. Rulemaking— OAC 252:002 Procedures of the DEQ (Air Quality-Related)

The Department is proposing amendments to the air quality provisions of OAC 252:2-15, Environmental Permit Processing Times, to make them consistent with 252:100, Air Pollution Control. The terms "minor source(s)" and major "facility(ies)" would be changed to "minor facility(ies)" and "Part 70 source(s)", respectively.

- A. Presentation— David Branecky, Air Quality Council Member
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

8. Rulemaking— OAC 252:205 Hazardous Waste Management

Two sets of changes are proposed:

- Subchapter 3: The proposed amendment to OAC 252:205-3-1 updates the adoption by reference of federal hazardous waste regulations to July 1, 1999. Proposed revisions to 252:205-3-3 incorporate new or superseding amendments to 40 CFR contained in 64 FR 36465-36490, published July 6, 1999, which add hazardous waste lamps as a universal waste at the federal level. Corresponding changes are made in other sections.
- Subchapters 5 and 9: The proposed revisions to 252:205-5 move language from 252:205-5-5(b) to 252:205-5-3(b)(5). The amendment to 252:205-9-6 provides alternative waste characterization mechanisms for off-site hazardous waste facilities.
 - A. Presentation— Jody Reinhart, Hazardous Waste Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on emergency* and permanent adoption of amendments to Subchapter 3, and on permanent adoption of amendments to Subchapters 5 and 9

9. Rulemaking-- OAC 252:220 Brownfields

The proposed language is the result of recent legislation. It states the criteria by which the DEQ will verify loan application eligibility of Brownfields sites for loans from the Wastewater Facility Construction Revolving Loan Account and other state funding sources.

- A. Presentation-- Jody Reinhart, Hazardous Waste Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on emergency* and permanent adoption

10. Rulemaking-- OAC 252:615 and 616 Industrial Wastewater Systems

Chapter 615 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 615 be revoked and a new Chapter 616 created to replace it. Language has been simplified and clarified and rules deemed unenforceable have been removed.

- A. Presentation-- Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

11. Rulemaking-- OAC 252:630 and 631 Public Water Supply Operation

Chapter 630 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 630 be revoked and a new Chapter 631 created to replace it. Language has been simplified and clarified and unenforceable rules have been removed. The most recent federal requirements for maintaining primacy over the Safe Drinking Water Act program have been included.

- A. Presentation-- Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

12. Rulemaking-- OAC 252:641 On-Site Sewage Disposal Systems

The proposed rule amendments eliminate the document search fee, combination fee (soil percolation test and final inspection or existing system evaluation report) and residential plat review fees, and reduce the soil percolation/soil profile fee, final inspection fee, existing system evaluation fee and the certified installer final inspection fee.

- A. Presentation -- Gary Collins, Director, DEQ Environmental Complaints and Local Services Division
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

13. Rulemaking -- OAC 252:700 and 710 Waterworks/Wastewater Works Operator Certification
Chapter 700 has been reviewed as part of the "re-right/de-wrong" process of simplifying DEQ rules. Because so many changes were made, it is proposed that Chapter 700 be revoked and a new chapter 710 created to replace it. New subchapters have been created; many rules have been simplified and/or broken into several shorter rules for clarity; and statutory citations have been updated. The rules for landfill operator certification are being revoked as inappropriate to these chapters.

- A. Presentation—Rick Stebbens, Waterworks and Wastewater Works Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

14. Rulemaking -- OAC 252:002 Procedures of the DEQ (Operator Certification-Related)
The DEQ proposes that Section 252:2-15-49 be revoked as part of the "re-right/de-wrong" rules simplification process. This revocation does not affect the operator certification program or the proposed rules in Chapter 710. The basic Tier I permitting process was designed for environmental permits where notice was given to landowners. The DEQ believes that personal licensure should not have been included in the Tier categories.

- A. Presentation—Rick Stebbens, Waterworks and Wastewater Works Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

15. New Business (any matter not known about and which could not reasonably have been foreseen prior to the time of posting of agenda)

16. Executive Director's Report

17. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. The forum will also include a short presentation from the DEQ Water Quality Division about State Water Quality Standards implementation, the State "303(d)" (impaired waters) list, and related issues.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until on or about June 1st.

**SUBCHAPTER 5. REGISTRATION,
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

252:100-5-1. Purpose

This Subchapter requires potential sources of air contaminants to register with the ~~Air Quality Division~~. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.

252:100-5-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"**Actual emissions**" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"**Allowable emissions**" means:

(A) The total amount of regulated air pollutant emitted based on limits contained in a federally enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"**Consumer Price Index**" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"**Date of billing**" means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

"**Emission inventory**" means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

"**Error**" means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEO in invoicing or the part of the owner or operator in calculating emissions. It does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

"**Grandfathered source**" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"**Minor facility**" means a facility which is not a Part 70 source.

"**Part 70 source**" means any source subject to the permitting requirements of Part 5 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

"**Process Fugitive Emissions**" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

"Regulated air pollutant" means:

(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.

~~(B) Any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.~~

~~(C) (B)~~ Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.

~~(D) (C)~~ Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.

~~(E) (D)~~ Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.

~~(F) (E)~~ Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

"Regulated pollutant (for fee calculation)", which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(D) Total suspended particulates (TSP).

252:100-5-2. Registration of potential sources of air contaminants

(a) **Filing.** In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the ~~Air Quality Division~~ with information necessary to evaluate the source's potential for causing air pollution.

(b) **Necessary information.** The following information shall be included for each source:

(1) Total weight of the contaminant released per day.

(2) Period or periods of operation.

(3) Composition of the contaminant.

(4) Physical state of the contaminant.

(5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.

(6) Efficiency of any control device.

(7) Such other information as may be specifically requested by the Director.

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the ~~Air Quality Division~~.

(1) ~~The initial emission inventory for minor facilities shall be submitted by March 1, 1993 and every succeeding year thereafter. The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless a 30-day extension has been granted by~~

the Division. An additional 30-day extension may be granted for good cause shown.

(2) The initial emission inventory for Part 70 sources shall be submitted by April 1, 1994 and every succeeding year thereafter. Facilities registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated pollutant are required to submit an emission inventory once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) De minimis facilities as defined in 252:100-7-1.1 are not required to submit an annual emission inventory.

(b) **Content.** All inventories submitted to the ~~Air Quality~~ Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

(4) For those emissions not the subject of a permit and when requested by the AQD, a list of all 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the ~~Air Quality~~ Division or made available for inspection upon request.

(d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. ~~Said selection shall be binding upon acceptance by the Air Quality Division and the payment of fees.~~ The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. ~~The following shall constitute acceptable~~ Acceptable methods of calculation for determining actual emissions are:

(1) Emission factors utilized in the issuance of a relevant Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Air Quality Division.

(3) Stack tests using appropriate EPA test methods ~~on identical equipment (i.e., same model) at the same location under the same~~

operating conditions and parameters when may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:

(A) Tests are performed by persons qualified by training and experience to perform said tests.

(B) Copies of the tests results and methods are available for review by the Air Quality Division.

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the ~~Air Quality Division~~.

(6) Manufacturer's test data, when approved by the ~~Air Quality Division~~ as reliable.

(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the ~~Air Quality Division~~.

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the ~~Air Quality Division~~.

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the ~~Air Quality Division~~.

(e) **Methods of verification.** Emission inventories determined by the ~~Air Quality Division~~ to be substantially incomplete or substantially incorrect shall, upon the request of the ~~Air Quality Division~~, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the ~~Air Quality Division~~.

252:100-5-2.2. Annual operating fees

(a) Applicability.

(1) This section applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. ~~A Part 70 source shall be subject to fee requirements of this section on January 1, 1995.~~ The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2). This section does not apply to de minimis facilities.

(b) Fee schedule.

(1) Minor facilities.

(A) Until January 1, 1998, the owner or operator of a facility subject to this section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:

(i) 10 - 24.99 tons/year - \$100/year

- (ii) 25 - 49.99 tons/year - \$250/year
- (iii) 50 - 74.99 tons/year - \$500/year
- (iv) 75 - 99.99 tons/year - \$750/year

(B) In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).

(2) **Part 70 Sources.**

(A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

(C) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.

(c) ~~Payment. For Part 70 sources fees shall be paid by check or money order made payable to the Oklahoma Air Quality Title V Revolving Fund. All other sources shall pay fees by check or money order made payable to the Oklahoma Air Quality Division.~~

~~(1) Fees are due and payable upon receipt of on the invoice due date(s). Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1½%) per month on any amount unpaid after the invoice due date(s). Within five (5) years but not before a grace period of 120 days from the date of billing invoice due date, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. Supp. 1993, § 2-5-101 et seq., to an owner or operator of a facility who has failed to pay or has underpaid such fees. If no fee was billed because the owner or operator failed to submit the required annual emission inventory, the term "date of billing" shall mean the date on which the fee would have been billed had the emission inventory been submitted when due. When a fee overpayment has been made as a result of a DEQ invoice error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ. When a fee overpayment has been made as a result of an owner or operator's error in preparing the emission inventory upon which the fee was based, the owner or operator may seek credit for such overpayment within one year from the date on which payment of the fee was received by the DEQ.~~

~~(2) If an owner or operator has failed to submit the required annual emission inventory, the DEQ may issue an administrative~~

order to recover fees that would have been invoiced had the emission inventory been submitted when due. The DEQ may issue such order within five (5) years from the date of billing and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 et seq.

(3) When a fee overpayment has been made as a result of an error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ.

(d) Basis for annual operating fees.

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions. ~~Fees shall be based on emission inventories submitted in the previous calendar year (for example, fees invoiced during the calendar year 1998 shall be based upon inventory data covering the calendar year 1996).~~

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

252:100-5-3. Confidentiality of proprietary information
[Refer to 27A O.S. ~~Supp. 1993, §~~ §§ 2-5-105.18.]

OAC 252:100-5[3]
Additional Comments

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND
ANNUAL OPERATING FEES

EXECUTIVE SUMMARY: The proposed amendments to Subchapter 5 are designed to allow the agency to bill on a flexible schedule those owners and operators with sources that produce emissions. The changes should also allow the fees to be based on the most recent emission data possible. The proposed rule language clarifies that an owner or operator of a facility must report quantifiable excess emissions on their annual emission inventory. Substantive changes include requiring all inventories be submitted prior to March 1 and providing up to a 60-day extension upon request and good cause shown. It allows fee payers five years after payment is made to notify the DEQ that they overpaid and receive credit for such overpayment, and reduces to six months after inventories are due or submitted the period of time in which either the facility owner/operator or the DEQ, respectively, can challenge the method used to calculate the facility's emissions for fee calculation purposes.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because no one federal rule corresponds to these rules.

SUMMARY OF COMMENTS AND RESPONSES:

Comment: (Fort James) Fort James owns and operates a pulp and paper facility in Muskogee, Oklahoma. The facility is a Part 70 source and as such, submits an annual emission inventory and pays an annual emission fee. Due to the size of this facility, operating and material usage data is not available at the beginning of a new calendar year. The compilation of pertinent data can take as long as a month or more, thereby creating difficulty in complying with the new requirement in 252:100-5-2.1(a) to submit the inventory "...prior to March 1..." Understanding this requirement may be legislatively driven, Fort James would ask that the 30-day extension mentioned in that same citation, be given as a matter of right by the permittee. In other words, while there is still the requirement that the permittee make the effort to ask to be given the extension, the Division simply cannot decline the request.

Comment: (Public Service Company of Oklahoma (PSO), an operating subsidiary of Central and South West Corporation) 252:100-5-2.1(a) Requirement to file an emission inventory. The requirement to submit the emission inventory by March 1 each year does not provide sufficient time to obtain the necessary annual operating data and perform the required emissions calculations. A request for a 30-day extension will be a certainty, especially in the case of PSO who owns and operates several power plants with multiple fossil fuel-fired boilers or gas turbines. The assurance of being granted an extension of time for submitting the EI is vitally important to

avoid enforcement action.

Response: Extensions of time were given in the past by the DEQ, even though they were not specifically authorized by rule. Providing for a 30-day extension in the rule strengthens the Division's authority to grant them, so we do not believe they will be more difficult to obtain. After a discussion during the Council meeting, Council agreed to modify the language to allow an additional 30-day extension for good cause shown. Therefore, facilities may be granted up to 60 additional days to submit their emission inventories.

Comment: (Fort James) The sentence in 252:100-5-2.1(d) beginning with "The method of calculation used to determine emissions..." should be clarified. We suggest the following: "The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division solely for the purpose of calculating fees under 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received." It should be clear that the method of calculation is binding for calculating fees only, and not for other reasons, such as potential enforcement actions for emissions stated on an inventory that were later determined to be in error.

Comment: (EPA) In section 5-2.1 we recommend adding a statement, "Methods of calculation in an emission inventory are for fee calculation purposes only."

Response: Staff agrees and made a change to the rule which states "The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees..."

Comment: (Fort James) In 252:100-5-2.1(e)(1)(B), the requirement to use stack test data from tests that "...were conducted during the preceding 5-year period" will add more frequent compliance tests. If there is not another applicable requirement or a permit condition requiring stack test more frequently than five years, there will then be an added burden to provide additional and costly stack test data simply for assessing fees. Generally, if current stack testing requirements are sufficient for compliance purposes, they should be sufficient for assessing fees. It is recommended that this requirement be stricken.

Comment: (Fort James) We feel the requirement to perform stack testing on NOx and/or VOC sources "...between April 1 and October 31..." in 252:100-5-2.1(e)(1)(E), should be stricken as well. Unless an appropriate EPA test method, applicable regulation, or permit condition requires testing during the time frame mentioned here, there would again be additional compliance requirements simply for assessing fees. Furthermore, at a time of the year when sources of NOx and/or VOC, i.e. power boilers, are needed to run due to increased power consumption, this new requirement will

require additional and very costly shutdowns in order to comply. This is due to the fact that the Fort James power boilers share common stacks, and stack testing one boiler requires that the boiler sharing the common stack be shutdown. Again, current stack testing requirements that are sufficient for compliance should be sufficient for assessing fees.

Comment: Many oral comments were received during the Council meeting objecting to language in 252:100-5-2.1(e)(1)(B), the requirement to use stack test data from tests that "...were conducted during the preceding 5-year period," and the requirement to perform stack testing on NOx and/or VOC sources "...between April 1 and October 31..." in 252:100-5-2.1(e)(1)(E). Commenters believed that if stack test data are good enough for compliance purposes, they should be good enough for assessing fees.

Response: Staff decided that detailed testing requirements do not belong in Subchapter 5 and removed the proposed language from the draft rule presented to the Council in December. The proposed language will be addressed again when Subchapter 45, Monitoring of Emissions, is brought before the Council in the next year.

Comment: Oral comments were received during the Council asking how a facility reports excess emissions for opacity when there is no way to correlate opacity exceedances with particulate emissions?

Response: Staff reworded the proposed language to read "including quantifiable excess emission."

Comment: (Public Service Company of Oklahoma (PSO), an operating subsidiary of Central and South West Corporation) 252:100-5-2.2(d)(1) Basis for annual operating fees. It is recommended that the last sentence which is proposed to be stricken, be reinstated for clarity. Otherwise, there is no referenced year in which the fees would apply to the actual emissions of a particular annual emission inventory.

Response: Staff disagrees. The proposed changes to the rule allow the agency to bill on a quarterly basis and/or spread out the total payments over the year. Also, the fees will now be based on the most recent emission data possible; therefore, the dates currently in the rule would no longer apply.

RESPONSE TO WRITTEN COMMENTS SUBCHAPTER 5

FORT JAMES LETTER (received on 9/29/99, dated 9/27/99, signed by Stephen E. Landers, Sr. Process Engineer)

1. **Comment:** Fort James owns and operates a pulp and paper facility in Muskogee, Oklahoma. The facility is a Part 70 source and as such, submits an annual emission inventory and pays an annual emission fee. Due to the size of this facility, operating and material usage data is not available at the beginning of a new calendar year. The compilation of pertinent data can take as long as a month or more, thereby creating difficulty in complying with the new requirement in 252:100-5-2.1(a) to submit the inventory "...prior to March 1..." Understanding this requirement may be legislatively driven, Fort James would ask that the 30-day extension mentioned in that same citation, be given as a matter of right by the permittee. In other words, while there is still the requirement that the permittee make the effort to ask to be given the extension, the Division simply cannot decline the request.

Response: Staff does not agree with Fort James' proposed change. Inventories are needed by March 1 for staff to prepare invoices in a timely manner. If extensions were automatic, everyone would take advantage of them, and inventories would not be submitted until April 1. However, staff recognizes that there will be situations where companies need more time. Staff needs the flexibility to look at each request on a case by case basis and determine which requests have merit. It should be noted that extensions were given in the past by the DEQ even though they were not specifically authorized by the rule. Therefore, we do not believe authorized extensions will be difficult to obtain when a legitimate request is made.

2. **Comment:** The sentence in 252:100-5-2.1(d) beginning with "The method of calculation used to determine emissions..." should be clarified. We suggest the following: "The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division solely for the purpose of calculating fees under 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received." It should be clear that the method of calculation is binding for calculating fees only, and not for other reasons, such as potential enforcement actions for emissions stated on an inventory that were later determined to be in error.

Response: Staff does not agree with Fort James' proposed change. The rule currently requires the owner or operator to submit the "best available data" at the time the inventory is prepared. These data are dependent on the method of calculation chosen and are used not only to calculate fees, but also to provide the most accurate picture possible of emissions in Oklahoma. The data are used to determine PSD increment consumption and to decide how the State can best meet the National Ambient Air Quality Standards. Consequently, both the owner/operator and the Division need to agree as quickly as possible on the method used to calculate the data. Some facilities want to change the method used to calculate one year's emissions several years later. There needs to be some finality to the process, so that the Division can rely on the data. Further,

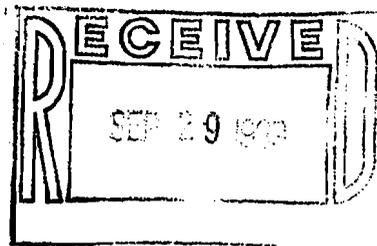
the Division does use emissions data, whether they are found in records kept at the facility or on emission inventories, for enforcement purposes. Again, there needs to be a point after which neither the facility nor the Division can claim that a difference method of calculation should have been used for the emission inventory. This does not mean that mathematical or factual errors cannot be corrected after the six-month period, only that the method of calculation chosen by the owner/operator and accepted by the Division cannot be changed after the six-month period.

3. **Comment:** In 252:100-5-2.1(e)(1)(B), the requirement to use stack test data from tests that "...were conducted during the preceding 5-year period" will add more frequent compliance tests. If there is not another applicable requirement or a permit condition requiring stack test more frequently than five years, there will then be an added burden to provide additional and costly stack test data simply for assessing fees. Generally, if current stack testing requirements are sufficient for compliance purposes, they should be sufficient for assessing fees. It is recommended that this requirement be stricken.

4. **Comment:** We feel the requirement to perform stack testing on NO_x and/or VOC sources "...between April 1 and October 31..." in 252:100-5-2.1(e)(1)(E), should be stricken as well. Unless an appropriate EPA test method, applicable regulation, or permit condition requires testing during the time frame mentioned here, there would again be additional compliance requirements simply for assessing fees. Furthermore, at a time of the year when sources of NO_x and/or VOC, i.e. power boilers, are needed to run due to increased power consumption, this new requirement will require additional and very costly shutdowns in order to comply. This is due to the fact that the Fort James power boilers share common stacks, and stack testing one boiler requires that the boiler sharing the common stack be shutdown. Again, current stack testing requirements that are sufficient for compliance should be sufficient for assessing fees.

Response: Staff will address comments #3 and #4 together. These proposed changes are important to ensure DEQ maintains an accurate emission inventory. The DEQ keeps track of emissions as part of the overall program to maintain compliance with the National Ambient Air Quality Standards, not just to determine fees. Staff believes extremely old stack tests are not representative of current emissions especially since equipment efficiency can deteriorate over time. Also, we are not aware that extremely old stack tests are sufficient for compliance purposes since Title V permitting requires monitoring data and other more recent compliance demonstrations. Furthermore, stack testing is just one option that may be used when choosing a method of calculation. There are other methods of calculation that may be used by the owner and/or operator of a facility to determine emissions. Finally, in regards to the statement these changes will contribute to an added burden to provide additional and costly stack test data, new requirements have been outlined in the notice of rulemaking intent which will address these concerns. The DEQ now requests that business entities affected by these rules provide us, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Staff will ask the Council to consider the rule again at the December meeting, so we would encourage Fort James to submit such information prior to that meeting.

AP-42 vs. Syn. Old Stacktest



FORT JAMES

Fort James Corporation tel 918 683 7671
4901 Chandler Road fax 918 682 3032
Muskogee, OK 74403-4909

September 27, 1999

Ms. Jeanette Buttram
Oklahoma Department of Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, OK 73101-1677

RE: Proposed Changes to OAC sec. 252:100; Air Pollution Control,
Subchapter 5. Registration, Emission Inventory and Operating
Fees

Dear Ms. Buttram:

Fort James Operating Company, ("Fort James" or the "Company") appreciates the opportunity to provide these comments to the Oklahoma Department of Environmental Quality ("ODEQ"), Air Quality Division ("Division") in connection with the proposed amendments to OAC 252:100-5 concerning emission inventories and operating fees.

Fort James owns and operates a pulp and paper facility in Muskogee, Oklahoma. The facility is a Part 70 source and as such, submits an annual emission inventory and pays an annual emission fee. Due to the size of this facility, operating and material usage data is not available at the beginning of a new calendar year. The compilation of pertinent data can take as long as a month or more, thereby creating difficulty in complying with the new requirement in 252:100-5-2.1(a) to submit the inventory "...prior to March 1..." Understanding this requirement may be legislatively driven, Fort James would ask that the 30-day extension mentioned in that same citation, be given as a matter of right by the permittee. In other words, while there is still the requirement that the permittee make the effort to ask to be given the extension, the Division simply cannot decline the request.

e16

The sentence in 252:100-5-2.1(d) beginning with "The method of calculation used to determine emissions..." should be clarified. We suggest the following: "The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division solely for the purposes of calculating fees under 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received". It should be clear that the method of calculation is binding for calculating fees only, and not for other reasons, such as potential enforcement actions for emissions stated on an inventory that were later determined to be in error.

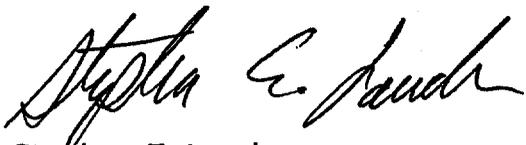
In 252:100-5-2.1(e)(1)(B), the requirement to use stack test data from tests that "...were conducted during the preceding 5-year period" will add more frequent compliance tests. If there is not another applicable requirement or a permit condition requiring stack tests more frequently than five years, there will then be an added burden to provide additional and costly stack test data simply for assessing fees. Generally, if current stack testing requirements are sufficient for compliance purposes, they should be sufficient for assessing fees. It is recommended that this requirement be stricken.

Lastly, we feel the requirement to perform stack testing on NO_x and/or VOC sources "...between April 1 and October 31..." in 252:100-5-2.1(e)(1)(E), should be stricken as well. Unless an appropriate EPA test method, applicable regulation, or permit condition requires testing during the time frame mentioned here, there would again be additional compliance requirements simply for assessing fees. Furthermore, at a time of the year when sources of NO_x and/or VOC, i.e. power boilers, are needed to run due to increased power consumption, this new requirement will require additional and very costly shutdowns in order to comply. This is due to the fact that the Fort James power boilers share common stacks, and stack testing one boiler requires that the boiler sharing the common stack be shutdown. Again, current stack testing requirements that are sufficient for compliance should be sufficient for assessing fees.

Thank you again for this opportunity to comment on these proposals. If we can discuss this further, please call me at 918-683-7671 x-458.

Sincerely,

FORT JAMES OPERATING COMPANY, Muskogee



Stephen E. Landers
Sr. Process Engineer

1
2 MEMBERS OF THE COUNCIL
3
4 1. MR. GARY KILPATRICK - MEMBER
5 2. MR. LEO FALLON - MEMBER
6 3. MR. JOEL WILSON - MEMBER
7 4. MS. SHARON MYERS - MEMBER
8 5. MR. DAVID BRANECKY - MEMBER
9 6. MR. BILL BREISCH - CHAIRMAN
10 7. MS. MYRNA BRUCE - SECRETARY
11 8. MR. DAVID DYKE - PROTOCOL OFFICER
12
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1 First, the change should prevent
2 confusion, since the date will be the same
3 for both minor and Part 70 sources.
4 And second, this change will allow
5 staff sufficient time to receive and review
6 the inventory in order to develop an
7 accurate invoice for the preceding year's
8 emissions.
9 Also, new language was added in the
10 rule, which will allow facilities to apply
11 for a 30 day extension if they can't meet
12 the deadline.
13 Section 252:100-5-2.1(b), Content,
14 page 4. New language is proposed to
15 clarify that an owner or operator of a
16 facility must report excess emissions on
17 their annual emission inventory.
18 Section 252:100-5-2.1(d), Method of
19 Calculation, page 5. New language is
20 proposed to reduce to six months after
21 inventories are due or submitted the period
22 of time in which either the facility
23 owner/operator or the DEQ, respectively,
24 can challenge the date or methods used to
25 calculate the facility's emissions.

1 MR. DYKE: The next item on the
2 agenda, Item 5B, OAC 252:100-5,
3 Registration, Emission Inventory and Annual
4 Operating Fees. I will call on staff
5 member, Jeanette Buttram.
6 MS. BUTTRAM: Good morning, Mr.
7 Chairman, Members of the Council, and
8 ladies and gentlemen. The following
9 revisions to Subchapter 5, Registration,
10 Emission Inventory and Annual Operating
11 Fees, are being proposed for the first time
12 to the Council. Most of the proposed
13 changes are substantive changes.
14 Section 252:100-5-1.1, Definitions,
15 page 2. An existing definition in the rule
16 for "date of billing" was moved to the
17 definitions section. A new definition is
18 proposed for "error".
19 Section 252:100-5-2.1(a),
20 requirement to file an emission inventory,
21 page 4. Staff is proposing the submission
22 date for annual emissions for both minor
23 and Part 70 sources be changed to March 1.
24 This change is proposed for several
25 reasons.

1 This proposed language is necessary
2 because it will allow the DEQ to maintain a
3 more accurate emission inventory and fee on
4 the most recent emission data possible.
5 Section 252:100-5-2.1(e), Method of
6 Calculation Using Stack Test, page 5. This
7 new section is proposed for owners or
8 operators who elect to use stack test for
9 determining actual emissions.
10 Most of the language in this section
11 is existing and moved here from subsection
12 d; however, subparagraph B and E is
13 proposed language. Recently, while
14 reviewing and auditing the emission
15 inventory, staff became aware of
16 deficiencies which need to be corrected.
17 Under subparagraph B, a 5 year
18 period is proposed for stack test. Under
19 subparagraph E, staff is proposing testing
20 be performed on sources of NOx and/or VOC
21 emissions between April 1 and October 31,
22 under actual operating conditions or as
23 required by the appropriate EPA test
24 method.
25 In the draft rule, the language "or

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1 as required by the appropriate EPA test
2 method" should be deleted from the rule.
3 MR. DYKE: Say that again.
4 MS. BUTTRAM: In the draft rule,
5 the language "or as required by the
6 appropriate EPA test method" should be
7 deleted from the rule.
8 These proposed changes are important
9 to ensure DEQ maintains an accurate
10 emission inventory. Staff believes
11 extremely old stack tests are not
12 representative of current emissions,
13 especially since equipment efficiency can
14 deteriorate over time.
15 It is important to remember that the
16 DEQ keeps track of emissions as part of the
17 overall program to maintain compliance with
18 National Ambient Air Quality Standards, not
19 just to determine fees.
20 If Oklahoma happens to go
21 nonattainment for ozone, it is imperative
22 that we know who the VOC and NOx sources
23 are and how much they are contributing to
24 the situation. The course of action
25 necessary to bring the State back into

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1 compliance cannot be determined without
2 accurate and updated information. EPA
3 Region 6 is requiring more accurate
4 emission inventories and we believe these
5 changes will increase our reporting
6 accuracy. We also believe increasing the
7 accuracy quantification of NOx and VOC
8 emissions increases the effectiveness of
9 our rules currently in place dealing with
10 those emissions.
11 Section 252:100-5-2.2(c), Payment,
12 page 7. Much of the language in this
13 subsection was clarified and simplified
14 since it was determined it was unnecessary
15 to have it in the rule. However, a
16 proposed change was made which states when
17 a fee overpayment has been made as a result
18 of an error, again "error" is now defined
19 in the definitions section, the fee payer
20 has five years after payment is made to
21 notify the DEQ that they overpaid and
22 received credit for such overpayment.
23 Previously, they were given one year.
24 Comments were received from Fort
25 James regarding the proposed changes.

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1 Those comments and staff's responses have
2 been included in your council packet and
3 copies are on the table. At this time, no
4 changes to the rule are proposed due to
5 those comments received.
6 Comments were received from EPA
7 recommending in Section 5-2.1, we add the
8 statement, "methods of calculation in an
9 emission inventory are for fee calculation
10 purposes only."
11 Comments from Weyerhaeuser were
12 received yesterday afternoon and will be
13 considered in the next draft.
14 The written comments from EPA and
15 Fort James and Weyerhaeuser, along with our
16 responses to those comments from Fort James
17 will be entered into the record.
18 Staff recommends the rule be
19 considered again at the December 14, 1999,
20 Council meeting.
21 MR. DYKE: Questions of Ms.
22 Buttram from the Council?
23 MR. BRANECKY: I guess I'll go
24 ahead and start. I understand you are
25 wanting to move the middle date up to March

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1 1st. Are we then still planning on
2 invoicing -- when?
3 MR. DYKE: Are you talking about
4 next year?
5 MR. BRANECKY: Yes. If these are
6 due -- if emission inventories are due
7 March 1, when is the invoice for the fees
8 coming out?
9 MR. DYKE: I can't tell you about
10 next year until the income situation is
11 worked out at the DEQ, regarding the
12 balances. But I think the idea is to move
13 everything closer together for the future.
14 Not this year -- not for this year.
15 MR. BRANECKY: So it's not that
16 critical next year as far as invoicing?
17 MR. DYKE: Right.
18 MR. BRANECKY: Next year are you
19 still going to invoice on '98 emission
20 inventories?
21 MR. DYKE: I don't think we have
22 an answer to that, yet. At some point in
23 time we need to get the emission inventory
24 and the billing closer together. We're not
25 sure how to make that extension.

1 MR. BRANECKY: Well, one of the
2 things that I can see that can be done in
3 helping to get emission inventories -- the
4 data in and invoicing out more quickly
5 would be some type of electronic filing.
6 It seems like a lot of time, probably most
7 of the time spent in the Emission Inventory
8 Section of your group is taking the paper
9 copies that come in and then re-entering
10 that data into your database and then
11 calculating fees. If you could eliminate
12 or minimize that by some kind of electronic
13 filing, that would help and maybe you
14 wouldn't have to have it by March 1st. You
15 could still have it at a later date and
16 still meet your -- whatever your invoice
17 deadline would be. I don't know if that's
18 something that -- it would sure make it
19 easier on us.

20 I know I ran into a problem this
21 year where an inspector came out to a
22 facility and on the emission inventory he
23 had, we showed 60,000 tons of NOx, where
24 actually we submitted 6,000 tons. It was
25 an error in the data entry from the paper

1 MS. BUTTRAM: That was our
2 understanding.

3 MS. MYERS: So how are you going
4 to convert opacity into some kind of excess
5 emission? There is not a conversion method
6 if you are only regulating stack emissions
7 based on opacity.

8 MS. BUTTRAM: I would have to
9 refer that question to Larry Trent, who is
10 in charge of emission inventory.

11 MR. TRENT: Probably the only way
12 I can see doing that is that if you have a
13 stack test you have to correlate --
14 visibility testing on the same equipment,
15 you can show what you have coming out at
16 that time, you can correlate those to that.

17 MS. MYERS: I'm not sure it's
18 always a linear correlation.

19 MR. TRENT: Well, you get as
20 close as you can.

21 MR. FISHBACK: More to the point,
22 Sharon, it's always (inaudible).

23 MR. DYKE: Bill, would you
24 identify yourself, please.

25 MR. FISHBACK: Bill Fishback,

1 copy over to your database. That would
2 help alleviate that, also. Maybe that
3 might encourage DEQ to move toward some
4 type of electronic filing of the emission
5 inventory.

6 MR. DYKE: I agree. That would
7 be much better.

8 MR. BRANECKY: The next question
9 I had is on 252:100 5-2.1(b) content.

10 Would the statement that you added and
11 requirements you added effect the amount of
12 excess emissions and the basis for such
13 determination. To me, when I read that,
14 that could be interpreted as we have to
15 identify excess emissions and their amounts
16 separately on the emission inventory. And
17 I don't think that's your intent. Your
18 intent is just to make sure everybody
19 includes all their emissions on emission
20 inventory?

21 MS. BUTTRAM: That's correct.

22 MR. BRANECKY: And I guess I've
23 always included all our emissions. I guess
24 some people don't include their excess
25 emissions?

1 Mid-Continent Oil and Gas. You can't
2 correlate is what you said.

3 MS. MYERS: Right. I think we
4 need to take another look at that and how
5 that's going to impact all of your major
6 sources, because I don't think there is a
7 way you can actually correlate opacity
8 exceedences with particulate emissions.

9 MR. DYKE: Additional questions
10 of Ms. Buttram from the Council?

11 MR. KILPATRICK: I have a
12 question on page 5 under paragraph D, the
13 list of 1 through 9 there. It looks like 3
14 disappeared. I assume the bottom numbers
15 just need to be renumbered?

16 MS. BUTTRAM: Yes. It will be --
17 4 will be changed to 3, and 5 will be
18 changed to 4, in the next draft and so on.

19 MR. KILPATRICK: Okay.

20 MR. WILSON: My question is in
21 regards to the method of calculation and
22 the issue behind the stack test being
23 conducted in the previous five years. You
24 are suggesting that anything that's older
25 than five years is not current enough, yet

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1 you allow the use of AP42 factors, which
2 are just -- could be very inaccurate in
3 estimating emissions. And my question is,
4 how do you come up with the thought that a
5 stack test older than five years is no
6 longer valid?

7 MS. BUTTRAM: Again, I will have
8 to refer that question to Larry Trent.

9 MR. DYKE: Larry, you need to
10 speak up, too. We can't hear you over
11 here.

12 MR. TRENT: It would be due to
13 deteriorating of the equipment in place,
14 changes in the fuel being used or any
15 number of things can add to it to make it
16 change. And principally we probably,
17 according to this pressure --

18
19 MR. WILSON: You are suggesting -
20 - I'm sorry. Larry, I'm having trouble
21 hearing you.

22 MR. TRENT: It would probably be
23 a problem of whether or not the maintenance
24 is kept up on some of the equipment and
25 whether it's changed out and cleaned and at

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1 they are not able to do a stack test, and
2 we allow them to use some other method.
3 But if it is available to us then we would
4 prefer it.

5 MR. WILSON: So if after a five
6 year period a source that had a stack test
7 that's now out of date could revert back to
8 a AP42 factor and be more of an acceptable
9 emission rate to be reported rather than
10 the old stack test?

11 MR. TRENT: We would still prefer
12 the stack test, even though it's better
13 than AP42. But it's still -- we know it's
14 not updated, it can be updated, that's what
15 we want to happen.

16 MR. BRANECKY: But you can
17 require a company to do a stack test just
18 for emission inventory purposes. You can
19 have a stack test that's five years old or
20 older, you can use that. But you can't say
21 we're not going to accept that, we want you
22 to do a newer stack test, when the company
23 has the option of using the AP42.

24 MR. TRENT: I don't know. It
25 would probably be up to the Director then.

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1 what point in time does this occur and how
2 often does it have to occur and probably a
3 stack test every five years -- in some
4 other states we're looking at every two
5 years. So I think that would be a minimum
6 thing we would be looking at.

7 MR. WILSON: The objective here
8 is to get accurate emission numbers.

9 MR. TRENT: Right.

10 MR. WILSON: And you accept the
11 AP42 factor which is for the most part, I
12 think, overestimates the amount of
13 emissions. Would you consider AP42 as a
14 more accurate method of emission
15 estimating, rather than an old stack test?

16 MR. TRENT: Probably not. We
17 would accept stack test information as the
18 number one piece of equipment data to look
19 at, probably emission monitoring would be
20 right there with it. And then after that,
21 you go down into perhaps the manufacturer
22 specifications and then probably AP42 and
23 then just a guess. If that's all you have,
24 that's all you have. So depending upon all
25 of that and what occurred -- most times

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1 MR. DYKE: I don't think we can
2 require it.

3 MR. WILSON: Actual emissions are
4 important to you just as potential
5 emissions are, is that my understanding?
6 Because I had always thought the potential
7 to emit was the primary concern for
8 figuring out what our ambient air quality
9 problems are, rather than actual emissions.

10 MR. TRENT: There is such a
11 difference between the two sometimes, I
12 don't think you want to overkill, because
13 you might cause something to occur in an
14 area that you don't want to happen. There
15 is the possibility, if someone wants to do
16 it from year to year, they can use their
17 potential emissions, their allowable
18 emissions, as their emissions inventory.

19 MR. WILSON: So potential to emit
20 is allowable for reporting in the
21 inventory?

22 MR. TRENT: Yes.

23 MR. WILSON: Is that stated in
24 here anywhere?

25 MS. BUTTRAM: I'm not sure if it

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1 is or not.
2 MR. BRANECKY: Well, it says the
3 methods of calculation for determining
4 actual emissions is under D.
5 MS. BUTTRAM: Do you mean the
6 rule as a whole or just in that section?
7 MR. WILSON: Is it acceptable to
8 report emissions for the emission inventory
9 using potential to emit?
10 MR. TRENT: We accept it. I
11 don't know of anyone that does it, but yes.
12 MR. WILSON: And that should be
13 reflected in these regulations, shouldn't
14 it? And it's not.
15 MR. BUTTRAM: I'm not sure if it
16 is or not.
17 MS. MYERS: Jeanette, under --
18 MR. DOUGHTY: Joel, would you
19 like me to address that issue? My name is
20 Dennis Doughty. The statute gives the fee
21 payer the option of submitting either
22 potential -- either actuals or allowables
23 for the purpose of paying their fees. So
24 for that purpose, either would be
25 acceptable. We might require stack tests

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1 for other reasons, though, for some other
2 purpose where actuals are necessary, we may
3 try to persuade you to give us a stack test
4 or performance test of some such. But
5 specifically for the purpose of paying your
6 fees, if you want to pay it based on
7 potentials, then you can submit that
8 information and pay your fee based on that.
9 MR. WILSON: Dennis, that's my
10 understanding in some other states. I'm
11 looking for that language within the
12 subchapter. Is that language within this
13 subchapter?
14 MS. HOFFMAN: Excuse me, I'm
15 Barbara Hoffman, I'm also a staff attorney.
16 It's in the statute. It's in Section 2-5-
17 113. And because it's in the statute, it's
18 not as -- according to what we're told on
19 our rules on rulemaking, we're not supposed
20 to copy and get into regulations. We can
21 if that's necessary, but the point is it is
22 in the statute, therefore it does cover all
23 the regulated entities.
24 And your other question about
25 whether or not you can -- whether or not

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1 it's in the rule about submitting
2 potentials. If you look at 5-2.1(b) where
3 it says what the inventories have to
4 include. One of the items is the -- for
5 those emissions subject to a permit -- the
6 permitted allowable emissions. So I
7 believe that would be your potential to
8 emit.
9 MR. WILSON: So a source could
10 then, if they had a permit, list the permit
11 and then report the emissions as equal to
12 that permit under that subchapter?
13 MS. HOFFMAN: That's right.
14 MR. WILSON: And especially if
15 their stack test is more than five years
16 old.
17 MS. HOFFMAN: Right.
18 MR. WILSON: I have another
19 question regarding the response to the Fort
20 James letter. It says, Title V permitting
21 required --
22 MS. BUTTRAM: Excuse me, which
23 number?
24 MR. WILSON: I'm sorry. It's the
25 response to the third comment from Fort

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1 James. It says that Title V permitting
2 required monitoring data and other more
3 recent compliance demonstrations.
4 And it's my understanding that Title
5 V permitting was really an activity that
6 summed up all of the applicable
7 requirements to the source and not imposing
8 any additional monitoring on those sources.
9 Am I right or not?
10 MS. HOFFMAN: Well, may I respond
11 to that again? My understanding is that
12 EPA has some policy guidance out for
13 periodic monitoring and they point to the
14 Part 70 rules as requiring periodic
15 monitoring for all Title V sources. So
16 they do have some guidance out on that and
17 as I understand it, our permit writers are
18 supposed to include that type of monitoring
19 requirement in Title V permits, even if the
20 source currently is not required to
21 monitor.
22 MR. WILSON: This is coming from
23 EPA policy and guidance?
24 MS. HOFFMAN: That's my
25 understanding. I could be wrong.

1 MR. WILSON: Not from any
2 statutes?
3 MS. HOFFMAN: Well, it's in the
4 Part 70 rules that we have to do periodic
5 monitoring and that we have to be able to
6 do your compliance certification. And so
7 the reason there is how can you do
8 compliance certification if you don't
9 monitor to assess your emissions
10 MR. DYKE: David.
11 MR. BRANECKY: My turn? This
12 question is kind of directed at Fort James
13 and also the emission inventory people. In
14 your comments, Fort James said you had to
15 have two boilers and one stack. And in
16 order to test that, you have to shut down
17 one boiler and run the test. Is it not
18 acceptable to run one test with both
19 boilers going or are you just concerned
20 with what's coming out of the stack for
21 emission inventory purposes? Could you not
22 run a stack test with both boilers going
23 and just split the difference as half
24 coming from this one and half coming from
25 this one, as long as you knew what the

1 MR. DYKE: David, we have several
2 people wanting to make comments. Can I
3 suggest that we go ahead and allow those
4 comments to be made and then we can ask
5 questions of all the people.
6 MR. BRANECKY: Okay.
7 MR. DYKE: By alphabetical order,
8 Ron ~~Silver~~ Ron, could you come up,
9 please? The court reporter is having a
10 hard time picking up everyone out there.
11 MR. ~~SILVER~~ I'll be very brief.
12 The Environmental Federation of Oklahoma is
13 looking into Subchapter 5. We still have a
14 number of questions in our own mind and we
15 would like an opportunity to review with
16 staff and obtain answers to these
17 questions. Our recommendation would be to
18 not act upon these proposed rules at this
19 time.
20 MR. DYKE: Steve Landers.
21 MR. LANDERS: My name is Steve
22 Landers with Fort James Operating Company
23 in Muskogee. I would like to first thank
24 both the Council and the staff for the
25 opportunity to comment on the proposed

1 emissions were coming out of the stack?
2 MR. TRENT: As long as you know
3 what the emissions are, I don't see any
4 problem with it.
5 MR. BRANECKY: You don't care
6 where it's coming from, just as long as you
7 know what's coming out of the stack, a
8 total number?
9 MR. TRENT: Right.
10 MR. BRANECKY: Is that something
11 that can be done?
12 MR. LANDERS: It could be done.
13 THE REPORTER: I'm sorry, who are
14 you?
15 MR. LANDERS: Stephen Landers,
16 Fort James, Muskogee. I don't know if EPA
17 approves the method to allow us to do that.
18
19 MR. BRANECKY: Well, this is not
20 for compliance purposes, this is just for
21 emission inventory purposes.
22 MS. MYERS: Well, for compliance
23 purposes, we have two kilns on one stack.
24 We're measuring what's coming out of our
25 stack.

1 changes to Subchapter 5.
2 If you will look at the Fort James
3 comment letter on Subchapter 5, I would
4 like to discuss the two comments we have on
5 page 2 of that letter, concerning stack
6 tests first.
7 Let me emphasize from the beginning
8 that Fort James can understand and
9 appreciate the Division's desire and need
10 to have emissions inventories that were
11 compiled with accurate, current data. Let
12 me say also, however, that requiring stack
13 test data that is less than five years old,
14 as proposed in 252:100-5-2.1(e)(1)(B),
15 raises in our mind some general compliance
16 concerns. For example, I have stack test
17 data that were used in writing permit
18 applications and subsequently setting
19 emissions limits. And I'm able to use that
20 data for determining compliance with the
21 particular emission limit or standard. Yet
22 this proposal suggests that that data is
23 too old to assess fees. It almost seems to
24 me, in our mind, that it should be the
25 other way around. Generally speaking is

1 our belief that if stack test data is good
 2 enough for compliance purposes, it should
 3 be good enough for assessing fees.
 4 If there is a legitimate concern,
 5 compliance concern due to the age of stack
 6 test data, it should be addressed in the
 7 source's Title V Permit or for minor
 8 sources Subchapter 7. And the reason for
 9 that is that we fully expect -- to give you
 10 an example, we fully expect to receive some
 11 periodic monitoring requirement with the
 12 issuance of our Title V Permit. But if I
 13 have one requirement in my Title V Permit
 14 and another requirement in Subchapter 5, it
 15 is very possible that there will be some
 16 inconsistencies in these separate
 17 requirements which we have seen in the
 18 past.
 19 Concerning the ability to use other
 20 methods. Fort James was not required to
 21 install continuous emission monitors, other
 22 than opacity monitors, due to its initial
 23 performance stack test or performance test
 24 results. So we are restricted to using
 25 either our best available data, which in

1 our opinion is our stack test data, which
 2 is also greater than five years old or a
 3 very conservative AP42. And it's ironic,
 4 really, and it's been alluded to already.
 5 To give you an example, the Fourth Edition
 6 of the EPA's AP42 was published in
 7 September of 1985. The Fifth Edition was
 8 published in 1995. Now, there are
 9 supplements along the way to update factors
 10 as they become available. Yet, the irony
 11 is that the passage of this language could
 12 prohibit me from using a five year, one day
 13 old stack test, yet force me to use an AP42
 14 that is conceivably older than the stack
 15 test. I did, however, look at using
 16 current AP42's for emission estimates for
 17 our power boilers, which are our largest
 18 source of emissions. Based on 1998's
 19 emissions and using current AP42's, our
 20 emission fees will increase by almost
 21 \$106,000.00 each year. To put this into
 22 perspective, our 1997 inventory invoice was
 23 only \$88,000.00 -- was \$88,000.00, not only
 24 \$88,000.00. So using those current AP42's,
 25 that fee for 1998 would have increased to

1 at least \$194,000.00. It would have over
 2 doubled. So you may be thinking stack
 3 testing would be easily justified if fees
 4 would increase by that much, which is true.
 5 But that leads me to my next issue
 6 concerning 252:100-5-2.1(e)(1)(E), which
 7 requires stack testing for NOx and/or VOC
 8 sources to be performed between April 1 and
 9 October 31. Initially, I questioned what
 10 the Division stands to gain by this
 11 requirement. If it is full load where
 12 maximum emissions typically occur, then
 13 that is specified by the appropriate EPA
 14 method, which is the first requirement in
 15 252:100-5-2.1(e)(1)(A), full load is
 16 defined for NSPS sources for the purposes
 17 of stack testing.
 18 Secondly, to avoid paying the fee
 19 increase I mentioned a moment ago, I must
 20 test four boilers between April 1 and
 21 October 31, which has been estimated to
 22 cost around \$30,000.00 just for the stack
 23 test. However, as we have discussed
 24 already, I have four boilers and only two
 25 stacks. That means to stack test the

1 emissions for one boiler, the boiler
 2 sharing the common stack must be shut down
 3 for the duration of that test. And I will
 4 have to take an unscheduled shutdown on
 5 each boiler. I say unscheduled because
 6 power demands are very high during the time
 7 frame in question here, the warmer months
 8 of the year. We try to coordinate
 9 shutdowns with the cooler months when the
 10 demand is not as high. So I'm forced at
 11 that time to either shut down equipment
 12 that is dependent upon the boiler running
 13 or buy very expensive power. I don't have
 14 a cost estimate for these alternatives yet,
 15 but I can perceive these costs easily
 16 exceeding the additional inventory fees. ||
 17 Concerning stack testing, both
 18 boilers online, I don't have a good
 19 response for that yet. Each boiler has its
 20 own permit. Stack testing them both at the
 21 same time -- I don't know if there could
 22 not be another compliance concern raised
 23 there, especially with credible evidence
 24 rule.
 25 Fort James, therefore recommends

1 that both 252:100-5-2.1(e)(1)(B) and
 2 (e)(1)(E) be stricken.
 3 Lastly, in 252:100-5-2.1(d), Method
 4 of Calculation, Fort James does feel that
 5 there should be some finality to the
 6 process of calculating emission estimates.
 7 But this finality should be limited to the
 8 purpose of calculating fees. Let me offer
 9 a scenario. Upon the completion of an
 10 emission inventory, a source discovers that
 11 it is out of compliance with some
 12 applicable limit. And in a routine
 13 inspection that occurs sometime outside the
 14 deadlines mentioned in paragraph D, the
 15 method of calculation is questioned, a
 16 stack test is required and a source
 17 discovers after the test that it is in fact
 18 in compliance. That source may still be
 19 subject to enforcement since the previous
 20 method is binding and can't be challenged.
 21 This proposal, however, can cut both ways,
 22 so-to-speak. If the complete reverse were
 23 to occur, say a source is in compliance as
 24 shown on an emission inventory, yet in a
 25 routine inspection that occurs again

1 outside the deadlines mentioned in
 2 paragraph D, the method of calculation is
 3 again questioned. A stack test is again
 4 required and a source discovers after the
 5 stack test that it is in fact out of
 6 compliance. Legally, one may be able to
 7 argue that the DEQ cannot bring enforcement
 8 actions against that source because
 9 according to the proposed language here,
 10 the method and therefore the number is
 11 binding and can't be challenged.
 12 Fort James recommends in the best
 13 interest of both the regulated community
 14 and the DEQ that the method of calculation
 15 be binding, solely for the purpose of
 16 calculating fees as expressed on page 1 of
 17 our comment letter, and as alluded to in
 18 the existing language. Thank you again for
 19 this opportunity to comment.
 20 MR. DYKE: Mike Wood.
 21 MR. WOOD: I'm Mike Wood with
 22 Weyerhaeuser Company. I would like to
 23 thank the Council for this opportunity to
 24 comment. I won't repeat the comments that
 25 are in my letter to the staff, since this

1 rule is going to be -- or the staff has
 2 recommended that it be considered again in
 3 December.
 4 I would like to reinforce some of
 5 the comments about the requirement in
 6 252:100-5-2.1(e)(1)(B) for stack test being
 7 within the last five years. Weyerhaeuser's
 8 approach to using stack test data is that
 9 whether it's for fees or for compliance
 10 demonstration is that we have an accurate
 11 assessment of our emissions. There has
 12 been some reference to periodic monitoring
 13 requiring more frequent stack tests and
 14 that is probably true for a lot of units,
 15 emission units, within a facility. Our
 16 approach to using those stack test data for
 17 calculating fees would be to average or to
 18 use the results of stack tests to develop a
 19 statistically valid estimate of emissions,
 20 unless there was some reason to suspect
 21 that there is some declining performance in
 22 emission control. We would combine all the
 23 stack tests and use the old ones to give
 24 them the same weight as more recent ones to
 25 develop emission factors. And there's some

1 units that you would not expect any
 2 declining performance. Because of their
 3 physical shape and configuration, there
 4 would be no justification for new stack
 5 testing. And I don't think our experience
 6 with Title V permitting in other states is
 7 that -- for many units where we have a
 8 single stack test, as long as there are no
 9 modifications to the unit, we're not being
 10 required to do any periodic monitoring.
 11 And those are primarily for minor emission
 12 units within a facility. That's all I had
 13 to say. Thank you.
 14 MR. DYKE: Now back to the
 15 Council. Additional questions? Okay,
 16 Howard ~~Brown~~ *Ground*.
 17 ~~Ground~~ *Ground* MR. BROWN: *Ground* My name is Howard
 18 ~~Brown~~ *Ground* I'm with Central and Southwest. We
 19 are the owner of Public Service Company of
 20 Oklahoma, so I am representing the Public
 21 Service Company today.
 22 I have a few comments that I was
 23 wanting to make, starting with 100-5-2.1,
 24 the emissions inventory and the change to
 25 March 31st. I would just like to comment

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1 on this, that if there is not any real
2 reason to do that, we would rather stay
3 with the end of the month. I know that in
4 my years of doing this there are times that
5 I can get it out by March 1st, and there
6 are more times than not that I cannot get
7 it out by March 1st, and we would be asking
8 for extensions, I would say, probably 90
9 percent of the time. So if we could go to
10 more electronic reporting, that might help,
11 like Mr. Branecky suggested, that might
12 help us. But if it's not required, I would
13 rather leave it at the end of the month.
14 My second comment is 100-5-2.1(b)(4)
15 -- I'm sorry, (b)(3). It talks about the
16 amount of excess emissions and the basis
17 for such a determination. My comment on
18 this, I guess I question -- does this
19 include the exempted opacity time such as
20 startup/shutdown? And I have a general
21 comment that we've also seen that we cannot
22 correlate between our PM testing and excess
23 emissions. Especially if you are talking
24 about startup/shutdown, we do not have any
25 testing at all. And if it's above 20

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1 percent, which is our limit, we've never
2 tested above 20 percent, which would be in
3 excess. So we really have no way at all to
4 determine particulate matter, excess
5 emissions for inclusion in this number 3.
6 And I'll just reiterate, especially if it's
7 times that are exempted such as
8 startup/shutdown, malfunction -- there are
9 times when the unit is not even operating
10 and we can have an opacity exceedence
11 because of maintenance, which we have no
12 idea. All we know is that it's gone above
13 20 percent. We have no idea what the
14 particulate matter loading is.
15 My next comment is that same
16 subchapter, (e), Method of Calculation
17 Using Stack Testing. And again, this is a
18 point on the testing being done within five
19 years. I know in our power plants we have
20 13 units, each of them has a set of sims
21 that we do RATA testing every year, except
22 for the particulate matter and that was
23 done on original certification of that
24 equipment. And for our unit, we have not
25 tested again since the original startup.

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1 But within the Central and Southwest System
2 we have had other units that we have had to
3 do particulate matter testing since the
4 original startup. And I thought I would
5 just bring up the fact that one unit, which
6 is a very large coal unit, Subpart (D)(A).
7 We ran the original test in 1987, we ran a
8 subsequent test in 1988, and then another
9 test 10 years later in 1998 and saw no
10 degradation whatsoever, which is
11 essentially what we would hope to find. We
12 don't want our parcipitators to degrade.
13 But it showed no degradation at all. If
14 you would like to see some type of
15 correlation that we've done, we can show
16 that to you. But we do not feel like the
17 way we maintain and operate our equipment
18 that we're going to have a degradation of
19 that equipment. That's our feeling on
20 that.
21 And then the last comment on that
22 same method of calculation using stack
23 testing on 1(e), the testing to be
24 performed on sources of NOx and VOCs
25 between April 1st and October 31st. I

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1 didn't really understand this until the man
2 representing Fort James brought this up.
3 Like I said, we have 13 units that we have
4 to schedule maintenance, RATAS, the
5 operations, and we do not run all of our
6 tests between April 1st and October 31st.
7 And it would be difficult if not impossible
8 to run all 13 and schedule these units to
9 run and operate at a time to run their RATA
10 between those dates. I have never looked
11 or seen a discrepancy or difference between
12 running a NOx test in the summer and
13 running a NOx test in the winter. So I
14 have a question on that provision as well.
15 That's all the comments I have. I thank
16 you, very much, for allowing me to give,
17 those to you this morning.
18 MR. FISHBACK: Good morning.
19 Bill Fishback, and I'm representing Mid-
20 Continent Oil and Gas Association. Let me
21 say first in response to Bud's question. I
22 believe the theory about seasonal testing
23 for NOx has to do with the combustion air
24 temperature. The inlet is higher in the
25 summer and that tends to produce higher

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1 NOx. I think that's not necessarily true
2 in all cases. But particularly if a boiler
3 has air pre-heat, the ambient air
4 temperature is basically negligible. But
5 that's my understanding of the reason for
6 that testing requirement. But I agree with
7 you, I'm not sure that it's valid.

8 I would like to reinforce two or
9 three points that I heard made here this
10 morning and it would be Mid-Continent's
11 position as stated by Mr. Wilson and Mr.
12 Branecky. Barbara Hoffman mentioned that
13 the statute does allow or the statute
14 states that actual or allowable emissions
15 could be used for emission inventories.
16 The concern we have, of course, is that the
17 people who read the rules don't necessarily
18 read the statutes. And I would like the
19 rule to be instructive as well as a rule.
20 So if there is no prohibition against
21 having that information in the rule, I
22 think it would be very good to be there.
23 Because the people that are in the trenches
24 reading the rules very often don't read the
25 statutes, and even if they read the

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1 statutes, they are written in legalese and
2 they may be very difficult for somebody to
3 interpret. So I think we want to be as
4 instructive as we can be to the regulated
5 community and I would encourage two things
6 to be put into the rule -- actually three,
7 I guess.

8 The first point would be that for
9 emission inventory purposes, either actual
10 or allowable emissions could be used. And
11 also concerning -- we've heard discussion
12 about the five year age of the test data.
13 If in fact it's acceptable to DEQ that any
14 basis be used for the calculation of
15 emission inventories, whether it's AP42 or
16 the sims or stack testing or whatever it
17 is, let's make sure that the rule clearly
18 says that all of those are options. With
19 particular regard to fluid cat-cracking
20 units at refineries, which Mr. Wilson is
21 very aware of, the issue of correlating
22 excess emissions with opacity is -- we have
23 attempted to do that over the years many,
24 many times with a number of expensive tests
25 and basically have not been successful. So

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1 we have a very definite concern that excess
2 opacity readings wouldn't necessarily
3 translate into excess emissions that should
4 be reported for compliance purposes or for
5 emission inventory purposes. The technical
6 reason why this is difficult or essentially
7 impossible is that the opacity is dependent
8 not on the mass emission rate alone but
9 it's dependent on the mass emission rate
10 and also particle size. If you visualize a
11 bowling ball coming out of a stack, that
12 could be a lot of mass but very little
13 opacity. And you take that same bowling
14 ball and make it submicron size, you could
15 have the same amount of mass but a very
16 large opacity. And that is the essence of
17 the problem. So we would have very
18 definite concern about that.

19 And then the final point I wanted to
20 make, we had discussed this in Council in
21 previous meetings, and I don't believe I
22 heard it in Jeanette's presentation,
23 concerning the fee payment itself. I
24 believe there was a lot of support and
25 consensus for the idea that even though the

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1 fees would be calculated and invoiced once
2 a year, that they could be paid quarterly
3 to better manage the cash flow, both for
4 the payer and the recipient for the
5 Division. And I didn't hear that in the
6 proposal and I'm hoping that you are still
7 considering it. Or if you are not
8 considering it, I think we need to discuss
9 why. May I just ask that question of
10 Jeanette?

11 MS. BUTTRAM: Jeanette Buttram.
12 That is one of the reasons for the March
13 1st date, is to try to get the emissions
14 inventory in so that we can bill on a
15 quarterly basis or spread out the total
16 payments over the year.

17 MR. BRANECKY: We're moving
18 towards that bill right now. My fees for
19 this year are in two payments. I paid half
20 and I am paying the other half in December.

21 MR. FISHBACK: But the methods of
22 fee payment are not prescribed in the rule?

23 MR. BRANECKY: No.

24 MR. FISHBACK: As of this time.

25 MR. BRANECKY: Right.

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1 MR. FISHBACK: Is it the will of
2 the Council that they should be?
3 MR. BRANECKY: No. I'm sorry,
4 I'm not speaking for the Council.
5 MR. FISHBACK: Again, we have the
6 issue of communication. Shouldn't the fee
7 payers know what their options are? How
8 would that be communicated if it's not in
9 the rule?
10 MR. DYKE: Can I respond?
11 Because we haven't worked all the details
12 out on this yet. We have outside
13 influences on our appropriations issues for
14 fee balances being rated. We are trying to
15 figure out as an agency how to protect our
16 fee balances to use them on things they're
17 collected for and we don't have all those
18 details worked out. We did a very
19 unorthodox billing this particular year,
20 one we hope we don't do again. We hope
21 that it's much more clear and more set out.
22 But we don't have all the details worked
23 out yet to put into the rule.
24 MR. FISHBACK: And that was a
25 real advantage of quarterly payments for

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1 the Division to not have high fee balances
2 that could be rated.
3 MR. DYKE: It worked.
4 MR. FISHBACK: Right.
5 MR. DYKE: The concept works for
6 both of us.
7 MR. FISHBACK: Right. So you are
8 moving toward it, but is it your intention
9 then once you do have the details worked
10 out to do a rule modification that
11 communicates the final conclusion?
12 MR. DYKE: Possibly. Once we put
13 it in a rule, we have to follow it and
14 different circumstances arise.
15 MR. BREISCH: Does that have to
16 be in the rule or can that be an
17 administrative decision?
18 MR. DYKE: I don't think it has
19 to be in a rule. That's my personal
20 opinion.
21 MR. FISHBACK: We'll talk about
22 that in another issue. But that's not
23 prescribed by the '87 statute, you think
24 that --
25 MS. HOFFMAN: It's my opinion

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1 that the statute requires that we have a
2 rule that sets the fees, but it does not
3 say that we have to have a rule that says
4 how we bill that fee.
5 MR. DYKE: But we hope to make
6 the process open.
7 MR. FISHBACK: And Mid-Continent,
8 that's another issue that we're going to be
9 taking up later. But Mid-Continent
10 certainly supports the concept make into
11 guidance what you make into guidance.
12 MR. DYKE: I understand. We
13 understand.
14 MR. FISHBACK: We'll talk about
15 that some more later. Thank you, very
16 much.
17 MR. DYKE: Is there anyone else
18 wishing to comment on this particular rule?
19 Yes, sir? *Bauckham*
20 MR. BUKIN: I have a question.
21 Do you want me to go up there?
22 MR. DYKE: Please. *Bauckham*
23 MR. BUKIN: I'm Tom *Bukin*, I
24 work with Reliant Energy out of Oklahoma
25 City. And I just have a question, and that

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1 has to do with method of testing. And
2 that's that on item page 5 of the draft
3 here, (e)(1) and relating to stack tests
4 and (A) appropriate EPA test methods were
5 used.
6 My question is, do we need any more
7 detail on what that is or not. And let me
8 tell you where I'm coming from. We do
9 stack testing routinely but we also do
10 quarterly monitoring, particularly for
11 carbon monoxide and NOx. And we use
12 portable emissions testing methods, it's
13 EPA method 19. And I just want to
14 understand if that is covered under this or
15 whether that is not considered to be an
16 appropriate method. *11*
17 MR. TRENT: That would be
18 appropriate. But the thing is we
19 (inaudible) stack tests or what we call a
20 stack test for what we feel really is all
21 there, something that's totally (inaudible)
22 because the manufacturer says these figures
23 can't even come out of what's being shown.
24 So we're trying to prevent the problem. We
25 have one of those units on order and we'll

1 come out and cross-verification and if that
2 is in fact what it is, then we will allow
3 it. If not, then we will probably have to
4 make some kind of negotiations between what
5 we come up with and what is shown there.

6 MR. ~~BUKIN~~^{Backham}: Thank you.

7 MR. DYKE: Thank you. Anyone
8 else?

9 MR. COLLINS: I'm Gary Collins,
10 representing Terra. And we operate two
11 ammonia plants and two nitric acid plants
12 in the Catoosa area. And I have a couple
13 of comments on the stack testing five year
14 requirement on stack testing.

15 MS. MYERS: Excuse me. We can
16 barely hear you down here. David, is the
17 microphone on?

18 MR. DYKE: Yes.

19 MS. MYERS: This unit is blowing
20 on this end of the room.

21 MR. COLLINS: I'll try to speak
22 up. A couple of comments. One, on the
23 seasonal testing for NOx and VOC, I agree
24 with that philosophy that summer months
25 would represent more conservative or higher

1 NOx emissions from a combustion source such
2 as a boiler. But for nitric acid plants,
3 that is not necessarily the case. You do
4 not have higher NOx emissions necessarily
5 in the summer months due to combustion air
6 -- higher combustion air temperatures like
7 you would see in a boiler or a unit such as
8 that. So we disagree with the seasonal
9 stack testing for NOx.

10 The other comment I wanted to make
11 is -- and I think it's important. The AP42
12 factors for combustion sources like boilers
13 for NOx a lot of times are higher than the
14 state limits for combustion sources. I
15 think that there might be a chance that
16 somebody would try to use AP42 to try to
17 save money if their stack test was older
18 than five years and actually be reporting
19 emissions or paying for emissions that are
20 higher than state limits for NOx.
21 Especially for boilers and big combustion
22 units, the AP42 factors are going to be
23 well above .2 pounds per million.

24 So it would be concerning for us to
25 try to use AP42 to report air emissions

1 inventories, at least for combustion
2 sources. We would ask that that five year
3 period for stack testing be stricken as
4 well. We believe that -- I agree with the
5 earlier comments for combustion sources.
6 You don't necessarily see a decrease in
7 efficiency over a period of time. We have
8 not seen a decrease or an increase in NOx
9 emissions over a 10 or 15 year period per
10 our combustion units as well, especially in
11 our large furnaces. That's all I have.

12 Thank you.

13 MR. DYKE: Yes?

14 MR. LANDERS: Stephen Landers
15 from Fort James one more time. Let me say
16 that --

17 THE REPORTER: Why don't you come
18 up here? I'm sorry.

19 MR. LANDERS: Okay. Stephen
20 Landers again for Fort James. Let me just
21 say one last thing concerning NOx --
22 seasonal NOx testing.

23 We pre-heat the air to our boiler,
24 the combustion air to 350 degrees
25 fahrenheit, regardless of the ambient

1 temperature. So the effect of the ambient
2 temperature in our opinion and some of our
3 corporate experts' opinions is negligible
4 for power boilers.

5 MR. WILSON: Steve, how do you
6 pre-heat your combustion air?

7 MR. LANDERS: We heat first with
8 steam and then we have a revolving air
9 heater using exhaust gas.

10 MR. WILSON: It would take more
11 energy to get it up to that temperature?

12 MR. LANDERS: You're correct.
13 During the winter, we would actually use
14 more steam and more energy to pre-heat the
15 air.

16 MR. WILSON: Right.

17 MR. DYKE: Any additional
18 comments? Larry?

19 MR. TRENT: I think the five year
20 revisit is probably tied to the permits
21 being revisited every five years on major
22 sources. Do these people not also do a
23 stack test during that time? Is that part
24 of revisiting the permit, I am not sure.
25 Also, the season it's in there (inaudible)

1 and I'm sure that some boilers, heaters,
 2 dryers, whatever, have the capability of
 3 getting everything up to temperature and
 4 not having problems -- as much of a problem
 5 with air compressor -- not air compressor
 6 but gas compressor sitting out in the
 7 panhandle at 29 degrees or 10 degrees above
 8 zero, unless the stack test shows they are
 9 going to use that the whole year to
 10 calculate what they are looking at. We
 11 would just like to have a fair, reasonable
 12 way of looking at these emissions and to
 13 put them all in perspective so that we can
 14 say yes, this is as close as we can get and
 15 this is the true fact here. So what we
 16 tried to do here is make that happen and
 17 it's not going to fit everyone, but we want
 18 it to fit as many as possible.
 19 MR. DYKE: Thanks, Larry. Any
 20 additional questions or comments from the
 21 Council?
 22 MR. BREISCH: Well, it's the
 23 staff's recommendation and it's
 24 understandable that we continue this
 25 hearing until the next regular council

1 meeting. Do I have a motion for that?
 2 MS. MYERS: I'll make a motion.
 3 MR. WILSON: I'll second.
 4 MR. BREISCH: I've got a motion
 5 and a second to continue this item. Any
 6 further questions or comments? Myrna, call
 7 the roll.
 8 MS. BRUCE: Mr. Wilson.
 9 MR. WILSON: Yes.
 10 MS. BRUCE: Mr. Fallon.
 11 MR. FALLON: Yes.
 12 MS. BRUCE: Ms. Myers.
 13 MS. MYERS: Aye.
 14 MS. BRUCE: Mr. Branecky.
 15 MR. BRANECKY: Yes.
 16 MS. BRUCE: Mr. Kilpatrick.
 17 MR. KILPATRICK: Aye.
 18 MS. BRUCE: Mr. Breisch.
 19 MR. BREISCH: Aye.
 20 (End of Proceedings)
 21
 22
 23
 24
 25

1 CERTIFICATE
 2 STATE OF OKLAHOMA)) ss:
 3 COUNTY OF OKLAHOMA)
 4
 5 I, CHRISTY A. MYERS, Certified
 6 Shorthand Reporter in and for the State of
 7 Oklahoma, do hereby certify that the above
 8 proceedings are the truth, the whole truth,
 9 and nothing but the truth, in the
 10 proceedings aforesaid; that the foregoing
 11 proceeding was taken by me in shorthand and
 12 thereafter transcribed under my direction;
 13 that said proceedings was taken on the 19th
 14 day of October, 1999, at Oklahoma City,
 15 Oklahoma; and that I am neither attorney
 16 for nor relative of any of said parties,
 17 nor otherwise interested in said
 18 proceedings.
 19 IN WITNESS WHEREOF, I have hereunto
 20 set my hand and official seal on this, the
 21 1st day of November, 1999.
 22
 23 CHRISTY A. MYERS, C.S.R.
 24 Certificate No. 00310
 25

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE PUBLIC HEARING ON THE OAC 252:100-5
REGISTRATION, EMISSION INVENTORY AND
ANNUAL OPERATING FEES

[AMENDED]

HELD ON DECEMBER 14, 1999

AT 9:00 A.M.

AT 707 NORTH ROBINSON AVENUE
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

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3
4 **BOARD MEMBERS**
5 Joel Wilson - Member
6 David Branecy - Member
7 Rick Treeman - Member
8 Leo Fallon - Member
9 Dr. Fred Grosz - Member
10 Bill Breisch - Chairman
11 David Dyke - Protocol Officer
12 Eddie Terrill - Director
13 Myrna Bruce - Secretary
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Page 4

1 Section 252:100-5-2.1(b)(2), page 5,
2 new language is proposed to clarify that an
3 owner or operator of a facility must report
4 quantifiable excess emissions on their
5 annual emission inventory.
6 Section 252:100-5-2.1(d), page 5,
7 new language is proposed to reduce to six
8 months after inventories are due or
9 submitted, the period of time in which
10 either the facility owner/operator or the
11 DEQ, respectively, can challenge the
12 methods used to calculate the facility's
13 emissions for "fee calculation purposes".
14 Section 252:100-5-2.1(d)(3), page 6,
15 existing language in this paragraph was
16 modified for clarification purposes. Since
17 the October meeting proposed language on
18 stack tests was deleted and will be
19 addressed next year when Subchapter 45,
20 Monitoring of Emissions, undergoes the
21 rereight/dewrong process.
22 Also, you have received a hand-out
23 for Section 252:100-5-2.2(c), and a hand-
24 out is also available on the table for
25 public review. Staff reviewed this section

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1 **PROCEEDINGS**
2 **MR. DYKE:** The next item on the
3 Agenda is listed as Number 6B, OAC 252:100-
4 5, Registration, Emission Inventory and
5 Annual Operating Fees. I'll call on Ms.
6 Jeanette Buttram.
7 **MS. BUTTRAM:** Mr. Chairman,
8 Members of the Council, ladies and
9 gentlemen, revisions to Subchapter 5,
10 Registration, Emission Inventory and Annual
11 Operating Fees, are being proposed for the
12 second time to the Council. The proposed
13 changes are designed to allow the agency to
14 bill annual operating fees on a flexible
15 schedule and to clarify several
16 requirements.
17 Changes to Subchapter 5 since the
18 last Council meeting include the following:
19 Section 252:100-5-2.1(a)(2), page 4,
20 existing language currently in Subchapter 7
21 was also inserted here to explain emission
22 reporting requirements for facilities that
23 emit 5 tons per year or less of each
24 regulated pollutant and are registered
25 under a permit-by-rule.

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1 again after the draft version of the rule
2 was made available for public review.
3 Additional changes are proposed that differ
4 from the version in your packet. A copy of
5 the new proposed changes has been given to
6 you. Therefore, these changes are not
7 intended to be substantive. The subsection
8 was divided into three paragraphs to
9 arrange the requirements for better
10 understanding, and to clarify when the DEQ
11 may issue orders to those who did not pay
12 their annual operating fees because they
13 failed to submit their emission
14 inventories.
15 Section 252:100-5-2.2(d), basis for
16 annual operating fees, page 9, existing
17 language on the option of using actual or
18 allowable emissions for fee calculation was
19 reinstated. Previously, we had suggested
20 that it be struck out of the rule.
21 Comments were received yesterday
22 afternoon from Central and Southwest
23 Services. A copy of those comments will be
24 entered into the record, and I believe a
25 representative is here today who will

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1 address their concerns on this subchapter.
 2 Staff suggests the proposed rule as
 3 amended be recommended for adoption by the
 4 Board as a permanent rule.
 5 MR. DYKE: Questions of Ms.
 6 Buttram from the Council?
 7 MR. BRANECKY: None of these
 8 changes will then be able to take effect
 9 next year, it would be the following year?
 10 MS. BUTTRAM: The rule won't
 11 become effective until June of 2000 --
 12 approximately June of 2000.
 13 MR. BRANECKY: Nothing would be
 14 addressed prior to that.
 15 MS. BUTTRAM: Right.
 16 MR. BRANECKY: These will
 17 probably take effect in 2001.
 18 MS. BUTTRAM: That's true.
 19 MR. DYKE: Additional questions
 20 from the Council?
 21 MR. TREEMAN: Under D, on Method
 22 of Calculation, there have been instances
 23 in the past where some of the emission
 24 factors, published factors have been
 25 interim factors, if they are ever changed

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1 to permanent, what all is going to be
 2 required of industry to get the approval of
 3 the agency?
 4 MS. BUTTRAM: I'm sorry, I don't
 5 understand your question.
 6 MR. TREEMAN: Well, if you have
 7 an interim factor and you may have a
 8 permanent based on a interim factor -- I
 9 mean, you go in and do an annual inventory,
 10 the factors may have changed just a little
 11 bit as the factors are finalized, is that
 12 just an agreed upon thing between the
 13 industry and the agency, or is there
 14 something you have to go through?
 15 MS. BUTTRAM: On current AP 42
 16 factors?
 17 MR. TREEMAN: Right. That's
 18 basically what I'm looking at. It doesn't
 19 really effect the permit itself.
 20 MS. BUTTRAM: Well, it's -- I
 21 believe what it says is acceptable to the
 22 Division. So if they are current AP 42
 23 factors, and then if the Division accepts
 24 them then they will be acceptable.
 25 MR. TREEMAN: What if they accept

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1 them as an interim factor and then they
 2 become final, I guess that's what I'm
 3 saying, is there any change that would be
 4 required? Do you understand where I'm
 5 going?
 6 MS. HOFFMAN: Yes. So you are
 7 saying that between the time you submitted
 8 your emission inventory?
 9 MR. TREEMAN: Or between the time
 10 you did a -- you actually did a permit --
 11 may have a permit and then the time an
 12 inventory is done, the factors changed. Is
 13 there going to be a problem in submitting
 14 it on a final factor versus an interim
 15 factor, or a special factor that's agreed
 16 upon and then going to a published AP 42
 17 factor, that shouldn't be a problem?
 18 MS. HOFFMAN: It shouldn't be. I
 19 would think you might want to note that on
 20 your emission inventory that the factor was
 21 changed, just so that everyone's clear.
 22 But I can't imagine that it would be a
 23 problem.
 24 MR. DYKE: Additional questions
 25 from the Council?

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1 MR. WILSON: I have a question.
 2 Under what criteria will the 30-day
 3 extension be granted?
 4 MS. BUTTRAM: Well, I guess that
 5 would be up to Emission Inventory. You
 6 would just call in and request a 30-day
 7 extension. And it's my understanding that
 8 it's pretty much granted.
 9 MR. WILSON: It's going to be
 10 pretty much automatic?
 11 MS. BUTTRAM: Well, I can't say
 12 that it's going to be automatic, but it's
 13 my understanding that in the past that's
 14 pretty much the way it was handled in the
 15 past.
 16 MR. WILSON: So a large source
 17 that says look, I've got a lot of this
 18 stuff to do, a lot of data to gather up and
 19 I'm not going to be able to meet your March
 20 1st deadline, would be able to call up and
 21 receive a 30-day extension for the
 22 submittal of that?
 23 MS. BUTTRAM: That's a reasonable
 24 request. Other than to -- if you --
 25 especially since you're saying that you

1 have a lot of information that you have to
2 collect that still hasn't been collected, I
3 personally wouldn't see any problems with
4 that, but that's up to Emission Inventory
5 to decide. And it's my understanding from
6 them that they haven't had any problems
7 with that.

8 MR. BRANECKY: And there would be
9 only one 30-day extension granted?

10 MS. BUTTRAM: Currently in the
11 rule it says a 30-day extension.

12 MR. BRANECKY: So if everybody is
13 going to ask for a 30-day extension, what
14 would be gained?

15 MS. BUTTRAM: That's right. I
16 don't know if everybody will ask for a 30-
17 day extension.

18 MR. TERRILL: My name is Eddie
19 Terrill. I think what we're trying to do
20 here is those that are ready to come in, we
21 would like to get them in because we are
22 trying to get these things evaluated in a
23 shorter time frame than we have in the
24 past, in order to implement this quarterly
25 billing. So we need to get those as

1 going to send them out like in November.

2 MR. TRENT: I have not talked
3 about that past November

4 MS. HOFFMAN: No, I understand.
5 But once this rule --

6 MR. DYKE: What's the answer?

7 MS. HOFFMAN: That once this rule
8 is in effect, that we will try to get those
9 forms out --

10 MR. DYKE: In advance.

11 MS. HOFFMAN: -- in advance.

12 MR. TRENT: We'll mail the forms
13 out as soon as they are calculated.

14 THE REPORTER: Larry, I can't
15 hear you.

16 MR. TRENT: We will get the forms
17 out as soon as we calculate it and put it
18 in the system. I mean, we can do a
19 turnaround on them. So the sooner we can
20 get them in, the sooner we can get them
21 back out. They can go ahead and calculate
22 early, if they can estimate what they are
23 going to be doing. That would help us and
24 actually help them, also.

25 MS. HOFFMAN: Maybe I wasn't

1 quickly as possible. But we also
2 understand that there is going to be some
3 industry that can't do that. So for us,
4 having them come in staggered is not a bad
5 deal. So we're kind of hoping probably
6 that there will be some industry that don't
7 -- can't meet that deadline. But the
8 reality of it is that we may not be able to
9 get to them as quickly as we do the ones
10 that come in early anyway. So I think
11 that's really what we're trying to get at
12 here. Ultimately, the extension would be
13 my call anyway and I can't see not letting
14 -- or not granting that request, just based
15 on this deadline.

16 MR. BRANECKY: When will the
17 emission inventory be sent out from DEQ?
18 The 1st -- January 1st or wait until March
19 15th?

20 MR. DYKE: I think we're looking
21 to get on cycle January 1; is that correct,
22 Larry?

23 MR. TRENT: Yes.

24 MS. HOFFMAN: I hate to butt in,
25 but I was under the impression that we were

1 clear. What I meant was that you would
2 actually send their form that they are
3 supposed to fill-out -- for the emission
4 inventory form, that you would send that
5 form out earlier than usual, like in
6 November or December.

7 MR. TRENT: I didn't know we
8 agreed upon an advancement. What I'm
9 saying is that once they've been sent out
10 and it's come back in and it's in the
11 system, it can be turned around as soon as
12 it's in the system if there is no
13 correction. And they can send it back as
14 soon as they need to.

15 MS. HOFFMAN: All right.

16 MR. DYKE: Barbara, I think some
17 of the industry has that form computerized.

18 MS. HOFFMAN: Okay.

19 MR. DYKE: Additional questions
20 from the Council?

21 MR. WILSON: So a large source
22 will be able to get a 30-day extension, and
23 if there is any question, they can refer to
24 the record of this meeting whereby it looks
25 to me like there is an agreement that a 30-

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1 day extension will be granted for large
 2 sources, at least, if that's -- if their
 3 claim is it takes a lot of time to gather
 4 up the data.
 5 MS. BUTTRAM: If they give a
 6 reasonable -- if they ask because they have
 7 a reasonable request, and the reason for
 8 not being able to get their information in,
 9 then that's true.
 10 MS. HOFFMAN: I would like to
 11 clarify that this is not limited to large
 12 sources.
 13 MR. WILSON: Okay.
 14 MS. HOFFMAN: This is a 30-day
 15 extension that's available to any source
 16 that legitimately has a need to have an
 17 extra 30 days.
 18 MR. WILSON: Okay.
 19 MR. BRANECKY: Will we have --
 20 will industry have to submit a written
 21 request to DEQ to ask for that extension,
 22 or how is that extension --
 23 MS. BUTTRAM: It's my
 24 understanding the way --
 25 MR. BRANECKY: Are you going to

Page 15

1 issue a letter back to us granting that
 2 extension in the industry?
 3 MS. BUTTRAM: Larry, did you hear
 4 that question?
 5 MR. BRANECKY: My question was,
 6 if the industry were asking for an
 7 extension, is that going to have to be a
 8 written request to you and will you respond
 9 back in writing granting that request or
 10 how is that going to be handled?
 11 MR. TRENT: The general procedure
 12 has been for them to call in and request
 13 it, and I ask for a follow-up just for the
 14 record so that I can tell when it was done
 15 and when to expect the inventory back in.
 16 It's a tracking document, no more. And I
 17 don't generally respond back by letter
 18 unless they request it.
 19 MR. DYKE: Let me ask, is there
 20 any industry in the room that's had a
 21 problem getting an extension in the past?
 22 I think this is something that we've used
 23 for quite some time.
 24 We do have notice that someone
 25 wishes to speak. If that's okay, we'll

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1 call them at this time. Mr. Howard Ground.
 2 THE REPORTER: Would you spell
 3 your name, please?
 4 MR. GROUND: My name is Howard
 5 Ground, G-R-O-U-N-D.
 6 THE REPORTER: Thank you.
 7 MR. GROUND: I can give you a
 8 copy of my statement if you would like.
 9 THE REPORTER: Okay.
 10 MR. GROUND: Chairman, Members of
 11 the Council, thank you, very much, for
 12 allowing me to address you today. And I
 13 would like to say I really appreciate the
 14 changes that were made from the last --
 15 from the October meeting and basically from
 16 the comments that were given.
 17 And there were just a couple of
 18 issues that I wanted to bring forth today,
 19 and one of them has to do with the March
 20 1st deadline. I did submit comments. I'm
 21 not sure if you have a copy of those, but
 22 the first one is 100-5-2.1(a), the
 23 requirement to have the emissions inventory
 24 submitted by March 1st. I know this isn't
 25 a deal killer, I know this is something we

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1 can work around if it has to happen. It's
 2 just historically we have asked for an
 3 extension, even on the March 31st deadline.
 4 There are times that we cannot get all the
 5 information together, and we have 17
 6 generating units in the State of Oklahoma.
 7 And the most onerous is the coal plant. We
 8 have a lot of particulate emission sources
 9 that we want to make sure we have all the
 10 coal flow, the inventory correct. We're
 11 being scrutinized more and more as an
 12 industry by a lot of different groups. If
 13 our numbers do not match what we submit to
 14 other agencies such as DOE or EPA, we're
 15 called about that, and so we want to make
 16 sure we submit a correct emissions
 17 inventory and that same number is carried
 18 forth. And with the toxins release
 19 inventory that we've had to start
 20 submitting this year, it's become even more
 21 important that we make sure all of our
 22 emissions inventories or the amount of fuel
 23 we actually burn, everything is correct.
 24 I'm just bringing that up to just let you
 25 know that 30 days may not seem like much,

1 but when you are getting information from a
 2 lot of different sources within your
 3 company and correlating them into different
 4 reports of different agencies, we just want
 5 to make sure we do them correctly. And if
 6 it's going to be an automatic extension --
 7 I'm just bringing the point that if it's
 8 going to be an automatic extension, and if
 9 it's not a real big deal to the agency, I
 10 would rather leave it at March 31st or
 11 April 1st. If it's an underlying problem
 12 for another -- or if it's a symptom of
 13 another problem, I think that the agency
 14 and the Council should look at correcting
 15 that problem, whatever that problem is. I
 16 also don't particularly see why a 30-day
 17 sooner report -- or submitting it 30 days
 18 sooner is going to solve a lot of problems
 19 within the agency. And that's probably
 20 from my lack of knowledge on their process.

21
 22 The other comment I have is on 100-
 23 5-2.2(d)(1), it's on the last page. And
 24 it's the area that was stricken that says,
 25 fees shall be based on emissions inventory

1 submitted in the previous calendar year.
 2 And as I saw that that was stricken, that
 3 to me really clarifies a lot of how we're
 4 paying fees. And I didn't find it anywhere
 5 else, and maybe it was actually referenced
 6 somewhere else and I didn't catch it. But
 7 to me, as far as budgeting and looking at
 8 what we're going to be paying as far as
 9 fees, that tells me what we're going to be
 10 paying and when we're going to be paying
 11 it. And I would just like to ask that it
 12 be reinstated unless there is another
 13 reason or another area that that's covered.
 14 MR. BRANECKY: I think the reason
 15 -- there is a reason for that change.
 16 MR. DYKE: Does someone from
 17 staff want to address that?
 18 MS. BUTTRAM: I thought you were
 19 going to.
 20 MR. DYKE: Please speak up.
 21 MS. BUTTRAM: All these changes
 22 are basically to streamline the new process
 23 of sending out and requiring fees. And we
 24 want to have our emissions based on the
 25 most recent emission fees -- that inventory

1 sent out that you send in on the most
 2 recent inventory that you have for your
 3 emissions. So in Section 5-2.1, it does
 4 say that the inventory shall cover
 5 operations during a calendar year and shall
 6 be submitted prior to March 1st of the
 7 following year. So in reality, we are
 8 going on year-by-year now, rather than
 9 looking back on dates that will no longer
 10 be applicable with the new system of
 11 setting out fees.
 12 Also, our statute requires that we
 13 have a rule that sets the fees, but it
 14 doesn't require that the rules say how
 15 we're going to bill the fee. So that's
 16 partly reasons why we were making some of
 17 these revisions to the rule, also.
 18 MR. DYKE: Thank you, Jeanette.
 19 MR. GROUND: Well, I guess if
 20 that's what the agency wants to do, I would
 21 rather you just say it, we want you to base
 22 these on last year's emissions, instead of
 23 the prior year. That would just help me --
 24 I think it would make it more clear.
 25 That's all the comments I have.

1 MR. DYKE: Thank you. Are there
 2 questions from the Council for Mr. Ground?
 3 MR. GROUND: Thanks.
 4 MR. BRANECKY: So I guess at some
 5 point in time, if this is adopted as is,
 6 there will be a year of emissions that will
 7 not be billed for, is that true?
 8 MR. TERRILL: Well, that's the
 9 reason that we're struggling with how to do
 10 this, because we've got two things going
 11 here that really are driving this.
 12 One is, we've got basically a notice
 13 from the Legislature that we need to be
 14 cognizant of our fee balances. And so
 15 we're trying to level those off so they
 16 don't become a tempting target to be taken
 17 and used for other purposes.
 18 The other thing that we've been
 19 encouraged to do is get our fees basically
 20 on a same year basis. And right now, we're
 21 a year behind as you well now and we're
 22 trying to struggle with how to get current.
 23 And basically what would happen is, unless
 24 we figure a deal where you pay for those,
 25 too, and I don't think anybody will want to

Page 22

1 do that, then we've got to figure out a way
 2 to basically forgive, for lack of a better
 3 word, those emissions from that year. And
 4 we're still struggling with how to do that,
 5 and this is kind of a first step to that.
 6 And you know, I don't know why we couldn't
 7 make these changes and see if it works, and
 8 if it doesn't, we can always come back and
 9 change it, because we're not looking to
 10 create any unusual problems or create an
 11 onerous situation for anybody and we may
 12 find out that these can't be met. But what
 13 we're trying to do is move this timing for
 14 the submittal of these emissions
 15 inventories so we can analyze them and get
 16 those bills out the same year, because
 17 that's where we're trying to get to with
 18 this. So we're not sure exactly how to do
 19 it and what the repercussions would be in
 20 letting that year go. But what you're
 21 really saying is we're going to bill a year
 22 after the agency or whatever entity goes
 23 out of existence. And that's really the
 24 way this would work and that's not going to
 25 happen. So why not get current. And it's

Page 24

1 would like to remain that way. There are
 2 times that we do question what's being
 3 submitted and until we can get some census
 4 that we have to have a particular one and
 5 agree upon it, then I think we'll probably
 6 continue to be flexible on it.
 7 MR. DYKE: Thank you, Larry.
 8 Yes, in the back of the room.
 9 MR. SPARIN: David Sparin, with
 10 Williams Company out of Tulsa. Has thought
 11 been given by staff having the fees
 12 submitted with the emission inventory?
 13 (Electricity went off) That way the
 14 operator can balance at the same time the
 15 emissions fees are reported? Other states
 16 do that.
 17 MS. BUTTRAM: Well, I would have
 18 to --
 19 MR. DYKE: Larry.
 20 MR. TRENT: As far as I'm
 21 concerned, they could do that. What we are
 22 doing now is we take the information and
 23 the data from the inventory and create our
 24 invoices. These invoices are then given to
 25 fiscal, who has to include it into their

Page 23

1 just a matter of cleaning up something that
 2 was done years ago. So that's why we're
 3 making this type of proposal.
 4 MR. DYKE: Additional questions
 5 of staff from the Council? Is there anyone
 6 else wishing to speak on this matter? Mr.
 7 Fishback.
 8 MR. FISHBACK: My name is Bill
 9 Fishback with Mid-Continent Oil and Gas
 10 Association. We just ask one question.
 11 Would the staff confirm that the methods of
 12 emission calculation have the same
 13 flexibility that they have had in the past?
 14 In other words, AP 42 manufacturers, data,
 15 emissions testing, whatever methods are
 16 available, as opposed to limiting that to
 17 certain methods? I guess I direct that to
 18 Jeanette.
 19 MS. BUTTRAM: Yes. I think I
 20 would have to direct that -- I would have
 21 to direct that question to Larry Trent,
 22 since he deals with emission inventory and
 23 he can answer that question as far as --
 24 MR. TRENT: Well, historically we
 25 have been quite flexible on that and we

Page 25

1 system and do whatever they need to do to
 2 it.
 3 So there you have two processes that
 4 we do. If they came in with the emissions
 5 inventory and the inventory is correct,
 6 then that's fine. But if we see something
 7 in there and there is a discrepancy, we're
 8 going to have to go back and correct it.
 9 Things like that are usually done on our
 10 end with the agreement of the people who
 11 submitted the inventory. So it's a good
 12 idea and works for a lot of states. It
 13 could probably work for us, but we haven't
 14 tried it yet.
 15 MR. DYKE: The process that Larry
 16 describes also allows us to do the
 17 quarterly billing through the staff for our
 18 fiscal group. That was the only way we
 19 could do that with that option.
 20 MR. SPARIN: And whether it's a
 21 invoice or receipt for the submission of
 22 the fee, I don't see the difference, I
 23 guess. If everything is correct, you get a
 24 receipt back instead of an invoice. It's
 25 still the same paper trail. Thank you.

1 MR. DYKE: I hope he answered your
2 question. Thank you.

3 MR. TERRILL: David brought up a
4 good point. I think that we're probably
5 going to have to go beyond what we do in
6 this. We're actually going to have to get
7 into this and visit with our effected
8 industry, maybe with a work group or
9 something to polish this thing up a little
10 bit and make it more workable. Because we
11 are departing somewhat from what we've done
12 in the past and it does create some unusual
13 situations for some of our industry and
14 we're aware of that. And like I said, I
15 think we're going to be real flexible on
16 how this thing is implemented. Until we
17 see the pitfalls and the good points about
18 it, we'll probably have to have some type
19 of a work session to get input and maybe
20 fine-tune this, if you will, at some point
21 in time in the future.

22 MS. ARMSTEAD: Mr. Chairman,
23 Members of the Council, good morning. My
24 name is Laura Armstead. I am representing
25 Reliant Energy Gas Transmission and Reliant

1 to a means of collecting fees. Reliant
2 Energy believes that the ODEQ should assess
3 fees from emissions as a means to
4 supporting its air program. However, this
5 should be done on a more simplified basis,
6 such as increase in the rate charge for the
7 emissions inventory fees.

8 Reliant Energy, as well as the
9 balance of the natural gas industry,
10 strives to maintain an unquestionable
11 compliance record. The industry as a whole
12 spends in excess of a million dollars on
13 research programs to improve the operation
14 of natural gas compressors and to better
15 quantify the emissions from the same, with
16 the ultimate goal of emission reduction.
17 Reliant Energy has estimated that the
18 proposed change to the regulations will
19 result in an annual increase of
20 approximately 35 percent in its emissions
21 inventory program cost, based strictly on
22 the prohibition of the use of portable
23 analyzers and requiring stack testing to be
24 performed every five years.

25 Currently Reliant Energy pays

1 Energy Field Services and I would like to
2 refer to them collectively as Reliant
3 Energy. And as Mr. Terrill said, if you do
4 continue to remain flexible on some of
5 these issues, some of my comments may be
6 moot at this point, as long as that stays
7 in effect. And if you don't mind, I would
8 like to address some of the proposed
9 changes to Subchapters 5 and 9 together.

10 Reliant Energy would like to thank
11 the Air Quality Council and the ODEQ for
12 the opportunity to comment on proposed
13 changes to Subchapter 5 and Subchapter 9 of
14 Chapter 100. We believe that it's crucial
15 for the industry and the governing bodies
16 to work together to develop meaningful
17 regulations that benefit the environment,
18 while minimizing the administrative burden
19 and addressing the real world issues.

20 The proposed changes to Subchapter 5
21 and 9 cause Reliant Energy great concern,
22 as it seems that the focus of the
23 regulation is shifting from an overall
24 intent of providing a clean environment by
25 determining the conditions of air pollution

1 approximately \$40,000.00 annually in
2 emissions fees. The five year cost of band
3 stack testing would be approximately
4 \$100,000.00. We anticipate no additional
5 revenues to the ODEQ based on this and no
6 emissions reductions would be experienced.
7 The regulated community has always had a
8 general duty to provide inventory numbers
9 based on best available data.

10 The current regulations allow stack
11 tests performed by portable analyzers to be
12 used as the basis for the emissions
13 inventory. We fail to see a useful purpose
14 behind the additional testing requirement,
15 because the data provided by portable
16 analyzers is efficiently accurate to
17 maintain the integrity of the inventory
18 database and the payment of fees. We
19 understand that the ODEQ has stated that it
20 needs to have accurate inventory numbers to
21 run its program and requiring a new stack
22 test every five years is one way of
23 obtaining more accurate numbers. We have
24 not seen data from ODEQ to substantiate
25 this concern and believe that such data

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1 should be developed, if indeed that is the
 2 true ODEQ concern. In addition, we believe
 3 that ODEQ has within its compliance
 4 authority the power to demand a source
 5 performance stack test, if it appears to
 6 the ODEQ that quarterly compliance testing
 7 results vary greatly from stack test data.
 8 To make the additional testing requirement
 9 a part of the structure of an ODEQ income
 10 stream, without regard to the need for more
 11 accurate numbers, is to place a burden on
 12 permittees without justification.
 13 We note that portable analyzers have
 14 been acceptable in Oklahoma, are used for
 15 quarterly compliance purposes, and are
 16 acceptable for purposes of substantiating
 17 exempt status in Oklahoma. We also note
 18 that portable analyzers are acceptable in
 19 Louisiana. These portable units provide a
 20 cost effective accurate method of
 21 quantifying emissions. Their use, in our
 22 opinion, fulfills the purpose of such
 23 testing, which is to ensure compliance with
 24 permits which are designated to maintain
 25 air quality.

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1 We also believe that it is crucial
 2 that the permitting emissions inventory and
 3 enforcement arms of ODEQ be consistent in
 4 their regulations without duplication. We
 5 believe that it's inappropriate for the
 6 ODEQ to use the emission fee regulation to
 7 impose test method restrictions which are
 8 more stringent than federally required. A
 9 discussion on the appropriate test methods,
 10 which can be used in Oklahoma for permit
 11 compliance purposes, should be done in the
 12 form of permit application development, not
 13 fee payment. If the ODEQ can substantiate
 14 their concern that tests performed by
 15 portable analyzers are inaccurate, then a
 16 separate discussion could be had on the
 17 appropriate remedy. However, for the ODEQ
 18 to substitute a much more costly test
 19 method, which would not offer additional
 20 environmental benefits, at a much higher
 21 cost to the regulated community, is
 22 detrimental to the overall environment, the
 23 regulated community, and industry.
 24 Ultimately, the consumer must pay these
 25 additional costs with no additional

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1 benefit.
 2 Once again, it is important to stay
 3 focused on the purpose of providing benefit
 4 to the environment, with the least amount
 5 of administrative burden for industry and
 6 the agency.
 7 Reliant Energy is troubled by the
 8 proposed insertion of the concept of excess
 9 emissions into the emission inventory
 10 process. The goal of the proposed changes
 11 is so vague that we recommend that DEQ
 12 refrain from making the proposed changes
 13 pertaining to excess emissions. The
 14 regulated community is already under a duty
 15 to self-report. Further, almost any
 16 release of excess emissions represents an
 17 inefficient business activity that
 18 incentivize the regulated community to
 19 avoid such releases. To insert excess
 20 emissions into the emissions inventory
 21 process is merely another layering of
 22 reporting requirements that has, as its
 23 apparent goal, a relatively minor margin of
 24 revenue for the state, and yet a major
 25 administrative burden on the regulated

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1 community and the agency. Since no method
 2 is specified, it will be up to each company
 3 to generate a methodology, and all the
 4 assumptions necessary to calculate such
 5 excess emissions. Then the agency will be
 6 in position not only to take issue with,
 7 but also to debate the company's
 8 assumptions and method. It is also unclear
 9 how the permitting conditions that would
 10 generally produce excess emissions, such as
 11 startup and shutdown, will be handled. The
 12 calculation of annual emissions is based on
 13 generalities, as engines operate at various
 14 conditions over the year resulting in
 15 varying emissions. The engines are
 16 generally permitted at the higher rates.
 17 However, the actual emissions are less on
 18 an annual basis. The proposed changes
 19 indicate that the excess emissions should
 20 be added to, when in fact they are normally
 21 offset by lower emissions. There should be
 22 no additional reporting requirements, as
 23 long as the total annual emissions are
 24 within the permitted potential limits.
 25 The proposed revision in Subchapter

1 9, 3.2(a), which result in imposing
 2 additional requirements on the regulated
 3 community than is warranted by federal
 4 requirements. The use of the ODEQ
 5 guidelines for enforcement action
 6 concerning continuous emission monitoring
 7 and excess emissions is a useful set of
 8 guidelines to continue to use. Since this
 9 proposed revision is not required by the
 10 federal program, we believe that there
 11 should be continued flexibility in
 12 enforcing compliance with the Oklahoma
 13 program and in substantiating causes of
 14 excess emissions. Therefore, we would
 15 recommend that these changes not be
 16 adopted. The published proposal includes
 17 definition of "release", which would mean
 18 any spilling, leaking, pumping, pouring,
 19 emitting, emptying, discharging, injecting,
 20 escaping, dumping or exposing into the
 21 environment of any air contaminant which
 22 becomes or may become airborne. We find
 23 this new definition to be unnecessary and
 24 entirely too broad for these purposes. Not
 25 all events which would fit within universal

1 releases are regulated events. We support
 2 staff's recommendation that this definition
 3 be taken out. Reliant --
 4 MR. BRANECKY: Are you going to
 5 reiterate this when we get to Subchapter 9?
 6 Because I'm afraid this may get lost in the
 7 record. We're hearing Subchapter 5.
 8 MS. ARMSTEAD: I can. I can do
 9 that, if you like.
 10 MR. BRANECKY: It might get lost
 11 since --
 12 MS. ARMSTEAD: Okay.
 13 MR. BRANECKY: -- we're on 5 now.
 14 MS. ARMSTEAD: Okay.
 15 MR. DYKE: For the record --
 16 MR. BRANECKY: For the record, it
 17 might be easier to keep track of it that
 18 way.
 19 MS. ARMSTEAD: Okay. I can do
 20 that. Reliant Energy believes that
 21 Subchapter 9 should not be changed. If,
 22 however, the changes are to be implemented,
 23 then the regulation should apply only to
 24 minor sources, because we find that
 25 Subchapter 9 requirements overlap with

1 those of Subchapter 8, which applies to
 2 Part 70 sources. In an effort to maintain
 3 a clear reporting structure source, it
 4 should be required to look at one location
 5 for the reporting requirements and not in
 6 several.
 7 Finally, ODEQ has worked hard to
 8 develop a trust between itself and the
 9 regulated community over the years and has
 10 worked to provide protection to the
 11 environment. These proposed regulations
 12 seem to be an attack on the trustworthiness
 13 and honesty of the regulated community
 14 without cause. We urge the ODEQ to
 15 implement a system that benefits the
 16 environment while minimizing the
 17 administrative burden and addresses the
 18 real world issues. A fee structure to
 19 support this type of system, such as a
 20 reasonable, substantiated increased rate
 21 schedule from emission inventory should be
 22 implemented. I thank you for this
 23 opportunity to express Reliant Energy's
 24 concerns and look forward to the
 25 opportunity to work with you on these

1 issues in the future.
 2 MR. DYKE: Questions from the
 3 Council?
 4 MR. BRANECKY: I have a question.
 5 Explain to me again what prohibits you from
 6 using portable analyzers to estimate
 7 emissions for emissions inventory?
 8 MS. ARMSTEAD: We've had
 9 conversations over the past three years
 10 with the emissions inventory group, and
 11 every time it is over the use of the
 12 portable analyzer results. They have told
 13 us continually that they don't like them
 14 and they don't want to use them. And we
 15 felt the changes that they were proposing
 16 in here were leaning towards prohibiting
 17 the use of portable analyzers. And as Mr.
 18 Terrill said, things are going to remain
 19 flexible, I mean, that works great for us.
 20 MR. BRANECKY: Well, I guess I
 21 didn't see anything in there that would
 22 prohibit specifically the portable
 23 analyzer. It's, again, a judgment call, I
 24 guess, from DEQ whether that's acceptable
 25 or not. But you can still propose that and

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1 ask that that be used. Am I not -- is that
2 true?
3 MR. DYKE: Ms. Buttram, can you
4 address that issue?
5 MS. BUTTRAM: Well, first off, I
6 guess I'm a little confused. I haven't
7 seen the comments, but are you referring to
8 the draft version of the rule that was
9 proposed to the Council in October or are
10 you referring these comments to the draft
11 proposal that's being presented now?
12 Because it seems like some of the comments
13 that you are making are no longer in the
14 draft rule today.
15 MS. ARMSTEAD: Well, that's the
16 only one I have a copy of. I didn't
17 realize there was another proposal out
18 there.
19 MS. BUTTRAM: Yes. That's the
20 process that we go through. Every time a
21 Council Meeting is held, we will always
22 have a new draft version of the rule.
23 MS. ARMSTEAD: Okay. We didn't
24 get a copy of that.
25 MS. BUTTRAM: We don't send out a

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1 copy of the rule. We have the notice that
2 says when the Council Meeting will be, and
3 then a copy of the rule will be available
4 from our agency.
5 MR. DYKE: It's available on the
6 website.
7 MS. ARMSTEAD: Some of these
8 comments may be inappropriate, but the main
9 reason that we are here is because we have
10 had conversations for the past three years
11 with the inventory group and time and
12 again, it is concerning the use of portable
13 analyzers. And again, some of the changes
14 that were proposed, we thought prohibited
15 the use of portable analyzers. And if we
16 are going to be allowed to continue to use
17 them, then that would work for us.
18 MR. TERRILL: Let me speak to
19 that just for a second, because I think
20 that we're getting on two different issues
21 here. We are going to continue to allow
22 the flexibility like you talked about. But
23 I think it's appropriate that we throw out
24 a word of caution, and I'm not speaking
25 directly toward Reliant, it's just an

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1 overall broad statement.
2 When you make your submittal to us
3 on those emissions inventory, you need to
4 really look at them and make sure that what
5 you submitted makes sense. Because if you
6 are submitting data to us from, like, a
7 large group of industry and what you submit
8 to us looks blatantly wrong, we're going to
9 question it. And one of the things we're
10 going to do, and it's not a matter of trust
11 or anything else, is we're going to start
12 auditing some of this data. It's something
13 we should have been doing for years and we
14 haven't been doing. We have the ability
15 through some of the equipment we just
16 purchased to do that, and we intend to
17 audit some of it. And so when you submit
18 your data, if you're submitting things that
19 don't look right, you may want to take a
20 look at it and make sure what you submitted
21 is correct. Because if it sticks out,
22 compared to the other data submitted by
23 like-industry, we're probably going to come
24 pay you a visit and find out how you did
25 your calculations. So that's just how

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1 we're going to do things. But I still
2 think you will be allowed to use the
3 flexibility to do that. But you just need
4 to make sure that what you submit to us is
5 correct. That's all we're really after.
6 MS. ARMSTEAD: And if I could
7 respond to that. As I mentioned, we've had
8 these conversations with the inventory
9 group for the past three years. And each
10 year they have questioned our results
11 because they thought that they were too
12 low. In many cases, the emission factors
13 we used were based on reference method
14 testing, which we supplied copies. The
15 emission factors that were based on
16 portable analyzer results, we provided
17 supplemental reference method testing from
18 the same engine at another location that
19 indicated that those portable test results
20 were accurate. And I guess because we've
21 had these same conversations for three
22 years in a row, we felt like our
23 trustworthiness was being called into
24 question. Because for three years we have
25 provided sufficient information to support

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1 this, and time and again we get the call
 2 saying no, your rates are too low. But we
 3 have supported that each and every time.
 4 And that is where our concern stems
 5 from, that we will have these conversations
 6 for many years to come. And it's very
 7 burdensome and time consuming to go back
 8 and have to resupport what we've already
 9 proven in the past, and that's our major
 10 concern that we don't want this to
 11 continue. We don't mind being audited,
 12 please come. We'll be happy to support
 13 that.
 14 MR. TERRILL: And that may have
 15 to be how we resolve it. Once we do that,
 16 that would satisfy to everybody's
 17 satisfaction.
 18 MR. BRANECKY: I don't see
 19 anything in this reg that prohibits what
 20 you are doing or what you've been talking
 21 about. That option is still there.
 22 MS. ARMSTEAD: Okay. Thank you.
 23 MR. DYKE: Are there any other
 24 questions from the Council on this rule?
 25 Is there anyone else wishing to speak on

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1 this rule?
 2 MR. WILSON: David, I wanted to
 3 make one comment, and that is, I happen to
 4 be one of those sources that have a lot of
 5 calculating to do when the first of the
 6 year comes around, and we do it in several
 7 states. It seems like everything is due
 8 about after the first of the year, and
 9 there is a lot of work going on. It gets
 10 to be quite burdensome, many hours of
 11 overtime, and we're constantly looking for
 12 ways to improve our emission calculation
 13 methods and automating that. Still, with
 14 all of these inventories being due, so much
 15 to do after the first of the year, I can
 16 easily understand where the 30-day
 17 extension, which would allow this to be
 18 submitted up to March 31st, could be quite
 19 difficult to meet. Before I vote for this
 20 -- and I am prepared to vote for this, I
 21 just want to mention that sources are not
 22 out there delaying their process of
 23 calculating emissions because it gives them
 24 any advantages. It's basically how they
 25 seek to apply their resources. And in many

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1 cases, it's going to be very difficult to
 2 even meet the 30-day deadline. I'm asking
 3 for the state to consider this, if it
 4 becomes a problem, let's get this thing in
 5 front of the Council again to reconsider
 6 and figure out how to resolve that problem.
 7 Because there are some legitimate concerns
 8 with regard to this submittal date.
 9 MR. BRANECKY: Would it be
 10 possible to have more than one 30-day
 11 extension? Would the DEQ consider that, at
 12 least? Right now, the way it's written it
 13 says a 30-day extension, but in some cases,
 14 in Joel's case, and as many, many sources,
 15 he may need an additional 15, 30 days. Is
 16 that an option?
 17 MR. TERRILL: I don't know why
 18 not. Do you know of a reason, Barbara, why
 19 we couldn't put something in there that
 20 allows us to grant it?
 21 MR. BRANECKY: That's still up to
 22 the DEQ to decide whether that's acceptable
 23 or not, but I think I would like to see --
 24 have that available.
 25 MR. TERRILL: Why not put

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1 something in there that maybe says, unless
 2 an extension of up to 60 days has been
 3 granted by the Division. That way -- what
 4 we're really trying to do here is get
 5 sources on the -- used to sending us the
 6 data early enough for us to process it and
 7 start billing on a more frequent schedule.
 8 I don't see a problem with doing it. That
 9 gets you -- the big sources that needs the
 10 extra time to basically stay the same. But
 11 it gets us what we need, which is a push,
 12 if you will, to get this data in quicker
 13 for those that can, so we can start
 14 processing it. That's really all we're
 15 after.
 16 MR. DYKE: If we put April 1st in
 17 there, that's when we're going to get the
 18 majority of the submissions.
 19 MS. HOFFMAN: Dennis just had a
 20 good suggestion, that we say unless a 30-
 21 day extension has been granted by the
 22 Division and then say, additional
 23 extensions may be granted for good cause
 24 shown.
 25 MR. WILSON: I think that's

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1 acceptable.

2 MS. BEAVERS: Can I offer a

3 suggestion. This is just an idea. It

4 sounds to me like --

5 MR. DYKE: Excuse me. Please

6 identify yourself.

7 MS. BEAVERS: I'm sorry. I'm

8 Julie Beavers with OG&E. Just a

9 suggestion, listening to this, I've only

10 come to one meeting before. But if the

11 problem -- it sounds like the problem is

12 getting all these submissions at one time,

13 why not just stagger them by zip code?

14 Have different due dates quarterly or

15 something.

16 MR. TERRILL: And we might do

17 that at some point in time. But let's take

18 baby steps as we do this. We can always

19 revise it. That's not a bad suggestion.

20 We're having a hard enough time getting to

21 this point without implementing that. But

22 it's something to consider for the future

23 as we refine this process, absolutely.

24 MR. DYKE: We have someone

25 wishing to comment.

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1 understanding that at any time that the

2 agency determines that it has received an

3 emissions inventory that doesn't appear to

4 be accurate, that there can be additional

5 testing required. But the basic threshold

6 question of, is this an acceptable method,

7 is one that I would like to hear today

8 stated.

9 Now, if the comment from the

10 emissions inventory group is, we need some

11 sort of a protocol, some sort of a method

12 of use of portable analyzers to ensure the

13 accuracy of their use, great. But it

14 appears to me that we are presenting a very

15 inconsistent set of circumstances where

16 your permit and compliance group will

17 accept this -- does accept data from

18 portable analyzers, and emissions inventory

19 group is not.

20 So I would appreciate it, if we

21 could, not just hear that we're going to be

22 flexible today, but also hear that with

23 certain protocols in place or some kind of

24 an understanding of how portable analyzers

25 will be used, that this will continue to be

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1 MR. WILLIAMS: Thank you. My

2 name is Ken Williams, I'm an attorney with

3 the law firm of Hall-Estel. I appreciate

4 the opportunity to make a comment. And I

5 planned to, but now that we've heard these

6 comments today, I feel compelled to offer a

7 couple of observations.

8 Mr. Terrill has indicated that the

9 emissions inventory group wants to be

10 flexible. I just want to share with the

11 Council my personal experience over the

12 last three years with regard to the

13 flexibility of the emissions inventory

14 group. I have clients that have Title V

15 permits that allow the use of hand-held

16 portable analyzers for compliance purposes.

17 Obviously, the agency has approved that

18 method as a reliable method of gauging

19 compliance of the regulated activities.

20 And yet, every year, I'm debating with the

21 emissions inventory group, the reliability

22 of those same test methods. It will be

23 helpful to my clients if we have some kind

24 of indication that portable analyzers will

25 continue to be an acceptable method,

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1 one of the approved methods. Thank you.

2 MR. WILSON: Let me see if I

3 understand what you are saying. You have -

4 - you represent clients that have major

5 source permits that identify the

6 demonstration of compliance method as

7 portable analyzers, and then you are faced

8 with an argument as to whether or not

9 that's acceptable for paying fees. Is that

10 your argument?

11 MR. WILLIAMS: That is exactly

12 correct.

13 MR. WILSON: And you see nothing

14 in these regulations that would allow you

15 or grant you automatic acceptance of that

16 method for fee reporting?

17 MR. WILLIAMS: I do not see

18 portable analyzers listed as one of the

19 acceptable methods. And you know, that's

20 kind of the converse of the comments I'm

21 hearing today.

22 MR. WILSON: Would you accept

23 language in there that accepted permitted

24 use or method acceptable for compliance

25 with permit?

1 MR. WILLIAMS: Absolutely.
 2 MR. WILSON: That would solve
 3 that issue?
 4 MR. WILLIAMS: Absolutely.
 5 MS. BUTTRAM: First off, before
 6 you do that, I would like to remind the
 7 Council that language regarding stack tests
 8 and also some of these other issues that
 9 are brought up today will be looked at when
 10 Subchapter 43 and 45 go through the
 11 rewrite/dewrong process in the year 2000.
 12 MR. WILSON: Well, it seems to me
 13 like there is an issue here that needs to
 14 be addressed with some inclusion of
 15 language. Because I think it's entirely
 16 unreasonable for a source to be held to a
 17 compliance demonstration standard in a
 18 permit and for that compliance
 19 demonstration standard to be nonacceptable
 20 for reporting fees. There needs to be, in
 21 my opinion, almost an automatic acceptance
 22 for fee payment for methods that are
 23 included in a source's permit.
 24 MR. TERRILL: Let me address
 25 that, because I really think that the real

1 can do under ideal conditions and what they
 2 report as one-tenth of the emissions as to
 3 what the manufacturer says happened under
 4 ideal conditions. So we feel that either
 5 the operator was in error or the machine
 6 somehow -- I don't know whether they were
 7 doing it right, but we have no way of
 8 correcting it. We now have a portable
 9 emissions analyzer. We will cross-check,
 10 and when we do, if it's there, then it's
 11 there. But up to now, we have had no way
 12 to do this. And this is why we have said
 13 if it's that small, we really want to look
 14 at it, and now we can look at it.
 15 MR. TERRILL: And I think we'll
 16 address this overall issue when we look at
 17 stack testing, because I really think we're
 18 going to have to have an industry work
 19 group to look at the stack testing issue
 20 and the portable analyzer issue to make
 21 sure that what we come up with is what we
 22 need, without being burdensome to the
 23 industry. So we will get some input at the
 24 time we do that rewrite/dewrong on that
 25 particular section.

1 issue here is -- that's not the issue. The
 2 issue is what I stated before. If you
 3 submit data on your emissions inventory
 4 that sticks out as visually different from
 5 everybody else submitting similar data,
 6 we're going to question it because it
 7 doesn't match. And that's probably what's
 8 happened here. I don't know that for a
 9 fact, but I suspect that the data that was
 10 submitted does not jive with the data
 11 that's being submitted by other like-
 12 sources. And so we're questioning what is
 13 correct. The source is considerably higher
 14 or the source is considerably lower. One
 15 of them is not right if they are that much
 16 different.
 17 MR. BRANECKY: Has DEQ accepted
 18 at any time portable stack analyzer data on
 19 emission inventories, or is it just certain
 20 ones that you are questioning that are out
 21 of line or is it just unacceptable at all?
 22 MR. TRENT: Well, we haven't been
 23 able to verify these conditions. And in
 24 the past, we see a great disparity between
 25 what the manufacturer of the engine says it

1 MR. WILLIAMS: I would certainly
 2 volunteer to be part of that work group and
 3 would like to say that, for my clients,
 4 most of them on their Title V permit
 5 applications went through a stack test to
 6 establish a baseline. And we believe that
 7 our portable analyzer results are very
 8 consistent with that baseline which we
 9 established through the permit process,
 10 which is part of why we think that this is
 11 unreasonable to have to continue to argue
 12 about it every year.
 13 MR. WILSON: It's the burden of
 14 argument?
 15 MR. WILLIAMS: Yes.
 16 MR. TERRILL: Well, we won't do
 17 that anymore because we have the ability to
 18 audit. So if something doesn't look right,
 19 then it will be our burden to prove that
 20 and we'll just audit, and see what -- you
 21 know, if we're in the ballpark or not.
 22 MR. WILLIAMS: Final comment, and
 23 I very much appreciate the Council's
 24 patience. It seems to me that what might
 25 be helpful would be for this work group to

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1 try to establish a protocol that will be
2 acceptable to the agency and to the
3 industry for use of this particular testing
4 method. Not to make a regulation, but to
5 have an understanding that everybody is
6 aware of how to administer the test. Thank
7 you, very much.

8 MR. WILSON: Can we not insert
9 language that says, any method listed in a
10 state issued permit?

11 MS. HOFFMAN: Joel --

12 MR. DYKE: Please speak up.

13 MS. HOFFMAN: I think that it's
14 not the method that emissions inventory was
15 complaining about, it was the results.

16 MR. WILSON: Which is not an
17 issue here.

18 MS. HOFFMAN: Yes. And I think
19 that -- I believe that the rule allows,
20 first of all, you to use any emission
21 factors that were utilized in the issuance
22 of your permit. First of all, that's one
23 of the methods that's acceptable. And
24 then, also, at the end where it says, and
25 any other method that can be shown to be

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1 reasonably accurate. So I think that it
2 really covers those things -- this rule
3 does. I think the problems that we've been
4 hearing here really haven't been related to
5 the method that was used as much as the
6 results. Because we're going to use that
7 method when we go out to audit them.

8 MR. WILSON: You are not
9 challenging their method?

10 MS. HOFFMAN: Right.

11 MR. WILSON: You are challenging
12 the results of the method?

13 MS. HOFFMAN: I think that's
14 what's happening, yes.

15 MR. DYKE: Additional questions
16 from the Council? Anyone else wishing to
17 speak on this matter?

18 MR. FISHBACK: Bill Fishback,
19 representing Mid-Continent Oil and Gas. I
20 would agree with Mr. Wilson's comment that
21 specificity in the rule is an advantage to
22 the effected industry. And I also agree
23 with Barbara's statement that the rule
24 seems to embrace, as it's presently
25 written, any method of emission

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1 calculation. This is why I asked the
2 question earlier to confirm that any
3 emission methods are acceptable. It would
4 certainly help the effected industries in
5 this case -- and it may be true that the
6 objections from the DEQ are related to
7 results and not method. But it's
8 interesting that in almost every case that
9 we've heard of, the results that are being
10 objected to are coming from portable
11 analyzers. And as Barbara said, DEQ could
12 hardly be in the position of prohibiting
13 portable analyzers if their audit method is
14 dependent on that.

15 So I think it would be a very good
16 idea if portable analyzers were
17 specifically allowed by the rule, even
18 though that language seems to embrace many
19 different methods. And the DEQ has been,
20 and is now, and always will, be able to
21 challenge the results of any method. And
22 in fact, it's within their right to require
23 stack tests by EPA standardized methods
24 anytime there is a question. So the public
25 is certainly protected if there is a

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1 question about the emissions data. But I
2 would very much like to see the rule not
3 encouraged, but allow the use of a portable
4 analyzer, and we don't need to make a
5 laundry list of all of them. But I think
6 the focus of the emissions inventory group
7 has been in questioning the results from
8 portable analyzers. And my company and my
9 industry's personal experience with
10 portable analyzers is that if they are
11 calibrated correctly and operated
12 correctly, just as the gentleman said --
13 the attorney said his clients have
14 observed, the results are extremely
15 consistent with formal EPA test methods.
16 So my recommendation to the Council is, put
17 language in there that says portable
18 analyzers can be used. DEQ can always
19 challenge results from any method. Thank
20 you.

21 MR. DYKE: Yes, in the back.

22 MR. SPARIN: David Sparin, again.

23

24 THE REPORTER: Can you speak up?

25 MR. SPARIN: I hate to be the

1 lone wolf for industry, but we have used
 2 portable analyzer test result data in our
 3 calculations in the past, and we have not
 4 been challenged. We usually get an
 5 exceptional method for stack testing.
 6 MR. DYKE: Thank you. Max.
 7 MR. PRICE: Max Price of DEQ. I
 8 wanted to elaborate on what Mr. Trent said.
 9 The kind of magnitude that they are
 10 actually having problems with are off by
 11 two magnitudes. They've actually
 12 (inaudible) they are one-one hundredth of
 13 the manufacturer says it's possible under
 14 ideal circumstances. Those kinds of
 15 numbers are definitely -- there is
 16 something amiss. Either their technique in
 17 using the analyzer or some other problem
 18 that needs to be audited, for the company
 19 as well as us. Because if they have a
 20 problem, it's not been with their way of
 21 doing the test, we need to know that and
 22 they need to correct it.
 23 MR. DYKE: That's why we
 24 purchased the equipment.
 25 MR. WILSON: Do these regulations

1 prohibit your ability to audit that?
 2 MR. PRICE: Excuse me, sir?
 3 MR. TERRILL: No.
 4 MR. TERRILL: We just haven't had
 5 the capability to audit up until recently
 6 and we do now and we intend to do that. We
 7 should have been doing it all along.
 8 MR. WILSON: So you are not
 9 taking exception to the use of portable
 10 analyzers here. They are quite an
 11 acceptable means of measuring, and
 12 therefore reporting emissions?
 13 MR. TERRILL: Absolutely. The
 14 only problem is when the data is reported,
 15 and we have like-industry reporting results
 16 from like-equipment under like-conditions,
 17 using the same method, and they are off by
 18 this tremendous factor, something is wrong.
 19 Either somebody is way over-reporting or
 20 somebody is way under-reporting or there is
 21 something else going on there. And we owe
 22 it to the other industry that we haven't
 23 had a problem with to either say we're
 24 charging you guys too much or something.
 25 We're just trying to resolve the

1 difference. And that's really what we're
 2 trying to do here.
 3 MR. FALLON: But that's a red
 4 flag you would apply no matter what
 5 equipment.
 6 MR. TERRILL: That's exactly
 7 right. Regardless of the method -- it's
 8 really not the method at all. It's the
 9 results and how they compare with other
 10 like-industry using like-methods. That's
 11 really what it's about.
 12 MR. PRICE: I have one more
 13 comment, if I may. Max Price.
 14 MR. DYKE: Please speak up, Max.
 15 THE REPORTER: Could you stand
 16 up? I'm sorry. I can hear better.
 17 MR. PRICE: Max Price, DEQ. I
 18 have one other comment to make on the
 19 emissions inventory, in and of itself.
 20 It's not just used to calculate fees. This
 21 is a big issue, of course, because that's
 22 the green going out of your pocket, so I
 23 understand that. So emissions inventory,
 24 especially an inaccurate one, is very
 25 important to us in future planning.

1 Because of what regulations the Feds passed
 2 while we're trying to do our designations.
 3 What we're going to have to do, if we do go
 4 nonattainment, it's very important that all
 5 the data that's in that emissions inventory
 6 be as accurate as possible. And the
 7 testing which is taken out of the fees,
 8 that's the reason we're looking at that
 9 later on this year to make sure that we
 10 have a good solid basis to base all of our
 11 decisions on. Because the (inaudible) is
 12 the absolute basis of all our regulations.
 13 Thank you.
 14 MR. DYKE: Thank you, Max.
 15 Additional questions from the Council?
 16 Anyone else wishing to speak on this
 17 matter? Mr. Chairman.
 18 MR. BREISCH: Is there any
 19 changes necessary in this from the Council
 20 to vote on it? I might state that I heard
 21 the same thing over here about three or
 22 four times from three or four people. My
 23 opinion says we don't need to change the
 24 wording in this. We've got a method set up
 25 evidently to monitor this and to audit

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1 this. I don't think that we need to
 2 mention any more about the portable
 3 analyzers. But that's just an opinion. I
 4 want to get this rule passed, if you all
 5 will make a motion.
 6 MR. TREEMAN: There was a
 7 suggestion made on changing the 30-day
 8 extension to 60 days for just cause. I'm
 9 wondering if that needs to be discussed.
 10 MR. BREISCH: Let me ask,
 11 Barbara, what did you make as a suggestion
 12 to that?
 13 MS. HOFFMAN: Okay. I suggested
 14 that in 5-2.1(a)(1), that we add another
 15 sentence that says additional extensions
 16 may be granted for good cause shown.
 17 MR. BREISCH: Okay.
 18 MR. FALLON: Is that plural,
 19 extensions?
 20 MS. HOFFMAN: Yes.
 21 MR. BREISCH: Extensions, 30-day
 22 extensions or what? Do you know what I
 23 mean?
 24 MS. HOFFMAN: Right.
 25 MR. BREISCH: Well, why not just

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1 say extensions can be granted rather than
 2 put a number in there?
 3 MS. HOFFMAN: Well, mostly
 4 because of the way the sentence was
 5 written. I would have to think about it
 6 again. We'll have to change that sentence.
 7 MR. TERRILL: Can we just say
 8 additional extensions of time may be
 9 granted upon submittal of just cause or
 10 something like that?
 11 MR. BREISCH: Well, Eddie, that's
 12 fine. But why not just say that and not
 13 talk about the 30 days? I mean, I don't
 14 get your --
 15 MR. BRANECKY: Do you want to
 16 have it open-ended where it could be an
 17 indefinite extension, or do you want to put
 18 at least some end-point?
 19 MR. BREISCH: David, you've open
 20 ended it when you say additional extensions
 21 can be --
 22 MR. BRANECKY: The other option
 23 would be an additional 30 days.
 24 MR. BREISCH: That's what I was
 25 trying to get at.

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1 MR. BRANECKY: A total of 60
 2 would be the limit. I'm afraid just to
 3 leave it open-ended where it could go on
 4 and on and on.
 5 MR. TERRILL: An additional 30-
 6 day extension may be granted on just cause.
 7 MS. HOFFMAN: Good cause shown.
 8 MR. FALLON: I would buy that.
 9 MR. TERRILL: Good cause shown.
 10 MR. BREISCH: Everybody
 11 understand that? That's the only thing
 12 we're changing in this rule?
 13 MS. HOFFMAN: No.
 14 MR. BREISCH: Barbara, what else?
 15 MS. HOFFMAN: I don't know if
 16 you all had a chance to look at the
 17 language that Jeanette passed out while we
 18 were talking about this rule. They are
 19 really not substantive changes, it's just
 20 hopefully a way of clarifying the language
 21 and also adjusting for the fact that people
 22 that haven't submitted the emission
 23 inventories don't really have an invoice
 24 due date. So we had to explain -- we had
 25 to rewrite the language just a little bit

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1 so that it's clear that people who haven't
 2 submitted an emission inventory will be --
 3 the five years will go back to what their
 4 date of billing should have been.
 5 MR. BREISCH: I didn't know that
 6 was a question.
 7 MS. HOFFMAN: Yes. Well, it was
 8 just something we realized when we reread
 9 the draft rule, that we were giving a
 10 potential out there to people that had
 11 never submitted emission inventories. So
 12 we just divided them into three paragraphs
 13 there. And I think it still says the same
 14 thing. It's just that it's clear now when
 15 we would go back five years for the folks
 16 that hadn't submitted emission inventories.
 17 So I would suggest that you pass the rule
 18 using the language that Jeanette just
 19 passed out for 5-2.2(c) -- yes, 5-2.2(c).
 20 MR. BREISCH: I guess what you
 21 are saying, since that was just passed out,
 22 then that's going to be a change from what
 23 was in our packet, along with the other
 24 extension?
 25 MS. HOFFMAN: Yes.

1 MR. BREISCH: Is that agreeable
 2 with the Council?
 3 MR. BRANECKY: Are you
 4 entertaining a motion?
 5 MR. BREISCH: I'm asking if what
 6 was handed out is agreeable.
 7 MR. BRANECKY: Okay.
 8 MR. BREISCH: And then my next
 9 one, yes, I'm asking for a motion.
 10 MR. WILSON: I'll make a motion
 11 that we pass this with the changes
 12 suggested in 5-2.1, and with the changes
 13 suggested in 5-2.2. Could you read --
 14 someone read those changes in 5-2.1, So I
 15 can make sure I understand how it ended up?
 16 MS. HOFFMAN: I think that we
 17 agreed to add a sentence at the end of 5-
 18 2.1(a)(1), that would read an additional
 19 30-day extension may be granted for good
 20 cause shown.
 21 MR. FALLON: That's the way I
 22 understood it. And the other was just this
 23 language.
 24 MR. BRANECKY: I'll second that.
 25 MR. BREISCH: I've got a motion

1 and a second. Any more comments? If not,
 2 Myrna, call the roll.
 3 MS. BRUCE: Mr. Wilson.
 4 MR. WILSON: Yes.
 5 MS. BRUCE: Mr. Branecky.
 6 MR. BRANECKY: Yes.
 7 MS. BRUCE: Mr. Treeman.
 8 MR. TREEMAN: Yes.
 9 MS. BRUCE: Mr. Fallon.
 10 MR. FALLON: Yes.
 11 MS. BRUCE: Dr. Grosz.
 12 DR. GROSZ: Yes.
 13 MS. BRUCE: Mr. Breisch.
 14 MR. BREISCH: Yes.
 15 (PROCEEDINGS CONCLUDED)
 16
 17
 18
 19
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 23
 24
 25

1 CERTIFICATE
 2 STATE OF OKLAHOMA)
 3 COUNTY OF OKLAHOMA) ss:
 4 I, CHRISTY A. MYERS, Certified
 5 Shorthand Reporter in and for the State of
 6 Oklahoma, do hereby certify that the above
 7 proceedings is the truth, the whole truth,
 8 and nothing but the truth; that the
 9 foregoing proceedings were taken by me in
 10 shorthand and thereafter transcribed under
 11 my direction; that said proceedings were
 12 taken on the 14th day of December, 1999, at
 13 Oklahoma City, Oklahoma, pursuant to
 14 agreement and the stipulations hereinbefore
 15 set forth; and that I am neither attorney
 16 for nor relative of any of said parties,
 17 nor otherwise interested in said action.
 18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 24th day of January, 2000.
 21
 22 CHRISTY A. MYERS, C.S.R.
 23 Certificate No. 00310
 24
 25

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-8 Permits for Part 70 Sources and Appendices I and J

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OAC 252:100-8
SIP Revision

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

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PART 1. GENERAL PROVISIONS

252:100-8-1. Purpose

This Subchapter sets forth permit application fees and the substantive requirements for permits for Part 70 sources.

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

"A stack in existence" means for purposes of OAC 252:100-8-1.5 that the owner or operator had:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or
- (B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

"Actual emissions" means, except for Parts 7 and 9 of this Subchapter, the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

"Administrator" means the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Allowable emissions" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (A) the applicable standards as set forth in 40 CFR Parts 60 and 61;
- (B) the applicable State rule allowable emissions; or,
- (C) the emissions rate specified as an enforceable permit condition.

"Begin actual construction" means:

- (A) for purposes of Parts 7 and 9 of this Subchapter, in general, initiation of physical on-site

construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(B) for purposes of Part 5 of this Subchapter, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"Best available control technology" or "BACT" means the control technology to be applied for a major source or modification is the best that is available as determined by the Director on a case-by-case basis taking into account energy, environmental, and economic impacts and other costs of alternate control systems.

"Building, structure, facility, or installation" means, for purposes of Parts 7 and 9 of this Subchapter, all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code), as described in the Standard Industrial Classification manual, 1972, as amended by the 1977 Supplement.

"Commence" for purposes of Parts 7 and 9 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

"Dispersion technique" means for purposes of OAC 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the

allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emission limitations and emission standards" means for purposes of OAC 252:100-8-1.5 requirements that limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction.

"Emissions unit" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation.

"EPA" means the United States Environmental Protection Agency.

"Fugitive emissions" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules.

"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.

"Part 70 permit" means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of this Subchapter, as provided in OAC 252:100-8-3(a) and (b).

"Potential to emit" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the

potential to emit of a source.

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification.

"Stack" means for purposes of OAC 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100.

252:100-8-1.2. General information

(a) Permit categories. Two types of construction and operating permits are available: general permit and individual permit.

(1) General permit.

(A) A general permit may be issued for an industry if there are a sufficient number of facilities that have the same or substantially similar operations, emissions and activities which are subject to the same standards, limitations and operating and monitoring requirements.

(B) Facilities may be eligible for authorization under a general permit if the following criteria are met:

(i) The facility has actual emissions of 100 tpy or more of any one regulated air pollutant emitted and/or is a Part 70 source.

(ii) The DEQ has issued a general permit for the industry.

(2) Individual permit. Facilities requiring permits under this Subchapter that do not qualify for a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a general permit.

(b) Applicability determination. Any person may submit a request in writing that the DEQ make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this Subchapter. The request must contain sufficient information for the DEQ to make the requested determination and the required fee. The DEQ may request any additional information that it needs for purposes of making the determination.

252:100-8-1.3. Duty to comply

(a) An owner or operator who applies for a permit or authorization, upon notification of coverage, shall be bound by the terms and conditions therein.

(b) An owner or operator who violates any condition of a permit or authorization is subject to enforcement under the Oklahoma Clean Air Act.

252:100-8-1.4. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) Cancellation of permit or authorization to construct or modify. A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection (b) of this Section) if the construction is not commenced within 18 months after the date the permit or authorization was issued, or if work is suspended for more than 18 months after it has commenced.

(b) Extension of permit or authorization to construct or modify.

(1) Prior to the expiration date of the permit or authorization, a permittee may apply for extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site, or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under OAC 252:100:8-1.4(b)(1)(B) or (C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information.

252:100-8-1.5. Stack height limitations

(a) Stack height exclusion. Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) Determination of good engineering practice (GEP) stack height. GEP stack height shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either OAC 252:100-8-1.5(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under OAC 252:100-8 or 40 CFR Part 52, $H_g = 2.5H$, provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks, $H_g = H + 1.5L$, where:

(i) H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

(ii) H = height of nearby structure(s) measured from the ground-level elevation at the

base of the stack,

(iii) L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c) Nearby.

(1) For the formulae in OAC 252:100-8-1.5(b)(2). A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in OAC 252:100-8-1.5(b)(3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (Ht) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in OAC 252:100-8-1.5(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) Measurement of height of structure or terrain. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d) Excessive concentrations. When utilized for the purpose of determining GEP stack height under OAC 252:100-8-1.5(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under OAC 252:100-8-1.5(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 7 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under OAC 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in OAC 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under OAC 252:100-8-1.5(b)(2) where the Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in OAC 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

~~A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:~~

~~(1) **Applicability determination.** \$250, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.~~

~~(2) **Construction permit application.**~~

~~(A) New Part 70 source - \$2,000.~~

~~(B) Modification of a Part 70 source - \$1,500.~~

~~(C) Authorization under a general permit - \$900.~~

~~(3) **Operating permit application.**~~

~~(A) Initial Part 70 permit - \$2,000.~~

~~(B) Authorization under a general permit - \$900~~

~~(C) Renewal Part 70 permit - \$1,000.~~

~~(D) Significant modification of Part 70 permit - \$1,000.~~

~~(E) Minor modification of Part 70 permit - \$500.~~

~~(F) Part 70 Temporary Source Relocation - \$500.~~

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this Section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

"Administratively complete" means an application that provides:

(A) All information required under OAC 252:100-8-5(c), (d), or (e);

(B) A landowner affidavit as required by OAC 252:2-15-20(b)(3);

(C) The appropriate application fees as required by OAC 252:100-8-1.7; and

(D) Certification by the responsible official as required by OAC 252:100-8-5(f).

"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

(A) all states:

(i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and

(ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or

(B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

(A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

"Designated representative" means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the DEQ offers public participation under 27A O.S. §§ 2-14-101 through 2-14-401 and OAC 252:100-2-15 or affected State review under OAC 252:100-8-8.

"Emergency" means, when used in OAC 252:100-8-6(a)(3)(C)(iii)(I) and (e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source,

including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"Final permit" means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and OAC 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of OAC 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) through (C) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

~~(C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in OAC 252:100-41-40.~~

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air

pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or.

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except that fraction of particulate matter that exhibits an average aerodynamic particle diameter of more than 10 micrometers) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

(i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(iii) For carbon monoxide non-attainment areas:

(I) that are classified as "serious"; and

(II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

"Permit" means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a Part 70 construction or operating permit that meets the requirements of OAC 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC 252:100-5-2.2 (whether such costs are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic compound (VOC), including those substances

defined in OAC 252:100-1-3, 252:100-37-2, and 252:100-39-2, except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement;

or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name

plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. § 2-5-101 through 2-5-118, as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J.

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3. Applicability

(a) Covered sources. Except as exempted from the requirement to obtain a permit under subsection (b) of this Section or elsewhere in this Subchapter, the sources listed below are subject to the permitting requirements under this Subchapter. A major source or major stationary source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section.

(1) Any major source (as defined in OAC 252:100-8-2);

(2) Any source subject to a NSPS;

(3) Any source, including an area source, subject to a NESHAP;

(4) Any affected source (as defined in OAC 252:100-8-2);

(5) Any source in a source category designated by the Administrator pursuant to 40 CFR § 70.3; and

(6) Any major stationary source required to have a permit under Parts 7 or 9 of this Subchapter.

(b) Source category exemptions.

(1) All sources listed in subsection (a) of this section that are not major sources, major stationary sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation.

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) Construction permit required. No person shall begin actual construction or installation of any new source that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required prior to reconstruction of a major affected source under 40 CFR Part 63, reconstruction of a major source if it would then become a major affected source under 40 CFR 63, or for any physical change that would be a significant modification under OAC 252:100-8-7.2(b)(2). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) Requirement for case-by-case MACT determinations.

(A) Applicability. The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) Exclusions. The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) MACT determinations. If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 2000.

(b) Operating permits.

(1) Operating permits required. Except as provided in subparagraphs (A) and (B) of this section, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a Part 70 permit submits a timely application for Part 70 permit issuance or renewal, that source's failure to have a Part 70 permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph (A) of this Section. The source's failure to have a Part 70 permit shall be deemed a violation of this Subchapter.

(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and

complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in OAC 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) **Application submittal schedule.** The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, 407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

(I) Petroleum and Natural Gas, 1311;

(II) Natural Gas Liquids, 1321;

(III) Electric Services, 4911, 4961;

(IV) Natural Gas Transmission, 4922;

(V) Natural Gas Transmission and Distribution, 4923; and

(VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,

(ii) Brick Plants, 3251, 3297,

(iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Refineries, 2911;

(ii) Cement Plants, 3241;

(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;

(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;

(v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) **Newly regulated sources.** A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Uniform Permitting Rules, OAC 252:2-15-70 and the definition of "administratively complete" in OAC 252:100-8-2.

252:100-8-5. Permit applications

(a) **Confidential information.** If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

(b) **Duty to supplement or correct application.** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information within 30 days unless the applicant's request for more time has been approved by the DEQ. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(c) **Standard application form and required information.** Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with OAC 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to OAC 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the information required by OAC 252:100-8-5(d) and/or (e) be provided.

(d) **Construction permit applications.**

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include but not be limited to site

information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) **BACT determination.** To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case by case basis taking into account energy, environmental, and economic impacts and other costs of alternative control systems. Unless required under Part 7 of this Subchapter, a BACT determination is not required for a modification that will result in an increase of emissions of less than 100 tons per year of any regulated air pollutant.

(B) **Modeling.** Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant.

(C) **Sampling points.** If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment.

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in OAC 252:100-8-5(e) to the extent they are applicable.

(e) **Operating permit applications.**

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under subsection (c) of this Section or OAC 252:100-8-3(b).

(B) Identification and description of all points of emissions described in subparagraph (e)(3)(A) of this Section in sufficient detail to establish the basis for fees and applicability of the Act's requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

(i) fuels,

(ii) fuel use,

(iii) raw materials,

(iv) production rates, and

(v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement

(including information related to stack height limitations developed pursuant to section 123 of the Act).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements and all state-only requirements.

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the Act or of this Chapter or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to OAC 252:100-8-6(a)(9) or to define permit terms and conditions implementing OAC 252:100-8-6(f) or 252:100-8-6(a)(10).

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements as follows:

(i) For applicable requirements and state-only requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements and state-only requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(B) For sources not in complete compliance, a compliance schedule as follows:

(i) A schedule of compliance for sources that are not in compliance with all applicable requirements and state-only requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements and state-only requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

(ii) A schedule for submission of certified progress reports no less frequently than every 6 months.

(C) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements and state-only requirements by a responsible official consistent with subsection (f) of this section and section 114(a)(3) of the Act;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement state-only requirements or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(f) **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

252:100-8-6. Permit content

(a) **Standard permit requirements.** Part 70 permits issued under this Chapter shall include all applicable requirements and state-only requirements (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements and state-only requirements and shall include those operational conditions and limitations necessary to assure compliance with all such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement or state-only requirement upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) **Operating permits.** The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) and (ii) of this paragraph:

(i) Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) Construction permits. See OAC 252:100-8-1.4.

(3) Monitoring and related recordkeeping and reporting requirements.

(A) Monitoring requirements.

(i) All emissions monitoring and analysis procedures or test methods required under applicable requirements and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act;

(ii) Where an applicable requirement or state-only requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) Recordkeeping requirements. The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) Reporting requirements. The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C)(i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from an emergency as defined in OAC 252:100-8-2 or upset conditions as defined in the permit shall be reported promptly but no later than 4:30 p.m. on the next working day after the permittee first becomes aware of the exceedance. The initial report must contain a description of the emergency or upset conditions, any steps taken to mitigate emissions, and corrective actions taken. Quantification of exceedances attributable to emergencies or upset conditions shall be made by the best available method. If the permittee wishes to assert the affirmative defense authorized under subsection (e) of this Section for emergencies, the permittee shall submit a followup written report within 10 working days of first becoming aware of the exceedance.

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or preventive measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of OAC 252:100-9.

(4) Risk management plans. If the source is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit need only specify that the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) Title IV allowances.

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on

actual emissions and the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

(i) enforcement action;

(ii) permit termination, revocation and reissuance, or modification; or

(iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under OAC 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to 27A O.S. § 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under OAC 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this Section to determine compliance and shall satisfy all requirements of the

applicable requirements authorizing such trading or averaging.

(b) Federally enforceable requirements.

(1) Except as provided in paragraph (b)(2) of this Section, all terms and conditions in a permit issued under this Section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the Act.

(2) Notwithstanding paragraph (b)(1) of this Section, the DEQ shall designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the Act.

(c) Compliance requirements. All permits issued under this Part shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this Section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to perform the following:

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit .

(3) A schedule of compliance if required under OAC 252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and OAC 252:100-8-5(e)(8), progress reports, to be submitted semiannually or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:

(A) The frequency (which shall be annually unless the applicable requirement or state-only requirement specifies submission more frequently) of submissions of compliance certifications;

(B) In accordance with paragraph (a)(3) of this Section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The permittee's current compliance status, as shown by monitoring data and other information available to the permittee;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this Section; and

(v) Such other facts as the DEQ may require to determine the compliance status of the source;

(D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;

(E) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act; and

(6) Such other provisions as the DEQ may require.

(d) Permit shield.

(1) Each operating permit issued under this Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this Section or in the permit shall alter or affect the following:

(A) the provisions of section 303 of the Act, including the authority of the Administrator under that section;

(B) the liability of an owner or operator of a source for any violation of applicable requirements or state-only requirements prior to or at the time of permit issuance;

(C) the applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(D) the ability of EPA to obtain information from a source pursuant to section 114 of the Act.

(e) Emergencies.

(1) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (e)(3) of this Section and the reporting requirements of OAC 252:100-8-6(a)(3)(C)(iii)(I) are met.

(2) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that:

- (A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;
 - (B) The permitted facility was at the time being properly operated;
 - (C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit.
- (3) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.
- (4) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

(f) Operational flexibility.

- (1) **Applicant's duty to apply for alternative scenarios.** A facility may implement any operating scenario allowed for in its Part 70 permit without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.
- (2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make changes within the facility that:
- (A) Are not modifications under any provision of Title I of the Act;
 - (B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; and
 - (C) Result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in OAC 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

252:100-8-6.1. General permits

(a) Applicability.

- (1) The DEQ may, after notice and opportunity for public participation, issue a general permit for any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Act.
- (2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.
- (3) A general permit may be issued to establish:
- (A) Terms and conditions to implement applicable requirements and state-only requirements for a source category.

- (B) Terms and conditions to implement applicable requirements and state-only requirements for specified categories of changes to permitted sources.
- (C) Terms and conditions for new requirements that apply to sources with existing permits.
- (D) Federally-enforceable caps on emissions from sources in a specified category.
- (4) The DEQ may issue a general permit if it finds that:
 - (A) There are several permittees, permit applicants, or potential permit applicants who:
 - (i) Have the same or substantially similar operations, emissions, activities, or facilities.
 - (ii) Emit the same types of regulated air pollutants.
 - (B) The operations, emissions, activities, or facilities are subject to the same or similar:
 - (i) Standards, limitations, and operating requirements.
 - (ii) Monitoring requirements.
- (5) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source must apply for an individual Part 70 permit for all of its covered sources.
- (6) Facilities located in areas that are federally designated as non-attainment are not eligible for coverage under a general permit.
- (7) Sites that are not in compliance with all applicable State and Federal air regulations are eligible for a general operating permit only if:
 - (A) They submit to DEQ an approvable compliance plan, and
 - (B) The facility submits to Tier II public review.
- (8) Facilities with existing state operating permits are eligible for coverage under a general operating permit. (9) Facilities existing prior to the effective date of any applicable standard that would have created specific quantifiable and enforceable emission rates are eligible for coverage under a general operating permit.
- (b) Authorization.**
 - (1) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit. Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.
 - (2) See 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The DEQ shall act to approve or deny the application within 90 days of filing.
 - (3) A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review.
 - (4) The DEQ will publish, at least monthly, an updated list of sources approved for inclusion under the general permit and any aggrieved person may petition the DEQ to review the approval of any stationary source for inclusion under a general permit within 30 days after publication of the list.
 - (5) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ.
- (c) Permit shield.** A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent

that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit.

(d) Revisions.

(1) If an owner or operator of a source(s) makes a change to a source covered by a general permit that affects any applicability information supplied in the general permit application, but the source is still eligible for coverage under a general permit, the owner or operator must revise the general permit application and submit it to the DEQ within 60 days.

(2) After coverage is granted to a source under the general permit, physical changes to the facility which result in the addition of equipment new to the facility, either as a replacement (except like-kind replacements) or net addition, will require a construction permit or a new authorization. Any significant modification to a stationary source included under a general permit shall subject the source to a Tier II review.

(3) If equipment new to the facility is newly purchased or is relocated from another facility where a permit was issued with enforceable emissions limits on that equipment, then authorization under the general permit shall be modified or amended to include an emissions limit for the newly purchased or relocated equipment. "Grandfathered" emissions sources at the facility will retain only the equipment descriptions as permit conditions. "Grandfathered" means a unit that was in existence prior to the effective date of any applicable regulation that would have created specific quantifiable and enforceable emissions rate limits.

(4) For a general operating permit, if emissions change for any reason that subjects the facility to PSD permitting requirements, then the facility no longer qualifies for a general operating permit. However, the existing general operating permit will remain valid during the time period covered by the PSD construction permit until the facility receives a Part 70 site specific operating permit for the entire facility.

(e) Permit content. Specific terms and conditions that will make the applicable rules and requirements enforceable shall be stipulated in the general permit.

(f) Renewal of general operating permits.

(1) The DEQ will initiate the renewal process for a general operating permit at least 180 days prior to the permit's expiration date and will follow the requirements in 252:100-8-7(a).

(2) Owners or operators shall apply to renew an authorization at least 60 days prior to expiration of the existing authorization. Upon submittal of a timely and administratively complete application, the applicant may continue to operate until such time as the DEQ grants or denies coverage under the general operating permit.

252:100-8-6.2 Temporary sources

The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and

(3) Conditions that assure compliance with all other provisions of this section.

252:100-8-6.3. Special provisions for affected (acid rain) sources

- (a) **Application binding until permit issuance or denial.** A complete acid rain permit application is binding on the applicant and enforceable as a permit until an acid rain permit is issued or denied. For applicable permitting procedures, see 252:2-15.
- (b) **Exemption petitions.** Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.
- (c) **Permit shield.** The acid rain portion of every operating permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the Act, will be deemed to be operating in compliance with the Acid Rain Program.
- (d) **Modifications.** See 40 CFR 72.82.
- (e) **Duration.** Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.
- (f) **Right of intervention.** The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.
- (g) **Administrative appeal.** The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.
- (h) **Adoption of 40 CFR Part 72 by reference.** DEQ hereby adopts and incorporates by reference the provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, on March 23, 1993, and on October 24, 1997, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with or are not included in 252:100-8, the Part 72 provisions and requirements shall apply and take precedence.

252:100-8-7. Permit issuance

- (a) **Criteria for issuance.** A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S. §§ 2-14-101 through 2-14-401; OAC 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and, for applications subject to OAC 252:100-8-8, that the requirements of that Section have been satisfied.
- (b) **Draft permits and notice thereof.** See OAC 252:2-15. A statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions) shall accompany the draft permit.
- (c) **EPA review.** See OAC 252:100-8-8.
- (d) **DEQ final action.** See OAC 252:2-15 and 252:100-8-8 when applicable.
- (e) **Timeline for technical review and issuance.** The DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with OAC 252:2-15-70 through 252:2-15-72 and OAC 252:100-8-4(b)(7).
- (f) **Action priorities.** See OAC 252:100-8-4(b)(2) through (10) and OAC 252:100-8-7.1(a).
- (g) **No issuance by default.** See 27A O.S. § 2-5-112(D).

252:100-8-7.1. Permit renewal and expiration

(a) Timely application for permit renewal.

- (1) Applications for permit renewal and for permits for new Part 70 sources or amendments,

shall be considered timely if the applicant meets the requirements of this subsection.

- (2) Stationary sources operating under permits issued by the DEQ under this Subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit.

(b) Application content for renewal of expiring permit. In submitting an application for renewal of a Part 70 operating permit, a source may identify and incorporate by reference terms and conditions in its previous permit and permit application(s) that should remain unchanged. In addition, a renewal application must contain:

(1) information specified in 252:100-8-5(e) for those products, processes, operations, and emissions:

(A) That are not addressed in the existing permit;

(B) That are subject to applicable requirements or state-only requirements that are not addressed in the existing permit; or

(C) For which the source seeks permit terms and conditions that differ from those in the existing permit; and

(2) a compliance plan and certification as required in 252:100-8-5(e)(8) and (9).

(c) Issuance of renewal permit. Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under 252:100-8-7(a).

(d) Expiration of permit.

(1) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration.

(2) If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time.

252:100-8-7.2. Administrative permit amendments and permit modifications

(a) Administrative permit amendments.

(1) An administrative permit amendment:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(C) Requires more frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits

issued by the DEQ under this Part.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph 7.2(a)(1)(E) of this Section.

(b) **Permit modification.** A permit modification is any revision to a permit that cannot be accomplished under subsection (a) of this Section. A permit modification for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(1) **Minor permit modification procedures.**

(A) **Criteria.**

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under 112(i)(5) of the Act; and

(V) Are not modifications under any provision of Title I of the Act.

(ii) Notwithstanding OAC 252:100-8-7.2(b)(1)(A)(i) and 252:100-8-7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the State's implementation plan or in applicable requirements promulgated by EPA.

(B) **Application.** To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of

Tier I under OAC 252:2-15 and shall include the following:

- (i) A description of the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs;
- (ii) The source's suggested modification language;
- (iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and
- (iv) Completed forms for any notices required by OAC 252:2-15 and subparagraph (C) of this paragraph.

(C) **EPA and affected state notification.** If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) **Timetable for issuance.** Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15 the DEQ shall:

- (i) Issue the minor permit modification as approved;
- (ii) Deny the minor permit modification application; or
- (iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) **Source's ability to make change.** Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this subsection, the source must comply with the applicable requirements and state-only requirements governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) **Permit shield.** The permit shield under OAC 252:100-8-6(d) will not extend to minor permit modifications.

(G) **Permittee's risk in commencing construction.** The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) **Significant modification procedures.**

(A) **Criteria.** Significant modification procedures shall be used for applications requesting permit modifications that:

- (i) Involve any significant changes in existing monitoring requirements in the permit;
- (ii) Relax any reporting or recordkeeping requirements.
- (iii) Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;
- (iv) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the

source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act; and

(v) Are modifications under any provision of Title I of the Act; and,

(vi) Do not qualify as minor permit modifications or administrative amendments.

(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs.

(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

252:100-8-7.3. Reopening of operating permits for cause

(a) Mandatory reopening. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:

(1) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original permit or any of its terms and conditions has been extended pursuant to the application shield provided at 252:100-8-7.1(d)(2) beyond the 18-month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

(2) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(3) The DEQ or the EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

(4) The Administrator or the DEQ determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) Discretionary reopening. The DEQ may reopen and amend a permit when:

(1) additional state-only requirements become applicable to a permitted stationary source and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;

(2) alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;

(3) the DEQ receives information previously unavailable to the DEQ that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the

permitted facility;

(4) a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; or

(5) an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.

(c) Reopening procedures. To reopen and amend a permit, the DEQ shall follow the procedures that apply to significant permit modifications under this Subchapter, unless the amendment can be made as an administrative amendment under 252:100-8-7.2(a). Mandatory reopenings under 252:00-8-7.3(a) shall be made as expeditiously as practicable. In lieu of an application, the significant permit modification process will commence when the DEQ gives the permittee written notice of its intent to amend the permit. The DEQ shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the DEQ has given the permittee written notice of its intent to amend the permit, unless the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit that the DEQ proposes to amend shall be open for public comment or consideration at a meeting or hearing.

(d) Reopenings for cause by EPA.

(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the DEQ and the permittee of such findings in writing.

(2) The DEQ shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the DEQ must require the permittee to submit additional information.

(3) The Administrator will review the proposed determination from the DEQ within 90 days of receipt.

(4) The DEQ shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.

(5) If the DEQ fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.

(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

252:100-8-7.4. Revocations of operating permits

(a) Revocation of a permit or authorization under a general permit without reissuance.

The DEQ may revoke permits or authorizations under a general permit and not reissue them when:

(1) there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit or authorization, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;

(2) the permittee fails to disclose fully the facts relevant to issuance of the permit or authorization or submits false or misleading information to the DEQ or the Administrator;

(3) the permittee has failed to comply with any requirement under 252:100-5 to pay fees; or

(4) the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, or schedule of compliance.

(b) **Revocation procedures.** The DEQ shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the DEQ may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the DEQ shall hold the hearing in accordance with the Oklahoma Administrative Procedures Act.

252:100-8-7.5. Judicial review

Any final action in granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to judicial review in the court of appropriate jurisdiction upon an application filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. Except for authorizations under General Permits, judicial review is available to all affected parties for all final permit actions including minor modifications and administrative actions. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.

(1) No application for judicial review may be filed more than 90 days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within 90 days of the date on which the grounds for review first arose and review shall be limited to such later-arising grounds.

(2) Any application for judicial review shall be limited to issues that:

(A) were raised in comments filed with the DEQ or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and

(B) are germane and material to the permit action at issue.

(3) For purposes of this section, "final action" shall include a failure by the DEQ to take final action to grant or deny an application within the time specified in this Chapter.

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This Section applies only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this Section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the Act or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.** For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) Transmittal of notice of draft permit to affected states. See 27A O.S. § 2-5-112(E); 27A O.S. §§ 2-14-101 through 2-14-401; and OAC 252:2-15.

(f) Preparation and submittal of EPA review copy.

(1) Tier II applications. For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in OAC 252:2-15-72 or, if none, by this Chapter.

(2) Tier III applications. For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S. §2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) Notice of non-acceptance. As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) EPA review and non-objection. Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) EPA review and objection.

(1) Timing. Except as specified in paragraph 5 of this subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this Section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (Tier II) or proposed permit (Tier III) and all necessary supporting information.

(2) Form of objection. An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) Additional grounds. Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this Section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of OAC 252:2-15.

(4) Copy. The Administrator will provide the permit applicant a copy of the objection.

(5) DEQ response. The DEQ shall consult with EPA and the applicant and shall either:

(A) Amend permit. Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or

(B) Give notice and issue. Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

(i) issue the amended or revised draft permit (Tier II) as final, or

(ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) Failure of DEQ to respond. If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) Public petitions to the Administrator. If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in OAC 252:2-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAC 252:100-8-7 through 252:100-8-7.5 except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) Effect on Tier III administrative permit hearing. When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with 27A O.S. §§ 2-14-101 through 2-14-401, the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

252:100-8-9. Permit fees

[252:100-8-9(a), (b), (c), (d)(1), (d)(3) and (d)(4) amended and renumbered to 252:100-5. 252:100-8-9(d)(2) amended and renumbered to 252:100-8-1.7]

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-30. Applicability

The new source requirements of this Part, in addition to the requirements of Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all major stationary sources and major modifications as specified in 252:100-8-31 through 252:100-8-33. Sources subject to this Part are also subject to the operating permit provisions contained in Part 5 of 252:100-8.

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility.

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 g/m³ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date.

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date.

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,

(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or OAC 252:100-8, Part 7) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988.

"Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

"Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement.

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-8.

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(vii) Any change in source ownership.

"Major stationary source" means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(i) carbon black plants (furnace process),

(ii) charcoal production plants,

(iii) chemical process plants,

(iv) coal cleaning plants (with thermal dryers),

(v) coke oven batteries,

(vi) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per

hour heat input,

(vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(viii) fuel conversion plants,

(ix) glass fiber processing plants,

(x) hydrofluoric, sulfuric or nitric acid plants,

(xi) iron and steel mill plants,

(xii) kraft pulp mills,

(xiii) lime plants,

(xiv) municipal incinerators capable of charging more than 50 tons of refuse per day,

(xv) petroleum refineries,

(xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(xvii) phosphate rock processing plant,

(xviii) portland cement plants,

(xix) primary aluminum ore reduction plants,

(xx) primary copper smelters,

(xxi) primary lead smelters,

(xxii) primary zinc smelters,

(xxiii) secondary metal production plants,

(xxiv) sintering plants,

(xxv) sulfur recovery plants, or

(xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only

if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(i) carbon monoxide: 100 tons per year (tpy),

(ii) nitrogen oxides: 40 tpy,

(iii) sulfur dioxide: 40 tpy,

(iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,

(v) ozone: 40 tpy of volatile organic compounds,

(vi) lead: 0.6 tpy,

(vii) asbestos: 0.007 tpy,

(viii) beryllium: 0.0004 tpy,

(ix) mercury: 0.1 tpy,

(x) vinyl chloride: 1 tpy,

(xi) fluorides: 3 tpy,

(xii) sulfuric acid mist: 7 tpy,

(xiii) hydrogen sulfide (H₂S): 10 tpy,

(xiv) total reduced sulfur (including H₂S): 10 tpy, and

(xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 g/m³ (24-hour average).

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

252:100-8-32. Source applicability determination

Proposed new sources and source modifications to which this Part is applicable are determined by size, geographical location and type of emitted pollutants.

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant

in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant and other associated definitions in 252:100-8-31, 252:100-8-1.1, and 252:100-1.

(B) When a source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the requirements of 252:100-8, Parts 1, 3, 5, and 7 shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications which are major in size and proposed for construction in an area which has been designated as attainment or unclassified for any applicable ambient air standard are subject to the PSD requirements.

(B) Those sources and modifications locating in an attainment or unclassified area but impacting on a nonattainment area may also be subject to the requirements for major sources affecting nonattainment areas in 252:100-8, Part 9.

252:100-8-33. Exemptions

(a) Exemptions from PSD requirements. PSD requirements do not apply to a particular source or modification if:

(1) It is a nonprofit health or educational institution.

(2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than:

(A) One of the categories listed in (A)(i) through (xxvi) under the definition of "Major stationary source" in OAC 252:100-8-31, or

(B) A stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.

(3) The source or modification is a portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) Exemption from air quality impact evaluation.

(1) The requirements of OAC 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of OAC 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of BACT, would be less than 50 tons per year.

(c) Exemption from monitoring requirements.

(1) The monitoring requirements of OAC 252:100-8-35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

(A) Carbon monoxide - 575 g/m³, 8-hour average,

(B) Nitrogen dioxide - 14 g/m³, annual average,

(C) Particulate matter - 10 g/m³, TSP, 24-hour average, or 10 g/m³ PM-10, 24-hour

average,

(D) Sulfur dioxide - 13 g/m³, 24-hour average,

(E) Ozone - see (N) below,

(F) Lead - 0.1 g/m³, 24-hour 3-month average,

(G) Mercury - 0.25 g/m, 24-hour average,

(H) Beryllium - 0.001 g/m³, 24-hour average,

(I) Fluorides - 0.25 g/m³, 24-hour average,

(J) Vinyl chloride - 15 g/m³, 24-hour average,

(K) Total reduced sulfur - 10 g/m³, 1-hour average,

(L) Hydrogen sulfide - 0.2 g/m³, 1-hour average, or

(M) Reduced sulfur compounds - 10 g/m³, 1-hour average.

(N) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(b),(c) and (d)(2) shall not apply to a source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the Director subsequently determined that the application was complete except for OAC 252:100-8-35(b), (c) and (d)(2). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to such source or modification.

(3) The requirements for air quality monitoring in OAC 252:100-8-35(b), (c), and (d)(2) shall not apply to a source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(b), (c) and (d)(2).

(4) The Director shall determine if the requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(a) through (c) and OAC 252:100-8-35(d)(2) may be waived for a source or modification when an application for a permit was submitted on or before June 1, 1988 and the Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(a) through (c) and OAC 252:100-8-35(d)(2), was complete before that date.

(5) The requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(b), (c), (d)(2) and (d)(6) shall apply to a source or modification if an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-8-33(b)(1), except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(b)(1) and OAC 252:100-8-35(c) shall have been gathered over that shorter period.

(d) Exemption from BACT requirements and monitoring requirements. If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for BACT in OAC 252:100-8-34 and for monitoring in OAC 252:100-8-35(a) through (c) and OAC 252:100-8-35(d)(2) through (4) are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification.

(e) Exemption of modifications. As specified in the applicable definitions of OAC 252:100-8-31,

252:100-8-1.1, and 252:100-1, the requirements of OAC 252:100-8, Part 7 for PSD and OAC 252:100-8, Part 9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right.

(f) **Exemption from impact analyses.** The requirements of OAC 252:100-8-35 and OAC 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988.

(g) **Exemption from increment consumption.** Excluded from increment consumption are the following cases:

(1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source.

252:100-8-34. Best available control technology

(a) A new source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein for each regulated pollutant that it would have the potential to emit in significant amounts).

(b) A major modification must demonstrate that the control technology to be applied is the best that is available for each regulated pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(c) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.

(d) For phased construction projects the determination of best available control technology shall be reviewed and modified at the discretion of the Executive Director at a reasonable time but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of best available control technology.

252:100-8-35. Air quality impact evaluation

(a) **Application contents.** Any application for a permit shall contain, as the Executive Director determines appropriate, an evaluation of ambient air quality in the area that the source or modification would affect for each of the following pollutants:

(1) for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;

(2) for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(b) **Continuous monitoring data.** For visibility and any pollutant, other than volatile organic

compounds, for which an ambient air quality standard exists, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Executive Director determines is necessary to assess the ambient air quality for that pollutant in that area. (Amended 7-9-87, effective 8-10-87)

(c) **Increment consumption.** The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Executive Director.

(d) **Monitoring.**

(1) **Monitoring method.** With respect to any requirements for air quality monitoring of PM-10 under 252:100-8-33(c)(4) and 252:100-8-33(c)(5), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM-10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director.

(2) **Monitoring period.** The required monitoring data shall have been gathered for a time period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data collected for a time period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Executive Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment.

(3) **Monitoring period exceptions.**

(A) For any application which becomes complete except as to the monitoring requirements of 252:100-8-35(b) through 252:100-8-35(c) and 252:100-8-35(d)(2), between June 8, 1981 and February 9, 1982, the data that 252:100-8-35(b) and 252:100-8-35(c) require shall have been gathered over the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(i) If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(ii) If the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period, not to be less than four months, the data that 252:100-8-35(b) and 252:100-8-35(c) require shall have been gathered over that shorter period.

(iii) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the Executive Director may waive the otherwise applicable requirements of 252:100-8-35(d)(3)(A) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(B) For any application that becomes complete, except as to the requirements of 252:100-8-

35(b), (c) and (d)(2) pertaining to monitoring of PM-10, after December 1, 1988 and no later than August 1, 1989, the data that 252:100-8-35(b) and (c) require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period(not to be less than 4 months), the data that 252:100-8-35(b) and 252:100-8-35(c) require shall have been gathered over that shorter period.

(4) **Ozone post-approval monitoring.** The application for a source or modification of volatile organic compounds which satisfies all conditions of 252:100-8-54 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under 252:100-8-35.

(5) **Post-construction monitoring.** The applicant for a permit for a new source or modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Executive Director determines necessary to determine the effect its emissions may have, or are having, on air quality in any area. (Amended 7-9-87, effective 8-10-87)

(6) **Monitoring system operation.** The operation of monitoring stations for any air quality monitoring required under Part 7 of this Subchapter shall meet the requirements of 40 CFR 58 Appendix B.

(e) Air quality models.

(1) Any air quality dispersion modeling that is required under Part 7 of this Subchapter for estimates of ambient concentrations shall be based on the applicable air quality models, data bases and other requirements specified in the Guidelines on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.

(2) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Executive Director. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models.

(f) **Growth analysis.** Upon request of the Executive Director the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification.

(g) **Visibility and other impacts analysis.** The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Executive Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Executive Director deems necessary and appropriate. (Amended 7-9-87, effective 8-10-87)

252:100-8-36. Source impacting Class I areas

(a) **Permits issuance.** Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts.

(b) **Impact analysis required.** The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any

anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Executive Director shall notify the appropriate Federal Land Manager of the receipt of any such analysis and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Executive Director provided that the analysis is filed with the DEQ within 30 days of receipt of the application by the Land Manager. Where the Executive Director finds that such an analysis does not demonstrate to the satisfaction of the Executive Director that an adverse impact on visibility will result in the Federal Class I area, the Executive Director will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and sufficient information by a Federal Land Manager, the Executive Director may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be exceeded.

252:100-8-37. Innovative control technology

(a) An applicant for a permit for a proposed major source or modification may request the Executive Director in writing to approve a system of innovative control technology.

(b) The Executive Director may determine that the innovative control technology is permissible if:

(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(2) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for best available control technology under 252:100-8-34 by a date specified by the Executive Director. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

(3) The source or modification would meet the requirements equivalent to those in Parts 1 and 5 of this Subchapter and 252:100-8-36 based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the Executive Director.

(4) The source or modification would not, before the date specified, cause or contribute to any violation of the applicable ambient air standards, or impact any Class I area or area where an applicable increment is known to be violated.

(5) All other applicable requirements including those for public review have been met.

(c) The Executive Director shall withdraw approval to employ a system of innovative control technology made under 252:100-8-37, if:

(1) The proposed system fails by the specified date to achieve the required continuous reduction rate; or,

(2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(3) The Executive Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with 252:100-8-37(c), the source or modification may be allowed up to an additional 3 years to meet the requirement for application of best available control technology through the use of a demonstrated system of control.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50. Applicability

The new source requirements of this Part, in addition to the applicable requirements of Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all major sources and major modifications affecting designated nonattainment areas as specified in 252:100-8-51 through 252:100-8-53.

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement;

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before December 21, 1976, unless such

change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 8.

(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or

(vii) any change in source ownership.

"Major stationary source" means:

(A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,

(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.

(C) for ozone, a source that is major for volatile organic compounds shall be considered major.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit under Part 9 of this Subchapter, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) the reviewing authority has not relied on it in issuing any permit under State air quality rules; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(A) Carbon monoxide: 100 tons per year (tpy),

(B) Nitrogen oxides: 40 tpy,

- (C) Sulfur dioxide: 40 tpy,
- (D) Particulate matter: 15 tpy of PM-10 emissions,
- (E) Ozone: 40 tpy of volatile organic compounds, or
- (F) Lead: 0.6 tpy.

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 9 of this Subchapter is applicable are determined by size, geographical location and type of emitted pollutants:

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in OAC 252:100-8-51, 252:100-8-1.1, and 252:100-1-3.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Parts 1, 3, 5, and 9 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air quality standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 7 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

(i) SO₂:

(I) 1.0 g/m³ annual average;

(II) 5 g/m³ 24-hour average;

(III) 25 g/m³ 3-hour average;

(ii) PM-10:

(I) 1.0 g/m³ annual average;

(II) 5 g/m³ 24-hour average;

(iii) NO₂: 1.0 g/m³ annual average;

(iv) CO:

(I) 500 g/m³ 8-hour average;

(II) 2000 g/m³ one-hour average.

(B) A proposed major source or major modification subject to OAC 252:100-8-52(3)(A)

may reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact where the proposed source or modification would otherwise cause or contribute to a violation of any national ambient air quality standard. In the absence of such emission reductions, a permit for the proposed source or modification shall be denied.

(C) The requirements of OAC 252:100-8-52(3)(A) and (B) shall not apply to a major source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated nonattainment.

(D) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(E) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC 252:100-8-52(3) are exempted from the condition of OAC 252:100-8-54(4)(A).

(F) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air quality standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

(G) The determination as to whether a source would cause or contribute to a violation of applicable ambient air quality standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

252:100-8-53. Exemptions

(a) Nonattainment area requirements do not apply to a particular source or modification locating in or impacting on a nonattainment area if:

(1) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

(A) carbon black plants (furnace process),

(B) charcoal production plants,

(C) chemical process plants,

(D) coal cleaning plants (with thermal dryers),

(E) coke oven batteries,

(F) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,

(G) fossil fuel-fired steam electric plant of more than 250 million BTU per hour heat input,

(H) fuel conversion plants,

- (I) glass fiber processing plants,
- (J) hydrofluoric, sulfuric or nitric acid plants,
- (K) iron and steel mills,
- (L) kraft pulp mills,
- (M) lime plants,
- (N) municipal incinerators capable of charging more than 250 tons of refuse per day,
- (O) petroleum refineries,
- (P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,
- (Q) phosphate rock processing plants,
- (R) portland cement plants,
- (S) primary aluminum ore reduction plants,
- (T) primary copper smelters,
- (U) primary lead smelters,
- (V) primary zinc smelters,
- (W) secondary metal production plants,
- (X) sintering plants,
- (Y) sulfur recovery plants,
- (Z) taconite ore processing plants, or
- (AA) any other stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.

(2) A source or modification was not subject to 40 CFR Part 51, Appendix S (emission offset interpretative ruling) as in effect on January 16, 1979 and the source:

- (A) Obtained all final federal and state construction permits before August 7, 1980;
- (B) Commenced construction within 18 months from August 7, 1980 or any earlier time required by the State Implementation Plan; and,
- (C) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(b) Secondary emissions are excluded in determining the potential to emit (see definition of "potential to emit" in 252:100-8-1.1). However, upon determination of the Executive Director, if a source is subject to the requirements on the basis of its direct emissions, the applicable requirements must also be met for secondary emissions but the source would be exempt from the conditions of 252:100-8-52(3)(F) and 252:100-8-54(1) through 252:100-8-54(3). Also, the indirect impacts of mobile sources are excluded.

(c) As specified in the applicable definitions, the requirements of Part 7 for PSD and Part 9 for nonattainment areas of this Subchapter are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to the existing minor source is major in its own right.

252:100-8-54. Requirements for sources located in nonattainment areas

In the event a major source or modification would be constructed in an area designated as nonattainment for a pollutant for which the source or modification is major, approval shall be granted only if the following conditions are met:

- (1) The new source must demonstrate that it has applied control technology which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate (LAER) achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Act).

(2) If the Executive Director determines that imposition of an enforceable numerical emission standard is infeasible due to technological or economic limitations on measurement methodology, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed as the emission limitation rate.

(3) The owner or operator of the new source must demonstrate that all other major sources owned or operated by such person in Oklahoma are in compliance, or are meeting all steps on a schedule for compliance, with all applicable limitations and standards under Oklahoma and Federal Clean Air Acts.

(4) The owner or operator of the new source must demonstrate that upon commencing operations:

(A) The emissions from the proposed source and all other sources permitted in the area do not exceed the planned growth allowable for the area designated in the State Implementation Plan; or,

(B) The total allowable emissions from existing sources in the region and the emissions from the proposed source will be sufficiently less than the total emissions from existing sources allowed under the State Implementation Plan at the date of construction permit application so as to represent further progress toward attainment or maintenance of the ambient air quality standards in the problem area.

(5) The owner or operator may present with the application an analysis of alternate sites, sizes and production processes for such proposed source.

APPENDIX I. INSIGNIFICANT ACTIVITIES (REGISTRATION) LIST [NEW]

Any Activity to which a State of federal applicable requirement applies is not insignificant even if it is included on this list.

COMBUSTION EQUIPMENT

* Stationary reciprocating engines burning natural gas, gasoline, aircraft fuels, or diesel fuel which are either used exclusively for emergency power generation or for peaking power service not exceeding 500 hours/year

Space heaters, boilers, process heaters, and emergency flares less than or equal to 5 MMBTU/hr heat input (commercial natural gas)

Emissions from stationary internal combustion engines rated less than 50 hp output

Emissions from gas turbines with less than 215 kilowatt rating of electric output

STORAGE TANKS/DISTRIBUTION

* Emissions from fuel storage/dispensing equipment operated solely for facility owned vehicles if fuel throughput is not more than 2,175 gallons/day, averaged over a 30-day period

* Storage tanks with less than or equal to 10,000 gallons capacity that store volatile organic liquids with a true vapor pressure less than or equal to 1.0 psia at maximum storage temperature

* Bulk gasoline or other fuel distribution with a daily average throughput less than 2,175 gallons per day, including dispensing, averaged over a 30-day period

Gasoline and aircraft fuel handling facilities, equipment, and storage tanks except those subject to New Source Performance Standards and standards in 252:100-37-15, 252:100-39-30, 252:100-39-41, and 252:100-39-48

Emissions from condensate tanks with a design capacity of 400 gallons or less in ozone attainment areas

Emissions from crude oil and condensate marine and truck loading equipment operations at crude oil and natural gas production sites where the loading rate does not exceed 10,000 gallons per day averaged over a 30-day period

* Emissions from crude oil and condensate storage tanks with a capacity of less than or equal to 420,000 gallons that store crude oil and condensate prior to custody transfer

* Emissions from storage tanks constructed with a capacity less than 39,894 gallons which store VOC with a vapor pressure less than 1.5 psia at maximum storage temperature

ANALYSIS/LABORATORY ACTIVITIES

Additions or upgrades of instrumentation or control systems that result in emissions increases less than the pollutant quantities specified in 252:100-8-3(e)(1)

EQUIPMENT

Alkaline/phosphate washers and associated burners
Cold degreasing operations utilizing solvents that are denser than air
* Welding and soldering operations utilizing less than 100 pounds of solder and 53 tons per year of electrodes
Wood chipping operations not associated with the primary process operation
* Torch cutting and welding of under 200,000 tons of steel fabricated per year

REMEDIATION

Site restoration and/or bioremediation activities of < 5 years expected duration
Hydrocarbon contaminated soil aeration pads utilized for soils excavated at the facility only
Emissions from the operation of groundwater remediation wells including but not limited to emissions from venting, pumping, and collecting activities subject to ~~de minimis limits for air toxics (252.100-41-43)~~ and HAPs (§112(b) of CAAA90)

SOLID WASTE

* Non-commercial water washing operations (less than 2,250 barrels/year) and drum crushing operations of empty barrels less than or equal to 55 gallons with less than three percent by volume of residual material
Hazardous waste and hazardous materials drum staging areas
Sanitary sewage collection and treatment facilities other than incinerators and Publicly Owned Treatment Works (POTW)
Stacks or vents for sanitary sewer plumbing traps are also included (i.e., lift station)
Emissions from landfills and land farms unless otherwise regulated by an applicable state or federal regulation

COATINGS

* Automobile body shops located in an ozone attainment area emitting less than 5 tons/year of volatile organic solvents
Electrophoretic-process coating application operations (i.e., paint bath positively charged, painted object negatively charged)
* Surface coating operations which do not exceed a combined total usage of more than 60 gallons/month of coatings, thinners, and clean-up solvents at any one emissions unit

MISCELLANEOUS

Exhaust systems for chemical, paint, and/or solvent storage rooms or cabinets, including hazardous waste satellite (accumulation) areas
Hand wiping and spraying of solvents from containers with less

than 1 liter capacity used for spot cleaning and/or degreasing in ozone attainment areas

* Activities having the potential to emit no more than 5 TPY (actual) of any criteria pollutant (see instructions in Title V application)

* Appropriate records of hours, quantity, or capacity must be kept on the activity to verify its insignificance.

APPENDIX J. TRIVIAL ACTIVITIES (DE MINIMIS) LIST [NEW]

Any activity to which a State or federal applicable requirement applies is not trivial even if it is included on this list.

AGRICULTURAL

Lawn care (noncommercial)

Weed control (noncommercial)

Pest control (noncommercial)

Herbicide and pesticide activities except for manufacturing and formulation for commercial sale

ANALYSIS/TESTING

Hydraulic or hydrostatic testing

Analysis/laboratory activities emissions from the following: air contaminant detectors, air contaminant recorders, combustion controllers, combustion shut-off devices, product analyzers, laboratory analyzers, continuous emissions monitors, other analyzers (e.g., water quality), and emissions associated with sampling activities. Also, emissions from bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including assorted vacuum producing devices and vents but **NOT** lab fume hoods or vents

Site assessment work, including but not limited to, the evaluation of waste disposal or remediation sites

Emissions from instrument systems utilizing air or natural gas

Environmental field sampling operations

Sampling connections used exclusively to withdraw materials for testing and analysis, including air contaminant detectors and vent lines

Compressed gas cylinders and gases utilized for equipment calibration and testing

ANIMALS

Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized

Equipment used exclusively to slaughter animals, but **not** including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating

BATTERY CHARGING

Industrial battery recharging and maintenance operations for batteries utilized within the facility only

BLOWDOWNS

Emissions from the depressurization during startup, shut down, maintenance or emergencies of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances

CLEANING

Acid washing (maintenance cleaning)
Caustic washing (maintenance cleaning)

Abrasive blasting

Steam cleaning

Carbon dioxide blasting equipment in degreasing or depainting

High pressure water depainting operations and aqueous industrial spray washers

Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes, except those systems used to collect particulate matter subject to 252:100 and hazardous and/or toxic air contaminants

Ultrasonic cleaning operations which do not utilize volatile organic compounds

Molten salt bath descaling operations

Natural gas water heating systems for fixed vehicle wash racks

COOLING TOWERS/BOILER WATER

Emissions from non-contact cooling towers (cooling water that has not been in contact with other materials or fluids containing regulated air pollutants)

Boiler water treatment operations

Deaerator units associated with boilers or hot water heating systems

Process water filtration systems and demineralizers

Demineralized water tanks and demineralizer vents

ELECTRIC POWER

Equipment associated with electrical power transmission which do not involve fuel-burning activities using transformers and substations

Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam

FIREFIGHTING

Emissions from fire or emergency response equipment and training to include use of fire control equipment including equipment for testing and training, engines used exclusively for firefighting, and open burning of materials or fuels associated with firefighting training. Buildings burned for firefighting training must still adhere to NESHP for Asbestos.

Fire extinguishers and fire extinguishing systems

FUGITIVE EMISSIONS

Seal replacement (i.e., manhole gaskets)

Roof coating, service, and repair

Paving of roads, parking lots, and other areas

Vent emissions from gas streams used as buffer or seal gas in rotating pump and compressor seals

Emissions from natural gas odorizing activities

Emissions from pneumatic starters on reciprocating engines, turbines, compressors, or other equipment

Gas flares or flares used solely to indicate danger to the public (e.g. road hazard)

Warehouse activities including the storage of packaged raw materials and finished goods

Non-routine clean out of tanks, lift stations, and equipment for the purposes of worker entry or in preparation for maintenance or decommissions

Unpaved roadways and parking areas

Gravel, sand and dirt storage for use in on-site construction projects

VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) regulated by a fugitive monitoring program where the total increase is less than one ton per year of any criteria pollutant ~~or the de minimis set forth in 252:100-41-43.~~ The component additions must be identified in the next scheduled monitoring report required by the applicable requirements. VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) not regulated by a fugitive monitoring program provided that no applicable requirement is triggered when components are added.

Fugitive emissions of jet fuels associated with aircraft fuel cell and fuel bladder repair

Fugitive emissions related to movement of passenger vehicles provided the emissions are not counted for applicability purposes or any required fugitive dust control plan or its equivalent is submitted

INSULATION

Insulation installing or removal (non-asbestos)

Application of refractory & insulation (calcium silicate, etc.)

LUBRICATING

Lubricating pumps, sumps, and systems

Emissions from engine crankcase vents and equipment lubricating sumps

MAINTENANCE

Welding, brazing, soldering for maintenance purposes
Use of adhesives for maintenance purposes
Grinding, cutting, sanding for maintenance purposes
Emissions from pipeline maintenance pigging activities
Maintenance, upkeep, and replacement types of activities, including those not altering the capacity of process, combustion or control equipment, and which do not increase regulated pollutant emissions unless subject to NESHAP or NSPS

METALS

Equipment used for inspection of metal products
Die casting machines
Foundry sand mold forming equipment to which no heat is applied, and from which no organics are emitted
Equipment used exclusively to mill or grind coatings and holding compounds where all materials charged are in paste form (unless HAP emission)
Equipment used exclusively for rolling, forging, pressing, spinning, drawing, or extruding either hot or cold metals unless their emissions exceed any applicable regulated amount
Carbon monoxide lasers, used only on metals and other materials which do not emit HAP in the process

MISCELLANEOUS

Operations previously determined to be de minimis pursuant to 252:100-7-2(b)(3) ~~or 252:100-41-43(a)(5)~~
Laser trimmers using dust collection to prevent fugitive emissions
Shock chambers
Humidity chambers
Solar simulators

MOBILE SOURCES

Mobile source emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, hydrostatic and hydraulic testing equipment, maintenance trucks, helicopters, locomotives, marine vessels, portable generators moveable by hand, portable pumps, portable air compressors, portable welding machines, and portable fuel tanks
Other on and off road mobile sources (i.e. coal stacker & reclaimer)
Well servicing/workover rigs and associated equipment
Well drilling rigs and associated equipment
Aircraft ground support (AGE) equipment, including but not limited to portable power generators, lights, and HVAC support
Vehicle exhaust from maintenance or repair shops
Road sanding and salting operations

OFFICE AND JANITORIAL

Janitorial services
Sweeping (Floor Sweep)
Office emissions (photocopying, blueprint copying, photograph processes)

OUTDOOR RECREATION

Outdoor recreational emissions (campfires, barbecue pits)
Open burning for the purpose of land management (must get permission from Air Quality Enforcement even though exempt from permitting)
Outdoor kerosene heaters

PLASTICS/FIBERGLASS

Plastic or fiberglass welding or repair
Sealing or cutting plastic film or foam with heat or wires
Processes used for the curing of fiberglass or paint products

REFRIGERANTS

Cold storage refrigerator equipment
De minimis refrigerant releases

RESIDENTIAL

Air conditioning or comfort ventilation systems not regulated under Title VI of the Clean Air Act
Emissions from residential housing units, dormitories, and multifamily dwellings to include fuel burning for the purposes of heating except prohibited open burning

SOLID WASTE

Solid waste landfill operations
RCRA Solid Waste Management Units subject to 40 CFR Part 265, Subparts AA, BB, and CC

SOLVENT

Emissions from laundry care equipment processing bedding, clothing or other fabric items. These include dryers, extractors, & tumblers. **NOT CLEANING OPERATIONS USING PERCHLOROETHYLENE OR PETROLEUM SOLVENTS (i.e., dry cleaning)**
Covered cold solvent degreasers not subject to federal emission standards (e.g. NESHAP or NSPS)

STORAGE TANKS/DISTRIBUTION

Emissions from lube oil, seal oil, or hydraulic fluid storage tanks and equipment as long as not emitting VOCs or HAPs

Storage and use of chemicals unless otherwise regulated by an applicable state or federal regulation. These chemicals include, but not limited to: alum, ammonia, biocides, corrosion inhibitors, dechlorination chemicals, inorganic salts, acids or bases to include caustic and sulfuric acid, coagulants, flocculants, precipitants, surfactants, anti-foam chemicals, sealing inhibitors, oxygen scavengers, phosphates, polyelectrolytes, limestone slurry, lime and lime slurry, flue gas desulfurization system slurry, and sulfur slurry; propane and acetylene under pressure

Storage and use of products or equipment for maintaining motor vehicles operated at the site (including but not limited to antifreeze and fuel additives) not regulated under Title VI, CFC rules)

Emissions from tanks containing separated water produced from oil and gas operations

Commercial gasoline dispensing stations, including those located within the physical boundaries of a Title V source

Lubricants and waxes used for machinery and other equipment lubrication and emission from lubricating oil or hydraulic fluid storage tanks and equipment

Runway and aircraft de-icing activities, including de-icer storage tanks unless otherwise regulated

Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized

SURFACE COATING

Surface coating for maintenance purposes such as roll/brush/pad coating, painting with aerosol cans, spray airless, and conventional spray painting

Touch-up painting operations where paints/coatings are applied at less than one quart per hour

WASTEWATER

Removal of basic sediment & water from collection/storage systems (i.e., clarifiers)

Water and wastewater treatment and transportation system

Pit, ponds, sumps, or wastewater conveyance facilities

Emissions from skimmer pits, oil/water separators, and maintenance of filter separators

Emissions from the removal of sludge or sediment from pits, ponds, sumps, or wastewater conveyance facilities

Industrial and/or municipal wastewater treatment processes (excluding combustion or incineration equipment), storage silos for dry material (sludges), composting, or grease trap waste handling or treatment

Ozonization process or process equipment including ozone generation for water treatment processes

Sanitary sewerage and storm water runoff collection systems

Emissions from dredging pits, ponds, sumps, or other

wastewater conveyance facilities

WOODWORKING

Wood working (saw-cutting, staining & varnishing)
(noncommercial)

Woodworking utilized for hobby purposes or maintenance of
grounds or buildings

OAC 252:100-8
Oklahoma Register

Blair

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

**TITLE 235. OKLAHOMA STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
CHAPTER 10. FUNERAL SERVICES
LICENSING**

[OAR Docket #97-258]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

- 235:10-1. General Provisions (AMENDED)
- 235:10-3. Qualifications and Requirements for Licensure (AMENDED)
- 235:10-5. Licensing Fees (AMENDED)
- 235:10-7. License Renewal, Revocation, and Suspension (AMENDED)
- 235:10-9. Procedures for the Disposition of Complaints (AMENDED)
- 235:10-11. Minimum Standards of Performance (AMENDED)
- 235:10-15. Advertising (AMENDED)

Summary:

Subchapter 1 clarifies the activities and definition of holders of licenses, registration, and certificates. Subchapter 3 clarifies the qualification and requirements for licensure and deletes the requirement of the oral examination. It clarifies the educational requirements for licensure for a funeral director and embalmer. It changes the term Limited Service Establishment to Commercial Embalming Establishment. It changes licensing to registration of individual sellers of pre-need funeral service merchandise and deletes requirement for licensing or registration of telemarketers. Clarifies the terms and scope of apprenticeship.

Sets conditions of Licensee in charge of multiple establishments. Subchapter 5 creates a new category of retired license, it sets fee for registration of pre-need sellers. Subchapter 7 adds failure to comply with the FTC Funeral Rule as gross malpractice, requires all pre-need and at-need funeral contracts contain the name address and phone number of the State Board, required all establishment ot have a copy of the rules and funeral related statutes at the establishment. Subchapter 9 adds the requirement of clear and convincing evidence as the standard of proof for findings of fact and conclusions of law. Subchapter 15 prohibits individual(s) not licensed as a funeral director from using name on funeral establishment or advertising.

AUTHORITY:

Title 59 O.S. Stupp. 1995, Section 395.1 et seq.

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on April 10, 1997. Written comments may be delivered to the State Board of Embalmers and Funeral Directors office or may be mailed. Comments may also may be presented orally during the hearing. Mailing Address: State Board of Embalmers and Funeral Directors, 4545 N. Lincoln Blvd., Suite 175, Oklahoma City, OK 73105

PUBLIC HEARING:

Public hearing will be held April 10, 1997 at 9:00 AM in the Lincoln Park Office Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, OK.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments are available in the offices of the State Board of Embalmers and Funeral Directors.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available in the Board office on or after April 10, 1997.

CONTACT PERSON:

Terry McEnany, Executive Secretary/Treasurer, State Board of Embalmers and Funeral Directors, 4545 N. Lincoln Blvd., suite 175, Oklahoma City, OK 73105 (405) 525-0158

[OAR Docket #97-258; filed 2-20-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #97-259]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

Proposed Rules:

- Subchapter 7. Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources [AMENDED]
- Subchapter 8. Operating Permits (Part 70) [AMENDED]

Summary:

The proposed amendments to Subchapter 7 are necessary to meet federal permitting requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR part 70 and to incorporate the permit continuum concept into the Air Quality program. The proposed amendments to Subchapter 8 are necessary to meet federal permitting requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR part 70. The following proposed changes were set forth by EPA in the interim approval of the Oklahoma program published in the Federal Register at 61 FR 4220, Monday, February 5, 1996: revise Subchapter 8 definition of "Major Source," revise Subchapter 8 Insignificant Activities Provisions, revise Subchapter 8 Permit Content Language, and revise Subchapter 8 Administrative Amendment Provisions. It is further proposed that inconsistencies in Subchapter 7 and 8 be cured, including requirements for Public Review under Title V. Furthermore, it is proposed that the provisions for major source permitting in Subchapter 7 be moved to Subchapter 8. The Division is requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Tuesday, March 18, 1997, through Tuesday, April 8, 1997, to contact person.

Also scheduled before the Environmental Quality Board at their meeting on Tuesday, June 24, 1997 - 9:30 a.m., in Guymon, Oklahoma (Location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, April 15, 1997 - 9:30 a.m. briefing and 1:00 p.m. hearing, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available March 17, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

Rule impact statements have been prepared. The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247

ADDITIONAL INFORMATION:

The proposed rulemaking activities for Subchapter 7 and 8 that are necessary to meet federal permitting requirements for final approval of the Oklahoma Operating

Permits Program under Title V of the federal Clean Air Act and 40 CFR part 70 represent a continuation of hearing held on June 11, 1996, in Tulsa, Oklahoma, and August 1996, in Oklahoma City. These changes were held in abeyance at a hearing held on October 15, 1996 in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-259; filed 2-21-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 510. MUNICIPAL SOLID WASTE LANDFILLS**

[OAR Docket #97-263]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY AND PERMANENT rulemaking

Proposed Rules:

- 252:510-21-12. Local government financial test [NEW]
- 252:510-21-13. Discounting [NEW]

Summary:

Proposed 252:510-21-12 adds a financial test as a new financial assurance option for local government owners and operators of municipal solid waste landfills (MSWLFs). The EPA added this option [40 CFR 258.74(f)] as part of its recent amendment of the financial assurance provisions of the Municipal Solid Waste Landfill Criteria under Subtitle D of the Resource Conservation and Recovery Act. (61 FR 60337, November 27, 1996.) Use of the proposed test will allow a local government to use its financial strength to avoid incurring the expenses associated with use of a third-party financial instrument. Proposed 252:510-21-13 is based on new federal provisions [40 CFR 258.75] for the conditional use of discounting in evaluating MSWLFs' closure, post-closure and corrective action costs for which financial assurances must be provided. (61 FR 60339, November 27, 1996.) If approved, discounting would be allowed only up to the rate of return for essentially risk free investments and would require annual computations. Discounting, if approved, would allow a MSWLF owner or operator to reduce his financial assurances required by the estimated growth of the investment over the term of the assurance.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1995, § 2-2-101, 2-2-201 and 2-10-201

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 2. PROCEDURES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

[OAR Docket #97-1189]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

252:2. Procedures of the Department of Environmental Quality Subchapter 15. Uniform Permitting Procedures [AMENDED]

Summary:

The proposed amendments of 252:2-15-40 and 252:2-15-41 result from the U.S. Environmental Protection Agency's (EPA) review of the Department of Environmental Quality's (DEQ) air quality permitting program for Title V. Per EPA request and other comments received, the Air Quality Tier I and II rules of the uniform permitting program are being amended. Amendments include format changes for purposes of clarity and substantive changes to move certain permits from Tier I to Tier II to allow more public participation - e.g., acid rain permits, temporary permits, some operating permits, and general permit authorizations required to have compliance schedules under OAC 252:100-8.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Tuesday, September 15, 1997, through Wednesday, October 15, 1997, to contact person. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 18, 1997 - 9:30 a.m., in Oklahoma City, Oklahoma (Location to be determined. See contact person).

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, October 21, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 4616 East 15th Street, Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1189; filed 8-22-97]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #97-1190]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

Proposed rules:

Subchapter 5. Registration of Air Contaminant Sources [AMENDED]

Subchapter 7. Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources [AMENDED]

Subchapter 8. Operating Permits (Part 70) [AMENDED]

Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

Summary:

The proposed amendments to Subchapter 5 include moving the requirements to file an emission inventory from Subchapter 7 to Subchapter 5, moving the requirements to pay annual operating fees from Subchapters 7 and 8 to Subchapter 5, and revising the annual operating fees for

minor facilities, non-part 70 sources and part 70 sources. The proposed amendments to Subchapter 5 are designed to simplify and clarify the rules. The proposed amendments to Subchapter 7 are necessary to incorporate a new permit classification system into the Air Quality program. The proposed changes include: remove any requirements for Part 70 sources and major facilities (which will be moved to Subchapter 8); define and exempt "de minimis" facilities from the requirements of Subchapter 7; revise minor permit application fees; and introduce two new types of construction and operating permits, permit by rule and general permit. The proposed amendments to Subchapter 8 are necessary to incorporate a new permit classification system; move the requirements for construction permits for Part 70 sources and major facilities from Subchapter 7 to Subchapter 8; move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5; and meet the federal permitting requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The proposed amendments include: introduction of general permits for construction of Part 70 sources and major facilities not subject to Part 70 and general permits for operating major sources not subject to Part 70; addition of the requirements for construction permits for Part 70 sources and construction and operating permits for major facilities not subject to Part 70; revision of the permit application fees; deletion of annual operating fees (which will be moved to Subchapter 5); and amendments to meet the requirements for final approval of the Title V program including the incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§63.40, 63.41, 63.43 and 63.44). The following changes were set forth by EPA in the interim approval of the Oklahoma Program published in the Federal Register at 62 FR 4220, Monday, February 5, 1996: (1) Revise Subchapter 8 to Include Transition Schedule; (2) Revise Subchapter 8 definition of "Major Source"; (3) Revise Subchapter 8 Insignificant Activities Provision; (4) Revise Subchapter 8 Permit Content Language; (5) Revise Subchapter 8 Judicial Review Provision; (6) Revise Subchapter 8 Administrative Amendment Provision; and (7) Submission of a SIP Revision for Subchapter 7. The proposed amendments to Subchapter 41 include adopting by reference the existing Maximum Available Control Technology ("MACT") standards for hazardous air pollutants found in 40 CFR Part 63, Subparts F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, CC, DD, EE, GG, II, JJ, KK, OO, PP, QQ, RR, VV, JJJ. The Division is requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Deliver or mail written comments from Tuesday, September 15, 1997, through Wednesday, October 15, 1997, to contact person. Also scheduled before the

Environmental Quality Board at their meeting on Tuesday, November 18, 1997 - 9:30 a.m., in Oklahoma City, Oklahoma (Location to be determined. See contact person).

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, October 21, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 4616 East 15th Street, Tulsa, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for Subchapters 5, 7, and 41 represent a continuation of a hearing held on August 19, 1997, in Oklahoma City, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247

[OAR Docket #97-1190; filed 8-22-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 200. HAZARDOUS WASTE MANAGEMENT**

[OAR Docket #97-1191a]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking

Proposed rules:

252:200-3-1 [AMENDED]

252:200-3-2 [AMENDED]

252:200-9-7(b)(1) [AMENDED]

252:200-19-29 through 252:200-19-34 [AMENDED]

Summary:

The proposed amendment to 252:200-3-1 changes the "Reference to 40 CFR" Section of Subchapter 3, to allow the State of Oklahoma to continue to implement a hazardous waste management program in Oklahoma in lieu of the United States Environmental Protection Agency. The Section 3-1 amendment will update the reference of 40

Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 17, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for 252:2-15-40 and 41 represent a continuation of a hearing held on October 21, 1997, in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1271; filed 10-24-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #97-1272]

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

- 252:100. Air Pollution Control
- Subchapter 5. Registration of Air Contaminant Sources [AMENDED]
- Subchapter 8. Operating Permits (Part 70) [AMENDED]
- Subchapter 17. Incinerators [AMENDED]

SUMMARY:

In Subchapter 5 at 252:100-5-2.2(b)(2), it is proposed to review the annual operating fees for Part 70 sources. The proposed amendments to Subchapter 8 are necessary to incorporate a new permit classification system; move the requirements for construction permits for Part 70 sources and major facilities from Subchapter 7 to Subchapter 8; move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5; and meet the federal requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The proposed amendments include: introduction of general permits for construction of Part 70

sources and major facilities not subject to Part 70 and general permits for operating major sources not subject to Part 70; addition of the requirements for construction permits for Part 70 sources and construction and operating permits for major facilities not subject to Part 70; revision of the permit application fees; deletion of annual operating fees (which will be moved to Subchapter 5); and amendments to meet the requirements for final approval of the Title V program including the incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§63.40, 63.41, 63.43 and 63.44). The following changes were set forth by EPA in the interim approval of the Oklahoma program published in the Federal Register at 62 FR 4220, Monday, February 5, 1996: (1) Revise Subchapter 8 to Include Transition Schedule; (2) Revise Subchapter 8 definition of "Major Source"; (3) Revise Subchapter 8 Insignificant Activities Provision; (4) Revise Subchapter 8 Permit Content Language; (5) Revise Subchapter 8 Judicial Review Provision; (6) Revise Subchapter 8 Administrative Amendment Provision; and (7) Submission of a SIP Revision for Subchapter 7. It is proposed to amend Subchapter 17 by adding a new Part 5 and a new Appendix K to address Municipal Waste Combustors (MWC). This amendment is necessary to meet federal requirements for State plans under Section 111(d) of the federal Clean Air Act applicable to existing sources. This change would adopt standards published on December 19, 1995, in the Federal register at 40 CFR 60, Subpart Cb and amended on August 25, 1997. These standards would apply to MWC units with the capacity to combust more than 250 tons per day of municipal solid waste. In addition, the existing portions of Subchapter 17 are revised and redesignated as Part 1, General Provisions, and Part 3, Incinerators. Proposed revisions include deletion of references to Ringelmanh standards and substitution of relative opacity. Revisions were also made to Appendices A and B for reasons of simplification. The Division is requesting comments on these issues.

AUTHORITY:

Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act

COMMENT PERIOD:

Monday, November 17, 1997, through Tuesday, December 16, 1997. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Wednesday, December 10, 1997. Also scheduled before the Environmental Quality Board at their meeting on Tuesday, January 27, 1998 - 9:30 a.m. [Location to be determined. See contact person.]

PUBLIC HEARINGS:

Before the Air Quality Council on Tuesday, December 16, 1997, 9:30 a.m. briefing and 1:00 p.m. hearing, at the Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma.

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Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 17, 1997, for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT:

The rule impact statements may be obtained from the Air Quality Division at the address below.

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION:

The proposed rulemaking activities for Subchapters 5 and 8 represent a continuation of hearings held on October 21, 1997, in Tulsa, Oklahoma.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

[OAR Docket #97-1272; filed 10-24-97]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCESS AND PROCEDURES

[OAR Docket #97-1278]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

OAC 317:2-1-2.1 through 317:2-1-2.2 [AMENDED]
(Reference APA WF # 97-13)

SUMMARY:

Grievance Procedures and Process rules are revised to more accurately reflect the intent of the agency's grievance rules. The agency adopted rules on 2-19-97 which provide a wage and salary adjustment to long term care facilities. However, current rules do not specify the process for a facility to appeal an agency decision to recoup monies paid when the monies have not been used for the purpose intended, as allowed by agency rules. Revisions are needed to include the appeal process in the rules. Other revisions are needed to revise the process for non-payment or denial of provider claims. Current rules allow complaints regarding non-payment or denial of claims to be heard by the agency's Reimbursement Appeals Committee. This committee assures that payments are made equitably and within federal and state guidelines. Revised rules delete the requirement for a formal Level I proceeding hearing for complaints regarding claims payments to providers. Federal law does not require the formal hearing. Further

revisions are needed to allow for a process to reschedule a hearing on the basis of good cause. When an individual has duly exercised their rights and a hearing set, current rules do not address situations when the person does not appear for the hearing but later shows the absence was clearly beyond the person's control. Revised rules will allow the Administrative Law Judge to reschedule the hearing when good cause does exist.

AUTHORITY:

Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted through December 8, 1997 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-530-3272.

PUBLIC HEARING:

No public hearing is scheduled at this time but will be scheduled if a written request is submitted to the contact person listed above by 1) at least twenty-five persons, 2) a political subdivision, 3) an agency, or 4) an association having not less than twenty-five members.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Joanne Terlizzi at 405-530-3272.

[OAR Docket #97-1278; filed 10-24-97]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 25. SOONERCARE

[OAR Docket #97-1279]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
Proposed rules:

Chapter 25. ~~Managed Care~~ *SoonerCare*
Subchapter 1. Health Plan Competitive Bid
Requirements

OAC 317:25-1-1 through 317:25-1-2 [AMENDED]

Subchapter 3. Health Maintenance Organizations

OAC 317:25-3-2.1 [REVOKED]

OAC 317:25-3-3 [AMENDED]

Subchapter 5. *SoonerCare Plus*

Part 1. General Provisions

Permanent Final Adoptions

majority is required for approval or that the margin between the votes for the issue and the number required for approval when more than a majority is required for approval is narrow enough to allow a recount. See 230:45-3-33. If the margin is narrow enough to allow a recount, the County Election Board shall not certify the results of the question election until after the close of the contest period at 5 p.m. on the Friday following the election. [26:8-109] If the margin is not close enough to allow a recount, the County Election Board may certify the results of the question on election night as outlined in 230:35-3-91.

SUBCHAPTER 7. FRAUD AND IRREGULARITIES

230:45-7-2.1. Allegations of fraud or irregularities involving two or more counties

(a) Petitions filed with State Election Board. When a petition alleging fraud or irregularities in two or more counties in an election for a state legislative, or Congressional office is filed with the Secretary of the State Election Board, the Secretary shall notify the Supreme Court. The Supreme Court shall assign a single judge to hear the petition and to determine the issue for all the counties affected by the petition. [26:8-121.1]

(b) Petitions filed with County Election Board. When a petition alleging fraud or irregularities in two or more counties in an election for a multi-county school district or municipality is filed with the Secretary of the parent County Election Board, the Secretary shall schedule the hearings for all the counties affected by the petition. [26:8-121.1] See 230:45-7-1(b) and 230:45-7-2(b).

[OAR Docket #98-940; filed 5-11-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1049]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

252:100-5. Registration, of Air Contaminant Sources Emission Inventory and Annual Operating Fees [AMENDED]

252:100-7. Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources Facilities [AMENDED]

252:100-8. Operating Permits (Part 70) for Part 70 Sources [AMENDED]

Appendix H [NEW]

Appendix I [NEW]

Appendix J [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1994, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

For Subchapter 5, July 15, 1997, through August 13, 1997; September 15, 1997, through October 15, 1997; November 17, 1997, through December 16, 1997; January 27, 1998; and March 20, 1998.

For Subchapter 7, July 15, 1997, through August 13, 1997; September 15, 1997, through October 15, 1997; January 27, 1998; and March 20, 1998.

For Subchapter 8, September 15, 1997 through October 15, 1997; November 17, 1997 through December 16, 1997; January 27, 1998; and March 20, 1998.

Public hearing:

For Subchapter 5, August 19, 1997, October 21, 1997 and December 16, 1997.

For Subchapter 7, August 19, 1997 and October 21, 1997.

For Subchapter 8, October 21, 1997, December 16, 1997 and January 9, 1998.

Adoption:

March 20, 1998.

Submitted to Governor:

March 26, 1998.

Submitted to House:

March 26, 1998.

Submitted to Senate:

March 26, 1998.

Gubernatorial approval:

May 8, 1998.

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 21, 1998.

Final adoption:

May 21, 1998.

Effective:

June 25, 1998.

SUPERSEDED EMERGENCY ACTIONS:

None.

INCORPORATIONS BY REFERENCE:

None for Subchapters 5 and 7. For Subchapter 8:

Incorporated standards:

40 CFR §§ 63.41, 63.43, 63.44; 40 CFR Part 72.

Incorporating rule:

252:100-8-4(a)(2)(C); 252:100-8-6.3(h).

Availability:

The standards are available to the public for examination at the Department of Environmental Quality office at 707 N. Robinson, 4th Floor, Oklahoma City, Oklahoma.

ANALYSIS:

The changes to Subchapter 5 simplify and clarify the rule. Requirements to file an emission inventory moved from Subchapter 7 to Subchapter 5 and were revised. Also, requirements to pay annual operating fees moved from Subchapters 7 and 8 to Subchapter 5. The annual operating fees for minor facilities and non-part 70 sources were revised.

The changes to Subchapter 7 simplify and clarify the rule. Also, a new permit classification system is incorporated into the subchapter according to the environmental impact, emission levels, and source categories here in Oklahoma. Other changes include removing any requirements for Part 70 and major sources (which will be moved to Subchapter 8); defining and exempting "de

minimis" facilities from the requirements of Subchapter 7; revising minor permit application fees; and introducing two new types of construction and operating permits, permit by rule and general permit.

The changes in Subchapter 8 incorporate a new permit classification system, move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5, move the requirements for construction permits for Title V sources from Subchapter 7 to Subchapter 8, make corrections to meet the federal requirements for final approval of the Oklahoma Operating Permit Program under Title V of the Federal Clean Air Act and 40 CFR Part 70, adopt by reference the federal rules governing case-by-case MACT determinations found in 40 CFR §§63.41, 63.43 and 63.44 as they exist on July 1, 1997, and update the adoption of 40 CFR 72 by adopting the provisions published in the Federal Register on October 24, 1997.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on January 9, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

CONTACT PERSON:

For Subchapters 5 and 7: Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th floor, Oklahoma City, Oklahoma 73102. (405) 702-4100.

For Subchapter 8: Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th floor, Oklahoma City, Oklahoma 73102. (405) 702-4100.

DUE TO THE EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT DEPARTMENT OF ENVIRONMENTAL QUALITY, 707 N. ROBINSON, FOURTH FLOOR, OKLAHOMA CITY, OKLAHOMA 73102 AND AT THE OFFICE OF ADMINISTRATIVE RULES, SECRETARY OF STATE, WILL ROGERS BUILDING, 2ND FLOOR NORTH, OKLAHOMA CITY, OKLAHOMA 73105. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., § 255(B):

Subchapters 5, 7, and 8 of the Air Pollution Control rules have been simplified and clarified. To assist in this effort, certain rules were moved from one subchapter to another. For example, requirements to file emission inventory reports were moved from Subchapter 7 to Subchapter 5. The annual operating fees, which are calculated based on the emission inventory reports, were moved from Subchapters 7 and 8 to Subchapter 5. The construction permit requirements and application fee rules for Part 70 sources have been moved from Subchapter 7 to Subchapter 8.

Other revisions to Subchapter 5 involve changing the fees for non-Part 70 sources from a stepped schedule to a flat rate of \$10.00 per ton.

Subchapter 7 was also amended to incorporate the Department's permit continuum. The continuum provides for 1) *de minimis* facilities, which emit less than five tons per year of any regulated pollutant and which are not required to obtain a permit; 2) permit-by-rule facilities, which emit less than 40 tons per year of any regulated pollutant and which belong to an industry group for which a rule has been promulgated; 3) general permit facilities, which emit 40 tons per year or more of any regulated pollutant and which belong to an industry group for which a general permit has been issued; and 4) individual permit facilities, which are not eligible for any of the

previous permit categories and must, therefore, apply for individual permits. In addition, the permit application fees were revised to reflect the new permit categories. The purpose of revising the fees was not to increase them, but to reapportion them according to the new permit categories.

The construction permit rules now in Subchapter 8 contain one new requirement: Federal regulations (40 CFR §§ 63.41, 63.43 and 63.44) concerning case-by-case determinations of maximum achievable control technology ("MACT") standards were incorporated by reference. In promulgating these rules, the State has adopted a program to implement section 112(g) of the Federal Clean Air Act with respect to construction or reconstruction of major sources of hazardous air pollutants. The permit fee rules in Subchapter 8 establish a new fee of \$900.00 for authorizations under general permits. Other new additions to the Part 70 permit rules include definitions for "insignificant activities" and "trivial activities" and additional rules for general permits. The latter rules explain how authorizations are obtained, revised, and renewed. Subchapter 8 rules were also revised to make changes required by the U. S. Environmental Protection Agency in order for Oklahoma to obtain final approval of its Part 70 operating permit program.

The full text of the rule may be obtained from Department of Environmental Quality, Air Quality Division, 707 N. Robinson, 4th Floor, Oklahoma City, Oklahoma 73102.

[OAR Docket #98-1049; filed 5-22-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-1047]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 252:100-17-1 [AMENDED]
- 252:100-17-1.1 and 252:100-17-1.2 [NEW]
- 252:100-17-2 [AMENDED]
- 252:100-17-2.1 and 252:100-17-2.2 [NEW]
- 252:100-17-3 through 252:100-17-5 [AMENDED]
- 252:100-17-6 [REVOKED]
- 252:100-17-7 [NEW]
- 252:100-17-14 [NEW]
- 252:100-17-14.1 [NEW]
- 252:100-17-15 through 252:100-17-27 [NEW]
- Appendix A [REVOKED AND REENACTED]
- Appendix B [REVOKED AND REENACTED]
- Appendix K [NEW]

AUTHORITY:

Environmental Quality Board; 77A O.S. Supp. 1994, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

- September 16, 1996, through October 8, 1996
- January 16, 1997, through February 12, 1997
- November 17, 1997, through December 16, 1997
- January 27, 1998
- March 20, 1998

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1358]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rule

PROPOSED RULES:

- Subchapter 5. Registration, Emission Annual Operating Fees [AMENDED]
- Subchapter 7. Permits for Minor Sources [AMENDED]
- Subchapter 8. Permits for Part 70 Sources [AMENDED]
- Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]
- Subchapter 24. Control of Emissions from Grain Elevators [AMENDED]
- Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [NEW]
- Subchapter 25. Smoke, Visible Emissions and Particulates [AMENDED]
- Subchapter 37. Control of Emission of Organic Materials [AMENDED]
- Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]
- Subchapter 41. Control of Emission of Hazardous and Toxic Air Contaminants [AMENDED]

SUMMARY:

In Subchapter 5, the Department is considering possible increases in annual operating fees for both minor facilities and Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a

PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no PBR is written, the opportunity to apply for coverage under a general permit. The Department also will delete the definition for "Volatile Organic Compound (VOC)," because the proposed changes to Subchapter 25 and 39 would exclude that term from the

The Department is considering increases in the permit fees for both Subchapters 7 and 8.

The proposed revisions to Subchapters 23 and 24 would clarify the language under the agency-wide re-write/de-wrong initiative. It is also proposed to add a new PBR section to both subchapters. The PBR will streamline the permitting process by creating a mechanism that will eliminate the necessity for some cotton gins and elevators to obtain an individual air quality permit. Also, a new Appendix L is proposed which contains PM-10 emission factors for PBR grain elevators. Additional changes to both subchapters follow a proposed amendment of Subchapter 25 concerning short-term exceedances of the opacity standard. The revised rules would allow such exceedances during one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours.

The proposed amendments to Subchapter 25 would fulfill an EPA requirement concerning Continuous Emission Monitoring (CEM). Specifically, the Department proposes to incorporate by reference the Federal opacity monitoring requirements for fossil fuel-fired steam generators and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries as specified in 40 CFR 51, Appendix P. Additionally, the Department proposes to exempt from Appendix P requirements those sources already subject to a new source performance standard and sources scheduled for retirement within 5 years after the amended rule takes effect. The amended rule would also provide criteria for approval of alternative monitoring requirements. Additional changes to the existing rule include exempting sources subject to opacity standards promulgated under Section 111 of the Federal Clean Air Act, along with a clarification of how the opacity standard will be determined at sources that have CEMs and how it will be determined at sources without CEMs. Other

proposed amendments to Subchapter 25 are designed to simplify and clarify the rule.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Three substantive changes are proposed for each Subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; the request from American Airlines, Boeing, and Nordam, dated January 19, 1998, that acetone be excluded from the definition of VOC; a request dated April 21, 1997, from the Halogenated Solvents Industry Alliance, requesting that perchloroethylene be excluded from the definition of VOC; a request from Dow Corning that methylated siloxanes be excluded from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, that methyl acetate be excluded from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 2,000 gallons to 252:100-39-41(c) to determine applicability of subsection (c). In addition, the Department is requesting comments on 252:100-39-47, Control of VOS Emissions from Aerospace Industries Coatings Operations. Options include (1) retain the present (ARACT) rule and enforce the emissions reduction plan specified therein; (2) repeal the present rule and promulgate new rules regulating specialty coatings; or (3) retain the present plan, promulgate new rules for specialty coatings, and allow the facility to choose which of the two they prefer. These options recognize that the new NESHAP for the aerospace industry controls VOC emissions except for specialty coatings. The proposed amendments to Subchapter 41 include adopting by reference the Maximum Available Control Technology (MACT) standards for hazardous air pollutants that have been promulgated in 40 CFR 63 from July 1, 1997, through July 1, 1998. These are Subparts S and LL. The Department is also updating in Subchapter 41 the incorporation by reference of the NESHAP found in 40

CFR 61 to July 1, 1998. The Department is requesting comments on these proposed changes.

AUTHORITY:

Environmental Quality Board, 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101 *et seq.*

COMMENT PERIOD:

Tuesday, September 15, 1998, through Tuesday, October 20, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, October 13, 1998

Also scheduled before the Environmental Quality Board at their meeting on Tuesday, November 10, 1998 - 9:30 a.m. in Poteau (Location to be determined. See contact person)

PUBLIC HEARINGS:

Tuesday, October 20, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Tulsa City-County Health Department, 5051 South 129th East (Northeast corner of 51st and 129th), Tulsa, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available September 15, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (Subchapters 5 and 8), Michelle Martinez (Subchapter 24), Jeanette Buttram (Subchapters 7 and 25), Becky Mainord (Subchapter 23), Joyce Sheedy, Ph.D. (Subchapters 37, 39 and 41). Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 7, 23, 24, 25, 37 and 39 that were the subject of a public hearing on August 18, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1358; filed 8-26-98]

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1473]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2 [AMENDED]

Subchapter 7. Permits for Minor Facilities [AMENDED]

Subchapter 8. Permits for Part 70 Sources

252:100-8-1.7 [AMENDED]

252:100-8-4 [AMENDED]

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

SUMMARY:

The Department is proposing to amend 252:100-5-2.2 to increase annual operating fees for minor facilities and to include a provision for state appropriations and federal grants to be used to offset annual operating fees assessed to minor facilities. The Department is also proposing to increase the base annual operating fee for Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of 5 tons per year for PBR facilities. This will allow those facilities with less than 5 tons per year emissions, which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP), to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40 tons per year of emissions, but for which no

PBR has been written, the opportunity to apply for coverage under an applicable general permit.

The Department is also proposing to amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

The Department is proposing amendments to 252:100-8-1.7 to increase applicability determination fees for Part 70 Sources. In addition, it is proposed that 252:100-8-4(a)(2) be amended to update the incorporation by reference of 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical errors, deletion of redundant language, and reformatting. Substantive changes are proposed for each subchapter. One of those substantive changes affects both Subchapter 37 and 39. The definition of "volatile organic compounds (VOC)" in 252:100-37-2 and 252:100-39-2 has been revised in response to the Air Quality Council's direction to the staff to review the petition from the Chemical Manufacturers Association dated October 25, 1995, to exclude acetone from the definition of VOC; a request from American Airlines, Boeing, and Nordam, dated January 19, 1998, to exclude acetone from the definition of VOC; a request from the Halogenated Solvents Industry Alliance dated April 21, 1997, to exclude perchloroethylene from the definition of VOC; a request from Dow Corning to exclude methylated siloxanes from the definition of VOC; and a request on behalf of the Eastman Chemical Company dated August 18, 1998, to exclude methyl acetate from the definition of VOC. The definition of VOC has been modified to be consistent with the EPA definition. The second substantive change to Subchapter 37 is the removal of the requirement for permits and best available control technology (BACT) for new sources of VOC contained in 252:100-37-3(a). The third substantive change for Subchapter 37 deals with the first sentence in 252:100-37-36 regarding fuel-burning and refuse-burning equipment, which has been deleted to resolve the contradiction between the first and second sentences. The fourth substantive change to Subchapter 37 will be the addition of a new Part 9, Permit by Rule for Volatile Organic Compound Storage and Loading Facilities. The second substantive change to Subchapter 39 is the correction of the placement of "prior to lease custody transfer" in 252:100-39-30(b)(2). The third substantive

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change is the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons to 252:100-39-41(c) to determine the applicability of subsection (c).

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 1997, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments on proposed amendments to 252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7 will be accepted until December 8, 1998. Oral comments may be made at the December 15, 1998 hearing.

Comments on all other proposed amendments and new rules included in this notice will be accepted beginning Monday, November 16, 1998, through Tuesday, December 15, 1998. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by Tuesday, December 8, 1998.

Also scheduled before the Environmental Quality Board (Date and location to be determined. See contact person.)

PUBLIC HEARINGS:

Tuesday, December 15, 1998 - 9:30 a.m. briefing and 1:00 p.m. hearing, at the Lincoln Plaza, 4545 N. Lincoln Blvd., Burgundy Room, Oklahoma City, Oklahoma

COPIES OF PROPOSED RULES:

Copies of the rules will be available November 16, 1998, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at 405-702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Shawna McWaters-Khalousi (252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7), Jeanette Buttram (Subchapter 7 except 252:100-7-3), and Joyce Sheedy (252:100-8-4 and Subchapters 37 and 39), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1473; filed 10-23-98]

**TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 55. HOME INVESTMENTS
PARTNERSHIP PROGRAM RULES**

[OAR Docket #98-1472]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 330:55-1-1 through 330:55-1-7 [NEW]
- 330:55-3-1 through 330:55-3-6 [NEW]
- 330:55-5-1 through 330:55-5-2 [NEW]
- 330:55-7-1 through 330:55-7-5 [NEW]

SUMMARY:

The Board of Trustees of the Oklahoma Housing Finance Agency (OHFA) a public trust, have in compliance with Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended and codified at 42 U.S.C. 12701-12839; and 24 CFR Part 92, Section 92.1, *et seq.* (Title II) adopted OHFA's Chapter 55, HOME Investments Partnership Program Rules (the Rules) for use in the allocation and issuance of HOME Program funds throughout the state of Oklahoma.

The Rules provide guidelines which OHFA follows in allocating HOME funds pursuant to Title II and are intended to provide a description of the procedures to be followed by applicants for evaluating and prioritizing applications. The Rules also provide an overview of Title II and other federal regulations which govern the administration of the HOME Program.

AUTHORITY:

These Chapter 55 rules are authorized by the Trustees of The Oklahoma Housing Finance Agency (OHFA), the Amended Trust Indenture of OHFA, and the Bylaws of OHFA.

COMMENT PERIOD:

Written comments will be accepted November 16, 1998 through December 16, 1998. Comments should reference the section of the rules addressed and be sent to Oklahoma Housing Finance Agency, P.O. Box 26720, Oklahoma City, Oklahoma 73126-0720, Attn: Byron Debruler.

PUBLIC HEARING:

The following public hearing will be held: December 8, 1998, at 10:00 a.m. at the offices of OHFA, 1140 N. W. 63rd Oklahoma City, OK in the 4th floor conference room. All interested persons are invited to attend and present their views.

COPIES OF PROPOSED RULES:

Copies of the proposed Rules may be obtained by contacting Byron Debruler, at OHFA, 1140 Northwest 63rd, P. O. Box 26720, Oklahoma City, Oklahoma 73126-0720, 405-848-1144 Ext. 314. There will be a \$5.00 per copy charge.

Notices of Rulemaking Int

Memorial Building, 2500 North Lincoln Boulevard,
Oklahoma City, Oklahoma

RULE IMPACT STATEMENT:

A Rule Impact Statement for the amendments will be prepared, as required by law, and will be available at the Office of the State Board of Education, Room 1-18, Oliver Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Brenda DeShazo, 405-521-3308

[OAR Docket #98-1685; filed 12-17-98]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #98-1721]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

- 252:100. Air Pollution Control
- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
- 252:100-5-2.2 [AMENDED]
- Subchapter 7. Permits for Minor Facilities [AMENDED]
- Subchapter 8. Permits for Part 70 Sources
- 252:100-8-1.7 [AMENDED]
- 252:100-8-4 [AMENDED]

SUMMARY:

The Department is proposing to amend 252:100-5-2.2 to increase annual operating fees for minor facilities and the base annual operating fee for Part 70 sources.

The proposed revisions to Subchapter 7 will modify language applicable to de minimis facilities, Permit by Rule (PBR), and general permits. First, actual emissions of Total Suspended Particulates (TSP) will no longer be counted in determining whether a facility meets the definition of "de minimis facility." Second, the proposed revisions will delete the lower limit of five (5) tons per year for PBR facilities. This will allow those facilities with less than five (5) tons per year emissions which are subject to New Source Performance Standards (NSPS) or National Emissions Standards for Hazardous Air Pollutants (NESHAP) to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will be referenced under this new Part 9 also. Third, the proposed revisions will delete the lower limit for general permits. This will allow facilities that may have less than 40

tons per year of emissions, but for which no PBR has been written, the opportunity to apply for coverage under an applicable general permit.

The Department is also proposing to amend 252:100-7-3 to increase fees for minor facilities for applicability determinations, relocation permits, and applications for individual permits.

The Department is proposing amendments to 252:100-8-1.7 to increase applicability determination fees for Part 70 sources. In addition, it is proposed that 252:100-8-4(a)(2) be amended to update the incorporation by reference of 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

The comment period through December 8, 1998 was published in the November 16, 1998 Oklahoma Register for the Air Quality Advisory Council meeting held on December 15, 1998.

PUBLIC HEARINGS:

Previously held before the Air Quality Advisory Council on December 15, 1998.

However, oral comments may be made at the meeting of the Environmental Quality Board, March 5, 1999, 9:30 a.m., at the Association of County Commissioners of Oklahoma, 429 NE 50th Street, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules are available for review at the Air Quality Division office at 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Shawna McWaters-Khalousi (252:100-5-2.2, 252:100-7-3, and 252:100-8-1.7), Jeanette Buttram (Subchapter 7 except 252:100-7-3), and Joyce Sheedy (252:100-8-4), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100

ADDITIONAL INFORMATION:

None

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1721; filed 12-22-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #98-1722]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

252:100. Air Pollution Control

Subchapter 37. Control of Emission of Organic Materials [AMENDED]

Subchapter 39. Emission of Organic Materials in Nonattainment Areas [AMENDED]

SUMMARY:

The proposed changes to Subchapters 37 and 39 include clarification of language, correction of typographical and grammatical errors, deletion of redundant language, and reformatting. Substantive changes are proposed for each subchapter. One of these changes affects both Subchapters. The definition of Volatile Organic Compound (VOC) has been modified in both subchapters to be consistent with the definition used by the Environmental Protection Agency. The substantive changes to Subchapter 37 are: the removal of the requirement for Best Available Control Technology (BACT) for all new sources of VOC in 252:100-37-3(a); the addition of 252:100-37-16(c), exempting loading facilities that are subject to 40 CFR 60, Subparts K, Ka and Kb; the addition of 252:100-37-25(c), exempting loading facilities that are subject to 40 CFR 60, Subpart XX, and 40 CFR 63, Subpart R; the deletion of 252:100-37-36, regarding fuel-burning and refuse-burning equipment, to resolve the contradiction between the first and second sentences; the addition of 252:100-37-38(b), exempting pumps and compressors that are subject to the equipment leak standards in 40 CFR 60, Subparts VV, GGG and KKK; and the addition of a new Part 9, Permit by Rule for Volatile Organic Compound Storage and Loading Facilities. The substantive changes to Subchapter 39 are: the correction of the placement of the phrase "prior to lease custody transfer" in 252:100-39-30(b)(2), the deletion of requirements in Part 3 regarding petroleum refinery operations which were made redundant by new federal requirements, and the addition of a minimum annual throughput of 120,000 gallons and a minimum storage capacity of 10,000 gallons to 252:100-39-41(c) for the determination of applicability of subsection (c).

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101 and 2-5-101, *et seq.*

COMMENT PERIOD:

Written comments on the proposed amendments to 252:100-37 and 252:100-39 will be accepted until February 10, 1999. Oral comments may be made at the Air Quality Advisory Council hearing, February 17, 1999.

PUBLIC HEARINGS:

Air Quality Advisory Council meeting will be Wednesday, February 17, 1999 - 9:30 a.m. briefing and p.m. hearing, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma

Subchapter 252:100-37 and 252:100-39 are also scheduled to be heard by the Environmental Quality Board on Friday, March 5, 1999, 9:30 a.m., at the Association of County Commissioners of Oklahoma, 429 NE 50th Street, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

Copies of the rules will be available January 15, 1999, for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, or may be obtained from Myrna Bruce at (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statements may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Joyce Sheedy, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100

ADDITIONAL INFORMATION:

Additional proposed revisions have been made to the versions of Subchapters 37 and 39 that were the subject of the public hearing on December 15, 1998.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #98-1722; filed 12-22-98]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 400. RADIATION MANAGEMENT**

[OAR Docket #98-1729]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

252:400-2-1. State agreement program authorizations [NEW]

252:400-2-2. Specific licenses [NEW]

252:400-2-12. State Agreement Fees [NEW]

Subchapter 21. Radionuclide NESHAP [NEW]

Appendix G. State agreement fees: Special nuclear material [NEW] Appendix H. State agreement fees: Source material [NEW]

Appendix I. State agreement fees: Byproduct material [NEW]

Permanent Final Adoptions

permitting requirements in this Chapter if it meets the requirements of 100-7-15(b)(1) and this Part.

(b) General requirements.

(1) To construct or operate a facility under a permit by rule, the owner or operator should submit a letter to the Division requesting registration under the appropriate permit by rule. The letter must contain written certification by the owner or operator that the facility will be constructed or operated in compliance with such permit by rule. A construction or operating permit application fee, as specified in 252:100-7-3, must accompany the letter.

(2) In accordance with the requirements of Subchapter 5, an emission inventory shall be submitted to the DEO every year, except that facilities emitting 5 tons per year or less of each regulated pollutant are required to submit an emission inventory once every 5 years. No other reporting requirements shall apply unless required by NSPS in Subchapter 4 or NESHAP in Subchapter 41.

(3) Compliance inspections will be conducted by the DEO in response to complaints and on a random basis.

(4) Any change that would cause a facility to no longer qualify for a permit by rule will require the owner or operator to apply for an individual or, if applicable, general permit.

(c) **Registration.** After receiving the appropriate application fee and certification, the DEO will acknowledge in writing that the facility is registered to construct or operate under the specified permit by rule. No facility may be constructed or operated under a permit by rule until DEO issues written acknowledgement of the registration.

252:100-7-60.1. Cotton gins

See 252:100-23-7.

252:100-7-60.2. Grain elevators

See 252:100-24-7.

[OAR Docket #99-848; filed 5-7-99]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #99-849]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 8. Permits for Part 70 Sources

Part 3. Permit Application Fees

252:100-8-1.7. Permit Application Fees [AMENDED]

Part 5. Permits for Part 70 Sources

252:100-8-4. Requirements for Construction and Operating Permits [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, *et seq.*

DATES:

Comment period:

For 252:100-8-1.7, September 15, 1998 through December 8, 1998; and December 15, 1998

For 252:100-8-4(a)(2), November 16, 1998 through December 15, 1998

Public hearing:

For 252:100-8-1.7, October 20 and December 15, 1998; and March 5, 1999

For 252:100-8-4(a)(2)(C), December 15, 1998; and March 5, 1999 Adoption:

March 5, 1999

Submitted to Governor:

March 15, 1999

Submitted to House:

March 15, 1999

Submitted to Senate:

March 15, 1999

Gubernatorial approval:

April 19, 1999

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 7, 1999

Final adoption:

May 7, 1999

Effective:

June 11, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

Incorporated standards:

40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44

Incorporating rules:

252:100-8-4(a)(2)(C)

Availability:

The standards are available to the public for examination at the Department of Environmental Quality office at 707 North Robinson, 4th Floor, Oklahoma City, Oklahoma

ANALYSIS:

The change to 252:100-8-1.7 will increase the fee for applicability determinations from \$100 to \$250. This fee change is consistent with the proposed applicability determination fee increase proposed in Subchapter 7.

The change to 252:100-8-4(a)(2)(C) updates the adoption by reference of the requirements for case-by-case MACT determinations contained in 40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 to July 1, 1998.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on December 15, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Jeanette Buttram or Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 1999.

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

- (1) **Applicability determination.** ~~\$100~~\$250, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.
- (2) **Construction permit application.** The fee is \$2,000.
- (3) **Operating permit application.**
 - (A) Initial Part 70 permit - \$2,000.
 - (B) Authorization under a general permit - \$900
 - (C) Renewal Part 70 permit - \$1,000.
 - (D) Significant modification of Part 70 permit - \$1,000.
 - (E) Minor modification of Part 70 permit - \$500.
 - (F) Part 70 Temporary Source Relocation - \$500.

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) **Construction permit required.** No person shall cause or allow the construction or installation of any new facility that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required for any physical change that would be a modification under 252:100-8-7.2(b). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) **Requirement for case-by-case MACT determinations.**

(A) **Applicability.** The requirement case-by-case MACT determinations apply to owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

- (i) Electric utility steam generating units unless and until these units are added to the source category list.
- (ii) Stationary sources that are within a source category that has been deleted from the source category list.
- (iii) Research and development activities defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on June 11, 1997/1998.

(b) Operating permits.

(1) **Operating permits required.** Except as provided in subparagraphs (A) and (B) of this section, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a permit submits a timely application for permit issuance or renewal and that source's failure to have a permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted in paragraph (A) of this section. The source's failure to have a permit shall be deemed a violation of this Subchapter.

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(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) **Duty to apply.** For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) **Application submittal schedule.** The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

- (I) Petroleum and Natural Gas, 1311;
- (II) Natural Gas Liquids, 1321;
- (III) Electric Services, 4911, 4961;
- (IV) Natural Gas Transmission, 4922;
- (V) Natural Gas Transmission and Distribution, 4923; and
- (VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70

sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,
- (ii) Brick Plants, 3251, 3297,
- (iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Refineries, 2911;
- (ii) Cement Plants, 3241;
- (iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;
- (iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;
- (v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) **Newly regulated sources.** A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Uniform

Permitting Rules, 252:2-15-70 and the definition of administratively complete in 252:100-8-2.

[OAR Docket #99-849; filed 5-7-99]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #99-850]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 37. Control of Emission of Organic Materials

Part 1. General Provisions

252:100-37-1 [AMENDED]

252:100-37-2 [AMENDED]

252:100-37-3 [AMENDED]

252:100-37-4 [AMENDED]

252:100-37-5 [NEW]

Part 3. Control of Volatile Organic Compounds VOCs in Storage and Loading Operations

252:100-37-15 [AMENDED]

252:100-37-16 [AMENDED]

252:100-37-17 [AMENDED AND RENUMBERED TO 252:100-37-37]

252:100-37-18 [AMENDED AND RENUMBERED TO 252:100-37-38]

Part 5. Control of Organic Solvents VOCs in Coating Operations

252:100-37-25 [AMENDED]

252:100-37-26 [AMENDED]

Part 7. Control of Specific Process

252:100-37-35 [AMENDED]

252:100-37-36 [AMENDED]

252:100-37-37 [NEW]

252:100-37-38 [NEW]

Part 9. Permit by Rule for VOC Storage and Loading Facilities [NEW]

252:100-37-41 [NEW]

252:100-37-42 [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

July 15, 1998, through August 18, 1998

September 15, 1998, through October 20, 1998

November 16, 1998, through December 15, 1998

January 15, 1999, through February 17, 1999

Public hearing:

August 18, 1998

October 20, 1998

December 15, 1998

February 17, 1999

Adoption:

March 5, 1999

Submitted to Governor:

March 15, 1999

Submitted to House:

March 15, 1999

Submitted to Senate:

March 15, 1999

Gubernatorial approval:

April 19, 1999

Legislative approval:

Failure of the Legislature to disapprove the rules resulted approval on May 7, 1999

Final adoption:

May 7, 1999

Effective:

June 11, 1999

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed revisions to Oklahoma Administrative Code 252:100-37, Control of Emission of Organic Materials, will simplify the language under the agency-wide re-right/de-wrong initiative. The revisions also include the following substantive changes: 1) the redefinition of the term "volatile organic compound (VOC)" and the substitution of this term for "organic materials", "organic solvents", and "hydrocarbons"; 2) the deletion of 252:100-37-3(a) which is a redundant requirement except to the extent that it requires new minor sources to apply best available control technology (BACT); 3) the exemption of methanol storage at a drilling or production facility for use on site in 252:100-37-3(c); 4) the addition of 252:100-37-15(c), exempting VOC storage vessels that are subject to the equipment standards in 40 CFR 60 Subparts K, Ka, or Kb from the requirements of 252:100-37-15(a) and (b); 5) the addition of 252:100-37-16(c), exempting VOC loading facilities subject to the requirements of 40 CFR 60 Subpart XX or 40 CFR 63 Subpart R from the requirements of 252:100-37-15(a) and (b); 6) the deletion of 252:100-37-25(c), which allows the emission of 3,000 pounds per day or 450 pounds per hour of organic materials before controls are required; 7) the revision of the alternate standard for coatings in 252:100-37-25(d); 8) the correction of the impossible requirement in 252:100-37-36 that no emission of hydrocarbons or organic material is allowed from fuel-burning or refuse-burning equipment; 9) the addition of 252:37-38(b), exempting pumps and compressors subject to the standards for pumps and compressors contained in 40 CFR 60 Subparts VV, GGG, or KKK from 252:100-37-38; and 10) the addition of Part 9, which contains the permit by rule for VOC storage and loading facilities.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINAL AND ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 11, 1999.

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 3. PROCEDURES OF THE ENVIRONMENTAL QUALITY COUNCILS

[OAR Docket #00-792]

RULEMAKING ACTION:

Notice of proposed EMERGENCY rulemaking

PROPOSED RULES:

✓ Subchapter 5. Air Quality Advisory Council Hearings [NEW]

Appendix B. Style of Request for Hearing [NEW]

SUMMARY:

The addition of 252:3-5, Air Quality Advisory Council Hearings, is proposed to establish procedures for individual proceedings on enforcement matters and requests for variance. A new Appendix B, Style of Request for Hearing, would also be added to 252:3.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on June 14, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by June 7, 2000. Oral comments may be made at the June 14, 2000 hearing and at the Environmental Quality Board hearing on August 29, 2000, in Durant, Oklahoma.

PUBLIC HEARINGS:

Wednesday, June 14, 2000 - 9:00 a.m. hearing, 707 North Greenwood, Room 150, OSU at Tulsa, Tulsa, OK.

Scheduled before the Environmental Quality Board at 9:30 a.m. on August 29, 2000, Durant, OK, (exact location to be announced).

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Cheryl Bradley, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-792; filed 4-25-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-793]

RULEMAKING ACTION:

Notice of proposed PERMANENT and EMERGENCY rulemaking

PROPOSED RULES:

✓ Subchapter 8. Permits for Part 70 Sources [AMENDED]

SUMMARY:
The proposed changes to Subchapter 8 would amend sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 8, 31, 33, and 52. The changes correct errors, clarify language, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the

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exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) clarify that de minimis emissions increases do not require construction permits, but that additions of equipment that are subject to NSPS or NESHAP would. The changes in section 5(d)(1)(A) clarify that BACT is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting requirements. A substantive change is proposed for the definition of "major stationary source" in section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The changes to section 52 were adopted in 1989 but were accidentally excluded during codification of the rules.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on June 14, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by June 7, 2000. Oral comments may be made at the June 14, 2000 hearing and at the Environmental Quality Board hearing on August 29, 2000, in Durant, Oklahoma.

PUBLIC HEARINGS:

Wednesday, June 14, 2000 - 9:00 a.m. hearing, 707 North Greenwood, Room 150, OSU at Tulsa, Tulsa, OK.

Scheduled before the Environmental Quality Board at 9:30 a.m. on August 29, 2000, Durant, OK, (exact location to be announced).

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100,

Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Joyce Sheedy, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-793; filed 4-25-00]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-794]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

✓ Subchapter 29. Control of Fugitive Dust [AMENDED]
SUMMARY:

The proposed changes to Subchapter 29 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. A substantive change is included which would make the rule more enforceable by deleting the qualification that the fugitive dust be emitted to such an extent as to be classified as air pollution, before precautions are required. The proposed revocation of 252:100-29-5, Variance, is due to its redundancy with the Clean Air Act at 27A O.S.Supp. § 2-5-109.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services,

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained. For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #00-2181]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 6. Permitting [REVOKED]

Subchapter 8. Permits for Part 70 Sources [AMENDED]

Subchapter 29. Control of Fugitive Dust [AMENDED]

Subchapter 31. Control of Emission of Sulfur Compounds [AMENDED]

SUMMARY:

It is proposed that Subchapter 6 be revoked in its entirety. This action fulfills the Department's goal of eliminating redundant or unnecessary language through the re-right/de-wrong process. The rule is for the most part a summary of the permit programs contained in Subchapters 7 and 8, and a restatement of Oklahoma statutes on permitting. Only a few portions of the rule contain substantive language that will be placed into Subchapter 8. Revocation of the rule will have no effect on permit actions.

The proposed changes to Subchapter 8 would amend sections 1-1, 1-4, 1-5, 1-7, 2, 3, 4, 5, 6, 7, 8, 31, 33, 51, and 52. The changes correct errors, clarify language, add paragraphs that had previously been adopted but not codified, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) clarify that de minimis emissions increases do not require construction permits, but that additions of equipment that are subject to NESHAP would. The changes in section 5(d)(1)(A) clarify that BACT is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting

requirements. A substantive change is proposed for the definition of "major stationary source" in section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The definitions of "reconstruction" and "resource recovery facility" in section 51 would be deleted since those terms are not used in Part 9. The changes to section 52 were adopted in 1989 but were accidentally excluded during codification of the rules.

The proposed changes to Subchapter 29 will simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The provisions 252:100-29-2(a) and (b) will be combined to require reasonable precautions to control any visible fugitive dust emissions beyond the property line on which the emissions originate if such emissions interfere with the use of adjacent properties, cause air quality standards to be exceeded, or interfere with the maintenance of air quality standards. The proposed revocation of 252:100-29-5, Variance, is due to its redundancy with the Clean Air Act at 27A O.S.Supp. 1999 § 2-5-109.

The proposed changes to Subchapter 31 are primarily to simplify language, clarify requirements, and remove redundant requirements or language as part of the agency-wide re-right/de-wrong initiative. New definitions of the terms "existing source" or "existing equipment" and "new source" or "new equipment" clearly identify the effective date for each industry affected by the rule. Section 252:100-31-3 regarding performance testing is revoked, since performance testing is covered in Subchapter 43. In section 252:100-31-12(a) the use of an annual arithmetic mean is revoked. Section 252:100-31-25(c)(3) regarding emission monitoring is revoked, since emission monitoring is covered in Subchapter 45. Section 252:100-31-15(b) and those portions of 252:100-31-12(b) and 252:100-31-13(b) which identify the requirements to prove a violation are recommended for deletion, since 252:100-45-5 allows the use of any credible evidence to determine a violation. Sections, subsections, and paragraphs will also be moved to facilitate use of the rule. Six substantive revisions are also proposed. (1) Revoke 252:100-31-14(c) regarding the testing procedures for ambient hydrogen sulfide, as the listed procedures are out of date and will be replaced with

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sampling and test methods in Subchapter 43. (2) Delete 252:100-31-25(a) pertaining to new sulfuric acid plants since it is identical to the NSPS, 40 CFR 60 Subpart H, except for the opacity limit and the averaging time. The differences between the federal and state standards are minimal, and the state rule was intended to reflect the federal standard. (3) The averaging time for ambient hydrogen sulfide concentration from existing equipment in 252:100-31-14(a) is changed from 30 minutes to one hour to match the averaging time for ambient hydrogen sulfide concentrations from new equipment. (4) Section 252:100-31-25(c) covering new gas sweetening and sulfur recovery plants, and Section 252:100-31-26 covering hydrogen sulfide from petroleum and natural gas processes will be combined and rewritten to make clear which sources are subject to the standard. The sources subject to the hydrogen sulfide standard are more narrowly drawn to cover only sweetening plants and sulfur recovery units. Other processes referenced in the sulfur dioxide standard are limited to petroleum refinery processes, consistent with the intent of the rule. (5) Section 252:100-31-26(a), the hydrogen sulfide standard for new petroleum and natural gas processes contains several changes: (a) the standard has been changed from a combination equipment and emission standard to a more straightforward emission standard; (b) the exception for pipeline quality sweetened gas was moved to 252:100-31-26(b)(1) and changed to an emission based exception; and (c) an exception to the required exhaust stack is provided based on modeling. (6) Several subsections of the rule require a maximum average testing period. Because it is unclear what is a maximum average, all subsections will be changed to a time-based average.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. Supp. 1999, § 2-2-101; and Oklahoma Clean Air Act §§ 2-5-101, *et seq.*

REQUEST FOR COMMENTS:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment; construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on August 16, 2000. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by August 9, 2000. Oral comments may be made at the August 16, 2000 hearing and at the Environmental Quality Board hearing on November 14, 2000, in Hooker, Oklahoma.

PUBLIC HEARINGS:

Wednesday, August 16, 2000 - 9:00 a.m. hearing, Pioneer Technology Center, Education Business Center, 2101 North Ash Street, Ponca City, OK.

Scheduled before the Environmental Quality Board at 9:30 a.m. on November 14, 2000, Hooker, OK, (exact location to be announced).

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division office at 707 North Robinson, Suite 4100, Oklahoma City, Oklahoma, 73102, and on the DEQ website (www.deq.state.ok.us), Air Quality Division Current Events and Issues, or copies may be obtained from Myrna Bruce by calling (405) 702-4177.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the Air Quality Division.

CONTACT PERSON:

Please send written comments to Jeanette Buttram (SC 6), Joyce Sheedy (SC 8 and SC 31), and Cheryl Bradley (SC 29), Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677; (405) 702-4100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #00-2181; filed 6-23-00]

TITLE 3A. OKLAHOMA HORSE RACING COMMISSION CHAPTER 25. ENTRIES AND DECLARATIONS

[OAR Docket #00-2183]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

325:25-1-30.1. Naming/engaging of riders [NEW]

SUMMARY:

The new rule proposed to Chapter 25 is being proposed to prevent problems of rider changes on races programs, and the adoption of this proposed new rule would be consistent with rules of other racing jurisdictions.

AUTHORITY:

Title 3A O.S. §204(A); Oklahoma Horse Racing Commission

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday August 7, 2000, at the following

along with the required fee and any relevant information needed, the DEQ will make a determination of whether a permit is required.

~~(d)~~(e) **Change in permit status.** The owner or operator of a permitted facility may at any time notify the DEQ that the facility:

- (1) Is de minimis, requesting termination of the permit, or
- (2) Qualifies for either a permit by rule or a general permit, submitting the appropriate application for such permit.

~~(e)~~(f) **Transfer of permit.** The transfer of ownership of a stationary source or a facility shall subject the new owner or operator to existing permit conditions and/or compliance schedules. A new permit is not required. The transferor shall notify the AQD in writing no later than 10 days following the change in ownership.

[OAR Docket #01-762; filed 4-23-01]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #01-763]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 8. Permits for Part 70 Sources

- 252:100-8-1.1 [AMENDED]
- 252:100-8-1.4 [AMENDED]
- 252:100-8-1.5 [AMENDED]
- 252:100-8-1.7 [AMENDED]
- 252:100-8-2 [AMENDED]
- 252:100-8-3 [AMENDED]
- 252:100-8-4 [AMENDED]
- 252:100-8-5 [AMENDED]
- 252:100-8-6 [AMENDED]
- 252:100-8-7 [AMENDED]
- 252:100-8-7.2 [AMENDED]
- 252:100-8-8 [AMENDED]
- 252:100-8-31 [AMENDED]
- 252:100-8-33 [AMENDED]
- 252:100-8-51 [AMENDED]
- 252:100-8-52 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S.Supp. 2000, §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*

DATES:

Comment period:

- May 15, 2000 through June 14, 2000
- July 17, 2000 through August 16, 2000

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June 14, 2000, August 16, 2000 and November 14, 2000

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Submitted to Governor:

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January 2, 2001

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2001

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- 252:100-8-1.7 [AMENDED]
- 252:100-8-4 [AMENDED]

Gubernatorial approval:

January 2, 2001

Register publication:

18 Ok Reg 638

Docket number:

01-83

INCORPORATIONS BY REFERENCE:

Incorporated standards:

40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 updated to July 1, 2000

Incorporating rules:

252:100-8-4(a)(2)(C)

Availability:

Through the contact person listed below

ANALYSIS:

The proposed revisions to Sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 7.2, 8, 31, 33, 51, and 52 of Oklahoma Administrative Code 252:100-8, Permits for Part 70 Sources, correct errors, clarify language, add definitions, delete definitions, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in Section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to Section 4(a)(1) clarify which modifications to Part 70 sources require construction permits. The changes in Section 5(d)(1)(A) clarify that best available control technology (BACT) is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in Section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting requirements. A substantive change is proposed for the definition of "major stationary source" in Section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The changes to Section 52 were adopted in 1989 but were accidentally excluded during codification of the rules. Section 4(a)(2)(C) updates the

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incorporation by reference of 40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 to July 1, 2000.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2001:

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 1. GENERAL PROVISIONS

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

"A stack in existence" means for purposes of OAC 252:100-8-1.5 that the owner or operator had:

(A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or

(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

"Actual emissions" means, except for Parts 7 and 9 of this Subchapter, the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

"Administrator" means the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Allowable emissions" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition.

"Begin actual construction" means:

(A) for purposes of Parts 7 and 9 of this Subchapter means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(B) for purposes of Part 5 of this Subchapter, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"Best available control technology" or "BACT" means the control technology to be applied for a major source or modification is the best that is available as determined by the Director on a case-by-case basis taking into account energy, environmental, and economic impacts and other costs of alternate control systems.

"Building, structure, facility or installation" means, for purposes of Parts 7 and 9 of this Subchapter, all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code), as described in the Standard Industrial Classification manual, 1972, as amended by the 1977 Supplement.

"Commence" for purposes of Parts 7 and 9 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

"Dispersion technique" means for purposes of OAC

252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

- (i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;
- (ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or
- (iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emission limitations and emission standards" means for purposes of OAC 252:100-8-1.5 requirements that

limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (~~Amended 7-9-87, effective 8-10-87~~)

"Emissions unit" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation.

"EPA" means the United States Environmental Protection Agency.

"Fugitive emissions" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules.

"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.

"Part 70 permit" means (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of this Subchapter, as provided in OAC 252:100-8-3(a) and ~~252:100-8-3(b)-(b)~~.

"Potential to emit" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. ~~For the purpose of 252:100-8, Part 9, secondary~~ Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

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(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification.

"Stack" means for purposes of OAC 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100.

252:100-8-1.4. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) Cancellation of permit or authorization to construct or modify. A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection (b) of this Section) if the construction is not commenced within 18 months after the date the permit or authorization was issued, or if work is suspended for more than 18 months after it has commenced.

(b) Extension of permit or authorization to construct or modify.

(1) Prior to the expiration date of the permit or authorization, a permittee may apply for extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site, or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or

authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under OAC 252:100-8-1.4(b)(1)(B) or ~~252:100-8-1.4(b)(1)(C)~~ (C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information.

252:100-8-1.5. Stack height limitations

(a) Stack height exclusion. Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) Determination of good engineering practice (GEP) stack height. GEP stack height shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either OAC 252:100-8-1.5(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under OAC 252:100-8 or 40 CFR Part 52, $H_g = 2.5H$, provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks, $H_g = H + 1.5L$, where:

(i) H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

(ii) H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

(iii) L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c) Nearby.

(1) For the formulae in OAC 252:100-8-1.5(b)(2). A structure or terrain feature shall be considered nearby if

it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in OAC 252:100-8-1.5(b)(3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (Ht) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in OAC 252:100-8-1.5(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) **Measurement of height of structure or terrain.** The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d) **Excessive concentrations.** When utilized for the purpose of determining GEP stack height under OAC 252:100-8-1.5(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under ~~262:100-8-1.5(b)(2)~~ OAC 252:100-8-1.5(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 7 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the ~~Executive~~ Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under OAC 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in OAC 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state

implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or
 (B) the actual presence of a local nuisance caused by the existing stack, as determined by the ~~Executive~~ Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under OAC 252:100-8-1.5(b)(2) where the ~~Executive~~ Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in OAC 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

- (1) **Applicability determination.** \$250, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.
- (2) **Construction permit application.** The fee is \$2,000.
 - (A) New Part 70 source - \$2,000.
 - (B) Modification of a Part 70 source - \$1,500.
 - (C) Authorization under a general permit - \$900.
- (3) **Operating permit application.**
 - (A) Initial Part 70 permit - \$2,000.
 - (B) Authorization under a general permit - \$900
 - (C) Renewal Part 70 permit - \$1,000.
 - (D) Significant modification of Part 70 permit - \$1,000.
 - (E) Minor modification of Part 70 permit - \$500.
 - (F) Part 70 Temporary Source Relocation - \$500.

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly

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indicates otherwise. Except as specifically provided in this section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

"Administratively complete" means an application that provides:

- (A) All information required under OAC 252:100-8-5(c), (d), or (e);
- (B) A landowner affidavit as required by OAC 252:2-15-20(b)(3);
- (C) The appropriate application fees as required by OAC 252:100-8-1.7; and
- (D) Certification by the responsible official as required by OAC 252:100-8-5(f).

"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

- (A) all states:
 - (i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and
 - (ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or
- (B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

- (A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;
- (B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;
- (C) Any standard or other requirement under section 111 of the Act, including section 111(d);
- (D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

"Designated representative" means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the DEQ offers public participation under 27A O.S. Supp. 1995, § 2-14-101 et seq., 27A O.S. §§ 2-14-101 through 2-14-401 and OAC 252:100-2-15 or affected State review under OAC 252:100-8-8.

"Emergency" means, when used in OAC 252:100-8-6(a)(3)(C)(iii)(I) and (e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a

stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"Final permit" means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and OAC 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of OAC 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) through (C) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

(C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in OAC 252:100-41-40.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and

under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or.

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except TSP that fraction of particulate matter that exhibits an average aerodynamic particle diameter of more than 10 micrometers) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

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- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

(i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(iii) For carbon monoxide non-attainment areas:

- (I) that are classified as "serious"; and
- (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the

design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

"Permit" means (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a Part 70 construction or operating permit that meets the requirements of OAC 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC 252:100-5-2.2 (whether such costs are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"Regulated air pollutant" means the following:

- (A) Nitrogen oxides or any volatile organic compound (VOC), including those substances defined in OAC 252:100-1-3, 252:100-37-2, and 252:100-39-2, or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2, or any organic material defined in 252:100-37-2 except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);
- (B) Any pollutant for which a national ambient air quality standard has been promulgated;
- (C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;
- (D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;
- (E) Any pollutant subject to a standard promulgated under section 112 or other

requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative in so far as

actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. 2-5-101 et seq. 27A O.S. §§ 2-5-101 through 2-5-118, as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J. ~~Any activity to which a State or federal applicable requirement applies is not trivial even if included on the trivial activities list.~~

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3. Applicability

(a) **Covered sources.** Except as exempted from the requirement to obtain a permit under subsection (b) of this Section or elsewhere in this Subchapter, the sources listed below are subject to the permitting requirements under this Subchapter. ~~A covered major source or major stationary source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section.~~

(1) Any major source (as defined in OAC 252:100-8-2);

(2) Any source subject to a NSPS;

(3) Any source, including an area source, subject to a NESHAP;

(4) Any affected source (as defined in OAC 252:100-8-2);

(5) Any source in a source category designated by the Administrator pursuant to 40 CFR §70.3; and

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(6) Any major stationary source required to have a permit under Parts 7 or 9 of this Subchapter.

(b) Source category exemptions.

(1) All sources listed in subsection (a) of this section that are not major sources, major stationary sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation.

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) **Construction permit required.** No person shall ~~cause or allow the begin actual~~ construction or installation of any new ~~facility source~~ that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required prior to reconstruction of a major affected source under 40 CFR Part 63, reconstruction of a major source if it would then become a major affected source under 40 CFR 63, or for any physical change that would be a significant modification under 252:100-8-7.2(b) OAC 252:100-8-7.2(b)(2). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) **Requirement for case-by-case MACT determinations.**

(A) **Applicability.** The requirement for

case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 1998-2000.

(b) Operating permits.

(1) **Operating permits required.** Except as provided in subparagraphs (A) and (B) of this section, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a Part 70 permit submits a timely application for Part 70 permit issuance or renewal, that source's failure to have a Part 70 permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph (A) of this ~~section~~ Section. The source's failure to have a Part 70 permit shall be deemed a violation of this Subchapter.

(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) **Duty to apply.** For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in OAC 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) **Application submittal schedule.** The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

- (I) Petroleum and Natural Gas, 1311;
- (II) Natural Gas Liquids, 1321;
- (III) Electric Services, 4911, 4961;
- (IV) Natural Gas Transmission, 4922;
- (V) Natural Gas Transmission and Distribution, 4923; and
- (VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,

(ii) Brick Plants, 3251, 3297,

(iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Refineries, 2911;

(ii) Cement Plants, 3241;

(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;

(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;

(v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) **Newly regulated sources.** A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Uniform Permitting Rules, OAC 252:2-15-70 and the definition of administratively complete—“administratively complete” in OAC 252:100-8-2.

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252:100-8-5. Permit applications

(a) **Confidential information.** If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

(b) **Duty to supplement or correct application.** See ~~252:100-6-50(e)~~. ~~Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information within 30 days unless the applicant's request for more time has been approved by the DEQ. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.~~

(c) **Standard application form and required information.** Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with OAC 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to OAC 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the information required by OAC 252:100-8-5(d) and/or ~~252:100-8-5(e)-(e)~~ be provided.

(d) Construction permit applications.

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include but not be limited to site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) **BACT determination.** To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case by case basis taking into account energy, environmental, cost and economic impacts and other costs of alternative control systems. Unless required under Part 7 of this Subchapter, a BACT determination is not required for a modification that will result in an increase of emissions of less than 100 tons per year of any regulated air pollutant.

(B) **Modeling.** Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant.

(C) **Sampling points.** If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. ~~[NOTE: 252:100-8-1.4(b)(1) was taken from 252:100-7-15(b)]~~

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in OAC 252:100-8-5(e) to the extent they are applicable.

(e) Operating permit applications.

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under ~~this subsection 252:100-8-5(e)-(c) of this Section~~ or OAC 252:100-8-3(b).

(B) Identification and description of all points of emissions described in subparagraph (e)(3)(A) of this ~~section~~ Section in sufficient detail to establish the basis for fees and applicability of the Act's requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any

applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the Act).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements and all state-only requirements.

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the Act or of this Chapter or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to OAC 252:100-8-6(a)(9) or to define permit terms and conditions implementing OAC 252:100-8-6(f) or 252:100-8-6(a)(10).

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements as follows:

(i) For applicable requirements and state-only requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements and state-only requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(B) For sources not in complete compliance, a compliance schedule as follows:

(i) A schedule of compliance for sources that are not in compliance with all applicable requirements and state-only requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures,

including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements and state-only requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

(ii) A schedule for submission of certified progress reports no less frequently than every 6 months.

(C) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements and state-only requirements by a responsible official consistent with subsection (f) of this section and section 114(a)(3) of the Act;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement state-only requirements or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(f) **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and

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information in the document are true, accurate, and complete."

(g) ~~Number of application copies. See Part 3 of 252:2-15.~~

252:100-8-6. Permit content

(a) **Standard permit requirements.** Part 70 permits issued under this Chapter shall include all applicable requirements and state-only requirements (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements and state-only requirements and shall include those operational conditions and limitations necessary to assure compliance with all such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement or state-only requirement upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) Permit duration.

(A) **Operating permits.** The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) and (ii) of this paragraph:

(i) Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) **Construction permits.** See OAC 252:100-8-1.4.

(3) Monitoring and related recordkeeping and reporting requirements.

(A) Monitoring requirements.

(i) All emissions monitoring and analysis procedures or test methods required under applicable requirements and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act;

(ii) Where an applicable requirement or state-only requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) **Recordkeeping requirements.** The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or

application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) **Reporting requirements.** The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C)(i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from an emergency or upset conditions as defined in 252:100-8-6(e) OAC 252:100-8-2 or upset conditions as defined in the permit shall be reported within 24 hours of the date on which promptly but no later than 4:30 p.m. on the next working day after the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report must contain a description of the emergency or upset conditions, any steps taken to mitigate emissions, and corrective actions taken. Quantification of exceedances attributable to emergencies or upset conditions shall be made by the best available method. If the permittee wishes to assert the affirmative defense authorized under subsection (e) of this Section for emergencies, the permittee shall submit a followup written report within 10 working

days of first becoming aware of the exceedance.

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or ~~preventative~~ preventive measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of OAC 252:100-9.

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit need only specify that the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) **Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and

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the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

- (i) enforcement action;
- (ii) permit termination, revocation and reissuance, or modification; or
- (iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under OAC 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to 27A O.S. 1993 Supp. Section 2-5-105.18-27A O.S. § 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under OAC 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits,

emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this ~~section~~ Section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

(b) **Federally enforceable requirements.**

(1) Except as provided in paragraph (b)(2) of this ~~section~~ Section, all terms and conditions in a permit issued under this ~~section~~ Section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the Act.

(2) Notwithstanding paragraph (b)(1) of this ~~section~~ Section, the DEQ shall designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the Act.

(c) **Compliance requirements.** All permits issued under this Part shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this ~~section~~ Section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to perform the following:

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) A schedule of compliance if required under OAC 252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and OAC 252:100-8-5(e)(8), progress reports, to be submitted semiannually or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:

(A) The frequency (which shall be annually unless the applicable requirement or state-only requirement specifies submission more frequently) of submissions of compliance certifications;

(B) In accordance with paragraph (a)(3) of this ~~section~~ Section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The permittee's current compliance status, as shown by monitoring data and other information available to the permittee;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and

over the reporting period as required by paragraph (a)(3) of this ~~section~~ Section; and

(v) Such other facts as the DEQ may require to determine the compliance status of the source;

(D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;

(E) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act; and

(6) Such other provisions as the DEQ may require.

(d) **Permit shield.**

(1) Each operating permit issued under this Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this ~~section~~ Section or in the permit shall alter or affect the following:

(A) the provisions of section 303 of the Act, including the authority of the Administrator under that section;

(B) the liability of an owner or operator of a source for any violation of applicable requirements or state-only requirements prior to or at the time of permit issuance;

(C) the applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(D) the ability of EPA to obtain information from a source pursuant to section 114 of the Act.

(e) **Emergencies.**

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~~(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method.~~

~~(2)(1) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (e)(3) of this section Section and the reporting requirements of OAC 252:100-8-6(a)(3)(C) (iii)(I) are met.~~

~~(3)(2) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that:~~

~~(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;~~

~~(B) The permitted facility was at the time being properly operated;~~

~~(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit.~~

~~(4)(3) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~

~~(5)(4) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.~~

(f) Operational flexibility.

~~(1) Applicant's duty to apply for alternative scenarios. Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the A facility may implement any operating scenario allowed for in its Part 70 permit without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.~~

~~(2) Changes resulting in no emissions increases. A permitted Part 70 source may make changes within the facility that:~~

~~(A) Are not modifications under any provision of Title I of the Act;~~

~~(B) Do not cause any hourly or annual permitted~~

~~emission rate of any existing emissions unit to be exceeded; and~~

~~(C) Result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in OAC 252:100-8-6(d) does not apply to any change made pursuant to this subsection.~~

252:100-8-7. Permit issuance

~~(a) Criteria for issuance. A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S. Supp. 1995, 2-14-101 et seq. 27A O.S. §§ 2-14-101 through 2-14-401; OAC 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and, for applications subject to OAC 252:100-8-8, that the requirements of that section Section have been satisfied.~~

~~(b) Draft permits and notice thereof. See OAC 252:2-15. The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions) A statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions) shall accompany the draft permit.~~

~~(c) EPA review. See OAC 252:100-8-8.~~

~~(d) DEQ final action. See OAC 252:2-15, and 252:100-8-8 when applicable.~~

~~(e) Timeline for technical review and issuance. The DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with OAC 252:2-15-70 through 15-72 252:2-15-72 and OAC 252:100-8-4(b)(7).~~

~~(f) Action priorities. See OAC 252:100-8-4(b)(2) through (10) and OAC 252:100-8-7.1(a).~~

~~(g) No issuance by default. See 27A O.S. § 2-5-112(D).~~

252:100-8-7.2. Administrative permit amendments and permit modifications

~~(a) Administrative permit amendments.~~

~~(1) An administrative permit amendment:~~

~~(A) Corrects typographical errors;~~

~~(B) Identifies a change in the name, address, or phone number of any person identified in the~~

permit, or provides a similar minor administrative change at the source;

(C) Requires more frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under this Part.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph ~~252:100-8-7.2(a)(1)(E)~~ 7.2(a)(1)(E) of this section-Section.

(b) **Permit modification.** A permit modification is any revision to a permit that cannot be accomplished under subsection (a) of this section-Section. A permit modification for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(1) **Minor permit modification procedures.**

(A) **Criteria.**

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a

case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under ~~§§112(i)(5)~~ § 112(i)(5) of the Act; and

(V) Are not modifications under any provision of Title I of the Act.

(ii) Notwithstanding OAC 252:100-8-7.2(b)(1)(A)(i) and 252:100-8-7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the State's implementation plan or in applicable requirements promulgated by EPA.

(B) **Application.** To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs;

(ii) The source's suggested modification language;

(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and

(iv) Completed forms for any notices required by OAC 252:2-15 and subparagraph (C) of this paragraph.

(C) **EPA and affected state notification.** If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply

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to the minor modification application unless waived by the Administrator.

(D) **Timetable for issuance.** Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15 the DEQ shall:

- (i) Issue the minor permit modification as approved;
- (ii) Deny the minor permit modification application; or
- (iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) **Source's ability to make change.** Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this subsection, the source must comply with the applicable requirements and state-only requirements governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) **Permit shield.** The permit shield under OAC 252:100-8-6(d) will not extend to minor permit modifications.

(G) **Permittee's risk in commencing construction.** The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) Significant modification procedures.

(A) **Criteria.** Significant modification procedures shall be used for applications requesting permit modifications that:

- (i) Involve any significant changes in existing monitoring requirements in the permit;
- (ii) Relax any reporting or recordkeeping requirements.
- (iii) Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or

other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

(iv) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include:

- (I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;
- (II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act; and

(v) Are modifications under any provision of Title I of the Act; and,

(vi) Do not qualify as minor permit modifications or administrative amendments.

(B) **Procedures for processing.** Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs.

(C) **Issuance.** The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This ~~section~~ Section applies only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this ~~section~~ Section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the Act or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.** For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a

permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See 27A O.S. Supp. 1995, § 2-5-112(E); 27A O.S. Supp. 1995, § 2-14-101 et seq. 27A O.S. § 2-5-112(E); 27A O.S. §§ 2-14-101 through 2-14-401; and OAC 252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments; revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in OAC 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S. Supp. 1995, § 2-14-304 27A O.S. § 2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this ~~section~~ Section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (~~Tier I~~) (Tier II) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this ~~section~~ Section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of OAC 252:2-15.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

(A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or

(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

(i) issue the amended or revised draft permit (Tier II) as final, or

(ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in ~~252:002-15~~ OAC 252:2-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAC 252:100-8-7 through 252:100-8-7.5 except in unusual

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circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with ~~27A O.S. Supp. 1995, Section 2-14-101 et seq.~~ 27A O.S. §§ 2-14-101 through 2-14-401, the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

- (A) times of visitor use of the Federal Class I area; and
- (B) the frequency and timing of natural conditions that reduce visibility.

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than $1 \mu\text{g}/\text{m}^3 - \mu\text{g}/\text{m}^3$ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. ~~(Effective May 11, 1991)~~

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. ~~(Effective May 11, 1991)~~

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,

(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or OAC 252:100-8, Part 7) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988. ~~(Effective May 11, 1991)~~

~~**"Best available control technology"** means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case-by-case basis taking into account energy, environmental, costs and economic impacts of alternate control systems.~~

~~“Building, structure, facility or installation” means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same “Major Group” (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.~~

“Complete” means, in reference to an application for a permit, means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

“Federal land manager” means the Secretary of the department with authority over the Federal Class I area or his representative.

“Innovative control technology” means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

“Major modification” means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement.

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited

under any enforceable permit limitation which was established after January 6, 1975; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-8.

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(vii) Any change in source ownership.

“Major stationary source” means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(i) carbon black plants (furnace process),

(ii) charcoal production plants,

(iii) chemical process plants,

(iv) coal cleaning plants (with thermal dryers),

(v) coke oven batteries,

(vi) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,

(vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(viii) fuel conversion plants,

(ix) glass fiber processing plants,

(x) hydrofluoric, sulfuric or nitric acid plants,

(xi) iron and steel mill plants,

(xii) kraft pulp mills,

(xiii) lime plants,

(xiv) municipal incinerators capable of charging more than 250-50 tons of refuse per day,

(xv) petroleum refineries,

(xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(xvii) phosphate rock processing plant,

(xviii) portland cement plants,

(xix) primary aluminum ore reduction plants,

(xx) primary copper smelters,

(xxi) primary lead smelters,

(xxii) primary zinc smelters,

(xxiii) secondary metal production plants,

(xxiv) sintering plants,

(xxv) sulfur recovery plants, or

(xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

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(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. ~~(Effective May 11, 1991)~~

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on

which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(i) carbon monoxide: 100 tons per year (tpy),

(ii) nitrogen oxides: 40 tpy,

(iii) sulfur dioxide: 40 tpy,

(iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,

(v) ozone: 40 tpy of volatile organic compounds,

(vi) lead: 0.6 tpy,

(vii) asbestos: 0.007 tpy,

(viii) beryllium: 0.0004 tpy,

(ix) mercury: 0.1 tpy,

(x) vinyl chloride: 1 tpy,

(xi) fluorides: 3 tpy,

(xii) sulfuric acid mist: 7 tpy,

(xiii) hydrogen sulfide (H₂S): 10 tpy,

(xiv) total reduced sulfur (including H₂S): 10 tpy, and

(xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$ (24-hour average).

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

252:100-8-33. Exemptions

(a) **Exemptions from PSD requirements.** PSD requirements do not apply to a particular source or modification if:

(1) It is a nonprofit health or educational institution.

(2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than:

(A) One of the categories listed in (A)(i) through (xxvi) under the definition of "Major stationary source" in OAC 252:100-8-31, or

(B) A stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.

(3) The source or modification is a portable stationary

source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) Exemption from air quality impact evaluation.

(1) The requirements of OAC 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of OAC 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of ~~best available control technology~~ BACT would be less than 50 tons per year.

(c) Exemption from monitoring requirements.

(1) The monitoring requirements of OAC 252:100-8-35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

(A) Carbon monoxide - $575 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 8-hour average,

(B) Nitrogen dioxide - $14 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, annual average,

(C) Particulate matter - $10 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, TSP, 24-hour average, or $10 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$ PM-10, 24-hour average,

(D) Sulfur dioxide - $13 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(E) Ozone - see (N) below,

(F) Lead - $0.1 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour 3-month average,

(G) Mercury - $0.25 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(H) Beryllium - 0.0005 - $0.001 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(I) Fluorides - $0.25 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(J) Vinyl chloride - $15 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(K) Total reduced sulfur - $10 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 1-hour average,

(L) Hydrogen sulfide - 0.04 - $0.2 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 1-hour average, or

(M) Reduced sulfur compounds - $10 \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 1-hour average.

(N) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient

impact analysis, including the gathering of ambient air quality data.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(b),(c) and (d)(2) shall not apply to a source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the ~~Executive~~ Director subsequently determined that the application was complete except for OAC 252:100-8-35(b), (c) and (d)(2). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to such source or modification.

(3) The requirements for air quality monitoring in OAC 252:100-8-35(b), (c), and (d)(2) shall not apply to a source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the ~~Executive~~ Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(b), (c) and (d)(2).

(4) The ~~Executive~~ Director shall determine if the requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(a) through ~~252:100-8-35(e)-(c)~~ and OAC 252:100-8-35(d)(2) may be waived for a source or modification when an application for a permit was submitted on or before June 1, 1988 and the ~~Executive~~ Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(a) through ~~252:100-8-35(e)-(c)~~ and OAC 252:100-8-35(d)(2), was complete before that date.

(5) The requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(b), (c), (d)(2) and (d)(6) shall apply to a source or modification if an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-8-33(b)(1), except that if the ~~Executive~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(b)(1) and OAC 252:100-8-35(c) shall have been gathered over that shorter period.

(d) Exemption from BACT requirements and monitoring requirements. If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for ~~best available control technology~~ BACT in OAC 252:100-8-34 and for monitoring in OAC 252:100-8-35(a) through ~~252:100-8-35(e)-(c)~~ and OAC 252:100-8-35(d)(2) through ~~252:100-8-35(d)(4)-(4)~~ are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification.

(e) Exemption of modifications. As specified in the

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applicable definitions of OAC 252:100-8-31, 252:100-8-1.1, and 252:100-1, the requirements of OAC 252:100-8, Part 7 for PSD and OAC 252:100-8, Part 9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right.

(f) **Exemption from impact analyses.** The requirements of OAC 252:100-8-35 and OAC 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988.

(g) **Exemption from increment consumption.** Excluded from increment consumption are the following cases:

(1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that

source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Building, structure, facility" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Installation" means an identifiable piece of process equipment.

"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement;

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation

which was established after December 21, 1976; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 8.

(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or

(vii) any change in source ownership.

"Major stationary source" means:

(A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,

(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.

(C) for ozone, a source that is major for volatile organic compounds shall be considered major.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under 252:100-8, Part 9 of this Subchapter, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) the reviewing authority has not relied on it

in issuing any permit under State air quality rules; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

"Reconstruction" means the replacement of components of an existing source (which will then be treated as a new source for purposes of Part 9 of this Subchapter) to the extent that will be determined by the Executive Director based on:

(A) The fixed capital cost (the capital needed to provide all the depreciable components) of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source; and,

(B) The estimated life of the source after the replacements is comparable to the life of an entirely new source; and,

(C) the extent to which the components being replaced cause or contribute to the emissions from the source.

"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under Part 9 of this Subchapter.

"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (A) Carbon monoxide: 100 tons per year (tpy),
- (B) Nitrogen oxides: 40 tpy,
- (C) Sulfur dioxide: 40 tpy,
- (D) Particulate matter: 15 tpy of PM-10 emissions,
- (E) Ozone: 40 tpy of volatile organic compounds, or
- (F) Lead: 0.6 tpy.

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 9 of this Subchapter ~~are~~ is applicable are determined by size, geographical location and type of emitted pollutants:

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in

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major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in OAC 252:100-8-51, 252:100-8-1.1, and 252:100-1-252:100-1-3.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Parts 1, 3, 5, and 9 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) **Location.**

(A) Sources and modifications that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air quality standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 7 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) **Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.**

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Pollutant	Concentration, $\mu\text{g}/\text{m}^3$			
	Averaging Time (hours)			
	Annual	24	8	3
SO ₂	1.0	5		25
PM-10	1.0	5		
NO ₂	1.0			
CO			500	2000

(i) **SO₂:**

(I) 1.0 $\mu\text{g}/\text{m}^3$ annual average;

(II) 5 $\mu\text{g}/\text{m}^3$ 24-hour average;

(III) 25 $\mu\text{g}/\text{m}^3$ 3-hour average;

(ii) **PM-10:**

(I) 1.0 $\mu\text{g}/\text{m}^3$ annual average;

(II) 5 $\mu\text{g}/\text{m}^3$ 24-hour average;

(iii) NO₂: 1.0 $\mu\text{g}/\text{m}^3$ annual average;

(iv) CO:

(I) 500 $\mu\text{g}/\text{m}^3$ 8-hour average;

(II) 2000 $\mu\text{g}/\text{m}^3$ one-hour average.

(B) A proposed major source or major modification subject to OAC 252:100-8-52(3)(A) may reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact where the proposed source or modification would otherwise cause or contribute to a violation of any national ambient air quality standard. In the absence of such emission reductions, a permit for the proposed source or modification shall be denied.

(C) The requirements of OAC 252:100-8-52(3)(A) and (B) shall not apply to a major source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated nonattainment.

(D) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(E) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC 252:100-8-52(3) are exempted from the condition of OAC 252:100-8-54(4)(A).

(F) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air quality standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

(G) The determination as to whether a source would cause or contribute to a violation of applicable ambient air quality standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets

would not be required if the new source would not cause a new violation.

~~(F) Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:~~

~~(i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.~~

~~(ii) The new emission limitations for the new source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.~~

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

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None

ANALYSIS:

The changes to Subchapter 9 include correction of typographical and grammatical errors and deletion of redundant language. As part of the re-right/de-wrong process, the Subchapter has been reorganized. Also, substantive changes were made, such as amending the definition of "malfunction" and adding definitions for "bypass," "regulated air pollutant," "technological limitation," and "working day." Also, new language is proposed requiring that a certification of truth, accuracy and completeness be submitted with any written report. Additional demonstration requirements for malfunctions and startups/shutdowns were added under proposed section 252:100-9-3.3, Demonstration of cause. Owners or operators must meet these requirements in order to be exempt from compliance with air emission limitations established in permits, rules, and orders of the DEQ. Language has been proposed to allow owners and operators to submit excess emission reports on a quarterly basis when those emissions are due to a technological limitation. Also, language has been proposed to explain that compliance with this Subchapter will not exempt sources from complying with any applicable federal requirement. New language sets forth the Division's interpretation that excess emissions occurring more than 1.5 percent of the time that a process operated in a calendar quarter may be indicative of inadequate design, operation, or maintenance, and the DEQ may initiate further investigation to determine if that is so. Prior notice to the DEQ by facilities of maintenance activities has been proposed to be deleted from the rule. Finally, proposed language would clarify that even if a facility has made a demonstration of cause so as to be exempt from compliance with an applicable requirement, the DEQ still has the authority to order corrective action or to require a cessation of activities if the emissions would cause a condition of air pollution.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on April 19, 2000.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

CONTACT PERSON:

Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Suite 4100, Oklahoma City, Oklahoma 73101-1677. (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2001:

4221

OAC 252:100-8
Air Quality Council

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL

9:30 A.M. TUESDAY, OCTOBER 21, 1997
Tulsa City-County Health Department Auditorium
TULSA, OKLAHOMA

BRIEFING AGENDA

1. Call to Order Chairman

2. Division Director's Report - Informational Director
An update of current events and AQD activities
 - §126 Issues
 - Final Ozone and PM Standards
 - OtherDiscussion by Council/Public

3. 1998 Meeting Schedule Byrum
Discussion by Council

4. Public Hearing Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public

5. Public Hearing Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR
SOURCES; OPERATING AND RELOCATION PERMITS FOR
MINOR SOURCES [AMENDED]
Discussion by Council/Public

6. Public Hearing Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public

7. Public Hearing Staff
OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND
TOXIC AIR CONTAMINANTS PART 3. HAZARDOUS AIR CONTAMINANTS
-15. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
[AMENDED]
Discussion by Council/Public

8. Public Hearing Staff
OAC 252:2-40 and 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 290-8247.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY COUNCIL

1:00 P.M. TUESDAY, OCTOBER 21, 1997
Tulsa City-County Health Department Auditorium
TULSA, OKLAHOMA

HEARING / MEETING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of Minutes (August 19, 1997) Chairman
4. 1998 Meeting Schedule
Discussion and Approval by Council
5. Public Hearing Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
6. Public Hearing Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS
Discussion by Council/Public; possible action by Council
7. Public Hearing Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public; possible action by Council
8. Public Hearing Staff
OAC 252:100-41-15 CONTROL OF EMISSION OF HAZARDOUS AND TOXIC
AIR CONTAMINANTS PART 3. HAZARDOUS AIR CONTAMINANTS
-15 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR
POLLUTANTS [AMENDED]
Discussion by Council/Public; possible action by Council
9. Public Hearing Staff
OAC 252:2-40 and 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public; possible action by Council
10. New Business Chairman
Discussion/consideration of subjects/business arising
within the past 24 hours; possible action by Council
11. Adjournment Chairman
Next Regular Meeting
DATE: December 16 1997
PLACE: Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City OK

October 7, 1997

MEMORANDUM

TO: Air Quality Council

FROM: Larry Byrum, Director
AIR QUALITY DIVISION *JB*

SUBJECT: JUSTIFICATION OF REVISION OF PERMIT PROCESSING FEES
FOR PART 70 SOURCES IN SUBCHAPTER 8

One new permit processing fee is proposed in the revisions to Subchapter. This is a fee for authorizations under a general permit. At this time, the fee for an initial Title V permit is also used for processing an application for an authorization under a general operating permit. The general permit was intended to simplify and streamline preparation of permit applications and processing of permit applications. This being the case, it seems appropriate that the processing fee for an authorization should be less than that for an individual permit.

It is proposed that a new fee of \$900 be set for processing an application for authorization under a general permit. This is based on the following data:

Average time to process an authorization - 30 hours
Average cost for staff engineer - \$28.29/hour

Average Processing Time	X	Average Cost	=	Processing Fee
30 hours	X	\$28.29/hour	=	\$848.70

Because of the limited number of applications for authorizations that have been received and processed to date, the average processing time is tentative. Further study regarding permit processing time requirements is underway and the final proposed fee will reflect the results of this study.

10/21/97
HSE

October 7, 1997

MEMORANDUM

TO: Air Quality Council

FROM: Larry Byrum, Director *LBB*
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 8

Enclosed is a copy of the proposed draft modifications to Subchapter 8 Operating Permits (Part 70), that will be brought to public hearing on October 21, 1997. The proposed amendments include: incorporation of the permit continuum by the introduction of general construction permits for Part 70 sources and general construction and operating permits for major facilities that are not subject to Part 70; the addition of the requirements for construction permits for Part 70 sources and construction and operating permits for major facilities not subject to Part 70; revision of the permit application processing fees by setting a fee for processing authorizations under a general permit; deletion of annual operating fees (which will be moved to Subchapter 5); incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR "63.40, 63.41, 63.43 and 63.44); and revisions to meet the requirements set forth in the February 5, 1996, Federal Register for final approval of the Title V program. The proposed draft also includes revisions intended to simplify and clarify the rule. Material in the Subchapter was reorganized and in some cases reworded. It is proposed to add Appendix I, Insignificant Activities List and Appendix J, Trivial Activities List to the rules.

Enclosed in the packet are copies of the proposed revisions to Subchapter 8 and the proposed Appendices I and J. Also included in the packet is a table that compares the Parts, Sections, Subsections, etc., of the proposed revision to Subchapter 8 to the Parts, Sections, Subsections, etc., of existing Subchapters 7, 8 and 10.

Enclosures: 4

Comparison of 252:100-8 Numbers In The Proposed Revision To Those In The Existing Rules (Subchapters 7, 8, and 10)

PROPOSED	EXISTING
PART 1	
8-1	8-1
8-1.1	New
8-1.2(a)	From 7-2(b)
8-1.2(b)	New
8-1.2(c)	8-3(f)
8-1.3	From 7-2(c)(2)
8-1.4(a)	10-5(j)
8-1.4(b)	From 7-15(f)(3)
8-1.5(a)	From 7-15(g)(1)
8-1.5(b)(1)(A)	From 7-15(g)(2)
8-1.5(b)(1)(B)	From 7-15(g)(2)(A)
8-1.5(b)(1)(C)	From 7-15(g)(2)(B)
8-1.5(b)(2)	From 7-15(g)(3)
8-1.6(a)	7-16(a)
8-1.6(b)	7-16(c)
8-1.6(c)	7-1.6(d)
8-1.6(d)	7-16(e)
PART 3	
8-1.7(a)	From 7-3(c)
8-1.7(b)	7-3(b)(1)
8-1.7(c)(1)	8-9(d)(2)(A)
8-1.7(c)(2)	New
8-1.7(c)(3)	8-9(d)(2)(B)
8-1.7(c)(4)	8-9(d)(2)(C)
8-1.7(c)(5)	8-9(d)(2)(D)
8-1.7(c)(6)	8-9(d)(2)(F)
PART 5	
8-1.8(a)	From 7-15(a)(1)
8-1.8(b)(1)	From 7-15(b)(1)
8-1.8(b)(2)	From 7-15(d)
8-1.8(c)	From 7-15(c)
8-1.8(d)	From 7-15(a)(2)
8-1.9(a)	From 7-18(a)
8-1.9(b)(1) & (2)	From 7-18(b)(1) & (2)
8-1.9(b)(3)	From 7-15(d)
8-1.9(c)	From 7-15(c)
8-19(d)	From 7-18(c)

PROPOSED	EXISTING
PART 7	
8-2 (Insignificant Activities & Trivial Activities)	8-3(e)
8-3(a)	8-3(a) and 8-3(g)
8-3(a)(1), (2), (3), (4) & (5)	8-3(a) (1), (2), (3), (4) & (5)
8-3(b)	8-3(b)
8-4(a)(1)	From 7-15(a)(1)
8-4(a)(2)	New
8-4(a)(3)	New
8-4(b)(1)	8-4(b)(1)
8-4(b)(2)	8-5(b)
8-4(b)(3)	8-5(b)(1)
8-4(b)(4)	8-5(b)(2)
8-4(b)(5)	8-5(b)(3)
8-4(b)(6)	8-5(b)(4)
8-4(b)(7)	8-5(b)(5)
8-4(b)(8)	8-5(b)(6)
8-4(b)(9)	8-5(b)(7)
8-4(b)(10)	8-4(b)(8)
8-5(a)	8-5(b)(10)
8-5(b)	8-5(c)
8-5(c)	8-5(d)
8-5(c)(1)	8-5(d)(1)
8-5(c)(2)	8-5(d)(2)
8-5(c)(3)	8-5(d)(3)
8-5(c)(4)	8-5(d)(4)
8-5(c)(5)	8-5(d)(5)
8-5(c)(6)	8-5(d)(6)
8-5(c)(7)	8-5(d)(7)
8-5(c)(8)(A)	8-5(d)(8)(A) and (B)
8-5(c)(8)(B)	8-5(d)(8)(C) and (D)
8-5(c)(8)(C)	8-5(d)(8)(E)
8-5(c)(9)	8-5(d)(9)
8-5(c)(10)	8-5(d)(10)
8-5(d)	8-5(e)
8-5(e)	8-5(f)
8-6(a)	8-6(a)
8-6(b)	8-6(b)
8-6(c)	8-6(c)
8-6(d)	8-6(f)

PROPOSED	EXISTING
8-6(e)	8-6(g)
8-6(f)	8-6(h)
8-6.1(a)(1)	8-6(d)(1)
8-6.1(a)(2)	8-6(d)(2)
8-6.1(a)(3)	8-6(d)(3)
8-6.1(a)(4)(A)(i)	8-6(d)(4)(A)
8-6.1(a)(4)(A)(ii)	8-6(d)(4)(B)
8-6.1(a)(4)(B)(i)	8-6(d)(4)(C)
8-6.1(a)(4)(B)(ii)	8-6(d)(4)(D)
8-6.1(a)(5)	8-6(d)(8)
8-6.1(a)(6)	10-5(h)(3)
8-6.1(a)(7)	10-5(h)(4)
8-6.1(a)(8)	10-5(h)(5)
8-6.1(a)(9)	10-5(h)(6)
8-6.1(a)(10)	10-5(h)(7)
8-6.1(b)(1)	8-6(d)(5)
8-6.1(b)(2)	8-6(d)(5)(B)
8-6.1(b)(3)	8-6(b)(5)(C)
8-6.1(b)(4)	10-3(d)
8-6.1(b)(5)	8-6(d)(6)
8-6.1(c)	8-6(d)(7)
8-6.1(d)(1)	10-5(b)
8-6.1(d)(2)	10-5(c)
8-6.1(d)(3)	10-5(d)
8-6.1(d)(4)	10-5(e)
8-6.1(d)(5)	10-5(f)
8-6.1(e)	10-5(h)
8-6.1(e)(1)	10-5(h)(8)
8-6.1(f)	New
8-6.2	8-6(e)
8-6.3(a)	8-6(i)(1)
8-6.3(b)	8-6(i)(2)
8-6.3(c)	8-6(i)(3)
8-6.3(d)	8-6(i)(4)
8-6.3(e)	8-6(i)(5)
8-6.3(f)	8-6(i)(6)
8-6.3(g)	8-6(i)(7)
8-6.3(h)	8-6(i)(8)
8-7(a)	8-7(a)
8-7(b)	8-7(b)
8-7.1(a)(1)	8-7(c)(1)

PROPOSED	EXISTING
8-7.1(a)(2)	8-7(c)(5)
8-7.1(b)	8-5(b)(9)
8-7.1(c)	8-7(c)(2)
8-7.1(d)(1)	8-7(c)(3)
8-7.1(d)(2)	8-7(c)(4)
8-7.2(a)	8-7(d)
8-7.2(b)(1)	8-7(e)(1)
8-7.2(b)(2)(A)(i)	8-7(e)(2)(A)(i)
8-7.2(b)(2)(A)(ii)	8-7(e)(2)(A)(i)
8-7.2(b)(2)(A)(iii)	8-7(e)(2)(A)(ii)
8-7.2(b)(2)(A)(iv)	8-7(e)(2)(A)(iii)
8-7.2(b)(2)(A)(v)	8-7(e)(2)(A)(iv)
8-7.2(b)(2)(A)(vi)	8-7(e)(2)(A)(v)
8-7.2(b)(2)(B)	8-7(e)(2)(B)
8-7.2(b)(2)(C)	8-7(e)(2)(C)
8-7.3(a)	8-7(f)(1)
8-7.3(a)(1)	8-7(f)(1)(A)
8-7.3(a)(2)	8-7(f)(1)(B)
8-7.3(a)(3)	8-7(f)(1)(C)
8-7.3(a)(4)	8-7(f)(1)(D)
8-7.3(b)	8-7(f)(2)
8-7.3(b)(1)	8-7(f)(2)(A)
8-7.3(b)(2)	8-7(f)(2)(B)
8-7.3(b)(3)	8-7(f)(2)(C)
8-7.3(b)(4)	8-7(f)(2)(D)
8-7.3(b)(5)	8-7(f)(2)(E)
8-7.3(c)	8-7(f)(3)
8-7.3(d)	8-7(g)
8-7.4(a)	8-7(h)(1)
8-7.4(a)(1)	8-7(h)(1)(A)
8-7.4(a)(2)	8-7(h)(1)(B)
8-7.4(a)(3)	8-7(h)(1)(C)
8-7.4(a)(4)	8-7(h)(1)(D)
8-7.4(b)	8-7(h)(2)
8-7.5	8-7(j)
8-8	8-8
PART 9 PSD	PART 5 PSD
8-30	7-31
8-32	7-32
8-33(a)	7-33(a)

PROPOSED	EXISTING
8-33(b)(1)	7-33(b)
8-33(b)(2)	7-33(c)
8-33(c)(1)	7-33(d)
8-33(c)(2)	7-33(f)
8-33(c)(3)	7-33(g)
8-33(c)(4)	7-33(i)
8-33(c)(5)	7-33(j)
8-33(d)	7-33(e)
8-33(e)	7-33(h)
8-33(f)	7-33(m)
8-33(g)	7-33(n)
8-34	7-34
8-35(a)	7-35(a)
8-35(b)	7-35(b)
8-35(c)	7-35(c)
8-35(d)(1)	7-33(l)
8-35(d)(2)	7-35(d)
8-35(d)(3)(A)	7-35(e)
8-35(d)(3)(B)	7-33(k)
8-35(d)(4)	7-35(f)
8-35(d)(5)	7-35(g)
8-35(d)(6)	7-35(h)
8-35(e)	7-35(l)
8-35(f)	7-35(j)
8-35(g)	7-35(k)
8-36(a)	7-36(b)
8-36(b)	7-36(c)
8-37	7-37
PART 11 Nonattainment	PART 7 Nonattainment
8-50	7-50
8-51	7-51
8-52	7-52
8-53	7-53
8-54	7-54

"From" before the citation indicates that the proposed language is based on the citation, but the language in the existing rule is not deleted.

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SUBCHAPTER 8. OPERATING PERMITS FOR MAJOR TSP (TOTAL SUSPENDED PARTICULATES) FACILITIES AND PART 70 SOURCES (PART 70)

PART 1. GENERAL PROVISIONS

[NOTE: Throughout this rule language that has been moved from other Sections and Subchapters will be underlined once, new language is double underlined and deletions are struck out.]

252:100-8-1. Purpose

~~The purpose of this Subchapter is to provide for the promulgation and enforcement of the requirements necessary to meet Title V of the federal Clean Air Act (42 U.S.C. 7401, et seq.) and 40 CFR Part 70 by establishing a comprehensive state air quality permitting program for major sources of air contaminant emissions. Permits issued under this program will address all applicable air contaminant emissions and regulatory requirements in a single document. This Subchapter sets forth permit application fees and the substantive requirements for permits for major TSP facilities and Part 70 sources.~~

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

[NOTE: From 252:100-8-2]

"A stack in existence" means for purposes of 252:100-8-1.6 that the owner or operator had:

(A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or

(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. [NOTE: From 252:100-7-16(b)]

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 et. seq. [NOTE: From 252:100-8-2]

"Administrator" means the Administrator administrator of the United States Environmental Protection Agency (EPA) or the Administrator's administrator's designee. [NOTE: From 252:100-8-2]

"Dispersion technique" means for purposes of 252:100-8-1.6 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or

combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation;

or

(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year. [NOTE: from 252:100-7-16(b)]

"Emission limitations and emission standards" means for purposes of 252:100-8-1.6 a requirement requirements that which limits limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87) [NOTE: From 252:100-7-16(b)]

"EPA" means the United States Environmental Protection Agency. [NOTE: From 252:100-8-2]

"Major TSP facility" means any stationary facility which directly emits or has the potential to emit 100 tons per year or more of TSP and is not subject to the Part 70 program.

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.

"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter. [NOTE: From 252:100-8-2]

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70. [NOTE: From 252:100-8-2]

"Part 70 source" means any source subject to the permitting requirements of Part 70 of this Chapter Subchapter, as provided in OAG 252:100-8-3(a) and 252:100-8-3(b). [NOTE: From 252:100-8-2]

"Regulated air pollutant" means:

(A) any Any Volatile Organic Compound (VOC), as that term is defined at in 252:100-1-3, 252:100-37-2, or 252:100-39-2, or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.

(B) Any Volatile Organic Solvent (VOS), as that term is defined at in 252:100-37-2 and 252:100-39-2.

(C) ~~(B)~~ any Any pollutant regulated under section 111 or 112 (except 112(r)) or the Federal Clean Air Act.

(D) ~~(C)~~ any Any pollutant for which a national primary ambient air quality standard has been promulgated except Carbon Monoxide under the Federal Clean Air Act.

(E) ~~(D)~~ any Any Toxic Air Contaminant as defined and regulated under OAG 252:100-41.

(F) ~~(E)~~ any Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

"Stack" means for purposes of 252:100-8-1.6 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares. [NOTE: From 252:100-7-16(b)]

252:100-8-1.2. Requirement for permits for major TSP facilities and Part 70 sources

(a) Permit required. Except as provided in this section, no person may commence construction or modification of any major TSP facility or minor Part 70 source, or operate any new minor major TSP facility or Part 70 source, or relocate any minor source without obtaining a permit from the DEQ. For application and permitting procedures, see 252:100-6 and the Uniform Permitting Rules, 252:2-15. [NOTE: From 252:100-7-2(b)]

(b) Permit categories. Two types of construction and operating permits are available: general permit and individual permit.

(1) General permit.

(A) A general permit may be issued for an industry if there are a sufficient number of facilities that have the same or

substantially similar operations, emissions and activities which are subject to the same standards, limitations and operating and monitoring requirements.

(B) Facilities may be eligible for authorization under a general permit if the following criteria are met:

(i) The facility has actual emissions of 100 tpy or more of any one regulated air pollutant emitted and/or is a Part 70 source.

(ii) The DEQ has issued a general permit for the industry.

(2) Individual permit. Facilities requiring permits under this Subchapter that do not qualify for a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a general permit.

(c) Applicability determination. Any person may submit a request in writing that the Agency DEQ make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule Subchapter. The request must contain such sufficient information as is believed sufficient for the Agency DEQ to make the requested determination and the required fee. The Agency DEQ may request any additional information that it needs for purposes of making the determination. [NOTE: From 252:100-8-3(f)]

252:100-8-1.3. Transfer of permit

The Transfer transfer of a stationary source or a facility to a new owner or operator is not considered an increase in emissions and does not require new permits. However, any transfer shall be subject the new owner or operator to existing permit conditions and/or compliance schedules. Notification of such transfers shall be made promptly in writing to the DEQ. The transferor shall notify the AOD in writing no later than 10 days following the change in ownership. No new permit is required. Transfer of permits for Part 70 sources is an administrative permit amendment and covered in 252:100-8-7.2(a)(1)(D). [NOTE: From 252:100-7-2(c)(2)]

252:100-8-1.4. ~~Failure Duty to comply with a construction permit~~

~~A violation of these limitations or conditions by the owner/operator shall subject the owner/operator to any or all enforcement penalties, including permit revocation, available under the Oklahoma Clean Air Act and Air Pollution Control Rules.~~

(a) An owner or operator who applies for a permit or authorization, upon notification of coverage, shall be bound by the terms and conditions therein. [NOTE: Based on 252:100-10-5(j)]

(b) An owner or operator who violates any condition of a permit or authorization is subject to enforcement under the Oklahoma Clean Air Act. [NOTE: 252:100-8-1.4(b) was based on 252:100-7-

252:100-8-1.5. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) Cancellation of permit or authorization to construct or modify. A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection subsection (b) of this Section section) if the construction is not commenced within 18 months after of the date the permit or authorization was issued issuance date, or if work is suspended for more than 18 months after it has commenced.

(b) Extension of permit or authorization to construct or modify.

(1) Prior to the expiration date of the permit or authorization expiration date, a permittee may apply for extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension Extensions for terms of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site-, or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under 252:100:8-1.5(b) (1) (B) or 252:100-8-1.5

(b) (1) (C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information. [NOTE: 252:100-8-1.5 is from 252:100-7-15(g)]

252:100-8-1.6. Stack height limitations

(a) Stack height exclusion. Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

~~(b) Definitions.~~ The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise: [NOTE: Definitions were moved to 252:100-8-1.1]

~~(1) "A stack in existence" means that the owner or operator had:~~

~~(A) begun, or caused to begin, a continuous program of physical on site construction of the stack; or~~

~~(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.~~

~~(2) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:~~

~~(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.~~

~~(B) The merging of exhaust gas streams where:~~

~~(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;~~

~~(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or~~

~~(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering~~

~~reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.~~

~~(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.~~

~~(3) "Emission limitations and emission standards" means a requirement which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87)~~

~~(4) "Stack" means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.~~

(b)(c) Determination of good engineering practice (GEP) stack height. GEP shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either OAC 252:100-7-16(c)(2)(A) or (B) 252:100-8-1.6(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under OAC 252:100-7-252:100-8 or Federal 40 CFR Part 52,

$$H_g = 2.5H$$

provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks,

$$H_g = H + 1.5L,$$

where: H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c)(d) Nearby. A structure or terrain feature shall be considered to be nearby:

(1) For purposes of applying the formula in OAC 252:100-7-16(c), if that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (0.5 mile), and

(2) For conducting demonstrations under OAC 252:100-7-16(c)(2), if not greater than 0.8 km (0.5 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height at 0.8 km (0.5 mile) from the stack that is at least 40 percent of the GEP stack height determined by the formulae in OAC 252:100-7-16(c)(3) or 26 meters, whichever is greater, as measured from the base of the stack. The height of the structure or terrain feature is measured from the ground level elevation at the base of the stack.

(1) For the formulae in 252:100-8-1.6(b)(2). A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in 252:100-8-1.6(b)(3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (Ht) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in 252:100-8-1.6(b)(2)(B) or 85.3 feet (26 meters), whichever is

greater, as measured from the base of the stack.

(3) Measurement of height of structure or terrain. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d)-(e) Excessive concentrations. When utilized for the purpose of determining GEP stack height under ~~OAC 252:100-7-16(e)(3)~~ 252:100-8-1.6(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under ~~OAC 252:100-7-16(e)(2)~~ 262:100-8-1.6(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 5 9 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Executive Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under ~~OAC 252:100-7-16(e)(2)~~ 252:100-8-1.6(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in ~~OAC 252:100-7-16(e)(2)~~ 252:100-8-1.6(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Executive Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under ~~OAC 252:100-7-16(e)(1)~~ 252:100-8-1.6(b)(2) where the Executive Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in ~~OAC 252:100-7-~~

16(e)(1) 252:100-8-1.6(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects. [NOTE: 252:100-8-1.6 was moved from 252:100-7-16]

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

(1) Applicability determination. \$100, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination. [NOTE: Based on 252-7-3(c)]

(2) Construction permit application. \$2,000

(1) Part 70 source construction permit \$2,000 [NOTE: from 252:100-7-3(b)(1)]

(3) Operating permit application.

(2) Permit processing fees. Permit processing fees shall be as follows:

(A) Initial Part 70 or major TSP facility permit -\$2,000.

(B) Authorization under a general permit - \$900

(C)-(B) Renewal Part 70 permit - \$1,000.

(D)-(C) Significant Part 70 Permit Mod. modification of Part 70 or major TSP facility permit - \$1,000.

(E)-(D) Minor modification of Part 70 or major TSP facility permit Permit Modification - \$ 500.

(E) The Part 70 Temporary Permit \$1,000.

(F)-(F) Part 70 Temporary Source Relocation - \$ 500.

[NOTE: 252:100-8-1.7(c) is from 252:100-8-9(d)(2)]

PART 5. PERMITS FOR MAJOR TSP FACILITIES

252:100-8-1.8. Major TSP facility construction permit

(a) Construction permit required. No person shall cause or allow the construction or modification installation of any new minor or major source TSP facility without first obtaining a DEQ-issued air quality construction permit to construct or modify the source. A construction permit is also required for any modification to add a piece of equipment or a process that is subject to a NSPS or NESHAP or to increase actual emissions of

any one regulated air pollutant by more than 5 TPY at an existing facility. [NOTE: from 252:100-7-15(a)(1)]

(b) Construction permit requirements.

(1) Content of construction permit application. An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application from form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include ~~including~~ but not be limited to: site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

~~(1) Site and process information. Site information, process description, emission data and, when required, BACT determination, modeling and sampling point data as follows:~~

(A) BACT determination. To be approved for a construction permit, a major TSP facility source must demonstrate that the control technology to be applied is the best that is available for TSP, each pollutant controlled under air pollution control rules if such pollutant would cause the source to be defined as a major source. This determination will be made on a case by case basis taking into account energy, environmental, cost and economic impacts of alternative control systems;

(B) Modeling. Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant; and

(C) Sampling points. If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. [NOTE: 252:100-8-1.8(b)(1) was taken from 252:100-7-15(b)]

(2) Public review participation. See 27A O.S.Supp. 1995, Section 2-14-101 et seq. and OAC 252:2-15. [NOTE: From 252:100-7-15(d)]

(c) Action on applications. See OAC 252:2-15, and Subchapter 6 of this Chapter.

(1) Review procedures. See OAC 252:2-15.

(2) Issuance or denial timelines. See Part 7 of OAC 252:2-15.

[NOTE: 252:100-8-1.8(c) is from 252:100-7-15]

(d) Construction permit contents. The construction permit:

(1) Shall require the permittee to comply with all applicable air pollution rules, federal new source performance standards ~~(NSPS)~~ NSPS and National Emission Standards for Hazardous Air Pollutants ~~(NESHAP)~~ NESHAP, established in sections 111 and 112 of the Federal Clean Air Act.

(2) Shall prohibit the exceedance of ambient air quality standards contained in 252:100-3, and

(3) May establish permit conditions and limitations as necessary to assure compliance with all rules.

[NOTE: From 252:100-7-15(a)(2)]

252:100-8-1.9. Major TSP facility operating permit

(a) Operating permit required.

(1) No person shall cause or authorize the operation of a new or modified major TSP facility source for more than a 180-day period without applying for a DEQ permit to operate.

(2) No owner or operator shall cause or authorize the operation of a new major TSP facility source if the DEQ denies or revokes a permit to operate. [NOTE: From 252:100-7-18(a)]

(b) Application Operating permit requirements.

(1) Content of operating permit application Application content. Application will shall be made on a form provided by the DEQ and. An application shall contain:

(A) The proposed operation start-up date, or phased dates when applicable.

(B) Revisions to the installation/construction, if any, that differed from the construction design and plan given in the permit application material, data and specifications.

(2) Performance testing. Before a permit to operate a new or modified major TSP facility source is granted, the applicant, if required by the DEQ, shall demonstrate compliance with applicable standards by conducting ~~conduct~~ emission test(s) test in accordance with methods approved by the DEQ with the tests being made at the expense of the applicant. The DEQ may monitor performance tests conducted by the applicant and may also conduct emissions tests. The results of any required test must be provided to the DEQ along with supporting information as required. [NOTE: 252:100-8-1.9(b) is from 252:100-7-18(b)]

(3) Public participation. See 27A O.S.Supp. 1995, Section 2-14-101 et seq.

(c) Action on application.

(1) Review procedures. See 252:100-2-15 252:2-15.

(2) Issuance or denial timelines. See Part 7 of 252:2-15.

[NOTE: 252:100-8-1.9(c) is from 252:100-7-15(c)]

(d) Operating permit conditions.

(1) Emissions Emission limitations established and made a part of the construction permit are ~~carried over,~~ incorporated into and are made enforceable limitations of the subsequently issued operating permit.

(2) Permit limitations in adjustment of, or in addition to, the a ~~minor source's~~ facility's construction permit limitations may be made a condition of the ~~minor source's~~ facility's operating permit issuance. [NOTE: 252:100-8-1.9(d) is from 252:100-7-18(c)]

PART 7. PERMITS FOR PART 70 Sources

252:100-8-2. Definitions

The following words and terms, when used in this Subchapter Part, shall have the following meaning, unless the context

clearly indicates otherwise. Except as specifically provided in this section, terms used in this ~~Subchapter~~ Part retain the meaning accorded them under the applicable requirements of the Act.

~~"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq. [NOTE: Moved to 252:100-8-1.1]~~

~~"Administratively complete" means the same as defined at OAC 252:002-11. an application that provides:~~

- ~~(A) All information required under 252:100-8-5(c);~~
- ~~(B) A landowner affidavit as required by 252:2-15-20(b)(3);~~
- ~~(C) The appropriate application fees as required by 252:100-8-1.7; and~~
- ~~(D) Certification by the responsible official as required by 252:100-8-5(d)~~

~~"Administrator" means the administrator of the United States Environmental Protection Agency (EPA) or the administrator's designee. [NOTE: Moved to 252:100-8-1.1]~~

~~"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.~~

~~"Affected states" means:~~

- ~~(A) all states:
 - ~~(i) That ~~that~~ are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and~~
 - ~~(ii) That in the judgment of the DEQ Agency, may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or~~~~
- ~~(B) all states that are within 50 miles of the permitted source.~~

~~"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.~~

~~"Agency" means Air Quality Division of the Oklahoma Department of Environmental Quality.~~

~~"Applicable requirement" means all of the following as they apply to emissions units in a ~~part~~ Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):~~

- ~~(A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 C.F.R. Part 52;~~
- ~~(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;~~
- ~~(C) Any standard or other requirement under section 111 of the Act, including section 111(d);~~
- ~~(D) Any standard or other requirement under section 112 of~~

the Act, including any requirement concerning accident prevention under section 112(r) (7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a) (3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

~~"Department" means the Department of Environmental Quality.~~

~~"Designated representative" means the same as the meaning given to it in section 402(26) of the Act and the regulations promulgated thereunder with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.~~

~~"Draft permit" means the version of a permit for which the Agency DEQ offers public participation under OAC 252:100-8-7(i)-27A O.S.Supp. 1995, §2-14-101 et seq. and 252:100-2-15 or affected State review under OAC 252:100-8-8.~~

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

~~"EPA" means the United States Environmental Protection Agency.~~
[NOTE: Moved to 252:100-8-1.1]

"Final permit" means the version of a part 70 permit issued by the Agency DEO that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and 252:100-8-8.

~~"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. [NOTE: In Subchapter 1]~~

"General permit" means a part 70 permit that meets the requirements of OAC ~~252:100-8-6(d)~~ 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed:

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 50 tons per year for single HAP that the EPA may establish by rule, and

(C) 0.06 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in 252:100-41-40.

Any activity to which a state or federal applicable requirement applies is not insignificant even if it meets the criteria above.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are is described in subparagraph (A), (B), or (C), ~~or (D)~~, of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions

from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except ~~Total Suspended Particulates (TSP)~~ TSP) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour

- heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

(i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(iii) For carbon monoxide non-attainment areas:

(I) that are classified as "serious"; and

(II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

~~(D) Notwithstanding the source categories in (A) through (C) of this definition, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this definition.~~

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

~~"Part 70 permit"~~ (unless the context suggests otherwise) means any permit or group of permits covering a part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter. [NOTE: Moved to 252:100-8-1.1]

~~"Part 70 program"~~ means a program approved by the Administrator under 40 C.F.R Part 70. [NOTE: Moved to 252:100-8-1.1]

~~"Part 70 source"~~ means any source subject to the permitting requirements of this Chapter, as provided in OAC 252:100-8-3(a) and 252:100-8-3(b). [NOTE: Moved to 252:100-8-1.1]

"Permit" (unless the context suggests otherwise) means any permit or group of permits covering a part Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a part Part 70 permit that meets the requirements of OAC ~~252:100-8-7(e)~~ 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC ~~252:100-8-9~~ 252:100-5-2.2 (whether such costs are incurred by the DEQ Agency or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

~~"Permitting authority"~~ means the Department of Environmental Quality/

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ Agency proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"Regulated air pollutant" means the following:

- (A) Nitrogen oxides or any volatile organic compounds compound (VOC), including those substances defined in at OAC 252:100-1-3, 252:100-37-2, 252:100-39-2, or any Volatile Organic Solvent (VOS), as that term is defined in at OAC 252:100-37-2 and 252:100-39-2, or any organic material defined at in 252:100-37-2 except those specifically excluded in the EPA definition of VOC per in 40 CFR 51.100(s);
- (B) Any pollutant for which a national ambient air quality standard has been promulgated;
- (C) Any pollutant that is subject to any standard promulgated

under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g) (2) of the Act have been met, but only with respect to the individual source subject to the section 112(g) (2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the ~~permitting authority~~ DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

- (i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
- (ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. 2-5-101 et seq. as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR C.F.R Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J.

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3. Applicability

(a) Covered sources. Except as exempted from the requirement to obtain a permit under subsection (b) of this Section and or elsewhere in this Subchapter Chapter, the following sources listed below are subject to the permitting requirements under this Subchapter Chapter. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section 252:100-8-3(a). [NOTE: The underlined language was formerly 252:100-8-3(g).]

- (1) Any major source (as defined in OAC 252:100-8-2);
- (2) Any source, ~~including an area source, subject to a NSPS standard, limitation, or other requirement under section 111 of the Act;~~
- (3) Any source, including an area source, subject to a NESHAP standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under

~~section 112(r) of the Act,~~

(4) Any affected source (as defined in OAC 252:100-8-2); and
(5) Any source in a source category designated by the Administrator pursuant to 40 CFR C.F.R. §70.3.

(b) Source category exemptions.

(1) All sources listed in subsection (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation.

~~(c) Emissions units and covered sources (Part 70 sources).~~

~~(1) For major sources, Part 70 permits shall include all applicable requirements and state only requirements for all relevant emissions units in the major source.~~

~~(2) For any non-major source subject to this Subchapter, Part 70 permits shall include all applicable requirements which apply to emissions units that cause the source to be subject to the requirement to obtain a permit. [NOTE: 252:100-8-3(c)(1) is covered in 252:100-8-6(a) and (c)(2) was deleted.]~~

~~(d) Fugitive emissions. Fugitive emissions from a covered source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. [NOTE: Revised and moved to 252:100-8-5(c)(3)(A)]~~

~~(e) Insignificant activities.~~

~~(1) The insignificant activities and emissions levels shall be as follows:~~

~~(A) emissions will not exceed one pound (1 lb.) per hour~~

~~for any one criteria pollutant, and~~
~~(B) emissions of toxic air contaminants will not exceed the de minimis requirements set forth under 252:100-41-43(a)(5).~~
~~(2) In addition to the quantity thresholds in (1)(A) and (1)(B) "Insignificant Activity" also means any individual or combination of air emissions sources at a facility that have an aggregate potential to emit that does not increase the overall potential to emit of the entire facility for a given regulated pollutant by more than 10% above the "baseline" permitted limit which excludes the insignificant activities. Thus, insignificant activities may apply to original permit application, permit modifications/amendments, and/or permit renewals. The cumulative amount of activities claimed as insignificant during a Title V permit term shall not increase the potential to emit of the entire facility by more than 10% of the permit limit for a given pollutant from the date of permit issuance to the date of application for renewal. These insignificant activities cannot conflict with significant emission levels in any Title V program. Insignificant activities must be identified but not quantified (except to the extent necessary to demonstrate their insignificance) in the permit application. The Agency shall maintain a list of activities which are considered to be insignificant without quantification by the permittee. The Agency shall also maintain a list of activities which are determined to be trivial. "Trivial activity" means any individual or combination of air emissions units at a Part 70 source which are considered inconsequential as determined by the Agency. Trivial activities need not be identified in the permit application, amendment or renewal. [NOTE: Moved to 252:100-8-2]~~
~~(f) Applicability determinations. Any person may submit a request in writing that the Agency make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule. The request must contain such information as is believed sufficient for the Agency to make the requested determination. The Agency may request any additional information that it needs for purposes of making the determination. [NOTE: Moved to 252:100-8-1.2(c)]~~
~~(g) Covered sources. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to 252:100-8-3(a). [NOTE: Moved to 252:100-8-3(a)]~~

252:100-8-4. ~~Title V permits required~~ Requirements for construction and operating permits

(a) Construction permits.

(1) Construction permit required. No person shall cause or allow the construction or modification installation of any new

minor or major source facility that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit to construct or modify the source. A construction permit is also required for any physical change that would be a modification under 252:100-8-7.2(b). [NOTE;

(a) (1) is from 252:100-7-15(a) (1)]

(2) Construction permit requirements. Construction permits and applications shall meet the applicable requirements of 252:100-8-1.8 and the applicable requirements of this Part. Applications and permits for sources subject to Part 9 or Part 11 of this Subchapter must also meet the applicable requirements contained therein. To be approved for a construction permit, a Part 70 source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source.

(3) Requirement for case-by-case MACT determinations.

(A) Applicability. The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) Exclusions. The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) MACT determinations. If Subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 1997.

(b) Operating permits.

(1) Operating permits required. Except as provided in paragraphs subparagraphs ~~(1)~~ (A) and ~~(2)~~ (B) of this section, no Title V Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) ~~(1)~~ If the owner or operator of a source subject to the requirement to obtain a permit submits a timely application for permit issuance or renewal, that source's failure to have a permit shall not be a violation of the requirement to

have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or ~~OAC 252:100-8-4~~ 252:100-8-5, any additional information identified as being reasonably required to process the application.

~~(B)-(2)~~ If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ at the end of the DEQ's administrative completeness review period, the applicant loses the protection granted under paragraph ~~(A) -(1)~~ of this section, as a result of its failure to timely provide information requested by the DEQ, the ~~The~~ source's failure to have a permit shall be deemed a violation of this Subchapter.

~~(C)-(3)~~ Filing an operating permit application shall not affect the requirement, if any, that any a source have a construction preconstruction permit under Title I of the federal Clean Air Act.

(2) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the ~~Division~~ DEQ in accordance with this section.

(3) Timely application. Sources that are subject to the operating permit program established by this Chapter as of the date the program is approved by EPA and becomes effective ~~(the "effective date")~~ March 6, 1996, shall file applications on the following schedules outlined in ~~OAC 252:100-8-5(b)-(2)~~ 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary main activity shall form the basis for the initial permit application.

(4) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than six months after the effective date of the federally approved interim state operating permit program September 5, 1996:

(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-

third of their total applications for major Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

- (I) Petroleum and Natural Gas, 1311;
- (II) Natural Gas Liquids, 1321;
- (III) Electric Services, 4911, 4961;
- (IV) Natural Gas Transmission, 4922;
- (V) Natural Gas Transmission and Distribution, 4923; and
- (VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(2)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the federally approved interim state operating permit program March 5, 1997.

(C) No later than 12 months after the effective date of the federally approved interim state operating permit program March 5, 1997, any owner or operator shall submit their applications for major Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Metals, 3312, 3315, 3321, 3379, 3341, 3351, 3411, 3412, 3432, 3466,
- (ii) Brick Plants, 3251, 3297,
- (iii) Commercial Printing, 2752, 2761.

(D) No later than 28 months after the effective date of the federally approved interim state operating permit program, July 5, 1998, any owner or operator shall submit their applications for major Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Refineries, 2911;
- (ii) Cement Plants, 3241;
- (iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;
- (iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;
- (v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program March 6, 1999.

(5) Newly regulated sources Application following effective date. A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete

operating permit application within 180 days of commencement of operation.

(6) Application acceptability. Notwithstanding the deadlines established in paragraph (4) paragraphs (1), (2), and (3) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. For purposes of the 60 day administrative review period established in OAC 252:2-15, the official login date for any Part 70 operating permit application submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.

(7) 112(g) applications. A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing construction.

(8) Application for renewal. Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) Phase II acid rain permits. Sources required to submit applications under the Acid Rain Program should shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) Application completeness. See Uniform Permitting Rules, OAC 252:010-3-50 and 3-51 252:2-15-70 and the definition of administratively complete in 252:100-8-2.

[NOTE: 252:100-8-4(b)(2) through (10) from 252:100-8-5(b)(1) through (8)]

252:100-8-5. Permit applications

~~(a) Construction permit. Any new source or modified source which becomes subject to this Subchapter shall be required to obtain a construction permit in accordance with OAC 252:100-7 prior to commencement of construction.~~

~~(b) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the Division in accordance with this section.~~

~~(1) Timely application. Sources that are subject to the operating permit program established by this Chapter as of the date the program is approved by EPA and becomes effective (the "effective date") shall file applications on the following schedules outlined in OAC 252:100-8-5(b)(2) 252:100-8-4(b)(2).~~

~~In the event a major source consists of operations under multiple SIC codes, the main activity shall form the basis for the initial permit application.~~

~~(2) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.~~

~~(A) No later than six months after the effective date of the federally approved interim state operating permit program:~~

~~(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.~~

~~(ii) Any owner or operator shall submit no less than one-third of their total applications for major sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):~~

~~(I) Petroleum and Natural Gas, 1311,~~

~~(II) Natural Gas Liquids, 1321,~~

~~(III) Electric Services, 4911, 4961,~~

~~(IV) Natural Gas Transmission, 4922,~~

~~(V) Natural Gas Transmission and Distribution, 4923,
and~~

~~(VI) Petroleum Bulk Stations and Terminals, 5171.~~

~~(B) All remaining Part 70 sources identified in (b) (2) (A) (ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the federally approved interim state operating permit program.~~

~~(C) No later than 12 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Metals, 3312, 3315, 3321, 3379, 3341, 3351, 3411,
3412, 3432, 3466,~~

~~(ii) Brick Plants, 3251, 3297,~~

~~(iii) Commercial Printing, 2752, 2761.~~

~~(D) No later than 28 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for~~

major sources located at sources classified by the following Standard Industrial Classification Codes:

- ~~(i) Refineries, 2911;~~
- ~~(ii) Cement Plants, 3241;~~
- ~~(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;~~
- ~~(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;~~
- ~~(v) Food Products, 2013, 2074, 2095.~~

~~(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program.~~

~~(3) Application following effective date. — A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.~~

~~(4) Application acceptability. Notwithstanding the deadlines established in paragraphs (1), (2), and (3) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. For purposes of the 60 day administrative review period established in OAC 252:2-15, the official login date for any Part 70 operating permit submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.~~

~~(5) 112(g) applications. — A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing construction.~~

~~(6) Application for renewal. Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case by case basis.~~

~~(7) Phase II acid rain permits. — Sources required to submit applications under the Acid Rain Program should submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).~~

~~(8) Application completeness. — See Uniform Permitting Rules, OAC 252:010-3-50 and 3-51.~~

[NOTE: 252:100-8-5(b)(1) through (9) moved to 252:100-8-4(b)]

~~(9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ issued Part 70 operating permit, a source may identify terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:~~

- ~~(i) information specified in OAC 252:100-8-5(d) for those products, processes, operations, and emissions that:
 - ~~(I) are not addressed in the existing permit;~~
 - ~~(II) are subject to applicable requirements or state only requirements that are not addressed in the existing permit; or~~
 - ~~(III) as to which the source seeks permit terms and conditions that differ from those in the existing permit; and~~~~
- ~~(ii) a compliance plan and certification as required in 252:100-8-5(d)(8). [NOTE: 252:100-8-5(b)(9) moved to 252:100-8-7.1(b)]~~

~~(a)-(10) Confidential information.~~ If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

~~(b)-(e) Duty to supplement or correct application.~~ Renumbered as OAC 252:100-6-50(f) See 252:100-6-50(e).

~~(c)-(d) Standard application form and required information.~~ Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with OAC 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to ~~OAC 252:100-8-9~~ 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any ~~such~~ insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the following information be provided:

- (1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.
- (2) A description of the source's processes and products (by

two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this subsection ~~(d)~~ (c) or OAC 252:100-8-3(b). ~~The source shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to determine the amount of any permit fees owed under the fee schedule approved pursuant to OAC 252:100-8-9.~~

(B) Identification and description of all points of emissions described in subparagraph ~~(d)~~ (c) (3) (A) of this section in sufficient detail to establish the basis for fees and applicability of the ~~federal Clean Air Act's~~ requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the ~~federal Clean Air Act~~).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements, and all state-only requirements, ~~and~~

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the ~~federal Clean Air Act~~ or of this Chapter

or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to OAC 252:100-8-6(a)(9) or to define permit terms and conditions implementing ~~OAC 252:100-8-6(h)~~ 252:100-8-6(f) or OAC 252:100-8-6(a)(10).

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements as follows:

~~(B) A description as follows:~~

(i) For applicable requirements, and state-only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements, and state-only requirements, that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

~~(B)(C)~~ For sources not in complete compliance, a A compliance schedule as follows:

~~(i) For applicable requirements, and state only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.~~

~~(ii) For applicable requirements, and state only requirements, that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.~~

(i)-(iii) A schedule of compliance for sources that are not in compliance with all applicable requirements, and state-only requirements, at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements, and state-only requirements, for which the source will be in noncompliance at the time of

permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

~~(ii)-(D)~~ A schedule for submission of certified progress reports no less frequently than every 6 months ~~for sources required to have a schedule of compliance under OAC 252:100-8-5(d)(8)(C)(iii).~~

~~(C)-(E)~~ The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the ~~federal Clean Air Act~~ with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements, and state-only requirements, by a responsible official consistent with subsection ~~(e)~~ (d) of this section and section 114(a)(3) of the ~~federal Clean Air Act~~;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement, state-only requirements, or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the ~~federal Clean Air Act~~.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the ~~federal Clean Air Act~~.

~~(11) A list of any such units which satisfy the definition of either insignificant activities or de minimis emissions.~~

(d)-(e) **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

(e)-(f) **Number of application copies.** See Part 3 of OAC 252:2-15.

252:100-8-6. Permit content

(a) **Standard permit requirements.** ~~To the extent practicable, every Part 70 permits permit issued under this Chapter shall include all applicable requirements, and state-only requirements, (as defined in ~~OAC~~ 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:~~

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements, and state-only requirements, and shall include those operational ~~requirements~~ conditions and limitations necessary to assure compliance with all ~~applicable~~ such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement, ~~and or~~ state-only requirement, upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the ~~federal Clean Air Act~~ is more stringent than an applicable requirement of regulations promulgated under Title IV of the ~~federal Clean Air Act~~, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If an ~~applicable~~ the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) **Operating Permits.** The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) ~~(A)~~ and (ii) ~~(B)~~ of this paragraph:

(i) ~~(A)~~ Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) ~~(B)~~ Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the ~~federal Clean Air Act~~ shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) **Construction permits.** See 252:100-8-1.5.

(3) **Monitoring and related recordkeeping and reporting requirements.**

(A) ~~Each permit shall contain the following requirements~~

~~with respect to monitoring.~~ Monitoring requirements.

(i) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the ~~federal Clean Air Act~~;

(ii) Where ~~the~~ an applicable requirement, ~~and~~ or state-only requirement, does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data ~~from the relevant time period~~ that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, ~~and~~ installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) Recordkeeping requirements. ~~With respect to recordkeeping, the~~ The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions ~~as~~ existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify

that records may be maintained in computerized form.

(C) Reporting requirements. ~~With respect to reporting,~~
~~the~~ The permit shall incorporate all applicable reporting
requirements and require the following requirements:

(i) A permit issued under this ~~Chapter~~ Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C) (i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from emergency or upset conditions as defined in ~~OAC 252:100-8-6(g)~~ 252:100-8-6(e) shall be reported within 24 hours of the date on which the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report such notice must contain a description of the emergency, any steps taken to mitigate emissions and corrective actions taken.

[NOTE: The underlined language is from 252:100-8-6(g) (3) (D)]

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or preventative measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C) (iii) of this paragraph must be submitted within ten days of the

exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of OAC 252:100-9.

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the ~~federal Clean Air Act~~, the permit need only specify that ~~it~~ the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) **Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the ~~federal Clean Air Act~~ or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

(i) enforcement action;

(ii) permit termination, revocation and reissuance, or modification; or

(iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance

if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under ~~OAC 252:100-8-7(e)(1)~~ 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort, or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to ~~OAC 252:100-8-5(b)(10)~~ 27A O.S. 1993 Supp. Section 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under ~~OAC 252:100-8-9~~ 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements, and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

(b) **Federally enforceable requirements.**

(1) Except as provided in paragraph (b) (2) of this section, all terms and conditions in a permit issued under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the ~~federal Clean Air Act~~.

(2) Notwithstanding paragraph (b) (1) of this section, the DEQ shall designate as not being federally enforceable under the ~~federal Clean Air Act~~ any terms and conditions included in the permit that are not required under the ~~federal Clean Air Act~~ or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the ~~federal Clean Air Act~~.

(c) **Compliance requirements.** All permits issued under this ~~Chapter~~ Part shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a) (3) of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this ~~Chapter~~ Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to perform the following ~~(subject to the permittee's right to seek confidential treatment pursuant to OAC 252:100-8-5(b)(10) for confidential information submitted to or obtained by the DEQ under this subsection):~~

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the ~~federal Clean Air Act~~ Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) A schedule of compliance ~~if to the extent~~ required under ~~OAC 252:100-8-5(d)(8)(C)~~ 252:100-8-5(c)(8)(B).

(4) To the extent required under an applicable schedule of compliance and ~~OAC 252:100-8-5(d)(8)~~ 252:100-8-5(c)(8), progress reports, to be submitted semiannually, or more frequently if specified in the applicable requirement or by

the DEQ. Such progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:

(A) The frequency (which shall be annually unless the applicable requirement, ~~and~~ or state-only requirement, specifies submission more frequently) of submissions of compliance certifications;

(B) In accordance with paragraph (a) (3) of this section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The permittee's current compliance status, as shown by monitoring data and other information available to the permittee;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a) (3) of this section; and

(v) Such other facts as the DEQ may require to determine the compliance status of the source;

(D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;

(E) Such additional requirements as may be specified pursuant to sections 114(a) (3) and 504(b) of the ~~federal Clean Air Act~~; and

(6) Such other provisions as the DEQ may require.

~~(d) General permits.~~

~~(1) The DEQ may, after notice and opportunity for public participation, issue a general permit to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the~~

~~federal Clean Air Act.~~

~~(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.~~

~~(3) A general permit may be issued for the following purposes:~~

~~(A) to establish terms and conditions to implement applicable requirements, and state only requirements, for a source category;~~

~~(B) to establish terms and conditions to implement applicable requirements, and state only requirements, for specified categories of changes to permitted sources;~~

~~(C) to establish terms and conditions for new requirements that apply to sources with existing permits; and~~

~~(D) to establish federally enforceable caps on emissions from sources in a specified category.~~

~~(4) The DEQ may issue a general permit if it finds that:~~

~~(A) there are several permittees, permit applicants, or potential permit applicants who have the same or substantially similar operations, emissions, activities, or facilities;~~

~~(B) the permittees, permit applicants, or potential permit applicants emit the same types of regulated air pollutants;~~

~~(C) the operations, emissions, activities, or facilities are subject to the same or similar standards, limitations, and operating requirements; and~~

~~(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring requirements.~~

~~(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit.~~

~~(A) Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.~~

~~(B) See OAC 252.2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency shall act to approve or deny the application within 90 days of filing.~~

~~(C) A final action approving an authorization to operate~~

~~under a general permit shall not be subject to public comment or judicial review.~~

~~(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ.~~

~~(7) A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit.~~

~~(8) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may apply for and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252.100-8-3 of this part to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shield shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.~~

[NOTE: General permits was moved to 252:100-8-6.1]

~~(e) Temporary sources. The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:~~

- ~~(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;~~
- ~~(2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and~~
- ~~(3) Conditions that assure compliance with all other provisions of this section. [NOTE: Moved to 252:100-8-6.2]~~

~~(d)(f) Permit shield.~~

~~(1) Each operating permit issued under this section Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter)~~

shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for as ~~to~~ which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this section or in the permit shall alter or affect the following:

(A) the provisions of section 303 of the ~~federal Clean Air Act~~, including the authority of the EPA Administrator under that section;

(B) the liability of an owner or operator of a source for any violation of applicable requirements, ~~and or~~ or state-only requirements, prior to or at the time of permit issuance;

(C) the applicable requirements of the acid rain program, consistent with section 408(a) of the ~~federal Clean Air Act~~; or

(D) the ability of EPA to obtain information from a source pursuant to section 114 of the ~~federal Clean Air Act~~.

(e) ~~(g)~~ **Emergencies.**

(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of ~~preventative~~ preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method.

(2) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph ~~(g)~~ (e) (3) of this section and the reporting requirements of 252:100-8-6(a) (3) (C) (iii) (I) are met.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous

operating logs, or other relevant evidence that:

(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) The permitted facility was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit, and.

~~(D) The permittee submitted notice of the emergency to the DEQ within 24 hours of the time when emission limitations were exceeded due to the emergency. Such notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. [NOTE: Moved to 252:100-8-6(a)(3)(C)(iii)(I)]~~

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(5) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

~~(f)-(h) Operational flexibility. Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.~~

(1) **Applicant's duty to apply for alternative scenarios.**

Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make changes within the facility that:

(A) Are not modifications under any provision of Title I of the ~~federal Clean Air Act~~;

(B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; ~~or~~ and

(C) Result in a net Net change in emissions is of zero. ~~provided~~ Provided that the facility provides notifies the Administrator and the permitting authority DEQ and EPA in writing at least 7 days with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, or such shorter time frame that permitting authority allows for emergencies [as defined in OAC 252:100-8-6(g)]. The source, permitting authority DEQ, and EPA shall attach each such notice to their copy of

the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

~~(3) Emissions trading in permit. A permitted source may rely on the authority of this section to trade increases and decreases in emissions within the facility, where the implementation plan provides for such emissions trades without a permit modification. In such a case, the advance written notice provided by the permittee shall identify the underlying authority authorizing the trading and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements, and state-only requirements, with which the source will comply through emissions trading, and such other information as may be required by the applicable requirement authorizing the emissions trade.~~

252:100-8-6.1 General permits

(a) Applicability.

(1) The DEQ may, after notice and opportunity for public participation, issue a general permit for to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the federal Clean Air Act.

(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.

(3) A general permit may be issued for the following purposes to establish:

(A) to establish terms Terms and conditions to implement applicable requirements, and state-only requirements, for a source category.

(B) to establish terms Terms and conditions to implement applicable requirements, and state-only requirements, for specified categories of changes to permitted sources.

(C) to establish terms Terms and conditions for new

requirements that apply to sources with existing permits, and.

(D) to establish federally enforceable Federally-enforceable caps on emissions from sources in a specified category.

(4) The DEQ may issue a general permit if it finds that:

(A) There ~~there~~ are several permittees, permit applicants, or potential permit applicants who: have the same or substantially similar operations, emissions, activities, or facilities;

(i) Have the same or substantially similar operations, emissions, activities, or facilities.

(ii) ~~(B) the permittees, permit applicants, or potential permit applicants emit~~ Emit the same types of regulated air pollutants.

~~(B) ~~(C) the~~ The operations, emissions, activities, or facilities are subject to the same or similar: standards, limitations, and operating requirements; and~~

(i) Standards, limitations, and operating requirements.

(ii) ~~(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring~~ Monitoring requirements.

[NOTE: 252:100-8-6.1(a) (1) through (4) was 252:100-8-6(d) (1) through (4)]

~~(5) ~~(8)~~ If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may must apply for an individual Part 70 permit for all of its covered sources. and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252:100-8-3 of this part to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.~~

[NOTE: Was 252:100-8-6(d) (8)]

(6) Facilities located in areas that are federally designated as non-attainment are not eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h) (3)]

(7) Sites that are not in compliance with all applicable State and Federal air regulations are eligible for a general operating permit only if:

(A) They submit to DEQ an approvable compliance plan, and

(B) The facility submits to Tier II public review. [NOTE: From 252:100-10-5(h) (5)]

(8) Facilities with existing state operating permits are eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h)(6)]

(9) Facilities existing prior to the effective date of any applicable standard that would have created specific quantifiable and enforceable emission rates are eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h)(7)]

(b) Authorization.

(1)~~(5)~~ A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit. ~~(A)~~ Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit. [NOTE: Was 252:100-8-6(d)(5)]

(2)~~(B)~~ See OAC 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency DEQ shall act to approve or deny the application within 90 days of filing. [NOTE: Was 252:100-8-6(d)(5)(B)]

(3)~~(C)~~ A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review. [NOTE: Was 252:100-8-6(d)(5)(C)]

(4)(d) The DEQ will publish, at least monthly, an updated list of sources approved for inclusion under the general operating permit and any aggrieved person may petition the DEQ to review the approval of any stationary source for inclusion under a general operating permit within 30 days after publication of the list. [NOTE: From 252:100-10-3(d)]

(5)~~(6)~~ A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ. [NOTE: Was 252:100-8-6(d)(6)]

(c) Permit Shield. A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit. [NOTE: Was 252:100-8-6(d)(7)]

(d) Revisions

(1)~~(b)~~ If an owner or operator of a source(s) makes a change to a source covered by a general operating permit that affects any applicability information supplied in the general operating permit application, but the source is still eligible for coverage authorized to operate under a general operating

permit, the owner or operator must revise the general operating permit application and submit it to the DEQ within 60 days.

(2)(e) After coverage is granted to a particular source under the general permit, physical changes to the facility which result in the addition of equipment new to the facility, either as a replacement (except like-kind replacements) or net addition, will require a construction permit or a new authorization permit except as allowed in (d) (3) below. Any significant modification to a stationary source included under a general operating permit shall subject the source to a Tier II review.

(3)(e) If equipment new to the facility is newly purchased or is relocated from another facility where a permit was issued with enforceable emissions limits on that equipment, then authorization approval under the general operating permit shall be modified or amended to include an emissions limit for the newly purchased or relocated equipment. "Grandfathered" emissions sources at the facility will retain only the equipment descriptions as permit conditions. "Grandfathered" means a unit which that was in existence prior to the effective date of any applicable regulation which that would have created specific quantifiable and enforceable emissions rate limits.

(4)(f) For a general operating permit, if emissions change for any reason that subjects the facility to PSD permitting requirements, then the facility no longer qualifies for a general operating permit. However, the existing general operating permit will remain valid during the time period covered by the PSD construction permit until the facility receives a Part 70 site specific operating permit for the entire facility.

[NOTE: 252:100-8-6.1(d) (1) through (4) are from 252:100-10-5(b), (c), (e) and (f) respectively]

(e) Permit Content. Specific terms and conditions that which will make the applicable rules and requirements enforceable shall be stipulated in the general operating permit. [NOTE: From 252:100-10-5(h) (8)]

(f) Renewal of general operating permits.

(1) The DEQ will initiate the renewal process for a general operating permit at least 180 days prior to the permit's expiration date and will follow the requirements in 252:100-8-7(a).

(2) Owners or operators shall apply to renew an authorization at least 60 days prior to expiration of the existing authorization. Upon submittal of a timely and administratively complete application, the applicant may continue to operate until such time as the DEQ grants or denies coverage under the general operating permit.

252:100-8-6.2(e) Temporary sources. The DEQ may issue a single

permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

- (1) Conditions that will assure compliance with all applicable requirements at all authorized locations;
- (2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and
- (3) Conditions that assure compliance with all other provisions of this section. [NOTE: 252:100-8-6.2 was moved from 252:100-8-6(e)]

252:100-8-6.3.(i) Special provisions for affected (acid rain) sources

(a)(1) Application binding until permit issuance or denial. A complete acid rain permit application is binding on the applicant and enforceable as a an acid rain permit until an acid rain permit is issued or denied. For applicable permitting procedures, see OAC 252:2-15.

(b)(2) Exemption petitions. Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.

(c)(3) Permit shield. The acid rain portion of every operating permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the ~~federal Clean Air Act~~, will be deemed to be operating in compliance with the Acid Rain Program.

(d)(4) Modifications. See 40 CFR 72.82.

(e)(5) Duration. Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.

(f)(6) Right of intervention. The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.

(g)(7) Administrative appeal. The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.

(h)(8) Adoption of 40 CFR Part 72 by reference. ~~Owners or operators of sources subject to the acid rain provisions of the federal Clean Air Act shall comply with applicable provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, which is hereby adopted by reference as rules of the Environmental Quality Board. In such regulations, the term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States~~

Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with this Chapter, the Part 72 provisions and requirements shall apply and take precedence.

~~(8) The Oklahoma Department of Environmental Quality DEQ hereby adopts and incorporates by reference the provisions of 40 CFR Part part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993 for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part part 72 conflict with or are not included in Oklahoma Administrative Code 252:100-8, the Part part 72 provisions and requirements shall apply and take precedence.~~

252:100-8-7. Permit issuance, renewal, reopenings, and revisions

(a) Action on application; issuance/denial criteria.

(1) **Criteria for issuance.** A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S.Supp. 1995, Section 2-14-101 et seq.; OAC 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and for applications subject to OAC 252:100-8-8, that the requirements of that section have been satisfied.

(2) **Draft permits and notice thereof.** See OAC 252:2-15. The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).

(3) **EPA review.** See OAC 252:100-8-8.

(4) **DEQ final action.** See OAC 252:2-15, and OAC 252:100-8-8 when applicable.

(5) **Timeline for technical review and issuance.** See OAC 252:2-15-70 through 15-72. ~~Except as provided in paragraphs (A) and (B) of this paragraph, the The~~ DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with 252:2-15-70 through 15-72 and OAC ~~252:100-8-5(b)(5)~~ 252:100-8-4(b)(7).

(6) **Action priorities.** See OAC ~~252:100-8-5(b)~~ 252:100-8-4(b)(2) through (10) and 252:100-8-7.1(b).

(7) **No issuance by default.** See 27A:2-5-112(D).

(b) **Requirement for a permit.** See OAC ~~252:100-8-4(b)~~ 252:100-8-4.

252:100-8-7.1.(e) Permit renewal and expiration

(a) Timely application for permit renewal.

(1) Applications for permit renewal after the transition

period, and for permits permit for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection.

(2) Stationary sources operating under permits issued by the DEQ under this Subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit.

[NOTE: Was 252:100-8-7(c) (5)]

(b)-(9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ issued Part 70 operating permit, a source may identify and incorporate by reference terms and conditions in its previous permit and permit application(s) that should remain unchanged. terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:

(1)-(i) information specified in OAC 252:100-8-5(d) 252:100-8-5(c) for those products, processes, operations, and emissions that:

(A)-(I) That are not addressed in the existing permit;

(B)-(II) That are subject to applicable requirements, or state-only requirements that are not addressed in the existing permit; or

(C)-(III) For as to which the source seeks permit terms and conditions that differ from those in the existing permit; and

(2)-(ii) a compliance plan and certification as required in OAC 252:100-8-5(d)(8) 252:100-8-5(c)(8). [NOTE: Was 252:100-8-5(b)(9)]

(c)-(2) Issuance of renewal permit. Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under OAC 252:100-8-7(a).

(d) Expiration of permit.

~~(1)(3)~~ A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration.

~~(2)(4)~~ If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time.

~~(5) Stationary sources operating under permits issued by the DEQ under this subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit.~~

[NOTE: Moved to 252:100-8-7.1(a)(2)]

252:100-8-7.2.(d) Administrative permit amendments and permit modifications

(a) Administrative permit amendments.

~~(1) When used in this subsection An "Administrative administrative permit amendment" means a permit revision that:~~

~~(A) Corrects typographical errors;~~

~~(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;~~

~~(C) Requires more or less frequent monitoring or reporting by the permittee;~~

~~(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;~~

~~(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under this Part OAC 252:100-7. Enhanced New Source Review (NSR) procedures apply to all major sources and all State Implementation Plan (SIP) minor source changes to majors.~~

~~(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act 40 CFR~~

Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph ~~(d)(1)(E)~~ 252:100-8-7.2(a)(1)(E) of this section.

~~(b)(e)~~ **Permit modification.** A permit modification is any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under subsection ~~(d)~~ (a) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act 40 CFR Part 72.

(1) **Minor permit modification procedures.**

(A) **Criteria.**

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, or state-only requirement, and that which the source has assumed to avoid an some other applicable requirement, or state-only requirement, to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5)

of the federal Clean Air Act; and

(V) Are not modifications under any provision of Title I of the federal Clean Air Act.

(ii) Notwithstanding ~~OAC 252:100-8-7(e)(1)(A)(i)~~ 252:100-8-7.2(b)(1)(A)(i) and ~~OAC 252:100-8-7(e)(2)(A)~~ 252:100-8-7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable the State's implementation plan or in applicable requirements promulgated by EPA.

(B) **Application.** To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements, ~~and~~ or state-only requirements, that will apply if the change occurs;

(ii) The source's suggested modification language;

(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and

(iv) Completed forms for any notices required by OAC 252:2-15 and, ~~regarding notice to EPA and affected states, as required under~~ subparagraph (C) of this paragraph.

(C) **EPA and affected state notification.** If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) **Timetable for issuance.** Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15, the DEQ shall:

(i) Issue the minor permit modification as approved;

(ii) Deny the minor permit modification application; or

(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) **Source's ability to make change.** Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change ~~allowed by the preceding sentence,~~ and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this section

subsection, the source must comply with both the applicable requirements and state-only requirements, governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) Permit shield. The permit shield under ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) will not extend to minor permit modifications.

(G) Permittee's risk in commencing construction. The ~~permittee permittees~~ assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) Significant modification procedures.

(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:

(i) Involve any significant changes in amendment to existing monitoring, reporting, or recordkeeping requirements in the permit;

(ii) Relax any reporting or recordkeeping requirements.

~~(iii)~~ (ii) Require any amendment to establish or amend a permit condition that Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

~~(iv)~~ (iii) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and or state-only requirement, and that which the source has assumed to avoid an some other applicable requirement, and or state-only requirement, to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the ~~federal Clean Air Act~~; and

~~(v)~~ (iv) Are modifications under any provision of Title I of the federal Clean Air Act; and,

~~(vi)~~ (v) Do not qualify as minor permit modifications or administrative amendments.

(B) Procedures for processing. Significant permit

modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements, ~~and or state-only requirements,~~ that will apply if the change occurs.

(C) **Issuance.** The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

252:100-8-7.3. ~~(f)~~ **Reopening for cause**

(a) ~~(1)~~ **Mandatory reopening.** Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:

(1) ~~(A)~~ Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original permit or any of its terms and conditions has been extended pursuant to the application shield provided at ~~OAC 252:100-8-7(e)(4)~~ 252:100-8-7.1(d)(2) beyond the 18-month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

(2) ~~(B)~~ Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, ~~administrator~~, excess emissions offset plans shall be deemed to be incorporated into the permit.

(3) ~~(C)~~ The DEQ agency or the ~~administrator~~ EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

(4) ~~(D)~~ The Administrator ~~administrator~~ or the DEQ agency determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) ~~(2)~~ **Discretionary reopening.** The DEQ agency may reopen and amend a permit when:

(1) ~~(A)~~ additional state-only requirements become applicable to a permitted stationary source, and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;

(2) ~~(B)~~ alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;

~~(3)(C)~~ the DEQ agency receives information previously unavailable to the DEQ agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;

~~(4)(D)~~ a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; and

or

~~(5)(E)~~ an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.

~~(c)(3)~~ **Reopening procedures.** To reopen and amend a permit, the DEQ agency shall follow the procedures that apply to significant permit amendments under this chapter, unless the amendment can be made as an administrative amendment under ~~OAC 252:100-8-7(d)~~ 252:100-8-7.2(a). Mandatory reopenings under ~~OAC 252:100-8-7(f)(1)~~ 252:00-8-7.3(a) shall be made as expeditiously as practicable. In lieu of an application, the significant permit amendment process will commence when the DEQ agency gives the permittee written notice of its intent to amend the permit. The DEQ agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the DEQ agency has given the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit that which the DEQ agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.

~~(d)(g)~~ **Reopenings for cause by EPA.**

(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the DEQ ~~permitting authority~~ and the permittee of such findings in writing.

(2) The DEQ ~~permitting authority~~ shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the DEQ ~~permitting authority~~ must require the permittee to submit additional information.

(3) The Administrator will review the proposed determination from the DEQ ~~permitting authority~~ within 90 days of receipt.

(4) The DEQ ~~permitting authority~~ shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.

(5) If the DEQ ~~permitting authority~~ fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.

(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

252:100-8-7.4.(h) Revocations

~~(a)(1)~~ **Revocation of a permit or authorization under a general permit** ~~Permit revocation without reissuance.~~ The DEQ agency may revoke permits or authorizations under a general permit and not reissue them when:

~~(1)(A)~~ there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit or authorization, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;

~~(2)(B)~~ the permittee fails to disclose fully the facts relevant to issuance of the permit or authorization or submits false or misleading information to the DEQ agency or the Administrator administrator;

~~(3)(C)~~ the permittee has failed to comply with any requirement under ~~OAC 252:100-9~~ 252:100-5 to pay fees; or

~~(4)(D)~~ the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, or schedule of compliance.

~~(b)(2)~~ **Revocation procedures.** The DEQ agency shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the DEQ agency may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the DEQ agency shall hold the hearing in accordance with the Oklahoma Administrative Procedures Act.

~~(i)~~ **Public participation.** See 27A O.S. Supp. 1995, §2-14-101 et seq. and OAC 252:2-15.

252:100-8-7.5.(j) Judicial review

Any final action in granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to judicial review in the court of appropriate jurisdiction upon an application filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. Except for authorizations under General Permits, judicial review is available to all affected parties for all final permit actions including minor modifications and administrative actions. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive

means for obtaining judicial review of any permit action.

(1) No application for judicial review may be filed more than 90 days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within 90 days of the date on which the grounds for review first arose and review shall be limited to such later-arising grounds.

(2) Any application for judicial review shall be limited to issues that:

(A) were raised in ~~written~~ comments filed with the DEQ Agency or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and

(B) are germane and material to the permit action at issue.

(3) For purposes of this section, "final action" shall include a failure by the DEQ Agency to take final action to grant or deny an application within the time specified in this Chapter.

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This section applies only to specific Tier II and III applications for Part 70 operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the ~~federal Clean Air Act~~ or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.**

For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See 27A O.S.Supp. 1995, § 2-5-112(E); 27A O.S.Supp. 1995, § 2-14-101 et seq.; and ~~0AC~~ 252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in ~~0AC~~ 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S.Supp.

1995, § 2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (Tier I) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of OAC 252:2-15.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

(A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or

(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA

accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

- (i) issue the amended or revised draft permit (Tier II) as final, or
- (ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in OAC 252:002-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAC 252:100-8-7 through 252:100-8-7.5 except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with 27A O.S.Supp. 1995, Section 2-14-101 et seq., the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

~~252:100-8-9. Permit fees~~ [NOTE: The contents of this Section were moved to 252:100-5 and 252:100-8-1.7]

~~(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the~~

context clearly indicates otherwise.

~~(1) "Actual emission" means the total amount of regulated pollutant (for fee calculation) emitted from a given facility during a particular calendar year, as determined by methods contained in OAC 252:100-8-9(d).~~

~~(2) "Allowable emissions" means the total amount of regulated pollutant (for fee calculation) emitted based on limits contained in a federally enforceable permit or potential to emit.~~

~~(3) "Emission inventory" means a compilation of the total of all point source, storage and process fugitive air emissions for all regulated pollutant (for fee calculation) at a given facility.~~

~~(4) "Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.~~

~~(b) Fee required. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the part 70 program costs. The permitting authority shall ensure that any fee required by these rules will be used solely for part 70 program costs.~~

~~(c) Applicability. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995, and as of this date shall no longer be subject to the major source annual operating fee specified in 252:100-7-4 (b) (1) (A).~~

~~(d) Fee schedule for Part 70 sources.~~

~~(1) Annual fees. The annual fee shall be calculated on a source specific basis and may be based on either actual or allowable emissions at the option of the owner or operator paying the fee as set forth in the facility emissions inventory. Fees shall be based on emission inventories submitted in the previous calendar year. (For example, fee invoiced during calendar year 1995 shall be based upon inventory data covering the calendar year 1993).~~

~~(A) Annual fees shall be determined according to the following.~~

- ~~(i) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing, or~~
- ~~(ii) where both actual and allowable emission are reflected on the inventory, the lesser of the two shall be used.~~

~~(B) Annual fees shall be as follows:~~

- ~~(i) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant.~~
- ~~(ii) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year~~

~~differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.~~

~~(iii) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a part 70 source shall not be considered in the calculation of the annual fee.~~

~~(2) Permit processing fees. Permit processing fees shall be as follows:~~

~~(A) Initial Part 70 permit \$2,000.~~

~~(B) Renewal Part 70 permit \$1,000.~~

~~(C) Significant Part 70 Permit Mod. \$1,000.~~

~~(D) Minor Part 70 Permit Modification \$ 500.~~

~~(E) The Part 70 Temporary Permit \$1,000.~~

~~(F) Part 70 Temporary Source Relocation \$ 500.~~

~~(3) Payment. Fees will be paid by check or money order made payable to the Oklahoma Air Quality fund or upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1 1/2%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq., as amended.~~

~~(4) Emissions inventory. The owner or operator of any Part 70 source shall by April 1, 1994, and every succeeding year thereafter, submit a complete emission inventory on forms obtained from the Agency. These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee. The methods of calculation to be utilized in the development of an emission inventory shall be in accordance with the methods described in OAC 252:100-7-4(c).~~

**PART 9. PREVENTION OF SIGNIFICANT DETERIORATION (PSD)
REQUIREMENTS FOR ATTAINMENT AREAS**

[NOTE: Was 252:100-7-30 through 37]

252:100-8-30. Applicability

The new source requirements of this Part, in addition to the requirements of ~~OAC 252:100-7-15 through 252:100-7-18 and 252:100-8~~, Parts 1, 3, 5, and 7 of this Subchapter, if applicable, shall apply to the construction of all major stationary sources and major modifications as specified in OAC

~~252:100-7-31 252:100-8-31 through 252:100-7-33 252:100-8-33,~~
following and are effective upon adoption of this Subchapter by
Oklahoma. Except that the requirements of this Part will not be
necessary for sources required to meet the permit requirements of
the United States Environmental Protection Agency under Title 40
Part 52.21 of the Code of Federal Regulations. Sources subject to
this Part are also subject to the operating permit provisions
contained in Part 5 of OAC 252:100-8, Operating Permit Program
~~(Part 70) Permits for Major TSP Facilities, or Part 7, Permits~~
for Part 70 Sources.

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

~~"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:~~

~~(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~

~~(B) The reviewing authority may presume that source specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~

~~(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. [NOTE: in SC-1]~~

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ Air Quality Division on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility. [NOTE from 252:100-7-36(a)]

~~"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which~~

~~restrict the operating rate, or hours of operation, or both) and the most stringent of the following:~~

~~(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;~~

~~(B) the applicable State rule allowable emissions, or,~~

~~(C) the emissions rate specified as an enforceable permit condition. [NOTE: in SC-1]~~

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m³ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. (Effective May 11, 1991)

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. (Effective May 11, 1991)

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,

(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or ~~OAC 252:100-7~~ 252:100-8, Part 5 9) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988. (Effective May 11, 1991)

~~"Begin actual construction" means, in general, initiation of physical on site construction activities on an emissions unit which are of a permanent nature. Such activities include, but~~

are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: in SC-1]

~~"Best available control technology" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case basis taking into account energy, environmental, costs and economic impacts of alternate control systems. [NOTE: in SC-1]~~

~~"Building, structure, facility or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972 1987, as amended by the 1977 Supplement.~~

~~"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:~~
~~(A) begun, or caused to begin, a continuous program of actual on site construction of the source, to be completed within a reasonable time, or,~~
~~(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: in SC-1]~~

~~"Complete" in reference to an application for a permit, means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information. [NOTE: in SC-1]~~

~~"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: in SC-1]~~

~~"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: in SC-1]~~

~~"Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative. [NOTE: Moved from 252:100-8-36(a)]~~

~~"Fugitive emissions" means those emissions which could not~~

reasonably pass through a stack, chimney, vent or other functionally equivalent opening. [NOTE: in SC-1]

~~"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non air quality environmental impacts. [NOTE: in SC-1]~~

~~"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.~~

~~(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(B) A physical change or change in the method of operation shall not include:~~

~~(i) routine maintenance, repair and replacement.~~

~~(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.~~

~~(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.~~

~~(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.~~

~~(v) Use of an alternate fuel or raw material by a source which:~~

~~(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or,~~

~~(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252.100-7.~~

~~(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.~~

~~(vii) Any change in source ownership. [NOTE: in SC-1]~~

~~"Major stationary source" means any source which meets any of the following conditions:~~

~~(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:~~

~~(i) carbon black plants (furnace process),~~

~~(ii) charcoal production plants,~~

~~(iii) chemical process plants,~~

~~(iv) coal cleaning plants (with thermal dryers),~~

- (v) coke oven batteries,
- (vi) fossil-fuel boilers (or ~~combustion~~ combination thereof) totaling more than 250 million BTU per hour heat input,
- (vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,
- (viii) fuel conversion plants,
- (ix) glass fiber processing plants,
- (x) hydrofluoric, sulfuric or nitric acid plants,
- (xi) iron and steel mill plants,
- (xii) kraft pulp mills,
- (xiii) lime plants,
- (xiv) municipal incinerators capable of charging more than 250 tons of refuse per day,
- (xv) petroleum refineries,
- (xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (xvii) phosphate rock processing plant,
- (xviii) portland cement plants,
- (xix) primary aluminum ore reduction plants,
- (xx) primary copper smelters,
- (xxi) primary lead smelters,
- (xxii) primary zinc smelters,
- (xxiii) secondary metal production plants,
- (xxiv) sintering plants,
- (xxv) sulfur recovery plants, or
- (xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration. [NOTE: From 252:100-8-36(a)]

~~"Necessary preconstruction approvals or permits" means these permits or approvals required under all applicable air quality control laws and rules. [NOTE: in SC-1]~~

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

- (i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,
- (ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular

change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under ~~OAC 252:100-7, Part 3~~ 252:100-8, Part 9, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. (Effective May 11, 1991)

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

~~"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: in SC-1]~~

~~"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purposes of OAC 252:100-7, Part 5 secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include,~~

but are not limited to:

- ~~(A) emissions from trains coming to or from the new or modified stationary source, and,~~
- ~~(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: in SC-1]~~

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (i) carbon monoxide: 100 tons per year (tpy),
- (ii) nitrogen oxides: 40 tpy,
- (iii) sulfur dioxide: 40 tpy,
- (iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,
- (v) ozone: 40 tpy of volatile organic compounds,
- (vi) lead: 0.6 tpy,
- (vii) asbestos: 0.007 tpy,
- (viii) beryllium: 0.0004 tpy,
- (ix) mercury: 0.1 tpy,
- (x) vinyl chloride chloride: 1 tpy,
- (xi) fluorides: 3 tpy,
- (xii) sulfuric acid mist: 7 tpy,
- (xiii) hydrogen sulfide (H₂S): 10 tpy,
- (xiv) total reduced sulfur (including H₂S): 10 tpy, and
- (xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 ug/m³ (24-hour average).

~~"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100. [NOTE: in SC-1]~~

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

[NOTE: From 252:100-8-36(a)]

252:100-8-32. Source applicability determination

Proposed new sources and source modifications to which this Part 5 of ~~this Subchapter~~ is applicable are determined by size, geographical location and type of emitted pollutants.

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit,

net emissions increase, significant and other associated definitions in 252:100-8-31 and 252:100-1.

(B) ~~When At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of OAC 252:100-7-15 through 252:100-7-18 and OAC 252:100-7, Part 7 252:100-8, Parts 1, 3, 5, 7 and 9 shall apply to that source or modification as though construction had not yet commenced on it.~~

(2) Location.

(A) Sources and modifications which are major in size and proposed for construction in an area which has been designated as attainment or unclassified for any applicable ambient air standard are subject to the ~~prevention of significant deterioration~~ PSD requirements.

(B) Those sources and modifications locating in an attainment or unclassified area but impacting on a nonattainment area may also be subject to the requirements for major sources affecting nonattainment areas in 252:100-8, Part 11 of OAC 252:100-7, Part 7.

252:100-8-33. Review, applicability and exemptions Exemptions

(a) Exemptions from PSD requirements. PSD requirements do not apply to a particular source or modification ~~do not apply~~ if:

- (1) It is a nonprofit health or educational institution.
- (2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

- (A) ~~carbon black plants (furnace process),~~ One of the categories listed in (A) (i) through (xxvi) under the definition of "Major stationary source" in 252:100-8-31, or
- (B) ~~charcoal production plants,~~
- (C) ~~chemical process plants,~~
- (D) ~~coal cleaning plants (with thermal dryers),~~
- (E) ~~coke oven batteries,~~
- (F) ~~fossil fuel boilers (or combustion combination thereof) totaling more than 250 million BTU per hour heat input,~~
- (G) ~~fossil fuel fired steam electric plant of more than 250 million BTU per hour heat input,~~
- (H) ~~fuel conversion plants,~~
- (I) ~~glass fiber processing plants,~~
- (J) ~~hydrofluoric, sulfuric or nitric acid plants,~~
- (K) ~~iron and steel mills,~~
- (L) ~~kraft pulp mills,~~
- (M) ~~lime plants,~~
- (N) ~~municipal incinerators capable of charging more than 250 tons of refuse per day,~~

- ~~(O) petroleum refineries,~~
- ~~(P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,~~
- ~~(Q) phosphate rock processing plants,~~
- ~~(R) portland cement plants,~~
- ~~(S) primary aluminum ore reduction plants,~~
- ~~(T) primary copper smelters,~~
- ~~(U) primary lead smelters,~~
- ~~(V) primary zinc smelters,~~
- ~~(W) secondary metal production plants,~~
- ~~(X) sintering plants,~~
- ~~(Y) sulfur recovery plants,~~
- ~~(Z) taconite ore processing plants, or~~
- ~~(AA) A any other stationary source category which, as of August 7, 1980, is being regulated by federal New Source Performance Standards (NSPS) NSPS or National Emission Standards for Hazardous Air Pollutants (NESHAP) NESHAP.~~

(3) The source or modification is a portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) Exemption from air quality impact evaluation.

(1)(b) The requirements of ~~OAC 252:100-7-35~~ 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2)(e) The requirements of ~~OAC 252:100-7-35~~ 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of best available control technology, would be less than 50 tons per year.

(c) Exemption from monitoring requirements.

(1)(d) The monitoring requirements of ~~OAC 252:100-7-35~~ 252:100-8-35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

- (A)(1) Carbon monoxide - 575 ug/m³, 8-hour average,
- (B)(2) Nitrogen dioxide - 14 ug/m³, annual average,
- (C)(3) Particulate matter - 10 ug/m³, TSP, 24-hour average, or 10 ug/m³ PM-10, 24-hour average,
- (D)(4) Sulfur dioxide - 13 ug/m³, 24-hour average,
- (E)(5) Ozone - see (N) ~~(14)~~ below,
- (F)(6) Lead - 0.1 ug/m³, 24-hour 3-month average,

- (G) ~~(7)~~ Mercury - 0.25 ug/m³, 24-hour average,
- (H) ~~(8)~~ Beryllium - 0.0005 0.001 ug/m³, 24-hour average,
- (I) ~~(9)~~ Fluorides - 0.25 ug/m³, 24-hour average,
- (J) ~~(10)~~ Vinyl chloride - 15 ug/m³, 24-hour average,
- (K) ~~(11)~~ Total reduced sulfur --10 ug/m³, 1-hour average,-
- (L) ~~(12)~~ Hydrogen sulfide - 0.04 0.2 ug/m³, 1-hour average,
or
- (M) ~~(13)~~ Reduced sulfur compounds - 10 ug/m³, 1-hour
average.
- (N) ~~(14)~~ No de minimis air quality level is provided for
ozone. However, any net increase of 100 tons per
year or more of volatile organic compounds subject
to PSD would be required to perform an ambient
impact analysis, including the gathering of
ambient air quality data.

(2) The requirements for air quality monitoring in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c) and (d)(2) shall not apply to a particular source or modification that was subject to Federal 40 CFR 52.21 as in effect on June 19, 1978, if a permit application in accordance with OAC 252:100-7 is was submitted before June 8, 1981 and the Executive Director subsequently determines determined that the application as submitted was complete except for with respect to the requirements of OAC 252:100-7 other than those in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c) and (d)(2) and with respect to the requirements for such analyses at 40 CFR 52.21 (m) (2) as in effect on June 19, 1978. Instead, the latter requirements in 40 CFR 52.21(m) (2) as in effect on June 19, 1978, shall apply to any such source or modification. [NOTE: was 252:100-7-33(f)]

(3) The requirements for air quality monitoring in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c), and (d)(2) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application in accordance with OAC 252:100-7 is was submitted before June 8, 1981 and the Executive Director subsequently determines determined that the application as submitted was complete, except for with respect to the requirements in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c) and (d)(2). [NOTE: was 252:100-7-33(g)]

(4) The Executive Director shall determine if the requirements for air quality monitoring of PM-10 in OAC 252:100-7-35(a) 252:100-8-35(a) through 252:100-7-35(d) 252:100-8-35(c) and 252:100-8-35(d)(2) may be waived for a particular source or modification when the owner or operator of the source or modification submits an application for a permit was submitted on or before June 1, 1988 and the Executive Director subsequently determines that the application, except with respect to for the requirements for monitoring particulate matter under OAC 252:100-7-35(a)

~~252:100-8-35(a) through 252:100-7-35(d)~~ 252:100-8-35(c) and 252:100-8-35(d)(2), was complete before that date. [NOTE: was 252:100-7-33(i)]

(5) ~~The requirements for air quality monitoring of PM-10 in OAC 252:100-7-35(b) 252:100-8-35(b), (c), (d)(2) and (d)(6) through 252:100-7-35(d) and 252:100-7-35(h) shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-7-33(b) 252:100-8-33(b)(1), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-7-35(b) 252:100-8-35(b)(1) and 252:100-7-35(e) 252:100-8-35(c) shall have been gathered over that shorter period.~~ [NOTE was 252:100-7-33(j)]

~~(d)(e)~~ **Exemption from BACT requirements and monitoring requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for best available control technology in ~~OAC 252:100-7-34~~ 252:100-8-34 and for monitoring in ~~OAC 252:100-7-35(a) 252:100-8-35(a) through 252:100-7-35(f) 252:100-8-35(c) and 252:100-8-35(d)(2) through 252:100-8-35(d)(4)~~ are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification.

~~(f)~~ The requirements for air quality monitoring in ~~OAC 252:100-7-35(b) through 252:100-7-35(d)~~ shall not apply to a particular source or modification that was subject to Federal 40 CFR 52.21 as in effect on June 19, 1978 if a permit application in accordance with OAC 252:100-7 is submitted before June 8, 1981 and the Executive Director subsequently determines that the application as submitted was complete with respect to the requirements of OAC 252:100-7 other than those in OAC 252:100-7-35(b) through 252:100-7-35(d) and with respect to the requirements for such analyses at 40 CFR 52.21 (m) (2) as in effect on June 19, 1978. Instead, the latter requirements shall apply to any such source or modification. [NOTE: Moved to 252:100-8-33(c)(2)]

~~(g)~~ The requirements for air quality monitoring in ~~OAC 252:100-7-35(b) through 252:100-7-35(d)~~ shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978 if a permit application in accordance with OAC 252:100-7 is submitted before June 8, 1981 and the Executive Director subsequently determines that the application as submitted was complete, except with respect to the requirements in ~~OAC 252:100-7-35(b) through 252:100-7-35(d)~~. [NOTE: Moved to 252:100-8-33(c)(3)]

(e)(h) Exemption of modifications. As specified in the applicable definitions of OAC 252:100-7-31, 252:100-8-31 and 252:100-1, the requirements of OAC 252:100-7-252:100-8, Part 5 9 for PSD and 252:100-7-252:100-8, Part 7 11 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right.

~~(i) The Executive Director shall determine if the requirements for air quality monitoring of PM 10 in OAC 252:100-7-35(a) through 252:100-7-35(d) may be waived for a particular source or modification when the owner or operator of the source or modification submits an application for a permit on or before June 1, 1988 and the Executive Director subsequently determines that the application, except with respect to the requirements for monitoring particulate matter under OAC 252:100-7-35(a) through 252:100-7-35(d), was complete before that date. [NOTE: Moved to 252:100-8-33(c)(4)]~~

~~(j) The requirements for air quality monitoring of PM 10 in OAC 252:100-7-35(b) through 252:100-7-35(d) and 252:100-7-35(h) shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-7-33(b), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-7-35(b) and 252:100-7-35(c) shall have been gathered over that shorter period. [NOTE: Moved to 252:100-8-33(c)(5)]~~

~~(k) For any application that becomes complete, except as to the requirements of OAC 252:100-7-35(b) through 252:100-7-35(d) pertaining to monitoring of PM 10, after December 1, 1988 and no later than August 1, 1989, the data that OAC 252:100-7-35(b) and 252:100-7-35(c) require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that OAC 252:100-7-35(b) and 252:100-7-35(c) require shall have been gathered over that shorter period. [NOTE: Moved to 252:100-8-35(d)(3)(B)]~~

~~(l) With respect to any requirements for air quality monitoring of PM 10 under OAC 252:100-7-33(i) and 252:100-7-33(j), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM 10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director. [NOTE: Moved to 252:100-8-35(d)(1)]~~

~~(f)~~(m) Exemption from impact analyses. The requirements of OAC ~~252:100-7-35~~ 252:100-8-35 and ~~252:100-7-36~~ 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988.

~~(g)~~(n) Exemption from increment consumption. Excluded from increment consumption are the following cases:

- (1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.
- (2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.
- (3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source.

252:100-8-34. Best available control ~~Control~~ technology

- (a) A new source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein for each regulated pollutant that it would have the potential to emit in significant amounts).
- (b) A major modification must demonstrate that the control technology to be applied is the best that is available for each regulated pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.
- (c) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.
- (d) For phased construction projects the determination of best available control technology shall be reviewed and modified at the discretion of the Executive Director at a reasonable time but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of best available control technology.

252:100-8-35. Air quality impact evaluation

- (a) Application contents. Any application for a permit shall contain, as the Executive Director determines appropriate, an evaluation of ambient air quality in the area that the source or modification would affect for each of the following pollutants:

- (1) for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;
- (2) for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(b) ~~Continuous monitoring data.~~ For visibility and any pollutant, other than volatile organic compounds, for which an ambient air quality standard does exist exists, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Executive Director determines is necessary to assess the ambient air quality for that pollutant in that area. (Amended 7-9-87, effective 8-10-87)

(c) **Increment consumption.** The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Executive Director.

(d) Monitoring.

(1) Monitoring method. With respect to any requirements for air quality monitoring of PM-10 under ~~OAC 252:100-7-33(i)~~ 252:100-8-33(c)(4) and 252:100-7-33(j) 252:100-8-33(c)(5), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM-10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director. [NOTE: was 252:100-7-33(1)]

(2)-(d) Monitoring period. The required monitoring data shall have been gathered for a time period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data collected for a time period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Executive Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment.

(3)-(e) Monitoring period exceptions.

(A) For any application which becomes complete except as to the monitoring requirements of ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) through ~~252:100-7-35(d)~~ 252:100-8-35(c) and 252:100-8-35(d)(2), between June 8, 1981 and February 9, 1982, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-~~

~~35(e)~~ 252:100-8-35(c) require shall have been gathered over the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(i)~~(1)~~ If the source or modification would have been major for that pollutant under Federal 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(ii)~~(2)~~ If the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period, not to be less than four months, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over that shorter period.

(iii)~~(3)~~ If the monitoring data would relate exclusively to ozone and would not have been required under Federal 40 CFR 52.21 as in effect on June 19, 1978, the Executive Director may waive the otherwise applicable requirements of ~~OAC 252:100-7-35(e)~~ 252:100-8-35(d) (3) (A) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(B) For any application that becomes complete, except as to the requirements of ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b), (c) and (d) (2) through 252:100-7-35(d) pertaining to monitoring of PM-10, after December 1, 1988 and no later than August 1, 1989, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and (c) 252:100-7-35(e) require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over that shorter period. [NOTE: was 252:100-7-33(k)]

(4)~~(f)~~ **Ozone post-approval monitoring.** The application for a source or modification of volatile organic compounds which satisfies all conditions of ~~OAC 252:100-7-54~~ 252:100-8-54 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under ~~OAC 252:100-7-35~~ 252:100-8-35.

(5)~~(g)~~ **Post-construction monitoring.** The applicant for a permit for a new source or modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Executive Director determines necessary to determine the effect its emissions may have, or are having, on air quality in any area. (Amended 7-9-87, effective 8-10-87)

(6)~~(h)~~ **Monitoring system operation.** The operation of monitoring stations for any air quality monitoring required

under Part 5 9 of this Subchapter shall meet the requirements of 40 CFR 58 Appendix B.

(e) ~~(i)~~ **Air quality models.**

(1) Any air quality dispersion modeling that is required under Part 5 9 of this Subchapter for estimates of ambient concentrations shall be based on the applicable air quality models, data bases and other requirements specified in the Guidelines on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.

(2) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Executive Director. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models.

(f) ~~(j)~~ **Growth analysis.** Upon request of the Executive Director the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification.

(g) ~~(k)~~ **Visibility and other impacts analysis.** The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Executive Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Executive Director deems necessary and appropriate. (Amended 7-9-87, effective 8-10-87)

252:100-8-36. Source impacting Class I areas

~~(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~(1) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the Air Quality Division on a case by case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:~~

- ~~(A) times of visitor use of the Federal Class I area; and~~
- ~~(B) the frequency and timing of natural conditions that reduce visibility. [NOTE: Moved to 252:100-8-31]~~

~~(2) "Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative. [NOTE: Moved to 252:100-8-31]~~

~~(3) "Installation" means an identifiable piece of process equipment. (Amended 7-9-87, effective 8-10-87) [NOTE: in SC-1]~~

~~(4) "Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration. [NOTE: Moved to 252:100-8-31]~~

~~(5) "Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions. [NOTE: Moved to 252:100-8-31]~~

~~(a)(b)~~ **Permits issuance.** Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts.

~~(b)(c)~~ **Impact analysis required.** The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Executive Director shall notify the appropriate Federal Land Manager of the receipt of any such analysis and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Executive Director provided that the analysis is filed with the DEQ Air Quality Division within 30 days of receipt of the application by the Land Manager. Where the Executive Director finds that such an analysis does not demonstrate to the satisfaction of the Executive Director that an adverse impact on visibility will result in the Federal Class I area, the Executive Director will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and sufficient information, by a Federal federal Land land Manager manager, the Executive Director may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be exceeded.

252:100-8-37. Innovative control technology

(a) An applicant for a permit for a proposed major source or modification may request the Executive Director in writing to approve a system of innovative control technology.

(b) The Executive Director may determine that the innovative control technology is permissible if:

(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in

its operation or function.

(2) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for best available control technology under OAC ~~252:100-7-34~~ 252:100-8-34 by a date specified by the Executive Director. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

(3) The source or modification would meet the requirements equivalent to those in OAC ~~252:100-7-15 through 252:100-7-18~~ Parts 1, 5 and 7 of this Subchapter and ~~252:100-7-36~~ 252:100-8-36 based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the Executive Director.

(4) The source or modification would not, before the date specified, cause or contribute to any violation of the applicable ambient air standards, or impact any Class I area or area where an applicable increment is known to be violated.

(5) All other applicable requirements including those for public review have been met.

(c) The Executive Director shall withdraw approval to employ a system of innovative control technology made under OAC ~~252:100-7-37~~ 252:100-8-37, if:

(1) The proposed system fails by the specified date to achieve the required continuous reduction rate; or,

(2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(3) The Executive Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with OAC ~~252:100-7-37(e)~~ 252:100-8-37(c), the source or modification may be allowed up to an additional 3 years to meet the requirement for application of best available control technology through the use of a demonstrated system of control.

PART 11. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50. Applicability

The new source requirements of this ~~Section~~ Part, in addition to the applicable requirements of OAC ~~252:100-7-15 through 252:100-7-18~~ and ~~OAC 252:100-8~~ Parts 1, 3, 5 and 7 of this Subchapter, shall apply to the construction of all major sources and major modifications affecting designated nonattainment areas as specified in OAC ~~252:100-7-51~~ 252:100-8-51 through ~~252:100-7-53~~ 252:100-8-53, and are effective upon adoption of this

~~Subchapter by Oklahoma. Except that the requirements of Part 7 of this Subchapter will not be necessary for sources required to meet the permit requirements of the United States Environmental Protection Agency under Title 40 Part 52.24 of the Code of Federal Regulations. Sources subject to this Part which are Part 70 sources are also subject to the provisions of OAC 252:100-8.~~

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

~~"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:~~

~~(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~

~~(B) The reviewing authority may presume that source specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~

~~(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. [NOTE: in SC-1]~~

~~"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:~~

~~(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;~~

~~(B) the applicable State rule allowable emissions; or,~~

~~(C) the emissions rate specified as an enforceable permit condition. [NOTE: in SC-1]~~

~~"Begin actual construction" means, in general, initiation of physical on site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on site activities, other than preparatory activities, which mark the initiation of the~~

change. [NOTE: in SC-1]

~~"Building, structure, facility" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.~~

[NOTE: in SC-1]

~~"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:~~

~~(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,~~

~~(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: in SC-1]~~

~~"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: in SC-1]~~

~~"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: in SC-1]~~

~~"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. [NOTE: in SC-1]~~

~~"Installation" means an identifiable piece of process equipment. [NOTE: in SC-1]~~

~~"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act). [NOTE: in SC-1]~~

~~"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.~~

~~(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(B) A physical change or change in the method of operation~~

shall not include:

- ~~(i) routine maintenance, repair and replacement;~~
- ~~(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;~~
- ~~(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;~~
- ~~(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;~~
- ~~(v) Use of an alternate fuel or raw material by a source which:
 - ~~(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or,~~
 - ~~(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7.~~~~
- ~~(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or~~
- ~~(vii) any change in source ownership. [NOTE: in SC-1]~~

~~"Major stationary source" means:~~

- ~~(A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,~~
- ~~(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.~~
- ~~(C) for ozone, a source that is major for volatile organic compounds shall be considered major. [NOTE: in SC-1]~~

~~"Necessary preconstruction approvals or permits" means those permits or approvals required under all air quality control laws and rules. [NOTE: in SC-1]~~

~~"Net emissions increase" means:~~

- ~~(A) The amount by which the sum of the following exceeds zero:
 - ~~(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,~~
 - ~~(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.~~~~
- ~~(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.~~
- ~~(C) An increase or decrease in actual emissions is creditable~~

~~only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-7, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.~~

~~(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.~~

~~(E) A decrease in actual emissions is creditable only to the extent that:~~

~~(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;~~

~~(ii) it is enforceable at and after the time that actual construction on the particular change begins;~~

~~(iii) the reviewing authority has not relied on it in issuing any permit under State air quality rules; and,~~

~~(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.~~

~~(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days. [NOTE: in SC-1]~~

~~"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: in SC-1]~~

~~"Reconstruction" means the replacement of components of an existing source (which will then be treated as a new source for purposes of Part 7 of this Subchapter) to the extent that will be determined by the Executive Director based on:~~

~~(A) the fixed capital cost (the capital needed to provide all the depreciable components) of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source; and,~~

~~(B) the estimated life of the source after the replacements is comparable to the life of an entirely new source; and,~~

~~(C) the extent to which the components being replaced cause or contribute to the emissions from the source. [NOTE: in SC-1]~~

~~"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a~~

~~resource recovery facility under Part 7 of this Subchapter.~~

[NOTE: in SC-1]

~~"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purpose of OAC 252:100-7, Part 7, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:~~

~~(A) emissions from trains coming to or from the new or modified stationary source; and,~~

~~(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: in SC-1]~~

"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (A) Carbon monoxide: 100 tons per year (tpy),
- (B) Nitrogen oxides: 40 tpy,
- (C) Sulfur dioxide: 40 tpy,
- (D) Particulate matter: 15 tpy of PM-10 emissions,
- (E) Ozone: 40 tpy of volatile organic compounds, or
- (F) Lead: 0.6 tpy.

~~"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation. [NOTE: in SC-1]~~

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 7 11 of this Subchapter are applicable are determined by size, geographical location and type of emitted pollutants:

(1) **Size.**

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in 252:100-8-51 and 252:100-1.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of ~~OAC 252:100-7-15 through 252:100-7-18 and Part 7~~ Parts 1, 3, 5, 7 and 11 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications ~~which~~ that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 5 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Pollutant	Concentration, ug/m ³				
	Averaging Time (hours)				
	Annual	24	8	3	1
SO ₂	1.0	5		25	
PM-10	1.0	5			
NO ₂	1.0				
CO			500		2000

(B) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(C) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in ~~OAC 252:100-7-52(3)~~ 252:100-8-52(3) are exempted from the condition of ~~OAC 252:100-7-54(4)(A)~~ 252:100-8-54(4)(A).

(D) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data

are available to account for the expected oxidation rate.
(E) The determination as to whether a source would cause or contribute to a violation of applicable ambient air standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

(F) Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:

(i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.

(ii) The new emission ~~limitation~~ limitations for the new source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.

252:100-8-53. Exemptions

(a) Nonattainment area requirements do not apply to a particular source or modification locating in or impacting on a nonattainment area if:

(1) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

- (A) carbon black plants (furnace process),
- (B) charcoal production plants,
- (C) chemical process plants,
- (D) coal cleaning plants (with thermal dryers),
- (E) coke oven batteries,
- (F) fossil-fuel boilers (or ~~combustion~~ combination thereof) totaling more than 250 million BTU per hour heat input,
- (G) fossil fuel-fired steam electric plant of more than 250 million BTU per hour heat input,
- (H) fuel conversion plants,
- (I) glass fiber processing plants,
- (J) hydrofluoric, sulfuric or nitric acid plants,
- (K) iron and steel mills,
- (L) kraft pulp mills,
- (M) lime plants,
- (N) municipal incinerators capable of charging more than 250 tons of refuse per day,
- (O) petroleum refineries,
- (P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,
- (Q) phosphate rock processing plants,

- (R) portland cement plants,
- (S) primary aluminum ore reduction plants,
- (T) primary copper smelters,
- (U) primary lead smelters,
- (V) primary zinc smelters,
- (W) secondary metal production plants,
- (X) sintering plants,
- (Y) sulfur recovery plants,
- (Z) taconite ore processing plants, or
- (AA) any other stationary source category which, as of August 7, 1980, is being regulated by ~~federal New Source Performance Standards (NSPS)~~ NSPS or ~~National Emission Standards for Hazardous Air Pollutants (NESHAPS)~~ NESHAP.

(2) A source or modification was not subject to 40 CFR Part 51, Appendix S (emission offset interpretative ruling) as in effect on January 16, 1979 and the source:

- (A) obtained all final federal and state construction permits before August 7, 1980;
- (B) commenced construction within 18 months from August 7, 1980 or any earlier time required by the State Implementation Plan; and,
- (C) did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(b) Secondary emissions are excluded in determining the potential to emit (see definition of "potential to emit" in ~~OAC 252:100-7-51~~ 252:100-1). However, upon determination of the Executive Director, if a source is subject to the requirements on the basis of its direct emissions, the applicable requirements must also be met for secondary emissions but the source would be exempt from the conditions of ~~OAC 252:100-7-52(3)(F)~~ 252:100-8-52(3)(F) and ~~OAC 252:100-7-54(1)~~ 252:100-8-54(1) through ~~252:100-7-54(3)~~ 252:100-8-54(3). Also, the indirect impacts of mobile sources are excluded.

(c) As specified in the applicable definitions, the requirements of Part 5 9 for PSD and Part 7 11 for nonattainment areas of this Subchapter are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to the existing minor source is major in its own right.

252:100-8-54. Requirements for sources located in nonattainment areas

In the event a major source or modification would be constructed in an area designated as nonattainment for a pollutant for which the source or modification is major, approval shall be granted only if the following conditions are met:

- (1) The new source must demonstrate that it has applied control technology which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate (LAER) achieved in practice by

such category of source (i.e., lowest achievable emission rate as defined in the ~~Federal Clean Air Act~~).

(2) If the Executive Director determines that imposition of an enforceable numerical emission standard is infeasible, due to technological or economic limitations on measurement methodology, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed as the emission limitation rate.

(3) The owner or operator of the new source must demonstrate that all other major sources owned or operated by such person in Oklahoma are in compliance, or are meeting all steps on a schedule for compliance, with all applicable limitations and standards under Oklahoma and Federal Clean Air Acts.

(4) The owner or operator of the new source must demonstrate that upon commencing operations:

(A) the emissions from the proposed source and all other sources permitted in the area do not exceed the planned growth allowable for the area designated in the State Implementation Plan; or,

(B) the total allowable emissions from existing sources in the region and the emissions from the proposed source will be sufficiently less than the total emissions from existing sources allowed under the State Implementation Plan at the date of construction permit application so as to represent further progress toward attainment or maintenance of the ambient air quality standards in the problem area.

(5) The owner or operator may present with the application an analysis of alternate sites, sizes and production processes for such proposed source.

APPENDIX I. INSIGNIFICANT ACTIVITIES LIST

COMBUSTION EQUIPMENT

* Stationary reciprocating engines burning natural gas, gasoline, aircraft fuels, or diesel fuel which are either used exclusively for emergency power generation or for peaking power service not exceeding 500 hours/year

Space heaters, boilers, process heaters, and emergency flares less than or equal to 5 MMBTU/hr heat input (commercial natural gas).

Emissions from stationary internal combustion engines rated less than 50 hp output

Emissions from gas turbines with less than 215 kilowatt rating of electric output

STORAGE TANKS/DISTRIBUTION

* Emissions from fuel storage/dispensing equipment operated solely for facility owned vehicles if fuel throughput is not more than 2,175 gallons/day, averaged over a 30-day period

* Storage tanks with less than or equal to 10,000 gallons capacity that store volatile organic liquids with a true vapor pressure less than or equal to 1.0 psia at maximum storage temperature

* Bulk gasoline or other fuel distribution with a daily average throughput less than 2,175 gallons per day, including dispensing, averaged over a 30-day period

Gasoline, diesel fuel, aircraft fuel, and fuel oil handling facilities, equipment, and storage tanks except those subject to New Source Performance Standards and standards in 252:100-37-15, 39-30, 39-41, and 39-48, or with a capacity greater than 400 gallons

Emissions from condensate tanks with a design capacity of 400 gallons or less in ozone attainment areas

Emissions from crude oil and condensate marine and truck loading equipment operations at crude oil and natural gas production sites where the loading rate does not exceed 10,000 gallons per day averaged over a 30-day period

* Emissions from crude oil and condensate storage tanks with a capacity of less than or equal to 420,000 gallons that store crude oil and condensate prior to custody transfer

* Emissions from storage tanks constructed with a capacity less than 39,894 gallons which store VOC with a vapor pressure less than 1.5 psia at maximum storage temperature

ANALYSIS/LABORATORY ACTIVITIES

Additions or upgrades of instrumentation or control systems that result in emissions increases less than the pollutant quantities specified in 252:100-8-3(e)(1)

EQUIPMENT

Alkaline/phosphate washers and associated burners
Cold degreasing operations utilizing solvents that are denser than air

* Welding and soldering operations utilizing less than 100 pounds of solder and 53 tons per year of electrodes

Wood chipping operations not associated with the primary process operation

* Torch cutting and welding of under 200,000 tons of steel fabricated per year

REMIEDIATION

Site restoration and/or bioremediation activities of < 5 years expected duration

Hydrocarbon contaminated soil aeration pads utilized for soils excavated at the facility only

Emissions from the operation of groundwater remediation wells including but not limited to emissions from venting, pumping, and collecting activities subject to de minimis limits for air toxics (252:100-41-43) and HAPs (§112(b) of CAAA90)

SOLID WASTE

* Non-commercial water washing operations (less than 2,250 barrels/year) and drum crushing operations of empty barrels less than or equal to 55 gallons with less than three percent by volume of residual material

Hazardous waste and hazardous materials drum staging areas

Sanitary sewage collection and treatment facilities other than incinerators and Publicly Owned Treatment Works (POTW)
Stacks or vents for sanitary sewer plumbing traps are also included (i.e., lift station)

Emissions from landfills and land farms unless otherwise regulated by an applicable state or federal regulation

COATINGS

* Automobile body shops located in an ozone attainment area emitting less than 5 tons/year of volatile organic solvents

Electrophoretic-process coating application operations (i.e., paint bath positively charged, painted object negatively charged)

* Surface coating operations which do not exceed a combined total usage of more than 60 gallons/month of coatings, thinners, and clean-up solvents at any one emissions unit

MISCELLANEOUS

Exhaust systems for chemical, paint, and/or solvent storage rooms

or cabinets, including hazardous waste satellite (accumulation) areas
Hand wiping and spraying of solvents from containers with less than
1 liter capacity used for spot cleaning and/or degreasing in ozone
attainment areas

* Activities having the potential to emit no more than 5 TPY
(actual) of any criteria pollutant (see instructions in Title V
application)

* Appropriate records of hours, quantity, or capacity must be kept on the activity to verify its insignificance.

APPENDIX J. TRIVIAL ACTIVITIES LIST

TRIVIAL ACTIVITIES

THIS IS AN INTERIM LIST AWAITING EPA APPROVAL. Unless otherwise regulated, the list follows:

1. Lawn care (noncommercial)
2. Weed control (noncommercial)
3. Pest control (noncommercial)
4. Wood working (saw-cutting, staining & varnishing) (noncommercial)
5. Janitorial services
6. Sweeping (Floor Sweep)
7. Insulation installing or removal (non-asbestos)
8. Acid washing (maintenance cleaning)
9. Caustic washing (maintenance cleaning)
10. Abrasive blasting
11. Steam cleaning
12. Application of refractory & insulation (calcium silicate, etc.)
13. Welding, brazing, soldering for maintenance purposes
14. Use of adhesives for maintenance purposes
15. Grinding, cutting, sanding for maintenance purposes
16. Seal replacement (i.e., manhole gaskets)
17. Removal of basic sediment & water from collection/storage systems (i.e., clarifiers)
18. Roof coating, service, and repair
19. Hydraulic or hydrostatic testing
20. Plastic or fiberglass welding or repair
21. Paving of roads, parking lots, and other areas
22. Office emissions (photocopying, blueprint copying, photograph processes)
23. Outdoor recreational emissions (campfires, barbecue pits)
24. Open burning for the purpose of land management (must get permission from Air Quality Enforcement even though exempt from permitting)
25. Air conditioning or comfort ventilation systems, to include space heating, not regulated under Title VI of the Clean Air Act
26. Emissions from laundry care equipment processing bedding, clothing or other fabric items. These include dryers, extractors, & tumblers. NOT CLEANING OPERATIONS
27. USING PERCHLOROETHYLENE OR PETROLEUM SOLVENTS (i.e., dry cleaning) Surface coating for maintenance purposes such as roll/brush/pad coating, painting with aerosol cans, spray airless, and conventional spray painting
28. Emissions from lube oil, seal oil, or hydraulic fluid storage tanks and equipment as long as not emitting VOCs or HAPs
29. Lubricating pumps, sumps, and systems
30. Fuel storage tanks less than or equal to 10,000 gallons capacity having a true vapor pressure at storage conditions less than 1.5 psia. This includes Fuel Oils Nos. 2 - 6, Nos. 2-GO - 4-GO, Diesel Fuel Oils Nos. 2-D - 4-D, and Kerosene.
31. Storage and use of chemicals unless otherwise regulated by an applicable state or federal regulation. These chemicals include, but not limited to: alum, ammonia, biocides, corrosion inhibitors, dechlorination chemicals, inorganic salts, acids or bases to include caustic and sulfuric acid, coagulants, flocculants, precipitants, surfactants, anti-foam chemicals, sealing inhibitors, oxygen scavengers, phosphates, polyelectrolytes, limestone slurry, lime and lime slurry, flue gas desulfurization system slurry, and sulfur slurry; propane and acetylene under pressure
32. Mobile source emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, hydrostatic and hydraulic testing equipment, maintenance trucks, helicopters, locomotives, marine vessels, portable generators moveable by hand, portable pumps, portable air compressors, portable welding machines, and portable fuel tanks
33. Other on and off road mobile sources (i.e. coal stacker & reclaimer)
34. Well servicing/workover rigs and associated equipment

35. Well drilling rigs and associated equipment
36. Aircraft ground support (AGE) equipment, including but not limited to portable power generators, lights, and HVAC support
37. Vehicle exhaust from maintenance or repair shops
38. Storage and use of products or equipment for maintaining motor vehicles operated at the site (including but not limited to antifreeze and fuel additives) not regulated under Title VI, CFC rules)
39. Analysis/laboratory activities emissions from the following: air contaminant detectors, air contaminant recorders, combustion controllers, combustion shut-off devices, product analyzers, laboratory analyzers, continuous emissions monitors, other analyzers (eq., water quality), and emissions associated with sampling activities. Also, emissions from bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including assorted vacuum producing devices and vents but NOT lab fume hoods or vents
40. Emissions from non-contact cooling towers (cooling water that has not been in contact with other materials or fluids containing regulated air pollutants)
41. Emissions from tanks containing separated water produced from oil and gas operations
42. Water and wastewater treatment and transportation system
43. Pit, ponds, sumps, or wastewater conveyance facilities
44. Emissions from skimmer pits, oil/water separators, and maintenance of filter separators
45. Emissions from the removal of sludge or sediment from pits, ponds, sumps, or wastewater conveyance facilities
46. Site assessment work, including but not limited to, the evaluation of waste disposal or remediation sites
47. Emissions from fire or emergency response equipment and training to include use of fire control equipment including equipment for testing and training, engines used exclusively for firefighting, and open burning of materials or fuels associated with firefighting training. Buildings burned for firefighting training must adhere to NESHAP for Asbestos.
48. Emissions from instrument systems utilizing air or natural gas
49. Vent emissions from gas streams used as buffer or seal gas in rotating pump and compressor seals
50. Emissions from natural gas odorizing activities
51. Emissions from pneumatic starters on reciprocating engines, turbines, compressors, or other equipment
52. Emissions from pipeline maintenance pigging activities
53. Emissions from residential housing units, dormitories, and multifamily dwellings to include fuel burning for the purposes of heating except prohibited open burning
54. Woodworking utilized for hobby purposes or maintenance of grounds or buildings
55. Commercial gasoline dispensing stations, including those located within the physical boundaries of a Title V source, unless otherwise covered by applicable state and federal regulations
56. Sealing or cutting plastic film or foam with heat or wires
57. Carbon dioxide blasting equipment in degreasing or depainting
58. High pressure water depainting operations and aqueous industrial spray washers
59. Equipment used for inspection of metal products
60. Die casting machines
61. Foundry sand mold forming equipment to which no heat is applied, and from which no organics are emitted
62. Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes, except those systems used to collect particulate matter subject to 252:100 and hazardous and/or toxic air contaminants
63. Industrial and/or municipal wastewater treatment processes (excluding combustion or incineration equipment), storage silos for dry material (sludges), composting, or grease trap waste handling or treatment
64. Outdoor kerosene heaters
65. Equipment used exclusively to mill or grind coatings and holding compounds where all materials

- charged are in paste form (unless HAP emission)
66. Gas flares or flares used solely to indicate danger to the public (e.g. road hazard)
 67. Maintenance, upkeep, and replacement types of activities, including those not altering the capacity of process, combustion or control equipment, and which do not increase regulated pollutant emissions unless subject to NESHAP or NSPS
 68. Emergency relief vents, stacks and ventilating systems except any with potential to emit vinyl chloride located at a facility where ethylene dichloride, vinyl chloride and/or polyvinyl chloride are produced or any emergency relief vents, stacks and ventilating systems for which a NESHAPs has not been established
 69. Herbicide and pesticide activities except for manufacturing and formulation for commercial sale
 70. Cold storage refrigerator equipment
 71. Equipment associated with electrical power transmission which do not involve fuel-burning activities using transformers and substations
 72. Industrial battery recharging and maintenance operations for batteries utilized within the facility only
 73. Warehouse activities including the storage of packaged raw materials and finished goods
 74. Lubricants and waxes used for machinery and other equipment lubrication and emission from lubricating oil or hydraulic fluid storage tanks and equipment
 75. Environmental field sampling operations
 76. Asbestos and lead renovation, demolition, and disposal operations (NESHAP Subpart M for Asbestos still applicable)
 77. Road sanding and salting operations
 78. Runway and aircraft de-icing activities, including de-icer storage tanks unless otherwise regulated
 79. Boiler water treatment operations
 80. Non-routine clean out of tanks, lift stations, and equipment for the purposes of worker entry or in preparation for maintenance or decommissions
 81. Sampling connections used exclusively to withdraw materials for testing and analysis, including air contaminant detectors and vent lines
 82. Equipment used exclusively for rolling, forging, pressing, spinning, drawing, or extruding either hot or cold metals unless their emissions exceed any applicable regulated amount
 83. Ozonization process or process equipment including ozone generation for water treatment processes
 84. Unpaved roadways and parking areas
 85. Machine blowdown with air for cleaning/maintenance
 86. Sanitary sewerage and storm water runoff collection systems
 87. Emissions from the blowdown of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances
 88. Covered cold solvent degreasers not subject to federal emission standards (e.g. NESHAPs or NSPS)
 89. Compressed gas cylinders and gases utilized for equipment calibration and testing
 90. Fire extinguishers and fire extinguishing systems
 91. Solid waste landfill operations
 92. Gravel, sand and dirt storage for use in on-site construction projects
 93. Ultrasonic cleaning operations which do not utilize volatile organic compounds
 94. Molten salt bath descaling operations
 95. Emissions from dredging pits, ponds, sumps, or other wastewater conveyance facilities
 96. Emissions from engine crankcase vents and equipment lubricating sumps
 97. Touch-up painting operations where paints/coatings are applied at less than one quart per hour
 98. Processes used for the curing of fiberglass or paint products.
 99. Emissions from components (e.g. valves, connectors, pump seals, etc.) additions regulated by a fugitive monitoring program where the total increase is less than one ton per year of any criteria pollutant or the de minimis set forth in 252:100-41-43. The

component additions must be identified in the next scheduled monitoring report required by the applicable requirements.

- 100. Fugitive emissions of jet fuels associated with aircraft fuel cell and fuel bladder repair
- 101. RCRA Solid Waste Management Units subject to 40 CFR Part 265, Subparts AA, BB, and CC
- 102. Operations previously determined to be de minimis pursuant to 252:100-7-2(b)(3) or 252:100-41-43(a)(5)
- 103. De minimis refrigerant releases
- 104. Deaerator units associated with boilers or hot water heating systems
- 105. Natural gas water heating systems for fixed vehicle wash racks
- 106. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized
- 107. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized
- 108. Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating
- 109. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam
- 110. Carbon monoxide lasers, used only on metals and other materials which do not emit HAP in the process
- 111. Laser trimmers using dust collection to prevent fugitive emissions
- 112. Shock chambers
- 113. Humidity chambers
- 114. Solar simulators
- 115. Process water filtration systems and demineralizers
- 116. Demineralized water tanks and demineralizer vents
- 117. Fugitive emissions related to movement of passenger vehicles provided the emissions are not counted for applicability purposes or any required fugitive dust control plan or its equivalent is submitted

MINUTES
AIR QUALITY COUNCIL
October 21, 1997
Tulsa City County Health Department Auditorium
4616 East 15th Tulsa, Oklahoma

Council Members Present

William B. Breisch, Chairman
Meribeth Slagell
Gary Kilpatrick
J. William "Bill" Fishback
David Branecky
Sharon Myers

Staff Present

Larry Byrum
David Dyke
Dennis Doughty
Barbara Hoffinan
Scott Thomas
Linn Wainner
Joyce Sheedy
Jeanette Buttram
Morris Moffett
Myrna Bruce

Council Members Absent

Larry Canter, Vice-Chairman
Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for October 21, 1997 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Andrews and Dr. Canter were absent.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 21, 1997 Public Meeting/Hearing. Motion was made by Mr. Branecky to approve the Minutes and second to the motion was made by Ms. Myers. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - abstain; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Meeting Schedule - Mr. Breisch entertained motion to approve the 1998 Meeting Schedule as proposed. Ms. Myers made the motion with the second being made by Mr. Kilpatrick. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. (*Note: Dates proposed were February 18, April 21, June 16, August 18, October 20, December 15*).

PUBLIC HEARING

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCE [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A Oklahoma Statutes. Mr. Byrum called upon Jeanette Buttram to give staff position on the proposed changes to the rule.

After discussion and comments by Council and audience, Mr. Breisch stated that staff recommendation was to close the comment period as of October 21 and vote on SC 5, along with SC 7 and SC 8, at the next regularly scheduled meeting in December. He entertained motion as such.

Mr. Fishback wanted to be leave a portion of SC5 open for the subcommittee report discussion because the fees would have to be changed by the December meeting in order that the DEQ Board could take action.

Mr. Kilpatrick made motion that SC 5 be closed with the exception of consideration of the operating fee for Title V Part 70 sources remaining open. Mr. Fishback seconded the motion. With no other comments or discussion, Mr. Breisch asked for roll call. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES; OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A, Oklahoma Statutes. Mr. Byrum called upon Jeanette Buttram to give staff position on the proposed rule.

Ms. Buttram pointed out that staff was charged with not only simplifying and clarifying the rule, but also incorporating the new permit continuum which takes into account the environmental impact, emission levels, and source categories in Oklahoma. Ms. Buttram then pointed out the areas of change to the rule.

Mr. Byrum opened the floor for discussion. Kyle Arthur, representing the Small Business Assistance Panel, offered the Panel's support for the proposed changes. Ms. Barton, CASE, asked if the EPA representatives were satisfied with the proposed changes. EPA had no comment.

After discussion and comments from Council and audience, Mr. Breisch entertained motion to continue the hearing to the December 16 Air Quality Council meeting to be voted on along with SC 8 and SC 5. Ms. Slagell made that motion and second was by Mr. Kilpatrick. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes. Mr. Byrum called upon Dr. Joyce Sheedy to give staff position on the proposed rule.

Dr. Sheedy stated that it was staff's objective to correct deficiencies listed in the approval of the interim Title V Program to incorporate case-by-case MACT requirements; to incorporate permit continuum; as well as to clarify, simplify, and streamline the rule. Dr. Sheedy advised that staff recommendation was that the hearing on the revisions be continued to Council's December 16 meeting.

Mr. Byrum opened the floor for discussion and comments. Ms. Barton complimented staff on the monumental task accomplished making these changes.

Mr. Breisch entertained motion to continue this item to the next meeting on December 16 and that the comment period would remain open. Ms. Myers made this motion with second being made by Mr. Branecky. Roll call as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:10041-15 CONTROL OF EMISSIONS OF HAZARDOUS AND TOXIC AIR CONTAMMANTS PART 3: HAZARDOUS AIR CONTAMINANTS -15 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS [AMENDED]

As protocol officer, Mr. Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations (CFR) Part 51, and Title 27A Oklahoma Statutes. Mr. Byrum called upon Dr. Joyce Sheedy to give staff recommendations.

Dr. Sheedy pointed out that the hearing on the proposed revisions to 252:100-41-15 was continued from the August 19, 1997 AQC meeting. She noted that revisions were made based on comments received. Dr. Sheedy outlined proposed changes to 252:100-41-15(a) as follows:

update the adoption of National Emission Standards for Hazardous Air Pollutants (NESHAP) by adopting by reference the NESHAP as found in 40 CFR Part 61 as they existed on 7/1/97 with the exception of the NESHAP which address radionuclides and are contained in Subparts B, H, I, K, Q, R, T, and W and Appendices D and E.

Changes to 252:100-41-15(b) were to adopt by reference the General provisions contained in 40 CFR Part 63, Subpart A and the all the Maximum Achievable Control Technology (MACT) standards as they existed on July 1, 1997.

She advised that adoption of this rule was necessary to obtain delegation of the Title III program and to enable Air Quality Division to include MACT standards in Title V permits. Staff recommended that the Council forward and recommend these provisions to the Environmental Quality Board to be adopted as both emergency and permanent.

Ms. Barton, CASE, felt that a summary of the rules would be advantageous to the public for better understanding to those who do not have copies of written text.

Mr. Breisch entertained a motion to recommend this rule to the Board. Mr. Kilpatrick moved to approve the proposed revisions to SC 41 and recommend them to the DEQ Board for both emergency and permanent adoption. Second was made by Ms. Slagell. With no further discussion, roll call was taken as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Mr. Fishback added a further note for the record pointing out staff's intentions to revisit annually around July 1 to provide an update of the appropriate NESHAP regulations. Byrum affirmed and pointed out that July 1 coincides with publication in the *Federal Register*.

PUBLIC HEARING

OAC 252:2-40 and OAC 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]

As protocol officer, Larry Byrum convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations Part 51, and Title 27A Oklahoma Statutes. Mr. Byrum called upon Ms. Barbara Hoffman to give staff recommendations.

Staff requested that the Council recommend the revisions to the Environmental Quality Board for adoption. Mr. Kilpatrick made motion to continue the hearing until the next regularly scheduled meeting on December 16. Second was made by Ms. Slagell. Roll call was taken as follows: Mr. Fishback - aye; Ms. Slagell - aye; Mr. Kilpatrick - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

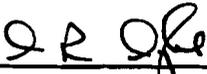
NEW BUSINESS - Mr. Byrum advised that a fax had been received from EnerCon Services dealing with a problem anticipated by those who worked on the Aerospace/ARACT rules. In the fax, EnerCon pointed out that at that time EPA had rules under NESHAP provision which could be in conflict with the State rules. He added that now industry petitioned to revisit these rules so that industry is not covered by two different rules that say two different things. Mr. Byrum suggested that a committee be formed with four people from the aerospace industry and four staff to handle most of the items administratively; then to bring any changes to the Council. He also pointed out that no action was required from Council at this time.

Nadine Barton recognized Mr. Byrum's years of service saying 'good luck'.

ADJOURNMENT: With no further business, meeting was adjourned with next meeting being held on December 16, 1997 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

 12/16/97
WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL

 12/16/97
DAVID DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

October 21, 1997

	NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1	TODD SMITH	TERACO	PO BOX 172 VERA, OK 73091	
2	Adrian Summers	ODEQ	1000 NE 10th OKC	
3	Howard Ground	PSO	P.O. Box 201 Tulsa OK 74102	
4	Kyle Brown	ODEQ	1000 N. G. 10th St. OKC	
5	Deborah Perry	EMERSON SERVICES	10820 E 45th, Suite 100 Tulsa 74146	
6	Perry-Friedrich	GRDA	PO Box 10 Chouteau OK 74337	
7	FRANK CONDON	EQ BOARD		
8	JOHN JOHNSON	ODEN MARTIN SYSTEMS	TULSA 2122 S. JACKSON AVE TULSA 74107	
9	Chuck McCune	RSA	Tulsa 248 E 81st STREET 610	
10	Frank Erwin	City of Tulsa	2445 S. Jackson Av Tulsa	
11	Nadine Barton	CASE	6609 E 86th Pl Tulsa	
12	Thelma Douglas	American Airlines		
13	Rich Truett	OBER	Box 1307 E. D PL 73202	
14	Bob Medley		1408 S. Denver Tulsa 74119	
15	Cerold Buehler	WFEC	Anockita OK 9101 WEST 121ST STREET	
16	DAVID GIBBS	WEBCO IND.	SAND SPRINGS, OK 7406	

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL
TUESDAY, DECEMBER 16, 1997
9:30 A.M.

LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

BRIEFING AGENDA

1. Call to Order Chairman
2. Division Director's Report - Informational Director
 - An update of current events and AQD activities
 - Upcoming Activities
 - Other
3. PUBLIC HEARING Staff
OAC 252:100-5-2.2(b)(2) PART 70 SOURCES ANNUAL OPERATING FEES [AMENDED]
Discussion by Council/Public
4. PUBLIC HEARING Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public
5. PUBLIC HEARING Staff
OAC 252:100-17 INCINERATORS
Discussion by Council/Public
6. PUBLIC HEARING Staff
OAC 252:2-15-40 and 252:2-15-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public of proposed Council action
7. ACTION ITEM Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public of proposed Council action
8. ACTION ITEM Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public of proposed Council action

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

DEPARTMENT OF ENVIRONMENTAL QUALITY REGULAR MEETING
AIR QUALITY COUNCIL

TUESDAY, DECEMBER 16, 1997

1:00 P.M.

LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM
4545 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA

MEETING/HEARING AGENDA

1. Call to Order Chairman
2. Roll Call Secretary
3. Approval of OCTOBER 21, 1997 Minutes Chairman
4. PUBLIC HEARING Staff
OAC 252:100-5-2.2(b) (2) PART 70 SOURCES ANNUAL OPERATING FEE [AMENDED]
Discussion by Council/Public; possible action by Council
5. PUBLIC HEARING Staff
OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]
Discussion by Council/Public; possible action by Council
6. PUBLIC HEARING Staff
OAC 252:100-17 INCINERATORS [AMENDED]
Discussion by Council/Public; possible action by Council
7. PUBLIC HEARING Staff
OAC 252:2-15-40 and 252:2-15-41 UNIFORM PERMITTING PROCEDURES [AMENDED]
Discussion by Council/Public; possible action by Council
8. ACTION ITEM Staff
OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997
9. ACTION ITEM Staff
OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]
Discussion by Council/Public; possible action by Council
on amendments heard at public hearings on August 19, 1997
and October 21, 1997
10. NEW BUSINESS Chairman
Discussion/consideration of subjects/business arising within
the past 24 hours; possible action by Council
11. Adjournment Chairman
Next Regular Meeting WEDNESDAY, FEBRUARY 18, 1998
LINCOLN PLAZA OFFICE PARK BURGUNDY ROOM, 4545 N. Lincoln, Oklahoma City

Should you desire to attend but have a disability and need an accommodation,
please notify our Department three days in advance at (405) 290-8247.

December 1, 1997

MEMORANDUM

TO: Air Quality Council

FROM: David Dyke, Assistant Director
AIR QUALITY DIVISION *DD*

SUBJECT: Modifications to Subchapter 8

Agil, 10/16/97

Enclosed is a copy of the proposed draft modifications to Subchapter 8 Operating Permits (Part 70), that will be brought to public hearing on December 16, 1997. The hearing for Subchapter 8 was continued from the October 21, 1997, Air Quality Council meeting. The proposed amendments include: incorporation of the permit continuum by the introduction of general construction permits for Part 70 sources and general construction and operating permits for major facilities that are not subject to Part 70; the addition of the requirements for construction permits for Part 70 sources and construction and operating permits for major facilities not subject to Part 70; revision of the permit application processing fees by setting a fee for processing authorizations under a general permit; deletion of annual operating fees (which will be moved to Subchapter 5); incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§ 63.40, 63.41, 63.43 and 63.44); and revisions to meet the requirements set forth in the February 5, 1996, Federal Register for final approval of the Title V program. The proposed draft also includes revisions intended to simplify and clarify the rule. Material in the Subchapter was reorganized and in some cases reworded. It is proposed to add Appendix I, Insignificant Activities List and Appendix J, Trivial Activities List to the rules.

A few changes have been made to the proposed revisions since the October meeting. These include:

- Modification of the Insignificant Activities List and Trivial Activities List (Appendices I and J, respectively) in response to written comments received.
- Updating the adoption by reference in 252:100-8-6.3 of 40 CFR Part 72 (Acid Rain provisions) to include the October 24, 1997 revisions.

Enclosed in the packet are copies of the proposed revisions to Subchapter 8 and the proposed Appendices I and J.

Enclosures: 3

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SUBCHAPTER 8. OPERATING PERMITS (PART 70) FOR PART 70 SOURCES AND MAJOR NON-PART 70 FACILITIES

PART 1. GENERAL PROVISIONS

[NOTE: Throughout this draft language that has been moved from other Sections and Subchapters is underlined once, new language is double underlined and deletions are struck out.]

252:100-8-1. Purpose

~~The purpose of this Subchapter is to provide for the promulgation and enforcement of the requirements necessary to meet Title V of the federal Clean Air Act (42 U.S.C. 7401, et seq.) and 40 CFR Part 70 by establishing a comprehensive state air quality permitting program for major sources of air contaminant emissions. Permits issued under this program will address all applicable air contaminant emissions and regulatory requirements in a single document. This Subchapter sets forth permit application fees and the substantive requirements for permits for Part 70 sources and major Non-Part 70 facilities.~~

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

[NOTE: From 252:100-8-2]

"A stack in existence" means for purposes of 252:100-8-1:6 that the owner or operator had:

(A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or

(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. [NOTE: From 252:100-7-16(b)]

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq. [NOTE: From 252:100-8-2]

"Administrator" means the Administrator administrator of the United States Environmental Protection Agency (EPA) or the Administrator's administrator's designee. [NOTE: From 252:100-8-2]

"Allowable emissions" means, for purposes of Parts 9 and 11 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Begin actual construction" for purposes of Parts 9 and 11 of this Subchapter means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Commence" for purposes of Parts 9 and 11 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Construction" means, for purposes of Parts 9 and 11 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Dispersion technique" means for purposes of 252:100-8-1.6 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a

change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation;

or
(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year. [NOTE: From 252:100-7-16(b)]

"Emission limitations and emission standards" means for purposes of 252:100-8-1.6 a requirement requirements that which limits limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87) [NOTE: From 252:100-7-16(b)]

"Emissions unit" means, for purposes of Parts 9 and 11 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: From 252:100-7-31 and 252:100-7-51]

"EPA" means the United States Environmental Protection Agency. [NOTE: From 252:100-8-2]

"Fugitive emissions" means, for purposes of Parts 9 and 11 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Major Non-Part 70 facility" means any stationary facility which directly emits or has the potential to emit 100 tons per year or more of any air pollutant for which a rule or standard exists and is not subject to the Part 70 program.

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means, for purposes of Parts 9 and 11 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules. [NOTE: From 252:100-7-31 and 252:100-7-51]

"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.

"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter. [NOTE: From 252:100-8-2]

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70. [NOTE: From 252:100-8-2]

"Part 70 source" means any source subject to the permitting requirements of Part 7 of this Chapter Subchapter, as provided in OAC 252:100-8-3(a) and 252:100-8-3(b). [NOTE: From 252:100-8-2]

"Potential to emit" means, for purposes of Parts 9 and 11 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Regulated air pollutant" means:

(A) any Any Volatile Organic Compound (VOC), as that term is defined at in 252:100-1-3, 252:100-37-2, or 252:100-39-2, or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2.

(B) Any Volatile Organic Solvent (VOS), as that term is defined at in 252:100-37-2 and 252:100-39-2.

(C) ~~(B)~~ any Any pollutant regulated under section 111 or 112 (except 112(r)) or the Federal Clean Air Act.

(D) ~~(C)~~ any Any pollutant for which a national primary ambient air quality standard has been promulgated except Carbon Monoxide under the Federal Clean Air Act.

(E) ~~(D)~~ any Any Toxic Air Contaminant as defined and regulated under OAC 252:100-41.

(F) ~~(E)~~ any Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

"Secondary emissions" means, for purposes of Parts 9 and 11 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purpose of OAC 252:100-7, Part 7, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or

modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Stack" means for purposes of 252:100-8-1.6 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares. [NOTE: From 252:100-7-16(b)]

"Stationary source" means, for purposes of Parts 9 and 11 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100. [NOTE: From 252:100-7-31 and 252:100-7-51]

252:100-8-1.2. Requirement for permits for Part 70 sources and major Non-Part 70 facilities

(a) Permit required. Except as provided in this section, no person may commence construction or modification of any Part 70 Source or minor major Non-Part 70 source facility, or operate any new minor Part 70 source, or Non-Part 70 facility or relocate any minor source without obtaining a permit from the DEQ. For application and permitting procedures, see 252:100-6 and the Uniform Permitting Rules, 252:2-15. [NOTE: From 252:100-7-2(b)]

(b) Permit categories. Two types of construction and operating permits are available: general permit and individual permit.

(1) General permit.

(A) A general permit may be issued for an industry if there are a sufficient number of facilities that have the same or substantially similar operations, emissions and activities which are subject to the same standards, limitations and operating and monitoring requirements.

(B) Facilities may be eligible for authorization under a general permit if the following criteria are met:

(i) The facility has actual emissions of 100 tpy or more of any one regulated air pollutant emitted and/or is a Part 70 source.

(ii) The DEQ has issued a general permit for the industry.

(2) Individual permit. Facilities requiring permits under this Subchapter that do not qualify for a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a general permit.

(c) Applicability determination. Any person may submit a request in writing that the Agency DEQ make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule Subchapter. The request must contain such sufficient information as is believed sufficient for the Agency DEQ to make the requested determination and the required fee. The Agency DEQ may request any additional information that it needs for purposes of making the determination. [NOTE: From

252:100-8-3(f)]

252:100-8-1.3. Transfer of permit

The Transfer transfer of a stationary source or a facility to a new owner or operator is not considered an increase in emissions and does not require new permits. However, any transfer shall be subject the new owner or operator to existing permit conditions and/or compliance schedules. Notification of such transfers shall be made promptly in writing to the DEQ. The transferor shall notify the AOD in writing no later than 10 days following the change in ownership. No new permit is required. Transfer of permits for Part 70 sources is an administrative permit amendment and covered in 252:100-8-7.2(a)(1)(D). [NOTE: From 252:100-7-2(c)(2)]

252:100-8-1.4. Failure Duty to comply with a construction permit

A violation of these limitations or conditions by the owner/operator shall subject the owner/operator to any or all enforcement penalties, including permit revocation, available under the Oklahoma Clean Air Act and Air Pollution Control Rules.

(a) An owner or operator who applies for a permit or authorization, upon notification of coverage, shall be bound by the terms and conditions therein. [NOTE: Based on 252:100-10-5(j)]

(b) An owner or operator who violates any condition of a permit or authorization is subject to enforcement under the Oklahoma Clean Air Act. [NOTE: 252:100-8-1.4(b) was based on 252:100-7-15(f)(3)]

252:100-8-1.5. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) Cancellation of permit or authorization to construct or modify. A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection subsection (b) of this Section section) if the construction is not commenced within 18 months after of the date the permit or authorization was issued issuance date, or if work is suspended for more than 18 months after it has commenced.

(b) Extension of permit or authorization to construct or modify.

(1) Prior to the expiration date of the permit or authorization expiration date, a permittee may apply for extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension Extensions for terms of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not

including land cost) in preparation for meeting the definition of "commence construction" at the proposed site,
or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under 252:100-8-1.5(b) (1) (B) or 252:100-8-1.5 (b) (1) (C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information. [NOTE: 252:100-8-1.5 is from 252:100-7-15(g)]

252:100-8-1.6. Stack height limitations

(a) Stack height exclusion. Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise: [NOTE: Definitions were moved to 252:100-8-1.1]

(1) ~~"A stack in existence"~~ means that the owner or operator had:

(A) ~~begun, or caused to begin, a continuous program of physical on site construction of the stack; or~~

(B) ~~entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.~~

(2) ~~"Dispersion technique"~~ means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final

~~exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:~~

~~(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.~~

~~(B) The merging of exhaust gas streams where:~~

~~(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;~~

~~(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or~~

~~(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.~~

~~(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.~~

~~(3) "Emission limitations and emission standards" means a requirement which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87)~~

~~(4) "Stack" means any point in a source designed to emit~~

~~solids, liquids or gases into the air, including a pipe or duct but not including flares.~~

(b)(e) Determination of good engineering practice (GEP) stack height. GEP shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either OAC 252:100-7-16(e)(2)(A) or (B) 252:100-8-1.6(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under OAC 252:100-7-252:100-8 or Federal 40 CFR Part 52,

$$H_g = 2.5H$$

provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks,

$$H_g = H + 1.5L,$$

where: H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c)(d) Nearby. A structure or terrain feature shall be considered to be nearby:

(1) For purposes of applying the formula in OAC 252:100-7-16(e), if that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (0.5 mile), and

(2) For conducting demonstrations under OAC 252:100-7-16(e)(2), if not greater than 0.8 km (0.5 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such

feature achieves a height at 0.8 km (0.5 mile) from the stack that is at least 40 percent of the GEP stack height determined by the formulae in OAC 252:100-7-16(e)(3) or 26 meters, whichever is greater, as measured from the base of the stack. The height of the structure or terrain feature is measured from the ground level elevation at the base of the stack.

(1) For the formulae in 252:100-8-1.6(b)(2). A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in 252:100-8-1.6(b)(3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (Ht) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in 252:100-8-1.6(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) Measurement of height of structure or terrain. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d)(e) Excessive concentrations. When utilized for the purpose of determining GEP stack height under OAC 252:100-7-16(e)(3) 252:100-8-1.6(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under OAC 252:100-7-16(e)(2) 262:100-8-1.6(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 5.9 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Executive Director, an alternative emission rate shall be established in

consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under ~~OAC 252:100-7-16(e)(2)~~ 252:100-8-1.6(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in ~~OAC 252:100-7-16(e)(2)~~ 252:100-8-1.6(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Executive Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under ~~OAC 252:100-7-16(e)(1)~~ 252:100-8-1.6(b)(2) where the Executive Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in ~~OAC 252:100-7-16(e)(1)~~ 252:100-8-1.6(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects. [NOTE: 252:100-8-1.6 was moved from 252:100-7-16]

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

(1) Applicability determination. \$100, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination. [NOTE: Based on 252-7-3(c)]

(2) Construction permit application. \$2,000

(1) ~~Part 70 source construction permit \$2,000 [NOTE: from 252:100-7-3(b)(1)]~~

(3) Operating permit application.

(2) ~~Permit processing fees. Permit processing fees shall be as follows:~~

- (A) Major Non-Part 70 facility or Initial initial Part 70 permit - \$2,000.
 - (B) Authorization under a general permit - \$900
 - (C)-(B) Renewal Part 70 permit - \$1,000.
 - (D)-(C) Significant Part 70 Permit Mod. modification of Part 70 or major Non-Part 70 facility permit - \$1,000.
 - (E)-(D) Minor modification of Part 70 or major Non-Part 70 facility permit Permit Modification - \$ 500.
 - (E) The Part 70 Temporary Permit - \$1,000.
 - (F)-(F) Part 70 Temporary Source Relocation - \$ 500.
- [NOTE: 252:100-8-1.7(c) is from 252:100-8-9(d)(2)]

PART 5. PERMITS FOR MAJOR NON-PART 70 FACILITIES

252:100-8-1.8. Major Non-Part 70 facility construction permit

(a) Construction permit required. No person shall cause or allow the construction or modification installation of any new minor or major source Non-Part 70 facility without first obtaining a DEQ-issued air quality construction permit to construct or modify the source. A construction permit is also required for any modification to add a piece of equipment or a process that is subject to a NSPS or NESHAP or to increase actual emissions of any one regulated air pollutant by more than 5 TPY at an existing facility. [NOTE: from 252:100-7-15(a)(1)]

(b) Construction permit requirements.

(1) Content of construction permit application. An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application from form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include including but not be limited to: site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(1) Site and process information. Site information, process description, emission data and, when required, BACT determination, modeling and sampling point data as follows:

(A) BACT determination. To be approved for a construction permit, a major Non-Part 70 facility source must demonstrate that the control technology to be applied is the best that is available for TSP (total suspended particulates). each pollutant controlled under air pollution control rules if such pollutant would cause the source to be defined as a major source. This determination will be made on a case by case basis taking into account energy, environmental, cost and economic impacts of alternative control systems;

(B) Modeling. Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant; and

(C) Sampling points. If required by the DEQ an application shall show how the new source will be equipped with sampling

ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. [NOTE: 252:100-8-1.8(b)(1) was taken from 252:100-7-15(b)]

(2) Public review participation. See 27A O.S. Supp. 1995, Section 2-14-101 et seq. and OAC 252:2-15. [NOTE: From 252:100-7-15(d)]

(c) Action on applications. See OAC 252:2-15, and Subchapter 6 of this Chapter.

(1) Review procedures. See OAC 252:2-15.

(2) Issuance or denial timelines. See Part 7 of OAC 252:2-15. [NOTE: 252:100-8-1.8(c) is from 252:100-7-15]

(d) Construction permit contents. The construction permit:

(1) Shall require the permittee to comply with all applicable air pollution rules, ~~federal new source performance standards (NSPS)~~ NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAP) NESHAP, established in sections 111 and 112 of the Federal Clean Air Act.

(2) Shall prohibit the exceedance of ambient air quality standards contained in 252:100-3, and

(3) May establish permit conditions and limitations as necessary to assure compliance with all rules.

[NOTE: From 252:100-7-15(a)(2)]

252:100-8-1.9. Major Non-Part 70 facility operating permit

(a) Operating permit required.

(1) No person shall cause or authorize the operation of a new or modified major Non-Part 70 facility source for more than a 180-day period without applying for a DEQ permit to operate.

(2) No owner or operator shall cause or authorize the operation of a new major Non-Part 70 facility source if the DEQ denies or revokes a permit to operate. [NOTE: From 252:100-7-18(a)]

(b) Application Operating permit requirements.

(1) Content of operating permit application Application content. Application will shall be made on a form provided by the DEQ and. An application shall contain:

(A) The proposed operation start-up date, or phased dates when applicable.

(B) Revisions to the installation/construction, if any, that differed from the construction design and plan given in the permit application material, data and specifications.

(2) Performance testing. Before a permit to operate a new or modified major Non-Part 70 facility source is granted, the applicant, if required by the DEQ, shall demonstrate compliance with applicable standards by conducting ~~conduct~~ emission test(s) test in accordance with methods approved by the DEQ with the tests being made at the expense of the applicant. The DEQ may monitor performance tests conducted by the applicant and may also conduct emissions tests. The results of any required test must be provided to the DEQ along with supporting information as required. [NOTE: 252:100-8-1.9(b) is from 252:100-7-18(b)]

(3) Public participation. See 27A O.S.Supp. 1995, Section 2-14-101 et seq.

(c) Action on application.

(1) Review procedures. See 252:100-2-15 252:2-15.

(2) Issuance or denial timelines. See Part 7 of 252:2-15.

[NOTE: 252:100-8-1.9(c) is from 252:100-7-15(c)]

(d) Operating permit conditions.

(1) Emissions Emission limitations established and made a part of the construction permit are carried over, incorporated into and are made enforceable limitations of the subsequently issued operating permit.

(2) Permit limitations in adjustment of, or in addition to, the a minor source's facility's construction permit limitations may be made a condition of the minor source's facility's operating permit issuance. [NOTE: 252:100-8-1.9(d) is from 252:100-7-18(c)]

PART 7. PERMITS FOR PART 70 Sources

252:100-8-2. Definitions

The following words and terms, when used in this Subchapter Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter Part retain the meaning accorded them under the applicable requirements of the Act.

~~"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq.~~ [NOTE: Moved to 252:100-8-1.1]

~~"Administratively complete" means the same as defined at OAC 252:002-11: an application that provides:~~

(A) All information required under 252:100-8-5(c);

(B) A landowner affidavit as required by 252:2-15-20(b)(3);

(C) The appropriate application fees as required by 252:100-8-1.7; and

(D) Certification by the responsible official as required by 252:100-8-5(d)

~~"Administrator" means the administrator of the United States Environmental Protection Agency (EPA) or the administrator's designee.~~ [NOTE: Moved to 252:100-8-1.1]

~~"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.~~

~~"Affected states" means:~~

~~(A) all states:~~

~~(i) That that are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and~~

~~(ii) That in the judgment of the DEQ Agency, may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or~~

~~(B) all states that are within 50 miles of the permitted~~

source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

~~"Agency" means Air Quality Division of the Oklahoma Department of Environmental Quality.~~

"Applicable requirement" means all of the following as they apply to emissions units in a ~~part~~ Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

(A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 C.F.R. Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

~~"Department" means the Department of Environmental Quality.~~

~~"Designated representative" means the same as the meaning given to it in section 402(26) of the Act and the regulations promulgated thereunder with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances~~

allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"**Draft permit**" means the version of a permit for which the Agency DEQ offers public participation under ~~OAC 252:100-8-7(i)~~ 27A O.S.Supp. 1995, §2-14-101 et seq. and 252:100-2-15 or affected State review under OAC 252:100-8-8.

"**Emissions allowable under the permit**" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"**Emissions unit**" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

~~"EPA" means the United States Environmental Protection Agency.~~
[NOTE: Moved to 252:100-8-1.1]

"**Final permit**" means the version of a part 70 permit issued by the Agency DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and 252:100-8-8.

"**Fugitive emissions**" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"**General permit**" means a part 70 permit that meets the requirements of ~~OAC 252:100-8-6(d)~~ 252:100-8-6.1.

"**Insignificant activities**" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed:

- (A) 5 tons per year of any one criteria pollutant,
- (B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule, and
- (C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in 252:100-41-40.

Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria above or is included on the insignificant activities list.

"**MACT**" means maximum achievable control technology.

"**Major source**" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single

major industrial grouping and that are is described in subparagraph (A), (B), or (C), ~~or (D)~~, of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except ~~Total Suspended Particulates (TSP)~~ TSP) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;

- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
- (iii) For carbon monoxide non-attainment areas:-
 - (I) that are classified as "serious"; and
 - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
- (iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

~~(D) Notwithstanding the source categories in (A) through (C)~~

~~of this definition, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this definition.~~

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

~~"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter. [NOTE: Moved to 252:100-8-1.1]~~

~~"Part 70 program" means a program approved by the Administrator under 40 C.F.R Part 70. [NOTE: Moved to 252:100-8-1.1]~~

~~"Part 70 source" means any source subject to the permitting requirements of this Chapter, as provided in OAC 252:100-8-3(a) and 252:100-8-3(b). [NOTE: Moved to 252:100-8-1.1]~~

"Permit" (unless the context suggests otherwise) means any permit or group of permits covering a part Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a part Part 70 permit that meets the requirements of ~~OAC 252:100-8-7(e)~~ 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in ~~OAC 252:100-8-9~~ 252:100-5-2.2 (whether such costs are incurred by the DEQ Agency or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

~~"Permitting authority" means the Department of Environmental Quality/~~

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does

not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ Agency proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic ~~compounds~~ compound (VOC), including those substances defined in at OAC 252:100-1-3, 252:100-37-2, 252:100-39-2, or any Volatile Organic Solvent (VOS), as that term is defined in at OAC 252:100-37-2 and 252:100-39-2, or any organic material defined at in 252:100-37-2 except those specifically excluded in the EPA definition of VOC ~~per~~ in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities

applying for or subject to a permit and either:

- (i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (ii) The delegation of authority to such representatives is approved in advance by the ~~permitting authority~~ DEQ;
- (B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;
- (C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
- (D) For affected sources:
- (i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 - (ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. 2-5-101 et seq. as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR C.F.R Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J. Any activity to which a State or federal applicable requirement applies is not trivial even if included on the trivial activities list.

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3. Applicability

(a) **Covered sources.** Except as exempted from the requirement to

obtain a permit under subsection (b) of this Section and or elsewhere in this Subchapter Chapter, the following sources listed below are subject to the permitting requirements under this Subchapter Chapter. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section 252:100-8-3(a). [NOTE: The underlined language was formerly 252:100-8-3(g).]

- (1) Any major source (as defined in OAC 252:100-8-2);
- (2) Any source, ~~including an area source, subject to a NPS standard, limitation, or other requirement under section 111 of the Act;~~
- (3) Any source, including an area source, subject to a NESHAP standard or other requirement under section 112 of the Act, ~~except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;~~
- (4) Any affected source (as defined in OAC 252:100-8-2); and
- (5) Any source in a source category designated by the Administrator pursuant to 40 CFR C.F.R. §70.3.

(b) **Source category exemptions.**

(1) All sources listed in subsection (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation.

~~(c) **Emissions units and covered sources (Part 70 sources).**~~

~~(1) For major sources, Part 70 permits shall include all applicable requirements and state only requirements for all~~

~~relevant emissions units in the major source.~~

~~(2) For any non major source subject to this Subchapter, Part 70 permits shall include all applicable requirements which apply to emissions units that cause the source to be subject to the requirement to obtain a permit. [NOTE: 252:100-8-3(c)(1) is covered in 252:100-8-6(a) and (c)(2) was deleted.]~~

~~(d) Fugitive emissions. Fugitive emissions from a covered source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. [NOTE: Revised and moved to 252:100-8-5(c)(3)(A)]~~

~~(e) Insignificant activities.~~

~~(1) The insignificant activities and emissions levels shall be as follows:~~

~~(A) emissions will not exceed one pound (1 lb.) per hour for any one criteria pollutant, and~~

~~(B) emissions of toxic air contaminants will not exceed the de minimis requirements set forth under 252:100-41-43(a)(5).~~

~~(2) In addition to the quantity thresholds in (1)(A) and (1)(B) "Insignificant Activity" also means any individual or combination of air emissions sources at a facility that have an aggregate potential to emit that does not increase the overall potential to emit of the entire facility for a given regulated pollutant by more than 10% above the "baseline" permitted limit which excludes the insignificant activities. Thus, insignificant activities may apply to original permit application, permit modifications/amendments, and/or permit renewals. The cumulative amount of activities claimed as insignificant during a Title V permit term shall not increase the potential to emit of the entire facility by more than 10% of the permit limit for a given pollutant from the date of permit issuance to the date of application for renewal. These insignificant activities cannot conflict with significant emission levels in any Title V program. Insignificant activities must be identified but not quantified (except to the extent necessary to demonstrate their insignificance) in the permit application. The Agency shall maintain a list of activities which are considered to be insignificant without quantification by the permittee. The Agency shall also maintain a list of activities which are determined to be trivial. "Trivial activity" means any individual or combination of air emissions units at a Part 70 source which are considered inconsequential as determined by the Agency. Trivial activities need not be identified in the permit application, amendment or renewal. [NOTE: Moved to 252:100-8-2]~~

~~(f) Applicability determinations. Any person may submit a request in writing that the Agency make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule. The request must contain such information as is believed sufficient for the Agency to make the~~

~~requested determination. The Agency may request any additional information that it needs for purposes of making the determination. [NOTE: Moved to 252:100-8-1.2(c)]~~

~~(g) Covered sources. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to 252:100-8-3(a). [NOTE: Moved to 252:100-8-3(a)]~~

252:100-8-4. ~~Title V permits required~~ Requirements for construction and operating permits

(a) Construction permits.

(1) Construction permit required. No person shall cause or allow the construction or modification installation of any new minor or major source facility that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit to construct or modify the source. A construction permit is also required for any physical change that would be a modification under 252:100-8-7.2(b). [NOTE:

(a) (1) is from 252:100-7-15(a) (1)]

(2) Construction permit requirements. Construction permits and applications shall meet the applicable requirements of 252:100-8-1.8 and the applicable requirements of this Part. Applications and permits for sources subject to Part 9 or Part 11 of this Subchapter must also meet the applicable requirements contained therein. To be approved for a construction permit, a Part 70 source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source.

(3) Requirement for case-by-case MACT determinations.

(A) Applicability. The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) Exclusions. The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) MACT determinations. If subject to this subsection, an owner or operator may not begin actual construction or

reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 1997.

(b) Operating permits.

(1) Operating permits required. Except as provided in paragraphs subparagraphs ~~(1) (A)~~ and ~~(2) (B)~~ of this section, no Title V Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

~~(A) (1)~~ If the owner or operator of a source subject to the requirement to obtain a permit submits a timely application for permit issuance or renewal, that source's failure to have a permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC ~~252:100-8-4~~ ~~252:100-8-5~~, any additional information identified as being reasonably required to process the application.

~~(B) (2)~~ If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ at the end of the DEQ's administrative completeness review period, the applicant loses the protection granted under paragraph ~~(A) (1)~~ of this section, as a result of its failure to timely provide information requested by the DEQ, the The source's failure to have a permit shall be deemed a violation of this Subchapter.

~~(C) (3)~~ Filing an operating permit application shall not affect the requirement, if any, that any a source have a construction preconstruction permit under Title I of the federal Clean Air Act.

(2) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the ~~Division~~ DEQ in accordance with this section.

(3) Timely application. Sources that are subject to the operating permit program established by this Chapter as of the date the program is approved by EPA and becomes effective (the "effective date") March 6, 1996, shall file applications on the following schedules outlined in OAC ~~252:100-8-5(b) (2)~~ 252:100-8-4(b) (4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary main activity shall form the basis for the initial permit application.

(4) Application submittal schedule. The following sources are subject to the operating permit program and shall submit

initial permit applications according to the following schedule.

(A) No later than ~~six months~~ after the effective date of the federally approved interim state operating permit program September 5, 1996:

(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for ~~major~~ Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

(I) Petroleum and Natural Gas, 1311;

(II) Natural Gas Liquids, 1321;

(III) Electric Services, 4911, 4961;

(IV) Natural Gas Transmission, 4922;

(V) Natural Gas Transmission and Distribution, 4923; and

(VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in ~~(b)(2)(4)~~ (A) (ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than ~~12 months~~ after the effective date of the federally approved interim state operating permit program March 5, 1997.

(C) No later than ~~12 months~~ after the effective date of the federally approved interim state operating permit program March 5, 1997, any owner or operator shall submit their applications for ~~major~~ Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Metals, 3312, 3315, 3321, ~~3379~~, 3341, 3351, 3411, 3412, 3432, 3466,

(ii) Brick Plants, 3251, 3297,

(iii) Commercial Printing, 2752, 2761.

(D) No later than ~~28 months~~ after the effective date of the federally approved interim state operating permit program, July 5, 1998, any owner or operator shall submit their applications for ~~major~~ Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Refineries, 2911;

(ii) Cement Plants, 3241;

- (iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;
- (iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;
- (v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program March 6, 1999.

(5) ~~Newly regulated sources Application following effective date.~~ A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) ~~Application acceptability.~~ Notwithstanding the deadlines established in paragraph (4) ~~paragraphs (1), (2), and (3)~~ of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. ~~For purposes of the 60 day administrative review period established in OAC 252:2-15, the official login date for any Part 70 operating permit application submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.~~

(7) ~~112(g) applications.~~ A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing construction.

(8) ~~Application for renewal.~~ Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) ~~Phase II acid rain permits.~~ Sources required to submit applications under the Acid Rain Program ~~should~~ shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) ~~Application completeness.~~ See Uniform Permitting Rules, ~~OAC 252:010-3-50 and 3-51 252:2-15-70 and the definition of administratively complete in 252:100-8-2.~~

[NOTE: 252:100-8-4(b)(2) through (10) from 252:100-8-5(b)(1) through (8)]

252:100-8-5. Permit applications

~~(a) Construction permit. Any new source or modified source which becomes subject to this Subchapter shall be required to obtain a construction permit in accordance with OAC 252:100-7 prior to commencement of construction.~~

~~(b) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the Division in accordance with this section.~~

~~(1) Timely application. Sources that are subject to the operating permit program established by this Chapter as of the date the program is approved by EPA and becomes effective (the "effective date") shall file applications on the following schedules outlined in OAC 252:100-8-5(b)(2) 252:100-8-4(b)(2). In the event a major source consists of operations under multiple SIC codes, the main activity shall form the basis for the initial permit application.~~

~~(2) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.~~

~~(A) No later than six months after the effective date of the federally approved interim state operating permit program:~~

~~(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.~~

~~(ii) Any owner or operator shall submit no less than one-third of their total applications for major sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):~~

~~(I) Petroleum and Natural Gas, 1311;~~

~~(II) Natural Gas Liquids, 1321;~~

~~(III) Electric Services, 4911, 4961;~~

~~(IV) Natural Gas Transmission, 4922;~~

~~(V) Natural Gas Transmission and Distribution, 4923;~~

~~and~~

~~(VI) Petroleum Bulk Stations and Terminals, 5171.~~

~~(B) All remaining Part 70 sources identified in (b)(2)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the federally approved interim state operating permit program.~~

~~(C) No later than 12 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Metals, 3312, 3315, 3321, 3379, 3341, 3351, 3411, 3412, 3432, 3466,~~

~~(ii) Brick Plants, 3251, 3297,~~

~~(iii) Commercial Printing, 2752, 2761.~~

~~(D) No later than 28 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Refineries, 2911,~~

~~(ii) Cement Plants, 3241,~~

~~(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089,~~

~~(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613,~~

~~(v) Food Products, 2013, 2074, 2095.~~

~~(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program.~~

~~(3) Application following effective date. A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.~~

~~(4) Application acceptability. Notwithstanding the deadlines established in paragraphs (1), (2), and (3) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. For purposes of the 60 day administrative review period established in OAC 252.2-15, the official login date for any Part 70 operating permit submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.~~

~~(5) 112(g) applications. A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing construction.~~

~~(6) Application for renewal. Sources subject to this Chapter shall file an application for renewal of an operating permit~~

~~at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case by case basis.~~

~~(7) Phase II acid rain permits. Sources required to submit applications under the Acid Rain Program should submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).~~

~~(8) Application completeness. See Uniform Permitting Rules, OAC 252:010-3-50 and 3-51.~~

[NOTE: 252:100-8-5(b)(1) through (9) moved to 252:100-8-4(b)]

~~(9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ issued Part 70 operating permit, a source may identify terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:~~

~~(i) information specified in OAC 252:100-8-5(d) for those products, processes, operations, and emissions that:~~

~~(I) are not addressed in the existing permit;~~

~~(II) are subject to applicable requirements or state-only requirements that are not addressed in the existing permit; or~~

~~(III) as to which the source seeks permit terms and conditions that differ from those in the existing permit; and~~

~~(ii) a compliance plan and certification as required in 252:100-8-5(d)(8). [NOTE: 252:100-8-5(b)(9) moved to 252:100-8-7.1(b)]~~

(a)~~(10)~~ **Confidential information.** If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

(b)~~(e)~~ **Duty to supplement or correct application.** Renumbered as OAC 252:100-6-50(f) See 252:100-6-50(e).

(c)~~(d)~~ **Standard application form and required information.**

Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with OAC 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to OAC 252:100-8-9 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must

provide a list of any ~~such~~ insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the following information be provided:

- (1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.
- (2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.
- (3) The following emissions-related information:
 - (A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this subsection ~~(d)~~ (c) or OAC 252:100-8-3(b). ~~The source shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to determine the amount of any permit fees owed under the fee schedule approved pursuant to OAC 252:100-8-9.~~
 - (B) Identification and description of all points of emissions described in subparagraph ~~(d)~~ (c) (3) (A) of this section in sufficient detail to establish the basis for fees and applicability of the ~~federal Clean Air Act's~~ requirements.
 - (C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.
 - (D) The following information to the extent it is needed to determine or regulate emissions:
 - (i) fuels,
 - (ii) fuel use,
 - (iii) raw materials,
 - (iv) production rates, and
 - (v) operating schedules.
 - (E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.
 - (F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.
 - (G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the ~~federal Clean Air Act~~).
 - (H) Calculations on which the information in items (A) through (G) of this paragraph is based.

- (4) The following air pollution control requirements:
- (A) Citation and description of all applicable requirements, and all state-only requirements, and
 - (B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.
- (5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the ~~federal Clean Air Act~~ or of this Chapter or to determine the applicability of such requirements.
- (6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.
- (7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to ~~OAC 252:100-8-6(a)(9)~~ or to define permit terms and conditions implementing ~~OAC 252:100-8-6(h)-252:100-8-6(f)~~ or ~~OAC 252:100-8-6(a)(10)~~.
- (8) A compliance plan for all covered sources that contains all the following:
- (A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements, as follows:
 - ~~(B) A description as follows:~~
 - (i) For applicable requirements, and state-only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - (ii) For applicable requirements, and state-only requirements, that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
 - (iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
 - (B)(C) For sources not in complete compliance, a A compliance schedule as follows:
 - ~~(i) For applicable requirements, and state only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.~~
 - ~~(ii) For applicable requirements, and state only requirements, that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.~~

~~(i)-(iii)~~ A schedule of compliance for sources that are not in compliance with all applicable requirements, and state-only requirements, at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements, and state-only requirements, for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

~~(ii)-(D)~~ A schedule for submission of certified progress reports no less frequently than every 6 months ~~for sources required to have a schedule of compliance under OAC 252.100-8-5(d)(8)(C)-(iii)~~.

~~(C)-(E)~~ The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the ~~federal Clean Air Act~~ with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements, and state-only requirements, by a responsible official consistent with subsection ~~(e)~~ (d) of this section and section 114(a)(3) of the ~~federal Clean Air Act~~;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement, state-only requirements, or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the ~~federal Clean Air Act~~.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the ~~federal Clean Air Act~~.

~~(11) A list of any such units which satisfy the definition of either insignificant activities or de minimis emissions.~~

(d) ~~(e)~~ Certification. Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth,

accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

(e) ~~(f)~~ **Number of application copies.** See Part 3 of OAC 252:2-15.

252:100-8-6. Permit content

(a) **Standard permit requirements.** ~~To the extent practicable, every Part 70 permits permit~~ issued under this Chapter shall include all applicable requirements, and state-only requirements, (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements, and state-only requirements, and shall include those operational ~~requirements~~ conditions and limitations necessary to assure compliance with all applicable such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement, ~~and~~ or state-only requirement, upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the ~~federal Clean Air Act~~ is more stringent than an applicable requirement of regulations promulgated under Title IV of the ~~federal Clean Air Act~~, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If ~~an applicable~~ the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) Operating Permits. The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) ~~(A)~~ and (ii) ~~(B)~~ of this paragraph:

(i) ~~(A)~~ Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) ~~(B)~~ Permits issued to solid waste incineration units combusting municipal waste subject to standards

under section 129(e) of the ~~federal Clean Air Act~~ shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) Construction permits. See 252:100-8-1.5.

(3) Monitoring and related recordkeeping and reporting requirements.

(A) ~~Each permit shall contain the following requirements with respect to monitoring.~~ Monitoring requirements.

(i) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the ~~federal Clean Air Act~~;

(ii) Where ~~the~~ an applicable requirement, ~~and~~ or state-only requirement, does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data ~~from the relevant time period~~ that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, ~~and~~ installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) Recordkeeping requirements. ~~With respect to recordkeeping, the~~ The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions ~~as~~ existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five

years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) Reporting requirements. ~~With respect to reporting,~~ the The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this ~~Chapter Part~~ shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C) (i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from emergency or upset conditions as defined in ~~OAC 252:100-8-6(g)~~ 252:100-8-6(e) shall be reported within 24 hours of the date on which the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report such notice must contain a description of the emergency, any steps taken to mitigate emissions and corrective actions taken.

[NOTE: The underlined language is from 252:100-8-6(g) (3) (D)]

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective

actions or preventative measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of OAC 252:100-9.

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the ~~federal Clean Air Act~~, the permit need only specify that ~~it~~ the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) **Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the ~~federal Clean Air Act~~ or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

(i) enforcement action;

(ii) permit termination, revocation and reissuance, or modification; or

(iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain

compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under ~~OAC 252:100-8-7(e)(1)~~ 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort, or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to ~~OAC 252:100-8-5(b)(10)~~ 27A O.S. 1993 Supp. Section 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under ~~OAC 252:100-8-9~~ 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements, and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms

under subsections (a) and (c) of this section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

(b) **Federally enforceable requirements.**

(1) Except as provided in paragraph (b)(2) of this section, all terms and conditions in a permit issued under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the ~~federal Clean Air Act~~.

(2) Notwithstanding paragraph (b)(1) of this section, the DEQ shall designate as not being federally enforceable under the ~~federal Clean Air Act~~ any terms and conditions included in the permit that are not required under the ~~federal Clean Air Act~~ or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the ~~federal Clean Air Act~~.

(c) **Compliance requirements.** All permits issued under this ~~Chapter Part~~ shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this ~~Chapter Part~~ shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to perform the following ~~(subject to the permittee's right to seek confidential treatment pursuant to OAC 252:100-8-5(b)(10) for confidential information submitted to or obtained by the DEQ under this subsection):~~

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the ~~federal Clean Air Act~~ Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) A schedule of compliance ~~if to the extent~~ required under ~~OAC 252:100-8-5(d)(8)(C)~~ 252:100-8-5(c)(8)(B).

(4) To the extent required under an applicable schedule of compliance and ~~OAC 252:100-8-5(d)(8)~~ 252:100-8-5(c)(8),

progress reports, to be submitted semiannually, or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:

(A) The frequency (which shall be annually unless the applicable requirement, ~~and~~ or state-only requirement, specifies submission more frequently) of submissions of compliance certifications;

(B) In accordance with paragraph (a)(3) of this section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The permittee's current compliance status, as shown by monitoring data and other information available to the permittee;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this section; and

(v) Such other facts as the DEQ may require to determine the compliance status of the source;

(D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;

(E) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the federal Clean Air Act; and

(6) Such other provisions as the DEQ may require.

~~(d) General permits.~~

~~(1) The DEQ may, after notice and opportunity for public participation, issue a general permit to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise~~

~~provided in regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.~~

~~(3) A general permit may be issued for the following purposes:~~

~~(A) to establish terms and conditions to implement applicable requirements, and state only requirements, for a source category;~~

~~(B) to establish terms and conditions to implement applicable requirements, and state only requirements, for specified categories of changes to permitted sources;~~

~~(C) to establish terms and conditions for new requirements that apply to sources with existing permits; and~~

~~(D) to establish federally enforceable caps on emissions from sources in a specified category.~~

~~(4) The DEQ may issue a general permit if it finds that:~~

~~(A) there are several permittees, permit applicants, or potential permit applicants who have the same or substantially similar operations, emissions, activities, or facilities;~~

~~(B) the permittees, permit applicants, or potential permit applicants emit the same types of regulated air pollutants;~~

~~(C) the operations, emissions, activities, or facilities are subject to the same or similar standards, limitations, and operating requirements; and~~

~~(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring requirements.~~

~~(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit.~~

~~(A) Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.~~

~~(B) See OAC 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency shall act to approve or deny the application within 90 days of filing.~~

~~(C) A final action approving an authorization to operate~~

~~under a general permit shall not be subject to public comment or judicial review.~~

~~(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ.~~

~~(7) A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit.~~

~~(8) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may apply for and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252:100-8-3 of this part to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shield shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.~~

[NOTE: General permits was moved to 252:100-8-6.1]

~~(e) Temporary sources. The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:~~

~~(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;~~

~~(2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and~~

~~(3) Conditions that assure compliance with all other provisions of this section. [NOTE: Moved to 252:100-8-6.2]~~

~~(d) (f) Permit shield.~~

(1) Each operating permit issued under this section Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements

identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for as ~~to~~ which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this section or in the permit shall alter or affect the following:

(A) the provisions of section 303 of the ~~federal Clean Air Act~~, including the authority of the EPA Administrator under that section;

(B) the liability of an owner or operator of a source for any violation of applicable requirements, ~~and~~ or state-only requirements, prior to or at the time of permit issuance;

(C) the applicable requirements of the acid rain program, consistent with section 408(a) of the ~~federal Clean Air Act~~; or

(D) the ability of EPA to obtain information from a source pursuant to section 114 of the ~~federal Clean Air Act~~.

(e) ~~(g)~~ **Emergencies.**

(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of ~~preventative~~ preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method.

(2) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph ~~(g)~~ (e) (3) of this section and the reporting requirements of 252:100-8-6(a)(3)(C)(iii)(I) are met.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(A) An emergency occurred and that the permittee can

identify the cause(s) of the emergency;

(B) The permitted facility was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit, ~~and.~~

~~(D) The permittee submitted notice of the emergency to the DEQ within 24 hours of the time when emission limitations were exceeded due to the emergency. Such notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. [NOTE: Moved to 252:100-8-6(a)(3)(C)(iii)(I)]~~

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(5) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

~~(f)(h) Operational flexibility. Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.~~

(1) **Applicant's duty to apply for alternative scenarios.**

Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make changes within the facility that:

(A) Are not modifications under any provision of Title I of the ~~federal Clean Air Act~~;

(B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; ~~or~~ and

(C) Result in a net Net change in emissions is of zero. ~~is of zero.~~ provided Provided that the facility provides notifies the Administrator and the permitting authority DEQ and EPA in writing at least 7 days with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, or such shorter time frame that permitting authority allows for emergencies [as defined in OAC 252:100-8-6(g)]. The source, permitting authority DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the

date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

~~(3) Emissions trading in permit. A permitted source may rely on the authority of this section to trade increases and decreases in emissions within the facility, where the implementation plan provides for such emissions trades without a permit modification. In such a case, the advance written notice provided by the permittee shall identify the underlying authority authorizing the trading and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements, and state only requirements, with which the source will comply through emissions trading, and such other information as may be required by the applicable requirement authorizing the emissions trade.~~

~~(i) Special provisions for affected (acid rain) sources~~

~~(1) Application binding until permit issuance or denial. A complete acid rain permit application is binding on the applicant and enforceable as an acid rain permit until an acid rain permit is issued or denied. For applicable permitting procedures, see OAC 252:2-15.~~

~~(2) Exemption petitions. Applicants with small units that burn low-sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.~~

~~(3) Permit shield. The acid rain portion of every operating permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the federal Clean Air Act, will be deemed to be operating in compliance with the Acid Rain Program.~~

~~(4) Modifications. See 40 CFR 72.82.~~

~~(5) Duration. Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.~~

~~(6) Right of intervention. The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.~~

~~(7) Administrative appeal. The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.~~

~~(8) Adoption of 40 CFR Part 72 by reference. Owners or operators of sources subject to the acid rain provisions of the federal Clean Air Act shall comply with applicable provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, which is hereby adopted by reference as rules of the Environmental Quality Board. In such regulations, the term "permitting~~

authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with this Chapter, the Part 72 provisions and requirements shall apply and take precedence.

(8) The Oklahoma Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993 for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR part 72 conflict with or are not included in Oklahoma Administrative Code 252:100-8, the part 72 provisions and requirements shall apply and take precedence. [NOTE: Moved to 252:100-8-6.3]

252:100-8-6.1 General permits

(a) Applicability.

(1) The DEQ may, after notice and opportunity for public participation, issue a general permit for to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the federal Clean Air Act.

(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.

(3) A general permit may be issued for the following purposes to establish:

(A) to establish terms Terms and conditions to implement applicable requirements, and state-only requirements, for a source category.

(B) to establish terms Terms and conditions to implement applicable requirements, and state-only requirements, for specified categories of changes to permitted sources.

(C) to establish terms Terms and conditions for new requirements that apply to sources with existing permits, and.

(D) to establish federally enforceable Federally-

enforceable caps on emissions from sources in a specified category.

- (4) The DEQ may issue a general permit if it finds that:
- (A) There there are several permittees, permit applicants, or potential permit applicants who: have the same or substantially similar operations, emissions, activities, or facilities;
 - (i) Have the same or substantially similar operations, emissions, activities, or facilities.
 - (ii) ~~(B) the permittees, permit applicants, or potential permit applicants emit~~ Emit the same types of regulated air pollutants.
 - (B) ~~(C) the~~ The operations, emissions, activities, or facilities are subject to the same or similar: standards, limitations, and operating requirements; and
 - (i) Standards, limitations, and operating requirements.
 - (ii) ~~(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring~~ Monitoring requirements.

[NOTE: 252:100-8-6.1(a) (1) through (4) was 252:100-8-6(d) (1) through (4)]

~~(5)(8)~~ If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may must apply for an individual Part 70 permit for all of its covered sources, and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252:100-8-3 of this part to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shield shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.

[NOTE: Was 252:100-8-6(d) (8)]

(6) Facilities located in areas that are federally designated as non-attainment are not eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h) (3)]

(7) Sites that are not in compliance with all applicable State and Federal air regulations are eligible for a general operating permit only if:

(A) They submit to DEQ an approvable compliance plan, and

(B) The facility submits to Tier II public review. [NOTE: From 252:100-10-5(h) (5)]

(8) Facilities with existing state operating permits are eligible for coverage under a general operating permit:

[NOTE: From 252:100-10-5(h) (6)]

(9) Facilities existing prior to the effective date of any

applicable standard that would have created specific quantifiable and enforceable emission rates are eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h)(7)]

(b) Authorization.

(1)(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit. (A) Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit. [NOTE: Was 252:100-8-6(d)(5)]

(2)(B) See OAC 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency DEQ shall act to approve or deny the application within 90 days of filing. [NOTE: Was 252:100-8-6(d)(5)(B)]

(3)(C) A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review. [NOTE: Was 252:100-8-6(d)(5)(C)]

(4)(d) The DEQ will publish, at least monthly, an updated list of sources approved for inclusion under the general operating permit and any aggrieved person may petition the DEQ to review the approval of any stationary source for inclusion under a general operating permit within 30 days after publication of the list. [NOTE: From 252:100-10-3(d)]

(5)(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ. [NOTE: Was 252:100-8-6(d)(6)]

(c) Permit Shield. A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit. [NOTE: Was 252:100-8-6(d)(7)]

(d) Revisions

(1)(b) If an owner or operator of a source(s) makes a change to a source covered by a general operating permit that affects any applicability information supplied in the general operating permit application, but the source is still eligible for coverage authorized to operate under a general operating permit, the owner or operator must revise the general operating permit application and submit it to the DEQ within 60 days.

(2)(e) After coverage is granted to a particular source under the general permit, physical changes to the facility which

result in the addition of equipment new to the facility, either as a replacement (except like-kind replacements) or net addition, will require a construction permit or a new authorization permit except as allowed in (d) (3) below. Any significant modification to a stationary source included under a general operating permit shall subject the source to a Tier II review.

(3)(e) If equipment new to the facility is newly purchased or is relocated from another facility where a permit was issued with enforceable emissions limits on that equipment, then authorization approval under the general operating permit shall be modified or amended to include an emissions limit for the newly purchased or relocated equipment. "Grandfathered" emissions sources at the facility will retain only the equipment descriptions as permit conditions. "Grandfathered" means a unit which that was in existence prior to the effective date of any applicable regulation which that would have created specific quantifiable and enforceable emissions rate limits.

(4)(f) For a general operating permit, if emissions change for any reason that subjects the facility to PSD permitting requirements, then the facility no longer qualifies for a general operating permit. However, the existing general operating permit will remain valid during the time period covered by the PSD construction permit until the facility receives a Part 70 site specific operating permit for the entire facility.

[NOTE: 252:100-8-6.1(d) (1) through (4) are from 252:100-10-5(b), (c), (e) and (f) respectively]

(e) Permit Content. Specific terms and conditions that which will make the applicable rules and requirements enforceable shall be stipulated in the general operating permit. [NOTE: From 252:100-10-5(h) (8)]

(f) Renewal of general operating permits.

(1) The DEQ will initiate the renewal process for a general operating permit at least 180 days prior to the permit's expiration date and will follow the requirements in 252:100-8-7(a).

(2) Owners or operators shall apply to renew an authorization at least 60 days prior to expiration of the existing authorization. Upon submittal of a timely and administratively complete application, the applicant may continue to operate until such time as the DEQ grants or denies coverage under the general operating permit.

252:100-8-6.2(e) Temporary sources. The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

- (1) Conditions that will assure compliance with all applicable requirements at all authorized locations;
- (2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and
- (3) Conditions that assure compliance with all other provisions of this section. [NOTE: 252:100-8-6.2 was moved from 252:100-8-6(e)]

252:100-8-6.3. ~~(i)~~ Special provisions for affected (acid rain) sources

~~(a)(1)~~ Application binding until permit issuance or denial. A complete acid rain permit application is binding on the applicant and enforceable as a an acid rain permit until an acid rain permit is issued or denied. For applicable permitting procedures, see OAC 252:2-15.

~~(b)(2)~~ Exemption petitions. Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.

~~(c)(3)~~ Permit shield. The acid rain portion of every operating permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the federal Clean Air Act, will be deemed to be operating in compliance with the Acid Rain Program.

~~(d)(4)~~ Modifications. See 40 CFR 72.82.

~~(e)(5)~~ Duration. Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.

~~(f)(6)~~ Right of intervention. The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.

~~(g)(7)~~ Administrative appeal. The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.

~~(h)(8)~~ Adoption of 40 CFR Part 72 by reference. Owners or operators of sources subject to the acid rain provisions of the federal Clean Air Act shall comply with applicable provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, which is hereby adopted by reference as rules of the Environmental Quality Board. In such regulations, the term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with this Chapter, the Part 72 provisions and requirements shall apply and take precedence.

~~(8)~~ The Oklahoma Department of Environmental Quality DEQ hereby adopts and incorporates by reference the provisions of 40 CFR Part part 72, as published in the Federal Register on January 11,

1993, and on March 23, 1993, and on October 24, 1997, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part part 72 conflict with or are not included in Oklahoma Administrative Code 252:100-8, the Part part 72 provisions and requirements shall apply and take precedence.

[NOTE: 252:100-8-6.3 was moved from 252:100-8-6(i)]

252:100-8-7. ~~Permit issuance, renewal, reopenings, and revisions~~

(a) ~~Action on application; issuance/denial criteria.~~

(1) ~~Criteria for issuance.~~ A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S.Supp. 1995, ~~Section 2-14-101 et seq.~~; ~~OAC 252:2-15;~~ and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and for applications subject to ~~OAC 252:100-8-8,~~ that the requirements of that section have been satisfied.

(2) ~~Draft permits and notice thereof.~~ See ~~OAC 252:2-15.~~ The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).

(3) ~~EPA review.~~ See ~~OAC 252:100-8-8.~~

(4) ~~DEQ final action.~~ See ~~OAC 252:2-15,~~ and ~~OAC 252:100-8-8~~ when applicable.

(5) ~~Timeline for technical review and issuance.~~ See ~~OAC 252:2-15-70 through 15-72.~~ Except as provided in paragraphs (A) and (B) of this paragraph, the The DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with ~~252:2-15-70 through 15-72 and OAC 252:100-8-5(b)(5) 252:100-8-4(b)(7).~~

(6) ~~Action priorities.~~ See ~~OAC 252:100-8-5(b) 252:100-8-4(b)(2) through (10) and 252:100-8-7.1(a).~~

(7) ~~No issuance by default.~~ See ~~27A:2-5-112(D).~~

(b) ~~Requirement for a permit.~~ See ~~OAC 252:100-8-4(b) 252:100-8-4.~~

~~(c) Permit renewal and expiration.~~

(1) ~~Applications for permit renewal after the transition period, and for permit for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection. [NOTE: Moved to 252:100-8-7.1(a)(1)]~~

(2) ~~Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under OAC 252:100-8-7(a).~~

[NOTE: Moved to 252:100-8-7.1(c)]

~~(3) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration. [NOTE: Moved to 252:100-8-7.1(d)(1)]~~

~~(4) If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time. [NOTE: Moved to 252:100-8-7.1(d)(2)]~~

~~(5) Stationary sources operating under permits issued by the DEQ under this subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit. [NOTE: Moved to 252:100-8-7.1(a)(2)]~~

~~(d) Administrative permit amendments.~~

~~(1) When used in this subsection "Administrative permit amendment" means a permit revision that:~~

~~(A) Corrects typographical errors;~~

~~(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;~~

~~(C) Requires more or less frequent monitoring or reporting by the permittee;~~

~~(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;~~

~~(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under OAC 252:100-7. Enhanced New Source Review (NSR) procedures apply to all major sources and all State Implementation Plan (SIP) minor source changes to majors.~~

~~(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:~~

~~(A) The DEQ shall take final action on a request for an~~

~~administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.~~

~~(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.~~

~~(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.~~

~~(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(f) for administrative permit amendments made pursuant to subparagraph (d)(1)(E) of this section.~~

[NOTE: 252:100-8-7(d) was moved to 252:100-8-7.2(a)]

~~(e) Permit modification. A permit modification is any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under subsection (d) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(1) Minor permit modification procedures.~~

~~(A) Criteria.~~

~~(i) Minor permit modification procedures may be used only for those permit modifications that:~~

~~(I) Do not violate any applicable requirement, or state only requirements;~~

~~(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;~~

~~(III) Do not require or change a case by case determination of an emission limitation or other standard, or a source specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;~~

~~(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, or state only requirement, and that the source has assumed to avoid an applicable requirement, or state only requirement, to which the source would otherwise be subject. Such terms and conditions include federally enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5) of the federal Clean Air Act; and~~

~~(V) Are not modifications under any provision of Title I of the federal Clean Air Act.~~

~~(ii) Notwithstanding OAC 252:100-8-7(c)(1)(A)(i) and OAC~~

~~252:100-8-7(c)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.~~

~~(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:~~

~~(i) A description of the change, the emissions resulting from the change, and any new applicable requirements, and state only requirements, that will apply if the change occurs;~~

~~(ii) The source's suggested modification language;~~

~~(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and~~

~~(iv) Completed forms for any notices required by OAC 252:2-15 and, regarding notice to EPA and affected states, as required under subparagraph (C) of this paragraph.~~

~~(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.~~

~~(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15 the DEQ shall:~~

~~(i) Issue the minor permit modification as approved;~~

~~(ii) Deny the minor permit modification application; or~~

~~(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.~~

~~(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change allowed by the preceding sentence, and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this section, the source must comply with both the applicable requirements and state only requirements, governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and~~

~~conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.~~

~~(F) Permit shield. The permit shield under OAC 252.100-8-6(f) will not extend to minor permit modifications.~~

~~(G) Permittee's risk in commencing construction. The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.~~

~~(2) Significant modification procedures.~~

~~(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:~~

~~(i) Involve any significant amendment to existing monitoring, reporting, or recordkeeping requirements in the permit;~~

~~(ii) Require any amendment to establish or amend a permit condition that is required to be based on a case by case determination of an emission limitation or other standard, on a source specific determination of ambient impacts, or on a visibility or increment analysis;~~

~~(iii) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and state only requirement, and that the source has assumed to avoid an applicable requirement, and state only requirement, to which the source would otherwise be subject. Such terms and conditions include:~~

~~(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;~~

~~(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the federal Clean Air Act; and~~

~~(iv) Are modifications under any provision of Title I of the federal Clean Air Act; and,~~

~~(v) Do not qualify as minor permit modifications or administrative amendments.~~

~~(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements, and state only requirements, that will apply if the change occurs.~~

~~(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.~~

[NOTE: 252:100-8-7(e) was moved to 252:100-8-7.2(b)]

~~(f) Reopening for cause.~~

~~(1) Mandatory reopening.~~ Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:

~~(A) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original permit or any of its terms and conditions has been extended pursuant to the application shield provided at OAC 252:100-8-7(c)(4) beyond the 18-month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.~~

~~(B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.~~

~~(C) The agency or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.~~

~~(D) The administrator or the agency determines that the permit must be revised or revoked to assure compliance with the applicable requirements.~~

~~(2) Discretionary reopening.~~ The agency may reopen and amend a permit when:

~~(A) additional state only requirements become applicable to a permitted stationary source, and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;~~

~~(B) alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;~~

~~(C) the agency receives information previously unavailable to the agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;~~

~~(D) a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; and~~

~~(E) an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.~~

~~(3) Reopening procedures. To reopen and amend a permit, the agency shall follow the procedures that apply to significant permit amendments under this chapter, unless the amendment can be made as an administrative amendment under OAC 252:100-8-7(d). Mandatory reopenings under OAC 252:100-8-7(f)(1) shall be made as expeditiously as practicable. In lieu of an application, the significant permit amendment process will commence when the agency gives the permittee written notice of its intent to amend the permit. The agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the agency has given the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit which the agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.~~

[NOTE: 252:100-8-7(f) was moved to 252:100-8-7.3(a), (b) and (c)]

~~(g) Reopenings for cause by EPA.~~

~~(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the permitting authority and the permittee of such findings in writing.~~

~~(2) The permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90 day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the permitting authority must require the permittee to submit additional information.~~

~~(3) The Administrator will review the proposed determination from the permitting authority within 90 days of receipt.~~

~~(4) The permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.~~

~~(5) If the permitting authority fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:~~

~~(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.~~

~~(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.~~

[NOTE: 252:100-8-7(g) was moved to 252:100-8-7.3(d)]

~~(h) Revocations.~~

~~(1) Permit revocation without reissuance. The agency may revoke permits and not reissue them when:~~

~~(A) there exists at the permitted facility unresolved~~

~~noncompliance with applicable requirements or a condition of the permit, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;~~

~~(B) the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or the administrator;~~
~~(C) the permittee has failed to comply with any requirement under OAC 252:100-9 to pay fees; or~~
~~(D) the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, or schedule of compliance.~~

~~(2) Revocation procedures. The agency shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the agency may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the agency shall hold the hearing in accordance with the Oklahoma Administrative Procedures Act.~~

[NOTE: 252:100-8-7(h) was moved to 252:100-8-7.4]

~~(i) Public participation. See 27A O.S.Supp. 1995, § 2-14-101 et seq. and OAC 252:2-15.~~

~~(j) Judicial review. Any final action in granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to judicial review in the court of appropriate jurisdiction upon an application filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. Except for authorizations under General Permits, judicial review is available to all affected parties for all final permit actions including minor modifications and administrative actions. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.~~

~~(1) No application for judicial review may be filed more than 90 days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within 90 days of the date on which the grounds for review first arose and review shall be limited to such later arising grounds.~~

~~(2) Any application for judicial review shall be limited to issues that:~~

~~(A) were raised in written comments filed with the Agency or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and~~

~~(B) are germane and material to the permit action at issue.~~
~~(3) For purposes of this section, "final action" shall include a failure by the Agency to take final action to grant or deny an application within the time specified in this Chapter.~~

[NOTE: 252:100-8-7(j) was moved to 252:100-8-7.5]

252:100-8-7.1.(e) Permit renewal and expiration

(a) Timely application for permit renewal.

(1) Applications for permit renewal after the transition period, and for permits permit for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection. [NOTE: Was 252:100-8-7(c)(1)]

(2) Stationary sources operating under permits issued by the DEQ under this Subchapter subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit. [NOTE: Was 252:100-8-7(c)(5)]

(b)(9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ-issued Part 70 operating permit, a source may identify and incorporate by reference terms and conditions in its previous permit and permit application(s) that should remain unchanged. terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:

(1)(i) information specified in OAC 252:100-8-5(d) 252:100-8-5(c) for those products, processes, operations, and emissions that:

(A)(I) That are not addressed in the existing permit;

(B)(II) That are subject to applicable requirements, or state-only requirements that are not addressed in the existing permit; or

(C)(III) For as to which the source seeks permit terms and conditions that differ from those in the existing permit; and

~~(2)(ii)~~ a compliance plan and certification as required in ~~OAC 252:100-8-5(d)(8)~~ 252:100-8-5(c)(8). [NOTE: Was 252:100-8-5(b)(9)]

(c)(2) Issuance of renewal permit. Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under OAC 252:100-8-7(a). [NOTE: Was 252:100-8-7(c)(2)]

(d) Expiration of permit.

~~(1)(3)~~ A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration. [NOTE: Was 252:100-8-7(c)(3)]

~~(2)(4)~~ If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time. [NOTE: Was 252:100-8-7(c)(4)]

~~(5)~~ Stationary sources operating under permits issued by the DEQ under this subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit. [NOTE: Moved to 252:100-8-7.1(a)(2)]

252:100-8-7.2.(d) Administrative permit amendments and permit modifications

(a) Administrative permit amendments.

(1) When used in this subsection An "Administrative administrative permit amendment" means a permit revision that:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(C) Requires more or less frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under this Part OAC 252:100-7. Enhanced New Source Review (NSR) procedures apply to all major sources and all State Implementation Plan (SIP) minor source changes to majors.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph ~~(d)(1)-(E)~~ 252:100-8-7.2(a)(1)(E) of this section. [NOTE: 252:100-8-7.2(a) was 252:100-8-7(d)]

~~(b)(e)~~ Permit modification. A permit modification is any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under subsection ~~(d)~~ (a) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act 40 CFR Part 72.

(1) Minor permit modification procedures.

(A) Criteria.

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, or state-only

requirement, and that which the source has assumed to avoid an some other applicable requirement, or state-only requirement, to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5) of the federal Clean Air Act; and

(V) Are not modifications under any provision of Title I of the federal Clean Air Act.

(ii) Notwithstanding OAC 252:100-8-7(e)(1)(A)(i) 252:100-8-7.2(b)(1)(A)(i) and OAC 252:100-8-7(e)(2)(A) 252:100-8-7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable the State's implementation plan or in applicable requirements promulgated by EPA.

(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements, and or state-only requirements, that will apply if the change occurs;

(ii) The source's suggested modification language;

(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and

(iv) Completed forms for any notices required by OAC 252:2-15 and, regarding notice to EPA and affected states, as required under subparagraph (C) of this paragraph.

(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15, the DEQ shall:

(i) Issue the minor permit modification as approved;

(ii) Deny the minor permit modification application; or

(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change allowed by the preceding sentence, and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this section subsection, the source must comply with both the applicable requirements and state-only requirements, governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) Permit shield. The permit shield under ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) will not extend to minor permit modifications.

(G) Permittee's risk in commencing construction. The permittee ~~permittees~~ assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) Significant modification procedures.

(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:

(i) Involve any significant changes in amendment to existing monitoring, reporting, or recordkeeping requirements in the permit;

(ii) Relax any reporting or recordkeeping requirements.

(iii)-(ii) Require any amendment to establish or amend a permit condition that Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

(iv)-(iii) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and or state-only requirement, and that which the source has assumed to avoid an some other applicable requirement, and or state-only requirement, to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of

~~the federal Clean Air Act; and~~
~~(v)-(iv)~~ Are modifications under any provision of Title I of the federal Clean Air Act; and,
~~(vi)-(v)~~ Do not qualify as minor permit modifications or administrative amendments.

(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements, and or state-only requirements, that will apply if the change occurs.

(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

[NOTE: 252:100--8-7.2(b) was 252:100-8-7(e)]

252:100-8-7.3.(f) Reopening for cause

(a)-(1) Mandatory reopening. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:

(1)-(A) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original permit or any of its terms and conditions has been extended pursuant to the application shield provided at OAC 252:100-8-7(e)-(4) 252:100-8-7.1(d)(2) beyond the 18-month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

(2)-(B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(3)-(C) The DEQ agency or the administrator EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

(4)-(D) The Administrator administrator or the DEQ agency determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b)-(2) Discretionary reopening. The DEQ agency may reopen and amend a permit when:

(1)-(A) additional state-only requirements become applicable to a permitted stationary source, and the effective date of the

requirement is at least 18 months prior to the date on which the permit is due to expire;

(2)~~(B)~~ alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;

(3)~~(C)~~ the DEQ agency receives information previously unavailable to the DEQ agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;

(4)~~(D)~~ a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; and
or

(5)~~(E)~~ an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.

(c)~~(3)~~ Reopening procedures. To reopen and amend a permit, the DEQ agency shall follow the procedures that apply to significant permit amendments under this chapter, unless the amendment can be made as an administrative amendment under OAC ~~252:100-8-7(d)~~ 252:100-8-7.2(a). Mandatory reopenings under OAC ~~252:100-8-7(f)(1)~~ 252:00-8-7.3(a) shall be made as expeditiously as practicable. In lieu of an application, the significant permit amendment process will commence when the DEQ agency gives the permittee written notice of its intent to amend the permit. The DEQ agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the DEQ agency has given the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit that ~~which~~ the DEQ agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.

[NOTE: 252:100-8-7.3(a), (b), and (c) were 252:100-8-7(f)]

(d)~~(c)~~ Reopenings for cause by EPA.

(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the DEQ permitting authority and the permittee of such findings in writing.

(2) The DEQ permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the DEQ permitting authority must require the permittee to submit additional information.

(3) The Administrator will review the proposed determination from the DEQ permitting authority within 90 days of receipt.

(4) The DEQ permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the

permit in accordance with the Administrator's objection.
(5) If the DEQ permitting authority fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

- (A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.
- (B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

[NOTE: 252:100-8-7.3(d) was 252:100-8-7(g)]

252:100-8-7.4.(h) Revocations

(a)(1) Revocation of a permit or authorization under a general permit Permit revocation without reissuance. The DEQ agency may revoke permits or authorizations under a general permit and not reissue them when:

- (1)(A) there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit or authorization, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;
- (2)(B) the permittee fails to disclose fully the facts relevant to issuance of the permit or authorization or submits false or misleading information to the DEQ agency or the Administrator administrator;
- (3)(C) the permittee has failed to comply with any requirement under ~~OAC 252:100-9~~ 252:100-5 to pay fees; or
- (4)(D) the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, or schedule of compliance.

(b)(2) Revocation procedures. The DEQ agency shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the DEQ agency may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the DEQ agency shall hold the hearing in accordance with the Oklahoma Administrative Procedures Act.

[NOTE: 252:100-8-7.4 was 252:100-8-7(h)]

252:100-8-7.5.(j) Judicial review

Any final action in granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to judicial review in the court of appropriate jurisdiction upon an application filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. Except for authorizations under General Permits, judicial review is available to all affected parties for all final permit actions

including minor modifications and administrative actions. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.

(1) No application for judicial review may be filed more than 90 days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within 90 days of the date on which the grounds for review first arose and review shall be limited to such later-arising grounds.

(2) Any application for judicial review shall be limited to issues that:

(A) were raised in written comments filed with the DEQ Agency or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and

(B) are germane and material to the permit action at issue.

(3) For purposes of this section, "final action" shall include a failure by the DEQ Agency to take final action to grant or deny an application within the time specified in this Chapter.

[NOTE: 252:100-8-7.5 was 252:100-8-7(j)]

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This section applies only to specific Tier II and III applications for Part 70 operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the ~~federal Clean Air Act~~ or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.**

For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See 27A O.S.Supp. 1995, § 2-5-112(E); 27A O.S.Supp. 1995, § 2-14-101 et seq.; and OAC 252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments, revise the draft permit as

appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in OAC 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S.Supp. 1995, § 2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (Tier I) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of OAC 252:2-15.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

(A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to

EPA within 90 days after the date of EPA's objection, or
(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

- (i) issue the amended or revised draft permit (Tier II) as final, or
- (ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in OAC 252:002-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAC 252:100-8-7 through 252:100-8-7.5 except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with 27A O.S.Supp. 1995, Section 2-14-101 et seq., the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

~~252:100-8-9. Permit fees~~ [NOTE: The contents of this Section

were moved to 252:100-5 and 252:100-8-1.7]

~~(a) Definitions.~~ The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

~~(1) "Actual emission" means the total amount of regulated pollutant (for fee calculation) emitted from a given facility during a particular calendar year, as determined by methods contained in OAC 252:100-8-9(d).~~

~~(2) "Allowable emissions" means the total amount of regulated pollutant (for fee calculation) emitted based on limits contained in a federally enforceable permit or potential to emit.~~

~~(3) "Emission inventory" means a compilation of the total of all point source, storage and process fugitive air emissions for all regulated pollutant (for fee calculation) at a given facility.~~

~~(4) "Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.~~

~~(b) Fee required.~~ The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the part 70 program costs. The permitting authority shall ensure that any fee required by these rules will be used solely for part 70 program costs.

~~(c) Applicability.~~ A Part 70 source shall be subject to fee requirements of this section on January 1, 1995, and as of this date shall no longer be subject to the major source annual operating fee specified in 252:100-7-4 (b) (1) (A).

~~(d) Fee schedule for Part 70 sources.~~

~~(1) Annual fees.~~ The annual fee shall be calculated on a source specific basis and may be based on either actual or allowable emissions at the option of the owner or operator paying the fee as set forth in the facility emissions inventory. Fees shall be based on emission inventories submitted in the previous calendar year. (For example, fee invoiced during calendar year 1995 shall be based upon inventory data covering the calendar year 1993).

~~(A) Annual fees shall be determined according to the following:~~

- ~~(i) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing; or~~
- ~~(ii) where both actual and allowable emission are reflected on the inventory, the lesser of the two shall be used.~~

~~(B) Annual fees shall be as follows:~~

- ~~(i) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant.~~
- ~~(ii) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by~~

~~which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.~~

~~(iii) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a part 70 source shall not be considered in the calculation of the annual fee.~~

~~(2) Permit processing fees. Permit processing fees shall be as follows:~~

~~(A) Initial Part 70 permit \$2,000.~~

~~(B) Renewal Part 70 permit \$1,000.~~

~~(C) Significant Part 70 Permit Mod. \$1,000.~~

~~(D) Minor Part 70 Permit Modification \$ 500.~~

~~(E) The Part 70 Temporary Permit \$1,000.~~

~~(F) Part 70 Temporary Source Relocation \$ 500.~~

~~(3) Payment. Fees will be paid by check or money order made payable to the Oklahoma Air Quality fund or upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1 1/2%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2 5 101 et seq., as amended.~~

~~(4) Emissions inventory. The owner or operator of any Part 70 source shall by April 1, 1994, and every succeeding year thereafter, submit a complete emission inventory on forms obtained from the Agency. These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee. The methods of calculation to be utilized in the development of an emission inventory shall be in accordance with the methods described in OAC 252:100-7-4(e).~~

PART 9. PREVENTION OF SIGNIFICANT DETERIORATION (PSD)
REQUIREMENTS FOR ATTAINMENT AREAS

[NOTE: Was 252:100-7-30 through 37]

252:100-8-30. Applicability

The new source requirements of this Part, in addition to the requirements of OAC 252:100-7-15 through 252:100-7-18 and 252:100-8, Parts 1, 3, 5, and 7 of this Subchapter, if applicable, shall apply to the construction of all major

stationary sources and major modifications as specified in OAC 252:100-7-31 252:100-8-31 through 252:100-7-33 252:100-8-33. following and are effective upon adoption of this Subchapter by Oklahoma. Except that the requirements of this Part will not be necessary for sources required to meet the permit requirements of the United States Environmental Protection Agency under Title 40 Part 52.21 of the Code of Federal Regulations. Sources subject to this Part are also subject to the operating permit provisions contained in Part 5 of OAC 252:100-8, Operating Permit Program (Part 70) Permits for Major TSP Facilities, or Part 7, Permits for Part 70 Sources.

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the ~~DEQ Air Quality Division~~ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility. [NOTE: From 252:100-7-36(a)]

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and

the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition. [NOTE: Moved to 252:100-8-1.1]

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m³ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. (Effective May 11, 1991)

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. (Effective May 11, 1991)

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,

(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or OAC 252:100-7 252:100-8, Part 5 9) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988.

(Effective May 11, 1991)

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of

permanent storage structures. With respect to a change in method of operation this term refers to those on site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: Moved to 252:100-8-1.1]

"Best available control technology" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case basis taking into account energy, environmental, costs and economic impacts of alternate control systems.

"Building, structure, facility or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972 1987, as amended by the 1977 Supplement.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:
(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,
(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: Moved to 252:100-8-1.1]

"Complete" in reference to an application for a permit, means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: Moved to 252:100-8-1.1]

"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

"Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative. [NOTE: Moved from 252:100-8-36(a)]

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. [NOTE: Moved to 252:100-8-1.1]

"Innovative control technology" means any system of air

pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement.

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7.

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(vii) Any change in source ownership.

"Major stationary source" means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(i) carbon black plants (furnace process),

(ii) charcoal production plants,

(iii) chemical process plants,

(iv) coal cleaning plants (with thermal dryers),

(v) coke oven batteries,

(vi) fossil-fuel boilers (or combustion combination thereof) totaling more than 250 million BTU per hour heat input,

- (vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,
- (viii) fuel conversion plants,
- (ix) glass fiber processing plants,
- (x) hydrofluoric, sulfuric or nitric acid plants,
- (xi) iron and steel mill plants,
- (xii) kraft pulp mills,
- (xiii) lime plants,
- (xiv) municipal incinerators capable of charging more than 250 tons of refuse per day,
- (xv) petroleum refineries,
- (xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (xvii) phosphate rock processing plant,
- (xviii) portland cement plants,
- (xix) primary aluminum ore reduction plants,
- (xx) primary copper smelters,
- (xxi) primary lead smelters,
- (xxii) primary zinc smelters,
- (xxiii) secondary metal production plants,
- (xxiv) sintering plants,
- (xxv) sulfur recovery plants, or
- (xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration. [NOTE: From 252:100-8-36(a)]

~~"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules. [NOTE: Moved to 252:100-8-1.1]~~

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

- (i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,
- (ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-7, Part 3 252:100-8, Part 9, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(Effective May 11, 1991)

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: Moved to 252:100-8-1.1]

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purposes of OAC 252:100-7, Part 5 secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a

~~result of the construction or operation of the major source or modification.~~ [NOTE: Moved to 252:100-8-1.1]

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (i) carbon monoxide: 100 tons per year (tpy),
- (ii) nitrogen oxides: 40 tpy,
- (iii) sulfur dioxide: 40 tpy,
- (iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,
- (v) ozone: 40 tpy of volatile organic compounds,
- (vi) lead: 0.6 tpy,
- (vii) asbestos: 0.007 tpy,
- (viii) beryllium: 0.0004 tpy,
- (ix) mercury: 0.1 tpy,
- (x) vinyl chloride Chloride: 1 tpy,
- (xi) fluorides: 3 tpy,
- (xii) sulfuric acid mist: 7 tpy,
- (xiii) hydrogen sulfide (H₂S): 10 tpy,
- (xiv) total reduced sulfur (including H₂S): 10 tpy, and
- (xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 ug/m³ (24-hour average).

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100. [NOTE: Moved to 252:100-8-1.1]

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

[NOTE: From 252:100-8-36(a)]

252:100-8-32. Source applicability determination

Proposed new sources and source modifications to which this Part 5 of this Subchapter is applicable are determined by size, geographical location and type of emitted pollutants.

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant and other associated definitions in 252:100-8-31, 252:100-8-1.1, and 252:100-1.

(B) When at such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980, on the capacity of the source or

modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of OAC 252:100-7-15 through 252:100-7-18 and OAC 252:100-7-Part 7 252:100-8, Parts 1, 3, 5, 7 and 9 shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications which are major in size and proposed for construction in an area which has been designated as attainment or unclassified for any applicable ambient air standard are subject to the prevention of significant deterioration PSD requirements.

(B) Those sources and modifications locating in an attainment or unclassified area but impacting on a nonattainment area may also be subject to the requirements for major sources affecting nonattainment areas in 252:100-8, Part 11 of OAC 252:100-7, Part 7.

252:100-8-33. Review, applicability and exemptions Exemptions

(a) Exemptions from PSD requirements. PSD requirements do not apply to a particular source or modification do not apply if:

(1) It is a nonprofit health or educational institution.

(2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

(A) carbon black plants (furnace process), One of the categories listed in (A) (i) through (xxvi) under the definition of "Major stationary source" in 252:100-8-31, or

(B) charcoal production plants,

(C) chemical process plants,

(D) coal cleaning plants (with thermal dryers),

(E) coke oven batteries,

(F) fossil fuel boilers (or combustion combination thereof) totaling more than 250 million BTU per hour heat input,

(G) fossil fuel fired steam electric plant of more than 250 million BTU per hour heat input,

(H) fuel conversion plants,

(I) glass fiber processing plants,

(J) hydrofluoric, sulfuric or nitric acid plants,

(K) iron and steel mills,

(L) kraft pulp mills,

(M) lime plants,

(N) municipal incinerators capable of charging more than 250 tons of refuse per day,

(O) petroleum refineries,

(P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,

(Q) phosphate rock processing plants,

(R) portland cement plants,

(S) primary aluminum ore reduction plants,

(T) primary copper smelters,

- ~~(U)~~ primary lead smelters,
- ~~(V)~~ primary zinc smelters,
- ~~(W)~~ secondary metal production plants,
- ~~(X)~~ sintering plants,
- ~~(Y)~~ sulfur recovery plants,
- ~~(Z)~~ taconite ore processing plants, or
- ~~(AA)~~ A any other stationary source category which, as of August 7, 1980, is being regulated by federal New Source Performance Standards (NSPS) NSPS or National Emission Standards for Hazardous Air Pollutants (NESHAPS) NESHAP.

(3) The source or modification is a A portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) Exemption from air quality impact evaluation.

(1)(b) The requirements of OAC 252:100-7-35 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2)(e) The requirements of OAC 252:100-7-35 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of best available control technology, would be less than 50 tons per year. [NOTE: 252:100-8-33(b) (2) was 252:100-8-33(c)]

(c) Exemption from monitoring requirements.

(1)(d) The monitoring requirements of OAC 252:100-7-35 252:100-8-35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

- ~~(A)~~(1) Carbon monoxide - 575 ug/m³, 8-hour average,
- ~~(B)~~(2) Nitrogen dioxide - 14 ug/m³, annual average,
- ~~(C)~~(3) Particulate matter - 10 ug/m³, TSP, 24-hour average, or 10 ug/m³ PM-10, 24-hour average,
- ~~(D)~~(4) Sulfur dioxide -13 ug/m³, 24-hour average,
- ~~(E)~~(5) Ozone - see (N) ~~(14)~~ below,
- ~~(F)~~(6) Lead - 0.1 ug/m³, 24-hour 3-month average,
- ~~(G)~~(7) Mercury - 0.25 ug/m³, 24-hour average,
- ~~(H)~~(8) Beryllium - 0.0005 0.001 ug/m³, 24-hour average,
- ~~(I)~~(9) Fluorides - 0.25 ug/m³, 24-hour average,
- ~~(J)~~(10) Vinyl chloride - 15 ug/m³, 24-hour average,
- ~~(K)~~(11) Total reduced sulfur - 10 ug/m³, 1-hour average,
- ~~(L)~~(12) Hydrogen sulfide - 0.04 0.2 ug/m³, 1-hour average, or
- ~~(M)~~(13) Reduced sulfur compounds - 10 ug/m³, 1-hour

average.

(N) (14) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data. [NOTE: 252:100-8-33(c) (1) was 252:100-8-33(d)]

(2) The requirements for air quality monitoring in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c) and (d) (2) shall not apply to a particular source or modification that was subject to Federal 40 CFR 52.21 as in effect on June 19, 1978, if a permit application in accordance with OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c) and (d) (2) and with respect to the requirements for such analyses at 40 CFR 52.21 (m) (2) as in effect on June 19, 1978. Instead, the latter requirements in 40 CFR 52.21(m) (2) as in effect on June 19, 1978, shall apply to any such source or modification. [NOTE: was 252:100-7-33(f)]

(3) The requirements for air quality monitoring in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c), and (d) (2) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application in accordance with OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c) and (d) (2). [NOTE: was 252:100-7-33(g)]

(4) The Executive Director shall determine if the requirements for air quality monitoring of PM-10 in OAC 252:100-7-35(a) 252:100-8-35(a) through 252:100-7-35(d) 252:100-8-35(c) and 252:100-8-35(d) (2) may be waived for a particular source or modification when the owner or operator of the source or modification submits an application for a permit was submitted on or before June 1, 1988 and the Executive Director subsequently determines that the application, except with respect to for the requirements for monitoring particulate matter under OAC 252:100-7-35(a) 252:100-8-35(a) through 252:100-7-35(d) 252:100-8-35(c) and 252:100-8-35(d) (2), was complete before that date. [NOTE: was 252:100-7-33(i)]

(5) The requirements for air quality monitoring of PM-10 in OAC 252:100-7-35(b) 252:100-8-35(b), (c), (d) (2) and (d) (6) through 252:100-7-35(d) and 252:100-7-35(h) shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit

was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of ~~OAC 252:100-7-33(b)~~ 252:100-8-33(b) (1), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) (1) and ~~252:100-7-35(e)~~ 252:100-8-35(c) shall have been gathered over that shorter period. [NOTE was 252:100-7-33(j)]

~~(d)(e)~~ **Exemption from BACT requirements and monitoring requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for best available control technology in ~~OAC 252:100-7-34~~ 252:100-8-34 and for monitoring in ~~OAC 252:100-7-35(a)~~ 252:100-8-35(a) through ~~252:100-7-35(f)~~ 252:100-8-35(c) and 252:100-8-35(d) (2) through 252:100-8-35(d) (4) are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification. [NOTE: was 252:100-8-33(e)]

~~(f)~~ The requirements for air quality monitoring in ~~OAC 252:100-7-35(b)~~ through ~~252:100-7-35(d)~~ shall not apply to a particular source or modification that was subject to Federal 40 CFR 52.21 as in effect on June 19, 1978 if a permit application in accordance with ~~OAC 252:100-7~~ is submitted before June 8, 1981 and the Executive Director subsequently determines that the application as submitted was complete with respect to the requirements of ~~OAC 252:100-7~~ other than those in ~~OAC 252:100-7-35(b)~~ through ~~252:100-7-35(d)~~ and with respect to the requirements for such analyses at 40 CFR 52.21 (m) (2) as in effect on June 19, 1978. Instead, the latter requirements shall apply to any such source or modification. [NOTE: Moved to 252:100-8-33(c) (2)]

~~(g)~~ The requirements for air quality monitoring in ~~OAC 252:100-7-35(b)~~ through ~~252:100-7-35(d)~~ shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978 if a permit application in accordance with ~~OAC 252:100-7~~ is submitted before June 8, 1981 and the Executive Director subsequently determines that the application as submitted was complete, except with respect to the requirements in ~~OAC 252:100-7-35(b)~~ through ~~252:100-7-35(d)~~. [NOTE: Moved to 252:100-8-33(c) (3)]

~~(e)(h)~~ **Exemption of modifications.** As specified in the applicable definitions of ~~OAC 252:100-7-31~~ 252:100-8-31 and 252:100-1, the requirements of ~~OAC 252:100-7~~ 252:100-8, Part 5 9 for PSD and ~~252:100-7~~ 252:100-8, Part 7 11 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right. [Note: was 252:100-8-33(h)]

~~(i)~~ The Executive Director shall determine if the requirements

~~for air quality monitoring of PM 10 in OAC 252:100 7 35(a) through 252:100 7 35(d) may be waived for a particular source or modification when the owner or operator of the source or modification submits an application for a permit on or before June 1, 1988 and the Executive Director subsequently determines that the application, except with respect to the requirements for monitoring particulate matter under OAC 252:100 7 35(a) through 252:100 7 35(d), was complete before that date. [NOTE: Moved to 252:100-8-33(c) (4)]~~

~~(j) The requirements for air quality monitoring of PM 10 in OAC 252:100 7 35(b) through 252:100 7 35(d) and 252:100 7 35(h) shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100 7 33(b), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100 7 35(b) and 252:100 7 35(c) shall have been gathered over that shorter period. [NOTE: Moved to 252:100-8-33(c) (5)]~~

~~(k) For any application that becomes complete, except as to the requirements of OAC 252:100 7 35(b) through 252:100 7 35(d) pertaining to monitoring of PM 10, after December 1, 1988 and no later than August 1, 1989, the data that OAC 252:100 7 35(b) and 252:100 7 35(c) require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that OAC 252:100 7 35(b) and 252:100 7 35(c) require shall have been gathered over that shorter period. [NOTE: Moved to 252:100-8-35(d) (3) (B)]~~

~~(l) With respect to any requirements for air quality monitoring of PM 10 under OAC 252:100 7 33(i) and 252:100 7 33(j), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM 10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director. [NOTE: Moved to 252:100-8-35(d) (1)]~~

~~(f) (m) **Exemption from impact analyses.** The requirements of OAC 252:100 7 35 252:100-8-35 and 252:100 7 36 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988. [NOTE: was 252:100-8-33(m)]~~

~~(g) (n) **Exemption from increment consumption.** Excluded from increment consumption are the following cases:~~

- ~~(1) Concentrations from an increase in emissions from any~~

source converting from the use of petroleum products, natural gas; or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source. [NOTE: was 252:100-8-33(n)]

252:100-8-34. Best available control Control technology

(a) A new source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein for each regulated pollutant that it would have the potential to emit in significant amounts).

(b) A major modification must demonstrate that the control technology to be applied is the best that is available for each regulated pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(c) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.

(d) For phased construction projects the determination of best available control technology shall be reviewed and modified at the discretion of the Executive Director at a reasonable time but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of best available control technology.

252:100-8-35. Air quality impact evaluation

(a) Application contents. Any application for a permit shall contain, as the Executive Director determines appropriate, an evaluation of ambient air quality in the area that the source or modification would affect for each of the following pollutants:

(1) for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;

(2) for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(b) Continuous monitoring data. For visibility and any pollutant, other than volatile organic compounds, for which an ambient air quality standard ~~does exist~~ exists, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality

standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Executive Director determines is necessary to assess the ambient air quality for that pollutant in that area. (Amended 7-9-87, effective 8-10-87)

(c) Increment consumption. The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Executive Director.

(d) Monitoring.

(1) Monitoring method. With respect to any requirements for air quality monitoring of PM-10 under ~~OAC 252:100-7-33(i)~~ 252:100-8-33(c)(4) and ~~252:100-7-33(j)~~ 252:100-8-33(c)(5), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM-10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director. [NOTE: was 252:100-7-33(1)]

(2)~~(d)~~ Monitoring period. The required monitoring data shall have been gathered for a time period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data collected for a time period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Executive Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment. [NOTE: 252:100-8-35(d)(2) was 252:100-8-35(d)]

(3)~~(e)~~ Monitoring period exceptions.

(A) For any application which becomes complete except as to the monitoring requirements of ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) through ~~252:100-7-35(d)~~ 252:100-8-35(c) and 252:100-8-35(d)(2), between June 8, 1981 and February 9, 1982, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(i)~~(1)~~ If the source or modification would have been major for that pollutant under Federal 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(ii)~~(2)~~ If the Executive Director determines that a complete and adequate analysis can be accomplished with

monitoring data over a shorter period, not to be less than four months, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over that shorter period.

(iii)(3) If the monitoring data would relate exclusively to ozone and would not have been required under Federal 40 CFR 52.21 as in effect on June 19, 1978, the Executive Director may waive the otherwise applicable requirements of ~~OAC 252:100-7-35(e)~~ 252:100-8-35(d)(3)(A) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year. [NOTE: 252:100-8-35(d)(3)(A) was 252:100-8-35(e)]

(B) For any application that becomes complete, except as to the requirements of ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b), (c) and (d)(2) through ~~252:100-7-35(d)~~ pertaining to monitoring of PM-10, after December 1, 1988 and no later than August 1, 1989, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and (c) ~~252:100-7-35(e)~~ require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period(not to be less than 4 months), the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over that shorter period. [NOTE: was 252:100-7-33(k)]

(4)(f) Ozone post-approval monitoring. The application for a source or modification of volatile organic compounds which satisfies all conditions of ~~OAC 252:100-7-54~~ 252:100-8-54 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under ~~OAC 252:100-7-35~~ 252:100-8-35. [NOTE:was 252:100-8-35(f)]

(5)(g) Post-construction monitoring. The applicant for a permit for a new source or modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Executive Director determines necessary to determine the effect its emissions may have, or are having, on air quality in any area. (Amended 7-9-87, effective 8-10-87) [NOTE: was 252:100-8-35(g)]

(6)(h) Monitoring system operation. The operation of monitoring stations for any air quality monitoring required under Part 5 9 of this Subchapter shall meet the requirements of 40 CFR 58 Appendix B. [NOTE: was 252:100-8-35(h)]

(e)(i) Air quality models.

(1) Any air quality dispersion modeling that is required under Part 5 9 of this Subchapter for estimates of ambient concentrations shall be based on the applicable air quality models, data bases and other requirements specified in the Guidelines on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent

revisions.

(2) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Executive Director. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models. [NOTE: 252:100-8-35(e) was 252:100-8-35(i)]

~~(f)-(j)~~ Growth analysis. Upon request of the Executive Director the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification. [NOTE: was 252:100-8-35(j)]

~~(g)-(k)~~ Visibility and other impacts analysis. The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Executive Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Executive Director deems necessary and appropriate. (Amended 7-9-87, effective 8-10-87) [NOTE: was 252:100-8-35(k)]

252:100-8-36. Source impacting Class I areas

~~(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~(1) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the Air Quality Division on a case by case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:~~

~~(A) times of visitor use of the Federal Class I area; and~~

~~(B) the frequency and timing of natural conditions that reduce visibility. [NOTE: Moved to 252:100-8-31].~~

~~(2) "Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative. [NOTE: Moved to 252:100-8-31]~~

~~(3) "Installation" means an identifiable piece of process equipment. (Amended 7-9-87, effective 8-10-87) [NOTE: in SC-1]~~

~~(4) "Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration. [NOTE: Moved to~~

252:100-8-31]

~~(5) "Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions. [NOTE: Moved to 252:100-8-31]~~

~~(a)(b) Permits issuance. Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts. [NOTE: was 252:100-8-36(b)]~~

~~(b)(c) Impact analysis required. The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Executive Director shall notify the appropriate Federal Land Manager of the receipt of any such analysis and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Executive Director provided that the analysis is filed with the DEQ Air Quality Division within 30 days of receipt of the application by the Land Manager. Where the Executive Director finds that such an analysis does not demonstrate to the satisfaction of the Executive Director that an adverse impact on visibility will result in the Federal Class I area, the Executive Director will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and sufficient information, by a Federal federal Land land Manager manager, the Executive Director may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be exceeded. [NOTE: was 252:100-8-36(c)]~~

252:100-8-37. Innovative control technology

~~(a) An applicant for a permit for a proposed major source or modification may request the Executive Director in writing to approve a system of innovative control technology.~~

~~(b) The Executive Director may determine that the innovative control technology is permissible if:~~

~~(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.~~

~~(2) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for best available control technology under OAC ~~252:100-7-34~~ 252:100-8-34 by a date specified by the Executive Director. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.~~

~~(3) The source or modification would meet the requirements equivalent to those in OAC ~~252:100-7-15~~ through ~~252:100-7-18~~ Parts 1, 5 and 7 of this Subchapter and ~~252:100-7-36~~ 252:100-~~

8-36 based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the Executive Director.

(4) The source or modification would not, before the date specified, cause or contribute to any violation of the applicable ambient air standards, or impact any Class I area or area where an applicable increment is known to be violated.

(5) All other applicable requirements including those for public review have been met.

(c) The Executive Director shall withdraw approval to employ a system of innovative control technology made under ~~OAC 252:100-7-37~~ 252:100-8-37, if:

(1) The proposed system fails by the specified date to achieve the required continuous reduction rate; or,

(2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(3) The Executive Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with ~~OAC 252:100-7-37(e)~~ 252:100-8-37(c), the source or modification may be allowed up to an additional 3 years to meet the requirement for application of best available control technology through the use of a demonstrated system of control.

PART 11. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50. Applicability

The new source requirements of this Section Part, in addition to the applicable requirements of ~~OAC 252:100-7-15 through 252:100-7-18~~ and ~~OAC 252:100-8-Parts 1, 3, 5 and 7~~ of this Subchapter, shall apply to the construction of all major sources and major modifications affecting designated nonattainment areas as specified in ~~OAC 252:100-7-51~~ 252:100-8-51 through ~~252:100-7-53~~ 252:100-8-53., and are effective upon adoption of this Subchapter by Oklahoma. Except that the requirements of Part 7 of this Subchapter will not be necessary for sources required to meet the permit requirements of the United States Environmental Protection Agency under Title 40 Part 52.24 of the Code of Federal Regulations. Sources subject to this Part which are Part 70 sources are also subject to the provisions of ~~OAC 252:100-8-~~

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

~~"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:~~

~~(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;~~

~~(B) the applicable State rule allowable emissions; or,~~

~~(C) the emissions rate specified as an enforceable permit condition. [NOTE: Moved to 252:100-8-1.1]~~

~~"Begin actual construction" means, in general, initiation of physical on site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: Moved to 252:100-8-1.1]~~

~~"Building, structure, facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.~~

~~"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits~~

and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: Moved to 252:100-8-1.1]

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: Moved to 252:100-8-1.1]

"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. [NOTE: Moved to 252:100-8-1.1]

"Installation" means an identifiable piece of process equipment.

"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement;

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before

- December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or,
(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7;
(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or
(vii) any change in source ownership.

"Major stationary source" means:

- (A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,
(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.
(C) for ozone, a source that is major for volatile organic compounds shall be considered major.

~~**"Necessary preconstruction approvals or permits" means those permits or approvals required under all air quality control laws and rules.**~~ [NOTE: Moved to 252:100-8-1.1]

"Net emissions increase" means:

- (A) The amount by which the sum of the following exceeds zero:
(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,
(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.
(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.
(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-7, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.
(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
(E) A decrease in actual emissions is creditable only to the extent that:
(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
(ii) it is enforceable at and after the time that actual construction on the particular change begins;
(iii) the reviewing authority has not relied on it in issuing any permit under State air quality rules; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: Moved to 252:100-8-1.1]

"Reconstruction" means the replacement of components of an existing source (which will then be treated as a new source for purposes of Part 7 of this Subchapter) to the extent that will be determined by the Executive Director based on:

(A) the fixed capital cost (the capital needed to provide all the depreciable components) of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source; and,

(B) the estimated life of the source after the replacements is comparable to the life of an entirely new source; and,

(C) the extent to which the components being replaced cause or contribute to the emissions from the source.

"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under Part 7 of this Subchapter.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purpose of OAC 252:100-7, Part 7, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: Moved to 252:100-8-1.1]

"Significant" means, in reference to a net emissions increase

or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (A) Carbon monoxide: 100 tons per year (tpy),
- (B) Nitrogen oxides: 40 tpy,
- (C) Sulfur dioxide: 40 tpy,
- (D) Particulate matter: 15 tpy of PM-10 emissions,
- (E) Ozone: 40 tpy of volatile organic compounds, or
- (F) Lead: 0.6 tpy.

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 7 11 of this Subchapter are applicable are determined by size, geographical location and type of emitted pollutants:

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in 252:100-8-51, 252:100-8-1.1, and 252:100-1.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of ~~OAC 252:100-7-15 through 252:100-7-18~~ and Part 7 Parts 1, 3, 5, 7 and 11 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications which that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 5 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when

such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

<u>Pollutant</u>	<u>Concentration, ug/m³</u>				
	<u>Averaging Time (hours)</u>				
	<u>Annual</u>	<u>24</u>	<u>8</u>	<u>3</u>	<u>1</u>
<u>SO₂</u>	<u>1.0</u>	<u>5</u>		<u>25</u>	
<u>PM-10</u>	<u>1.0</u>	<u>5</u>			
<u>NO₂</u>	<u>1.0</u>				
<u>CO</u>			<u>500</u>		<u>2000</u>

(B) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(C) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC 252:100-7-52(3) 252:100-8-52(3) are exempted from the condition of OAC 252:100-7-54(4)(A) 252:100-8-54(4)(A).

(D) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

(E) The determination as to whether a source would cause or contribute to a violation of applicable ambient air standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

(F) Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:

(i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.

(ii) The new emission limitation limitations for the new

source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.

252:100-8-53. Exemptions

(a) Nonattainment area requirements do not apply to a particular source or modification locating in or impacting on a nonattainment area if:

(1) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

- (A) carbon black plants (furnace process),
- (B) charcoal production plants,
- (C) chemical process plants,
- (D) coal cleaning plants (with thermal dryers),
- (E) coke oven batteries,
- (F) fossil-fuel boilers (or ~~combustion~~ combination thereof) totaling more than 250 million BTU per hour heat input,
- (G) fossil fuel-fired steam electric plant of more than 250 million BTU per hour heat input,
- (H) fuel conversion plants,
- (I) glass fiber processing plants,
- (J) hydrofluoric, sulfuric or nitric acid plants,
- (K) iron and steel mills,
- (L) kraft pulp mills,
- (M) lime plants,
- (N) municipal incinerators capable of charging more than 250 tons of refuse per day,
- (O) petroleum refineries,
- (P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,
- (Q) phosphate rock processing plants,
- (R) portland cement plants,
- (S) primary aluminum ore reduction plants,
- (T) primary copper smelters,
- (U) primary lead smelters,
- (V) primary zinc smelters,
- (W) secondary metal production plants,
- (X) sintering plants,
- (Y) sulfur recovery plants,
- (Z) taconite ore processing plants, or
- (AA) any other stationary source category which, as of August 7, 1980, is being regulated by federal New Source Performance Standards (NSPS) NSPS or National Emission Standards for Hazardous Air Pollutants (~~NESHAPS~~) NESHAP.

(2) A source or modification was not subject to 40 CFR Part 51, Appendix S (emission offset interpretative ruling) as in effect on January 16, 1979 and the source:

- (A) obtained all final federal and state construction

permits before August 7, 1980;

(B) commenced construction within 18 months from August 7, 1980 or any earlier time required by the State Implementation Plan; and,

(C) did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(b) Secondary emissions are excluded in determining the potential to emit (see definition of "potential to emit" in OAC ~~252:100-7-51~~ 252:100-8-1.1). However, upon determination of the Executive Director, if a source is subject to the requirements on the basis of its direct emissions, the applicable requirements must also be met for secondary emissions but the source would be exempt from the conditions of OAC ~~252:100-7-52(3)(F)~~ 252:100-8-52(3)(F) and OAC ~~252:100-7-54(1)~~ 252:100-8-54(1) through ~~252:100-7-54(3)~~ 252:100-8-54(3). Also, the indirect impacts of mobile sources are excluded.

(c) As specified in the applicable definitions, the requirements of Part 5 9 for PSD and Part 7 11 for nonattainment areas of this Subchapter are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to the existing minor source is major in its own right.

252:100-8-54. Requirements for sources located in nonattainment areas

In the event a major source or modification would be constructed in an area designated as nonattainment for a pollutant for which the source or modification is major, approval shall be granted only if the following conditions are met:

(1) The new source must demonstrate that it has applied control technology which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate (LAER) achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

(2) If the Executive Director determines that imposition of an enforceable numerical emission standard is infeasible, due to technological or economic limitations on measurement methodology, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed as the emission limitation rate.

(3) The owner or operator of the new source must demonstrate that all other major sources owned or operated by such person in Oklahoma are in compliance, or are meeting all steps on a schedule for compliance, with all applicable limitations and standards under Oklahoma and Federal Clean Air Acts.

(4) The owner or operator of the new source must demonstrate that upon commencing operations:

(A) the emissions from the proposed source and all other sources permitted in the area do not exceed the planned growth allowable for the area designated in the State Implementation Plan; or,

- (B) the total allowable emissions from existing sources in the region and the emissions from the proposed source will be sufficiently less than the total emissions from existing sources allowed under the State Implementation Plan at the date of construction permit application so as to represent further progress toward attainment or maintenance of the ambient air quality standards in the problem area.
- (5) The owner or operator may present with the application an analysis of alternate sites, sizes and production processes for such proposed source.

APPENDIX I. INSIGNIFICANT ACTIVITIES LIST

Any Activity to which a State of federal applicable requirement applies is not insignificant even if it is included on this list.

COMBUSTION EQUIPMENT

* Stationary reciprocating engines burning natural gas, gasoline, aircraft fuels, or diesel fuel which are either used exclusively for emergency power generation or for peaking power service not exceeding 500 hours/year

Space heaters, boilers, process heaters, and emergency flares less than or equal to 5 MMBTU/hr heat input (commercial natural gas).

Emissions from stationary internal combustion engines rated less than 50 hp output

Emissions from gas turbines with less than 215 kilowatt rating of electric output

STORAGE TANKS/DISTRIBUTION

* Emissions from fuel storage/dispensing equipment operated solely for facility owned vehicles if fuel throughput is not more than 2,175 gallons/day, averaged over a 30-day period

* Storage tanks with less than or equal to 10,000 gallons capacity that store volatile organic liquids with a true vapor pressure less than or equal to 1.0 psia at maximum storage temperature

* Bulk gasoline or other fuel distribution with a daily average throughput less than 2,175 gallons per day, including dispensing, averaged over a 30-day period

Gasoline and aircraft fuel handling facilities, equipment, and storage tanks except those subject to New Source Performance Standards and standards in 252:100-37-15, 39-30, 39-41, and 39-48

Emissions from condensate tanks with a design capacity of 400 gallons or less in ozone attainment areas

Emissions from crude oil and condensate marine and truck loading equipment operations at crude oil and natural gas production sites where the loading rate does not exceed 10,000 gallons per day averaged over a 30-day period

* Emissions from crude oil and condensate storage tanks with a capacity of less than or equal to 420,000 gallons that store crude oil and condensate prior to custody transfer

* Emissions from storage tanks constructed with a capacity less than 39,894 gallons which store VOC with a vapor pressure less than 1.5 psia at maximum storage temperature

ANALYSIS/LABORATORY ACTIVITIES

Additions or upgrades of instrumentation or control systems that result in emissions increases less than the pollutant quantities specified in 252:100-8-3(e)(1)

EQUIPMENT

Alkaline/phosphate washers and associated burners
Cold degreasing operations utilizing solvents that are denser than air

* Welding and soldering operations utilizing less than 100 pounds of solder and 53 tons per year of electrodes

Wood chipping operations not associated with the primary process operation

* Torch cutting and welding of under 200,000 tons of steel fabricated per year

REMEDIATION

Site restoration and/or bioremediation activities of < 5 years expected duration

Hydrocarbon contaminated soil aeration pads utilized for soils excavated at the facility only

Emissions from the operation of groundwater remediation wells including but not limited to emissions from venting, pumping, and collecting activities subject to de minimis limits for air toxics (252:100-41-43) and HAPs (§112(b) of CAAA90)

SOLID WASTE

* Non-commercial water washing operations (less than 2,250 barrels/year) and drum crushing operations of empty barrels less than or equal to 55 gallons with less than three percent by volume of residual material

Hazardous waste and hazardous materials drum staging areas

Sanitary sewage collection and treatment facilities other than incinerators and Publicly Owned Treatment Works (POTW)
Stacks or vents for sanitary sewer plumbing traps are also included (i.e., lift station)

Emissions from landfills and land farms unless otherwise regulated by an applicable state or federal regulation

COATINGS

* Automobile body shops located in an ozone attainment area emitting less than 5 tons/year of volatile organic solvents

Electrophoretic-process coating application operations (i.e., paint bath positively charged, painted object negatively charged)

* Surface coating operations which do not exceed a combined total usage of more than 60 gallons/month of coatings, thinners, and clean-up solvents at any one emissions unit

MISCELLANEOUS

Exhaust systems for chemical, paint, and/or solvent storage rooms or cabinets, including hazardous waste satellite (accumulation) areas
Hand wiping and spraying of solvents from containers with less than 1 liter capacity used for spot cleaning and/or degreasing in ozone attainment areas

* Activities having the potential to emit no more than 5 TPY (actual) of any criteria pollutant (see instructions in Title V application)

* Appropriate records of hours, quantity, or capacity must be kept on the activity to verify its insignificance.

APPENDIX J. TRIVIAL ACTIVITIES LIST

Any activity to which a State of federal applicable requirement applies is not trivial even if it is included on this list.

AGRICULTURAL

Lawn care (noncommercial)
Weed control (noncommercial)
Pest control (noncommercial)
Herbicide and pesticide activities except for manufacturing and formulation for commercial sale

ANALYSIS/TESTING

Hydraulic or hydrostatic testing
Analysis/laboratory activities emissions from the following: air contaminant detectors, air contaminant recorders, combustion controllers, combustion shut-off devices, product analyzers, laboratory analyzers, continuous emissions monitors, other analyzers (eq., water quality), and emissions associated with sampling activities. Also, emissions from bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including assorted vacuum producing devices and vents but NOT lab fume hoods or vents
Site assessment work, including but not limited to, the evaluation of waste disposal or remediation sites
Emissions from instrument systems utilizing air or natural gas
Environmental field sampling operations
Sampling connections used exclusively to withdraw materials for testing and analysis, including air contaminant detectors and vent lines
Compressed gas cylinders and gases utilized for equipment calibration and testing

ANIMALS

Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized
Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating

BATTERY CHARGING

Industrial battery recharging and maintenance operations for batteries utilized within the facility only

BLOWDOWNS

Emissions from the blowdown of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances

CLEANING

Acid washing (maintenance cleaning)

Caustic washing (maintenance cleaning)

Abrasive blasting

Steam cleaning

Carbon dioxide blasting equipment in degreasing or depainting

High pressure water depainting operations and aqueous industrial spray washers

Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes, except those systems used to collect particulate matter subject to 252:100 and hazardous and/or toxic air contaminants

Ultrasonic cleaning operations which do not utilize volatile organic compounds

Molten salt bath descaling operations

Natural gas water heating systems for fixed vehicle wash racks

COOLING TOWERS/BOILER WATER

Emissions from non-contact cooling towers (cooling water that has not been in contact with other materials or fluids containing regulated air pollutants)

Boiler water treatment operations

Deaerator units associated with boilers or hot water heating systems

Process water filtration systems and demineralizers

Demineralized water tanks and demineralizer vents

ELECTRIC POWER

Equipment associated with electrical power transmission which do not involve fuel-burning activities using transformers and substations

Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam

FIREFIGHTING

Emissions from fire or emergency response equipment and training to include use of fire control equipment including equipment for testing and training, engines used exclusively for firefighting, and open burning of materials or fuels associated with firefighting training. Buildings burned for firefighting training must still adhere to NESHAP for Asbestos.

Fire extinguishers and fire extinguishing systems

FUGITIVE EMISSIONS

Seal replacement (i.e., manhole gaskets)

Roof coating, service, and repair

Paving of roads, parking lots, and other areas

Vent emissions from gas streams used as buffer or seal gas in rotating pump and compressor seals

Emissions from natural gas odorizing activities

Emissions from pneumatic starters on reciprocating engines.

turbines, compressors, or other equipment

Gas flares or flares used solely to indicate danger to the public (e.g. road hazard)

Warehouse activities including the storage of packaged raw materials and finished goods

Non-routine clean out of tanks, lift stations, and equipment for the purposes of worker entry or in preparation for maintenance or decommissions

Unpaved roadways and parking areas

Gravel, sand and dirt storage for use in on-site construction projects

VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) regulated by a fugitive monitoring program where the total increase is less than one ton per year of any criteria pollutant or the de minimis set forth in 252:100-41-43. The component additions must be identified in the next scheduled monitoring report required by the applicable requirements. VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) not regulated by a fugitive monitoring program provided that no applicable requirement is triggered when components are added.

Fugitive emissions of jet fuels associated with aircraft fuel cell and fuel bladder repair

Fugitive emissions related to movement of passenger vehicles provided the emissions are not counted for applicability purposes or any required fugitive dust control plan or its equivalent is submitted

INSULATION

Insulation installing or removal (non-asbestos)

Application of refractory & insulation (calcium silicate, etc.)

LUBRICATING

Lubricating pumps, sumps, and systems

Emissions from engine crankcase vents and equipment lubricating sumps

MAINTENANCE

Welding, brazing, soldering for maintenance purposes

Use of adhesives for maintenance purposes

Grinding, cutting, sanding for maintenance purposes

Emissions from pipeline maintenance pigging activities

Maintenance, upkeep, and replacement types of activities, including those not altering the capacity of process, combustion or control equipment, and which do not increase regulated pollutant emissions unless subject to NESHAP or NSPS

METALS

Equipment used for inspection of metal products

Die casting machines

Foundry sand mold forming equipment to which no heat is applied, and from which no organics are emitted

Equipment used exclusively to mill or grind coatings and holding compounds where all materials charged are in paste form (unless HAP emission)

Equipment used exclusively for rolling, forging, pressing, spinning, drawing, or extruding either hot or cold metals unless their emissions exceed any applicable regulated amount

Carbon monoxide lasers, used only on metals and other materials which do not emit HAP in the process

MISCELLANEOUS

Operations previously determined to be de minimis pursuant to 252:100-7-2(b)(3) or 252:100-41-43(a)(5)

Laser trimmers using dust collection to prevent fugitive emissions

Shock chambers

Humidity chambers

Solar simulators

MOBILE SOURCES

Mobile source emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, hydrostatic and hydraulic testing equipment, maintenance trucks, helicopters, locomotives, marine vessels, portable generators moveable by hand, portable pumps, portable air compressors, portable welding machines, and portable fuel tanks

Other on and off road mobile sources (i.e. coal stacker & reclaimer)

Well servicing/workover rigs and associated equipment

Well drilling rigs and associated equipment

Aircraft ground support (AGE) equipment, including but not limited to portable power generators, lights, and HVAC support

Vehicle exhaust from maintenance or repair shops

Road sanding and salting operations

OFFICE AND JANITORIAL

Janitorial services

Sweeping (Floor Sweep)

Office emissions (photocopying, blueprint copying, photograph processes)

OUTDOOR RECREATION

Outdoor recreational emissions (campfires, barbecue pits)

Open burning for the purpose of land management (must get permission from Air Quality Enforcement even though exempt from permitting)

Outdoor kerosene heaters

PLASTICS/FIBERGLASS

Plastic or fiberglass welding or repair

Sealing or cutting plastic film or foam with heat or wires

Processes used for the curing of fiberglass or paint products

REFRIGERANTS

Cold storage refrigerator equipment
De minimis refrigerant releases

RESIDENTIAL

Air conditioning or comfort ventilation systems not regulated under Title VI of the Clean Air Act

Emissions from residential housing units, dormitories, and multifamily dwellings to include fuel burning for the purposes of heating except prohibited open burning

SOLID WASTE

Solid waste landfill operations
RCRA Solid Waste Management Units subject to 40 CFR Part 265, Subparts AA, BB, and CC

SOLVENT

Emissions from laundry care equipment processing bedding, clothing or other fabric items. These include dryers, extractors, & tumblers. NOT CLEANING OPERATIONS USING PERCHLOROETHYLENE OR PETROLEUM SOLVENTS (i.e., dry cleaning)

Covered cold solvent degreasers not subject to federal emission standards (e.g. NESHAP or NSPS)

STORAGE TANKS/DISTRIBUTION

Emissions from lube oil, seal oil, or hydraulic fluid storage tanks and equipment as long as not emitting VOCs or HAPs

Storage and use of chemicals unless otherwise regulated by an applicable state or federal regulation. These chemicals include, but not limited to: alum, ammonia, biocides, corrosion inhibitors, dechlorination chemicals, inorganic salts, acids or bases to include caustic and sulfuric acid, coagulants, flocculants, precipitants, surfactants, anti-foam chemicals, sealing inhibitors, oxygen scavengers, phosphates, polyelectrolytes, limestone slurry, lime and lime slurry, flue gas desulfurization system slurry, and sulfur slurry; propane and acetylene under pressure

Storage and use of products or equipment for maintaining motor vehicles operated at the site (including but not limited to antifreeze and fuel additives) not regulated under Title VI, CFC rules)

Emissions from tanks containing separated water produced from oil and gas operations

Commercial gasoline dispensing stations, including those located within the physical boundaries of a Title V source

Lubricants and waxes used for machinery and other equipment lubrication and emission from lubricating oil or hydraulic fluid storage tanks and equipment

Runway and aircraft de-icing activities, including de-icer storage tanks unless otherwise regulated

Storage tanks, reservoirs, and pumping and handling equipment of

any size containing soaps, vegetable oil, grease; animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized

SURFACE COATING

Surface coating for maintenance purposes such as roll/brush/pad coating, painting with aerosol cans, spray airless, and conventional spray painting

Touch-up painting operations where paints/coatings are applied at less than one quart per hour

WASTEWATER

Removal of basic sediment & water from collection/storage systems (i.e., clarifiers)

Water and wastewater treatment and transportation system

Pit, ponds, sumps, or wastewater conveyance facilities

Emissions from skimmer pits, oil/water separators, and maintenance of filter separators

Emissions from the removal of sludge or sediment from pits, ponds, sumps, or wastewater conveyance facilities

Industrial and/or municipal wastewater treatment processes (excluding combustion or incineration equipment), storage silos for dry material(sludges), composting, or grease trap waste handling or treatment

Ozonization process or process equipment including ozone generation for water treatment processes

Sanitary sewerage and storm water runoff collection systems

Emissions from dredging pits, ponds, sumps, or other wastewater conveyance facilities

WOODWORKING

Wood working (saw-cutting, staining & varnishing) (noncommercial)

Woodworking utilized for hobby purposes or maintenance of grounds or buildings

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

RECEIVED

DEC 08 1997

OKLAHOMA SECRETARY
OF STATE
and # 14
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INTENDED RULEMAKING ACTION: Notice of proposed PERMANENT rulemaking.

PROPOSED RULES: 252:100, Air Pollution Control: Subchapter 5, Registration of Air Contaminant Sources [AMENDED]; Subchapter 7, Construction Permits for Major and Minor Sources; Operating and Relocation Permits for Minor Sources [AMENDED].

SUMMARY: The proposed amendments to Subchapter 5 include moving the requirements to file an emission inventory from Subchapter 7 to Subchapter 5, moving the requirements to pay annual operating fees from Subchapters 7 and 8 to Subchapter 5, and revising the annual operating fees for minor facilities, non-Part 70 sources and Part 70 sources. The proposed amendments to Subchapter 5 are designed to simplify and clarify the rules. The proposed amendments to Subchapter 7 are necessary to incorporate a new permit classification system into the Air Quality program. The proposed changes include: remove any requirements for Part 70 sources and major facilities (which will be moved to Subchapter 8); define and exempt "de minimis" facilities from the requirements of Subchapter 7; revise minor permit application fees; and introduce two new types of construction and operating permits, permit by rule and general permit.

AUTHORITY: Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 et seq., Oklahoma Clean Air Act.

COMMENT PERIOD: The period for written comments closed on October 15, 1997. Oral comments may be made before the Environmental Quality Board at their meeting on Tuesday, January 27, 1998 - 9:30 a.m., in Chickasha.

PUBLIC HEARINGS: Subchapter 5 and Subchapter 7 were presented to the Air Quality Council August 19, 1997 and October 21, 1997. Before the Environmental Quality Board at their meeting on Tuesday, January 27, 1998 - 9:30 a.m., in Chickasha.

COPIES OF PROPOSED RULES: Copies of the rules are available for review at the Air Quality Division office at the address listed below or may be obtained from the contact person.

RULE IMPACT STATEMENT: The rule impact statements may be obtained from the Air Quality Division at the address below:

CONTACT PERSON: Jeanette Buttram, Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma 73105-3483; (405) 290-8247.

ADDITIONAL INFORMATION: With the exception of 252:100-5-2.2(b)(2), which establishes the annual operating fees for Part 70 sources, the hearing record for Subchapter 5 and the hearing record for Subchapter 7 were closed during the council meeting on October 21, 1997. A vote on whether to recommend the revised rules to the Environmental Quality Board was taken at the Air Quality Council meeting on December 16, 1997.

PERSONS WITH DISABILITIES: Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 290-8247.

**RECENT RULE REVISIONS MADE IN
RESPONSE TO COMMENTS**

**PLEASE ADD TO
DECEMBER 16 AGENDA PACKET**

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SUBCHAPTER 8. OPERATING PERMITS ~~(PART 70)~~ FOR PART 70 SOURCES

PART 1. GENERAL PROVISIONS

[NOTE: Throughout this draft language that has been moved from other Sections and Subchapters is underlined once, new language is double underlined and deletions are struck out.]

252:100-8-1. Purpose

~~The purpose of this Subchapter is to provide for the promulgation and enforcement of the requirements necessary to meet Title V of the federal Clean Air Act (42 U.S.C. 7401, et seq.) and 40 CFR Part 70 by establishing a comprehensive state air quality permitting program for major sources of air contaminant emissions. Permits issued under this program will address all applicable air contaminant emissions and regulatory requirements in a single document. This Subchapter sets forth permit application fees and the substantive requirements for permits for Part 70 sources.~~

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

[NOTE: From 252:100-8-2]

"A stack in existence" means for purposes of 252:100-8-1.5 that the owner or operator had:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or
- (B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. [NOTE: From 252:100-7-16(b)]

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 et. seq. [NOTE: From 252:100-8-2]

"Administrator" means the Administrator ~~administrator~~ of the United States Environmental Protection Agency (EPA) or the Administrator's ~~administrator's~~ designee. [NOTE: From 252:100-8-2]

"Allowable emissions" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (A) the applicable standards as set forth in 40 CFR Parts 60 and 61;
- (B) the applicable State rule allowable emissions; or,
- (C) the emissions rate specified as an enforceable permit

condition. {NOTE: From 252:100-7-31 and 252:100-7-51}

"Begin actual construction" for purposes of Parts 7 and 9 of this Subchapter means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Commence" for purposes of Parts 7 and 9 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Dispersion technique" means for purposes of 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the

installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation;

or

(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year. [NOTE: From 252:100-7-16(b)]

"Emission limitations and emission standards" means for purposes of 252:100-8-1.5 a requirement requirements that which limits limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87) [NOTE: From 252:100-7-16(b)]

"Emissions unit" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: From 252:100-7-31 and 252:100-7-51]

"EPA" means the United States Environmental Protection Agency. [NOTE: From 252:100-8-2]

"Fugitive emissions" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. [NOTE: From 252:100-7-31 and 252:100-7-51]

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules. [NOTE: From 252:100-7-31 and 252:100-7-51]

"New Source Performance Standards" or "NSPS" means those

standards found in 40 CFR Part 60.

"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter. [NOTE: From 252:100-8-2]

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70. [NOTE: From 252:100-8-2]

"Part 70 source" means any source subject to the permitting requirements of Part 5 of this Chapter Subchapter, as provided in OAC 252:100-8-3(a) and 252:100-8-3(b). [NOTE: From 252:100-8-2]

"Potential to emit" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purpose of OAC 252:100-7, 252:100-8, Part 7 9, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Stack" means for purposes of 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares. [NOTE: From 252:100-7-16(b)]

"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100. [NOTE: From 252:100-7-31 and 252:100-7-51]

252:100-8-1.2. General information

(a) Permit categories. Two types of construction and operating permits are available: general permit and individual permit.

(1) General permit.

(A) A general permit may be issued for an industry if there are a sufficient number of facilities that have the same or substantially similar operations, emissions and activities

which are subject to the same standards, limitations and operating and monitoring requirements.

(B) Facilities may be eligible for authorization under a general permit if the following criteria are met:

(i) The facility has actual emissions of 100 tpy or more of any one regulated air pollutant emitted and/or is a Part 70 source.

(ii) The DEQ has issued a general permit for the industry.

(2) Individual permit. Facilities requiring permits under this Subchapter that do not qualify for a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a general permit.

(b) Applicability determination. Any person may submit a request in writing that the Agency DEQ make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule Subchapter. The request must contain such sufficient information as is believed sufficient for the Agency DEQ to make the requested determination and the required fee. The Agency DEQ may request any additional information that it needs for purposes of making the determination. [NOTE: From 252:100-8-3(f)]

252:100-8-1.3. Failure ~~Duty~~ to comply with a construction permit

~~A violation of these limitations or conditions by the owner/operator shall subject the owner/operator to any or all enforcement penalties, including permit revocation, available under the Oklahoma Clean Air Act and Air Pollution Control Rules.~~

(a) An owner or operator who applies for a permit or authorization, upon notification of coverage, shall be bound by the terms and conditions therein. [NOTE: Based on 252:100-10-5(j)]

(b) An owner or operator who violates any condition of a permit or authorization is subject to enforcement under the Oklahoma Clean Air Act. [NOTE: 252:100-8-1.3(b) was based on 252:100-7-15(f) (3)]

252:100-8-1.4. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) Cancellation of permit or authorization to construct or modify. A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection subsection (b) of this Section section) if the construction is not commenced within 18 months after of the date the permit or authorization was issued issuance date, or if work is suspended for more than 18 months after it has commenced.

(b) Extension of permit or authorization to construct or modify.

(1) Prior to the expiration date of the permit or authorization expiration date, a permittee may apply for

extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension Extensions for terms of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site., or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under 252:100:8-1.4(b)(1)(B) or 252:100-8-1.4(b)(1)(C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information. [NOTE: 252:100-8-1.4 is from 252:100-7-15(g)]

252:100-8-1.5. Stack height limitations

(a) Stack height exclusion. Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise: [NOTE: Definitions were moved to 252:100-8-1.1]

(1) "A stack in existence" means that the owner or operator had:

(A) begun, or caused to begin, a continuous program of physical on site construction of the stack; or

(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without

~~substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.~~

~~(2) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:~~

~~(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.~~

~~(B) The merging of exhaust gas streams where:~~

~~(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;~~

~~(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or~~

~~(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.~~

~~(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per~~

year.

~~(3) "Emission limitations and emission standards" means a requirement which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87)~~

~~(4) "Stack" means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.~~

(b)(c) Determination of good engineering practice (GEP) stack height. GEP shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either ~~0AC 252:100-7-16(e)(2)(A) or (B)~~ 252:100-8-1.5(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under ~~0AC 252:100-7-252:100-8~~ or Federal 40 CFR Part 52,

$$H_g = 2.5H$$

provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks,

$$H_g = H + 1.5L,$$

where: H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c)(d) Nearby. A structure or terrain feature shall be considered to be nearby:

~~(1) For purposes of applying the formula in OAC 252:100-7-16(e), if that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (0.5 mile), and~~

~~(2) For conducting demonstrations under OAC 252:100-7-16(e)(2), if not greater than 0.8 km (0.5 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height at 0.8 km (0.5 mile) from the stack that is at least 40 percent of the GEP stack height determined by the formulae in OAC 252:100-7-16(e)(3) or 26 meters, whichever is greater, as measured from the base of the stack. The height of the structure or terrain feature is measured from the ground level elevation at the base of the stack.~~

(1) For the formulae in 252:100-8-1.5(b)(2). A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in 252:100-8-1.5(b)(3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (Ht) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in 252:100-8-1.5(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) Measurement of height of structure or terrain. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

~~(d)-(e) Excessive concentrations. When utilized for the purpose of determining GEP stack height under OAC 252:100-7-16(e)(3) 252:100-8-1.5(b)(3), excessive concentrations shall be as follows:~~

(1) For sources seeking credit for stack height exceeding that calculated under ~~OAC 252:100-7-16(e)(2)~~ 262:100-8-1.5(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 5 7

of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Executive Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under ~~OAC 252:100-7-16(e)(2)~~ 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in ~~OAC 252:100-7-16(e)(2)~~ 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Executive Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under ~~OAC 252:100-7-16(e)(1)~~ 252:100-8-1.5(b)(2) where the Executive Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in ~~OAC 252:100-7-16(e)(1)~~ 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects. [NOTE: 252:100-8-1.5 was moved from 252:100-7-16]

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

(1) **Applicability determination.** \$100, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee

will be retained to cover the cost of making the determination. [NOTE: Based on 252-7-3(c)]

(2) Construction permit application. The fee is \$2,000.

~~(1) Part 70 source construction permit \$2,000 [NOTE: from 252:100-7-3(b)(1)]~~

(3) Operating permit application.

~~(2) Permit processing fees. Permit processing fees shall be as follows:~~

(A) Initial Part 70 permit -\$2,000.

(B) Authorization under a general permit - \$900

~~(C)(B) Renewal Part 70 permit - \$1,000.~~

~~(D)(C) Significant Part 70 Permit Mod. modification of Part 70 permit - \$1,000.~~

~~(E)(D) Minor modification of Part 70 permit Permit Modification - \$500.~~

~~(E) The Part 70 Temporary Permit \$1,000.~~

~~(F)(F) Part 70 Temporary Source Relocation - \$ 500.~~

[NOTE: 252:100-8-1.7(c) is from 252:100-8-9(d)(2)]

PART 5. PERMITS FOR PART 70 Sources

252:100-8-2. Definitions

The following words and terms, when used in this Subchapter Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter Part retain the meaning accorded them under the applicable requirements of the Act.

~~"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq. [NOTE: Moved to 252:100-8-1.1]~~

~~"Administratively complete" means the same as defined at OAC 252:002-11. an application that provides:~~

(A) All information required under 252:100-8-5(c), (d), or (e);

(B) A landowner affidavit as required by 252:2-15-20(b)(3);

(C) The appropriate application fees as required by 252:100-8-1.7; and

(D) Certification by the responsible official as required by 252:100-8-5(f).

~~"Administrator" means the administrator of the United States Environmental Protection Agency (EPA) or the administrator's designee. [NOTE: Moved to 252:100-8-1.1]~~

~~"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.~~

~~"Affected states" means:~~

(A) all states:

(i) That ~~that~~ are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and

(ii) That in the judgment of the DEQ Agency, may be directly

affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or
(B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

~~"Agency" means Air Quality Division of the Oklahoma Department of Environmental Quality.~~

"Applicable requirement" means all of the following as they apply to emissions units in a ~~part~~ Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

(A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 ~~C.F.R.~~ CFR Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

~~"Department" means the Department of Environmental Quality.~~

~~"Designated representative" means the same as the meaning given to it in section 402(26) of the Act and the regulations promulgated thereunder with respect to affected units, a~~

responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the Agency DEQ offers public participation under ~~OAC 252:100-8-7(i)~~ 27A O.S.Supp. 1995, §2-14-101 et seq. and 252:100-2-15 or affected State review under OAC 252:100-8-8.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

~~"EPA" means the United States Environmental Protection Agency.~~
[NOTE: Moved to 252:100-8-1.1]

"Final permit" means the version of a part 70 permit issued by the Agency DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of ~~OAC 252:100-8-6(d)~~ 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) through (C) of this definitions. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

(C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in 252:100-41-40.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that ~~are~~ is described in subparagraph (A), (B), or (C), ~~or~~ (D), of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or.

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except ~~Total Suspended Particulates (TSP)~~ TSP) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more

than 250 tons of refuse per day;

- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof)

totaling more than 250 million British thermal units per hour heat input;

- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

or

- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
- (iii) For carbon monoxide non-attainment areas:
 - (I) that are classified as "serious"; and
 - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
- (iv) For particulate matter (PM-10) non-attainment areas

classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

~~(D) Notwithstanding the source categories in (A) through (C) of this definition, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this definition.~~

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

~~"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter. [NOTE: Moved to 252:100-8-1.1]~~

~~"Part 70 program" means a program approved by the Administrator under 40 C.F.R Part 70. [NOTE: Moved to 252:100-8-1.1]~~

~~"Part 70 source" means any source subject to the permitting requirements of this Chapter, as provided in OAC 252:100-8-3(a) and 252:100-8-3(b). [NOTE: Moved to 252:100-8-1.1]~~

"Permit" (unless the context suggests otherwise) means any permit or group of permits covering a part Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a part Part 70 construction or operating permit that meets the requirements of ~~OAC 252:100-8-7(e)~~ 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in ~~OAC 252:100-8-9~~ 252:100-5-2.2 (whether such costs are incurred by the DEQ Agency or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

~~"Permitting authority" means the Department of Environmental Quality.~~

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of

operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ Agency proposes to issue and forwards to the Administrator for review in compliance with ~~OAC~~ 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic ~~compounds~~ compound (VOC), including those substances defined in ~~at~~ ~~OAC~~ 252:100-1-3, 252:100-37-2, 252:100-39-2, or any Volatile Organic Solvent (VOS), as that term is defined in ~~at~~ ~~OAC~~ 252:100-37-2 and 252:100-39-2, or any organic material defined ~~at~~ in 252:100-37-2 except those specifically excluded in the EPA definition of VOC ~~per~~ in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a

duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the ~~permitting authority~~ DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. 2-5-101 et seq. as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR ~~C.F.R.~~ Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J. Any activity to which a State or federal applicable requirement applies is not trivial even if included on the trivial activities list.

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3: Applicability

(a) **Covered sources.** Except as exempted from the requirement to obtain a permit under subsection (b) of this Section ~~and or~~ elsewhere in this Subchapter Chapter, the following sources listed below are subject to the permitting requirements under this Subchapter Chapter. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section 252:100-8-3(a). [NOTE: The underlined language was formerly 252:100-8-3(g).]

- (1) Any major source (as defined in OAC 252:100-8-2);
- (2) Any source, ~~including an area source, subject to a NSPS standard, limitation, or other requirement under section 111 of the Act;~~
- (3) Any source, including an area source, subject to a NESHAP standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;
- (4) Any affected source (as defined in OAC 252:100-8-2); and
- (5) Any source in a source category designated by the Administrator pursuant to 40 CFR C.F.R. §70.3-; and
- (6) Any major source required to have a permit under Parts 7 or 9 of this Subchapter.

(b) **Source category exemptions.**

(1) All sources listed in subsection (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for

Demolition and Renovation.

~~(c) Emissions units and covered sources (Part 70 sources).~~

~~(1) For major sources, Part 70 permits shall include all applicable requirements and state only requirements for all relevant emissions units in the major source.~~

~~(2) For any non major source subject to this Subchapter, Part 70 permits shall include all applicable requirements which apply to emissions units that cause the source to be subject to the requirement to obtain a permit. [NOTE: 252:100-8-3(c)(1) is covered in 252:100-8-6(a) and (c)(2) was deleted.]~~

~~(d) Fugitive emissions. Fugitive emissions from a covered source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. [NOTE: Revised and moved to 252:100-8-5(c)(3)(A)]~~

~~(e) Insignificant activities.~~

~~(1) The insignificant activities and emissions levels shall be as follows:~~

~~(A) emissions will not exceed one pound (1 lb.) per hour for any one criteria pollutant, and~~

~~(B) emissions of toxic air contaminants will not exceed the de minimis requirements set forth under 252:100-41-43(a)(5).~~

~~(2) In addition to the quantity thresholds in (1)(A) and (1)(B) "Insignificant Activity" also means any individual or combination of air emissions sources at a facility that have an aggregate potential to emit that does not increase the overall potential to emit of the entire facility for a given regulated pollutant by more than 10% above the "baseline" permitted limit which excludes the insignificant activities. Thus, insignificant activities may apply to original permit application, permit modifications/amendments, and/or permit renewals. The cumulative amount of activities claimed as insignificant during a Title V permit term shall not increase the potential to emit of the entire facility by more than 10% of the permit limit for a given pollutant from the date of permit issuance to the date of application for renewal. These insignificant activities cannot conflict with significant emission levels in any Title V program. Insignificant activities must be identified but not quantified (except to the extent necessary to demonstrate their insignificance) in the permit application. The Agency shall maintain a list of activities which are considered to be insignificant without quantification by the permittee. The Agency shall also maintain a list of activities which are determined to be trivial. "Trivial activity" means any individual or combination of air emissions units at a Part 70 source which are considered inconsequential as determined by the Agency. Trivial activities need not be identified in the permit application, amendment or renewal. [NOTE: Moved to 252:100-8-2]~~

~~(f) Applicability determinations. Any person may submit a request in writing that the Agency make a determination as to~~

~~whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule. The request must contain such information as is believed sufficient for the Agency to make the requested determination. The Agency may request any additional information that it needs for purposes of making the determination. [NOTE: Moved to 252:100-8-1.2(c)]~~

~~(g) Covered sources. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to 252:100-8-3(a). [NOTE: Moved to 252:100-8-3(a)]~~

252:100-8-4. Title V permits required Requirements for construction and operating permits

(a) Construction permits.

(1) Construction permit required. No person shall cause or allow the construction or modification installation of any new minor or major source facility that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit to construct or modify the source. A construction permit is also required for any physical change that would be a modification under 252:100-8-7.2(b). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein. [NOTE: (a)(1) is from 252:100-7-15(a)(1)]

(2) Requirement for case-by-case MACT determinations.

(A) Applicability. The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) Exclusions. The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) MACT determinations. If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 1997.

(b) Operating permits.

(1) Operating permits required. Except as provided in paragraphs subparagraphs ~~(1)~~ (A) and ~~(2)~~ (B) of this section, no Title V Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

~~(A)~~ (1) If the owner or operator of a source subject to the requirement to obtain a permit submits a timely application for permit issuance or renewal, that source's failure to have a permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or ~~OAC 252:100-8-4~~ ~~252:100-8-5~~, any additional information identified as being reasonably required to process the application.

~~(B)~~ (2) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ at the end of the DEQ's administrative completeness review period, the applicant loses the protection granted under paragraph (A) (1) of this section. as a result of its failure to timely provide information requested by the DEQ, the ~~The~~ source's failure to have a permit shall be deemed a violation of this Subchapter.

~~(C)~~ (3) Filing an operating permit application shall not affect the requirement, if any, that any a source have a construction ~~preconstruction~~ permit under Title I of the ~~federal Clean Air Act~~.

(2) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the ~~Division~~ DEQ in accordance with this section.

(3) Timely application. Sources that are subject to the operating permit program established by this Chapter as of ~~the date the program is approved by EPA and becomes effective (the "effective date")~~ March 6, 1996, shall file applications on the following schedules outlined in ~~OAC 252:100-8-5(b)(2)~~ ~~252:100-8-4(b)(4)~~. A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary main activity shall form the basis for the initial permit application.

(4) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than six months after the effective date of the federally approved interim state operating permit program September 5, 1996:

(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for major Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

- (I) Petroleum and Natural Gas, 1311;
- (II) Natural Gas Liquids, 1321;
- (III) Electric Services, 4911, 4961;
- (IV) Natural Gas Transmission, 4922;
- (V) Natural Gas Transmission and Distribution, 4923; and
- (VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(2)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the federally approved interim state operating permit program March 5, 1997.

(C) No later than 12 months after the effective date of the federally approved interim state operating permit program March 5, 1997, any owner or operator shall submit their applications for major Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Metals, 3312, 3315, 3321, 3379, 3341, 3351, 3411, 3412, 3432, 3466,
- (ii) Brick Plants, 3251, 3297,
- (iii) Commercial Printing, 2752, 2761.

(D) No later than 28 months after the effective date of the federally approved interim state operating permit program, July 5, 1998, any owner or operator shall submit their applications for major Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Refineries, 2911;
- (ii) Cement Plants, 3241;
- (iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;
- (iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;
- (v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program March 6, 1999.

(5) ~~Newly regulated sources Application following effective date.~~ A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) ~~Application acceptability.~~ Notwithstanding the deadlines established in ~~paragraph (4) paragraphs (1), (2), and (3)~~ of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. ~~For purposes of the 60 day administrative review period established in OAC 252:2-15, the official login date for any Part 70 operating permit application submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.~~

(7) ~~112(g) applications.~~ A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit ~~revision~~ before commencing construction.

(8) ~~Application for renewal.~~ Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) ~~Phase II acid rain permits.~~ Sources required to submit applications under the Acid Rain Program ~~should~~ shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) ~~Application completeness.~~ See Uniform Permitting Rules, ~~OAC 252:010-3-50 and 3-51~~ 252:2-15-70 and the definition of administratively complete in 252:100-8-2.

[NOTE: 252:100-8-4(b)(2) through (10) from 252:100-8-5(b)(1) through (8)]

252:100-8-5. Permit applications

~~(a) Construction permit.~~ Any new source or modified source which becomes subject to this Subchapter shall be required to obtain a construction permit in accordance with OAC 252:100-7 prior to commencement of construction.

~~(b) Duty to apply.~~ For each Part 70 source, the owner or

~~operator shall submit a timely and complete permit application on forms supplied by the Division in accordance with this section.~~

~~(1) Timely application. Sources that are subject to the operating permit program established by this Chapter as of the date the program is approved by EPA and becomes effective (the "effective date") shall file applications on the following schedules outlined in OAC 252:100-8-5(b)(2) 252:100-8-4(b)(2). In the event a major source consists of operations under multiple SIC codes, the main activity shall form the basis for the initial permit application.~~

~~(2) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.~~

~~(A) No later than six months after the effective date of the federally approved interim state operating permit program:~~

~~(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.~~

~~(ii) Any owner or operator shall submit no less than one-third of their total applications for major sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):~~

- ~~(I) Petroleum and Natural Gas, 1311;~~
- ~~(II) Natural Gas Liquids, 1321;~~
- ~~(III) Electric Services, 4911, 4961;~~
- ~~(IV) Natural Gas Transmission, 4922;~~
- ~~(V) Natural Gas Transmission and Distribution, 4923;~~
- ~~and~~
- ~~(VI) Petroleum Bulk Stations and Terminals, 5171.~~

~~(B) All remaining Part 70 sources identified in (b)(2)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the federally approved interim state operating permit program.~~

~~(C) No later than 12 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Metals, 3312, 3315, 3321, 3379, 3341, 3351, 3411, 3412, 3432, 3466,~~

~~(ii) Brick Plants, 3251, 3297,~~

~~(iii) Commercial Printing, 2752, 2761.~~

~~(D) No later than 28 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Refineries, 2911,~~

~~(ii) Cement Plants, 3241,~~

~~(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089,~~

~~(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613,~~

~~(v) Food Products, 2013, 2074, 2095.~~

~~(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program.~~

~~(3) Application following effective date. A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.~~

~~(4) Application acceptability. Notwithstanding the deadlines established in paragraphs (1), (2), and (3) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. For purposes of the 60 day administrative review period established in OAC 252.2 15, the official login date for any Part 70 operating permit submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.~~

~~(5) 112(g) applications. A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing construction.~~

~~(6) Application for renewal. Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case by case basis.~~

~~(7) Phase II acid rain permits. Sources required to submit~~

applications under the Acid Rain Program should submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

~~(8) Application completeness. See Uniform Permitting Rules, OAC 252:010-3-50 and 3-51.~~

[NOTE: 252:100-8-5(b)(1) through (9) moved to 252:100-8-4(b)]

~~(9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ issued Part 70 operating permit, a source may identify terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:~~

- ~~(i) information specified in OAC 252:100-8-5(d) for those products, processes, operations, and emissions that:
 - ~~(I) are not addressed in the existing permit;~~
 - ~~(II) are subject to applicable requirements or state only requirements that are not addressed in the existing permit; or~~
 - ~~(III) as to which the source seeks permit terms and conditions that differ from those in the existing permit; and~~~~

~~(ii) a compliance plan and certification as required in 252:100-8-5(d)(8). [NOTE: 252:100-8-5(b)(9) moved to 252:100-8-7.1(b)]~~

(a)-(10) Confidential information. If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

(b)-(e) Duty to supplement or correct application. Renumbered as ~~OAC 252:100-6-50(f)~~ See 252:100-6-50(e).

(c)-(d) Standard application form and required information.

Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with OAC 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to ~~OAC 252:100-8-9~~ 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any such insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the following information required by 252:100-8-5(d) and/or 252:100-8-5(e) be provided.

(d) Construction permit applications.

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application from form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include ~~including~~ but not be limited to: site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) BACT determination. To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case by case basis taking into account energy, environmental, cost and economic impacts of alternative control systems.

(B) Modeling. Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant.

(C) Sampling points. If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. [NOTE: 252:100-8-1.4(b)(1) was taken from 252:100-7-15(b)]

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in 252:100-8-5(e) to the extent they are applicable.

(e) Operating permit applications.

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this subsection ~~(d)~~ 252:100-8-5(c) or OAC 252:100-8-3(b). ~~The source shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to determine the amount of any permit fees owed under the fee schedule approved pursuant to OAC 252:100-8-9.~~

(B) Identification and description of all points of emissions described in subparagraph ~~(d)~~ (e) (3) (A) of this section in sufficient detail to establish the basis for fees

and applicability of the ~~federal Clean Air Act's~~ requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the ~~federal Clean Air Act~~).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements, and all state-only requirements, and

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the ~~federal Clean Air Act~~ or of this Chapter or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to OAC 252:100-8-6(a)(9) or to define permit terms and conditions implementing ~~OAC 252:100-8-6(h)~~ 252:100-8-6(f) or OAC 252:100-8-6(a)(10).

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements, as follows:

~~(B) A description as follows:~~

(i) For applicable requirements, and state-only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements, and state-only requirements, that will become effective during the permit term,

a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(B)(C) For sources not in complete compliance, a A compliance schedule as follows:

~~(i) For applicable requirements, and state only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.~~

~~(ii) For applicable requirements, and state only requirements, that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.~~

(i)-(iii) A schedule of compliance for sources that are not in compliance with all applicable requirements, and state-only requirements, at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements, and state-only requirements, for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

(ii)-(D) A schedule for submission of certified progress reports no less frequently than every 6 months ~~for sources required to have a schedule of compliance under OAC 252.100-8-5(d)(8)(C)(iii).~~

(C)(E) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the ~~federal Clean Air Act~~ with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable

requirements, and state-only requirements, by a responsible official consistent with subsection ~~(e)~~ (f) of this section and section 114(a)(3) of the ~~federal Clean Air Act~~;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement, state-only requirements, or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the ~~federal Clean Air Act~~.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the ~~federal Clean Air Act~~.

~~(11) A list of any such units which satisfy the definition of either insignificant activities or de minimis emissions.~~

(f) ~~(e)~~ **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

(g) ~~(f)~~ **Number of application copies.** See Part 3 of OAC 252:2-15.

252:100-8-6. Permit content

(a) **Standard permit requirements.** ~~To the extent practicable, every~~ Part 70 permits ~~permit~~ issued under this Chapter shall include all applicable requirements, and state-only requirements, (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements, and state-only requirements, and shall include those operational ~~requirements~~ conditions and limitations necessary to assure compliance with all applicable such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement, ~~and~~ or state-only requirement, upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the ~~federal Clean Air Act~~ is more stringent than an applicable requirement of regulations promulgated

under Title IV of the ~~federal Clean Air Act~~, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If an ~~applicable~~ the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) Operating Permits. The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) ~~(A)~~ and (ii) ~~(B)~~ of this paragraph:

(i) ~~(A)~~ Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) ~~(B)~~ Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the ~~federal Clean Air Act~~ shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) Construction permits. See 252:100-8-1.4.

(3) **Monitoring and related recordkeeping and reporting requirements.**

~~(A) Each permit shall contain the following requirements with respect to monitoring:~~ Monitoring requirements.

(i) All emissions monitoring and analysis procedures or test methods required under ~~the~~ applicable requirements, and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the ~~federal Clean Air Act~~;

(ii) Where ~~the~~ an applicable requirement, ~~and~~ or state-only requirement, ~~does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data from the relevant time period~~ that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, ~~or~~ or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use,

maintenance, and, where appropriate, and installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) Recordkeeping requirements. ~~With respect to recordkeeping, the~~ The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions ~~as~~ existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) Reporting requirements. ~~With respect to reporting, the~~ The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this ~~Chapter~~ Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C) (i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from emergency or upset

conditions as defined in ~~OAC 252:100-8-6(g)~~ 252:100-8-6(e) shall be reported within 24 hours of the date on which the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report Such notice must contain a description of the emergency, any steps taken to mitigate emissions and corrective actions taken.

[NOTE: The underlined language is from 252:100-8-6(g) (3) (D)]

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or preventative measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C) (iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of OAC 252:100-9.

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the ~~federal Clean Air Act~~, the permit need only specify that the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) **Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the ~~federal Clean Air Act~~ or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

- (i) enforcement action;
- (ii) permit termination, revocation and reissuance, or modification; or
- (iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under ~~OAC 252:100-8-7(e)(1)~~ 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort, or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to ~~OAC 252:100-8-5(b)(10)~~ 27A O.S. 1993 Supp. Section 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will

pay fees to the DEQ consistent with the fee schedule established under ~~OAC 252:100-8-9~~ 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements, and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

(b) **Federally enforceable requirements.**

(1) Except as provided in paragraph (b)(2) of this section, all terms and conditions in a permit issued under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the ~~federal Clean Air Act~~.

(2) Notwithstanding paragraph (b)(1) of this section, the DEQ shall designate as not being federally enforceable under the ~~federal Clean Air Act~~ any terms and conditions included in the permit that are not required under the ~~federal Clean Air Act~~ or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the ~~federal Clean Air Act~~.

(c) **Compliance requirements.** All permits issued under this ~~Chapter Part~~ shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this ~~Chapter Part~~ shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized

officials of the DEQ to perform the following ~~(subject to the permittee's right to seek confidential treatment pursuant to OAC 252:100-8-5(b)(10) for confidential information submitted to or obtained by the DEQ under this subsection):~~

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the ~~federal Clean Air~~ Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) A schedule of compliance if to the extent required under ~~OAC 252:100-8-5(d)(8)(C)~~ 252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and ~~OAC 252:100-8-5(d)(8)~~ 252:100-8-5(e)(8), progress reports, to be submitted semiannually, or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:

(A) The frequency (which shall be annually unless the applicable requirement, ~~and~~ or state-only requirement, specifies submission more frequently) of submissions of compliance certifications;

(B) In accordance with paragraph (a)(3) of this section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The permittee's current compliance status, as shown by monitoring data and other information

available to the permittee;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a) (3) of this section; and

(v) Such other facts as the DEQ may require to determine the compliance status of the source;

(D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;

(E) Such additional requirements as may be specified pursuant to sections 114(a) (3) and 504(b) of the ~~federal Clean Air Act~~; and

(6) Such other provisions as the DEQ may require.

~~(d) General permits.~~

~~(1) The DEQ may, after notice and opportunity for public participation, issue a general permit to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.~~

~~(3) A general permit may be issued for the following purposes:~~

~~(A) to establish terms and conditions to implement applicable requirements, and state only requirements, for a source category;~~

~~(B) to establish terms and conditions to implement applicable requirements, and state only requirements, for specified categories of changes to permitted sources;~~

~~(C) to establish terms and conditions for new requirements that apply to sources with existing permits; and~~

~~(D) to establish federally enforceable caps on emissions from sources in a specified category.~~

~~(4) The DEQ may issue a general permit if it finds that:~~

~~(A) there are several permittees, permit applicants, or potential permit applicants who have the same or substantially similar operations, emissions, activities, or facilities;~~

- ~~(B) the permittees, permit applicants, or potential permit applicants emit the same types of regulated air pollutants;~~
- ~~(C) the operations, emissions, activities, or facilities are subject to the same or similar standards, limitations, and operating requirements; and~~
- ~~(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring requirements.~~
- ~~(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit.~~
- ~~(A) Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.~~
- ~~(B) See OAC 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency shall act to approve or deny the application within 90 days of filing.~~
- ~~(C) A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review.~~
- ~~(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ.~~
- ~~(7) A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit.~~
- ~~(8) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may apply for and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252:100-8-3 of this part to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shield shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.~~

[NOTE: General permits was moved to 252:100-8-6.1]

~~(e) Temporary sources.~~ The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

- ~~(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;~~
- ~~(2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and~~
- ~~(3) Conditions that assure compliance with all other provisions of this section. [NOTE: Moved to 252:100-8-6.2]~~

(d) ~~(f)~~ Permit shield.

(1) Each operating permit issued under this section Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for ~~as~~ to which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this section or in the permit shall alter or affect the following:

- (A) the provisions of section 303 of the ~~federal Clean Air Act~~, including the authority of the EPA Administrator under that section;
- (B) the liability of an owner or operator of a source for any violation of applicable requirements, ~~and~~ or state-only requirements, prior to or at the time of permit issuance;
- (C) the applicable requirements of the acid rain program, consistent with section 408(a) of the ~~federal Clean Air Act~~;
- or
- (D) the ability of EPA to obtain information from a source

pursuant to section 114 of the ~~federal Clean Air Act.~~

(e) ~~(g)~~ **Emergencies.**

(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of ~~preventative~~ preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method.

(2) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph ~~(g)~~ (e) (3) of this section and the reporting requirements of 252:100-8-6(a) (3) (C) (iii) (I) are met.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) The permitted facility was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and,

~~(D) The permittee submitted notice of the emergency to the DEQ within 24 hours of the time when emission limitations were exceeded due to the emergency. Such notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. [NOTE: Moved to 252:100-8-6(a) (3) (C) (iii) (I)]~~

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(5) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

(f) ~~(h)~~ **Operational flexibility.** ~~Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.~~

(1) **Applicant's duty to apply for alternative scenarios.**

Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for

any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) ~~Changes resulting in no emissions increases.~~ A permitted Part 70 source may make changes within the facility that:

(A) ~~Are not modifications under any provision of Title I of the federal Clean Air Act;~~

(B) ~~Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; ~~or~~ and~~

(C) ~~Result in a net Net change in emissions is of zero.~~ Result in a net change in emissions is of zero, provided Provided that the facility provides notifies the Administrator and the permitting authority DEQ and EPA in writing at least 7 days with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, or such shorter time frame that permitting authority allows for emergencies [as defined in ~~OAC 252:100-8-6(g)~~]. The source, permitting authority DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

~~(3) Emissions trading in permit. A permitted source may rely on the authority of this section to trade increases and decreases in emissions within the facility, where the implementation plan provides for such emissions trades without a permit modification. In such a case, the advance written notice provided by the permittee shall identify the underlying authority authorizing the trading and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements, and state only requirements, with which the source will comply through emissions trading, and such other information as may be required by the applicable requirement authorizing the emissions trade.~~

~~(i) Special provisions for affected (acid rain) sources~~

~~(1) Application binding until permit issuance or denial. A complete acid rain permit application is binding on the applicant and enforceable as an acid rain permit until an acid rain permit is issued or denied. For applicable permitting procedures, see OAC 252:2-15.~~

~~(2) Exemption petitions. Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.~~

~~(3) Permit shield. The acid rain portion of every operating~~

~~permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the federal Clean Air Act, will be deemed to be operating in compliance with the Acid Rain Program.~~

~~(4) Modifications. See 40 CFR 72.82.~~

~~(5) Duration. Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.~~

~~(6) Right of intervention. The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.~~

~~(7) Administrative appeal. The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.~~

~~(8) Adoption of 40 CFR Part 72 by reference. Owners or operators of sources subject to the acid rain provisions of the federal Clean Air Act shall comply with applicable provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, which is hereby adopted by reference as rules of the Environmental Quality Board. In such regulations, the term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with this Chapter, the Part 72 provisions and requirements shall apply and take precedence.~~

~~(8) The Oklahoma Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993 for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR part 72 conflict with or are not included in Oklahoma Administrative Code 252:100-8, the part 72 provisions and requirements shall apply and take precedence. [NOTE: Moved to 252:100-8-6.3]~~

252:100-8-6.1 General permits

(a) Applicability.

(1) The DEQ may, after notice and opportunity for public participation, issue a general permit for to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise

provided in regulations promulgated under Title IV of the federal Clean Air Act.

(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.

(3) A general permit may be issued for the following purposes to establish:

(A) ~~to establish terms~~ Terms and conditions to implement applicable requirements, and state-only requirements, for a source category.

(B) ~~to establish terms~~ Terms and conditions to implement applicable requirements, and state-only requirements, for specified categories of changes to permitted sources.

(C) ~~to establish terms~~ Terms and conditions for new requirements that apply to sources with existing permits, and.

(D) ~~to establish federally enforceable~~ Federally-enforceable caps on emissions from sources in a specified category.

(4) The DEQ may issue a general permit if it finds that:

(A) ~~There there~~ are several permittees, permit applicants, or potential permit applicants who: ~~have the same or substantially similar operations, emissions, activities, or facilities;~~

(i) ~~Have the same or substantially similar operations, emissions, activities, or facilities.~~

(ii) ~~(B) the permittees, permit applicants, or potential permit applicants emit~~ Emit the same types of regulated air pollutants.

(B) ~~(C) the~~ The operations, emissions, activities, or facilities are subject to the same or similar: ~~standards, limitations, and operating requirements; and~~

(i) ~~Standards, limitations, and operating requirements.~~

(ii) ~~(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring~~ Monitoring requirements.

[NOTE: 252:100-8-6.1(a)(1) through (4) was 252:100-8-6(d)(1) through (4)]

(5) ~~(8)~~ If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source ~~may~~ must apply for an individual Part 70 permit for all of its covered sources, and ~~receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252:100-8-3 of this part to obtain a permit addressing the remainder of its operations, activities,~~

and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.

[NOTE: Was 252:100-8-6(d)(8)]

(6) Facilities located in areas that are federally designated as non-attainment are not eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h)(3)]

(7) Sites that are not in compliance with all applicable State and Federal air regulations are eligible for a general operating permit only if:

(A) They submit to DEQ an approvable compliance plan, and

(B) The facility submits to Tier II public review. [NOTE: From 252:100-10-5(h)(5)]

(8) Facilities with existing state operating permits are eligible for coverage under a general operating permit.

[NOTE: From 252:100-10-5(h)(6)]

(9) Facilities existing prior to the effective date of any applicable standard that would have created specific quantifiable and enforceable emission rates are eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h)(7)]

(b) Authorization.

(1)(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit. (A) Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit. [NOTE: Was 252:100-8-6(d)(5)]

(2)(B) See OAC 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency DEQ shall act to approve or deny the application within 90 days of filing. [NOTE: Was 252:100-8-6(d)(5)(B)]

(3)(C) A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review. [NOTE: Was 252:100-8-6(d)(5)(C)]

(4)(d) The DEQ will publish, at least monthly, an updated list of sources approved for inclusion under the general operating permit and any aggrieved person may petition the DEQ to review the approval of any stationary source for inclusion under a general operating permit within 30 days after publication of the list. [NOTE: From 252:100-10-3(d)]

(5)(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ. [NOTE: Was 252:100-8-6(d)(6)]

(c) Permit Shield. A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit. [NOTE: Was 252:100-8-6(d)(7)]

(d) Revisions

(1)(b) If an owner or operator of a source(s) makes a change to a source covered by a general operating permit that affects any applicability information supplied in the general operating permit application, but the source is still eligible for coverage authorized to operate under a general operating permit, the owner or operator must revise the general operating permit application and submit it to the DEQ within 60 days.

(2)(e) After coverage is granted to a particular source under the general permit, physical changes to the facility which result in the addition of equipment new to the facility, either as a replacement (except like-kind replacements) or net addition, will require a construction permit or a new authorization permit except as allowed in (d)(3) below. Any significant modification to a stationary source included under a general operating permit shall subject the source to a Tier II review.

(3)(e) If equipment new to the facility is newly purchased or is relocated from another facility where a permit was issued with enforceable emissions limits on that equipment, then authorization approval under the general operating permit shall be modified or amended to include an emissions limit for the newly purchased or relocated equipment. "Grandfathered" emissions sources at the facility will retain only the equipment descriptions as permit conditions. "Grandfathered" means a unit which that was in existence prior to the effective date of any applicable regulation which that would have created specific quantifiable and enforceable emissions rate limits.

(4)(f) For a general operating permit, if emissions change for any reason that subjects the facility to PSD permitting requirements, then the facility no longer qualifies for a general operating permit. However, the existing general operating permit will remain valid during the time period covered by the PSD construction permit until the facility receives a Part 70 site specific operating permit for the entire facility.

[NOTE: 252:100-8-6.1(d)(1) through (4) are from 252:100-10-5(b), (c), (e) and (f) respectively]

(e) Permit Content. Specific terms and conditions that which will make the applicable rules and requirements enforceable shall be stipulated in the general operating permit. [NOTE: From 252:100-10-5(h)(8)]

(f) Renewal of general operating permits.

(1) The DEQ will initiate the renewal process for a general operating permit at least 180 days prior to the permit's expiration date and will follow the requirements in 252:100-8-7(a).

(2) Owners or operators shall apply to renew an authorization at least 60 days prior to expiration of the existing authorization. Upon submittal of a timely and administratively complete application, the applicant may continue to operate until such time as the DEQ grants or denies coverage under the general operating permit.

252:100-8-6.2(e) Temporary sources. The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and

(3) Conditions that assure compliance with all other provisions of this section. [NOTE: 252:100-8-6.2 was moved from 252:100-8-6(e)]

252:100-8-6.3.(i) Special provisions for affected (acid rain) sources

(a)(1) Application binding until permit issuance or denial. A complete acid rain permit application is binding on the applicant and enforceable as a an acid rain permit until an acid rain permit is issued or denied. For applicable permitting procedures, see OAC 252:2-15.

(b)(2) Exemption petitions. Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.

(c)(3) Permit shield. The acid rain portion of every operating permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the federal Clean Air Act, will be deemed to be operating in compliance with the Acid Rain Program.

(d)(4) Modifications. See 40 CFR 72.82.

(e)(5) Duration. Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.

(f)(6) Right of intervention. The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.

(g)(7) Administrative appeal. The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.

(h)(8) Adoption of 40 CFR Part 72 by reference. ~~Owners or operators of sources subject to the acid rain provisions of the federal Clean Air Act shall comply with applicable provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, which is hereby adopted by reference as rules of the Environmental Quality Board. In such regulations, the term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with this Chapter, the Part 72 provisions and requirements shall apply and take precedence.~~

~~(8) The Oklahoma Department of Environmental Quality DEQ hereby adopts and incorporates by reference the provisions of 40 CFR Part part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, and on October 24, 1997, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part part 72 conflict with or are not included in Oklahoma Administrative Code 252:100-8, the Part part 72 provisions and requirements shall apply and take precedence.~~

[NOTE: 252:100-8-6.3 was moved from 252:100-8-6(i)]

252:100-8-7. Permit issuance, ~~renewal, reopenings, and revisions~~

~~(a) Action on application; issuance/denial criteria.~~

~~(1)(a) Criteria for issuance.~~ A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S.Supp. 1995, Section 2-14-101 et seq.; OAC 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and for applications subject to OAC 252:100-8-8, that the requirements of that section have been satisfied.

~~(2)(b) Draft permits and notice thereof.~~ See OAC 252:2-15. The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).

~~(3)(c) EPA review.~~ See OAC 252:100-8-8.

~~(4)(d) DEQ final action. See OAC 252:2-15, and OAC 252:100-8-8 when applicable.~~

~~(5)(e) Timeline for technical review and issuance. See OAC 252:2-15-70 through 15-72. Except as provided in paragraphs (A) and (B) of this paragraph, the The DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with 252:2-15-70 through 15-72 and OAC ~~252:100-8-5(b)(5)~~ 252:100-8-4(b)(7).~~

~~(6)(f) Action priorities. See OAC ~~252:100-8-5(b)~~ 252:100-8-4(b)(2) through (10) and 252:100-8-7.1(a).~~

~~(7)(g) No issuance by default. See 27A:2-5-112(D).~~

~~(b) Requirement for a permit. See OAC 252:100-8-4(b).~~

~~(c) Permit renewal and expiration.~~

~~(1) Applications for permit renewal after the transition period, and for permit for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection. [NOTE: Moved to 252:100-8-7.1(a)(1)]~~

~~(2) Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under OAC 252:100-8-7(a). [NOTE: Moved to 252:100-8-7.1(c)]~~

~~(3) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration. [NOTE: Moved to 252:100-8-7.1(d)(1)]~~

~~(4) If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time. [NOTE: Moved to 252:100-8-7.1(d)(2)]~~

~~(5) Stationary sources operating under permits issued by the DEQ under this subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit. [NOTE: Moved to 252:100-8-7.1(a)(2)]~~

~~(d) Administrative permit amendments.~~

~~(1) When used in this subsection "Administrative permit amendment" means a permit revision that:~~

~~(A) Corrects typographical errors;~~

~~(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;~~

~~(C) Requires more or less frequent monitoring or reporting by the permittee;~~

~~(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;~~

~~(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under OAC 252:100-7. Enhanced New Source Review (NSR) procedures apply to all major sources and all State Implementation Plan (SIP) minor source changes to majors.~~

~~(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:~~

~~(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.~~

~~(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.~~

~~(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.~~

~~(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(f) for administrative permit amendments made pursuant to subparagraph (d)(1)(E) of this section.~~

[NOTE: 252:100-8-7(d) was moved to 252:100-8-7.2(a)]

~~(e) Permit modification. A permit modification is any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under subsection (d) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(1) Minor permit modification procedures.~~

~~(A) Criteria.~~

~~(i) Minor permit modification procedures may be used only for those permit modifications that:~~

~~(I) Do not violate any applicable requirement, or state only requirements;~~

~~(II) Do not involve significant changes to existing~~

- ~~monitoring, reporting or recordkeeping requirements in the permit;~~
- ~~(III) Do not require or change a case by case determination of an emission limitation or other standard, or a source specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;~~
- ~~(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, or state only requirement, and that the source has assumed to avoid an applicable requirement, or state only requirement, to which the source would otherwise be subject. Such terms and conditions include federally enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5) of the federal Clean Air Act; and~~
- ~~(V) Are not modifications under any provision of Title I of the federal Clean Air Act.~~
- ~~(ii) Notwithstanding OAC 252:100-8-7(e)(1)(A)(i) and OAC 252:100-8-7(e)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.~~
- ~~(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:~~
- ~~(i) A description of the change, the emissions resulting from the change, and any new applicable requirements, and state only requirements, that will apply if the change occurs;~~
- ~~(ii) The source's suggested modification language;~~
- ~~(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and~~
- ~~(iv) Completed forms for any notices required by OAC 252:2-15 and, regarding notice to EPA and affected states, as required under subparagraph (C) of this paragraph.~~
- ~~(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.~~

~~(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15 the DEQ shall:~~

- ~~(i) Issue the minor permit modification as approved;~~
- ~~(ii) Deny the minor permit modification application; or~~
- ~~(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.~~

~~(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change allowed by the preceding sentence, and until the DEQ takes any of the actions specified in (1) (D) (i) through (iii) of this section, the source must comply with both the applicable requirements and state only requirements, governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.~~

~~(F) Permit shield. The permit shield under OAC 252:100-8-6(f) will not extend to minor permit modifications.~~

~~(G) Permittee's risk in commencing construction. The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.~~

~~(2) Significant modification procedures.~~

~~(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:~~

- ~~(i) Involve any significant amendment to existing monitoring, reporting, or recordkeeping requirements in the permit;~~
- ~~(ii) Require any amendment to establish or amend a permit condition that is required to be based on a case by case determination of an emission limitation or other standard, on a source specific determination of ambient impacts, or on a visibility or increment analysis;~~
- ~~(iii) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and state only requirement, and that the source has assumed to avoid an applicable requirement, and state only requirement, to which the source would otherwise be subject. Such terms and~~

conditions include:

- ~~(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;~~
- ~~(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the federal Clean Air Act; and~~
- ~~(iv) Are modifications under any provision of Title I of the federal Clean Air Act; and,~~
- ~~(v) Do not qualify as minor permit modifications or administrative amendments.~~

~~(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements, and state only requirements, that will apply if the change occurs.~~

~~(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.~~

[NOTE: 252:100-8-7(e) was moved to 252:100-8-7.2(b)]

~~(f) Reopening for cause.~~

~~(1) Mandatory reopening. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:~~

~~(A) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original permit or any of its terms and conditions has been extended pursuant to the application shield provided at OAC 252:100-8-7(e)(4) beyond the 18 month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.~~

~~(B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.~~

~~(C) The agency or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.~~

~~(D) The administrator or the agency determines that the~~

~~permit must be revised or revoked to assure compliance with the applicable requirements.~~

~~(2) Discretionary reopening. The agency may reopen and amend a permit when:~~

~~(A) additional state only requirements become applicable to a permitted stationary source, and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;~~

~~(B) alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;~~

~~(C) the agency receives information previously unavailable to the agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;~~

~~(D) a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; and~~

~~(E) an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.~~

~~(3) Reopening procedures. To reopen and amend a permit, the agency shall follow the procedures that apply to significant permit amendments under this chapter, unless the amendment can be made as an administrative amendment under OAC 252:100-8-7(d). Mandatory reopenings under OAC 252:100-8-7(f)(1) shall be made as expeditiously as practicable. In lieu of an application, the significant permit amendment process will commence when the agency gives the permittee written notice of its intent to amend the permit. The agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the agency has given the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit which the agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.~~

[NOTE: 252:100-8-7(f) was moved to 252:100-8-7.3(a), (b) and (c)]

~~(g) Reopenings for cause by EPA.~~

~~(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the permitting authority and the permittee of such findings in writing.~~

~~(2) The permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90 day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the permitting authority must require the permittee to submit~~

additional information.

~~(3) The Administrator will review the proposed determination from the permitting authority within 90 days of receipt.~~

~~(4) The permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.~~

~~(5) If the permitting authority fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:~~

~~(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.~~

~~(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.~~

[NOTE: 252:100-8-7(g) was moved to 252:100-8-7.3(d)]

~~(h) Revocations.~~

~~(1) Permit revocation without reissuance. The agency may revoke permits and not reissue them when:~~

~~(A) there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;~~

~~(B) the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or the administrator;~~

~~(C) the permittee has failed to comply with any requirement under OAC 252:100-9 to pay fees; or~~

~~(D) the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, or schedule of compliance.~~

~~(2) Revocation procedures. The agency shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the agency may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the agency shall hold the hearing in accordance with the Oklahoma Administrative Procedures Act.~~

[NOTE: 252:100-8-7(h) was moved to 252:100-8-7.4]

~~(i) Public participation. See 27A O.S.Supp. 1995, § 2-14-101 et seq. and OAC 252:2-15.~~

~~(j) Judicial review. Any final action in granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to judicial review in the court of appropriate jurisdiction upon an application filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. Except for~~

~~authorizations under General Permits, judicial review is available to all affected parties for all final permit actions including minor modifications and administrative actions. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.~~

~~(1) No application for judicial review may be filed more than 90 days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within 90 days of the date on which the grounds for review first arose and review shall be limited to such later arising grounds.~~

~~(2) Any application for judicial review shall be limited to issues that:~~

~~(A) were raised in written comments filed with the Agency or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and~~

~~(B) are germane and material to the permit action at issue.~~

~~(3) For purposes of this section, "final action" shall include a failure by the Agency to take final action to grant or deny an application within the time specified in this Chapter.~~

[NOTE: 252:100-8-7(j) was moved to 252:100-8-7.5]

252:100-8-7.1.(e) Permit renewal and expiration

(a) Timely application for permit renewal.

(1) Applications for permit renewal after the transition period, and for permits permit for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection. [NOTE: Was 252:100-8-7(c)(1)]

(2) Stationary sources operating under permits issued by the DEQ under this Subchapter subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit. [NOTE: Was 252:100-8-7(c)(5)]

(b)(9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ issued Part 70

operating permit, a source may identify and incorporate by reference terms and conditions in its previous permit and permit application(s) that should remain unchanged. terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:

(1)(i) information specified in OAC 252:100-8-5(d) 252:100-8-5(e) for those products, processes, operations, and emissions that:

(A)(I) That are not addressed in the existing permit;

(B)(II) That are subject to applicable requirements, or state-only requirements that are not addressed in the existing permit; or

(C)(III) For as to which the source seeks permit terms and conditions that differ from those in the existing permit; and

(2)(ii) a compliance plan and certification as required in OAC 252:100-8-5(d)(8) 252:100-8-5(e)(8) and (9). [NOTE: Was 252:100-8-5(b)(9)]

(c)(2) Issuance of renewal permit. Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under OAC 252:100-8-7(a). [NOTE: Was 252:100-8-7(c)(2)]

(d) Expiration of permit.

(1)(3) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration. [NOTE: Was 252:100-8-7(c)(3)]

(2)(4) If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time. [NOTE: Was 252:100-8-7(c)(4)]

(5) Stationary sources operating under permits issued by the DEQ under this subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary

source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit.
[NOTE: Moved to 252:100-8-7.1(a)(2)]

252:100-8-7.2.(d) Administrative permit amendments and permit modifications

(a) Administrative permit amendments.

(1) When used in this subsection An "Administrative administrative permit amendment" means a permit revision that:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(C) Requires more or less frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under this Part OAC 252:100-7. Enhanced New Source Review (NSR) procedures apply to all major sources and all State Implementation Plan (SIP) minor source changes to majors.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph ~~(d)(1)(E)~~ 252:100-8-7.2(a)(1)(E) of this section. [NOTE: 252:100-8-7.2(a) was 252:100-8-7(d)]

~~(b)(e) Permit modification.~~ A permit modification is any revision to an operating a permit that cannot be accomplished

under the program's provisions for administrative permit amendments under subsection (d) (a) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act 40 CFR Part 72.

(1) Minor permit modification procedures.

(A) Criteria.

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, or state-only requirement, and that which the source has assumed to avoid an some other applicable requirement, or state-only requirement, to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i) (5) of the federal Clean Air Act; and

(V) Are not modifications under any provision of Title I of the federal Clean Air Act.

(ii) Notwithstanding OAC 252:100-8-7(e)(1)(A)(i) 252:100-8-7.2(b)(1)(A)(i) and OAC 252:100-8-7(e)(2)(A) 252:100-8-7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable the State's implementation plan or in applicable requirements promulgated by EPA.

(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements, and or state-only requirements, that will apply if the change occurs;

(ii) The source's suggested modification language;

(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and

(iv) Completed forms for any notices required by OAC 252:2-15 and, ~~regarding notice to EPA and affected states, as required under~~ subparagraph (C) of this paragraph.

(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15, the DEQ shall:

(i) Issue the minor permit modification as approved;

(ii) Deny the minor permit modification application; or

(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change allowed by ~~the preceding sentence,~~ and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this section subsection, the source must comply with ~~both~~ the applicable requirements and state-only requirements, governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) Permit shield. The permit shield under ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) will not extend to minor permit modifications.

(G) Permittee's risk in commencing construction. The ~~permittee permittees~~ assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) Significant modification procedures.

(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:

(i) Involve any significant changes in amendment to existing monitoring, reporting, or recordkeeping requirements in the permit;.
(ii) Relax any reporting or recordkeeping requirements.
(iii)-(ii) Require any amendment to establish or amend a permit condition that Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;
(iv)-(iii) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and or state-only requirement, and that which the source has assumed to avoid an some other applicable requirement, and or state-only requirement, to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the federal Clean Air Act; and

(v)-(iv) Are modifications under any provision of Title I of the federal Clean Air Act; and,

(vi)-(v) Do not qualify as minor permit modifications or administrative amendments.

(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements, and or state-only requirements, that will apply if the change occurs.

(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

[NOTE: 252:100--8-7.2(b) was 252:100-8-7(e)]

252:100-8-7.3.(f) Reopening of operating permits for cause

(a)-(1) Mandatory reopening. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:

(1)-(A) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original

permit or any of its terms and conditions has been extended pursuant to the application shield provided at ~~OAC 252:100-8-7(e)(4)~~ 252:100-8-7.1(d)(2) beyond the 18-month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

(2)(B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, ~~administrator~~, excess emissions offset plans shall be deemed to be incorporated into the permit.

(3)(C) The DEQ agency or the administrator EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

(4)(D) The Administrator ~~administrator~~ or the DEQ agency determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b)(2) Discretionary reopening. The DEQ agency may reopen and amend a permit when:

(1)(A) additional state-only requirements become applicable to a permitted stationary source, and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;

(2)(B) alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;

(3)(C) the DEQ agency receives information previously unavailable to the DEQ agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;

(4)(D) a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; and
or

(5)(E) an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.

(c)(3) Reopening procedures. To reopen and amend a permit, the DEQ agency shall follow the procedures that apply to significant permit amendments modifications under this chapter Subchapter, unless the amendment can be made as an administrative amendment under ~~OAC 252:100-8-7(d)~~ 252:100-8-7.2(a). Mandatory reopenings under ~~OAC 252:100-8-7(f)(1)~~ 252:00-8-7.3(a) shall be made as expeditiously as practicable. In lieu of an application, the significant permit amendment modification process will commence when the DEQ agency gives the permittee written notice of its intent to amend the permit. The DEQ agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the DEQ agency has given the permittee written notice of its intent to

amend the permit, unless the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit that which the DEQ agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.

[NOTE: 252:100-8-7.3(a), (b), and (c) were 252:100-8-7(f)]

(d)-(e) Reopenings for cause by EPA.

(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the DEQ permitting authority and the permittee of such findings in writing.

(2) The DEQ permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the DEQ permitting authority must require the permittee to submit additional information.

(3) The Administrator will review the proposed determination from the DEQ permitting authority within 90 days of receipt.

(4) The DEQ permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.

(5) If the DEQ permitting authority fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.

(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

[NOTE: 252:100-8-7.3(d) was 252:100-8-7(g)]

252:100-8-7.4.(h) Revocations of operating permits

(a)-(1) Revocation of a permit or authorization under a general permit Permit revocation without reissuance. The DEQ agency may revoke permits or authorizations under a general permit and not reissue them when:

(1)-(A) there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit or authorization, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;

(2)-(B) the permittee fails to disclose fully the facts relevant to issuance of the permit or authorization or submits false or misleading information to the DEQ agency or the Administrator administrator;

(3)-(C) the permittee has failed to comply with any requirement

under ~~OAC 252:100-9~~ 252:100-5 to pay fees; or
(4)(D) the permittee has failed to pay a penalty owed pursuant
to court order, consent decree, stipulation agreement, or
schedule of compliance.

(b)(2) Revocation procedures. The DEQ agency shall give notice
to the permittee of its intention to revoke a permit without
reissuance. This notice must state that within 30 days of the
receipt of the notice the permittee may request a contested case
hearing be held on the proposed action, except that the DEQ
agency may provide less notice in case of an emergency. If the
permittee requests a contested case hearing, the DEQ agency shall
hold the hearing in accordance with the Oklahoma Administrative
Procedures Act.

[NOTE: 252:100-8-7.4 was 252:100-8-7(h)]

252:100-8-7.5.(j) Judicial review

Any final action in granting or denying an application for a
permit, permit amendment or modification, or permit renewal shall
be subject to judicial review in the court of appropriate
jurisdiction upon an application filed by the applicant or
permittee, or by any affected state or other person who
participated in the public comment process. Except for
authorizations under General Permits, judicial review is
available to all affected parties for all final permit actions
including minor modifications and administrative actions. If no
public comment procedure was employed for the action under
challenge, an application for review may be filed by the
permittee or an affected state. The opportunity for judicial
review provided for in this subsection shall be the exclusive
means for obtaining judicial review of any permit action.

(1) No application for judicial review may be filed more than
90 days following the final action on which review is sought,
unless the grounds for review arose at a later time, in which
case the application for review shall be filed within 90 days
of the date on which the grounds for review first arose and
review shall be limited to such later-arising grounds.

(2) Any application for judicial review shall be limited to
issues that:

(A) were raised in written comments filed with the DEQ
Agency or during a public hearing on the proposed permit
action (if the grounds on which review is sought were known
at that time), except that this restriction shall not apply
if the person seeking review was not afforded an advance
opportunity to comment on the challenged action; and

(B) are germane and material to the permit action at issue.

(3) For purposes of this section, "final action" shall
include a failure by the DEQ Agency to take final action to
grant or deny an application within the time specified in this
Chapter.

[NOTE: 252:100-8-7.5 was 252:100-8-7(j)]

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This section applies only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the ~~federal Clean Air Act~~ or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.**

For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See 27A O.S.Supp. 1995, § 2-5-112(E); 27A O.S.Supp. 1995, § 2-14-101 et seq.; and OAC 252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in OAC 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S.Supp. 1995, § 2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this

subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (Tier I) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of OAC 252:2-15.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

(A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or

(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

(i) issue the amended or revised draft permit (Tier II) as final, or

(ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in OAC 252:002-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such

objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAC 252:100-8-7 through 252:100-8-7.5 except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with 27A O.S.Supp. 1995, Section 2-14-101 et seq., the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

~~252:100-8-9. Permit fees~~ [NOTE: The contents of this Section were moved to 252:100-5 and 252:100-8-1.7]

~~(a) Definitions.~~ The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

~~(1) "Actual emission"~~ means the total amount of regulated pollutant (for fee calculation) emitted from a given facility during a particular calendar year, as determined by methods contained in OAC ~~252:100-8-9(d)~~.

~~(2) "Allowable emissions"~~ means the total amount of regulated pollutant (for fee calculation) emitted based on limits contained in a federally enforceable permit or potential to emit.

~~(3) "Emission inventory"~~ means a compilation of the total of all point source, storage and process fugitive air emissions for all regulated pollutant (for fee calculation) at a given facility.

~~(4) "Consumer Price Index"~~ means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

~~(b) Fee required.~~ The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the part 70 program costs. The permitting authority shall ensure that any fee required by these rules will be used solely for part 70 program costs.

~~(c) Applicability.~~ A Part 70 source shall be subject to fee requirements of this section on January 1, 1995, and as of this date shall no longer be subject to the major source annual

~~operating fee specified in 252.100-7-4 (b) (1) (A).~~

~~(d) Fee schedule for Part 70 sources.~~

~~(1) Annual fees. The annual fee shall be calculated on a source specific basis and may be based on either actual or allowable emissions at the option of the owner or operator paying the fee as set forth in the facility emissions inventory. Fees shall be based on emission inventories submitted in the previous calendar year. (For example, fee invoiced during calendar year 1995 shall be based upon inventory data covering the calendar year 1993).~~

~~(A) Annual fees shall be determined according to the following:~~

~~(i) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing; or~~

~~(ii) where both actual and allowable emission are reflected on the inventory, the lesser of the two shall be used.~~

~~(B) Annual fees shall be as follows:~~

~~(i) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant.~~

~~(ii) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.~~

~~(iii) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a part 70 source shall not be considered in the calculation of the annual fee.~~

~~(2) Permit processing fees. Permit processing fees shall be as follows:~~

~~(A) Initial Part 70 permit \$2,000.~~

~~(B) Renewal Part 70 permit \$1,000.~~

~~(C) Significant Part 70 Permit Mod. \$1,000.~~

~~(D) Minor Part 70 Permit Modification \$ 500.~~

~~(E) The Part 70 Temporary Permit \$1,000.~~

~~(F) Part 70 Temporary Source Relocation \$ 500.~~

~~(3) Payment. Fees will be paid by check or money order made payable to the Oklahoma Air Quality fund or upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1 1/2%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the~~

~~date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2 5 101 et seq., as amended.~~

~~(4) Emissions inventory. The owner or operator of any Part 70 source shall by April 1, 1994, and every succeeding year thereafter, submit a complete emission inventory on forms obtained from the Agency. These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee. The methods of calculation to be utilized in the development of an emission inventory shall be in accordance with the methods described in OAC 252:100-7-4(e).~~

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD)
REQUIREMENTS FOR ATTAINMENT AREAS

[NOTE: Was 252:100-7-30 through 37]

252:100-8-30. Applicability

The new source requirements of this Part, in addition to the requirements of OAC 252:100-7-15 through 252:100-7-18 and 252:100-8, Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all major stationary sources and major modifications as specified in OAC 252:100-7-31 252:100-8-31 through 252:100-7-33 252:100-8-33, following and are effective upon adoption of this Subchapter by Oklahoma. Except that the requirements of this Part will not be necessary for sources required to meet the permit requirements of the United States Environmental Protection Agency under Title 40 Part 52.21 of the Code of Federal Regulations. Sources subject to this Part are also subject to the operating permit provisions contained in Part 5 of OAC 252:100-8.

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source

tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ Air Quality Division on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility. [NOTE: From 252:100-7-36(a)]

~~"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:~~

~~(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;~~

~~(B) the applicable State rule allowable emissions; or,~~

~~(C) the emissions rate specified as an enforceable permit condition. [NOTE: Moved to 252:100-8-1.1]~~

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m³ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. (Effective May 11, 1991)

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date;

and;

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. (Effective May 11, 1991)

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,

(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or OAC 252:100-7 252:100-8, Part 5 7) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988.

(Effective May 11, 1991)

"Begin actual construction" means, in general, initiation of physical on site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: Moved to 252:100-8-1.1]

"Best available control technology" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case-by-case basis taking into account energy, environmental, costs and economic impacts of alternate control systems.

"Building, structure, facility or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:
(A) begun, or caused to begin, a continuous program of actual on site construction of the source, to be completed within a reasonable time; or,
(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: Moved to 252:100-8-1.1]

"Complete" in reference to an application for a permit, means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: Moved to 252:100-8-1.1]

"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

"Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative. [NOTE: Moved from 252:100-8-36(a)]

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. [NOTE: Moved to 252:100-8-1.1]

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement.

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was

established after January 6, 1975; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC ~~252:100-7~~ 252:100-8.

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(vii) Any change in source ownership.

"Major stationary source" means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(i) carbon black plants (furnace process),

(ii) charcoal production plants,

(iii) chemical process plants,

(iv) coal cleaning plants (with thermal dryers),

(v) coke oven batteries,

(vi) fossil-fuel boilers (or ~~combustion~~ combination thereof) totaling more than 250 million BTU per hour heat input,

(vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(viii) fuel conversion plants,

(ix) glass fiber processing plants,

(x) hydrofluoric, sulfuric or nitric acid plants,

(xi) iron and steel mill plants,

(xii) kraft pulp mills,

(xiii) lime plants,

(xiv) municipal incinerators capable of charging more than 250 tons of refuse per day,

(xv) petroleum refineries,

(xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(xvii) phosphate rock processing plant,

(xviii) portland cement plants,

(xix) primary aluminum ore reduction plants,

(xx) primary copper smelters,

(xxi) primary lead smelters,

(xxii) primary zinc smelters,

(xxiii) secondary metal production plants,

(xxiv) sintering plants,

(xxv) sulfur recovery plants, or

(xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration. [NOTE: From 252:100-8-36(a)]

~~"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules. [NOTE: Moved to 252:100-8-1.1]~~

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under ~~OAC 252:100-7, Part 3 252:100-8, Part 7~~, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. (Effective May 11, 1991)

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any

physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: Moved to 252:100-8-1.1]

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purposes of OAC 252:100-7, Part 5 secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: Moved to 252:100-8-1.1]

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(i) carbon monoxide: 100 tons per year (tpy),

(ii) nitrogen oxides: 40 tpy,

(iii) sulfur dioxide: 40 tpy,

(iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,

(v) ozone: 40 tpy of volatile organic compounds,

(vi) lead: 0.6 tpy,

(vii) asbestos: 0.007 tpy,

(viii) beryllium: 0.0004 tpy,

(ix) mercury: 0.1 tpy,

(x) vinyl chloride Chloride: 1 tpy,

(xi) fluorides: 3 tpy,

(xii) sulfuric acid mist: 7 tpy,

(xiii) hydrogen sulfide (H₂S): 10 tpy,

(xiv) total reduced sulfur (including H₂S): 10 tpy, and

(xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 ug/m³ (24-hour average).

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100. [NOTE: Moved to 252:100-8-1.1]

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

[NOTE: From 252:100-8-36(a)]

252:100-8-32. Source applicability determination

Proposed new sources and source modifications to which this Part 5 of this Subchapter is applicable are determined by size, geographical location and type of emitted pollutants.

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant and other associated definitions in 252:100-8-31, 252:100-8-1.1, and 252:100-1.

(B) When At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of OAC 252:100-7-15 through 252:100-7-18 and OAC 252:100-7, Part 7 252:100-8, Parts 1, 3, 5, and 7 shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications which are major in size and proposed for construction in an area which has been designated as attainment or unclassified for any applicable ambient air standard are subject to the prevention of significant deterioration PSD requirements.

(B) Those sources and modifications locating in an attainment or unclassified area but impacting on a nonattainment area may also be subject to the requirements for major sources affecting nonattainment areas in 252:100-8, Part 9 of OAC 252:100-7, Part 7.

252:100-8-33. Review, applicability and exemptions Exemptions

(a) Exemptions from PSD requirements. PSD requirements do not apply to a particular source or modification do not apply if:

(1) It is a nonprofit health or educational institution.

(2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

(A) carbon black plants (furnace process), One of the categories listed in (A)(i) through (xxvi) under the definition of "Major stationary source" in 252:100-8-31, or

(B) charcoal production plants,

(C) chemical process plants,

(D) coal cleaning plants (with thermal dryers),

- ~~(E) coke oven batteries,~~
- ~~(F) fossil fuel boilers (or combustion combination thereof) totaling more than 250 million BTU per hour heat input,~~
- ~~(G) fossil fuel fired steam electric plant of more than 250 million BTU per hour heat input,~~
- ~~(H) fuel conversion plants,~~
- ~~(I) glass fiber processing plants,~~
- ~~(J) hydrofluoric, sulfuric or nitric acid plants,~~
- ~~(K) iron and steel mills,~~
- ~~(L) kraft pulp mills,~~
- ~~(M) lime plants,~~
- ~~(N) municipal incinerators capable of charging more than 250 tons of refuse per day,~~
- ~~(O) petroleum refineries,~~
- ~~(P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,~~
- ~~(Q) phosphate rock processing plants,~~
- ~~(R) portland cement plants,~~
- ~~(S) primary aluminum ore reduction plants,~~
- ~~(T) primary copper smelters,~~
- ~~(U) primary lead smelters,~~
- ~~(V) primary zinc smelters,~~
- ~~(W) secondary metal production plants,~~
- ~~(X) sintering plants,~~
- ~~(Y) sulfur recovery plants,~~
- ~~(Z) taconite ore processing plants, or~~
- ~~(AA) A any other stationary source category which, as of August 7, 1980, is being regulated by federal New Source Performance Standards (NSPS) NSPS or National Emission Standards for Hazardous Air Pollutants (NESHAPS) NESHAP.~~

(3) The source or modification is a A portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) Exemption from air quality impact evaluation.

(1)(b) The requirements of OAC 252:100-7-35 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2)(c) The requirements of OAC 252:100-7-35 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of best available control technology, would be less than 50 tons per year. [NOTE: 252:100-8-33(b) (2) was 252:100-8-33(c)]

(c) Exemption from monitoring requirements.

(1)(d) The monitoring requirements of OAC 252:100-7-35 252:100-8-35 are not applicable for a particular pollutant if

the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

- (A) (1) Carbon monoxide - 575 ug/m³, 8-hour average,
- (B) (2) Nitrogen dioxide - 14 ug/m³, annual average,
- (C) (3) Particulate matter - 10 ug/m³, TSP, 24-hour average, or 10 ug/m³ PM-10, 24-hour average,
- (D) (4) Sulfur dioxide - 13 ug/m³, 24-hour average,
- (E) (5) Ozone - see (N) (14) below,
- (F) (6) Lead - 0.1 ug/m³, 24-hour 3-month average,
- (G) (7) Mercury - 0.25 ug/m³, 24-hour average,
- (H) (8) Beryllium - 0.0005 0.001 ug/m³, 24-hour average,
- (I) (9) Fluorides - 0.25 ug/m³, 24-hour average,
- (J) (10) Vinyl chloride - 15 ug/m³, 24-hour average,
- (K) (11) Total reduced sulfur - 10 ug/m³, 1-hour average,
- (L) (12) Hydrogen sulfide - 0.04 0.2 ug/m³, 1-hour average, or
- (M) (13) Reduced sulfur compounds - 10 ug/m³, 1-hour average.
- (N) (14) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data. [NOTE: 252:100-8-33(c) (1) was 252:100-8-33(d)]

(2) The requirements for air quality monitoring in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c) and (d) (2) shall not apply to a particular source or modification that was subject to Federal 40 CFR 52.21 as in effect on June 19, 1978, if a permit application in accordance with OAC 252:100-7 is was submitted before June 8, 1981 and the Executive Director subsequently determines determined that the application as submitted was complete except for with respect to the requirements of OAC 252:100-7 other than those in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c) and (d) (2) and with respect to the requirements for such analyses at 40 CFR 52.21 (m) (2) as in effect on June 19, 1978. Instead, the latter requirements in 40 CFR 52.21(m) (2) as in effect on June 19, 1978, shall apply to any such source or modification. [NOTE: was 252:100-7-33(f)]

(3) The requirements for air quality monitoring in OAC 252:100-7-35(b) through 252:100-7-35(d) 252:100-8-35(b), (c), and (d) (2) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application in accordance with OAC 252:100-7 is was submitted before June 8, 1981 and the Executive Director subsequently determines determined that the application as submitted was complete, except for with respect to the requirements in OAC 252:100-7-35(b) through 252:100-7-

~~35(d)~~ 252:100-8-35(b), (c) and (d)(2). [NOTE: was 252:100-7-33(g)]

(4) The Executive Director shall determine if the requirements for air quality monitoring of PM-10 in OAC ~~252:100 7 35(a)~~ 252:100-8-35(a) through 252:100 7 35(d) ~~252:100-8-35(c)~~ and 252:100-8-35(d)(2) may be waived for a particular source or modification when the owner or operator of the source or modification submits an application for a permit was submitted on or before June 1, 1988 and the Executive Director subsequently determines ~~determined~~ that the application, except with respect to for the requirements for monitoring particulate matter under OAC ~~252:100 7 35(a)~~ 252:100-8-35(a) through ~~252:100 7 35(d)~~ 252:100-8-35(c) and 252:100-8-35(d)(2), was complete before that date. [NOTE: was 252:100-7-33(i)]

(5) The requirements for air quality monitoring of PM-10 in OAC ~~252:100 7 35(b)~~ 252:100-8-35(b), (c), (d)(2) and (d)(6) through ~~252:100 7 35(d)~~ and ~~252:100 7 35(h)~~ shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC ~~252:100 7 33(b)~~ 252:100-8-33(b)(1), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC ~~252:100 7 35(b)~~ 252:100-8-35(b)(1) and ~~252:100 7 35(e)~~ 252:100-8-35(c) shall have been gathered over that shorter period. [NOTE was 252:100-7-33(j)]

(d)(e) Exemption from BACT requirements and monitoring requirements. If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for best available control technology in OAC ~~252:100 7 34~~ 252:100-8-34 and for monitoring in OAC ~~252:100 7 35(a)~~ 252:100-8-35(a) through ~~252:100 7 35(f)~~ 252:100-8-35(c) and 252:100-8-35(d)(2) through 252:100-8-35(d)(4) are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification. [NOTE: was 252:100-8-33(e)]

(f) The requirements for air quality monitoring in OAC ~~252:100 7 35(b)~~ through ~~252:100 7 35(d)~~ shall not apply to a particular source or modification that was subject to Federal 40 CFR 52.21 as in effect on June 19, 1978 if a permit application in accordance with OAC 252:100 7 is submitted before June 8, 1981 and the Executive Director subsequently determines that the application as submitted was complete with respect to the requirements of OAC 252:100 7 other than those in OAC ~~252:100 7 35(b)~~ through ~~252:100 7 35(d)~~ and with respect to the requirements for such analyses at 40 CFR 52.21 (m) (2) as in effect on June 19, 1978. Instead, the latter requirements shall

~~apply to any such source or modification. [NOTE: Moved to 252:100-8-33(c)(2)]~~

~~(g) The requirements for air quality monitoring in OAC 252:100-7 35(b) through 252:100 7 35(d) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978 if a permit application in accordance with OAC 252:100 7 is submitted before June 8, 1981 and the Executive Director subsequently determines that the application as submitted was complete, except with respect to the requirements in OAC 252:100 7 35(b) through 252:100 7 35(d).~~

~~[NOTE: Moved to 252:100-8-33(c)(3)]~~

~~(e)(h) Exemption of modifications. As specified in the applicable definitions of OAC 252:100 7 31 252:100-8-31, 252:100-8-1.1, and 252:100-1, the requirements of OAC 252:100 7 252:100-8, Part 5 7 for PSD and 252:100 7 252:100-8, Part 7 9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right. [Note: was 252:100-8-33(h)]~~

~~(i) The Executive Director shall determine if the requirements for air quality monitoring of PM 10 in OAC 252:100 7 35(a) through 252:100 7 35(d) may be waived for a particular source or modification when the owner or operator of the source or modification submits an application for a permit on or before June 1, 1988 and the Executive Director subsequently determines that the application, except with respect to the requirements for monitoring particulate matter under OAC 252:100 7 35(a) through 252:100 7 35(d), was complete before that date. [NOTE: Moved to 252:100-8-33(c)(4)]~~

~~(j) The requirements for air quality monitoring of PM 10 in OAC 252:100 7 35(b) through 252:100 7 35(d) and 252:100 7 35(h) shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100 7 33(b), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100 7 35(b) and 252:100 7 35(c) shall have been gathered over that shorter period. [NOTE: Moved to 252:100-8-33(c)(5)]~~

~~(k) For any application that becomes complete, except as to the requirements of OAC 252:100 7 35(b) through 252:100 7 35(d) pertaining to monitoring of PM 10, after December 1, 1988 and no later than August 1, 1989, the data that OAC 252:100 7 35(b) and 252:100 7 35(e) require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period(not to be~~

less than 4 months), the data that OAC 252:100-7-35(b) and 252:100-7-35(e) require shall have been gathered over that shorter period. (NOTE: Moved to 252:100-8-35(d)(3)(B))

(l) With respect to any requirements for air quality monitoring of PM 10 under OAC 252:100-7-33(i) and 252:100-7-33(j), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM 10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director. [NOTE: Moved to 252:100-8-35(d)(1)]

(f)-(m) Exemption from impact analyses. The requirements of OAC 252:100-7-35 252:100-8-35 and 252:100-7-36 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988. [NOTE: was 252:100-8-33(m)]

(g)-(n) Exemption from increment consumption. Excluded from increment consumption are the following cases:

(1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source. [NOTE: was 252:100-8-33(n)]

252:100-8-34. Best available control ~~Control~~ technology

(a) A new source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein for each regulated pollutant that it would have the potential to emit in significant amounts).

(b) A major modification must demonstrate that the control technology to be applied is the best that is available for each regulated pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(c) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.

(d) For phased construction projects the determination of best available control technology shall be reviewed and modified at the discretion of the Executive Director at a reasonable time

but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of best available control technology.

252:100-8-35. Air quality impact evaluation

(a) Application contents. Any application for a permit shall contain, as the Executive Director determines appropriate, an evaluation of ambient air quality in the area that the source or modification would affect for each of the following pollutants:

- (1) for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;
- (2) for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(b) Continuous monitoring data. For visibility and any pollutant, other than volatile organic compounds, for which an ambient air quality standard does exist exists, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Executive Director determines is necessary to assess the ambient air quality for that pollutant in that area. (Amended 7-9-87, effective 8-10-87)

(c) Increment consumption. The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Executive Director.

(d) Monitoring.

(1) Monitoring method. With respect to any requirements for air quality monitoring of PM-10 under ~~OAC 252:100-7-33(i)~~ 252:100-8-33(c)(4) and ~~252:100-7-33(j)~~ 252:100-8-33(c)(5), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM-10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director. [NOTE: was 252:100-7-33(1)]

(2)~~(d)~~ Monitoring period. The required monitoring data shall have been gathered for a time period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data collected for a time period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Executive Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or

modification will cause or contribute to a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment. [NOTE: 252:100-8-35(d) (2) was 252:100-8-35(d)]

(3) ~~(e)~~ Monitoring period exceptions.

(A) For any application which becomes complete except as to the monitoring requirements of ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) through ~~252:100-7-35(d)~~ 252:100-8-35(c) and 252:100-8-35(d) (2), between June 8, 1981 and February 9, 1982, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(i) ~~(1)~~ If the source or modification would have been major for that pollutant under Federal 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(ii) ~~(2)~~ If the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period, not to be less than four months, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over that shorter period.

(iii) ~~(3)~~ If the monitoring data would relate exclusively to ozone and would not have been required under Federal 40 CFR 52.21 as in effect on June 19, 1978, the Executive Director may waive the otherwise applicable requirements of ~~OAC 252:100-7-35(e)~~ 252:100-8-35(d) (3) (A) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year. [NOTE: 252:100-8-35(d) (3) (A) was 252:100-8-35(e)]

(B) For any application that becomes complete, except as to the requirements of ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b), (c) and (d) (2) through ~~252:100-7-35(d)~~ pertaining to monitoring of PM-10, after December 1, 1988 and no later than August 1, 1989, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and (c) ~~252:100-7-35(e)~~ require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over that shorter period. [NOTE: was 252:100-7-33(k)]

(4) ~~(f)~~ Ozone post-approval monitoring. The application for a source or modification of volatile organic compounds which satisfies all conditions of ~~OAC 252:100-7-54~~ 252:100-8-54 may provide post-approval monitoring data for ozone in lieu of

providing preconstruction data as required under OAC 252:100-7-35 252:100-8-35. [NOTE: was 252:100-8-35(f)]

(5)(g) Post-construction monitoring. The applicant for a permit for a new source or modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Executive Director determines necessary to determine the effect its emissions may have, or are having, on air quality in any area. (Amended 7-9-87, effective 8-10-87) [NOTE: was 252:100-8-35(g)]

(6)(h) Monitoring system operation. The operation of monitoring stations for any air quality monitoring required under Part 5 7 of this Subchapter shall meet the requirements of 40 CFR 58 Appendix B. [NOTE: was 252:100-8-35(h)]

(e)(i) Air quality models.

(1) Any air quality dispersion modeling that is required under Part 5 7 of this Subchapter for estimates of ambient concentrations shall be based on the applicable air quality models, data bases and other requirements specified in the Guidelines on Air Quality Models, OAOPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.

(2) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Executive Director. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models. [NOTE: 252:100-8-35(e) was 252:100-8-35(i)]

(f)(j) Growth analysis. Upon request of the Executive Director the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification. [NOTE: was 252:100-8-35(j)]

(g)(k) Visibility and other impacts analysis. The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Executive Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Executive Director deems necessary and appropriate. (Amended 7-9-87, effective 8-10-87) [NOTE: was 252:100-8-35(k)]

252:100-8-36. Source impacting Class I areas

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

~~(1) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the Air Quality Division on a case by case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:~~

~~(A) times of visitor use of the Federal Class I area; and
(B) the frequency and timing of natural conditions that reduce visibility. [NOTE: Moved to 252:100-8-31]~~

~~(2) "Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative. [NOTE: Moved to 252:100-8-31]~~

~~(3) "Installation" means an identifiable piece of process equipment. (Amended 7-9-87, effective 8-10-87) [NOTE: in SC-1]~~

~~(4) "Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration. [NOTE: Moved to 252:100-8-31]~~

~~(5) "Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions. [NOTE: Moved to 252:100-8-31]~~

~~(a)-(b) Permits issuance. Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts. [NOTE: was 252:100-8-36(b)]~~

~~(b)-(e) Impact analysis required. The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Executive Director shall notify the appropriate Federal Land Manager of the receipt of any such analysis and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Executive Director provided that the analysis is filed with the DEQ Air Quality Division within 30 days of receipt of the application by the Land Manager. Where the Executive Director finds that such an analysis does not demonstrate to the satisfaction of the Executive Director that an adverse impact on visibility will result in the Federal Class I area, the Executive Director will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and sufficient information, by a Federal federal Land land Manager manager, the Executive Director may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be~~

exceeded. [NOTE: was 252:100-8-36(c)]

252:100-8-37. Innovative control technology

(a) An applicant for a permit for a proposed major source or modification may request the Executive Director in writing to approve a system of innovative control technology.

(b) The Executive Director may determine that the innovative control technology is permissible if:

(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(2) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for best available control technology under OAC ~~252:100-7-34~~ 252:100-8-34 by a date specified by the Executive Director. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

(3) The source or modification would meet the requirements equivalent to those in OAC ~~252:100-7-15 through 252:100-7-18~~ Parts 1 and 5 of this Subchapter and ~~252:100-7-36~~ 252:100-8-36 based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the Executive Director.

(4) The source or modification would not, before the date specified, cause or contribute to any violation of the applicable ambient air standards, or impact any Class I area or area where an applicable increment is known to be violated.

(5) All other applicable requirements including those for public review have been met.

(c) The Executive Director shall withdraw approval to employ a system of innovative control technology made under OAC ~~252:100-7-37~~ 252:100-8-37, if:

(1) The proposed system fails by the specified date to achieve the required continuous reduction rate; or,

(2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(3) The Executive Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with OAC ~~252:100-7-37(e)~~ 252:100-8-37(c), the source or modification may be allowed up to an additional 3 years to meet the requirement for application of best available control technology through the use of a demonstrated system of control.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50. Applicability

The new source requirements of this Section Part, in addition to the applicable requirements of OAC 252:100-7-15 through 252:100-7-18 and OAC 252:100-8 Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all major sources and major modifications affecting designated nonattainment areas as specified in OAC 252:100-7-51 252:100-8-51 through 252:100-7-53 252:100-8-53., and are effective upon adoption of this Subchapter by Oklahoma. Except that the requirements of Part 7 of this Subchapter will not be necessary for sources required to meet the permit requirements of the United States Environmental Protection Agency under Title 40 Part 52.24 of the Code of Federal Regulations. Sources subject to this Part which are Part 70 sources are also subject to the provisions of OAC 252:100-8.

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition. [NOTE: Moved to 252:100-8-1.1]

"Begin actual construction" means, in general, initiation of physical on site construction activities on an emissions unit

which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: Moved to 252:100-8-1.1]

"Building, structure, facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: Moved to 252:100-8-1.1]

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: Moved to 252:100-8-1.1]

"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. [NOTE: Moved to 252:100-8-1.1]

"Installation" means an identifiable piece of process equipment.

"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement;

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 8.

(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or

(vii) any change in source ownership.

"Major stationary source" means:

(A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,

(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.

(C) for ozone, a source, that is major for volatile organic compounds shall be considered major.

~~**"Necessary preconstruction approvals or permits" means those permits or approvals required under all air quality control laws and rules. [NOTE: Moved to 252:100-8-1.1]**~~

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change

only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-7 252:100-8, Part 7 9, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) the reviewing authority has not relied on it in issuing any permit under State air quality rules; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: Moved to 252:100-8-1.1]

"Reconstruction" means the replacement of components of an existing source (which will then be treated as a new source for purposes of Part 7 9 of this Subchapter) to the extent that will be determined by the Executive Director based on:

(A) The fixed capital cost (the capital needed to provide all the depreciable components) of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source; and,

(B) The estimated life of the source after the replacements is comparable to the life of an entirely new source; and,

(C) the extent to which the components being replaced cause or contribute to the emissions from the source.

"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to

energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under Part 7 9 of this Subchapter.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purpose of OAC 252:100 7, Part 7, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: Moved to 252:100-8-1.1]

"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(A) Carbon monoxide: 100 tons per year (tpy),

(B) Nitrogen oxides: 40 tpy,

(C) Sulfur dioxide: 40 tpy,

(D) Particulate matter: 15 tpy of PM-10 emissions,

(E) Ozone: 40 tpy of volatile organic compounds, or

(F) Lead: 0.6 tpy.

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 7 11 of this Subchapter are applicable are determined by size, geographical location and type of emitted pollutants:

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in 252:100-8-51, 252:100-8-1.1, and 252:100-1.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of OAC 252:100 7-15 through 252:100 7 18 and Part 7 Parts 1, 3, 5, and 9 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications which that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 5 7 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

<u>Pollutant</u>	<u>Concentration, ug/m³</u>				
	<u>Averaging Time (hours)</u>	<u>24</u>	<u>8</u>	<u>3</u>	<u>1</u>
<u>SO₂</u>	<u>1.0</u>	<u>5</u>		<u>25</u>	
<u>PM-10</u>	<u>1.0</u>	<u>5</u>			
<u>NO₂</u>	<u>1.0</u>				
<u>CO</u>			<u>500</u>		<u>2000</u>

(B) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(C) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in ~~OAC 252:100-7-52(3)~~ 252:100-8-52(3) are exempted from the condition of ~~OAC 252:100-7-54(4)(A)~~ 252:100-8-54(4)(A).

(D) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data

are available to account for the expected oxidation rate.

(E) The determination as to whether a source would cause or contribute to a violation of applicable ambient air standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

(F) Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:

(i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.

(ii) The new emission limitations for the new source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.

252:100-8-53. Exemptions

(a) Nonattainment area requirements do not apply to a particular source or modification locating in or impacting on a nonattainment area if:

(1) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

(A) carbon black plants (furnace process),

(B) charcoal production plants,

(C) chemical process plants,

(D) coal cleaning plants (with thermal dryers),

(E) coke oven batteries,

(F) fossil-fuel boilers (or ~~combustion~~ combination thereof) totaling more than 250 million BTU per hour heat input,

(G) fossil fuel-fired steam electric plant of more than 250 million BTU per hour heat input,

(H) fuel conversion plants,

(I) glass fiber processing plants,

(J) hydrofluoric, sulfuric or nitric acid plants,

(K) iron and steel mills,

(L) kraft pulp mills,

(M) lime plants,

(N) municipal incinerators capable of charging more than 250 tons of refuse per day,

(O) petroleum refineries,

(P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,

(Q) phosphate rock processing plants,

(R) portland cement plants,

- (S) primary aluminum ore reduction plants,
- (T) primary copper smelters,
- (U) primary lead smelters,
- (V) primary zinc smelters,
- (W) secondary metal production plants,
- (X) sintering plants,
- (Y) sulfur recovery plants,
- (Z) taconite ore processing plants, or
- (AA) any other stationary source category which, as of August 7, 1980, is being regulated by federal New Source Performance Standards (NSPS) NSPS or National Emission Standards for Hazardous Air Pollutants (NESHAPS) NESHAP.

(2) A source or modification was not subject to 40 CFR Part 51, Appendix S (emission offset interpretative ruling) as in effect on January 16, 1979 and the source:

- (A) Obtained all final federal and state construction permits before August 7, 1980;
- (B) Commenced construction within 18 months from August 7, 1980 or any earlier time required by the State Implementation Plan; and,
- (C) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(b) Secondary emissions are excluded in determining the potential to emit (see definition of "potential to emit" in OAC ~~252:100-7-51~~ 252:100-8-1.1). However, upon determination of the Executive Director, if a source is subject to the requirements on the basis of its direct emissions, the applicable requirements must also be met for secondary emissions but the source would be exempt from the conditions of OAC ~~252:100-7-52(3)(F)~~ 252:100-8-52(3)(F) and OAC ~~252:100-7-54(1)~~ 252:100-8-54(1) through ~~252:100-7-54(3)~~ 252:100-8-54(3). Also, the indirect impacts of mobile sources are excluded.

(c) As specified in the applicable definitions, the requirements of Part 5 7 for PSD and Part 7 9 for nonattainment areas of this Subchapter are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to the existing minor source is major in its own right.

252:100-8-54. Requirements for sources located in nonattainment areas

In the event a major source or modification would be constructed in an area designated as nonattainment for a pollutant for which the source or modification is major, approval shall be granted only if the following conditions are met:

- (1) The new source must demonstrate that it has applied control technology which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate (LAER) achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).
- (2) If the Executive Director determines that imposition of

an enforceable numerical emission standard is infeasible, due to technological or economic limitations on measurement methodology, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed as the emission limitation rate.

(3) The owner or operator of the new source must demonstrate that all other major sources owned or operated by such person in Oklahoma are in compliance, or are meeting all steps on a schedule for compliance, with all applicable limitations and standards under Oklahoma and Federal Clean Air Acts.

(4) The owner or operator of the new source must demonstrate that upon commencing operations:

(A) The emissions from the proposed source and all other sources permitted in the area do not exceed the planned growth allowable for the area designated in the State Implementation Plan; or;

(B) The total allowable emissions from existing sources in the region and the emissions from the proposed source will be sufficiently less than the total emissions from existing sources allowed under the State Implementation Plan at the date of construction permit application so as to represent further progress toward attainment or maintenance of the ambient air quality standards in the problem area.

(5) The owner or operator may present with the application an analysis of alternate sites, sizes and production processes for such proposed source.

APPENDIX J. TRIVIAL ACTIVITIES LIST

Any activity to which a State of federal applicable requirement applies is not trivial even if it is included on this list.

AGRICULTURAL

Lawn care (noncommercial)
Weed control (noncommercial)
Pest control (noncommercial)
Herbicide and pesticide activities except for manufacturing and formulation for commercial sale

ANALYSIS/TESTING

Hydraulic or hydrostatic testing
Analysis/laboratory activities emissions from the following: air contaminant detectors, air contaminant recorders, combustion controllers, combustion shut-off devices, product analyzers, laboratory analyzers, continuous emissions monitors, other analyzers (eg., water quality), and emissions associated with sampling activities. Also, emissions from bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including assorted vacuum producing devices and vents but NOT lab fume hoods or vents
Site assessment work, including but not limited to, the evaluation of waste disposal or remediation sites
Emissions from instrument systems utilizing air or natural gas
Environmental field sampling operations
Sampling connections used exclusively to withdraw materials for testing and analysis, including air contaminant detectors and vent lines
Compressed gas cylinders and gases utilized for equipment calibration and testing

ANIMALS

Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized
Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating

BATTERY CHARGING

Industrial battery recharging and maintenance operations for batteries utilized within the facility only

BLOWDOWNS

Emissions from the ~~blowdown~~ depressurization during startup, shut down, maintenance or emergencies of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances

CLEANING

Acid washing (maintenance cleaning)
Caustic washing (maintenance cleaning)
Abrasive blasting
Steam cleaning
Carbon dioxide blasting equipment in degreasing or depainting
High pressure water depainting operations and aqueous industrial spray washers
Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes, except those systems used to collect particulate matter subject to 252:100 and hazardous and/or toxic air contaminants
Ultrasonic cleaning operations which do not utilize volatile organic compounds
Molten salt bath descaling operations
Natural gas water heating systems for fixed vehicle wash racks

COOLING TOWERS/BOILER WATER

Emissions from non-contact cooling towers (cooling water that has not been in contact with other materials or fluids containing regulated air pollutants)
Boiler water treatment operations
Deaerator units associated with boilers or hot water heating systems
Process water filtration systems and demineralizers
Demineralized water tanks and demineralizer vents

ELECTRIC POWER

Equipment associated with electrical power transmission which do not involve fuel-burning activities using transformers and substations
Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam

FIREFIGHTING

Emissions from fire or emergency response equipment and training to include use of fire control equipment including equipment for testing and training, engines used exclusively for firefighting, and open burning of materials or fuels associated with firefighting training. Buildings burned for firefighting training must still adhere to NESHAP for Asbestos.
Fire extinguishers and fire extinguishing systems

FUGITIVE EMISSIONS

Seal replacement (i.e., manhole gaskets)
Roof coating, service, and repair
Paving of roads, parking lots, and other areas
Vent emissions from gas streams used as buffer or seal gas in rotating pump and compressor seals
Emissions from natural gas odorizing activities
Emissions from pneumatic starters on reciprocating engines.

turbines, compressors, or other equipment

Gas flares or flares used solely to indicate danger to the public (e.g. road hazard)

Warehouse activities including the storage of packaged raw materials and finished goods

Non-routine clean out of tanks, lift stations, and equipment for the purposes of worker entry or in preparation for maintenance or decommissions

Unpaved roadways and parking areas

Gravel, sand and dirt storage for use in on-site construction projects

VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) regulated by a fugitive monitoring program where the total increase is less than one ton per year of any criteria pollutant or the de minimis set forth in 252:100-41-43. The component additions must be identified in the next scheduled monitoring report required by the applicable requirements. VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) not regulated by a fugitive monitoring program provided that no applicable requirement is triggered when components are added.

Fugitive emissions of jet fuels associated with aircraft fuel cell and fuel bladder repair

Fugitive emissions related to movement of passenger vehicles provided the emissions are not counted for applicability purposes or any required fugitive dust control plan or its equivalent is submitted

INSULATION

Insulation installing or removal (non-asbestos)

Application of refractory & insulation (calcium silicate, etc.)

LUBRICATING

Lubricating pumps, sumps, and systems

Emissions from engine crankcase vents and equipment lubricating sumps

MAINTENANCE

Welding, brazing, soldering for maintenance purposes

Use of adhesives for maintenance purposes

Grinding, cutting, sanding for maintenance purposes

Emissions from pipeline maintenance pigging activities

Maintenance, upkeep, and replacement types of activities, including those not altering the capacity of process, combustion or control equipment, and which do not increase regulated pollutant emissions unless subject to NESHAP or NSPS

METALS

Equipment used for inspection of metal products

Die casting machines

Foundry sand mold forming equipment to which no heat is applied, and from which no organics are emitted

Equipment used exclusively to mill or grind coatings and holding compounds where all materials charged are in paste form (unless HAP emission)

Equipment used exclusively for rolling, forging, pressing, spinning, drawing, or extruding either hot or cold metals unless their emissions exceed any applicable regulated amount

Carbon monoxide lasers, used only on metals and other materials which do not emit HAP in the process

MISCELLANEOUS

Operations previously determined to be de minimis pursuant to 252:100-7-2(b)(3) or 252:100-41-43(a)(5)

Laser trimmers using dust collection to prevent fugitive emissions

Shock chambers

Humidity chambers

Solar simulators

MOBILE SOURCES

Mobile source emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, hydrostatic and hydraulic testing equipment, maintenance trucks, helicopters, locomotives, marine vessels, portable generators moveable by hand, portable pumps, portable air compressors, portable welding machines, and portable fuel tanks

Other on and off road mobile sources (i.e. coal stacker & reclaimer)

Well servicing/workover rigs and associated equipment

Well drilling rigs and associated equipment

Aircraft ground support (AGE) equipment, including but not limited to portable power generators, lights, and HVAC support

Vehicle exhaust from maintenance or repair shops

Road sanding and salting operations

OFFICE AND JANITORIAL

Janitorial services

Sweeping (Floor Sweep)

Office emissions (photocopying, blueprint copying, photograph processes)

OUTDOOR RECREATION

Outdoor recreational emissions (campfires, barbecue pits)

Open burning for the purpose of land management (must get permission from Air Quality Enforcement even though exempt from permitting)

Outdoor kerosene heaters

PLASTICS/FIBERGLASS

Plastic or fiberglass welding or repair

Sealing or cutting plastic film or foam with heat or wires

Processes used for the curing of fiberglass or paint products

REFRIGERANTS

Cold storage refrigerator equipment
De minimis refrigerant releases

RESIDENTIAL

Air conditioning or comfort ventilation systems not regulated under Title VI of the Clean Air Act

Emissions from residential housing units, dormitories, and multifamily dwellings to include fuel burning for the purposes of heating except prohibited open burning

SOLID WASTE

Solid waste landfill operations
RCRA Solid Waste Management Units subject to 40 CFR Part 265, Subparts AA, BB, and CC

SOLVENT

Emissions from laundry care equipment processing bedding, clothing or other fabric items. These include dryers, extractors, & tumblers. NOT CLEANING OPERATIONS USING PERCHLOROETHYLENE OR PETROLEUM SOLVENTS (i.e., dry cleaning)

Covered cold solvent degreasers not subject to federal emission standards (e.g. NESHAP or NSPS)

STORAGE TANKS/DISTRIBUTION

Emissions from lube oil, seal oil, or hydraulic fluid storage tanks and equipment as long as not emitting VOCs or HAPs

Storage and use of chemicals unless otherwise regulated by an applicable state or federal regulation. These chemicals include, but not limited to: alum, ammonia, biocides, corrosion inhibitors, dechlorination chemicals, inorganic salts, acids or bases to include caustic and sulfuric acid, coagulants, flocculants, precipitants, surfactants, anti-foam chemicals, sealing inhibitors, oxygen scavengers, phosphates, polyelectrolytes, limestone slurry, lime and lime slurry, flue gas desulfurization system slurry, and sulfur slurry; propane and acetylene under pressure

Storage and use of products or equipment for maintaining motor vehicles operated at the site (including but not limited to antifreeze and fuel additives) not regulated under Title VI, CFC rules)

Emissions from tanks containing separated water produced from oil and gas operations

Commercial gasoline dispensing stations, including those located within the physical boundaries of a Title V source

Lubricants and waxes used for machinery and other equipment lubrication and emission from lubricating oil or hydraulic fluid storage tanks and equipment

Runway and aircraft de-icing activities, including de-icer storage tanks unless otherwise regulated

Storage tanks, reservoirs, and pumping and handling equipment of

any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized

SURFACE COATING

Surface coating for maintenance purposes such as roll/brush/pad coating, painting with aerosol cans, spray airless, and conventional spray painting

Touch-up painting operations where paints/coatings are applied at less than one quart per hour

WASTEWATER

Removal of basic sediment & water from collection/storage systems (i.e., clarifiers)

Water and wastewater treatment and transportation system

Pit, ponds, sumps, or wastewater conveyance facilities

Emissions from skimmer pits, oil/water separators, and maintenance of filter separators

Emissions from the removal of sludge or sediment from pits, ponds, sumps, or wastewater conveyance facilities

Industrial and/or municipal wastewater treatment processes (excluding combustion or incineration equipment), storage silos for dry material (sludges), composting, or grease trap waste handling or treatment

Ozonization process or process equipment including ozone generation for water treatment processes

Sanitary sewerage and storm water runoff collection systems

Emissions from dredging pits, ponds, sumps, or other wastewater conveyance facilities

WOODWORKING

Wood working (saw-cutting, staining & varnishing) (noncommercial)

Woodworking utilized for hobby purposes or maintenance of grounds or buildings

MINUTES
AIR QUALITY COUNCIL
December 16, 1997

Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Gary Kilpatrick
J. William "Bill" Fishback
Meribeth Slagell
Larry Canter, Vice-Chairman
Sharon Myers
David Branecky

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner
Larry Trent
Joyce Sheedy
Jeanette Buttram
Michelle Martinez
Cheryl Bradley
Myrna Bruce

Council Members Absent

Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for December 16, 1997 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye. Ms. Andrews was absent during the hearing session.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 21, 1997 Public Meeting/Hearing. Motion was made by Mr. Kilpatrick to approve the Minutes as presented and second to the motion was made by Mr. Branecky. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-5-2.2(B)(2) PART 70 SOURCES ANNUAL OPERATING FEE [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A Oklahoma Statutes, Section 2-5-101 through 2-5-118.. Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed changes to the rule.

Ms. Buttram advised that staff's recommendation was that the annual operating fee billed in 1998 for Part 70 sources be adjusted by the Consumer Price Index as specified in the existing rule which would render a 2.2 % increase from \$16.03 to \$16.39 per ton. She also pointed out staff's intention to bring before the Council any proposed adjustments to the fee on an annual basis.

Dr. Canter introduced the committee's report *Title V Fee Committee Findings and Recommendations* dated December 15, 1997 into the record. Members of this committee were Dr. Canter, Mr. Fishback, and Mr. Branecky. The full report is made an official part of these Minutes. Mr. Kilpatrick made motion to accept the committee's report and second was made by Mr. Fishback. With discussion that perhaps Mr. Fishback should not make the second since he was on the committee, Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

Ms. Myers made additional motion to leave the fees as stated for 1998 with only the Consumer Price Index increase from \$16.03 to \$16.39. Mr. Fishback made the second. Mr. Doughty, staff attorney, mentioned that Council is recommending no action; therefore, this portion of the rule would not go before the Environmental Quality Board specifically. Roll call was as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke stated that since there was extensive discussion in the briefing session regarding continuation of this subchapter to a later date, Dr. Joyce Sheedy would stand ready to discuss staff proposal for the rule.

Mr. Kilpatrick made motion to continue the hearing to January 9, 1998 at 1:00. Mr. Branecky made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:100-17 INCINERATORS [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51

and Title 27A Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke called upon Michelle Martinez to give staff position on the proposed changes to the rule. Staff's recommendation was for approval as both emergency and permanent adoption.

Mr. Kilpatrick made motion to continue this hearing until January 9, 1998 at 1:00 p.m. Second was made by Ms. Slagell. During discussion, it was noted that continuing this hearing to February would cause the rule to be adopted by the Board as an emergency rule only, which could possibly put the State Plan at risk. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - no; Dr. Canter - no; Ms. Myers - no; Mr. Branecky - no; Mr. Breisch - no.

After this discussion, Mr. Branecky made motion that Council accept Subchapter 17 as amended and recommend to the Environmental Quality Board for both emergency and permanent adoption. Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick - no; Ms. Slagell - no; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

PUBLIC HEARING

OAC 252:2-40 and OAC 252:2-41 UNIFORM PERMITTING PROCEDURES [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 Code of Federal Regulations Part 51, and Title 27A Oklahoma Statutes, Section 2-5-101 through Section 2-5-118. Mr. Dyke called upon Ms. Barbara Hoffman to give staff recommendations.

Staff requested that the Council recommend the revisions to the Environmental Quality Board for adoption as a permanent rule. After discussion, Ms. Myers made motion to approve the rule as amended and recommend to the Environmental Quality Board for permanent adoption. Mr. Branecky made the second. Roll call as follows: Mr. Kilpatrick - no; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

OLD BUSINESS

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCE [AMENDED]

Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed changes to this rule. After summarizing the changes, Ms. Buttram stated staff's recommendation was that Subchapter 5 be approved by Council and forwarded to the Environmental Quality Board at the same time that Subchapter 8 is approved.

Mr. Branecky moved that Council continue this hearing to January 9, 1998; and Ms. Myers made the second. Roll call as follows: Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Fishback - aye; Dr. Canter - aye; Ms. Myers - aye; Mr. Branecky - aye; Mr. Breisch - aye.

**OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]**

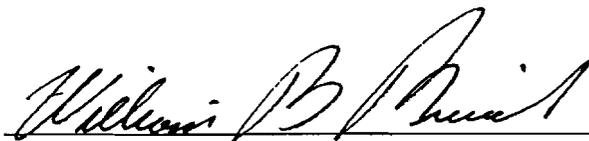
Mr. Dyke called upon Jeanette Buttram to give staff position on the proposed rule. After summarizing the changes, Ms. Buttram stated that staff recommended that Subchapter 7 be approved by Council at the same time that Subchapter 8 is approved.

Mr. Kilpatrick moved that Council continue the hearing on to the January 9, 1998 meeting. Second to the motion was made by Ms. Myers. Roll call as follows: Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Fishback – aye; Dr. Canter – aye; Ms. Myers – aye; Mr. Branecky - aye; Mr. Breisch - aye.

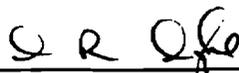
NEW BUSINESS Dr. Canter stated that no one member of the public could claim to represent all of the public, and that he believes Council hearings provide the proper forum to hear comments from the public on proposed rules. While it is sometimes difficult to decide what rule changes requested at hearings by AQD staff or the public are substantive, Dr. Canter said he resented the implication that the public was not given adequate opportunity to comment on Subchapter 17, since it had been presented at two Council meetings.

ADJOURNMENT With no further business, meeting was adjourned and an additional meeting scheduled for January 9, 1998 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.

 2/18/98

WILLIAM B. BREISCH, CHAIRMAN
AIR QUALITY COUNCIL



DAVID DYKE, INTERIM DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

DECEMBER 16, 1997

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 <u>Wayne Eback</u>	<u>Nov Am Energy</u>	<u>Shreveport, La</u>	
2 <u>Laura Armistead</u>	<u>Nov Am Energy</u>	<u>Shreveport, La</u>	
3 <u>Jean Hampton</u>	<u>OKla Grain & Feed Assoc</u>	<u>Enid, OK</u>	
4 <u>Cheryl Bradley</u>	<u>DEQ - AQD</u>		
5 <u>Nancy Coleman</u>	<u>ICSA</u>	<u>Norman 73072 3700 W Roberson Ste 200</u>	
6 <u>TOAA SMITH</u>	<u>TEXACO</u>	<u>NO OK 277 VENA, OK 73091</u>	
7 <u>Frank Erwin</u>	<u>City of Tulsa</u>	<u>2445 S Jackson Av Tulsa 74107</u>	
8 <u>Kurt S. Anderson</u>	<u>TAFB</u>		
9 <u>Carol Barker</u>	<u>OCALC/EMV</u>	<u>Tinker AFB</u>	
10 <u>FRANK CONDON</u>	<u>EQ BOARD</u>		
11 <u>Geri Hart</u>	<u>TAFB</u>		
12 <u>Connie White</u>	<u>TAFB</u>		
13 <u>Pat Havensport</u>	<u>N-S</u>	<u>Stillwater</u>	
14 <u>Kyle Brown</u>	<u>DEQ/CAP</u>		
15 <u>Sealy Bisher</u>	<u>WFEC</u>	<u>Andarko</u>	
16 <u>Charles M. [unclear]</u>	<u>EPA</u>	<u>DAKAS</u>	

17 David Gibbs (DAVID GIBBS) WESCO SAND SPRINGS

18 Rich Baret EPA DALLAS, TX

19 Richard Baret CASE

20 Adrian Sumner DEW-FSD OKC

21 Shwaleh Young Trinity Dallas

22 Ray Binn ConSue OKC

23 Robert A. Eldridge Normi Taniguchi

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12-16-97

AQ Council Mtg

Continued to 1-9-98

December 19, 1997

MEMORANDUM

TO: Air Quality Council

FROM: David R. Dyke, Interim Director
AIR QUALITY DIVISION 

SUBJECT: Modifications to Subchapter 8

Enclosed is a copy of the proposed draft modifications to OAC 252:100-8 OPERATING PERMITS (PART 70), that will be brought to public hearing on January 9, 1998. The hearing for Subchapter 8 was continued from the October 21, 1997 and December 16, 1997 Air Quality Council meetings. The revisions proposed at the October 21, 1997 meeting included: incorporation of the permit continuum by the introduction of general construction permits for Part 70 sources and general construction and operating permits for major facilities that are not subject to Part 70; the addition of the requirements for construction permits for Part 70 sources and construction and operating permits for major facilities not subject to Part 70; revision of the permit application processing fees by setting a fee for processing authorizations under a general permit; deletion of annual operating fees (which will be moved to Subchapter 5); incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§ 63.40, 63.41, 63.43 and 63.44); and revisions to meet the requirements set forth in the February 5, 1996 Federal Register for final approval of the Title V program. The proposed draft also includes revisions intended to simplify and clarify the rule. Material in the Subchapter was reorganized and in some cases reworded. It is proposed to add Appendix I, Insignificant Activities List and Appendix J, Trivial Activities List to the rules.

Additional revisions which were proposed in the December 1, 1997 Draft for the December 16, 1997 meeting included:

Modification of the Insignificant Activities List and Trivial Activities List (Appendices I and J, respectively) in response to written comments received.

Updating the adoption by reference in 252:100-8-6.3 of 40 CFR Part 72 (Acid Rain provisions) to include the October 24, 1997 revisions.

Additional revisions were proposed at the December 16, 1997 meeting. The result of these revisions was to remove permitting requirements for facilities which are major for total particulate matter only and are not subject to Part 70, or PSD from Subchapter 8. Under the latest proposed revisions, these sources will be handled as minor facilities or de minimis facilities. Although it required quite a number of changes to accomplish this, the majority of the changes were not substantive. Enclosed is a list of the substantive revisions that were included in the 12-16-97 Draft and are also in the 1-9-98 Draft which is enclosed. Some of these changes are in actuality clarifications and not substantive.

A revision was also made to Appendix J under Blowdowns to allow depressurization during startup, shut down, maintenance or emergencies of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances to be considered trivial activities.

Staff recommends that the proposed rule be recommended to the Department of Environmental Quality Board for permanent and emergency adoption.

Enclosures: 4

SUBSTANTIVE OR CLARIFYING REVISIONS TO 252:100-8

Following is a list of changes that were made to the proposed rule after the 12/1/97 Draft. These revisions are included in the 12/16/97 Draft and the 1/9/98 Draft (which is identical to the 12/16/97 Draft). Page numbers referenced below are for the 12/16/97 and 1/9/98 Drafts.

1. Part 5. Permits for Major Non-Part 70 Facilities was deleted. There will now be three types of sources: Part 70 sources, minor facilities and de minimis facilities. Sources major for total PM and not subject to Part 70 will be either minor facilities or de minimis facilities.
2. 252:100-8-1.1. Definitions. The definition for "major Non-Part 70 facility" was deleted.
3. 252:100-8-1.2(a) Permit required, was deleted. Each Part in the 1/9/98 draft rule contains the requirement for permits for the sources covered by that Part.
4. 252:100-8-2. The definition for "Permit modification" was revised to make it clear that it includes modifications for both construction and operating permits.
5. 252:100-8-3(a) Covered sources on page 19 was revised by the addition of paragraph (6) to make it clear that any source that is permitted under Part 7 for PSD or Part 9 for Nonattainment Areas is a Part 70 source and subject to the Title V operating permit program.
6. 252:100-8-4(b)(7) 112(g) applications, page 24, was revised to make clear that a construction permit will be required for the preconstruction review required for 112(g) applications that have Part 70 operating permits.
7. 252:100-8-5(d) Construction permit applications, page 28, was added. This new subsection contains the requirements for construction permit applications that were contained in "Part 5. Permits for Major Non-Part 70 Facilities" and referenced in "252:100-8-4(a)(2) Construction permit requirements," both of which were deleted.
8. 252:100-8-7.2(b) Permit modification, page 58, was revised to make clear that the modification procedures apply to construction permits as well as operating permits.
9. The heading for 252:100-8-7.3, on page 61, was revised to make clear that this section applies only to operating permits.
10. 252:100-8-7.3(c) Reopening procedures, page 62, was revised by replacing "amendments" with "modifications" to make clear that the procedures to be followed are those for significant modifications. Also language that was inadvertently omitted was reinserted. This language is double underlined in the 1/9/98 Draft.
11. 252:100-8-7.4. Revocations was revised to make clear that this section applies only to operating permits.
12. 252:100-8-8(a) Applicability, page 63, was revised to make clear that EPA and affected states review also apply to construction permits.

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SUBCHAPTER 8. OPERATING PERMITS ~~(PART 70)~~ FOR PART 70 SOURCES

PART 1. GENERAL PROVISIONS

[NOTE: Throughout this draft language that has been moved from other Sections and Subchapters is underlined once, new language is double underlined and deletions are struck out.]

252:100-8-1. Purpose

~~The purpose of this Subchapter is to provide for the promulgation and enforcement of the requirements necessary to meet Title V of the federal Clean Air Act (42 U.S.C. 7401, et seq.) and 40 CFR Part 70 by establishing a comprehensive state air quality permitting program for major sources of air contaminant emissions. Permits issued under this program will address all applicable air contaminant emissions and regulatory requirements in a single document. This Subchapter sets forth permit application fees and the substantive requirements for permits for Part 70 sources.~~

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

[NOTE: From 252:100-8-2]

"A stack in existence" means for purposes of 252:100-8-1.5 that the owner or operator had:

(A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or

(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. [NOTE: From 252:100-7-16(b)]

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 et. seq. [NOTE: From 252:100-8-2]

"Administrator" means the Administrator ~~administrator~~ of the United States Environmental Protection Agency (EPA) or the Administrator's ~~administrator's~~ designee. [NOTE: From 252:100-8-2]

"Allowable emissions" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit

condition. {NOTE: From 252:100-7-31 and 252:100-7-51}

"Begin actual construction" for purposes of Parts 7 and 9 of this Subchapter means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Commence" for purposes of Parts 7 and 9 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Dispersion technique" means for purposes of 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the

installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation;
or

(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year. [NOTE: From 252:100-7-16(b)]

"Emission limitations and emission standards" means for purposes of 252:100-8-1.5 a requirement requirements that which limits limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87) [NOTE: From 252:100-7-16(b)]

"Emissions unit" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: From 252:100-7-31 and 252:100-7-51]

"EPA" means the United States Environmental Protection Agency. [NOTE: From 252:100-8-2]

"Fugitive emissions" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. [NOTE: From 252:100-7-31 and 252:100-7-51]

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules. [NOTE: From 252:100-7-31 and 252:100-7-51]

"New Source Performance Standards" or "NSPS" means those

standards found in 40 CFR Part 60.

"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part ~~part~~ 70 source that is issued, renewed, amended, or revised pursuant to this Chapter. [NOTE: From 252:100-8-2]

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70. [NOTE: From 252:100-8-2]

"Part 70 source" means any source subject to the permitting requirements of Part 5 of this Chapter Subchapter, as provided in OAC 252:100-8-3(a) and 252:100-8-3(b). [NOTE: From 252:100-8-2]

"Potential to emit" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purpose of OAC 252:100-7, 252:100-8, Part 7 9, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: From 252:100-7-31 and 252:100-7-51]

"Stack" means for purposes of 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares. [NOTE: From 252:100-7-16(b)]

"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100. [NOTE: From 252:100-7-31 and 252:100-7-51]

252:100-8-1.2. General information

(a) Permit categories. Two types of construction and operating permits are available: general permit and individual permit.

(1) General permit.

(A) A general permit may be issued for an industry if there are a sufficient number of facilities that have the same or substantially similar operations, emissions and activities

which are subject to the same standards, limitations and operating and monitoring requirements.

(B) Facilities may be eligible for authorization under a general permit if the following criteria are met:

(i) The facility has actual emissions of 100 tpy or more of any one regulated air pollutant emitted and/or is a Part 70 source.

(ii) The DEQ has issued a general permit for the industry.

(2) Individual permit. Facilities requiring permits under this Subchapter that do not qualify for a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a general permit.

(b) Applicability determination. Any person may submit a request in writing that the Agency DEQ make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule Subchapter. The request must contain such sufficient information as is believed sufficient for the Agency DEQ to make the requested determination and the required fee. The Agency DEQ may request any additional information that it needs for purposes of making the determination. [NOTE: From 252:100-8-3(f)]

252:100-8-1.3. Failure Duty to comply with a construction permit

A violation of these limitations or conditions by the owner/operator shall subject the owner/operator to any or all enforcement penalties, including permit revocation, available under the Oklahoma Clean Air Act and Air Pollution Control Rules.

(a) An owner or operator who applies for a permit or authorization, upon notification of coverage, shall be bound by the terms and conditions therein. [NOTE: Based on 252:100-10-5(j)]

(b) An owner or operator who violates any condition of a permit or authorization is subject to enforcement under the Oklahoma Clean Air Act. [NOTE: 252:100-8-1.3(b) was based on 252:100-7-15(f)(3)]

252:100-8-1.4. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) Cancellation of permit or authorization to construct or modify. A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection subsection (b) of this Section section) if the construction is not commenced within 18 months after of the date the permit or authorization was issued issuance date, or if work is suspended for more than 18 months after it has commenced.

(b) Extension of permit or authorization to construct or modify.

(1) Prior to the expiration date of the permit or authorization expiration date, a permittee may apply for

extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension Extensions for terms of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site, or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under 252:100:8-1.4(b) (1) (B) or 252:100-8-1.4 (b) (1) (C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information. [NOTE: 252:100-8-1.4 is from 252:100-7-15(g)]

252:100-8-1.5. Stack height limitations

(a) Stack height exclusion. Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise. [NOTE: Definitions were moved to 252:100-8-1.1]

(1) "A stack in existence" means that the owner or operator had:

(A) begun, or caused to begin, a continuous program of physical on site construction of the stack, or

(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without

~~substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.~~

~~(2) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:~~

~~(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.~~

~~(B) The merging of exhaust gas streams where:~~

~~(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;~~

~~(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or~~

~~(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.~~

~~(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per~~

year.

~~(3) "Emission limitations and emission standards" means a requirement which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87)~~

~~(4) "Stack" means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.~~

(b)(e) Determination of good engineering practice (GEP) stack height. GEP shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either OAC 252:100-7-16(e)(2)(A) or (B) 252:100-8-1.5(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under OAC 252:100-7-252:100-8 or Federal 40 CFR Part 52,

$$H_g = 2.5H$$

provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks,

$$H_g = H + 1.5L,$$

where: H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,
 H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,
 L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c)(d) Nearby. A structure or terrain feature shall be considered to be nearby:

(1) For purposes of applying the formula in OAC 252:100-7-16(e), if that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (0.5 mile), and

(2) For conducting demonstrations under OAC 252:100-7-16(e)(2), if not greater than 0.8 km (0.5 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height at 0.8 km (0.5 mile) from the stack that is at least 40 percent of the GEP stack height determined by the formulae in OAC 252:100-7-16(e)(3) or 26 meters, whichever is greater, as measured from the base of the stack. The height of the structure or terrain feature is measured from the ground level elevation at the base of the stack.

(1) For the formulae in 252:100-8-1.5(b)(2). A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in 252:100-8-1.5(b)(3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (Ht) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in 252:100-8-1.5(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) Measurement of height of structure or terrain. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d)-(e) Excessive concentrations. When utilized for the purpose of determining GEP stack height under OAC 252:100-7-16(e)(3) 252:100-8-1.5(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under OAC 252:100-7-16(e)(2) 262:100-8-1.5(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 5 7

of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Executive Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under ~~OAC 252:100-7-16(e)(2)~~ 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in ~~OAC 252:100-7-16(e)(2)~~ 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Executive Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under ~~OAC 252:100-7-16(e)(1)~~ 252:100-8-1.5(b)(2) where the Executive Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in ~~OAC 252:100-7-16(e)(1)~~ 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects. [NOTE: 252:100-8-1.5 was moved from 252:100-7-16]

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

(1) **Applicability determination.** \$100, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee

will be retained to cover the cost of making the determination. [NOTE: Based on 252-7-3(c)]

(2) Construction permit application. The fee is \$2,000.

~~(1) Part 70 source construction permit - \$2,000~~ [NOTE: from 252:100-7-3(b)(1)]

(3) Operating permit application.

~~(2) Permit processing fees. Permit processing fees shall be as follows:~~

(A) Initial Part 70 permit - \$2,000.

(B) Authorization under a general permit - \$900

~~(C)(B) Renewal Part 70 permit - \$1,000.~~

~~(D)(C) Significant Part 70 Permit Mod. modification of Part 70 permit - \$1,000.~~

~~(E)(D) Minor modification of Part 70 permit Permit Modification - \$500.~~

~~(E) The Part 70 Temporary Permit - \$1,000.~~

~~(F)(F) Part 70 Temporary Source Relocation - \$ 500.~~

[NOTE: 252:100-8-1.7(c) is from 252:100-8-9(d)(2)]

PART 5. PERMITS FOR PART 70 Sources

252:100-8-2. Definitions

The following words and terms, when used in this Subchapter Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter Part retain the meaning accorded them under the applicable requirements of the Act.

~~"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq.~~ [NOTE: Moved to 252:100-8-1.1]

~~"Administratively complete" means the same as defined at OAC 252:002-11. an application that provides:~~

(A) All information required under 252:100-8-5(c), (d), or (e);

(B) A landowner affidavit as required by 252:2-15-20(b)(3);

(C) The appropriate application fees as required by 252:100-8-1.7; and

(D) Certification by the responsible official as required by 252:100-8-5(f).

~~"Administrator" means the administrator of the United States Environmental Protection Agency (EPA) or the administrator's designee.~~ [NOTE: Moved to 252:100-8-1.1]

"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

(A) all states:

(i) That ~~that~~ are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and

(ii) That in the judgment of the DEQ Agency, may be directly

affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or (B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

~~"Agency" means Air Quality Division of the Oklahoma Department of Environmental Quality.~~

"Applicable requirement" means all of the following as they apply to emissions units in a ~~part~~ Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

- (A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 ~~C.F.R.~~ CFR Part 52;
- (B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;
- (C) Any standard or other requirement under section 111 of the Act, including section 111(d);
- (D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;
- (E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;
- (F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;
- (G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
- (H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
- (I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;
- (J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and
- (K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

~~"Department" means the Department of Environmental Quality.~~

~~"Designated representative" means the same as the meaning given to it in section 402(26) of the Act and the regulations promulgated thereunder with respect to affected units, a~~

responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the Agency DEQ offers public participation under ~~OAC 252:100-8-7(i)~~ 27A O.S.Supp. 1995, §2-14-101 et seq. and 252:100-2-15 or affected State review under OAC 252:100-8-8.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

~~"EPA" means the United States Environmental Protection Agency.~~
[NOTE: Moved to 252:100-8-1.1]

"Final permit" means the version of a part 70 permit issued by the Agency DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of ~~OAC 252:100-8-6(d)~~ 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) through (C) of this definitions. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

(C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in 252:100-41-40.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are is described in subparagraph (A), (B), or (C), ~~or (D)~~, of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or.

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except ~~Total Suspended Particulates (TSP)~~ TSP) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more

than 250 tons of refuse per day;

- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

or

- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
- (iii) For carbon monoxide non-attainment areas:
 - (I) that are classified as "serious"; and
 - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
- (iv) For particulate matter (PM-10) non-attainment areas

classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

~~(D) Notwithstanding the source categories in (A) through (C) of this definition, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this definition.~~

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

~~"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.~~
[NOTE: Moved to 252:100-8-1.1]

~~"Part 70 program" means a program approved by the Administrator under 40 C.F.R Part 70.~~ [NOTE: Moved to 252:100-8-1.1]

~~"Part 70 source" means any source subject to the permitting requirements of this Chapter, as provided in OAC 252:100-8-3(a) and 252:100-8-3(b).~~ [NOTE: Moved to 252:100-8-1.1]

"Permit" (unless the context suggests otherwise) means any permit or group of permits covering a part Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a part Part 70 construction or operating permit that meets the requirements of ~~OAC 252:100-8-7(e)~~ 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in ~~OAC 252:100-8-9~~ 252:100-5-2.2 (whether such costs are incurred by the DEQ Agency or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

~~"Permitting authority" means the Department of Environmental Quality.~~

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of

operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEO Agency proposes to issue and forwards to the Administrator for review in compliance with ~~OAC~~ 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic ~~compounds~~ compound (VOC), including those substances defined in at ~~OAC~~ 252:100-1-3, 252:100-37-2, 252:100-39-2, or any Volatile Organic Solvent (VOS), as that term is defined in at ~~OAC~~ 252:100-37-2 and 252:100-39-2, or any organic material defined at in 252:100-37-2 except those specifically excluded in the EPA definition of VOC ~~per~~ in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a

duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- (i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
- (ii) The delegation of authority to such representatives is approved in advance by the ~~permitting authority~~ DEQ;
- (B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;
- (C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
- (D) For affected sources:
 - (i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 - (ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. 2-5-101 et seq. as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR C.F.R Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J. Any activity to which a State or federal applicable requirement applies is not trivial even if included on the trivial activities list.

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3. **Applicability**

(a) **Covered sources.** Except as exempted from the requirement to obtain a permit under subsection (b) of this Section and or elsewhere in this Subchapter Chapter, the following sources listed below are subject to the permitting requirements under this Subchapter Chapter. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section 252:100-8-3(a). [NOTE: The underlined language was formerly 252:100-8-3(g).]

(1) Any major source (as defined in OAC 252:100-8-2);

(2) Any source, ~~including an area source, subject to a NPS standard, limitation, or other requirement under section 111 of the Act;~~

(3) Any source, including an area source, subject to a NESHAP standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;

(4) Any affected source (as defined in OAC 252:100-8-2); and

(5) Any source in a source category designated by the Administrator pursuant to 40 CFR C.F.R. §70.3; and

(6) Any major source required to have a permit under Parts 7 or 9 of this Subchapter.

(b) **Source category exemptions.**

(1) All sources listed in subsection (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for

Demolition and Renovation.

~~(c) Emissions units and covered sources (Part 70 sources).~~

~~(1) For major sources, Part 70 permits shall include all applicable requirements and state only requirements for all relevant emissions units in the major source.~~

~~(2) For any non major source subject to this Subchapter, Part 70 permits shall include all applicable requirements which apply to emissions units that cause the source to be subject to the requirement to obtain a permit. [NOTE: 252:100-8-3(c)(1) is covered in 252:100-8-6(a) and (c)(2) was deleted.]~~

~~(d) Fugitive emissions. Fugitive emissions from a covered source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. [NOTE: Revised and moved to 252:100-8-5(c)(3)(A)]~~

~~(e) Insignificant activities.~~

~~(1) The insignificant activities and emissions levels shall be as follows:~~

~~(A) emissions will not exceed one pound (1 lb.) per hour for any one criteria pollutant, and~~

~~(B) emissions of toxic air contaminants will not exceed the de minimis requirements set forth under 252:100 41 43(a)(5).~~

~~(2) In addition to the quantity thresholds in (1)(A) and (1)(B) "Insignificant Activity" also means any individual or combination of air emissions sources at a facility that have an aggregate potential to emit that does not increase the overall potential to emit of the entire facility for a given regulated pollutant by more than 10% above the "baseline" permitted limit which excludes the insignificant activities. Thus, insignificant activities may apply to original permit application, permit modifications/amendments, and/or permit renewals. The cumulative amount of activities claimed as insignificant during a Title V permit term shall not increase the potential to emit of the entire facility by more than 10% of the permit limit for a given pollutant from the date of permit issuance to the date of application for renewal. These insignificant activities cannot conflict with significant emission levels in any Title V program. Insignificant activities must be identified but not quantified (except to the extent necessary to demonstrate their insignificance) in the permit application. The Agency shall maintain a list of activities which are considered to be insignificant without quantification by the permittee. The Agency shall also maintain a list of activities which are determined to be trivial. "Trivial activity" means any individual or combination of air emissions units at a Part 70 source which are considered inconsequential as determined by the Agency. Trivial activities need not be identified in the permit application, amendment or renewal. [NOTE: Moved to 252:100-8-2]~~

~~(f) Applicability determinations. Any person may submit a request in writing that the Agency make a determination as to~~

whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule. The request must contain such information as is believed sufficient for the Agency to make the requested determination. The Agency may request any additional information that it needs for purposes of making the determination. [NOTE: Moved to 252:100-8-1.2(c)]

~~(g) Covered sources.~~ A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to 252:100-8-3(a). [NOTE: Moved to 252:100-8-3(a)]

252:100-8-4. ~~Title V permits required~~ Requirements for construction and operating permits

(a) Construction permits.

(1) Construction permit required. No person shall cause or allow the construction or ~~modification~~ installation of any new ~~minor or major source~~ facility that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit to construct or modify the source. A construction permit is also required for any physical change that would be a modification under 252:100-8-7.2(b). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein. [NOTE: (a)(1) is from 252:100-7-15(a)(1)]

(2) Requirement for case-by-case MACT determinations.

(A) Applicability. The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) Exclusions. The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) MACT determinations. If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 1997.

(b) Operating permits.

(1) Operating permits required. Except as provided in paragraphs subparagraphs (1) (A) and (2) (B) of this section, no Title V Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A)(1) If the owner or operator of a source subject to the requirement to obtain a permit submits a timely application for permit issuance or renewal, that source's failure to have a permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC 252:100-8-4 252:100-8-5, any additional information identified as being reasonably required to process the application.

(B)(2) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ at the end of the DEQ's administrative completeness review period, the applicant loses the protection granted under paragraph (A) (1) of this section, as a result of its failure to timely provide information requested by the DEQ, the The source's failure to have a permit shall be deemed a violation of this Subchapter.

(C)(3) Filing an operating permit application shall not affect the requirement, if any, that any a source have a construction preconstruction permit under Title I of the federal Clean Air Act.

(2) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the Division DEQ in accordance with this section.

(3) Timely application. Sources that are subject to the operating permit program established by this Chapter as of the date the program is approved by EPA and becomes effective (the "effective date") March 6, 1996, shall file applications on the following schedules outlined in OAC 252:100-8-5(b)(2) 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary main activity shall form the basis for the initial permit application.

(4) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than six months after the effective date of the federally approved interim state operating permit program September 5, 1996:

(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for major Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

(I) Petroleum and Natural Gas, 1311;

(II) Natural Gas Liquids, 1321;

(III) Electric Services, 4911, 4961;

(IV) Natural Gas Transmission, 4922;

(V) Natural Gas Transmission and Distribution, 4923; and

(VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)-(2)-(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the federally approved interim state operating permit program March 5, 1997.

(C) No later than 12 months after the effective date of the federally approved interim state operating permit program March 5, 1997, any owner or operator shall submit their applications for major Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Metals, 3312, 3315, 3321, 3379, 3341, 3351, 3411, 3412, 3432, 3466,

(ii) Brick Plants, 3251, 3297,

(iii) Commercial Printing, 2752, 2761.

(D) No later than 28 months after the effective date of the federally approved interim state operating permit program, July 5, 1998, any owner or operator shall submit their applications for major Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Refineries, 2911;

(ii) Cement Plants, 3241;

(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;

(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;

(v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program March 6, 1999.

(5) Newly regulated sources Application following effective date. A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) Application acceptability. Notwithstanding the deadlines established in paragraph (4) paragraphs (1), (2), and (3) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. ~~For purposes of the 60 day administrative review period established in OAC 252:2-15, the official login date for any Part 70 operating permit application submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.~~

(7) 112(g) applications. A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit revision before commencing construction.

(8) Application for renewal. Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) Phase II acid rain permits. Sources required to submit applications under the Acid Rain Program ~~should~~ shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) Application completeness. See Uniform Permitting Rules, ~~OAC 252:010-3-50 and 3-51~~ 252:2-15-70 and the definition of administratively complete in 252:100-8-2.

[NOTE: 252:100-8-4(b)(2) through (10) from 252:100-8-5(b)(1) through (8)]

252:100-8-5. Permit applications

~~(a) Construction permit.~~ Any new source or modified source which becomes subject to this Subchapter shall be required to obtain a construction permit in accordance with OAC 252:100-7 prior to commencement of construction.

~~(b) Duty to apply.~~ For each Part 70 source, the owner or

~~operator shall submit a timely and complete permit application on forms supplied by the Division in accordance with this section.~~

~~(1) Timely application. Sources that are subject to the operating permit program established by this Chapter as of the date the program is approved by EPA and becomes effective (the "effective date") shall file applications on the following schedules outlined in OAC 252:100-8-5(b)(2) 252:100-8-4(b)(2). In the event a major source consists of operations under multiple SIC codes, the main activity shall form the basis for the initial permit application.~~

~~(2) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.~~

~~(A) No later than six months after the effective date of the federally approved interim state operating permit program:~~

~~(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.~~

~~(ii) Any owner or operator shall submit no less than one-third of their total applications for major sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):~~

~~(I) Petroleum and Natural Gas, 1311;~~

~~(II) Natural Gas Liquids, 1321;~~

~~(III) Electric Services, 4911, 4961;~~

~~(IV) Natural Gas Transmission, 4922;~~

~~(V) Natural Gas Transmission and Distribution, 4923;~~

~~and~~

~~(VI) Petroleum Bulk Stations and Terminals, 5171.~~

~~(B) All remaining Part 70 sources identified in (b)(2)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the federally approved interim state operating permit program.~~

~~(C) No later than 12 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Metals, 3312, 3315, 3321, 3379, 3341, 3351, 3411, 3412, 3432, 3466,~~

~~(ii) Brick Plants, 3251, 3297,~~

~~(iii) Commercial Printing, 2752, 2761.~~

~~(D) No later than 28 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Refineries, 2911;~~

~~(ii) Cement Plants, 3241;~~

~~(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;~~

~~(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;~~

~~(v) Food Products, 2013, 2074, 2095.~~

~~(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program.~~

~~(3) Application following effective date. A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.~~

~~(4) Application acceptability. Notwithstanding the deadlines established in paragraphs (1), (2), and (3) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. For purposes of the 60 day administrative review period established in OAC 252:2-15, the official login date for any Part 70 operating permit submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.~~

~~(5) 112(g) applications. A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing construction.~~

~~(6) Application for renewal. Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case by case basis.~~

~~(7) Phase II acid rain permits. Sources required to submit~~

~~applications under the Acid Rain Program should submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).~~

~~(8) Application completeness. See Uniform Permitting Rules, OAC 252:010-3-50 and 3-51.~~

[NOTE: 252:100-8-5(b)(1) through (9) moved to 252:100-8-4(b)]

~~(9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ issued Part 70 operating permit, a source may identify terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:~~

~~(i) information specified in OAC 252:100-8-5(d) for those products, processes, operations, and emissions that:~~

~~(I) are not addressed in the existing permit;~~

~~(II) are subject to applicable requirements or state only requirements that are not addressed in the existing permit; or~~

~~(III) as to which the source seeks permit terms and conditions that differ from those in the existing permit; and~~

~~(ii) a compliance plan and certification as required in 252:100-8-5(d)(8). [NOTE: 252:100-8-5(b)(9) moved to 252:100-8-7.1(b)]~~

~~(a)(10) Confidential information. If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.~~

~~(b)(e) Duty to supplement or correct application. Renumbered as OAC 252:100-6-50(f) See 252:100-6-50(e).~~

~~(c)(d) Standard application form and required information.~~

Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with OAC 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to OAC ~~252:100-8-9~~ 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any ~~such~~ insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the following information required by 252:100-8-5(d) and/or 252:100-8-5(e) be provided+.

(d) Construction permit applications.

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application from form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include including but not be limited to: site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) BACT determination. To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case by case basis taking into account energy, environmental, cost and economic impacts of alternative control systems.

(B) Modeling. Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant.

(C) Sampling points. If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. [NOTE: 252:100-8-1.4(b)(1) was taken from 252:100-7-15(b)]

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in 252:100-8-5(e) to the extent they are applicable.

(e) Operating permit applications.

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this subsection ~~(d)~~ 252:100-8-5(c) or OAC 252:100-8-3(b). ~~The source shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to determine the amount of any permit fees owed under the fee schedule approved pursuant to OAC 252:100-8-9.~~

(B) Identification and description of all points of emissions described in subparagraph ~~(d)~~ (e) (3) (A) of this section in sufficient detail to establish the basis for fees

and applicability of the ~~federal Clean Air Act's~~ requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the ~~federal Clean Air Act~~).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements, and all state-only requirements, ~~and~~

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the ~~federal Clean Air Act~~ or of this Chapter or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to ~~0AC 252:100-8-6(a)(9)~~ or to define permit terms and conditions implementing ~~0AC 252:100-8-6(h)~~ 252:100-8-6(f) or ~~0AC 252:100-8-6(a)(10)~~.

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements, as follows:

~~(B) A description as follows:~~

(i) For applicable requirements, and state-only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements, and state-only requirements, that will become effective during the permit term,

a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

~~(B)(C)~~ For sources not in complete compliance, a A compliance schedule as follows:

~~(i) For applicable requirements, and state only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.~~

~~(ii) For applicable requirements, and state only requirements, that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.~~

~~(i)(iii)~~ A schedule of compliance for sources that are not in compliance with all applicable requirements, and state-only requirements, at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements, and state-only requirements, for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

~~(ii)(D)~~ A schedule for submission of certified progress reports no less frequently than every 6 months ~~for sources required to have a schedule of compliance under OAC 252:100-8-5(d)(8)(C)(iii).~~

~~(C)(E)~~ The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the ~~federal Clean Air Act~~ with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable

requirements, and state-only requirements, by a responsible official consistent with subsection ~~(e)~~ (f) of this section and section 114(a)(3) of the ~~federal Clean Air Act~~;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement, state-only requirements, or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the ~~federal Clean Air Act~~.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the ~~federal Clean Air Act~~.

~~(11) A list of any such units which satisfy the definition of either insignificant activities or de minimis emissions.~~

(f)~~(e)~~ **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

(g)~~(f)~~ **Number of application copies.** See Part 3 of OAC 252:2-15.

252:100-8-6. Permit content

(a) **Standard permit requirements.** ~~To the extent practicable, every~~ Part 70 permits ~~permit~~ issued under this Chapter shall include all applicable requirements, and state-only requirements, (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements, and state-only requirements, and shall include those operational ~~requirements~~ conditions and limitations necessary to assure compliance with all applicable such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement, ~~and~~ or state-only requirement, upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the ~~federal Clean Air Act~~ is more stringent than an applicable requirement of regulations promulgated

under Title IV of the ~~federal Clean Air~~ Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If an ~~applicable~~ the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) Operating Permits. The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) ~~(A)~~ and (ii) ~~(B)~~ of this paragraph:

(i) ~~(A)~~ Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) ~~(B)~~ Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the ~~federal Clean Air~~ Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) Construction permits. See 252:100-8-1.4.

(3) **Monitoring and related recordkeeping and reporting requirements.**

~~(A) Each permit shall contain the following requirements with respect to monitoring:~~ Monitoring requirements.

(i) All emissions monitoring and analysis procedures or test methods required under ~~the applicable requirements,~~ and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the ~~federal Clean Air~~ Act;

(ii) Where ~~the an~~ an applicable requirement, ~~and or~~ or state-only requirement, does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data ~~from the relevant time period~~ that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use,

maintenance, and, where appropriate, and installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) Recordkeeping requirements. ~~With respect to recordkeeping, the~~ The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

- (I) The date, place as defined in the permit, and time of sampling or measurements;
- (II) The date(s) analyses were performed;
- (III) The company or entity that performed the analyses;
- (IV) The analytical techniques or methods used;
- (V) The results of such analyses; and
- (VI) The operating conditions ~~as~~ existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) Reporting requirements. ~~With respect to reporting, the~~ The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this ~~Chapter~~ Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C) (i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

- (I) Any exceedance resulting from emergency or upset

conditions as defined in ~~OAC 252:100-8-6(g)~~ 252:100-8-6(e) shall be reported within 24 hours of the date on which the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report such notice must contain a description of the emergency, any steps taken to mitigate emissions and corrective actions taken.

[NOTE: The underlined language is from 252:100-8-6(g)(3)(D)]

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or preventative measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of ~~OAC 252:100-9~~.

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the ~~federal Clean Air Act~~, the permit need only specify that ~~it~~ the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) **Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the ~~federal Clean Air Act~~ or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

(i) enforcement action;

(ii) permit termination, revocation and reissuance, or modification; or

(iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under ~~OAC 252:100-8-7(e)(1)~~ 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort, or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to ~~OAC 252:100-8-5(b)(10)~~ 27A O.S. 1993 Supp. Section 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will

pay fees to the DEQ consistent with the fee schedule established under ~~OAC 252:100-8-9~~ 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements, and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

(b) **Federally enforceable requirements.**

(1) Except as provided in paragraph (b)(2) of this section, all terms and conditions in a permit issued under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the ~~federal Clean Air Act~~.

(2) Notwithstanding paragraph (b)(1) of this section, the DEQ shall designate as not being federally enforceable under the ~~federal Clean Air Act~~ any terms and conditions included in the permit that are not required under the ~~federal Clean Air Act~~ or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the ~~federal Clean Air Act~~.

(c) **Compliance requirements.** All permits issued under this ~~Chapter Part~~ shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this ~~Chapter Part~~ shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized

officials of the DEQ to perform the following (~~subject to the permittee's right to seek confidential treatment pursuant to OAC 252:100-8-5(b)(10) for confidential information submitted to or obtained by the DEQ under this subsection~~):

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the ~~federal Clean Air~~ Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit .

(3) A schedule of compliance if to the extent required under ~~OAC 252:100-8-5(d)(8)(C)~~ 252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and ~~OAC 252:100-8-5(d)(8)~~ 252:100-8-5(e)(8), progress reports, to be submitted semiannually, or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:

(A) The frequency (which shall be annually unless the applicable requirement, and or state-only requirement, specifies submission more frequently) of submissions of compliance certifications;

(B) In accordance with paragraph (a)(3) of this section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The permittee's current compliance status, as shown by monitoring data and other information

available to the permittee;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this section; and

(v) Such other facts as the DEQ may require to determine the compliance status of the source;

(D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;

(E) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the ~~federal Clean Air Act~~; and

(6) Such other provisions as the DEQ may require.

~~(d) General permits.~~

~~(1) The DEQ may, after notice and opportunity for public participation, issue a general permit to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.~~

~~(3) A general permit may be issued for the following purposes:~~

~~(A) to establish terms and conditions to implement applicable requirements, and state only requirements, for a source category;~~

~~(B) to establish terms and conditions to implement applicable requirements, and state only requirements, for specified categories of changes to permitted sources;~~

~~(C) to establish terms and conditions for new requirements that apply to sources with existing permits; and~~

~~(D) to establish federally enforceable caps on emissions from sources in a specified category.~~

~~(4) The DEQ may issue a general permit if it finds that:~~

~~(A) there are several permittees, permit applicants, or potential permit applicants who have the same or substantially similar operations, emissions, activities, or facilities;~~

~~(B) the permittees, permit applicants, or potential permit applicants emit the same types of regulated air pollutants,~~
~~(C) the operations, emissions, activities, or facilities are subject to the same or similar standards, limitations, and operating requirements; and~~

~~(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring requirements.~~

~~(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit.~~

~~(A) Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.~~

~~(B) See OAC 252:2 15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency shall act to approve or deny the application within 90 days of filing.~~

~~(C) A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review.~~

~~(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ.~~

~~(7) A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit.~~

~~(8) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may apply for and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252:100 8 3 of this part to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shield shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.~~

[NOTE: General permits was moved to 252:100-8-6.1]

~~(c) Temporary sources. The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:~~

- ~~(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;~~
- ~~(2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and~~
- ~~(3) Conditions that assure compliance with all other provisions of this section. [NOTE: Moved to 252:100-8-6.2]~~

(d) (f) Permit shield.

(1) Each operating permit issued under this section Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for ~~as~~ to which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this section or in the permit shall alter or affect the following:

- (A) the provisions of section 303 of the ~~federal Clean Air Act~~, including the authority of the ~~EPA Administrator~~ under that section;
- (B) the liability of an owner or operator of a source for any violation of applicable requirements, ~~and~~ or state-only requirements, prior to or at the time of permit issuance;
- (C) the applicable requirements of the acid rain program, consistent with section 408(a) of the ~~federal Clean Air Act~~;
- or
- (D) the ability of EPA to obtain information from a source

pursuant to section 114 of the federal Clean Air Act.

(e) ~~(g)~~ **Emergencies.**

(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of ~~preventative~~ preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method.

(2) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph ~~(g)~~ (e) (3) of this section and the reporting requirements of 252:100-8-6(a) (3) (C) (iii) (I) are met.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) The permitted facility was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit, ~~and,~~

~~(D) The permittee submitted notice of the emergency to the DEQ within 24 hours of the time when emission limitations were exceeded due to the emergency. Such notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. [NOTE: Moved to 252:100-8-6(a) (3) (C) (iii) (I)]~~

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(5) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

(f) ~~(h)~~ **Operational flexibility.** ~~Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.~~

(1) **Applicant's duty to apply for alternative scenarios.**

Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for

any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make changes within the facility that:

(A) Are not modifications under any provision of Title I of the federal Clean Air Act;

(B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; ~~or~~ and

(C) Result in a net ~~Net~~ change in emissions is of zero ~~is~~ provided ~~Provided~~ that the facility provides ~~notifies~~ the Administrator and the permitting authority ~~DEQ and EPA~~ in writing at least 7 days ~~with written notification as required below~~ in advance of the proposed changes, which shall be a minimum of 7 days, or such shorter time frame that permitting authority allows for emergencies [as defined in OAC 252:100-8-6(g)]. The source, permitting authority ~~DEQ~~, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in ~~OAC 252:100-8-6(f)~~ 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

~~(3) Emissions trading in permit.~~ A permitted source may rely on the authority of this section to trade increases and decreases in emissions within the facility, where the implementation plan provides for such emissions trades without a permit modification. In such a case, the advance written notice provided by the permittee shall identify the underlying authority authorizing the trading and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements, and state only requirements, with which the source will comply through emissions trading, and such other information as may be required by the applicable requirement authorizing the emissions trade.

~~(i) Special provisions for affected (acid rain) sources~~

~~(1) Application binding until permit issuance or denial.~~ A complete acid rain permit application is binding on the applicant and enforceable as an acid rain permit until an acid rain permit is issued or denied. For applicable permitting procedures, see OAC 252:2-15.

~~(2) Exemption petitions.~~ Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.

~~(3) Permit shield.~~ The acid rain portion of every operating

~~permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the federal Clean Air Act, will be deemed to be operating in compliance with the Acid Rain Program.~~

~~(4) Modifications. See 40 CFR 72.82.~~

~~(5) Duration. Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.~~

~~(6) Right of intervention. The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.~~

~~(7) Administrative appeal. The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.~~

~~(8) Adoption of 40 CFR Part 72 by reference. Owners or operators of sources subject to the acid rain provisions of the federal Clean Air Act shall comply with applicable provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, which is hereby adopted by reference as rules of the Environmental Quality Board. In such regulations, the term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with this Chapter, the Part 72 provisions and requirements shall apply and take precedence.~~

~~(8) The Oklahoma Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993 for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR part 72 conflict with or are not included in Oklahoma Administrative Code 252:100-8, the part 72 provisions and requirements shall apply and take precedence. [NOTE: Moved to 252:100-8-6.3]~~

252:100-8-6.1 General permits

(a) Applicability.

(1) The DEQ may, after notice and opportunity for public participation, issue a general permit for to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise

provided in regulations promulgated under Title IV of the federal Clean Air Act.

(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.

(3) A general permit may be issued for the following purposes to establish:

(A) ~~to establish terms~~ Terms and conditions to implement applicable requirements, and state-only requirements, for a source category.

(B) ~~to establish terms~~ Terms and conditions to implement applicable requirements, and state-only requirements, for specified categories of changes to permitted sources.

(C) ~~to establish terms~~ Terms and conditions for new requirements that apply to sources with existing permits, and.

(D) ~~to establish federally enforceable~~ Federally-enforceable caps on emissions from sources in a specified category.

(4) The DEQ may issue a general permit if it finds that:

(A) ~~There there~~ are several permittees, permit applicants, or potential permit applicants who: have the same or substantially similar operations, emissions, activities, or facilities;

(i) Have the same or substantially similar operations, emissions, activities, or facilities.

(ii) ~~(B) the permittees, permit applicants, or potential permit applicants emit~~ Emit the same types of regulated air pollutants.

(B) ~~(C) the~~ The operations, emissions, activities, or facilities are subject to the same or similar: standards, limitations, and operating requirements; and

(i) Standards, limitations, and operating requirements.

(ii) ~~(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring~~ Monitoring requirements.

[NOTE: 252:100-8-6.1(a) (1) through (4) was 252:100-8-6(d) (1) through (4)]

~~(5) ~~(8)~~ If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may must apply for an individual Part 70 permit for all of its covered sources, and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252:100-8-3 of this part to obtain a permit addressing the remainder of its operations, activities,~~

and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.

[NOTE: Was 252:100-8-6(d) (8)]

(6) Facilities located in areas that are federally designated as non-attainment are not eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h) (3)]

(7) Sites that are not in compliance with all applicable State and Federal air regulations are eligible for a general operating permit only if:

(A) They submit to DEQ an approvable compliance plan, and

(B) The facility submits to Tier II public review. [NOTE: From 252:100-10-5(h) (5)]

(8) Facilities with existing state operating permits are eligible for coverage under a general operating permit.

[NOTE: From 252:100-10-5(h) (6)]

(9) Facilities existing prior to the effective date of any applicable standard that would have created specific quantifiable and enforceable emission rates are eligible for coverage under a general operating permit. [NOTE: From 252:100-10-5(h) (7)]

(b) Authorization.

(1)-(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit. (A) Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit. [NOTE: Was 252:100-8-6(d) (5)]

(2)-(B) See OAC 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency DEQ shall act to approve or deny the application within 90 days of filing. [NOTE: Was 252:100-8-6(d) (5) (B)]

(3)-(C) A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review. [NOTE: Was 252:100-8-6(d) (5) (C)]

(4)-(d) The DEQ will publish, at least monthly, an updated list of sources approved for inclusion under the general operating permit and any aggrieved person may petition the DEQ to review the approval of any stationary source for inclusion under a general operating permit within 30 days after publication of the list. [NOTE: From 252:100-10-3(d)]

(5)-(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ. [NOTE: Was 252:100-8-6(d)(6)]

(c) Permit Shield. A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit. [NOTE: Was 252:100-8-6(d)(7)]

(d) Revisions

(1)-(b) If an owner or operator of a source(s) makes a change to a source covered by a general operating permit that affects any applicability information supplied in the general operating permit application, but the source is still eligible for coverage authorized to operate under a general operating permit, the owner or operator must revise the general operating permit application and submit it to the DEQ within 60 days.

(2)-(e) After coverage is granted to a particular source under the general permit, physical changes to the facility which result in the addition of equipment new to the facility, either as a replacement (except like-kind replacements) or net addition, will require a construction permit or a new authorization permit except as allowed in (d)-(3) below. Any significant modification to a stationary source included under a general operating permit shall subject the source to a Tier II review.

(3)-(e) If equipment new to the facility is newly purchased or is relocated from another facility where a permit was issued with enforceable emissions limits on that equipment, then authorization approval under the general operating permit shall be modified or amended to include an emissions limit for the newly purchased or relocated equipment. "Grandfathered" emissions sources at the facility will retain only the equipment descriptions as permit conditions. "Grandfathered" means a unit which that was in existence prior to the effective date of any applicable regulation which that would have created specific quantifiable and enforceable emissions rate limits.

(4)-(f) For a general operating permit, if emissions change for any reason that subjects the facility to PSD permitting requirements, then the facility no longer qualifies for a general operating permit. However, the existing general operating permit will remain valid during the time period covered by the PSD construction permit until the facility receives a Part 70 site specific operating permit for the entire facility.

[NOTE: 252:100-8-6.1(d)(1) through (4) are from 252:100-10-5(b), (c), (e) and (f) respectively]

(e) Permit Content. Specific terms and conditions that which will make the applicable rules and requirements enforceable shall be stipulated in the general operating permit. [NOTE: From 252:100-10-5(h)(8)]

(f) Renewal of general operating permits.

(1) The DEQ will initiate the renewal process for a general operating permit at least 180 days prior to the permit's expiration date and will follow the requirements in 252:100-8-7(a).

(2) Owners or operators shall apply to renew an authorization at least 60 days prior to expiration of the existing authorization. Upon submittal of a timely and administratively complete application, the applicant may continue to operate until such time as the DEQ grants or denies coverage under the general operating permit.

252:100-8-6.2(e) Temporary sources. The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and

(3) Conditions that assure compliance with all other provisions of this section. [NOTE: 252:100-8-6.2 was moved from 252:100-8-6(e)]

252:100-8-6.3.(i) Special provisions for affected (acid rain) sources

(a)(1) Application binding until permit issuance or denial. A complete acid rain permit application is binding on the applicant and enforceable as a ~~an acid rain~~ permit until an acid rain permit is issued or denied. For applicable permitting procedures, see OAC 252:2-15.

(b)(2) Exemption petitions. Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.

(c)(3) Permit shield. The acid rain portion of every operating permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the ~~federal Clean Air Act~~, will be deemed to be operating in compliance with the Acid Rain Program.

(d)(4) Modifications. See 40 CFR 72.82.

(e)(5) Duration. Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.

(f)(6) Right of intervention. The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.

(g)(7) Administrative appeal. The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.

(h)(8) Adoption of 40 CFR Part 72 by reference. Owners or operators of sources subject to the acid rain provisions of the federal Clean Air Act shall comply with applicable provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, which is hereby adopted by reference as rules of the Environmental Quality Board. In such regulations, the term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with this Chapter, the Part 72 provisions and requirements shall apply and take precedence.

(8) The Oklahoma Department of Environmental Quality DEQ hereby adopts and incorporates by reference the provisions of 40 CFR Part part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993, and on October 24, 1997, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part part 72 conflict with or are not included in Oklahoma Administrative Code 252:100-8, the Part part 72 provisions and requirements shall apply and take precedence.

[NOTE: 252:100-8-6.3 was moved from 252:100-8-6(i)]

252:100-8-7. Permit issuance, renewal, reopenings, and revisions

~~(a) Action on application; issuance/denial criteria.~~

~~(1)(a) Criteria for issuance.~~ A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S.Supp. 1995, Section 2-14-101 et seq.; OAC 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and for applications subject to OAC 252:100-8-8, that the requirements of that section have been satisfied.

~~(2)(b) Draft permits and notice thereof.~~ See OAC 252:2-15. The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).

~~(3)(c) EPA review.~~ See OAC 252:100-8-8.

- ~~(4)(d) DEQ final action. See OAC 252:2-15, and OAC 252:100-8-8 when applicable.~~
- ~~(5)(e) Timeline for technical review and issuance. See OAC 252:2-15-70 through 15-72. Except as provided in paragraphs (A) and (B) of this paragraph, the The DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with 252:2-15-70 through 15-72 and OAC 252:100-8-5(b)(5) 252:100-8-4(b)(7).~~
- ~~(6)(f) Action priorities. See OAC ~~252:100-8-5(b)~~ 252:100-8-4(b)(2) through (10) and 252:100-8-7.1(a).~~
- ~~(7)(g) No issuance by default. See 27A:2-5-112(D).~~
- ~~(b) Requirement for a permit. See OAC 252:100-8-4(b).~~
- ~~(c) Permit renewal and expiration.~~
- ~~(1) Applications for permit renewal after the transition period, and for permit for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection. [NOTE: Moved to 252:100-8-7.1(a)(1)]~~
- ~~(2) Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under OAC 252:100-8-7(a). [NOTE: Moved to 252:100-8-7.1(c)]~~
- ~~(3) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration. [NOTE: Moved to 252:100-8-7.1(d)(1)]~~
- ~~(4) If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time. [NOTE: Moved to 252:100-8-7.1(d)(2)]~~
- ~~(5) Stationary sources operating under permits issued by the DEQ under this subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit. [NOTE: Moved to 252:100-8-7.1(a)(2)]~~
- ~~(d) Administrative permit amendments.~~
- ~~(1) When used in this subsection "Administrative permit amendment" means a permit revision that:~~
- ~~(A) Corrects typographical errors;~~

- ~~(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;~~
- ~~(C) Requires more or less frequent monitoring or reporting by the permittee;~~
- ~~(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;~~
- ~~(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under OAC 252:100-7. Enhanced New Source Review (NSR) procedures apply to all major sources and all State Implementation Plan (SIP) minor source changes to majors.~~
- ~~(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act.~~
- ~~(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:
 - ~~(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.~~
 - ~~(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.~~
 - ~~(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.~~~~
- ~~(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(f) for administrative permit amendments made pursuant to subparagraph (d)(1)(E) of this section.~~

[NOTE: 252:100-8-7(d) was moved to 252:100-8-7.2(a)]

~~(c) Permit modification. A permit modification is any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under subsection (d) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(1) Minor permit modification procedures.~~

~~(A) Criteria.~~

- ~~(i) Minor permit modification procedures may be used only for those permit modifications that:
 - ~~(I) Do not violate any applicable requirement, or state only requirements;~~
 - ~~(II) Do not involve significant changes to existing~~~~

~~monitoring, reporting or recordkeeping requirements in the permit;~~

~~(III) Do not require or change a case by case determination of an emission limitation or other standard, or a source specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;~~

~~(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, or state only requirement, and that the source has assumed to avoid an applicable requirement, or state only requirement, to which the source would otherwise be subject. Such terms and conditions include federally enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5) of the Federal Clean Air Act; and~~

~~(V) Are not modifications under any provision of Title I of the Federal Clean Air Act.~~

~~(ii) Notwithstanding OAC 252:100-8-7(e)(1)(A)(i) and OAC 252:100-8-7(e)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.~~

~~(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:~~

~~(i) A description of the change, the emissions resulting from the change, and any new applicable requirements, and state only requirements, that will apply if the change occurs;~~

~~(ii) The source's suggested modification language;~~

~~(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and~~

~~(iv) Completed forms for any notices required by OAC 252:2-15 and, regarding notice to EPA and affected states, as required under subparagraph (C) of this paragraph.~~

~~(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.~~

~~(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15 the DEQ shall:~~

- ~~(i) Issue the minor permit modification as approved;~~
- ~~(ii) Deny the minor permit modification application; or~~
- ~~(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.~~

~~(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change allowed by the preceding sentence, and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this section, the source must comply with both the applicable requirements and state only requirements, governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.~~

~~(F) Permit shield. The permit shield under OAC 252:100-8-6(f) will not extend to minor permit modifications.~~

~~(G) Permittee's risk in commencing construction. The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.~~

~~(2) Significant modification procedures.~~

~~(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:~~

- ~~(i) Involve any significant amendment to existing monitoring, reporting, or recordkeeping requirements in the permit;~~
- ~~(ii) Require any amendment to establish or amend a permit condition that is required to be based on a case by case determination of an emission limitation or other standard, on a source specific determination of ambient impacts, or on a visibility or increment analysis;~~
- ~~(iii) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and state only requirement, and that the source has assumed to avoid an applicable requirement, and state only requirement, to which the source would otherwise be subject. Such terms and~~

~~conditions include:~~

~~(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;~~

~~(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the federal Clean Air Act; and~~

~~(iv) Are modifications under any provision of Title I of the federal Clean Air Act; and,~~

~~(v) Do not qualify as minor permit modifications or administrative amendments.~~

~~(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements, and state only requirements, that will apply if the change occurs.~~

~~(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.~~

[NOTE: 252:100-8-7(e) was moved to 252:100-8-7.2(b)]

~~(f) Reopening for cause.~~

~~(1) Mandatory reopening. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:~~

~~(A) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original permit or any of its terms and conditions has been extended pursuant to the application shield provided at OAC 252:100-8-7(e)(4) beyond the 18-month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.~~

~~(B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.~~

~~(C) The agency or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.~~

~~(D) The administrator or the agency determines that the~~

~~permit must be revised or revoked to assure compliance with the applicable requirements.~~

~~(2) Discretionary reopening. The agency may reopen and amend a permit when:~~

~~(A) additional state only requirements become applicable to a permitted stationary source, and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;~~

~~(B) alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;~~

~~(C) the agency receives information previously unavailable to the agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;~~

~~(D) a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; and~~

~~(E) an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.~~

~~(3) Reopening procedures. To reopen and amend a permit, the agency shall follow the procedures that apply to significant permit amendments under this chapter, unless the amendment can be made as an administrative amendment under OAC 252:100-8-7(d). Mandatory reopenings under OAC 252:100-8-7(f)(1) shall be made as expeditiously as practicable. In lieu of an application, the significant permit amendment process will commence when the agency gives the permittee written notice of its intent to amend the permit. The agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the agency has given the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit which the agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.~~

[NOTE: 252:100-8-7(f) was moved to 252:100-8-7.3(a), (b) and (c)]

~~(g) Reopenings for cause by EPA.~~

~~(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the permitting authority and the permittee of such findings in writing.~~

~~(2) The permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90 day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the permitting authority must require the permittee to submit~~

~~additional information.~~

~~(3) The Administrator will review the proposed determination from the permitting authority within 90 days of receipt.~~

~~(4) The permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.~~

~~(5) If the permitting authority fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:~~

~~(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.~~

~~(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.~~

[NOTE: 252:100-8-7(g) was moved to 252:100-8-7.3(d)]

~~(h) Revocations.~~

~~(1) Permit revocation without reissuance. The agency may revoke permits and not reissue them when:~~

~~(A) there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;~~

~~(B) the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or the administrator;~~

~~(C) the permittee has failed to comply with any requirement under OAC 252:100-9 to pay fees; or~~

~~(D) the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, or schedule of compliance.~~

~~(2) Revocation procedures. The agency shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the agency may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the agency shall hold the hearing in accordance with the Oklahoma Administrative Procedures Act.~~

[NOTE: 252:100-8-7(h) was moved to 252:100-8-7.4]

~~(i) Public participation. See 27A O.S.Supp. 1995, § 2-14-101 et seq. and OAC 252:2-15.~~

~~(j) Judicial review. Any final action in granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to judicial review in the court of appropriate jurisdiction upon an application filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. Except for~~

authorizations under General Permits, judicial review is available to all affected parties for all final permit actions including minor modifications and administrative actions. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.

~~(1) No application for judicial review may be filed more than 90 days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within 90 days of the date on which the grounds for review first arose and review shall be limited to such later arising grounds.~~

~~(2) Any application for judicial review shall be limited to issues that:~~

~~(A) were raised in written comments filed with the Agency or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and~~

~~(B) are germane and material to the permit action at issue.~~

~~(3) For purposes of this section, "final action" shall include a failure by the Agency to take final action to grant or deny an application within the time specified in this Chapter.~~

[NOTE: 252:100-8-7(j) was moved to 252:100-8-7.5]

252:100-8-7.1.(e) Permit renewal and expiration

(a) Timely application for permit renewal.

(1) Applications for permit renewal after the transition period, and for permits permit for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection. [NOTE: Was 252:100-8-7(c) (1)]

(2) Stationary sources operating under permits issued by the DEQ under this Subchapter subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit. [NOTE: Was 252:100-8-7(c) (5)]

~~(b) (9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ issued Part 70~~

operating permit, a source may identify and incorporate by reference terms and conditions in its previous permit and permit application(s) that should remain unchanged. terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:

(1)(i) information specified in OAC 252:100-8-5(d) 252:100-8-5(e) for those products, processes, operations, and emissions that:

(A)(I) That are not addressed in the existing permit;

(B)(II) That are subject to applicable requirements, or state-only requirements that are not addressed in the existing permit; or

(C)(III) For as to which the source seeks permit terms and conditions that differ from those in the existing permit;
and

(2)(ii) a compliance plan and certification as required in OAC 252:100-8-5(d)(8) 252:100-8-5(e)(8) and (9). [NOTE: Was 252:100-8-5(b)(9)]

(c)(2) Issuance of renewal permit. Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under OAC 252:100-8-7(a). [NOTE: Was 252:100-8-7(c)(2)]

(d) Expiration of permit.

(1)(3) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration. [NOTE: Was 252:100-8-7(c)(3)]

(2)(4) If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time. [NOTE: Was 252:100-8-7(c)(4)]

(5) Stationary sources operating under permits issued by the DEQ under this subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary

source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit. [NOTE: Moved to 252:100-8-7.1(a)(2)]

252:100-8-7.2.(d) Administrative permit amendments and permit modifications

(a) Administrative permit amendments.

(1) When used in this subsection An "Administrative administrative permit amendment" means a permit revision that:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(C) Requires more or less frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under this Part OAC 252:100-7. Enhanced New Source Review (NSR) procedures apply to all major sources and all State Implementation Plan (SIP) minor source changes to majors.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(f) 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph (d)(1)(E) 252:100-8-7.2(a)(1)(E) of this section. [NOTE: 252:100-8-7.2(a) was 252:100-8-7(d)]

(b)(e) Permit modification. A permit modification is any revision to an operating a permit that cannot be accomplished

under the program's provisions for administrative permit amendments under subsection (d) (a) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act 40 CFR Part 72.

(1) Minor permit modification procedures.

(A) Criteria.

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, or state-only requirement, and that which the source has assumed to avoid an some other applicable requirement, or state-only requirement, to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i) (5) of the federal Clean Air Act; and

(V) Are not modifications under any provision of Title I of the federal Clean Air Act.

(ii) Notwithstanding ~~OAC 252:100-8-7(e)(1)(A)(i)~~ 252:100-8-7.2(b)(1)(A)(i) and ~~OAC 252:100-8-7(e)(2)(A)~~ 252:100-8-7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable the State's implementation plan or in applicable requirements promulgated by EPA.

(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements, and or state-only requirements, that will apply if the change occurs;

(ii) The source's suggested modification language;

(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and

(iv) Completed forms for any notices required by OAC 252:2-15 and, ~~regarding notice to EPA and affected states, as required under subparagraph (C) of this paragraph.~~

(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15, the DEQ shall:

(i) Issue the minor permit modification as approved;

(ii) Deny the minor permit modification application; or

(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change allowed by the preceding sentence, and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this section subsection, the source must comply with both the applicable requirements and state-only requirements, governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) Permit shield. The permit shield under OAC ~~252:100-8-6(f)~~ 252:100-8-6(d) will not extend to minor permit modifications.

(G) Permittee's risk in commencing construction. The permittee ~~permittees~~ assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) Significant modification procedures.

(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:

(i) Involve any significant changes in amendment to existing monitoring, reporting, or recordkeeping requirements in the permit;
(ii) Relax any reporting or recordkeeping requirements.
(iii)-(ii) Require any amendment to establish or amend a permit condition that Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;
(iv)-(iii) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and or state-only requirement, and that which the source has assumed to avoid an some other applicable requirement, and or state-only requirement, to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the federal Clean Air Act; and

(v)-(iv) Are modifications under any provision of Title I of the federal Clean Air Act; and,

(vi)-(v) Do not qualify as minor permit modifications or administrative amendments.

(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements, and or state-only requirements, that will apply if the change occurs.

(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

[NOTE: 252:100--8-7.2(b) was 252:100-8-7(e)]

252:100-8-7.3.(f) Reopening of operating permits for cause
(a)-(1) Mandatory reopening. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:

(1)-(A) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original

permit or any of its terms and conditions has been extended pursuant to the application shield provided at ~~OAC 252:100-8-7(e)(4)~~ 252:100-8-7.1(d)(2) beyond the 18-month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

(2)(B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the ~~Administrator~~, administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(3)(C) The ~~DEQ agency~~ or the ~~administrator~~ EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

(4)(D) The ~~Administrator~~ administrator or the ~~DEQ agency~~ determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b)(2) Discretionary reopening. The ~~DEQ agency~~ may reopen and amend a permit when:

(1)(A) additional state-only requirements become applicable to a permitted stationary source, and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;

(2)(B) alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;

(3)(C) the ~~DEQ agency~~ receives information previously unavailable to the ~~DEQ agency~~ that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;

(4)(D) a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; and

or
(5)(E) an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.

(c)(3) Reopening procedures. To reopen and amend a permit, the ~~DEQ agency~~ shall follow the procedures that apply to significant permit amendments modifications under this ~~chapter~~ Subchapter, unless the amendment can be made as an administrative amendment under ~~OAC 252:100-8-7(d)~~ 252:100-8-7.2(a). Mandatory reopenings under ~~OAC 252:100-8-7(f)(1)~~ 252:00-8-7.3(a) shall be made as expeditiously as practicable. In lieu of an application, the significant permit amendment modification process will commence when the ~~DEQ agency~~ gives the permittee written notice of its intent to amend the permit. The ~~DEQ agency~~ shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the ~~DEQ agency~~ has given the permittee written notice of its intent to

amend the permit, unless the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit that which the DEQ agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.

[NOTE: 252:100-8-7.3(a), (b), and (c) were 252:100-8-7(f)]

(d)-(g) Reopenings for cause by EPA.

(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the DEQ permitting authority and the permittee of such findings in writing.

(2) The DEQ permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the DEQ permitting authority must require the permittee to submit additional information.

(3) The Administrator will review the proposed determination from the DEQ permitting authority within 90 days of receipt.

(4) The DEQ permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.

(5) If the DEQ permitting authority fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.

(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

[NOTE: 252:100-8-7.3(d) was 252:100-8-7(g)]

252:100-8-7.4.(h) Revocations of operating permits

(a)-(i) Revocation of a permit or authorization under a general permit Permit revocation without reissuance. The DEQ agency may revoke permits or authorizations under a general permit and not reissue them when:

(1)-(A) there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit or authorization, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;

(2)-(B) the permittee fails to disclose fully the facts relevant to issuance of the permit or authorization or submits false or misleading information to the DEQ agency or the Administrator administrator;

(3)-(C) the permittee has failed to comply with any requirement

under OAC ~~252:100-9~~ 252:100-5 to pay fees; or
(4) ~~(D)~~ the permittee has failed to pay a penalty owed pursuant
to court order, consent decree, stipulation agreement, or
schedule of compliance.

(b) ~~(2)~~ Revocation procedures. The DEQ agency shall give notice
to the permittee of its intention to revoke a permit without
reissuance. This notice must state that within 30 days of the
receipt of the notice the permittee may request a contested case
hearing be held on the proposed action, except that the DEQ
agency may provide less notice in case of an emergency. If the
permittee requests a contested case hearing, the DEQ agency shall
hold the hearing in accordance with the Oklahoma Administrative
Procedures Act.

[NOTE: 252:100-8-7.4 was 252:100-8-7(h)]

252:100-8-7.5. ~~(i)~~ Judicial review

Any final action in granting or denying an application for a
permit, permit amendment or modification, or permit renewal shall
be subject to judicial review in the court of appropriate
jurisdiction upon an application filed by the applicant or
permittee, or by any affected state or other person who
participated in the public comment process. Except for
authorizations under General Permits, judicial review is
available to all affected parties for all final permit actions
including minor modifications and administrative actions. If no
public comment procedure was employed for the action under
challenge, an application for review may be filed by the
permittee or an affected state. The opportunity for judicial
review provided for in this subsection shall be the exclusive
means for obtaining judicial review of any permit action.

(1) No application for judicial review may be filed more than
90 days following the final action on which review is sought,
unless the grounds for review arose at a later time, in which
case the application for review shall be filed within 90 days
of the date on which the grounds for review first arose and
review shall be limited to such later-arising grounds.

(2) Any application for judicial review shall be limited to
issues that:

(A) were raised in written comments filed with the DEQ
Agency or during a public hearing on the proposed permit
action (if the grounds on which review is sought were known
at that time), except that this restriction shall not apply
if the person seeking review was not afforded an advance
opportunity to comment on the challenged action; and

(B) are germane and material to the permit action at issue.

(3) For purposes of this section, "final action" shall
include a failure by the DEQ Agency to take final action to
grant or deny an application within the time specified in this
Chapter.

[NOTE: 252:100-8-7.5 was 252:100-8-7(j)]

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This section applies only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the ~~federal Clean Air Act~~ or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.**

For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See 27A O.S.Supp. 1995, § 2-5-112(E); 27A O.S.Supp. 1995, § 2-14-101 et seq.; and ~~OAC~~ 252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in ~~OAC~~ 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S.Supp. 1995, § 2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this

subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (Tier I) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of ~~OAC~~ 252:2-15.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

(A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or

(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

(i) issue the amended or revised draft permit (Tier II) as final, or

(ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in ~~OAC~~ 252:002-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such

objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAC 252:100-8-7 through 252:100-8-7.5 except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with 27A O.S.Supp. 1995, Section 2-14-101 et seq., the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

~~252:100-8-9. Permit fees~~ [NOTE: The contents of this Section were moved to 252:100-5 and 252:100-8-1.7]

~~(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~(1) "Actual emission" means the total amount of regulated pollutant (for fee calculation) emitted from a given facility during a particular calendar year, as determined by methods contained in OAC 252:100-8-9(d).~~

~~(2) "Allowable emissions" means the total amount of regulated pollutant (for fee calculation) emitted based on limits contained in a federally enforceable permit or potential to emit.~~

~~(3) "Emission inventory" means a compilation of the total of all point source, storage and process fugitive air emissions for all regulated pollutant (for fee calculation) at a given facility.~~

~~(4) "Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.~~

~~(b) Fee required. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the part 70 program costs. The permitting authority shall ensure that any fee required by these rules will be used solely for part 70 program costs.~~

~~(c) Applicability. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995, and as of this date shall no longer be subject to the major source annual~~

~~operating fee specified in 252:100-7-4 (b) (1) (A).~~

~~(d) Fee schedule for Part 70 sources.~~

~~(1) Annual fees. The annual fee shall be calculated on a source specific basis and may be based on either actual or allowable emissions at the option of the owner or operator paying the fee as set forth in the facility emissions inventory. Fees shall be based on emission inventories submitted in the previous calendar year. (For example, fee invoiced during calendar year 1995 shall be based upon inventory data covering the calendar year 1993).~~

~~(A) Annual fees shall be determined according to the following:~~

~~(i) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing; or~~

~~(ii) where both actual and allowable emission are reflected on the inventory, the lesser of the two shall be used.~~

~~(B) Annual fees shall be as follows:~~

~~(i) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant.~~

~~(ii) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.~~

~~(iii) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a part 70 source shall not be considered in the calculation of the annual fee.~~

~~(2) Permit processing fees. Permit processing fees shall be as follows:~~

~~(A) Initial Part 70 permit \$2,000.~~

~~(B) Renewal Part 70 permit \$1,000.~~

~~(C) Significant Part 70 Permit Mod. \$1,000.~~

~~(D) Minor Part 70 Permit Modification \$ 500.~~

~~(E) The Part 70 Temporary Permit \$1,000.~~

~~(F) Part 70 Temporary Source Relocation \$ 500.~~

~~(3) Payment. Fees will be paid by check or money order made payable to the Oklahoma Air Quality fund or upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1 1/2%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the~~

~~date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq., as amended.~~

~~(4) Emissions inventory. The owner or operator of any Part 70 source shall by April 1, 1994, and every succeeding year thereafter, submit a complete emission inventory on forms obtained from the Agency. These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee. The methods of calculation to be utilized in the development of an emission inventory shall be in accordance with the methods described in OAC 252:100-7-4(e).~~

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD)
REQUIREMENTS FOR ATTAINMENT AREAS

[NOTE: Was 252:100-7-30 through 37]

252:100-8-30. Applicability

The new source requirements of this Part, in addition to the requirements of OAC 252:100-7-15 through 252:100-7-18 and 252:100-8, Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all major stationary sources and major modifications as specified in OAC 252:100-7-31 252:100-8-31 through 252:100-7-33 252:100-8-33. following and are effective upon adoption of this Subchapter by Oklahoma. Except that the requirements of this Part will not be necessary for sources required to meet the permit requirements of the United States Environmental Protection Agency under Title 40 Part 52.21 of the Code of Federal Regulations. Sources subject to this Part are also subject to the operating permit provisions contained in Part 5 of OAC 252:100-8.

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source

tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ Air Quality Division on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility. [NOTE: From 252:100-7-36(a)]

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition. [NOTE: Moved to 252:100-8-1.1]

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m³ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. (Effective May 11, 1991)

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date;

and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. (Effective May 11, 1991)

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,

(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or OAC 252:100-7 252:100-8, Part 5 7) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988.

(Effective May 11, 1991)

"Begin actual construction" means, in general, initiation of physical on site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: Moved to 252:100-8-1.1]

"Best available control technology" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case-by-case basis taking into account energy, environmental, costs and economic impacts of alternate control systems.

"Building, structure, facility or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:
(A) begun, or caused to begin, a continuous program of actual on site construction of the source, to be completed within a reasonable time; or,
(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: Moved to 252:100-8-1.1]

"Complete" in reference to an application for a permit, means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: Moved to 252:100-8-1.1]

"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

"Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative. [NOTE: Moved from 252:100-8-36(a)]

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. [NOTE: Moved to 252:100-8-1.1]

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement.

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was

- established after January 6, 1975; or,
(II) the source is approved to use under any permit
issued under 40 CFR 52.21 or ~~OAC 252:100-7~~ 252:100-8.
(vi) An increase in the hours of operation or in the
production rate, unless such change would be prohibited
under any enforceable permit limitation which was
established after January 6, 1975.
(vii) Any change in source ownership.

"Major stationary source" means any source which meets any of
the following conditions:

(A) Any of the following sources of air pollutants which
emits, or has the potential to emit, 100 tons per year or more
of any pollutant subject to regulation:

- (i) carbon black plants (furnace process),
- (ii) charcoal production plants,
- (iii) chemical process plants,
- (iv) coal cleaning plants (with thermal dryers),
- (v) coke oven batteries,
- (vi) fossil-fuel boilers (or ~~combustion~~ combination thereof)
totaling more than 250 million BTU per hour heat input,
- (vii) fossil fuel-fired steam electric plants of more than
250 million BTU per hour heat input,
- (viii) fuel conversion plants,
- (ix) glass fiber processing plants,
- (x) hydrofluoric, sulfuric or nitric acid plants,
- (xi) iron and steel mill plants,
- (xii) kraft pulp mills,
- (xiii) lime plants,
- (xiv) municipal incinerators capable of charging more than
250 tons of refuse per day,
- (xv) petroleum refineries,
- (xvi) petroleum storage and transfer units with a total
storage capacity exceeding 300,000 barrels,
- (xvii) phosphate rock processing plant,
- (xviii) portland cement plants,
- (xix) primary aluminum ore reduction plants,
- (xx) primary copper smelters,
- (xxi) primary lead smelters,
- (xxii) primary zinc smelters,
- (xxiii) secondary metal production plants,
- (xxiv) sintering plants,
- (xxv) sulfur recovery plants, or
- (xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this
definition which emits, or has the potential to emit, 250 tons
per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not
otherwise qualifying as a major source under (A) and (B) of
this definition if the change would constitute a major source
by itself.

(D) A major source that is major for volatile organic
compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration. [NOTE: From 252:100-8-36(a)]

~~"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules. [NOTE: Moved to 252:100-8-1.1]~~

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-7, Part 3 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. (Effective May 11, 1991)

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any

~~physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: Moved to 252:100-8-1.1]~~

~~"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purposes of OAC 252:100 7, Part 5 secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:~~

~~(A) emissions from trains coming to or from the new or modified stationary source; and,~~

~~(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: Moved to 252:100-8-1.1]~~

~~"Significant" means:~~

~~(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:~~

~~(i) carbon monoxide: 100 tons per year (tpy),~~

~~(ii) nitrogen oxides: 40 tpy,~~

~~(iii) sulfur dioxide: 40 tpy,~~

~~(iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,~~

~~(v) ozone: 40 tpy of volatile organic compounds,~~

~~(vi) lead: 0.6 tpy,~~

~~(vii) asbestos: 0.007 tpy,~~

~~(viii) beryllium: 0.0004 tpy,~~

~~(ix) mercury: 0.1 tpy,~~

~~(x) vinyl chloride Chloride: 1 tpy,~~

~~(xi) fluorides: 3 tpy,~~

~~(xii) sulfuric acid mist: 7 tpy,~~

~~(xiii) hydrogen sulfide (H₂S): 10 tpy,~~

~~(xiv) total reduced sulfur (including H₂S): 10 tpy, and~~

~~(xv) reduced sulfur compounds (including H₂S): 10 tpy.~~

~~(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 ug/m³ (24-hour average).~~

~~"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100. [NOTE: Moved to 252:100-8-1.1]~~

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.
[NOTE: From 252:100-8-36(a)]

252:100-8-32. Source applicability determination

Proposed new sources and source modifications to which this Part 5 of this Subchapter is applicable are determined by size, geographical location and type of emitted pollutants.

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant and other associated definitions in 252:100-8-31, 252:100-8-1.1, and 252:100-1.

(B) ~~When At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of OAC 252:100-7-15 through 252:100-7-18 and OAC 252:100-7, Part 7~~ 252:100-8, Parts 1, 3, 5, and 7 shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications which are major in size and proposed for construction in an area which has been designated as attainment or unclassified for any applicable ambient air standard are subject to the ~~prevention of significant deterioration~~ PSD requirements.

(B) Those sources and modifications locating in an attainment or unclassified area but impacting on a nonattainment area may also be subject to the requirements for major sources affecting nonattainment areas in 252:100-8, Part 9 of OAC 252:100-7, Part 7.

252:100-8-33. Review, applicability and exemptions Exemptions

(a) ~~Exemptions from PSD requirements.~~ PSD requirements do not apply to a particular source or modification ~~do not apply~~ if:

(1) It is a nonprofit health or educational institution.

(2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

(A) ~~carbon black plants (furnace process), One of the categories listed in (A) (i) through (xxvi) under the definition of "Major stationary source" in 252:100-8-31, or~~

(B) ~~charcoal production plants,~~

(C) ~~chemical process plants,~~

(D) ~~coal cleaning plants (with thermal dryers),~~

- ~~(E) coke oven batteries,~~
- ~~(F) fossil fuel boilers (or combustion combination thereof) totaling more than 250 million BTU per hour heat input,~~
- ~~(G) fossil fuel fired steam electric plant of more than 250 million BTU per hour heat input,~~
- ~~(H) fuel conversion plants,~~
- ~~(I) glass fiber processing plants,~~
- ~~(J) hydrofluoric, sulfuric or nitric acid plants,~~
- ~~(K) iron and steel mills,~~
- ~~(L) kraft pulp mills,~~
- ~~(M) lime plants,~~
- ~~(N) municipal incinerators capable of charging more than 250 tons of refuse per day,~~
- ~~(O) petroleum refineries,~~
- ~~(P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,~~
- ~~(Q) phosphate rock processing plants,~~
- ~~(R) portland cement plants,~~
- ~~(S) primary aluminum ore reduction plants,~~
- ~~(T) primary copper smelters,~~
- ~~(U) primary lead smelters,~~
- ~~(V) primary zinc smelters,~~
- ~~(W) secondary metal production plants,~~
- ~~(X) sintering plants,~~
- ~~(Y) sulfur recovery plants,~~
- ~~(Z) taconite ore processing plants, or~~
- ~~(AA) A any other stationary source category which, as of August 7, 1980, is being regulated by federal New Source Performance Standards (NSPS) NSPS or National Emission Standards for Hazardous Air Pollutants (NESHAPS) NESHAP.~~

(3) The source or modification is a A portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) Exemption from air quality impact evaluation.

(1)(b) The requirements of OAC 252:100-7-35 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2)(e) The requirements of OAC 252:100-7-35 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of best available control technology, would be less than 50 tons per year. [NOTE: 252:100-8-33(b) (2) was 252:100-8-33(c)]

(c) Exemption from monitoring requirements.

(1)(d) The monitoring requirements of OAC 252:100-7-35 252:100-8-35 are not applicable for a particular pollutant if

the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

- (A) (1) Carbon monoxide - 575 ug/m³, 8-hour average,
- (B) (2) Nitrogen dioxide - 14 ug/m³, annual average,
- (C) (3) Particulate matter - 10 ug/m³, TSP, 24-hour average, or 10 ug/m³ PM-10, 24-hour average,
- (D) (4) Sulfur dioxide - 13 ug/m³, 24-hour average,
- (E) (5) Ozone - see (N) (14) below,
- (F) (6) Lead - 0.1 ug/m³, 24-hour 3-month average,
- (G) (7) Mercury - 0.25 ug/m³, 24-hour average,
- (H) (8) Beryllium - 0.0005 0.001 ug/m³, 24-hour average,
- (I) (9) Fluorides - 0.25 ug/m³, 24-hour average,
- (J) (10) Vinyl chloride - 15 ug/m³, 24-hour average,
- (K) (11) Total reduced sulfur - 10 ug/m³, 1-hour average,
- (L) (12) Hydrogen sulfide - 0.04 0.2 ug/m³, 1-hour average, or
- (M) (13) Reduced sulfur compounds - 10 ug/m³, 1-hour average.
- (N) (14) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data. [NOTE: 252:100-8-33(c) (1) was 252:100-8-33(d)]

(2) The requirements for air quality monitoring in OAC 252:100 7 35(b) through 252:100 7 35(d) 252:100-8-35(b), (c) and (d) (2) shall not apply to a particular source or modification that was subject to Federal 40 CFR 52.21 as in effect on June 19, 1978, if a permit application in accordance with OAC 252:100 7 is was submitted before June 8, 1981 and the Executive Director subsequently determines determined that the application as submitted was complete except for with respect to the requirements of OAC 252:100 7 other than those in OAC 252:100 7 35(b) through 252:100 7 35(d) 252:100-8-35(b), (c) and (d) (2) and with respect to the requirements for such analyses at 40 CFR 52.21 (m) (2) as in effect on June 19, 1978. Instead, the latter requirements in 40 CFR 52.21(m) (2) as in effect on June 19, 1978, shall apply to any such source or modification. [NOTE: was 252:100-7-33(f)]

(3) The requirements for air quality monitoring in OAC 252:100 7 35(b) through 252:100 7 35(d) 252:100-8-35(b), (c), and (d) (2) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application in accordance with OAC 252:100 7 is was submitted before June 8, 1981 and the Executive Director subsequently determines determined that the application as submitted was complete, except for with respect to the requirements in OAC 252:100 7 35(b) through 252:100 7-

~~35(d)~~ 252:100-8-35(b), (c) and (d)(2). [NOTE: was 252:100-7-33(g)]

(4) The Executive Director shall determine if the requirements for air quality monitoring of PM-10 in OAC ~~252:100-7-35(a)~~ 252:100-8-35(a) through ~~252:100-7-35(d)~~ 252:100-8-35(c) and 252:100-8-35(d)(2) may be waived for a particular source or modification when the owner or operator of the source or modification submits an application for a permit was submitted on or before June 1, 1988 and the Executive Director subsequently determines determined that the application, except with respect to for the requirements for monitoring particulate matter under OAC ~~252:100-7-35(a)~~ 252:100-8-35(a) through ~~252:100-7-35(d)~~ 252:100-8-35(c) and 252:100-8-35(d)(2), was complete before that date. [NOTE: was 252:100-7-33(i)]

(5) The requirements for air quality monitoring of PM-10 in OAC ~~252:100-7-35(b)~~ 252:100-8-35(b), (c), (d)(2) and (d)(6) through ~~252:100-7-35(d)~~ and ~~252:100-7-35(h)~~ shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC ~~252:100-7-33(b)~~ 252:100-8-33(b)(1), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC ~~252:100-7-35(b)~~ 252:100-8-35(b)(1) and ~~252:100-7-35(e)~~ 252:100-8-35(c) shall have been gathered over that shorter period. [NOTE was 252:100-7-33(j)]

~~(d)(e)~~ Exemption from BACT requirements and monitoring requirements. If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for best available control technology in OAC ~~252:100-7-34~~ 252:100-8-34 and for monitoring in OAC ~~252:100-7-35(a)~~ 252:100-8-35(a) through ~~252:100-7-35(f)~~ 252:100-8-35(c) and 252:100-8-35(d)(2) through 252:100-8-35(d)(4) are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification. [NOTE: was 252:100-8-33(e)]

~~(f)~~ The requirements for air quality monitoring in OAC ~~252:100-7-35(b)~~ through ~~252:100-7-35(d)~~ shall not apply to a particular source or modification that was subject to Federal 40 CFR 52.21 as in effect on June 19, 1978 if a permit application in accordance with OAC 252:100-7 is submitted before June 8, 1981 and the Executive Director subsequently determines that the application as submitted was complete with respect to the requirements of OAC 252:100-7 other than those in OAC ~~252:100-7-35(b)~~ through ~~252:100-7-35(d)~~ and with respect to the requirements for such analyses at 40 CFR 52.21 (m) (2) as in effect on June 19, 1978. Instead, the latter requirements shall

~~apply to any such source or modification.~~ [NOTE: Moved to 252:100-8-33(c)(2)]

~~(g) The requirements for air quality monitoring in OAC 252:100-7-35(b) through 252:100-7-35(d) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978 if a permit application in accordance with OAC 252:100-7 is submitted before June 8, 1981 and the Executive Director subsequently determines that the application as submitted was complete, except with respect to the requirements in OAC 252:100-7-35(b) through 252:100-7-35(d).~~

[NOTE: Moved to 252:100-8-33(c)(3)]

~~(e)(h) Exemption of modifications.~~ As specified in the applicable definitions of OAC 252:100-7-31, 252:100-8-1.1, and 252:100-1, the requirements of OAC 252:100-7-35(a) through 252:100-8, Part 5-7 for PSD and 252:100-7-35(b) through 252:100-8, Part 7-9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right. [Note: was 252:100-8-33(h)]

~~(i) The Executive Director shall determine if the requirements for air quality monitoring of PM 10 in OAC 252:100-7-35(a) through 252:100-7-35(d) may be waived for a particular source or modification when the owner or operator of the source or modification submits an application for a permit on or before June 1, 1988 and the Executive Director subsequently determines that the application, except with respect to the requirements for monitoring particulate matter under OAC 252:100-7-35(a) through 252:100-7-35(d), was complete before that date.~~ [NOTE: Moved to 252:100-8-33(c)(4)]

~~(j) The requirements for air quality monitoring of PM 10 in OAC 252:100-7-35(b) through 252:100-7-35(d) and 252:100-7-35(h) shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-7-33(b), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-7-35(b) and 252:100-7-35(c) shall have been gathered over that shorter period.~~ [NOTE: Moved to 252:100-8-33(c)(5)]

~~(k) For any application that becomes complete, except as to the requirements of OAC 252:100-7-35(b) through 252:100-7-35(d) pertaining to monitoring of PM 10, after December 1, 1988 and no later than August 1, 1989, the data that OAC 252:100-7-35(b) and 252:100-7-35(e) require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be~~

less than 4 months), the data that OAC 252:100-7-35(b) and 252:100-7-35(c) require shall have been gathered over that shorter period. {NOTE: Moved to 252:100-8-35(d)(3)(B)}

(l) With respect to any requirements for air quality monitoring of PM 10 under OAC 252:100-7-33(i) and 252:100-7-33(j), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM 10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director. [NOTE: Moved to 252:100-8-35(d)(1)]

(f)-(m) Exemption from impact analyses. The requirements of OAC 252:100-7-35 252:100-8-35 and 252:100-7-36 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988. [NOTE: was 252:100-8-33(m)]

(g)-(n) Exemption from increment consumption. Excluded from increment consumption are the following cases:

(1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source. [NOTE: was 252:100-8-33(n)]

252:100-8-34. Best available control ~~Control~~ technology

(a) A new source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein for each regulated pollutant that it would have the potential to emit in significant amounts).

(b) A major modification must demonstrate that the control technology to be applied is the best that is available for each regulated pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(c) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.

(d) For phased construction projects the determination of best available control technology shall be reviewed and modified at the discretion of the Executive Director at a reasonable time

but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of best available control technology.

252:100-8-35. Air quality impact evaluation

(a) Application contents. Any application for a permit shall contain, as the Executive Director determines appropriate, an evaluation of ambient air quality in the area that the source or modification would affect for each of the following pollutants:

- (1) for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;
- (2) for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(b) Continuous monitoring data. For visibility and any pollutant, other than volatile organic compounds, for which an ambient air quality standard ~~does exist~~ exists, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Executive Director determines is necessary to assess the ambient air quality for that pollutant in that area. (Amended 7-9-87, effective 8-10-87)

(c) Increment consumption. The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Executive Director.

(d) Monitoring.

(1) Monitoring method. With respect to any requirements for air quality monitoring of PM-10 under ~~OAC 252:100-7-33(i)~~ 252:100-8-33(c)(4) and ~~252:100-7-33(j)~~ 252:100-8-33(c)(5), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM-10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director. [NOTE: was 252:100-7-33(1)]

(2) ~~(d)~~ Monitoring period. The required monitoring data shall have been gathered for a time period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data collected for a time period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Executive Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or

modification will cause or contribute to a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment. [NOTE: 252:100-8-35(d)(2) was 252:100-8-35(d)]

(3)(e) Monitoring period exceptions.

(A) For any application which becomes complete except as to the monitoring requirements of ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) through ~~252:100-7-35(d)~~ 252:100-8-35(c) and 252:100-8-35(d)(2), between June 8, 1981 and February 9, 1982, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(i)(1) If the source or modification would have been major for that pollutant under Federal 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(ii)(2) If the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period, not to be less than four months, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over that shorter period.

(iii)(3) If the monitoring data would relate exclusively to ozone and would not have been required under Federal 40 CFR 52.21 as in effect on June 19, 1978, the Executive Director may waive the otherwise applicable requirements of ~~OAC 252:100-7-35(e)~~ 252:100-8-35(d)(3)(A) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year. [NOTE: 252:100-8-35(d)(3)(A) was 252:100-8-35(e)]

(B) For any application that becomes complete, except as to the requirements of ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b), (c) and (d)(2) through ~~252:100-7-35(d)~~ pertaining to monitoring of PM-10, after December 1, 1988 and no later than August 1, 1989, the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and (c) ~~252:100-7-35(e)~~ require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that ~~OAC 252:100-7-35(b)~~ 252:100-8-35(b) and ~~252:100-7-35(e)~~ 252:100-8-35(c) require shall have been gathered over that shorter period. [NOTE: was 252:100-7-33(k)]

(4)(f) Ozone post-approval monitoring. The application for a source or modification of volatile organic compounds which satisfies all conditions of ~~OAC 252:100-7-54~~ 252:100-8-54 may provide post-approval monitoring data for ozone in lieu of

providing preconstruction data as required under ~~0AC 252:100-7-35~~ 252:100-8-35. [NOTE: was 252:100-8-35(f)]

~~(5)(g)~~ **Post-construction monitoring.** The applicant for a permit for a new source or modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Executive Director determines necessary to determine the effect its emissions may have, or are having, on air quality in any area. (Amended 7-9-87, effective 8-10-87) [NOTE: was 252:100-8-35(g)]

~~(6)(h)~~ **Monitoring system operation.** The operation of monitoring stations for any air quality monitoring required under Part 5 7 of this Subchapter shall meet the requirements of 40 CFR 58 Appendix B. [NOTE: was 252:100-8-35(h)]

~~(e)(i)~~ **Air quality models.**

(1) Any air quality dispersion modeling that is required under Part 5 7 of this Subchapter for estimates of ambient concentrations shall be based on the applicable air quality models, data bases and other requirements specified in the Guidelines on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.

(2) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Executive Director. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models. [NOTE: 252:100-8-35(e) was 252:100-8-35(i)]

~~(f)(j)~~ **Growth analysis.** Upon request of the Executive Director the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification. [NOTE: was 252:100-8-35(j)]

~~(g)(k)~~ **Visibility and other impacts analysis.** The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Executive Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Executive Director deems necessary and appropriate. (Amended 7-9-87, effective 8-10-87) {NOTE: was 252:100-8-35(k)}

252:100-8-36. Source impacting Class I areas

~~(a) Definitions.~~ The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

~~(1) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the Air Quality Division on a case by case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:~~

~~(A) times of visitor use of the Federal Class I area; and
(B) the frequency and timing of natural conditions that reduce visibility. [NOTE: Moved to 252:100-8-31]~~

~~(2) "Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative. [NOTE: Moved to 252:100-8-31]~~

~~(3) "Installation" means an identifiable piece of process equipment. (Amended 7-9-87, effective 8-10-87) [NOTE: in SC-1]~~

~~(4) "Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration. [NOTE: Moved to 252:100-8-31]~~

~~(5) "Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions. [NOTE: Moved to 252:100-8-31]~~

~~(a)(b) Permits issuance. Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts. [NOTE: was 252:100-8-36(b)]~~

~~(b)(e) Impact analysis required. The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Executive Director shall notify the appropriate Federal Land Manager of the receipt of any such analysis and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Executive Director provided that the analysis is filed with the DEQ Air Quality Division within 30 days of receipt of the application by the Land Manager. Where the Executive Director finds that such an analysis does not demonstrate to the satisfaction of the Executive Director that an adverse impact on visibility will result in the Federal Class I area, the Executive Director will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and sufficient information, by a Federal federal Land land Manager manager, the Executive Director may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be~~

exceeded. [NOTE: was 252:100-8-36(c)]

252:100-8-37. Innovative control technology

(a) An applicant for a permit for a proposed major source or modification may request the Executive Director in writing to approve a system of innovative control technology.

(b) The Executive Director may determine that the innovative control technology is permissible if:

(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(2) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for best available control technology under OAC ~~252:100-7-34~~ 252:100-8-34 by a date specified by the Executive Director. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

(3) The source or modification would meet the requirements equivalent to those in OAC ~~252:100-7-15~~ through ~~252:100-7-18~~ Parts 1 and 5 of this Subchapter and ~~252:100-7-36~~ 252:100-8-36 based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the Executive Director.

(4) The source or modification would not, before the date specified, cause or contribute to any violation of the applicable ambient air standards, or impact any Class I area or area where an applicable increment is known to be violated.

(5) All other applicable requirements including those for public review have been met.

(c) The Executive Director shall withdraw approval to employ a system of innovative control technology made under OAC ~~252:100-7-37~~ 252:100-8-37, if:

(1) The proposed system fails by the specified date to achieve the required continuous reduction rate; or,

(2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(3) The Executive Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with OAC ~~252:100-7-37(e)~~ 252:100-8-37(c), the source or modification may be allowed up to an additional 3 years to meet the requirement for application of best available control technology through the use of a demonstrated system of control.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50. Applicability

The new source requirements of this Section Part, in addition to the applicable requirements of OAC 252:100-7-15 through 252:100-7-18 and OAC 252:100-8 Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all major sources and major modifications affecting designated nonattainment areas as specified in OAC 252:100-7-51 252:100-8-51 through 252:100-7-53 252:100-8-53., and are effective upon adoption of this Subchapter by Oklahoma. Except that the requirements of Part 7 of this Subchapter will not be necessary for sources required to meet the permit requirements of the United States Environmental Protection Agency under Title 40 Part 52.24 of the Code of Federal Regulations. Sources subject to this Part which are Part 70 sources are also subject to the provisions of OAC 252:100-8.

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition. [NOTE: Moved to 252:100-8-1.1]

"Begin actual construction" means, in general, initiation of physical on site construction activities on an emissions unit

which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on site activities, other than preparatory activities, which mark the initiation of the change. [NOTE: Moved to 252:100-8-1.1]

"Building, structure, facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. [NOTE: Moved to 252:100-8-1.1]

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. [NOTE: Moved to 252:100-8-1.1]

"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. [NOTE: Moved to 252:100-8-1.1]

"Installation" means an identifiable piece of process equipment.

"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement;

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 8.

(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or

(vii) any change in source ownership.

"Major stationary source" means:

(A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,

(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.

(C) for ozone, a source that is major for volatile organic compounds shall be considered major.

~~"Necessary preconstruction approvals or permits" means those permits or approvals required under all air quality control laws and rules. [NOTE: Moved to 252:100-8-1.1]~~

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change

only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-7 252:100-8, Part 7 9, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

- (i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
- (ii) it is enforceable at and after the time that actual construction on the particular change begins;
- (iii) the reviewing authority has not relied on it in issuing any permit under State air quality rules; and,
- (iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source. [NOTE: Moved to 252:100-8-1.1]

"Reconstruction" means the replacement of components of an existing source (which will then be treated as a new source for purposes of Part 7 9 of this Subchapter) to the extent that will be determined by the Executive Director based on:

- (A) The fixed capital cost (the capital needed to provide all the depreciable components) of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source; and,
- (B) The estimated life of the source after the replacements is comparable to the life of an entirely new source; and,
- (C) the extent to which the components being replaced cause or contribute to the emissions from the source.

"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to

energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under Part 7 9 of this Subchapter.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purpose of OAC 252:100-7, Part 7, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. [NOTE: Moved to 252:100-8-1.1]

"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(A) Carbon monoxide: 100 tons per year (tpy),

(B) Nitrogen oxides: 40 tpy,

(C) Sulfur dioxide: 40 tpy,

(D) Particulate matter: 15 tpy of PM-10 emissions,

(E) Ozone: 40 tpy of volatile organic compounds, or

(F) Lead: 0.6 tpy.

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation. [NOTE: Moved to 252:100-8-1.1]

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 7 11 of this Subchapter are applicable are determined by size, geographical location and type of emitted pollutants:

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in 252:100-8-51, 252:100-8-1.1, and 252:100-1.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of OAC 252:100-7-15 through 252:100-7-18 and Part 7 Parts 1, 3, 5, and 9 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications which that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 5 7 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Pollutant	Concentration, ug/m ³				
	Averaging Time (hours)				
	Annual	24	8	3	1
SO ₂	1.0	5		25	
PM-10	1.0	5			
NO ₂	1.0				
CO			500		2000

(B) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(C) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in ~~OAC 252:100-7-52(3)~~ 252:100-8-52(3) are exempted from the condition of ~~OAC 252:100-7-54(4)(A)~~ 252:100-8-54(4)(A).

(D) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data

are available to account for the expected oxidation rate.
(E) The determination as to whether a source would cause or contribute to a violation of applicable ambient air standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

(F) Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:

(i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.

(ii) The new emission limitation limitations for the new source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.

252:100-8-53. Exemptions

(a) Nonattainment area requirements do not apply to a particular source or modification locating in or impacting on a nonattainment area if:

(1) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

- (A) carbon black plants (furnace process),
- (B) charcoal production plants,
- (C) chemical process plants,
- (D) coal cleaning plants (with thermal dryers),
- (E) coke oven batteries,
- (F) fossil-fuel boilers (or ~~combustion~~ combination thereof) totaling more than 250 million BTU per hour heat input,
- (G) fossil fuel-fired steam electric plant of more than 250 million BTU per hour heat input,
- (H) fuel conversion plants,
- (I) glass fiber processing plants,
- (J) hydrofluoric, sulfuric or nitric acid plants,
- (K) iron and steel mills,
- (L) kraft pulp mills,
- (M) lime plants,
- (N) municipal incinerators capable of charging more than 250 tons of refuse per day,
- (O) petroleum refineries,
- (P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,
- (Q) phosphate rock processing plants,
- (R) portland cement plants,

- (S) primary aluminum ore reduction plants,
 - (T) primary copper smelters,
 - (U) primary lead smelters,
 - (V) primary zinc smelters,
 - (W) secondary metal production plants,
 - (X) sintering plants,
 - (Y) sulfur recovery plants,
 - (Z) taconite ore processing plants, or
 - (AA) any other stationary source category which, as of August 7, 1980, is being regulated by ~~federal New Source Performance Standards (NSPS)~~ NSPS or ~~National Emission Standards for Hazardous Air Pollutants (NESHAP)~~ NESHAP.
- (2) A source or modification was not subject to 40 CFR Part 51, Appendix S (emission offset interpretative ruling) as in effect on January 16, 1979 and the source:
- (A) Obtained all final federal and state construction permits before August 7, 1980;
 - (B) Commenced construction within 18 months from August 7, 1980 or any earlier time required by the State Implementation Plan; and,
 - (C) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(b) Secondary emissions are excluded in determining the potential to emit (see definition of "potential to emit" in ~~0AC 252:100-7-51~~ 252:100-8-1.1). However, upon determination of the Executive Director, if a source is subject to the requirements on the basis of its direct emissions, the applicable requirements must also be met for secondary emissions but the source would be exempt from the conditions of ~~0AC 252:100-7-52(3)(F)~~ 252:100-8-52(3)(F) and ~~0AC 252:100-7-54(1)~~ 252:100-8-54(1) through ~~252:100-7-54(3)~~ 252:100-8-54(3). Also, the indirect impacts of mobile sources are excluded.

(c) As specified in the applicable definitions, the requirements of Part 5 7 for PSD and Part 7 9 for nonattainment areas of this Subchapter are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to the existing minor source is major in its own right.

252:100-8-54. Requirements for sources located in nonattainment areas

In the event a major source or modification would be constructed in an area designated as nonattainment for a pollutant for which the source or modification is major, approval shall be granted only if the following conditions are met:

- (1) The new source must demonstrate that it has applied control technology which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate (LAER) achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the ~~Federal Clean Air Act~~).
- (2) If the Executive Director determines that imposition of

an enforceable numerical emission standard is infeasible, due to technological or economic limitations on measurement methodology, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed as the emission limitation rate.

(3) The owner or operator of the new source must demonstrate that all other major sources owned or operated by such person in Oklahoma are in compliance, or are meeting all steps on a schedule for compliance, with all applicable limitations and standards under Oklahoma and Federal Clean Air Acts.

(4) The owner or operator of the new source must demonstrate that upon commencing operations:

(A) The emissions from the proposed source and all other sources permitted in the area do not exceed the planned growth allowable for the area designated in the State Implementation Plan; or,

(B) The total allowable emissions from existing sources in the region and the emissions from the proposed source will be sufficiently less than the total emissions from existing sources allowed under the State Implementation Plan at the date of construction permit application so as to represent further progress toward attainment or maintenance of the ambient air quality standards in the problem area.

(5) The owner or operator may present with the application an analysis of alternate sites, sizes and production processes for such proposed source.

APPENDIX I. INSIGNIFICANT ACTIVITIES LIST

Any Activity to which a State of federal applicable requirement applies is not insignificant even if it is included on this list.

COMBUSTION EQUIPMENT

* Stationary reciprocating engines burning natural gas, gasoline, aircraft fuels, or diesel fuel which are either used exclusively for emergency power generation or for peaking power service not exceeding 500 hours/year

Space heaters, boilers, process heaters, and emergency flares less than or equal to 5 MMBTU/hr heat input (commercial natural gas).

Emissions from stationary internal combustion engines rated less than 50 hp output

Emissions from gas turbines with less than 215 kilowatt rating of electric output

STORAGE TANKS/DISTRIBUTION

* Emissions from fuel storage/dispensing equipment operated solely for facility owned vehicles if fuel throughput is not more than 2,175 gallons/day, averaged over a 30-day period

* Storage tanks with less than or equal to 10,000 gallons capacity that store volatile organic liquids with a true vapor pressure less than or equal to 1.0 psia at maximum storage temperature

* Bulk gasoline or other fuel distribution with a daily average throughput less than 2,175 gallons per day, including dispensing, averaged over a 30-day period

Gasoline and aircraft fuel handling facilities, equipment, and storage tanks except those subject to New Source Performance Standards and standards in 252:100-37-15, 39-30, 39-41, and 39-48

Emissions from condensate tanks with a design capacity of 400 gallons or less in ozone attainment areas

Emissions from crude oil and condensate marine and truck loading equipment operations at crude oil and natural gas production sites where the loading rate does not exceed 10,000 gallons per day averaged over a 30-day period

* Emissions from crude oil and condensate storage tanks with a capacity of less than or equal to 420,000 gallons that store crude oil and condensate prior to custody transfer

* Emissions from storage tanks constructed with a capacity less than 39,894 gallons which store VOC with a vapor pressure less than 1.5 psia at maximum storage temperature

ANALYSIS/LABORATORY ACTIVITIES

Additions or upgrades of instrumentation or control systems that result in emissions increases less than the pollutant quantities specified in 252:100-8-3(e)(1)

EQUIPMENT

Alkaline/phosphate washers and associated burners
Cold degreasing operations utilizing solvents that are denser than air

* Welding and soldering operations utilizing less than 100 pounds of solder and 53 tons per year of electrodes

Wood chipping operations not associated with the primary process operation

* Torch cutting and welding of under 200,000 tons of steel fabricated per year

REMEDIATION

Site restoration and/or bioremediation activities of < 5 years expected duration

Hydrocarbon contaminated soil aeration pads utilized for soils excavated at the facility only

Emissions from the operation of groundwater remediation wells including but not limited to emissions from venting, pumping, and collecting activities subject to de minimis limits for air toxics (252:100-41-43) and HAPs (§112(b) of CAAA90)

SOLID WASTE

* Non-commercial water washing operations (less than 2,250 barrels/year) and drum crushing operations of empty barrels less than or equal to 55 gallons with less than three percent by volume of residual material

Hazardous waste and hazardous materials drum staging areas
Sanitary sewage collection and treatment facilities other than incinerators and Publicly Owned Treatment Works (POTW)
Stacks or vents for sanitary sewer plumbing traps are also included (i.e., lift station)

Emissions from landfills and land farms unless otherwise regulated by an applicable state or federal regulation

COATINGS

* Automobile body shops located in an ozone attainment area emitting less than 5 tons/year of volatile organic solvents

Electrophoretic-process coating application operations (i.e., paint bath positively charged, painted object negatively charged)

* Surface coating operations which do not exceed a combined total usage of more than 60 gallons/month of coatings, thinners, and clean-up solvents at any one emissions unit

MISCELLANEOUS

Exhaust systems for chemical, paint, and/or solvent storage rooms or cabinets, including hazardous waste satellite (accumulation) areas

Hand wiping and spraying of solvents from containers with less than 1 liter capacity used for spot cleaning and/or degreasing in ozone attainment areas

* Activities having the potential to emit no more than 5 TPY (actual) of any criteria pollutant (see instructions in Title V application)

* Appropriate records of hours, quantity, or capacity must be kept on the activity to verify its insignificance.

APPENDIX J. TRIVIAL ACTIVITIES LIST

Any activity to which a State or federal applicable requirement applies is not trivial even if it is included on this list.

AGRICULTURAL

Lawn care (noncommercial)
Weed control (noncommercial)
Pest control (noncommercial)
Herbicide and pesticide activities except for manufacturing and formulation for commercial sale

ANALYSIS/TESTING

Hydraulic or hydrostatic testing
Analysis/laboratory activities emissions from the following: air contaminant detectors, air contaminant recorders, combustion controllers, combustion shut-off devices, product analyzers, laboratory analyzers, continuous emissions monitors, other analyzers (eg., water quality), and emissions associated with sampling activities. Also, emissions from bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including assorted vacuum producing devices and vents but NOT lab fume hoods or vents
Site assessment work, including but not limited to, the evaluation of waste disposal or remediation sites
Emissions from instrument systems utilizing air or natural gas
Environmental field sampling operations
Sampling connections used exclusively to withdraw materials for testing and analysis, including air contaminant detectors and vent lines
Compressed gas cylinders and gases utilized for equipment calibration and testing

ANIMALS

Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized
Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating

BATTERY CHARGING

Industrial battery recharging and maintenance operations for batteries utilized within the facility only

BLOWDOWNS

Emissions from the blowdown depressurization during startup, shut down, maintenance or emergencies of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances

CLEANING

Acid washing (maintenance cleaning)
Caustic washing (maintenance cleaning)
Abrasive blasting
Steam cleaning
Carbon dioxide blasting equipment in degreasing or depainting
High pressure water depainting operations and aqueous industrial spray washers
Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes, except those systems used to collect particulate matter subject to 252:100 and hazardous and/or toxic air contaminants
Ultrasonic cleaning operations which do not utilize volatile organic compounds
Molten salt bath descaling operations
Natural gas water heating systems for fixed vehicle wash racks

COOLING TOWERS/BOILER WATER

Emissions from non-contact cooling towers (cooling water that has not been in contact with other materials or fluids containing regulated air pollutants)
Boiler water treatment operations
Deaerator units associated with boilers or hot water heating systems
Process water filtration systems and demineralizers
Demineralized water tanks and demineralizer vents

ELECTRIC POWER

Equipment associated with electrical power transmission which do not involve fuel-burning activities using transformers and substations
Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam

FIREFIGHTING

Emissions from fire or emergency response equipment and training to include use of fire control equipment including equipment for testing and training, engines used exclusively for firefighting, and open burning of materials or fuels associated with firefighting training. Buildings burned for firefighting training must still adhere to NESHAP for Asbestos.
Fire extinguishers and fire extinguishing systems

FUGITIVE EMISSIONS

Seal replacement (i.e., manhole gaskets)
Roof coating, service, and repair
Paving of roads, parking lots, and other areas
Vent emissions from gas streams used as buffer or seal gas in rotating pump and compressor seals
Emissions from natural gas odorizing activities
Emissions from pneumatic starters on reciprocating engines.

turbines, compressors, or other equipment

Gas flares or flares used solely to indicate danger to the public (e.g. road hazard)

Warehouse activities including the storage of packaged raw materials and finished goods

Non-routine clean out of tanks, lift stations, and equipment for the purposes of worker entry or in preparation for maintenance or decommissions

Unpaved roadways and parking areas

Gravel, sand and dirt storage for use in on-site construction projects

VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) regulated by a fugitive monitoring program where the total increase is less than one ton per year of any criteria pollutant or the de minimis set forth in 252:100-41-43. The component additions must be identified in the next scheduled monitoring report required by the applicable requirements. VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) not regulated by a fugitive monitoring program provided that no applicable requirement is triggered when components are added.

Fugitive emissions of jet fuels associated with aircraft fuel cell and fuel bladder repair

Fugitive emissions related to movement of passenger vehicles provided the emissions are not counted for applicability purposes or any required fugitive dust control plan or its equivalent is submitted

INSULATION

Insulation installing or removal (non-asbestos)

Application of refractory & insulation (calcium silicate, etc.)

LUBRICATING

Lubricating pumps, sumps, and systems

Emissions from engine crankcase vents and equipment lubricating sumps

MAINTENANCE

Welding, brazing, soldering for maintenance purposes

Use of adhesives for maintenance purposes

Grinding, cutting, sanding for maintenance purposes

Emissions from pipeline maintenance pigging activities

Maintenance, upkeep, and replacement types of activities, including those not altering the capacity of process, combustion or control equipment, and which do not increase regulated pollutant emissions unless subject to NESHP or NSPS

METALS

Equipment used for inspection of metal products

Die casting machines

Foundry sand mold forming equipment to which no heat is applied, and from which no organics are emitted

Equipment used exclusively to mill or grind coatings and holding compounds where all materials charged are in paste form (unless HAP emission)

Equipment used exclusively for rolling, forging, pressing, spinning, drawing, or extruding either hot or cold metals unless their emissions exceed any applicable regulated amount

Carbon monoxide lasers, used only on metals and other materials which do not emit HAP in the process

MISCELLANEOUS

Operations previously determined to be de minimis pursuant to 252:100-7-2(b)(3) or 252:100-41-43(a)(5)

Laser trimmers using dust collection to prevent fugitive emissions

Shock chambers

Humidity chambers

Solar simulators

MOBILE SOURCES

Mobile source emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, hydrostatic and hydraulic testing equipment, maintenance trucks, helicopters, locomotives, marine vessels, portable generators moveable by hand, portable pumps, portable air compressors, portable welding machines, and portable fuel tanks

Other on and off road mobile sources (i.e. coal stacker & reclaimer)

Well servicing/workover rigs and associated equipment

Well drilling rigs and associated equipment

Aircraft ground support (AGE) equipment, including but not limited to portable power generators, lights, and HVAC support

Vehicle exhaust from maintenance or repair shops

Road sanding and salting operations

OFFICE AND JANITORIAL

Janitorial services

Sweeping (Floor Sweep)

Office emissions (photocopying, blueprint copying, photograph processes)

OUTDOOR RECREATION

Outdoor recreational emissions (campfires, barbecue pits)

Open burning for the purpose of land management (must get permission from Air Quality Enforcement even though exempt from permitting)

Outdoor kerosene heaters

PLASTICS/FIBERGLASS

Plastic or fiberglass welding or repair

Sealing or cutting plastic film or foam with heat or wires

Processes used for the curing of fiberglass or paint products

REFRIGERANTS

Cold storage refrigerator equipment
De minimis refrigerant releases

RESIDENTIAL

Air conditioning or comfort ventilation systems not regulated under Title VI of the Clean Air Act

Emissions from residential housing units, dormitories, and multifamily dwellings to include fuel burning for the purposes of heating except prohibited open burning

SOLID WASTE

Solid waste landfill operations
RCRA Solid Waste Management Units subject to 40 CFR Part 265, Subparts AA, BB, and CC

SOLVENT

Emissions from laundry care equipment processing bedding, clothing or other fabric items. These include dryers, extractors, & tumblers. NOT CLEANING OPERATIONS USING PERCHLOROETHYLENE OR PETROLEUM SOLVENTS (i.e., dry cleaning)

Covered cold solvent degreasers not subject to federal emission standards (e.g. NESHP or NSPS)

STORAGE TANKS/DISTRIBUTION

Emissions from lube oil, seal oil, or hydraulic fluid storage tanks and equipment as long as not emitting VOCs or HAPs

Storage and use of chemicals unless otherwise regulated by an applicable state or federal regulation. These chemicals include, but not limited to: alum, ammonia, biocides, corrosion inhibitors, dechlorination chemicals, inorganic salts, acids or bases to include caustic and sulfuric acid, coagulants, flocculants, precipitants, surfactants, anti-foam chemicals, sealing inhibitors, oxygen scavengers, phosphates, polyelectrolytes, limestone slurry, lime and lime slurry, flue gas desulfurization system slurry, and sulfur slurry; propane and acetylene under pressure

Storage and use of products or equipment for maintaining motor vehicles operated at the site (including but not limited to antifreeze and fuel additives) not regulated under Title VI, CFC rules)

Emissions from tanks containing separated water produced from oil and gas operations

Commercial gasoline dispensing stations, including those located within the physical boundaries of a Title V source

Lubricants and waxes used for machinery and other equipment lubrication and emission from lubricating oil or hydraulic fluid storage tanks and equipment

Runway and aircraft de-icing activities, including de-icer storage tanks unless otherwise regulated

Storage tanks, reservoirs, and pumping and handling equipment of

any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized

SURFACE COATING

Surface coating for maintenance purposes such as roll/brush/pad coating, painting with aerosol cans, spray airless, and conventional spray painting

Touch-up painting operations where paints/coatings are applied at less than one quart per hour

WASTEWATER

Removal of basic sediment & water from collection/storage systems (i.e., clarifiers)

Water and wastewater treatment and transportation system

Pit, ponds, sumps, or wastewater conveyance facilities

Emissions from skimmer pits, oil/water separators, and maintenance of filter separators

Emissions from the removal of sludge or sediment from pits, ponds, sumps, or wastewater conveyance facilities

Industrial and/or municipal wastewater treatment processes (excluding combustion or incineration equipment), storage silos for dry material (sludges), composting, or grease trap waste handling or treatment

Ozonization process or process equipment including ozone generation for water treatment processes

Sanitary sewerage and storm water runoff collection systems

Emissions from dredging pits, ponds, sumps, or other wastewater conveyance facilities

WOODWORKING

Wood working (saw-cutting, staining & varnishing) (noncommercial)

Woodworking utilized for hobby purposes or maintenance of grounds or buildings

MINUTES
AIR QUALITY COUNCIL
Continued From December 16, 1997
January 9, 1998
Lincoln Plaza Office Park Burgundy Room
4545 North Lincoln, Oklahoma City, OK

Council Members Present

Larry Canter, Vice-Chairman
J. William "Bill" Fishback
Sharon Myers
Gary Kilpatrick
Meribeth Slagell
David Branecky

Staff Present

David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Larry Trent
Joyce Sheedy
Jeanette Buttram
Myrna Bruce

Council Members Absent

William B. Breisch, Chairman
Marilyn Andrews

Guests Present

**see attached list

PUBLIC MEETING

Notice of Continued Public Meeting for January 9, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. The January 9, 1998 agenda contained items from the December 16, 1997 agenda exclusively. Copies of the agenda were posted at the entrance doors of the meeting room.

Call to Order – Dr. Canter, Vice-Chairman, called the meeting to order and roll call was taken as follows: Mr. Fishback - aye; Ms. Myers - aye; Mr. Kilpatrick - aye; Ms. Slagell - aye; Mr. Branecky - aye; Dr. Canter - aye. Mr. Breisch and Ms. Andrews were absent.

PUBLIC HEARING

OAC 252:100-8 OPERATING PERMITS (PART 70) [AMENDED]

As protocol officer, Mr. Dyke convened the hearing by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A. Oklahoma Statutes, Section 2-5-101 through 2-5-118. Mr. Dyke then called upon Dr. Joyce Sheedy to give staff's position.

Dr. Sheedy stated that the proposed revisions to Subchapter 8 are to correct the deficiencies in the interim Title V Program as identified by EPA in their February 5, 1996 notice of approval of the interim program. After summarizing the changes, Dr. Sheedy stated that staff's recommendation was for Council to forward this rule to the Environmental Quality Board for approval as both emergency and permanent rule.

Mr. Kilpatrick made motion that Council recommend this rule to the Board for permanent and emergency adoption. Second was made by Mr. Fishback. Roll call as follows: Mr. Fishback – aye; Ms. Myers – aye; Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Branecky – aye; Dr. Canter – aye.

OLD BUSINESS

OAC 252:100-5 REGISTRATION OF AIR CONTAMINANT SOURCE [AMENDED]

Mr. Dyke then called upon Ms. Jeanette Buttram to give staff's position. With no additional changes made, Ms. Buttram stated that staff recommended that Subchapter 5 be approved by Council and recommended to the Environmental Quality Board for emergency and permanent adoption.

Mr. Fishback moved that Council adopt Subchapter 5, as presented, to the Environmental Quality Board for both emergency and permanent adoption. Mr. Branecky made the second to the motion. Roll call as follows: Mr. Fishback – aye; Ms. Myers – aye; Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Branecky – aye; Dr. Canter – aye.

**OAC 252:100-7 CONSTRUCTION PERMITS FOR MAJOR AND MINOR SOURCES;
OPERATING AND RELOCATION PERMITS FOR MINOR SOURCES [AMENDED]**

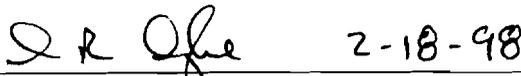
Mr. Dyke called upon Ms. Jeanette Buttram to give staff's position on this rule. With one additional change, Ms. Buttram stated that staff recommended that Subchapter 7 be approved by Council and recommended to the Environmental Quality Board for emergency and permanent adoption. Mr. Fishback made the motion that Subchapter 7, including the change to Appendix H regarding wire drawing equipment, be approved by the Council and recommended for adoption to the Environmental Quality Board as permanent and emergency rule. The second was made by Ms. Myers. Roll call was as follows: Mr. Fishback – aye; Ms. Myers – aye; Mr. Kilpatrick – aye; Ms. Slagell – aye; Mr. Branecky – aye; Dr. Canter – aye.

ADJOURNMENT: With no further business, Dr. Canter adjourned stating that the next regularly scheduled meeting would be February 18, 1998 at the Lincoln Plaza Office Park Burgundy Room, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the hearing records are attached as an official part of these Minutes.



LARRY CANTER, VICE-CHAIRMAN
AIR QUALITY COUNCIL



DAVID R. DYKE, DIRECTOR
AIR QUALITY DIVISION

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

JANUARY 9, 1998

NAME	AFFILIATION	ADDRESS	ORAL COMMENT YES/NO
1 Frank Erwin	City of Tulsa	2445 S Jackson Av No 74107	
2 Robert Eddington	ARMSTRONG	4115 N. Perkins STILLWATER MO	
3 Pat Davenport	National Standard	3602 N. Perkins Rd. Stillwater	
4 Doyle McWhites			
5 Rick Teltman	OGFA	Box 1307 Eud., OK 73702	
6 Joe N Hampton	"	2305 N 10th " " 73701	
7 Adrian Sumner	ODEG	1000 NE. 10th	
8 Kyle Patton	"	"	No
9 Don Inelore	RSA		No
10			
11			
12			
13			
14			
15			
16			

AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-8
OPERATING PERITS (PART 70) [AMENDED]

Subchapters or Sections Involved – [new, amended or revoked]

On JANUARY 9, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

(mark as appropriate)

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,

 Date signed: 1/9/98
Chair or Designee

VOTING TO APPROVE:

Larry Canter
J. William "Bill" Fishback
Sharon Myers
Gary Kilpatrick
Meribeth Slagell
David Branecky

VOTING AGAINST:

ABSTAINING:

ABSENT:

William B. Breisch
Marilyn Andrews

BRIEFING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Tuesday - December 15, 1998 9:30 A.M.
4545 North Lincoln Boulevard
Burgundy Room
Oklahoma City, OK

1. **Call to Order – Bill Breisch**
2. **Division Director's Report - Staff**
 - A. Update of current events and AQD activities
 - B. Discussion by Council / Public
3. **OAC 252:100-7 Permits for Minor Facilities [AMENDED]**

Proposed revisions will delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will also be referenced under this new Part. Continued from August 18 and October 20, 1998 Air Quality Council meeting.

 - A. Presentation – Jeanette Buttram
 - B. Questions and discussion by Council / Public
4. **OAC 252:100-8-4(a)(2) Permits for Part 70 Sources [AMENDED]**

The Department proposes to update the incorporation by reference of the case-by-case MACT rules in 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
5. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**

Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18, 1998 Air Quality Council meeting.

 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public

6. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18 and October 20, 1998 Air Quality Council meeting.
- A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
7. **OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7-3 Permits for Minor Facilities [AMENDED]
OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is proposing increases in annual operating fees for both minor facilities and Part 70 sources, with increases of specific permit application fees in Subchapters 7 and 8.
- A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public

HEARING/MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULAR MEETING
AIR QUALITY COUNCIL

Tuesday December 15, 1998 1:00 P.M.
4545 North Lincoln Boulevard
Burgundy Room
Oklahoma City, OK

- 1. Call to Order – Bill Breisch**
- 2. Roll Call – Myrna Bruce**
- 3. Approval of Minutes of the October 20, 1998 Regular Meeting**
- 4. OAC 252:100-7 Permits for Minor Facilities [AMENDED]**
Proposed revisions will delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emissions standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit. Also, a new Part 9 is proposed that will outline the requirements necessary for a facility to qualify for PBR. Each subchapter containing a PBR for specific facilities will also be referenced under this new Part. Continued from August 18 and October 20, 1998 Air Quality Council meeting.
 - A. Presentation – Jeanette Buttram**
 - B. Questions and discussion by Council / Public**
 - C. Possible action by Council**
 - D. Roll call vote**
- 5. OAC 252:100-8-4(a)(2) Permits for Part 70 Sources [AMENDED]**
The Department proposes to update the incorporation by reference of the case-by-case MACT rules in 40 CFR 63.41, 63.43, and 63.44 to July 1, 1998.
 - A. Presentation – Joyce Sheedy**
 - B. Questions and discussion by Council / Public**
 - C. Possible action by Council**
 - D. Roll call vote**

6. **OAC 252:100-37 Control of Emissions of Organic Materials [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. A substantive change deletes a sentence regarding fuel-burning and refuse-burning equipment resolving a contradiction. Continued from August 18 and October 20, 1998 Air Quality Council meetings.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

7. **OAC 252:100-39 Emissions of Organic Materials in Nonattainment Areas [AMENDED]**
Proposal would simplify the language under the agency-wide re-right/de-wrong initiative and exclude acetone and methylated siloxanes from the definition of VOC. Continued from August 18 and October 20, 1998 Air Quality Council meetings.
 - A. Presentation – Joyce Sheedy
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

8. **OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**
OAC 252:100-7 Permits for Minor Facilities [AMENDED]
OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]
In Subchapter 5, the Department is proposing increases in annual operating fees for both minor facilities and Part 70 sources, with increases of specific permit application fees in Subchapters 7 and 8.
 - A. Presentation – Shawna McWaters-Khalousi
 - B. Questions and discussion by Council / Public
 - C. Possible action by Council
 - D. Roll call vote

9. **NEW BUSINESS**
 - A. Discussion/consideration of subjects / business arising within past 24 hours
 - B. Possible action by Council

10. **ADJOURNMENT – Next Regular Meeting**
WEDNESDAY, FEBRUARY 17, 1999
DEQ Multi-Purpose Room, First Floor
707 North Robinson, Oklahoma City, Oklahoma

December 1, 1998

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Director *CT.*
AIR QUALITY DIVISION

SUBJECT: Modifications to Subchapter 8
PERMITS FOR PART 70 SOURCES

Enclosed is a copy of the proposed modifications to OAC 252:100-8 that will be brought to public hearing on December 15, 1998 along with the rule impact statement. These revisions to OAC 252:100-8-4(a) consist of updating the adoption by reference of the requirements for case-by-case MACT determinations by adopting 40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 as they exist on July 1, 1998.

Staff will suggest that the proposed rule be recommended to the Environmental Quality Board for permanent adoption.

Enclosure: 2

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) Construction permit required. No person shall cause or allow the construction or installation of any new facility that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required for any physical change that would be a modification under 252:100-8-7.2(b). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) Requirement for case-by-case MACT determinations.

(A) Applicability. The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) Exclusions. The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) MACT determinations. If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, ~~1997~~1998.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 8**

RULE IMPACT STATEMENT

252:100-8, PERMITS FOR PART 70 SOURCES [AMENDED].

Before the Air Quality Council December 15, 1998.

Before the Environmental Quality Board February 26, 1999.

1. **DESCRIPTION:** The proposed revisions to 252:100-8-4(a)(2)(C) of Subchapter 8, Permits for Part 70 Sources, consist of updating the adoption by reference of the requirements for MACT determinations contained in 40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 to July 1, 1998.
2. **CLASSES OF PERSONS AFFECTED:** Owners or operators who construct or reconstruct a major source of hazardous air pollutants after June 29, 1998, may be affected.
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** Owners or operators who construct or reconstruct a major source of hazardous air pollutants after June 29, 1998, who are required to determine case-by-case MACT.
4. **CLASSES OF PERSONS BENEFITTED:** The citizens of the state who will be protected from exposure to hazardous air pollutants.
5. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** None. The federal rules proposed for incorporation by reference are currently applicable to the affected classes of persons. Thus the state's adoption of these rules will not cause a new economic impact on such classes.
6. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** See #5 above.
7. **COOPERATION OF POLITICAL SUBDIVISION REQUIRED TO IMPLEMENT OR ENFORCE RULE:** No.
8. **COST TO DEQ TO IMPLEMENT AND ENFORCE:** No added cost.
9. **COST TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** None. No other agencies will be implementing this rule.
10. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR**

OTHER AGENCIES, IF IT CAN BE PROJECTED: None.

11. **LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** None. Adopting these federal rules will streamline the regulatory and permitting processes for the affected classes of persons.

12. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** None. The federal rules proposed for incorporation by reference are currently applicable to the affected classes of persons. Thus the state's adoption of these rules will not cause a new impact on such classes.

RULE IMPACT STATEMENT WAS PREPARED ON: November 16, 1998.

MINUTES

AIR QUALITY COUNCIL

DECEMBER 15, 1998
Lincoln Plaza Office Complex
Burgundy Room
4545 North Lincoln Boulevard
Oklahoma City, OK

Council Members Present

William B. Breisch, Chairman
Larry Canter
David Branecky
Sharon Myers
Joel Wilson
Fred Grosz

Staff Present

Eddie Terrill
David Dyke
Dennis Doughty
Barbara Hoffman
Ray Bishop
Linn Wainner

Staff Present

Scott Thomas
Jeanette Buttram
Shawna McWaters-Khalousi
Joyce Sheedy
Myrna Bruce
Cheryl Bradley
Becky Mainord

Council Members Absent

Gary Kilpatrick
Meribeth Slagell

Guests Present

**see attached list

PUBLIC MEETING

Notice of Public Meeting for December 15, 1998 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance door of the meeting room.

Call to Order - Mr. Breisch, Chairman, called the meeting to order and roll call was taken as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye; Mr. Kilpatrick and Ms. Slagell did not attend.

Approval of Minutes - Mr. Breisch entertained a motion to approve the Minutes of the October 20, 1998 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Mr. Branecky. Roll call as follows: Dr. Canter - aye; Ms. Myers - aye; Dr. Grosz - aye; Mr. Branecky - aye; Mr. Wilson - aye; Mr. Breisch - aye.

PUBLIC HEARINGS

Protocol Statement - As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-101 through 2-5-118. Mr. Dyke entered into the hearing records the Hearing Agenda and Oklahoma Register Notice.

OAC 252:100-7 Permits [AMENDED]

Mr. Dyke called upon Ms. Jeanette Buttram for staff recommendation to Council. Ms. Buttram advised that proposed revisions delete the lower limit of 5 tons per year for Permit by Rule (PBR) facilities allowing those facilities with less than 5 tons per year emissions which are subject to new source performance standards and national emission standards for hazardous air pollutants to apply for a PBR instead of having to obtain an individual permit.

Also a new Part 9 is proposed which will outline the requirements necessary for a facility to qualify for PE. Each subchapter containing a PBR for specific facilities would also be referenced under this new Part. Within Part 9, Section 252:100-7-60.3 was written due to the proposed PBR section for VOC storage and loading facilities in Subchapter (SC) 37. Staff recommendation for SC 37 will be to continue the rule until the February AQC meeting. Therefore, staff suggests the proposed new section be deleted from the rule and added once the PBR in SC 37 is approved. Mr. Branecky requested clarification of which part of the rule was being deleted. Ms. Buttram confirmed the suggestion to recommend the proposed rule, excluding Section 252:100-7-60.3, to the Environmental Quality Board for permanent adoption.

Following discussion and comments, Chairman Breisch entertained a motion to recommend this rule to the Environmental Quality board at the next meeting. Dr. Grosz made that motion with second made by Ms. Myers. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100:8-4(a)(2) Permits for Part 70 Sources [AMENDED]

Mr. Dyke called upon Ms. Joyce Sheedy for staff recommendation regarding this rule. Dr. Sheedy advised that these amendments update the incorporation by reference of the case-by-case MACT determinations for Part 70 sources in 252:100-8-4 (a)(2)(C) by adopting 40 CFR 63.41, 63.43, and 63.44 as they exist on July 1, 1998. Dr. Sheedy advised that this update would be made annually.

Mr. Breisch entertained motion recommending adoption as permanent rule by the Environmental Quality Board. Mr. Branecky made the motion with the second being made by Mr. Wilson. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100-37 Control of Emissions of Organic Materials (AMENDED)

Mr. Dyke called upon Dr. Joyce Sheedy who advised that proposed changes primarily simplify language and correct grammar and format but also include various substantive changes. Dr. Sheedy explained that one substantive change alters the definition of volatile organic compound (VOC) to make it reflect EPA's definition of VOC. Dr. Sheedy then stated the staff's recommendation to continue this rule until the February Council meeting because of remaining controversy.

Council discussion followed. Mr. Wilson expressed concern about SC 37 being open for so long with no action taken. During public discussion, Mr. Bradshaw from Boeing reiterated Mr. Wilson's concern. Mr. Bradshaw further explained that the specific point of concern for Boeing and American Airlines is the definition of VOC. He said the members of his industry would like to see the definition amended as soon as possible. Ms. Hoffman responded by explaining that it is the intent of the staff to have all remaining issues with SC 37 resolved and to recommend approval of the rule by the Council. She further explained that if the rule is

approved by the Council in February, there would be time to get the packet of information to the Environmental Quality Board before the March 5, 1999 meeting.

Mr. Breisch entertained a motion to continue this rule to Council's February meeting. Ms. Myers made motion with second made by Dr. Grosz. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

OAC 252:100-39 Control of Organic Materials in Nonattainment Areas [AMENDED]
Mr. Dyke called upon Dr. Joyce Sheedy for staff recommendation. Dr. Sheedy pointed out that the proposed changes primarily simplify language and correct grammar and format but also include some substantive changes. Dr. Sheedy explained that written comments, staff responses and details of the substantive changes were summarized in the Council packet. Dr. Sheedy submitted the written letters from EPA and EFO for hearing record.

There were no questions or comments from the Council or from the public.

Following discussion, Mr. Breisch entertained a motion to continue this rule to the Council's February 17, 1999 meeting. Mr. Branecky made that motion with the second made by Ms. Myers. Roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes

OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]

OAC 252:100-7 Permits [AMENDED]

OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

This subject was first brought before the Council on October 20, 1998 at which time the Council voted to continue the hearing until the December 15, 1998 Council meeting. The presentation for this public hearing consisted of several staff members. Mr. David Dyke began by informing those present that written comments have been received from the Environmental Federation of Oklahoma, Mid-Continent Oil and Gas Association, and the Small Business Advisory Panel. These comments and staff responses were submitted for official record. Mr. Dyke continued to explain the Division's anticipated increase in workload and discussed other factors contributing to the request for fee increases.

Mr. Dyke called upon Mr. Scott Thomas to describe the upcoming rulemaking activities. Mr. Thomas explained that the Division's rulemaking goals were designed according to proposed rules received from the EPA, instruction from the State Legislature to review all of our rules by December 2000, and efforts to go forward with the agencies directive and goals of the permit continuum. Mr. Thomas also stated that in order to accomplish these goals, additional staff would be required or the rulemaking priorities would have to be refined. Mr. Ray Bishop came forward to elaborate upon the need for additional permitting staff. He stated that even though the Permit program has instituted a number of time-saving and efficiency efforts, the Division does not anticipate meeting the impending Title V time frames and deadlines with the current staff. He also reviewed the non-Title V activities required of the permitting

staff. Mr. Terrill commented regarding potential actions that could occur at the federal level and consequently affect the Division.

Finally, Mr. Dyke called upon Ms. Shawna McWaters-Khalousi to explain the proposed fee increases and how they were derived. Staff recommended approval by the Council. Mr. Dyke summarized staff's position by stating that even though services and spending levels are reduced from previous years, the current level of services and management of oncoming issues cannot be maintained without additional staff. Mr. Dyke assured that the Division would not compromise the environmental protection, but be forced to shift and prioritize resources ultimately resulting in reduced services provided.

After extensive comment and discussion from the Council, the public and members of industry, Mr. Breisch entertained, and Mr. Branecky made the motion that: In SC 5, annual operating fees for minor facilities and for Part 70 sources be increased to \$17.12 per ton; In SC 7, the fee for minor source applicability determinations be increased to \$250 and the fees for all types of individual minor source permits be doubled; and In SC 8, the fee for major source applicability determinations be increased to \$250. Ms. Myers made the second to Mr. Branecky's motion with roll call as follows: Dr. Canter – aye; Ms. Myers – aye; Dr. Grosz – aye; Mr. Branecky – aye; Mr. Wilson – aye; Mr. Breisch – aye.

Copy of hearing transcript attached and made an official part of these minutes.

NEW BUSINESS The Council requested a monthly financial statement from Mr. Coleman's office. This information would enable the Finance Committee to monitor the cash flow of the AQD and work toward avoiding future budgetary shortfalls. Additionally, the Council requested that a comprehensive and detailed list of tasks that would be billed to Title V expenditures be created. This list would be a guideline for staff to follow when accounting time and effort. Finally, a request was made for additional state appropriations for a workload study that will determine staffing priorities.

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be February 17, 1999 at the Department of Environmental Quality Multi-Purpose Room, First Floor, 707 North Robinson, Oklahoma City, Oklahoma.

NOTE: The sign-in sheet and the copies of hearing records are attached as an official part of these Minutes.

William B. Breisch, Chairman
Air Quality Council

Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Public Hearing and Meeting

Attendance Record

DECEMBER 15, 1998

SIGN-IN SHEET Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Robert A. Fiddling, Jr	ARMSTRONG	405-377-1283 x14
2. Bill Fishbeck	MOBIL	405-348-8683
3. Kim Warren	ENERCON	405- 388 ⁷²² 7693
4. Stanley M. Spruiell - EPA Tulsa, TX	EPA - Air Permits	214 739-0804
5. Carol Barker TAFB	EMV	736-7246
6. Carlos Nazario TAFB	EMV	734-7071
7. Kevin Clavner TAFB	LAPER	736-5986
8. Pat Davenport	National Std.	405/3775050
9. David Bradshaw	Tulsa	918/832/2073
10. Kip Ruff	Tulsa	918/832/3178
11. John Sims	OKC	405-672-3400
12. Mike Wood/Weyco	Hot Springs, AR	501-624-8569
13. Rick Boggs/GCS	ANADARKO, OK	405/577-3186
14. Dustin Givens	Fort James	918/683-7671
15. Steve Landers	" "	" " "
16. Howard Ground	CSW	214-777-1711
17. Nadine Barton	CASE	
18. Kyle Orin	OTDQA	405-702-6112
19. John COAKLEY	EQ Board	580-726-2189
20. John Wheeler	Trinity	972-661-8100
21. Shauna McWater/Khalai	AAD	(405) 702-4100
22. Paul Emery	Phillips Pet	918-661-3041
23. Andrew Livingston	Sinclair Oil Corp	918-588-1127
24.		
25.		

AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
9:00 A.M.
Wednesday, June 14, 2000
OSU @ Tulsa
700 North Greenwood
Tiered Lecture Hall (North Hall 150)

1. **Call to Order – David Branecky**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the April 19, 2000 Regular Meeting**
4. **PUBLIC RULEMAKING HEARINGS**

A. OAC 252:3-5 Air Quality Advisory Council Hearings [NEW]
Appendix B Style of Request for Hearing [NEW]

The proposed addition to Chapter 3 would establish Council procedures for individual proceedings on enforcement matters and requests for variance. A new Appendix B would be added.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for emergency adoption

B. OAC 252:100-7 PERMITS FOR MINOR FACILITIES [AMENDED]

The proposed changes to SC7 consist of the addition of sections 60.3, 60.4, and 60.5. Proposed sections 60.3 and 60.4 reference the existing permits by rule for VOC storage and loading facilities and particulate matter facilities, respectively. Section 60.5 is the proposed permit by rule for natural gas compression facilities.

1. Presentation – Barbara Hoffman
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

C. OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

The proposed changes to SC 8 would amend sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 8, 31, 33, and 52. The changes correct errors, clarify language, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. A substantive change is also proposed for the definition of "major stationary source" in section 31.

1. Presentation – Barbara Hoffman
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

D. OAC 252:100-29 Control of Fugitive Dust [AMENDED]

The proposed changes would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. A substantive change is included which would make the rule more enforceable by deleting the qualification that the fugitive dust be emitted to such an extent as to be classified as air pollution, before precautions are required.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

5. Division Director's Report – David Dyke

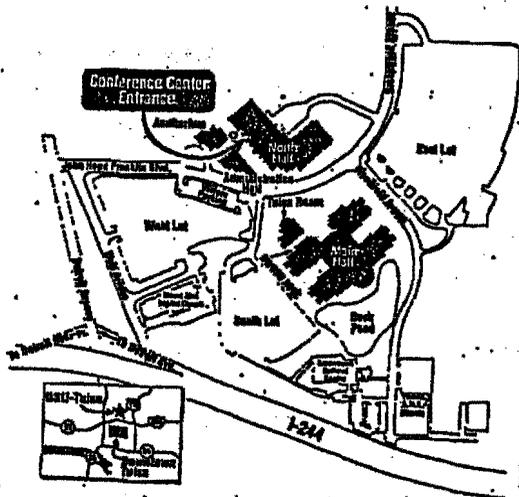
6. New Business – Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

7. Adjournment – Next Regular Meeting

Date and Time: August 16, 2000 @ 9:00 a.m.

**Place: Pioneer Technology Center
Education Business Center
2101 North Ash Street
Ponca City, OK 74601**

Lunch Break, if necessary



How to get to OSU-Tulsa

700 North Greenwood Ave. • Tulsa, Oklahoma 74106 • (918) 594-8000

Welcome to OSU-Tulsa. If this is your first visit, simply look for the highway you will be using and follow the corresponding instructions.

From Norman Turnoff from Oklahoma City and west
From I-44, exit 73 North (Bartlesville). When you reach the downtown area, stay in the center lane and follow the signs for I-244 East (Joplin). Exit Cincinnati/Detroit Avenues. Go to the second light, turn left onto Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

SH-64/51 (Broken Arrow Expressway)
From the BA Expressway, exit at 73 North (Bartlesville). Move to the far left lane. Take the I-244 West exit. Then take the next exit, Cincinnati/Detroit Avenues. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

I-244 (Crownpoint Expressway from the east)
Follow I-244 West to downtown Tulsa. When the highway splits, stay in the lane marked I-244 West (CKC). Take the next exit, Cincinnati/Detroit Avenues. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.

US-75 (from the north)
Follow US-75 South to I-244 West (CKC). Take the next exit, Cincinnati/Detroit Avenues. Turn right on Detroit Avenue. Move into the right lane. Watch for the campus on the right. Turn right on John Hope Franklin Boulevard.



June 1, 2000

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Division Director
Air Quality Division

SUBJECT: Modifications to Subchapter 8

ET
for

Enclosed is a copy of the proposed draft modifications to Subchapter 8, Permits for Part 70 Sources. After several years of implementing this Subchapter, various errors, inconsistencies, and ambiguities have surfaced which need to be corrected. Since we are still issuing the first round of Part 70 permits and have already begun modifying those that have been issued, we believe it is better to tackle these issues now rather than later.

The proposed changes to Subchapter 8 would amend sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 8, 31, 33, and 52. In addition to correcting errors and clarifying language, the proposed changes add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) clarify that de minimis emissions increases do not require construction permits, but that additions of equipment that are subject to NSPS or NESHAP would. The changes in section 5(d)(1)(A) clarify that BACT is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting requirements. A substantive change is proposed for the definition of "major stationary source" in section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The changes to section 52 were adopted in 1989 but were accidentally excluded during codification of the rules.

If no substantive, adverse comments are received during the comment period or at the public hearing on these changes, staff will ask the Council to recommend these changes to the Environmental Quality Board for adoption as emergency and permanent rules.

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 1. GENERAL PROVISIONS

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

"A stack in existence" means for purposes of 252:100-8-1.5 that the owner or operator had:

(A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or

(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

"Administrator" means the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Allowable emissions" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition.

"Begin actual construction" for purposes of Parts 7 and 9 of this Subchapter means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

"Commence" for purposes of Parts 7 and 9 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

"Dispersion technique" means for purposes of 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of

a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emission limitations and emission standards" means for purposes of 252:100-8-1.5 requirements that limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87)

"Emissions unit" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation.

"EPA" means the United States Environmental Protection Agency.

"Fugitive emissions" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules.

"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.

"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of this Subchapter, as provided in 252:100-8-3(a) and 252:100-8-3(b).

"Potential to emit" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. ~~For the purpose of 252:100-8, Part 9, secondary~~ Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

- (A) emissions from trains coming to or from the new or modified stationary source; and,
- (B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification.

"Stack" means for purposes of 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to 252:100.

252:100-8-1.4. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) **Cancellation of permit or authorization to construct or modify.** A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection (b) of this Section) if the construction is not commenced within 18 months after the date the permit or authorization was issued, or if work is suspended for more than 18 months after it has commenced.

(b) **Extension of permit or authorization to construct or modify.**

(1) Prior to the expiration date of the permit or authorization, a permittee may apply for extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

- (A) One extension of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site, or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under 252:100-8-1.4(b)(1)(B) or 252:100-8-1.4 (b)(1)(C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information.

252:100-8-1.5. Stack height limitations

(a) **Stack height exclusion.** Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) **Determination of good engineering practice (GEP) stack height.** GEP stack height shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either 252:100-8-1.5(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under 252:100-8 or 40 CFR Part 52, $H_g = 2.5H$, provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks, $H_g = H + 1.5L$, where:

(i) H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

(ii) H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

(iii) L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive

concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c) Nearby.

(1) For the formulae in 252:100-8-1.5(b)(2). A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in 252:100-8-1.5(b)(3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (Ht) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in 252:100-8-1.5(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) **Measurement of height of structure or terrain.** The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d) Excessive concentrations. When utilized for the purpose of determining GEP stack height under 252:100-8-1.5(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under ~~262:100-8-1.5(b)(2)~~ 252:100-8-1.5(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 7 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Executive Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Executive Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under 252:100-8-1.5(b)(2) where the Executive Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after

November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

- (1) **Applicability determination.** \$250, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.
- (2) **Construction permit application.** ~~The fee is \$2,000.~~
 - (A) New Part 70 source - \$2,000.
 - (B) Minor modification of a Part 70 source - \$1,000.
 - (C) Significant modification of a Part 70 source - \$1,500.
 - (D) Authorization under a general permit - \$900.
- (3) **Operating permit application.**
 - (A) Initial Part 70 permit - \$2,000.
 - (B) Authorization under a general permit - \$900
 - (C) Renewal Part 70 permit - \$1,000.
 - (D) Significant modification of Part 70 permit - \$1,000.
 - (E) Minor modification of Part 70 permit - \$500.
 - (F) Part 70 Temporary Source Relocation - \$500.

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

"**Administratively complete**" means an application that provides:

- (A) All information required under 252:100-8-5(c), (d), or (e);
- (B) A landowner affidavit as required by 252:2-15-20(b)(3);
- (C) The appropriate application fees as required by 252:100-8-1.7; and
- (D) Certification by the responsible official as required by 252:100-8-5(f).

"**Affected source**" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

(A) all states:

- (i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and
 - (ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed;
- or

(B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

(A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan, promulgated in 40 CFR Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

"Designated representative" means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the DEQ offers public participation under 27A O.S.Supp. 1995, §2-14-101 *et seq.* and 252:100-2-15 or affected State review under 252:100-8-8.

"Emergency" means, when used in 252:100-8-6(e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method. [Moved from 252:100-8-6(e)(1).]

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"Final permit" means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by 252:100-8-7 through 252:100-8-7.5 and 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) through (C) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

(C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in 252:100-41-40.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition.

For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or.

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except TSP that fraction of particulate matter that exhibits an average aerodynamic particle diameter of more than 10 micrometers) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;

- (xix) Secondary metal production plants;
 - (xx) Chemical process plants;
 - (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.
- (C) A major stationary source as defined in part D of Title I of the Act, including:
- (i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
 - (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
 - (iii) For carbon monoxide non-attainment areas:
 - (I) that are classified as "serious"; and
 - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
 - (iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

"Permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a Part 70 construction or operating permit that meets the requirements of 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in 252:100-5-2.2 (whether such costs

are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic compound (VOC), including those substances defined in 252:100-1-3, 252:100-37-2, 252:100-39-2, ~~or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2, or any organic material defined in 252:100-37-2~~ except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation

of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. 2-5-101 *et seq.* as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J. ~~Any activity to which a State or federal applicable requirement applies is not trivial even if included on the trivial activities list.~~

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3. Applicability

(a) **Covered sources.** Except as exempted from the requirement to obtain a permit under subsection (b) of this Section or elsewhere in this Subchapter, the sources listed below are subject to the permitting requirements under this Subchapter. A ~~covered~~ major source or major stationary source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section.

(1) Any major source (as defined in 252:100-8-2);

(2) Any source subject to a NSPS;

- (3) Any source, including an area source, subject to a NESHAP;
- (4) Any affected source (as defined in 252:100-8-2);
- (5) Any source in a source category designated by the Administrator pursuant to 40 CFR §70.3; and
- (6) Any major stationary source (~~required to have a permit under as defined in~~ Parts 7 or 9 of this Subchapter).

(b) Source category exemptions.

(1) All sources listed in subsection (a) of this section that are not major sources, major stationary sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA – Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M – National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation.

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) **Construction permit required.** No person shall ~~cause or allow the begin actual~~ construction or installation of any new ~~facility~~ source that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required to add a piece of equipment or a process that is subject to NSPS or NESHAP or for any physical change that would be a modification under 252:100-8-7.2(b) increase actual emissions more than 5 tons per year of any criteria pollutant, more than 2 tons per year of any one HAP, or more than 5 tons per year of two or more HAPs. In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) **Requirement for case-by-case MACT determinations.**

(A) **Applicability.** The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or

operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 1998.

(b) **Operating permits.**

(1) **Operating permits required.** Except as provided in subparagraphs (A) and (B) of this section, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a Part 70 permit submits a timely application for Part 70 permit issuance or renewal, that source's failure to have a Part 70 permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph (A) of this section. The source's failure to have a Part 70 permit shall be deemed a violation of this Subchapter.

(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) **Duty to apply.** For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) **Application submittal schedule.** The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

- (I) Petroleum and Natural Gas, 1311;
- (II) Natural Gas Liquids, 1321;
- (III) Electric Services, 4911, 4961;
- (IV) Natural Gas Transmission, 4922;
- (V) Natural Gas Transmission and Distribution, 4923; and
- (VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,
- (ii) Brick Plants, 3251, 3297,
- (iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Refineries, 2911;
- (ii) Cement Plants, 3241;
- (iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;
- (iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;
- (v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) **Newly regulated sources.** A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program

under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Uniform Permitting Rules, 252:2-15-70 and the definition of administratively complete in 252:100-8-2.

252:100-8-5. Permit applications

(a) **Confidential information.** If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

(b) **Duty to supplement or correct application.** See 252:100-6-50(e).

(c) **Standard application form and required information.** Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the information required by 252:100-8-5(d) and/or 252:100-8-5(e) be provided.

(d) **Construction permit applications.**

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include but not be limited to site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) **BACT determination.** To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case by case basis, taking into account energy, environmental, ~~cost~~ and economic impacts and other costs of alternative control systems. Unless required under Part 7 of this Subchapter, a BACT determination is not required for a modification that will result in an increase of emissions of less than 100 tons per year of any regulated air pollutant.

(B) **Modeling.** Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant.

(C) **Sampling points.** If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. ~~[NOTE: 252:100-8-1.4(b)(1) was taken from 252:100-7-15(b)]~~

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in 252:100-8-5(e) to the extent they are applicable.

(e) Operating permit applications.

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this subsection 252:100-8-5(c) or 252:100-8-3(b).

(B) Identification and description of all points of emissions described in subparagraph (e)(3)(A) of this section in sufficient detail to establish the basis for fees and applicability of the Act's requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the Act).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements and all state-only requirements.

- (B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.
- (5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the Act or of this Chapter or to determine the applicability of such requirements.
- (6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.
- (7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to 252:100-8-6(a)(9) or to define permit terms and conditions implementing 252:100-8-6(f) or 252:100-8-6(a)(10).
- (8) A compliance plan for all covered sources that contains all the following:
- (A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements as follows:
- (i) For applicable requirements and state-only requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
- (ii) For applicable requirements and state-only requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
- (iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
- (B) For sources not in complete compliance, a compliance schedule as follows:
- (i) A schedule of compliance for sources that are not in compliance with all applicable requirements and state-only requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements and state-only requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.
- (ii) A schedule for submission of certified progress reports no less frequently than every 6 months.
- (C) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.
- (9) Requirements for compliance certification, including the following:

- (A) A certification of compliance with all applicable requirements and state-only requirements by a responsible official consistent with subsection (f) of this section and section 114(a)(3) of the Act;
 - (B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;
 - (C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement state-only requirements or by the permitting authority; and
 - (D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.
- (10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.
- (f) **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."
- (g) **Number of application copies.** See Part 3 of 252:2-15.

252:100-8-6. Permit content

(a) **Standard permit requirements.** Part 70 permits issued under this Chapter shall include all applicable requirements and state-only requirements (as defined in 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements and state-only requirements and shall include those operational conditions and limitations necessary to assure compliance with all such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement or state-only requirement upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) Operating permits. The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) and (ii) of this paragraph:

(i) Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) Construction permits. See 252:100-8-1.4.

(3) Monitoring and related recordkeeping and reporting requirements.

(A) Monitoring requirements.

(i) All emissions monitoring and analysis procedures or test methods required under applicable requirements and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act;

(ii) Where an applicable requirement or state-only requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) Recordkeeping requirements. The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) **Reporting requirements.** The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C)(i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from emergency or upset conditions as defined in ~~252:100-8-6(e)~~ 252:100-8-2 shall be reported ~~within 24 hours of the date on which~~ promptly but no later than 4:30 p.m. on the next working day after the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report must contain a description of the emergency, any steps taken to mitigate emissions and corrective actions taken.

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or ~~preventative~~ preventive measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of 252:100-9.

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit need only specify that the permittee will comply with the requirement to register such a plan. Although the

requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) Title IV allowances.

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) Severability clause. The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) General requirements. The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

- (i) enforcement action;
- (ii) permit termination, revocation and reissuance, or modification; or
- (iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to 27A O.S.

~~1993 Supp. Section~~ § 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

(b) Federally enforceable requirements.

(1) Except as provided in paragraph (b)(2) of this section, all terms and conditions in a permit issued under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the Act.

(2) Notwithstanding paragraph (b)(1) of this section, the DEQ shall designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the Act.

(c) Compliance requirements. All permits issued under this Part shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to perform the following:

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

- (B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
 - (C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
 - (D) As authorized by the Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.
- (3) A schedule of compliance if required under 252:100-8-5(e)(8)(B).
- (4) To the extent required under an applicable schedule of compliance and 252:100-8-5(e)(8), progress reports, to be submitted semiannually or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:
- (A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
 - (B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- (5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:
- (A) The frequency (which shall be annually unless the applicable requirement or state-only requirement specifies submission more frequently) of submissions of compliance certifications;
 - (B) In accordance with paragraph (a)(3) of this section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;
 - (C) A requirement that the compliance certification include the following:
 - (i) The identification of each term or condition of the permit that is the basis of the certification;
 - (ii) The permittee's current compliance status, as shown by monitoring data and other information available to the permittee;
 - (iii) Whether compliance was continuous or intermittent;
 - (iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this section; and
 - (v) Such other facts as the DEQ may require to determine the compliance status of the source;
 - (D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;
 - (E) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act; and
- (6) Such other provisions as the DEQ may require.
- (d) **Permit shield.**
- (1) Each operating permit issued under this Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit

(including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this section or in the permit shall alter or affect the following:

(A) the provisions of section 303 of the Act, including the authority of the Administrator under that section;

(B) the liability of an owner or operator of a source for any violation of applicable requirements or state-only requirements prior to or at the time of permit issuance;

(C) the applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(D) the ability of EPA to obtain information from a source pursuant to section 114 of the Act.

(e) **Emergencies.**

~~(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method. *[This paragraph has been moved to 252:100-8-2 (Definitions).]*~~

~~(2)(1)~~ (1) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph ~~(e)(3)(e)(2)~~ (e)(2) of this section and the reporting requirements of 252:100-8-6(a)(3)(C)(iii)(I) are met.

~~(3)(2)~~ (2) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that:

(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) The permitted facility was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit.

(4)(3) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(5)(4) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or 252:100-9.

(f) **Operational flexibility.**

(1) **Applicant's duty to apply for alternative scenarios.** ~~Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the A facility~~ may implement any operating scenario allowed for in its Part 70 permit without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make changes within the facility that:

(A) Are not modifications under any provision of Title I of the Act;

(B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; and

(C) Result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

252:100-8-7. Permit issuance

(a) **Criteria for issuance.** A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S. Supp. 1995, §§ 2-14-101 *et seq.*; 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and for applications subject to 252:100-8-8, that the requirements of that section have been satisfied.

(b) **Draft permits and notice thereof.** See 252:2-15. ~~The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions)~~ A statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions) shall accompany the draft permit.

(c) **EPA review.** See 252:100-8-8.

(d) **DEQ final action.** See 252:2-15, and 252:100-8-8 when applicable.

(e) **Timeline for technical review and issuance.** The DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with 252:2-15-70 through 15-72 and 252:100-8-4(b)(7).

(f) **Action priorities.** See 252:100-8-4(b)(2) through (10) and 252:100-8-7.1(a).

(g) **No issuance by default.** See 27A O.S. § 2-5-112(D).

252:100-8-7.2. Administrative permit amendments and permit modifications

(a) Administrative permit amendments.

(1) An administrative permit amendment:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(C) Requires more frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits processed under Tier II or Tier III requirements and issued by the DEQ under this Part.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph 252:100-8-7.2(a)(1)(E) of this section.

(b) Permit modification. A permit modification is any revision to a permit that cannot be accomplished under subsection (a) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(1) Minor permit modification procedures.

(A) Criteria.

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5) of the Act; and
(V) Are not modifications under any provision of Title I of the Act.

(ii) Notwithstanding 252:100-8-7.2(b)(1)(A)(i) and 252:100-8-7.2(b)(2)(A) , minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the State's implementation plan or in applicable requirements promulgated by EPA.

(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under 252:2-15 and shall include the following:

- (i) A description of the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs;
- (ii) The source's suggested modification language;
- (iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and
- (iv) Completed forms for any notices required by 252:2-15 and subparagraph (C) of this paragraph.

(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under 252:2-15 the DEQ shall:

- (i) Issue the minor permit modification as approved;
- (ii) Deny the minor permit modification application; or
- (iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this subsection, the source must comply with the applicable requirements and state-only requirements governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to

comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) **Permit shield.** The permit shield under 252:100-8-6(d) will not extend to minor permit modifications.

(G) **Permittee's risk in commencing construction.** The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) **Significant modification procedures.**

(A) **Criteria.** Significant modification procedures shall be used for applications requesting permit modifications that:

(i) Involve any significant changes in existing monitoring requirements in the permit;

(ii) Relax any reporting or recordkeeping requirements.

(iii) Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard; on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

(iv) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act; and

(v) Are modifications under any provision of Title I of the Act; and,

(vi) Do not qualify as minor permit modifications or administrative amendments.

(B) **Procedures for processing.** Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs.

(C) **Issuance.** The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This section applies only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the Act or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.** For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See 27A O.S. ~~Supp. 1995~~, § 2-5-112(E); 27A O.S. ~~Supp. 1995~~, § 2-14-101 *et seq.*; and 252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S. ~~Supp. 1995~~, § 2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (Tier II) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

- (C) Process the permit application according to the uniform permitting requirements of 252:2-15.
- (4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.
- (5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:
- (A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or
 - (B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:
 - (i) issue the amended or revised draft permit (Tier II) as final, or
 - (ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.
- (6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.
- (j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in 252:002-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in 252:100-8-7 through 252:100-8-7.5 except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.
- (k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with 27A O.S. Supp. 1995, Section §§ 2-14-101 *et seq.*, the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

**PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD)
REQUIREMENTS FOR ATTAINMENT AREAS**

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility.

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than $1 \mu\text{g}/\text{m}^3$ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. (Effective May 11, 1991)

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. (Effective May 11, 1991)

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,
(ii) in the case of nitrogen dioxide, February 8, 1988; and,
(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or 252:100-8, Part 7) submits a complete application. The trigger date is:

- (i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and
(ii) in the case of nitrogen oxides, February 8, 1988. (Effective May 11, 1991)

"Best available control technology" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case-by-case basis taking into account energy, environmental, costs and economic impacts of alternate control systems.

"Building, structure, facility or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Complete" in reference to an application for a permit, means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

"Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

- (i) routine maintenance, repair and replacement.
(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.
(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.
(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or 252:100-8.

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(vii) Any change in source ownership.

"Major stationary source" means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(i) carbon black plants (furnace process),

(ii) charcoal production plants,

(iii) chemical process plants,

(iv) coal cleaning plants (with thermal dryers),

(v) coke oven batteries,

(vi) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,

(vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(viii) fuel conversion plants,

(ix) glass fiber processing plants,

(x) hydrofluoric, sulfuric or nitric acid plants,

(xi) iron and steel mill plants,

(xii) kraft pulp mills,

(xiii) lime plants,

(xiv) municipal incinerators capable of charging more than 25050 tons of refuse per day,

(xv) petroleum refineries,

(xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(xvii) phosphate rock processing plant,

(xviii) portland cement plants,

(xix) primary aluminum ore reduction plants,

(xx) primary copper smelters,

(xxi) primary lead smelters,

(xxii) primary zinc smelters,

(xxiii) secondary metal production plants,

(xxiv) sintering plants,

(xxv) sulfur recovery plants, or

(xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. (Effective May 11, 1991)

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(i) carbon monoxide: 100 tons per year (tpy),

(ii) nitrogen oxides: 40 tpy,

(iii) sulfur dioxide: 40 tpy,

(iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,

(v) ozone: 40 tpy of volatile organic compounds,

- (vi) lead: 0.6 tpy,
- (vii) asbestos: 0.007 tpy,
- (viii) beryllium: 0.0004 tpy,
- (ix) mercury: 0.1 tpy,
- (x) vinyl chloride: 1 tpy,
- (xi) fluorides: 3 tpy,
- (xii) sulfuric acid mist: 7 tpy,
- (xiii) hydrogen sulfide (H₂S): 10 tpy,
- (xiv) total reduced sulfur (including H₂S): 10 tpy, and
- (xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$ (24-hour average).

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

252:100-8-33. Exemptions

(a) **Exemptions from PSD requirements.** PSD requirements do not apply to a particular source or modification if:

- (1) It is a nonprofit health or educational institution.
- (2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than:
 - (A) One of the categories listed in (A)(i) through (xxvi) under the definition of "Major stationary source" in 252:100-8-31, or
 - (B) A stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.
- (3) The source or modification is a portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) **Exemption from air quality impact evaluation.**

- (1) The requirements of 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.
- (2) The requirements of 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of best available control technology, would be less than 50 tons per year.

(c) **Exemption from monitoring requirements.**

- (1) The monitoring requirements of 252:100-8-35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

- (A) Carbon monoxide - $575 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 8-hour average,
 - (B) Nitrogen dioxide - $14 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, annual average,
 - (C) Particulate matter - $10 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, TSP, 24-hour average, or $10 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$ PM-10, 24-hour average,
 - (D) Sulfur dioxide - $13 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,
 - (E) Ozone - see (N) below,
 - (F) Lead - $0.1 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour 3-month average,
 - (G) Mercury - $0.25 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,
 - (H) Beryllium - 0.0005 $0.001 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,
 - (I) Fluorides - $0.25 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,
 - (J) Vinyl chloride - $15 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,
 - (K) Total reduced sulfur - $10 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 1-hour average,
 - (L) Hydrogen sulfide - 0.04 $0.2 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 1-hour average, or
 - (M) Reduced sulfur compounds - $10 \mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 1-hour average.
- (N) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(2) The requirements for air quality monitoring in 252:100-8-35(b),(c) and (d)(2) shall not apply to a source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the Executive Director subsequently determined that the application was complete except for 252:100-8-35(b), (c) and (d)(2). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to such source or modification.

(3) The requirements for air quality monitoring in 252:100-8-35(b), (c), and (d)(2) shall not apply to a source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the Executive Director subsequently determined that the application as submitted was complete, except for the requirements in 252:100-8-35(b), (c) and (d)(2).

(4) The Executive Director shall determine if the requirements for air quality monitoring of PM-10 in 252:100-8-35(a) through 252:100-8-35(c) and 252:100-8-35(d)(2) may be waived for a source or modification when an application for a permit was submitted on or before June 1, 1988 and the Executive Director subsequently determined that the application, except for the requirements for monitoring particulate matter under 252:100-8-35(a) through 252:100-8-35(c) and 252:100-8-35(d)(2), was complete before that date.

(5) The requirements for air quality monitoring of PM-10 in 252:100-8-35(b), (c), (d)(2) and (d)(6) shall apply to a source or modification if an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of 252:100-8-33(b)(1), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by 252:100-8-35(b)(1) and 252:100-8-35(c) shall have been gathered over that shorter period.

(d) **Exemption from BACT requirements and monitoring requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for best available control technology in 252:100-8-34 and for monitoring in 252:100-8-35(a) through 252:100-8-35(c) and 252:100-8-35(d)(2) through 252:100-8-35(d)(4) are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification.

(e) **Exemption of modifications.** As specified in the applicable definitions of 252:100-8-31, 252:100-8-1.1, and 252:100-1, the requirements of 252:100-8, Part 7 for PSD and 252:100-8, Part 9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right.

(f) **Exemption from impact analyses.** The requirements of 252:100-8-35 and 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988.

(g) **Exemption from increment consumption.** Excluded from increment consumption are the following cases:

(1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 9 of this Subchapter are applicable are determined by size, geographical location and type of emitted pollutants:

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in 252:100-8-51, 252:100-8-1.1, and 252:100-1-3.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Parts 1, 3, 5, and 9 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 7 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Pollutant	Concentration, $\mu\text{g}/\text{m}^3$			
	Averaging Time (hours)			
	Annual	24	8	3
SO ₂	1.0	5		25
PM-10	1.0	5		
NO ₂	1.0			
CO			500	2000

(B) A proposed major source or major modification subject to 252:100-8-52(3)(A) may reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact where the proposed source or modification would otherwise cause or contribute to a violation of any national ambient air quality standard. In the absence of such emission reductions, a permit for the proposed source or modification shall be denied.

(C) The requirements of 252:100-8-52(3)(A) and (B) shall not apply to a major source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated nonattainment.

(D) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

~~(C)~~ (E) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in 252:100-8-52(3) are exempted from the condition of 252:100-8-54(4)(A).

~~(D)~~ (F) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of

nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

~~(E)(G)~~ The determination as to whether a source would cause or contribute to a violation of applicable ambient air standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

~~(F)~~ Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:

~~(i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.~~

~~(ii) The new emission limitations for the new source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.~~

MINUTES
AIR QUALITY COUNCIL
JUNE 14, 2000
OSU @ TULSA Room 150
Tulsa, Oklahoma

Council Members Present

David Branecky, Chairman
 William B. Breisch
 Fred Grosz
 Gary Kilpatrick
 Rick Treeman
 Joel Wilson

Council Members Absent

Sharon Myers, Vice-Chair
 Larry Canter
 Leo Fallon

Staff Present

David Dyke
 Barbara Hoffman
 Scott Thomas
 Dawson Lasseter
 Pam Dizikes

Guests Present

**see attached list

Staff Present

Cheryl Bradley
 Myna Bruce

Notice of Public Meeting for April 19, 2000 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted at the entrance doors to the OSU Tulsa Auditorium entrance and on the entrance doors of the DEQ Central Office in Oklahoma City.

Call to Order - Mr. Branecky, Chairman, called the meeting to order and roll call was taken as follows: Mr. Kilpatrick - aye; Mr. Wilson - aye; Dr. Grosz - aye; Mr. Treeman - aye; Mr. Fallon - aye; Ms. Myers - aye; Mr. Branecky - aye. Mr. Fallon, Ms. Myers, and Dr. Canter did not attend.

Approval of Minutes - Mr. Branecky entertained a motion to approve the Minutes of the April 19, 2000 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Mr. Wilson. Roll call: Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Breisch - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 through 2-5-101 - 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-3-5

Air Quality Advisory Council Hearings

Appendix B Style of Request for Hearing

Ms. Bradley advised that the proposal established procedures for individual proceedings on enforcement matters and requests for variances. Ms. Bradley pointed out minor changes that staff recommended and advised that there had been no written comments on the proposal.

Ms. Bradley stated that staff recommended emergency adoption of the rule. Following discussion, Mr. Branecky called for a motion to recommend the proposal dated June 12 to the Environmental Quality Board for emergency and permanent approval. Mr. Kilpatrick made the motion and Dr. Grosz made the second. Roll call: Mr. Wilson – aye; Mr. Treeman - abstain; Mr. Breisch – aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky – aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100- 7

Permits for Minor Facilities

Ms. Barbara Hoffman was called upon to provide staff's recommendation of proposed rule. Ms. Hoffman stated that this rule was brought before the Council the first time on April 19 and that a workgroup had met on May 24. She then advised Council of the changes suggested by staff. She stated that no written comments had been received but it was anticipated that there would be comments from the industry group forthcoming; therefore, it was recommended that this rule be continued to the August Council meeting. Ms. Hoffman called for comments and advised that the industry contact for comments was Joel Howard who could be reached at 405 720 5500 or joelhoward@marathonoil.com. With no comments or questions, Mr. Branecky called for motion to continue the rule to the August meeting. Mr. Breisch made the motion and second was made by Dr. Grosz. Roll call: Mr. Wilson – aye; Mr. Treeman - abstain; Mr. Breisch – aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky – aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100- 8

Permits for Part 70 Sources

Ms. Barbara Hoffman was called upon to provide staff's recommendations for this proposed rule. Ms. Hoffman pointed out all changes proposed in the Agenda Packet and a June 13, 2000 draft that was a handout. She advised that no comments had been received and suggested that the rule be recommended to the Board for emergency and permanent adoption.

Following a considerable amount of discussion and comments, it was decided that the rule should be continued to the August meeting. Mr. Branecky called for a motion. Mr. Wilson made motion to continue and second was made by Mr. Kilpatrick. Roll call: Mr. Wilson – aye; Mr. Treeman - abstain; Mr. Breisch – aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky – aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

**PUBLIC HEARING
OAC 252:100-29
Control of Fugitive Dust**

Ms. Cheryl Bradley was called upon for staff recommendations. She stated that proposed changes were to simplify and clarify language according to the agency-wide re-right/de-wrong initiative and pointed out the changes proposed. She entered into the record written comments received from Fort James Corporation and from EPA Region 6 Air Planning Section. Ms. Bradley then referred to a handout of a new draft dated June 13, 2000. She discussed the changes made in that proposal. Ms. Bradley stated that since comments had been received which would result in recommended changes to the rule, it was staff's recommendation to continue the rule to the August Council meeting.

Comments and suggestions for changes were taken from Council and audience. Mr. Branecky then called for a motion to continue until August. Dr. Grosz made the motion and Mr. Kilpatrick made the second. Roll call: Mr. Wilson - aye; Mr. Treeman - abstain; Mr. Breisch - aye; Mr. Kilpatrick - aye; Dr. Grosz - aye; Mr. Branecky - aye.

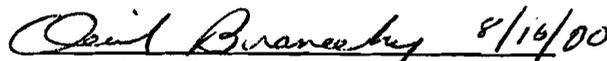
A copy of the hearing transcript is attached and made an official part of these minutes.

DIVISION DIRECTOR'S REPORT - Mr. Dyke made several announcements including the fact that this had been Barbara Hoffman's final meeting and that we would be moving to New Hampshire.

NEW BUSINESS - None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be August 16 at 9:00 a.m. at the Pioneer Technology Center in Ponca City, OK.

NOTE: The sign-in sheet is attached as an official part of these Minutes.

 8/16/00

David Branecky, Chairman
Air Quality Council



J. Eddie Terrill, Director
Air Quality Division



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record

June 14, 2000

Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. Perry Friedrich GRDA	PO Box 10 Chouteau 74337	(918) 476-8268
2. Preston Batista Hunter Compressor Co	3805 Douglas Ave	915 699 5214
3. Howard Grand CSW	PO Box 660164 Dallas 75202	214 777-1711
4. FRANK GANDON	EQ BOARD	
5. Mike Wood	P.O. Box 10660; Hot Springs, AR 71902	501-624-8569
6. Kirk Rutter (Boris)	P.O. Box 582808 Tulsa, OK	(918) 932-3178
7. Julia Bewers	321 N Harvey OKC	405 553 3439
8. LARRY MOORE - WHIRLPOOL	7301 WHIRLPOOL DRIVE ^{TULSA 74117}	918 274 6122
9. Pat Davenport N-S	3602 N. Perkins Rd Stillwater	405/377 505
10. Steve Landers Ft. James	4601 Chandler, Muskogee, 74459	918-683-76
11. CLYDE JONES	P.O. Box 579 Bartlesville 74003	918/336-711
12. Nadene Burtm	CASE 6609 E 86th PL	74133
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AGENDA
AIR QUALITY COUNCIL
DEPARTMENT OF ENVIRONMENTAL QUALITY
HEARING/MEETING
9:00 A.M.
Wednesday, August 16, 2000
Pioneer Technology Center
Education Business Center
2101 North Ash Street Ponca City, OK 74601

1. **Call to Order – David Branecky**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes of the June 14, 2000 Regular Meeting**
4. **PUBLIC RULEMAKING HEARINGS**

A. OAC 252:100-6 Permitting [REVOKED]

It is proposed that SC 6 be revoked in its entirety. This action fulfills the Department's goal of eliminating redundant or unnecessary language through the re-right/de-wrong process. The rule is for the most part a summary of the permit programs contained in SC 7 and SC 8 and a restatement of Oklahoma statutes on permitting. Only a few portions of the rule contain substantive language that will be placed into SC 8. Revocation of the rule will have no effect on permit actions.

1. Presentation – Jeanette Buttram
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

B. OAC 252:100-7 PERMITS FOR MINOR FACILITIES [AMENDED]

The proposed changes to SC7 consist of the addition of sections 60.3, 60.4, and 60.5. Proposed sections 60.3 and 60.4 reference the existing permits by rule for VOC storage and loading facilities and particulate matter facilities, respectively. Section 60.5 is the proposed permit by rule for natural gas compression facilities. This section contains eligibility requirements, standards, testing and monitoring requirements, and recordkeeping requirements for natural gas compression facilities that qualify for permit by rule.

1. Presentation –Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

C. OAC 252:100-8 Permits for Part 70 Sources [AMENDED]

The proposed changes to SC 8 would amend sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 8, 31, 33, 51 and 52. The changes correct errors, clarify language, add and delete definitions, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) make clear which modifications to Part 70 sources require construction permits. A substantive change is proposed for the definition of "major stationary source" in section 31.

1. Presentation – Pam Dizikes
2. Questions and discussion by Council / Public

3. Possible action by Council
4. Roll call vote(s) for permanent and emergency adoption

D. OAC 252:100-29 Control of Fugitive Dust [AMENDED]

The proposed changes would simplify and clarify the Subchapter as a part of the agency-wide re-right/de-wrong initiative. The modifying word 'visible' is deleted from the term fugitive dust. Substantive changes are proposed to clarify when and what precautions are required to minimize or prevent pollution and to clarify what corrective measures are required in the event that fugitive dust is discharged beyond the property line.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

E. OAC 252:100-31 Control of Emission of Sulfur Compounds [AMENDED]

The proposed changes to SC 31 are primarily to simplify language, clarify requirements, and remove redundant requirements, or language as part of the agency-wide re-right/de-wrong initiative. New definitions of the terms "existing source" or "existing equipment" and "new source" or "new equipment" clearly identify the effective date for each industry affected by the rule. Proposed substantive changes are: to revoke 31-14(c) regarding the testing procedures for ambient hydrogen sulfide; to delete 31-25(a) pertaining to new sulfuric acid plants; to change the averaging time for ambient hydrogen sulfide concentration from existing equipment in 31-14(a); to combine 31-25(c) and 31-26 to make clear which sources are subject to the standard; to make several changes in 26(a) such as to change the standard from a combination equipment and emission standard to a more straightforward emission standard; the exception for pipeline quality sweetened gas was moved to 226(b)(1) and changed to an emission based exception; and exception to the required exhaust stack is provided based on modeling; and all subsections will be changed to a time-based average because it is unclear what is a maximum average.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council / Public
3. Possible action by Council
4. Roll call vote(s) for permanent adoption

5. Division Director's Report – Eddie Terrill

6. New Business -- Any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting the agenda.

7. Adjournment – Next Regular Meeting

Date and Time: October 18, 2000 @ 9:00 a.m.

Place: Department of Environmental Quality Multi-Purpose Room, First Floor
707 North Robinson, Oklahoma City, OK

Lunch Break, if necessary

Should you desire to attend but have a disability and need an accommodation, please notify our Department three days in advance at (405) 702-4100.

August 2, 2000

MEMORANDUM

TO: Air Quality Council

FROM: Eddie Terrill, Division Director ^{CJ.}
Air Quality Division

SUBJECT: Modifications to Subchapter 8

Enclosed is a copy of the proposed draft modifications to Subchapter 8, Permits for Part 70 Sources. This proposed revision was first presented to the Air Quality Council on June 14, 2000 at which time the hearing was continued. After several years of implementing this Subchapter, various errors, inconsistencies, and ambiguities have surfaced which need to be corrected. Since we are still issuing the first round of Part 70 permits and have already begun modifying those that have been issued, we believe it is better to tackle these issues now rather than later.

The proposed changes to Subchapter 8 would amend sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 8, 31, 33, 51, and 52. In addition to correcting errors and clarifying language, the proposed changes add fee categories for construction permit authorizations and modifications. The proposed fee categories have been changed since the June Air Quality Council meeting. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) clarify when construction permits are required. Additional changes to Section 4(a)(1) have been made in response to comments received at the June Air Quality Council meeting. The changes in section 5(d)(1)(A) clarify that BACT is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting requirements. A substantive change is proposed for the definition of "major stationary source" in section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The changes to Section 51 consist of deleting definitions that are not used in Part 9 and moving definitions that are used in Sections in addition to Part 9. The changes to section 52 were adopted in 1989 but were accidentally excluded during codification of the rules.

Comments have been received via E-mail. Copies of these comments are enclosed.

Staff will ask the Council to recommend the proposed changes to the Environmental Quality Board for adoption as emergency and permanent rules.

Enclosures: 3

August 2, 2000

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Enclosures: 3

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 1. GENERAL PROVISIONS

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

"A **stack in existence**" means for purposes of OAC 252:100-8-1.5 that the owner or operator had:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or
- (B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"**Act**" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

"Actual emissions" except for Parts 7 and 9 of this Subchapter, means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"**Administrator**" means the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"**Allowable emissions**" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (A) the applicable standards as set forth in 40 CFR Parts 60 and 61;
- (B) the applicable State rule allowable emissions; or,
- (C) the emissions rate specified as an enforceable permit condition.

"**Begin actual construction**"

(A) for purposes of Parts 7 and 9 of this Subchapter means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(B) for purposes of Part 5 of this Subchapter, means that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"Best available control technology" or "BACT" means the control technology to be applied for a major source or modification is the best that is available as determined by the Director on a case-by-case basis taking into account energy, environmental, and economic impacts and other costs of alternate control systems.

"Building, structure, facility, or installation" for purposes of Parts 7 and 9 of this Subchapter, means all of the pollutant-emitting activities which belong to the same

industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code), as described in the Standard Industrial Classification manual, 1972, as amended by the 1977 Supplement.

"Commence" for purposes of Parts 7 and 9 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

- (A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,
- (B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

"Dispersion technique" means for purposes of OAC 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

- (A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
- (B) The merging of exhaust gas streams where:
 - (i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;
 - (ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or
 - (iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emission limitations and emission standards" means for purposes of OAC 252:100-8-1.5 requirements that limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. ~~(Amended 7-9-87, effective 8-10-87)~~

"Emissions unit" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation.

"EPA" means the United States Environmental Protection Agency.

"Fugitive emissions" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules.

"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.

"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of this Subchapter, as provided in OAC 252:100-8-3(a) and OAC 252:100-8-3(b).

"Potential to emit" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. ~~For the purpose of 252:100-8, Part 9, secondary~~ Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

- (A) emissions from trains coming to or from the new or modified stationary source; and,
- (B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification.

"Stack" means for purposes of OAC 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100.

252:100-8-1.4. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) **Cancellation of permit or authorization to construct or modify.** A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection (b) of this Section) if the construction is not commenced within 18 months after the date the permit or authorization was issued, or if work is suspended for more than 18 months after it has commenced.

(b) **Extension of permit or authorization to construct or modify.**

(1) Prior to the expiration date of the permit or authorization, a permittee may apply for extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site, or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under OAC 252:100:8-1.4(b)(1)(B) or OAC 252:100-8-1.4(b)(1)(C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information.

252:100-8-1.5. Stack height limitations

(a) **Stack height exclusion.** Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) **Determination of good engineering practice (GEP) stack height.** GEP stack height shall be the greater of:

- (1) 65 meters, measured from the ground-level elevation at the base of the stack; or
- (2) The height under either OAC 252:100-8-1.5(b)(2)(A) or (B):
 - (A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under OAC 252:100-8 or 40 CFR Part 52, $H_g = 2.5H$, provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;
 - (B) for all other stacks, $H_g = H + 1.5L$, where:
 - (i) H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,
 - (ii) H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,
 - (iii) L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or
- (3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c) **Nearby.**

(1) **For the formulae in OAC 252:100-8-1.5(b)(2).** A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) **For demonstration in OAC 252:100-8-1.5(b)(3).**

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

- (i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (H_t) of the feature, and
- (ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in OAC 252:100-8-1.5(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) **Measurement of height of structure or terrain.** The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d) **Excessive concentrations.** When utilized for the purpose of determining GEP stack height under OAC 252:100-8-1.5(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under ~~262:100-8-1.5(b)(2)~~OAC 252:100-8-1.5(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a

concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 7 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Executive Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under OAC 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in OAC 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Executive Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under OAC 252:100-8-1.5(b)(2) where the Executive Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in OAC 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

(1) **Applicability determination.** \$250, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.

(2) **Construction permit application.** ~~The fee is \$2,000.~~

(A) New Part 70 source - \$2,000.

(B) Modification of a Part 70 source - \$1,500.

(C) Authorization under a general permit - \$900.

(3) **Operating permit application.**

(A) Initial Part 70 permit - \$2,000.

(B) Authorization under a general permit - \$900

- (C) Renewal Part 70 permit - \$1,000.
- (D) Significant modification of Part 70 permit - \$1,000.
- (E) Minor modification of Part 70 permit - \$500.
- (F) Part 70 Temporary Source Relocation - \$500.

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this ~~section~~ Section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

"Administratively complete" means an application that provides:

- (A) All information required under OAC 252:100-8-5(c), (d), or (e);
- (B) A landowner affidavit as required by OAC 252:2-15-20(b)(3);
- (C) The appropriate application fees as required by OAC 252:100-8-1.7; and
- (D) Certification by the responsible official as required by OAC 252:100-8-5(f).

"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

(A) all states:

- (i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and
 - (ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed;
- or

(B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

- (A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;
- (B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;
- (C) Any standard or other requirement under section 111 of the Act, including section 111(d);
- (D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

- (E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;
- (F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;
- (G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
- (H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
- (I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;
- (J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and
- (K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

"Designated representative" means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the DEQ offers public participation under 27A O.S. ~~Supp. 1995, §§ 2-14-101 et seq. through -401~~ and OAC 252:100-2-15 or affected State review under OAC 252:100-8-8.

"Emergency" means, when used in OAC 252:100-8-6(a)(3)(C)(iii)(I) and OAC 252:100-8-6(e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. *[Moved from 252:100-8-6(e)(I) and amended.]*

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"Final permit" means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by OAC 252:100-8-7 through ~~252:100-8-7.5~~ and OAC 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of OAC 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) through (C) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

(C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in OAC 252:100-41-40.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except ~~TSP~~ that fraction of particulate matter that exhibits an average aerodynamic particle diameter of more than 10 micrometers) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether

it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
 - (ii) Kraft pulp mills;
 - (iii) Portland cement plants;
 - (iv) Primary zinc smelters;
 - (v) Iron and steel mills;
 - (vi) Primary aluminum ore reduction plants;
 - (vii) Primary copper smelters;
 - (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
 - (x) Petroleum refineries;
 - (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
 - (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);
 - (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants;
 - (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.
- (C) A major stationary source as defined in part D of Title I of the Act, including:
- (i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
 - (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(iii) For carbon monoxide non-attainment areas:

(I) that are classified as "serious"; and

(II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

"Permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a Part 70 construction or operating permit that meets the requirements of OAC 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC 252:100-5-2.2 (whether such costs are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic compound (VOC), including those substances defined in OAC 252:100-1-3, 252:100-37-2, and 252:100-39-2, ~~or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2, or any organic material defined in 252:100-37-2~~ except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"**State-only requirement**" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. §§ 2-5-101 ~~et seq. through -118~~, as amended) that is not contained in the State Implementation Plan (SIP).

"**State program**" means a program approved by the Administrator under 40 CFR Part 70.

"**Stationary source**" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"**Trivial activities**" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J. ~~Any activity to which a State or federal applicable requirement applies is not trivial even if included on the trivial activities list.~~

"**Unit**" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3. Applicability

(a) **Covered sources.** Except as exempted from the requirement to obtain a permit under subsection (b) of this Section or elsewhere in this Subchapter, the sources listed below are subject to the permitting requirements under this Subchapter. ~~A covered~~ major source or major stationary source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section.

- (1) Any major source (as defined in OAC 252:100-8-2);
- (2) Any source subject to a NSPS;
- (3) Any source, including an area source, subject to a NESHAP;
- (4) Any affected source (as defined in OAC 252:100-8-2);
- (5) Any source in a source category designated by the Administrator pursuant to 40 CFR §70.3; and
- (6) Any major stationary source required to have a permit under Parts 7 or 9 of this Subchapter.

(b) Source category exemptions.

(1) All sources listed in subsection (a) of this section that are not major sources, major stationary source, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

- (A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation.

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) **Construction permit required.** No person shall ~~cause or allow the begin~~ actual construction or installation of any new ~~facility~~ source that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required prior to reconstruction of a major affected source under 40 CFR Part 63, reconstruction of a major source if it would then become a major affected source under 40 CFR Part 63, or for any physical change that would be a significant modification under OAC 252:100-8-7.2(b)(2). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) Requirement for case-by-case MACT determinations.

(A) **Applicability.** The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, ~~1998~~ 2000.

(b) Operating permits.

(1) **Operating permits required.** Except as provided in subparagraphs (A) and (B) of this section, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a Part 70 permit submits a timely application for Part 70 permit issuance or renewal, that source's failure to have a Part 70 permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph (A) of this ~~section~~Section. The source's failure to have a Part 70 permit shall be deemed a violation of this Subchapter.

(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) **Duty to apply.** For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in OAC 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) **Application submittal schedule.** The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

(I) Petroleum and Natural Gas, 1311;

(II) Natural Gas Liquids, 1321;

(III) Electric Services, 4911, 4961;

(IV) Natural Gas Transmission, 4922;

(V) Natural Gas Transmission and Distribution, 4923; and

(VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,

(ii) Brick Plants, 3251, 3297,

(iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Refineries, 2911;

(ii) Cement Plants, 3241;

(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;

(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;

(v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) **Newly regulated sources.** A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Uniform Permitting Rules, OAC 252:2-15-70 and the definition of "administratively complete" in OAC 252:100-8-2.

252:100-8-5. Permit applications

(a) **Confidential information.** If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

(b) Duty to supplement or correct application. See ~~252:100-6-50(c)~~. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information within 30 days unless the applicant's request for more time has been approved by the DEQ. In addition, an applicant shall provide

additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

[This language was taken from 252:100-6-50(e).]

(c) **Standard application form and required information.** Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with OAC 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to OAC 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the information required by OAC 252:100-8-5(d) and/or 252:100-8-5(e) be provided.

(d) **Construction permit applications.**

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include but not be limited to site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) **BACT determination.** To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case by case basis, taking into account energy, environmental, ~~cost~~ and economic impacts and other costs of alternative control systems. Unless required under Part 7 of this Subchapter, a BACT determination is not required for a modification that will result in an increase of emissions of less than 100 tons per year of any regulated air pollutant.

(B) **Modeling.** Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant.

(C) **Sampling points.** If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. ~~{NOTE: 252:100-8-1.4(b)(1) was taken from 252:100-7-15(b)}~~

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in OAC 252:100-8-5(e) to the extent they are applicable.

(e) **Operating permit applications.**

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under ~~this subsection 252:100-8-5(c)~~ of this Section or OAC 252:100-8-3(b).

(B) Identification and description of all points of emissions described in subparagraph (e)(3)(A) of this ~~section~~ Section in sufficient detail to establish the basis for fees and applicability of the Act's requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the Act).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements and all state-only requirements.

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the Act or of this Chapter or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to OAC 252:100-8-6(a)(9) or to define permit terms and conditions implementing OAC 252:100-8-6(f) or 252:100-8-6(a)(10).

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements as follows:

- (i) For applicable requirements and state-only requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements and state-only requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(B) For sources not in complete compliance, a compliance schedule as follows:

(i) A schedule of compliance for sources that are not in compliance with all applicable requirements and state-only requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements and state-only requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

(ii) A schedule for submission of certified progress reports no less frequently than every 6 months.

(C) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements and state-only requirements by a responsible official consistent with subsection (f) of this section and section 114(a)(3) of the Act;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement state-only requirements or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(f) **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following

language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

~~(g) Number of application copies. — See Part 3 of 252:2-15.~~

252:100-8-6. Permit content

(a) **Standard permit requirements.** Part 70 permits issued under this Chapter shall include all applicable requirements and state-only requirements (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements and state-only requirements and shall include those operational conditions and limitations necessary to assure compliance with all such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement or state-only requirement upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) **Operating permits.** The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) and (ii) of this paragraph:

(i) Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) **Construction permits.** See OAC 252:100-8-1.4.

(3) **Monitoring and related recordkeeping and reporting requirements.**

(A) **Monitoring requirements.**

(i) All emissions monitoring and analysis procedures or test methods required under applicable requirements and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act;

(ii) Where an applicable requirement or state-only requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring

during the relevant time period sufficient to yield reliable data that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) Recordkeeping requirements. The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) Reporting requirements. The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C)(i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from an emergency or upset conditions as defined in 252:100-8-6(e) OAC 252:100-8-2 or upset conditions as defined in the permit shall be reported within 24 hours of the date on which promptly but no later than 4:30 p.m. on the next working day after the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report must contain a description of the emergency or upset conditions, any steps taken to mitigate emissions, and corrective actions taken. Quantification of exceedances attributable to emergencies or upset conditions shall be made by the best available method. If the permittee wishes to assert the affirmative defense authorized under subsection (e) of this Section for emergencies, the permittee shall submit a followup written report within 10 working days of first becoming aware of the exceedance.

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or ~~preventative~~ preventive measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of OAC 252:100-9.

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit need only specify that the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) **Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

- (C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.
- (6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.
- (7) **General requirements.** The permit shall include provisions stating the following:
- (A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:
- (i) enforcement action;
 - (ii) permit termination, revocation and reissuance, or modification; or
 - (iii) denial of a permit renewal application.
- (B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.
- (C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under OAC 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- (D) The permit does not convey any property rights of any sort or any exclusive privilege.
- (E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to 27A O.S. 1993 Supp. Section § 2-5-105.18 for any information or records submitted under this paragraph.
- (8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under OAC 252:100-5-2.2.
- (9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.
- (10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements and state-only requirements. The permit shall authorize

the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this ~~section~~Section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

(b) **Federally enforceable requirements.**

(1) Except as provided in paragraph (b)(2) of this ~~section~~Section, all terms and conditions in a permit issued under this ~~section~~Section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the Act.

(2) Notwithstanding paragraph (b)(1) of this ~~section~~Section, the DEQ shall designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the Act.

(c) **Compliance requirements.** All permits issued under this Part shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this ~~section~~Section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to perform the following:

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) A schedule of compliance if required under OAC 252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and OAC 252:100-8-5(e)(8), progress reports, to be submitted semiannually or more frequently if

specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:

- (A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
 - (B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- (5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:
- (A) The frequency (which shall be annually unless the applicable requirement or state-only requirement specifies submission more frequently) of submissions of compliance certifications;
 - (B) In accordance with paragraph (a)(3) of this ~~section~~ Section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;
 - (C) A requirement that the compliance certification include the following:
 - (i) The identification of each term or condition of the permit that is the basis of the certification;
 - (ii) The permittee's current compliance status, as shown by monitoring data and other information available to the permittee;
 - (iii) Whether compliance was continuous or intermittent;
 - (iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this ~~section~~ Section; and
 - (v) Such other facts as the DEQ may require to determine the compliance status of the source;
 - (D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;
 - (E) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act; and
- (6) Such other provisions as the DEQ may require.
- (d) **Permit shield.**
- (1) Each operating permit issued under this Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.
 - (2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source

may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this ~~section~~Section or in the permit shall alter or affect the following:

(A) the provisions of section 303 of the Act, including the authority of the Administrator under that section;

(B) the liability of an owner or operator of a source for any violation of applicable requirements or state-only requirements prior to or at the time of permit issuance;

(C) the applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(D) the ability of EPA to obtain information from a source pursuant to section 114 of the Act.

(e) Emergencies.

~~(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method. [This paragraph, except for the last sentence, has been moved to 252:100-8-2 (Definitions). The last sentence has been amended and moved to 252:100-8-6(a)(3)(C)(iii)(I).]~~

~~(2)~~(1) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph ~~(e)(3)~~(e)(2) of this ~~section~~Section and the reporting requirements of 252:100-8-6(a)(3)(C)(iii)(I) are met.

~~(3)~~(2) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that:

(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) The permitted facility was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit.

~~(4)~~(3) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

~~(5)~~(4) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

(f) Operational flexibility.

(1) **Applicant's duty to apply for alternative scenarios.** ~~Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the A facility may implement any operating scenario allowed for in its Part 70 permit without the need for any permit revision or any notification to the permitting authority. It is incumbent upon~~

the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make changes within the facility that:

- (A) Are not modifications under any provision of Title I of the Act;
- (B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; and
- (C) Result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in OAC 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

252:100-8-7. Permit issuance

(a) **Criteria for issuance.** A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S. ~~Supp. 1995, §§ 2-14-101 et seq. through -401;~~ OAC 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and, for applications subject to OAC 252:100-8-8, that the requirements of that section have been satisfied.

(b) **Draft permits and notice thereof.** See OAC 252:2-15. ~~The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions)~~ A statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions) shall accompany the draft permit.

(c) **EPA review.** See OAC 252:100-8-8.

(d) **DEQ final action.** See OAC 252:2-15, and OAC 252:100-8-8, when applicable.

(e) **Timeline for technical review and issuance.** The DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with OAC 252:2-15-70 through 45-72 and OAC 252:100-8-4(b)(7).

(f) **Action priorities.** See OAC 252:100-8-4(b)(2) through (10) and OAC 252:100-8-7.1(a).

(g) **No issuance by default.** See 27A O.S. § 2-5-112(D).

252:100-8-7.2. Administrative permit amendments and permit modifications

(a) **Administrative permit amendments.**

(1) An administrative permit amendment:

- (A) Corrects typographical errors;
- (B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
- (C) Requires more frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under this Part.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph ~~252:100-8-7.2(a)(1)(E)~~ of this ~~section~~Section.

(b) **Permit modification.** A permit modification is any revision to a permit that cannot be accomplished under subsection (a) of this ~~section~~Section. A permit modification for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(1) **Minor permit modification procedures.**

(A) **Criteria.**

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5) of the Act; and

(V) Are not modifications under any provision of Title I of the Act.

(ii) Notwithstanding OAC 252:100-8-7.2(b)(1)(A)(i) and OAC 252:100-8-7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the State's implementation plan or in applicable requirements promulgated by EPA.

(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs;

(ii) The source's suggested modification language;

(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and

(iv) Completed forms for any notices required by OAC 252:2-15 and subparagraph (C) of this paragraph.

(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15 the DEQ shall:

(i) Issue the minor permit modification as approved;

(ii) Deny the minor permit modification application; or

(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this subsection, the source must comply with the applicable requirements and state-only requirements governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) Permit shield. The permit shield under OAC 252:100-8-6(d) will not extend to minor permit modifications.

(G) Permittee's risk in commencing construction. The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such

investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) Significant modification procedures.

(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:

(i) Involve any significant changes in existing monitoring requirements in the permit;

(ii) Relax any reporting or recordkeeping requirements.

(iii) Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

(iv) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act; and

(v) Are modifications under any provision of Title I of the Act; and,

(vi) Do not qualify as minor permit modifications or administrative amendments.

(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs.

(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

252:100-8-8. Permit review by EPA and affected states

(a) Applicability. This ~~section~~ Section applies only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) Format. To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) Recordkeeping. The DEQ will keep for 5 years records required by this ~~section~~ Section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the Act or of this Chapter.

(d) Transmission of Part 70 applications to EPA. For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See 27A O.S. ~~Supp. 1995, § 2-5-112(E); 27A O.S. Supp. 1995, §§ 2-14-101 et seq. through -401;~~ and OAC 252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in OAC 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S. ~~Supp. 1995, § 2-14-304,~~ and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

- (1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.
- (2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of ~~this section~~ Section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (Tier ~~II~~) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this ~~section~~ Section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of OAC 252:2-15.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

(A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or

(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

- (i) issue the amended or revised draft permit (Tier II) as final, or
- (ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in OAC 252:002-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAC 252:100-8-7 through 252:100-8-7.5 except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with 27A O.S. Supp. 1995, Section §§ 2-14-101 et seq. through -401, the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"**Actual emission**" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

- (A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which

precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility.

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than $1 \mu\text{g}/\text{m}^3$ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. ~~(Effective May 11, 1991)~~

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. ~~(Effective May 11, 1991)~~

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,

(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or 252:100-8, Part 7) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988. ~~(Effective May 11, 1991)~~

~~"Best available control technology" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case by case basis taking into account energy, environmental, costs and economic impacts of alternate control systems.~~

~~"Building, structure, facility or installation" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.~~

"Complete" in reference to an application for a permit, means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

"Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement.

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-8.

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(vii) Any change in source ownership.

"Major stationary source" means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

- (i) carbon black plants (furnace process),
- (ii) charcoal production plants,
- (iii) chemical process plants,
- (iv) coal cleaning plants (with thermal dryers),
- (v) coke oven batteries,
- (vi) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,
- (vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,
- (viii) fuel conversion plants,
- (ix) glass fiber processing plants,
- (x) hydrofluoric, sulfuric or nitric acid plants,
- (xi) iron and steel mill plants,
- (xii) kraft pulp mills,
- (xiii) lime plants,
- (xiv) municipal incinerators capable of charging more than ~~250~~50 tons of refuse per day,
- (xv) petroleum refineries,
- (xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (xvii) phosphate rock processing plant,
- (xviii) portland cement plants,
- (xix) primary aluminum ore reduction plants,
- (xx) primary copper smelters,
- (xxi) primary lead smelters,
- (xxii) primary zinc smelters,
- (xxiii) secondary metal production plants,
- (xxiv) sintering plants,
- (xxv) sulfur recovery plants, or
- (xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

- (i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,
 - (ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
- (B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.
- (C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.
- (D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. ~~(Effective May 11, 1991)~~
- (E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- (F) A decrease in actual emissions is creditable only to the extent that:
- (i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
 - (ii) it is enforceable at and after the time that actual construction on the particular change begins;
 - (iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
- (G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (i) carbon monoxide: 100 tons per year (tpy),
- (ii) nitrogen oxides: 40 tpy,
- (iii) sulfur dioxide: 40 tpy,
- (iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,
- (v) ozone: 40 tpy of volatile organic compounds,
- (vi) lead: 0.6 tpy,
- (vii) asbestos: 0.007 tpy,
- (viii) beryllium: 0.0004 tpy,
- (ix) mercury: 0.1 tpy,
- (x) vinyl chloride: 1 tpy,
- (xi) fluorides: 3 tpy,
- (xii) sulfuric acid mist: 7 tpy,
- (xiii) hydrogen sulfide (H₂S): 10 tpy,

- (xiv) total reduced sulfur (including H₂S): 10 tpy, and
- (xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$ (24-hour average).

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

252:100-8-33. Exemptions

(a) **Exemptions from PSD requirements.** PSD requirements do not apply to a particular source or modification if:

- (1) It is a nonprofit health or educational institution.
- (2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than:
 - (A) One of the categories listed in (A)(i) through (xxvi) under the definition of "Major stationary source" in OAC 252:100-8-31, or
 - (B) A stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.
- (3) The source or modification is a portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) **Exemption from air quality impact evaluation.**

- (1) The requirements of OAC 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.
- (2) The requirements of OAC 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of ~~best available control technology~~ BACT, would be less than 50 tons per year.

(c) **Exemption from monitoring requirements.**

(1) The monitoring requirements of OAC 252:100-8-35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

- (A) Carbon monoxide - 575 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 8-hour average,
- (B) Nitrogen dioxide - 14 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, annual average,
- (C) Particulate matter - 10 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, TSP, 24-hour average, or 10 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$ PM-10, 24-hour average,
- (D) Sulfur dioxide - 13 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,
- (E) Ozone - see (N) below,
- (F) Lead - 0.1 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour 3-month average,
- (G) Mercury - 0.25 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,

(H) Beryllium - ~~0.0005~~ 0.001 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,

(I) Fluorides - 0.25 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,

(J) Vinyl chloride - 15 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 24-hour average,

(K) Total reduced sulfur - 10 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 1-hour average,

(L) Hydrogen sulfide - ~~0.04~~ 0.2 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 1-hour average, or

(M) Reduced sulfur compounds - 10 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$, 1-hour average.

(N) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(b),(c) and (d)(2) shall not apply to a source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the ~~Executive~~ Director subsequently determined that the application was complete except for OAC 252:100-8-35(b), (c) and (d)(2). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to such source or modification.

(3) The requirements for air quality monitoring in OAC 252:100-8-35(b), (c), and (d)(2) shall not apply to a source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the ~~Executive~~ Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(b), (c) and (d)(2).

(4) The ~~Executive~~ Director shall determine if the requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(a) through ~~252:100-8-35(c)~~ and OAC 252:100-8-35(d)(2) may be waived for a source or modification when an application for a permit was submitted on or before June 1, 1988 and the ~~Executive~~ Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(a) through ~~252:100-8-35(c)~~ and OAC 252:100-8-35(d)(2), was complete before that date.

(5) The requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(b), (c), (d)(2) and (d)(6) shall apply to a source or modification if an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-8-33(b)(1), except that if the ~~Executive~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(b)(1) and OAC 252:100-8-35(c) shall have been gathered over that shorter period.

(d) **Exemption from BACT requirements and monitoring requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for ~~best available control technology~~ BACT in OAC 252:100-8-34 and for monitoring in OAC 252:100-8-35(a) through ~~252:100-8-35(c)~~ and OAC 252:100-8-35(d)(2) through ~~252:100-8-35(d)(4)~~ are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification.

(e) **Exemption of modifications.** As specified in the applicable definitions of OAC 252:100-8-31, 252:100-8-1.1, and 252:100-1, the requirements of OAC 252:100-8, Part 7

for PSD and OAC 252:100-8, Part 9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right.

(f) **Exemption from impact analyses.** The requirements of OAC 252:100-8-35 and OAC 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988.

(g) **Exemption from increment consumption.** Excluded from increment consumption are the following cases:

- (1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.
- (2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.
- (3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"**Actual emissions**" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

~~"**Building, structure, facility**" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.~~

~~"Installation" means an identifiable piece of process equipment.~~

"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement;

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 8.

(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or

(vii) any change in source ownership.

"Major stationary source" means:

(A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,

(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.

(C) for ozone, a source that is major for volatile organic compounds shall be considered major.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under 252:100-8, Part 9 of this Subchapter, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) the reviewing authority has not relied on it in issuing any permit under State air quality rules; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

~~"Reconstruction" means the replacement of components of an existing source (which will then be treated as a new source for purposes of Part 9 of this Subchapter) to the extent that will be determined by the Executive Director based on:~~

~~(A) The fixed capital cost (the capital needed to provide all the depreciable components) of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source; and,~~

~~(B) The estimated life of the source after the replacements is comparable to the life of an entirely new source; and,~~

~~(C) the extent to which the components being replaced cause or contribute to the emissions from the source.~~

~~"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under Part 9 of this Subchapter.~~

~~"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:~~

~~(A) Carbon monoxide: 100 tons per year (tpy),~~

~~(B) Nitrogen oxides: 40 tpy,~~

~~(C) Sulfur dioxide: 40 tpy,~~

~~(D) Particulate matter: 15 tpy of PM-10 emissions,~~

~~(E) Ozone: 40 tpy of volatile organic compounds, or~~

~~(F) Lead: 0.6 tpy.~~

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 9 of this Subchapter ~~are~~ applicable are determined by size, geographical location and type of emitted pollutants:

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in OAC 252:100-8-51, 252:100-8-1.1, and 252:100-1-3.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Parts 1, 3, 5, and 9 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air quality standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 7 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Pollutant	Concentration, $\mu\text{g}/\text{m}^3$			
	Annual	24	8	3
SO ₂	1.0	5		25
PM-10	1.0	5		
NO ₂	1.0			
CO			500	2000

(B) A proposed major source or major modification subject to OAC 252:100-8-52(3)(A) may reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact where the proposed source or modification would otherwise cause or contribute to a violation of any national ambient air quality standard. In the

absence of such emission reductions, a permit for the proposed source or modification shall be denied.

(C) The requirements of OAC 252:100-8-52(3)(A) and (B) shall not apply to a major source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated nonattainment.

(D) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(E) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC 252:100-8-52(3) are exempted from the condition of OAC 252:100-8-54(4)(A).

(F) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air quality standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

(G) The determination as to whether a source would cause or contribute to a violation of applicable ambient air quality standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

(H) Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:

- (i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.
- (ii) The new emission limitations for the new source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.

**TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES**

Before the Air Quality Council, June 14, 2000 and August 16, 2000
Before the Environmental Quality Board, November 14, 2000

RULE IMPACT STATEMENT

1. **DESCRIPTION:** The proposed changes to Subchapter 8 would amend sections 1.1, 1.4, 1.5, 1.7., 2, 3, 4, 5, 6, 7, 8, 31, 33, 51, and 52. The changes correct errors, clarify language, add definitions, delete definitions, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to section 4(a)(1) make clear which modifications to Part 70 sources require construction permits. The changes in section 5(d)(1)(A) clarify that best available control technology (BACT) is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in Section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting requirements. A substantive change is proposed for the definition of "major stationary source" in section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The changes to section 52 were adopted in 1989 but were accidentally excluded during codification of the rules.
2. **CLASSES OF PERSONS AFFECTED:** The owners and operators of Part 70 sources.
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** No additional costs are anticipated, except for persons planning to construct municipal waste incinerators capable of charging more than 50 but less than 250 tons of refuse per day.
4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The Department has received no information from private or public entities.
5. **CLASSES OF PERSONS BENEFITTED:** The citizens of the State of Oklahoma and the owners or operators of Part 70 sources.
6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** Those seeking modifications to existing Part 70 sources and those seeking authorizations to

construct pursuant to a general permit will pay a lower application fee if these changes are adopted. Persons planning to construct municipal waste incinerators capable of charging more than 50 but less than 250 tons of refuse per day will be required to provide more information in their permit applications than in the past. This should increase their cost of preparing the applications.

7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** None, except to the extent that any are planning to construct municipal waste incinerators capable of charging more than 50 but less than 250 tons of refuse per day.
8. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** The DEQ is proposing to lower construction permit application costs for those seeking modifications to existing Part 70 sources and those seeking authorizations to construct pursuant to a general permit. Currently, there is only one construction permit fee, which is \$2,000. The new categories will lower that fee for these other applications because they require less review than an individual construction permit for a new Part 70 source. The proposed fees are \$900 for an authorization to construct pursuant to a general permit, \$1,000 for a minor modification requiring a construction permit, \$1,500 for a significant modification requiring a construction permit, and \$2,000 for an individual construction permit for a new Part 70 source.
9. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** No additional costs to DEQ to enforce or implement the rule are anticipated.
10. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** None.
11. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** State appropriations, federal grants, and fees.
12. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** It can not be projected at this time.
13. **COOPERATION OF POLITICAL SUBDIVISION REQUIRED TO IMPLEMENT OR ENFORCE RULE:** None.
14. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** The revision impacting those who intend to construct municipal waste incinerators is required by federal law. The other revisions being made to the Subchapter do not affect the overall compliance costs to the owner or operator or to DEQ, but DEQ believes that certain clarifications and the change to the term "trivial activities" will help to minimize compliance costs.

15. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** There are none.
16. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposed revision regarding the size of municipal waste incinerators should provide greater protection for public health, safety and the environment by insuring that new medium-size incinerators will meet stricter permit review requirements.
17. **IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** Municipal waste incinerators have the potential to emit toxic air contaminants, and the proposal will increase the review that medium-size municipal waste incinerators receive prior to obtaining permits to construct.
18. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** None. Federal law will still be applicable to new municipal incinerators capable of charging more than 50 but less than 250 tons of refuse per day.
19. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** Probable quantitative impact is difficult to project, but the proposed rule will lower permit application fees for some entities and increase the cost of preparing permit applications for municipal waste incinerators capable of charging more than 50 but less than 250 tons of refuse per day. Probable qualitative impacts would be that regulated entities should find the rule easier to understand.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: May 15, 2000

MODIFIED ON: July 17, 2000

Subject: Subchapter 8 Rule Changes
Author: "Don_Whitney@trinityconsultants.com"
<SMTP:Don_Whitney@trinityconsultants.com>
Date: 6/27/00 4:06 PM

Attached document contains suggested wordings of two areas of OAC 252:100-8. The very worthwhile and needed clarification of this area was proposed at the last AQC mtg and will likely be proposed again in August. Please also forward to other members of the AQD staff who may be considering changes to Subchapter 8. If you like, I would be glad to meet with you to discuss these areas and/or alternative wordings.

The potential impact of not incorporating flexibility for changes of this type is significant for both industry and DEQ. If the wording proposed at the June mtg were strictly followed, numerous facilities such as refineries and gas plants would be faced with submitting perhaps dozens of permit modifications or construction permit applications every year. Besides the burden on industry, such paperwork would do nothing to enhance or protect air quality and would be a tremendous burden on DEQ to process. Another danger of the status quo is that it leaves many facilities in jeopardy of compliance/enforcement action over trivial changes. Again, this area of minor changes is very important to large (Ch 8) and small (Ch 7) facilities and needs to be crystal clear to avoid misunderstanding. Unfortunately, there are many possible scenarios of changes which need to be addressed to prevent the need for "interpretation" of what the rule really means.

(See attached file: OK-Rules8.doc)

TO: Whom it May Concern
CC:
FROM: Don Whitney
DATE: June 27, 2000
RE: OAC 252:100-8 Changes

Revisions to Subchapter 8 are scheduled to be presented for a second time at the Air Quality Council meeting on August 16, 2000. The following areas should be addressed since they have been a cause of considerable confusion for both the AQD Staff and industry. Suggested wording and rationale are provided below.

OAC 252:100-8-4 (a) Construction Permits

(1) **Construction permit required.** No person shall begin actual construction or installation of any new source that will require a Part 70 operating permit without first obtaining a DEQ-issues construction permit. A construction permit is also required in the following circumstances unless such construction or modification is specifically authorized in a Part 70 permit:

- (A) A piece of equipment or a process is added that is subject to NSPS or NESHAP except that the Director may waive this requirement for Subparts which are currently effective for similar equipment or processes at the facility such as leak checking.
- (B) Any physical change that would increase actual emissions from that unit or process more than 5 tons per year of any criteria pollutant, more than 2 tons per year of any one HAP or more than 5 tons per year of two or more HAPs.

In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

RATIONALE:

Major facilities with Part 70 sources have a great many processes which require routine replacement, repair, and minor modifications. Under the old definitions, such activities could require a permit for trivial items such as a valve addition or change which might increase fugitive emissions by a very slight amount or make the valve subject to a requirement such as leak-check monitoring under NSPS Subpart GGG. There is little logic in requiring a construction permit for such a change with only a few pounds per year of emissions or the addition of a few valves to an existing LDAR program. If possible, such situations will be anticipated by the Title V permit conditions and specifically excluded from notification or permit modification requirements.

There is no danger of this being a significant "loop-hole" for several reasons:

1. Parts 7 and 9 exclude such changes from exceeding PSD significance levels
2. Upstream and downstream processes will frequently have their own emission limits
3. The Title V permit will be updated every 5 years.

OAC 252:100-8-6 (f) Operational Flexibility

Changes resulting in no emissions increases. A permitted Part 70 source may make changes within the facility that are specifically authorized in the permit or that:

- (A) Are not modifications under any provision of Title I of the Act.
- (B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; and
- (C) Result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit.....

RATIONALE:

Minor changes of operation / maintenance / construction / replacement can be anticipated for many activities at major facilities. Such changes will often result in a trivial increase of actual emissions but do not warrant a permit modification.

MINUTES
AIR QUALITY COUNCIL
AUGUST 16, 2000
Pioneer Technology Center
Ponca City, Oklahoma

Council Members Present

David Branecky, Chairman
Sharon Myers, Vice-Chair
William B. Breisch
Fred Grosz
Gary Kilpatrick
Joel Wilson

Council Members Absent

Larry Canter
Leo Fallon

Staff Present

Eddie Terrill
David Dyke
Scott Thomas
Dawson Lasseter
Pam Dizikes
Dennis Doughty

Guests Present

**see attached list

Staff Present

Cheryl Bradley
Jeanette Buttram
Myrna Bruce
Beverly Botchlet-Smith

Notice of Public Meeting for August 17, 2000 was forwarded to the Office of the Secretary of State giving the time, date, and place of the meeting. Agendas were posted on the entrance doors at Pioneer Technology Center and on the entrance doors of the DEQ Central Office in Oklahoma City.

Call to Order - Mr. Branecky, Chairman, called the meeting to order and roll call was taken as follows: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

Approval of Minutes - Mr. Branecky entertained a motion to approve the Minutes of the June 14, 2000 Public Meeting/Hearings. Motion was made by Dr. Grosz to approve the Minutes as presented and second was made by Mr. Wilson. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

Protocol Statement — As protocol officer, Mr. Dyke convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 through 2-5-101 - 2-5-118. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record.

PUBLIC HEARING

OAC 252:100-6

PERMITTING

Ms. Jeanette Buttram advised Council that staff's request for revocation of Subchapter (SC) 6 contributed to the Department's goal of eliminating redundant or unnecessary language through the re-right/de-wrong process. She stated that SC 6 mostly summarizes the permit program in SC 7 and SC 8 and restates Oklahoma statutes on permitting. She pointed out the substantive language that would be placed into SCs 7 and 8. These portions that would be moved are: Section 252:100-6-50(b), 252:100-6-50(b)(2), and 252:100-6-50(e) to SC 7

under Section 252:100-7-2, requirement for permits for minor facilities. Also, in SC 6, the language in Section 252:100-6-50(e), was moved to 252:100-8-5(b). Currently 252:100-8-5(b) references the language in 252:100-6-50(e). Ms. Buttram related that the revocation of SC 6 would have no effect on permit actions and asked that Council recommend it for revocation to the Environmental Quality Board.

In response to a question from Council, Ms. Buttram advised that staff felt that for future clarity it would be better to revoke the rule in its entirety and move the substantive sections. She added that both SC 6 and SC 7 would be presented to the Board at the same time for approval. Ms. Myers asked for clarification that the revocation of this rule would not leave any exposure until the changes had been made to SC 7 or SC 8 to which Ms. Buttram advised that the rule would not become effective until next year. Mr. Branecky then called for a motion to recommend the proposal for revocation to the Environmental Quality Board (EQB). Mr. Breisch made the motion and Mr. Wilson made the second. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING

OAC 252:100-7

Permits for Minor Facilities

Dr. Joyce Sheedy was called upon to provide staff's recommendation of proposed rule. Dr. Sheedy stated that this rule had been before the Council on April 19 and June 14 and that a workgroup had met on May 24. Dr. Sheedy stated that the main purpose for the revision is to add Section 60-5 to SC 7 to provide a permit by rule covering natural gas compression facilities with actual emissions of less than 40 tons per year. She stated that it was decided to take the opportunity, while the rule was open, to reference the permit by rule (PBR) for volatile organic liquid storage and loading facilities in Section 40 and 42 of SC 37 and the PBR for particulate matter facilities in Section 13 of SC 29.

Dr. Sheedy entered into the record a letter from EPA Region 6 dated August 14; and a letter and comments dated August 4, 2000 from Michael H. Bernard, Mid-Continent Oil and Gas Association representing the industry members of the work group. Dr. Sheedy added that there would be further meetings with staff and industry; therefore, staff's recommendation was that the Council continue the hearing to the October meeting. Mr. Branecky called for that motion which was made by Ms. Myers and the second was made by Mr. Kilpatrick. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING
OAC 252:100- 8
Permits for Part 70 Sources

Ms. Pam Dizikes was called upon to provide staff's recommendations for this proposed rule. Ms. Dizikes pointed out that SC 8 covering permits for Part 70 sources had already been through the re-right/de-wrong process; but that since that time errors and inconsistencies needed to be resolved. Those were mainly in respect as to when construction permits are required for Part 70 sources. Ms. Dizikes pointed out the substantive changes that would be discussed. She advised that no comments had been received and suggested that the rule be recommended to the EQB for emergency and permanent adoption.

Mr. Tom Blachley requested that the rule be revisited because he stated that there had never been a resolution to the issue as to how/when a well becomes a major source stating that there are times when they would not know until after the well was perforated. Mr. Terrill stated that these issues would be discussed with a group of the effected people at which time this rule could be re-opened for hearing. Mr. Branecky then called for a motion. Mr. Kilpatrick moved that Council recommend this rule as amended to the EQB for emergency and permanent approval. Dr. Grosz made the second. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

PUBLIC HEARING
OAC 252:100-29
Control of Fugitive Dust

Ms. Cheryl Bradley was called upon for staff recommendations. She stated that proposed changes were to simplify and clarify language according to the agency-wide re-right/de-wrong initiative noting that the rule had been before the Council on June 14. She entered into the record written comments received from EPA Region 6 Air Planning Section dated August 11, 2000. Ms. Bradley stated that since comments had been received which would result in recommended changes to the rule, it was staff's recommendation to continue the rule to the October meeting.

Mr. Terrill asked for feedback regarding removing the word "visible" from the term "visible fugitive dust emissions". After hearing the comments from Council and audience, Mr. Branecky asked that any further comments be sent to DEQ prior to Council's next meeting. Ms. Myers made a motion to continue the hearing until October. Mr. Wilson made the second. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

**PUBLIC HEARING
OAC 252:100-31
Control Of Emissions of Sulfur Compounds**

Dr. Joyce Sheedy advised Council that revisions to this subchapter were proposed to simplify and clarify language according to the agency-wide re-right/de-wrong initiative. She hoped that that staff's intention to rearrange the material might make the rule to be in a more logical order. She pointed out the substantive changes proposed. Dr. Sheedy entered into the record comments received from Michael Graves of Hall, Estill, Hardwick, Gable, Golden & Nelson dated March 24, 2000; comments from Stephen E. Landers of Fort James dated August 11, 2000; and comments from Tom Diggs of EPA Region VI dated August 11, 2000. Dr. Sheedy then advised that the staff recommended that the hearing be continued to October and advised that a workgroup session would be set up to discuss the revisions.

Mr. Wilson stated that there would be a workgroup meeting on September 8 at the McKinney-Stringer Office. Mr. Terrill pointed out that the rule would not be revised just to meet the re-right/de-wrong legislative mandate, but that meaningful changes would be made to make the rule easier to interpret and apply.

Ms. Myers moved to continue the hearing to the October meeting and Dr. Grosz seconded that motion. Roll call: Mr. Wilson - aye; Dr. Grosz - aye; Mr. Kilpatrick - aye; Mr. Breisch - aye; Ms. Myers - aye; Mr. Branecky - aye.

A copy of the hearing transcript is attached and made an official part of these minutes.

DIVISION DIRECTOR'S REPORT Mr. Terrill gave an update on activities and called upon Ms. Beverly Botchlet-Smith who gave a report of Central States Air Resource Agencies (CenSARA) activities. Mr. Dawson Lasseter, Program Manager Permits Section, also provided an update. Mr. Scott Thomas, Program Manager Rules and Planning Section, provided an update on recent ozone values experienced in Oklahoma.

NEW BUSINESS None

ADJOURNMENT With no further business, meeting was adjourned with announcement that the next regularly scheduled meeting would be on October 18 at the DEQ offices in Oklahoma City.

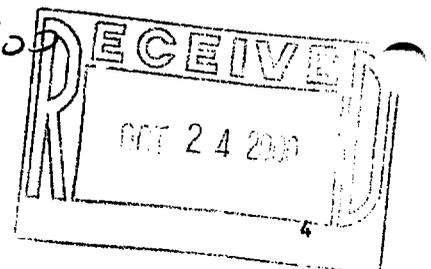
NOTE: The sign-in sheet is attached as an official part of these Minutes.

 10/23/00

David Branecky, Chairman
Air Quality Council

 10/27/00

J. Eddie Terrill, Director
Air Quality Division





O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL
Public Hearing and Meeting
Attendance Record
August 16, 2000

Page One

NAME/AFFILIATION	ADDRESS	TELEPHONE
1. DON WHITNEY	TRINITY CONSULTANTS	(405) 228-3292
2. JOHN WHEELER	TRINITY CONSULTANTS	(972) 661-8100
3. Joel Howard	Marathon Oil	(405) 720-5500
4. JACK BROWN	MARATHON OIL	(405) 720-5532
5. Preston Butala	Hanover Company	715 699 5214
6. Paige Taber	Marathon Oil	405 720 5690
7. Darla K. Bierig	Marathon Oil Co.	(405) 720-5587
8. Julia Bevers	OGIE	405 553 3439
9. Dawson Lassiter	DEQ	405-702-4185
10. Don Shandy	McKinney & Stringer	405-272-1940
11. Howard Ground	AEP	214-777-1711
12. MARK GIPSON	AEP	214.777.2278
13. FRANK CONDON	ER BOARD	
14. Mike Wood	Weyerhaeuser	501-624-8569
15. GARY SMITH	ATKINS BENHAM (RSA)	817-640-6407
16. SYLVIA PRATT	NEWKIRK	580 362-2813
17. Pat Davepoot	National Standard	405/377-5050
18. Glenn Hall	Conoco	281-293-5762
19. Tom Blachly	Envir. Consulting Services	918-523-9301
20. Terry Lyhane	Atkins-Benham	405-701-3138
21. Deborah Perry	Atkins Benham (RSA)	918 496 0059
22.		
23.		
24.		
25.		

4819

THE AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION
TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title: OAC: 252:100-8
Permits for Part 70 Sources [AMENDED]

On August 16, 2000 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Sec. 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

X permanent [take effect after legislative review]

X emergency [temporary, to take effect upon approval by the Governor because of time]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all-applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,

David Branecky
Chair or Designee:

Date Signed: 8/16/00

VOTING TO APPROVE:

Joel Wilson William Breisch
Fred Grosz Sharon Myers
Gary Kilpatrick David Branecky

VOTING AGAINST:

ABSTAINING:

ABSENT:
Larry Canter
Leo Fallon

OAC 252:100-8
Environmental Quality Board

ENVIRONMENTAL
QUALITY
BOARD

JANUARY 17, 1998
CONTINUED TO
MARCH 20, 1998
OSDH

**TITLE 252 DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

RULEMAKING ACTION: PERMANENT final adoption.

RULES: 252:100-8, Operating Permits (Part 70) [AMENDED].

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993 §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period: September 15, 1997 through October 15, 1997; November 17, 1997 through December 16, 1997; and January 27, 1998.

Public hearing: October 21, 1997, December 16, 1997 and January 9, 1998.

Adoption: January 27, 1998 (proposed).

Submitted to Governor:

Submitted to House:

Submitted to Senate:

Gubernatorial approval:

Legislative approval:

Final adoption:

Effective:

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Gubernatorial approval:

Register publication:

Docket number:

INCORPORATIONS BY REFERENCE:

Incorporated standards: 40 CFR §§ 63.41, 63.43, 63.44; 40 CFR Part 72.

Incorporating rule: 252:100-8-4(a)(2)(C); 252:100-8-6.3(h).

Availability: The standards are available to the public for examination at the Department of Environmental Quality office at 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma.

ANALYSIS: The changes in Subchapter 8 incorporate a new permit classification system, move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5, move the requirements for construction permits for Title V sources from Subchapter 7 to Subchapter 8, make corrections to meet the federal requirements for final approval of the Oklahoma Operating Permit Program under Title V of the Federal Clean Air Act and 40 CFR Part 70, adopt by reference the federal rules governing case-by-case MACT determinations found in 40 CFR §§63.41, 63.43 and 63.44 as they exist on July 1, 1997, and update the adoption of 40 CFR 72 by adopting the provisions published in the Federal Register on October 24, 1997.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on January 9, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

CONTACT PERSON: Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd. Suite 250, Oklahoma City, Oklahoma 73105. (405) 290-8247.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 1998.

**TITLE 252 DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

RULEMAKING ACTION: EMERGENCY adoption.

RULES: 252:100-8, Operating Permits (Part 70) [AMENDED].

AUTHORITY: Environmental Quality Board; 27A O.S. Supp. 1993 §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period: September 15, 1997 through October 15, 1997; November 17, 1997 through December 16, 1997; and January 27, 1998.

Public hearing: October 21, 1997, December 16, 1997 and January 9, 1998.

Adoption: January 27, 1998 (proposed).

Effective: Effective immediately upon Governor's approval.

Expiration: Effective through July 14, 1998, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS: None.

INCORPORATIONS BY REFERENCE:

Incorporated standards: 40 CFR §§ 63.41, 63.43, 63.44; 40 CFR Part 72.

Incorporating rules: 252:100-8-4(a)(2)(C); 252:100-8-6.3(h).

Availability: The standards are available to the public for examination at the Department of Environmental Quality office at 4545 N. Lincoln Blvd., Suite 250, Oklahoma City, Oklahoma.

FINDING OF EMERGENCY: The Environmental Quality Board finds that a compelling extraordinary circumstance necessitates the seeking of emergency certification of the rules and regulations adopted today. These actions provide modern tools for the protection of environmental health in the field of air quality regulation. Under the terms of the Administrative Procedures Act, unless an emergency is declared and certified, these amendments could not go into effect until the spring of 1998 and Oklahoma citizens should not have to wait on that procedure.

ANALYSIS: The changes in Subchapter 8 incorporate a new permit classification system, move the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5, move the requirements for construction permits for Title V sources from Subchapter 7 to Subchapter 8, make corrections to meet the federal requirements for final approval of the Oklahoma Operating Permit Program under Title V of the Federal Clean Air Act and 40 CFR Part 70, adopt by reference the federal rules governing case-by-case MACT determinations found in 40 CFR §§63.41, 63.43 and 63.44 as they exist on July 1, 1997, and update the adoption of 40 CFR 72 by adopting the provisions published in the Federal Register on October 24, 1997.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on January 9, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

CONTACT PERSON: Joyce D. Sheedy, Ph.D., Department of Environmental Quality, Air Quality Division, 4545 N. Lincoln Blvd. Suite 250, Oklahoma City, Oklahoma 73105. (405) 290-8247.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D).

SUBCHAPTER 8. OPERATING PERMITS (PART 70) FOR PART 70 SOURCES

PART 1. GENERAL PROVISIONS

252:100-8-1. Purpose

The purpose of this Subchapter is to provide for the promulgation and enforcement of the requirements necessary to meet Title V of the federal Clean Air Act (42 U.S.C. 7401, et seq.) and 40 CFR Part 70 by establishing a comprehensive state air quality permitting program for major sources of air contaminant emissions. Permits issued under this program will address all applicable air contaminant emissions and regulatory requirements in a single document. This Subchapter sets forth permit application fees and the substantive requirements for permits for Part 70 sources.

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

"A stack in existence" means for purposes of 252:100-8-1.5 that the owner or operator had:

(A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or

(B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

"Administrator" means the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Allowable emissions" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition.

"Begin actual construction" for purposes of Parts 7 and 9 of this Subchapter means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

"Commence" for purposes of Parts 7 and 9 of this Subchapter

means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

"Dispersion technique" means for purposes of 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emission limitations and emission standards" means for purposes of 252:100-8-1.5 requirements that limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. (Amended 7-9-87, effective 8-10-87)

"Emissions unit" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation.

"EPA" means the United States Environmental Protection Agency.

"Fugitive emissions" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules.

"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.

"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of this Subchapter, as provided in 252:100-8-3(a) and 252:100-8-3(b).

"Potential to emit" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purpose of 252:100-8, Part 9, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification.

"Stack" means for purposes of 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to 252:100.

252:100-8-1.2. General information

(a) Permit categories. Two types of construction and operating permits are available: general permit and individual permit.

(1) General permit.

(A) A general permit may be issued for an industry if there are a sufficient number of facilities that have the same or substantially similar operations, emissions and activities which are subject to the same standards, limitations and operating and monitoring requirements.

(B) Facilities may be eligible for authorization under a general permit if the following criteria are met:

(i) The facility has actual emissions of 100 tpy or more of any one regulated air pollutant emitted and/or is a Part 70 source.

(ii) The DEQ has issued a general permit for the industry.

(2) Individual permit. Facilities requiring permits under this Subchapter that do not qualify for a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a general permit.

(b) Applicability determination. Any person may submit a request in writing that the DEQ make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this Subchapter. The request must contain sufficient information for the DEQ to make the requested determination and the required fee. The DEQ may request any additional information that it needs for purposes of making the determination.

252:100-8-1.3. Duty to comply

(a) An owner or operator who applies for a permit or authorization, upon notification of coverage, shall be bound by the terms and conditions therein.

(b) An owner or operator who violates any condition of a permit or authorization is subject to enforcement under the Oklahoma Clean Air Act.

252:100-8-1.4. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) Cancellation of permit or authorization to construct or modify. A duly issued permit or authorization to construct or

modify will terminate and become null and void (unless extended as provided in Subsection (b) of this Section) if the construction is not commenced within 18 months after the date the permit or authorization was issued, or if work is suspended for more than 18 months after it has commenced.

(b) Extension of permit or authorization to construct or modify.

(1) Prior to the expiration date of the permit or authorization, a permittee may apply for extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site, or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under 252:100-8-1.4(b)(1)(B) or 252:100-8-1.4(b)(1)(C), to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information.

252:100-8-1.5. Stack height limitations

(a) Stack height exclusion. Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) Determination of good engineering practice (GEP) stack height. GEP shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either 252:100-8-1.5(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under 252:100-8 or 40 CFR Part 52,

$$H_g = 2.5H$$

provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks,

$$H_g = H + 1.5L,$$

where: H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c) Nearby.

(1) For the formulae in 252:100-8-1.5(b) (2). A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in 252:100-8-1.5(b) (3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (H_t) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in 252:100-8-1.5(b) (2) (B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) Measurement of height of structure or terrain. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d) Excessive concentrations. When utilized for the purpose of determining GEP stack height under 252:100-8-1.5(b) (3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under 262:100-8-1.5(b) (2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures

or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 7 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Executive Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Executive Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under 252:100-8-1.5(b)(2) where the Executive Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

(1) Applicability determination. \$100, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.

(2) Construction permit application. The fee is \$2,000.

(3) Operating permit application.

- (A) Initial Part 70 permit - \$2,000.
- (B) Authorization under a general permit - \$900
- (C) Renewal Part 70 permit - \$1,000.
- (D) Significant modification of Part 70 permit - \$1,000.
- (E) Minor modification of Part 70 permit - \$500.
- (F) Part 70 Temporary Source Relocation - \$500.

PART 5. PERMITS FOR PART 70 Sources

252:100-8-2. Definitions

The following words and terms, when used in this ~~Subchapter~~Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this ~~Subchapter~~Part retain the meaning accorded them under the applicable requirements of the Act.

~~"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq.~~

~~"Administratively complete" means the same as defined at OAC 252:002-11-an application that provides:~~

- (A) All information required under 252:100-8-5(c), (d), or (e);
- (B) A landowner affidavit as required by 252:2-15-20(b)(3);
- (C) The appropriate application fees as required by 252:100-8-1.7; and
- (D) Certification by the responsible official as required by 252:100-8-5(f).

~~"Administrator" means the administrator of the United States Environmental Protection Agency (EPA) or the administrator's designee.~~

"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

- (A) all states:
 - (i) ~~that~~That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and
 - (ii) That in the judgment of the Agency, ~~DEQ~~ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or
- (B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

~~"Agency" means Air Quality Division of the Oklahoma Department of Environmental Quality.~~

"Applicable requirement" means all of the following as they apply to emissions units in a ~~part~~Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

- (A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to

that plan promulgated in 40 C.F.R.-CFR Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

~~"Department" means the Department of Environmental Quality.~~

~~"Designated representative" means the same as the meaning given to it in section 402(26) of the Act and the regulations promulgated thereunder with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.~~

~~"Draft permit" means the version of a permit for which the Agency DEQ offers public participation under OAC 252:100-8-7(i) 27A O.S.Supp. 1995, §2-14-101 et seq. and 252:100-2-15 or affected State review under OAC-252:100-8-8.~~

~~"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.~~

~~"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific~~

emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

~~"EPA" means the United States Environmental Protection Agency.~~

"Final permit" means the version of a part 70 permit issued by the ~~Agency~~DEQ that has completed all review procedures required by ~~OAC-252:100-8-7 through 252:100-8-7.5 and 252:100-8-8.~~

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of ~~OAC 252:100-8-6(d)~~252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) through (C) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

(C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in 252:100-41-40.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that ~~are~~is described in subparagraph (A), (B), or (C), ~~or (D)~~, of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous

area or under common control, to determine whether such units or stations are major sources; or.

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except ~~Total Suspended Particulates (TSP)~~ TSP) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified

as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(iii) For carbon monoxide non-attainment areas:

(I) that are classified as "serious"; and

(II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

~~(D) Notwithstanding the source categories in (A) through (C) of this definition, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this definition.~~

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

~~"Part 70 permit" (unless the context suggests otherwise) means any permit or group of permits covering a part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.~~

~~"Part 70 program" means a program approved by the Administrator under 40 C.F.R. Part 70.~~

~~"Part 70 source" means any source subject to the permitting requirements of this Chapter, as provided in OAC 252:100-8-3(a) and 252:100-8-3(b).~~

"Permit" (unless the context suggests otherwise) means any permit or group of permits covering a ~~part~~Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a ~~part~~Part 70 construction or operating permit that meets the requirements of ~~OAC 252:100-8-7(e)~~ 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in ~~OAC 252:100-8-9~~ 252:100-5-2.2 (whether such costs are incurred by the Agency ~~DEQ~~ or other State or local agencies that do

not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

~~"Permitting authority" means the Department of Environmental Quality.~~

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the Agency~~DEQ~~ proposes to issue and forwards to the Administrator for review in compliance with ~~OAC~~ 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic ~~compounds~~compound (VOC), including those substances defined at ~~OAC~~in 252:100-1-3, 252:100-37-2, 252:100-39-2, or any Volatile Organic Solvent (VOS), as that term is defined at ~~OAC~~in 252:100-37-2 and 252:100-39-2, or any organic material defined at ~~in~~in 252:100-37-2 except those specifically excluded in the EPA definition of VOC ~~per~~in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the ~~permitting authority~~ DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. 2-5-101 et seq. as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 C.F.R. Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J. Any activity to which a State or federal applicable requirement applies is not trivial even if included on the trivial activities list.

"Unit" means, for purposes of Title IV, a fossil fuel-fired

combustion device.

252:100-8-3. Applicability

(a) **Covered sources.** Except as exempted from the requirement to obtain a permit under subsection (b) of this Section ~~and/or elsewhere in this Chapter~~Subchapter, the ~~following sources listed below~~ are subject to the permitting requirements under this ~~Chapter~~Subchapter. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section.

- (1) Any major source (as defined in ~~OAC~~ 252:100-8-2);
- (2) Any source, ~~including an area source,~~ subject to a ~~NSPS~~ standard, limitation, or other requirement under section 111 of the Act;
- (3) Any source, including an area source, subject to a ~~NESHAP~~ standard or other requirement under section 112 of the Act, ~~except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;~~
- (4) Any affected source (as defined in ~~OAC~~ 252:100-8-2); ~~and~~
- (5) Any source in a source category designated by the Administrator pursuant to 40 ~~C.F.R.~~ CFR §70.3-; and
- (6) Any major source required to have a permit under Parts 7 or 9 of this Subchapter.

(b) **Source category exemptions.**

(1) All sources listed in subsection (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation.

~~(c) **Emissions units and covered sources (Part 70 sources).**~~

- ~~(1) For major sources, Part 70 permits shall include all~~

~~applicable requirements and state only requirements for all relevant emissions units in the major source.~~

~~(2) For any non major source subject to this Subchapter, Part 70 permits shall include all applicable requirements which apply to emissions units that cause the source to be subject to the requirement to obtain a permit.~~

~~(d) Fugitive emissions. Fugitive emissions from a covered source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.~~

~~(e) Insignificant activities.~~

~~(1) The insignificant activities and emissions levels shall be as follows:~~

~~(A) emissions will not exceed one pound (1 lb.) per hour for any one criteria pollutant, and~~

~~(B) emissions of toxic air contaminants will not exceed the de minimis requirements set forth under 252:100 41 43(a) (5).~~

~~(2) In addition to the quantity thresholds in (1) (A) and (1) (B) "Insignificant Activity" also means any individual or combination of air emissions sources at a facility that have an aggregate potential to emit that does not increase the overall potential to emit of the entire facility for a given regulated pollutant by more than 10% above the "baseline" permitted limit which excludes the insignificant activities. Thus, insignificant activities may apply to original permit application, permit modifications/amendments, and/or permit renewals. The cumulative amount of activities claimed as insignificant during a Title V permit term shall not increase the potential to emit of the entire facility by more than 10% of the permit limit for a given pollutant from the date of permit issuance to the date of application for renewal. These insignificant activities cannot conflict with significant emission levels in any Title V program. Insignificant activities must be identified but not quantified (except to the extent necessary to demonstrate their insignificance) in the permit application. The Agency shall maintain a list of activities which are considered to be insignificant without quantification by the permittee. The Agency shall also maintain a list of activities which are determined to be trivial. "Trivial activity" means any individual or combination of air emissions units at a Part 70 source which are considered inconsequential as determined by the Agency. Trivial activities need not be identified in the permit application, amendment or renewal.~~

~~(f) Applicability determinations. Any person may submit a request in writing that the Agency make a determination as to whether a particular source or installation, which that person operates or proposes to operate, is subject to the permit requirements of this rule. The request must contain such information as is believed sufficient for the Agency to make the requested determination. The Agency may request any additional information that it needs for purposes of making the determination.~~

~~(g) Covered sources. A covered source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the~~

~~operation of the facility to below that which would define it as a covered source pursuant to 252:100-8-3(a).~~

252:100-8-4. ~~Title V permits required~~ Requirements for construction and operating permits

(a) Construction permits.

(1) Construction permit required. No person shall cause or allow the construction or installation of any new facility that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required for any physical change that would be a modification under 252:100-8-7.2(b). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) Requirement for case-by-case MACT determinations.

(A) Applicability. The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) Exclusions. The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) MACT determinations. If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 1997.

(b) Operating permits.

(1) Operating permits required. Except as provided in paragraphs ~~subparagraphs (1)(A) and (2)(B)~~ of this section, no ~~Title V~~ Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

~~(1)(A)~~ If the owner or operator of a source subject to the requirement to obtain a permit submits a timely application for permit issuance or renewal, that source's failure to have a permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or ~~OAC 252:100-8-5~~ 252:100-8-4, any additional information identified as being reasonably required to process the application.

~~(2)(B)~~ If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete at the end of the DEQ's administrative completeness review period due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph ~~(1)(A)~~ of this section, as a result of its failure to timely provide information requested by the DEQ, the source's failure to have a permit shall be deemed a violation of this Subchapter.

~~(3)(C)~~ Filing an operating permit application shall not affect the requirement, if any, that any source have a ~~preconstruction~~ construction permit under Title I of the federal Clean Air Act.

(2) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) Timely application. Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

(I) Petroleum and Natural Gas, 1311;

(II) Natural Gas Liquids, 1321;

(III) Electric Services, 4911, 4961;

(IV) Natural Gas Transmission, 4922;

(V) Natural Gas Transmission and Distribution, 4923; and

(VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,

(ii) Brick Plants, 3251, 3297,

(iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Refineries, 2911;

(ii) Cement Plants, 3241;

(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;

(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;

(v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) Newly regulated sources. A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) Application acceptability. Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) 112(g) applications. A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) Application for renewal. Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) Phase II acid rain permits. Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) Application completeness. See Uniform Permitting Rules, 252:2-15-70 and the definition of administratively complete in 252:100-8-2.

252:100-8-5. Permit applications

~~(a) Construction permit. Any new source or modified source which becomes subject to this Subchapter shall be required to obtain a construction permit in accordance with OAC 252:100-7 prior to commencement of construction.~~

~~(b) Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the Division in accordance with this section.~~

~~(1) Timely application. Sources that are subject to the operating permit program established by this Chapter as of the date the program is approved by EPA and becomes effective (the "effective date") shall file applications on the following schedules outlined in OAC 252:100-8-5(b)(2) 252:100-8-4(b)(2). In the event a major source consists of operations under multiple SIC codes, the main activity shall form the basis for the initial permit application.~~

~~(2) Application submittal schedule. The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.~~

~~(A) No later than six months after the effective date of the federally approved interim state operating permit program:~~

~~(i) Affected sources under the acid rain provisions of the federal Clean Air Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.~~

~~(ii) Any owner or operator shall submit no less than one-third of their total applications for major sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):~~

~~(I) Petroleum and Natural Gas, 1311;~~

~~(II) Natural Gas Liquids, 1321;~~

~~(III) Electric Services, 4911, 4961;~~

~~(IV) Natural Gas Transmission, 4922;~~

~~(V) Natural Gas Transmission and Distribution, 4923; and~~

~~(VI) Petroleum Bulk Stations and Terminals, 5171.~~

~~(B) All remaining Part 70 sources identified in (b)(2)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the federally approved interim state operating permit program.~~

~~(C) No later than 12 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Metals, 3312, 3315, 3321, 3379, 3341, 3351, 3411,~~

~~3412, 3432, 3466,~~

~~(ii) Brick Plants, 3251, 3297,~~

~~(iii) Commercial Printing, 2752, 2761.~~

~~(D) No later than 28 months after the effective date of the federally approved interim state operating permit program, any owner or operator shall submit their applications for major sources located at sources classified by the following Standard Industrial Classification Codes:~~

~~(i) Refineries, 2911,~~

~~(ii) Cement Plants, 3241,~~

~~(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089,~~

~~(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613,~~

~~(v) Food Products, 2013, 2074, 2095.~~

~~(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than 36 months after the effective date of the federally approved interim state operating permit program.~~

~~(3) Application following effective date. A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.~~

~~(4) Application acceptability. Notwithstanding the deadlines established in paragraphs (1), (2), and (3) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing. For purposes of the 60 day administrative review period established in OAC 252.2-15, the official login date for any Part 70 operating permit submitted according to the interim schedule in this subsection shall be the date on which the DEQ begins its administrative completeness review.~~

~~(5) 112(g) applications. A source that is required to meet the requirements under section 112(g) of the federal Clean Air Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing construction.~~

~~(6) Application for renewal. Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case by case basis.~~

~~(7) Phase II acid rain permits. Sources required to submit applications under the Acid Rain Program should submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).~~

~~(8) Application completeness. See Uniform Permitting Rules,~~

OAC 252:010 3 50 and 3 51.

~~(9) Application content for renewal of expiring permit. In submitting an application for renewal of a DEQ issued Part 70 operating permit, a source may identify terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply. The source must identify specifically and list which portions of its previous permit and/or applications are incorporated by reference. In addition, a renewal application must contain:~~

~~(i) information specified in OAC 252:100 8 5(d) for those products, processes, operations, and emissions that:~~

~~(I) are not addressed in the existing permit,~~

~~(II) are subject to applicable requirements or state only requirements that are not addressed in the existing permit, or~~

~~(III) as to which the source seeks permit terms and conditions that differ from those in the existing permit, and~~

~~(ii) a compliance plan and certification as required in 252:100 8 5(d)(8).~~

~~(10)(a) Confidential information. If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.~~

~~(e)(b) Duty to supplement or correct application. Renumbered as OAC 252:100 6 50(f) See 252:100-6-50(e).~~

~~(d)(c) Standard application form and required information.~~

Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with ~~OAC 252:2-15~~. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to ~~OAC 252:100 8 9~~ 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any such insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the ~~following information required by 252:100-8-5(d) and/or 252:100-8-5(e) be provided.~~

~~(d) Construction permit applications.~~

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include but not be limited to site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) BACT determination. To be approved for a construction permit, a major source must demonstrate that the control

technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case by case basis taking into account energy, environmental, cost and economic impacts of alternative control systems.

(B) Modeling. Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant.

(C) Sampling points. If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. [NOTE: 252:100-8-1.4(b)(1) was taken from 252:100-7-15(b)]

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in 252:100-8-5(e) to the extent they are applicable.

(e) Operating permit applications.

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this subsection ~~(d) 252:100-8-5(c) or OAC 252:100-8-3(b)~~. ~~The source shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to determine the amount of any permit fees owed under the fee schedule approved pursuant to OAC 252:100-8-9.~~

(B) Identification and description of all points of emissions described in subparagraph ~~(d)~~ (e)(3)(A) of this section in sufficient detail to establish the basis for fees and applicability of the ~~federal Clean Air Act's~~ requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

- (F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.
- (G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the ~~federal Clean Air Act~~).
- (H) Calculations on which the information in items (A) through (G) of this paragraph is based.
- (4) The following air pollution control requirements:
- (A) Citation and description of all applicable requirements, and all state-only requirements, and.
- (B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.
- (5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the ~~federal Clean Air Act~~ or of this Chapter or to determine the applicability of such requirements.
- (6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.
- (7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to ~~OAC 252:100-8-6(a)(9)~~ or to define permit terms and conditions implementing ~~OAC 252:100-8-6(h)~~ 252:100-8-6(f) or ~~OAC 252:100-8-6(a)(10)~~.
- (8) A compliance plan for all covered sources that contains all the following:
- (A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements, as follows:
- ~~(B) A description as follows:~~
- (i) For applicable requirements, and state-only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.
- (ii) For applicable requirements, and state-only requirements, that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
- (iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
- ~~(C) (B) For sources not in complete compliance, a~~ compliance schedule as follows:
- ~~(i) For applicable requirements, and state only requirements, with which the source is in compliance, a statement that the source will continue to comply with such requirements.~~
- ~~(ii) For applicable requirements, and state only requirements, that will become effective during the permit term, a statement that the source will meet such require-~~

~~ments on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.~~

~~(iii)(i)~~ A schedule of compliance for sources that are not in compliance with all applicable requirements, and state-only requirements, at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements, and state-only requirements, for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

~~(D)(ii)~~ A schedule for submission of certified progress reports no less frequently than every 6 months ~~for sources required to have a schedule of compliance under OAC 252.100-8-5(d)(8)(C)(iii).~~

~~(E)(C)~~ The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the ~~federal Clean Air Act~~ with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements, and state-only requirements, by a responsible official consistent with subsection ~~(e)(f)~~ of this section and section 114(a)(3) of the ~~federal Clean Air Act~~;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement, state-only requirements, or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the ~~federal Clean Air Act~~.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the ~~federal Clean Air Act~~.

~~(11) A list of any such units which satisfy the definition of either insignificant activities or de minimis emissions.~~

~~(e)(f)~~ Certification. Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain

certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

~~(f)~~(g) **Number of application copies.** See Part 3 of ~~OAC~~252:2-15.

252:100-8-6. Permit content

(a) **Standard permit requirements.** ~~To the extent practicable, every~~ Part 70 ~~permit~~permits issued under this Chapter shall include all applicable requirements, and state-only requirements, (as defined in ~~OAC~~252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements, and state-only requirements, and shall include those operational ~~requirements~~conditions and limitations necessary to assure compliance with all ~~applicable~~such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement, ~~and~~ or state-only requirement, upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the ~~federal Clean Air Act~~ is more stringent than an applicable requirement of regulations promulgated under Title IV of the ~~federal Clean Air Act~~, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If ~~an applicable~~the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) **Operating Permits.** The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs ~~(A)~~(i) and ~~(B)~~(ii) of this paragraph:

~~(A)~~(i) Permits issued to affected sources shall in all cases have a fixed term of five years.

~~(B)~~(ii) Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the ~~federal Clean Air Act~~ shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) Construction permits. See 252:100-8-1.4.
(3) Monitoring and related recordkeeping and reporting requirements.

(A) Monitoring requirements. Each permit shall contain the following requirements with respect to monitoring:

(i) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the federal Clean Air Act;

(ii) Where ~~the~~an applicable requirement, and or state-only requirement, does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data ~~from the relevant time period~~ that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, ~~and~~ installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) Recordkeeping requirements. ~~With respect to recordkeeping, the~~The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions ~~as~~ existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) Reporting requirements. ~~With respect to reporting,~~
The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this ~~Chapter~~Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C)(i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from emergency or upset conditions as defined in ~~OAC 252:100-8-6(g)~~ 252:100-8-6(e) shall be reported within 24 hours of the date on which the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report must contain a description of the emergency, any steps taken to mitigate emissions and corrective actions taken.

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or preventative measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of ~~OAC 252:100-9.~~

(4) Risk management plans. If the source is required to

develop and register a risk management plan pursuant to section 112(r) of the ~~federal Clean Air Act~~, the permit need only specify that ~~it~~ the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) Title IV allowances.

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the ~~federal Clean Air Act~~ or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) Severability clause. The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) General requirements. The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

(i) enforcement action;

(ii) permit termination, revocation and reissuance, or modification; or

(iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under ~~OAC 252:100-8-7(e)(1)~~ 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort, or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to ~~OAC 252:100-8-5(b)(10)~~ 27A O.S. 1993 Supp. Section 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under ~~OAC 252:100-8-9252:100-5-2.2~~.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements, and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

(b) **Federally enforceable requirements.**

(1) Except as provided in paragraph (b) (2) of this section, all terms and conditions in a permit issued under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the ~~federal Clean Air Act~~.

(2) Notwithstanding paragraph (b) (1) of this section, the DEQ shall designate as not being federally enforceable under the ~~federal Clean Air Act~~ any terms and conditions included in the permit that are not required under the ~~federal Clean Air Act~~ or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the ~~federal Clean Air Act~~.

(c) **Compliance requirements.** All permits issued under this ~~Chapter~~ Part shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a) (3) of this section, compli-

ance certification, testing, monitoring, reporting, and record-keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this ~~Chapter~~Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to perform the following ~~(subject to the permittee's right to seek confidential treatment pursuant to OAC 252:100-8-5(b)(10) for confidential information submitted to or obtained by the DEQ under this subsection):~~

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the ~~federal Clean Air~~Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) A schedule of compliance ~~to the extent if~~ required under ~~OAC 252:100-8-5(d)(8)(C)~~252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and ~~OAC 252:100-8-5(d)(8)~~252:100-8-5(e)(8), progress reports, to be submitted semiannually, or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall specify:

(A) The frequency (which shall be annually unless the applicable requirement, ~~and~~ or state-only requirement, specifies submission more frequently) of submissions of compliance certifications;

(B) In accordance with paragraph (a)(3) of this section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition

of the permit that is the basis of the certification;

(ii) The permittee's current compliance status, as shown by monitoring data and other information available to the permittee;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a) (3) of this section; and

(v) Such other facts as the DEQ may require to determine the compliance status of the source;

(D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;

(E) Such additional requirements as may be specified pursuant to sections 114(a) (3) and 504(b) of the federal Clean Air Act; and

(6) Such other provisions as the DEQ may require.

~~(d) General permits.~~

~~(1) The DEQ may, after notice and opportunity for public participation, issue a general permit to any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the federal Clean Air Act.~~

~~(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.~~

~~(3) A general permit may be issued for the following purposes~~

~~(A) to establish terms and conditions to implement applicable requirements, and state only requirements, for a source category;~~

~~(B) to establish terms and conditions to implement applicable requirements, and state only requirements, for specified categories of changes to permitted sources;~~

~~(C) to establish terms and conditions for new requirements that apply to sources with existing permits, and~~

~~(D) to establish federally enforceable caps on emissions from sources in a specified category.~~

~~(4) The DEQ may issue a general permit if it finds that:~~

~~(A) there are several permittees, permit applicants, or potential permit applicants who have the same or substantially similar operations, emissions, activities, or facilities;~~

~~(B) the permittees, permit applicants, or potential permit~~

applicants emit the same types of regulated air pollutants;
(C) the operations, emissions, activities, or facilities are subject to the same or similar standards, limitations, and operating requirements; and

(D) the operations, emissions, activities, or facilities are subject to the same or similar monitoring requirements.

(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit.

(A) Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.

(B) See OAC 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The Agency shall act to approve or deny the application within 90 days of filing.

(C) A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review.

(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ.

(7) A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined that the source does not qualify for the conditions and terms of the general permit.

(8) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may apply for and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under OAC 252:100-8-3 of this part to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference. Unless the permit specifically states otherwise, the permit shield shall apply to the terms and conditions of any general permits so incorporated by reference as well as to the terms and conditions specifically stated in the permit.

(e) **Temporary sources.** The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be

~~permitted as a temporary source. Permits for temporary sources shall include the following:~~

- ~~(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;~~
- ~~(2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and~~
- ~~(3) Conditions that assure compliance with all other provisions of this section.~~

~~(f)~~ (d) Permit shield.

(1) Each operating permit issued under this ~~section~~ Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements ~~as to~~ for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this section or in the permit shall alter or affect the following:

(A) the provisions of section 303 of the ~~federal Clean Air Act~~, including the authority of the ~~EPA Administrator~~ under that section;

(B) the liability of an owner or operator of a source for any violation of applicable requirements, ~~and~~ or state-only requirements, prior to or at the time of permit issuance;

(C) the applicable requirements of the acid rain program, consistent with section 408(a) of the ~~federal Clean Air Act~~;

or

(D) the ability of EPA to obtain information from a source pursuant to section 114 of the ~~federal Clean Air Act~~.

~~(g)~~ (e) Emergencies.

(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the

emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of ~~preventative~~preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method.

(2) An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph ~~(g)~~(e) (3) of this section and the reporting requirements of 252:100-8-6(a)(3)(C)(iii)(I) are met.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) The permitted facility was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit, and.

~~(D) The permittee submitted notice of the emergency to the DEQ within 24 hours of the time when emission limitations were exceeded due to the emergency. Such notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(5) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or ~~OAC~~-252:100-9.

~~(h)(f) **Operational flexibility.** Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.~~

(1) **Applicant's duty to apply for alternative scenarios.** Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the facility without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make changes within the facility that:

(A) Are not modifications under any provision of Title I of the ~~federal Clean Air Act~~;

(B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; ~~or~~and

(C) Result in a Netnet change in emissions ~~is of zero~~, Provided~~provided~~ that the facility ~~provides~~notifies the Administrator and the permitting authority with written

~~notification as required below~~ DEQ and EPA in writing at least 7 days in advance of the proposed changes, which shall be a minimum of 7 days, or such shorter time frame that permitting authority allows for emergencies [as defined in OAC 252:100-8-6(g)]. The source, ~~permitting authority~~ DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in OAC 252:100-8-6(f) 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

~~(3) Emissions trading in permit.~~ A permitted source may rely on the authority of this section to trade increases and decreases in emissions within the facility, where the implementation plan provides for such emissions trades without a permit modification. In such a case, the advance written notice provided by the permittee shall identify the underlying authority authorizing the trading and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements, and state only requirements, with which the source will comply through emissions trading, and such other information as may be required by the applicable requirement authorizing the emissions trade.

~~(i) Special provisions for affected (acid rain) sources~~

~~(1) Application binding until permit issuance or denial.~~ A complete acid rain permit application is binding on the applicant and enforceable as an acid rain permit until an acid rain permit is issued or denied. For applicable permitting procedures, see OAC 252:2-15.

~~(2) Exemption petitions.~~ Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.

~~(3) Permit shield.~~ The acid rain portion of every operating permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the federal Clean Air Act, will be deemed to be operating in compliance with the Acid Rain Program.

~~(4) Modifications.~~ See 40 CFR 72.82.

~~(5) Duration.~~ Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.

~~(6) Right of intervention.~~ The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.

~~(7) Administrative appeal.~~ The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.

~~(8) Adoption of 40 CFR Part 72 by reference.~~ Owners or operators of sources subject to the acid rain provisions of the federal Clean Air Act shall comply with applicable provisions of 40 CFR Part 72, as published in the Federal Register on January

~~11, 1993, and on March 23, 1993, which is hereby adopted by reference as rules of the Environmental Quality Board. In such regulations, the term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with this Chapter, the Part 72 provisions and requirements shall apply and take precedence.~~

~~(8) The Oklahoma Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR part 72, as published in the Federal Register on January 11, 1993, and on March 23, 1993 for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR part 72 conflict with or are not included in Oklahoma Administrative Code 252:100-8, the part 72 provisions and requirements shall apply and take precedence.~~

252:100-8-6.1 General permits

(a) Applicability.

(1) The DEQ may, after notice and opportunity for public participation, issue a general permit for any source category if it concludes that the category is appropriate for permitting on a generic basis. Any general permit shall comply with all requirements applicable to other Part 70 permits. No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Act.

(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the DEQ's own initiative. The DEQ shall, following receipt of an application for a general permit, or upon a determination that issuance of a general permit for a category of sources may be appropriate, follow the same procedures for issuance of a general permit as for any other permit issued under this part.

(3) A general permit may be issued to establish:

(A) Terms and conditions to implement applicable requirements and state-only requirements for a source category.

(B) Terms and conditions to implement applicable requirements and state-only requirements for specified categories of changes to permitted sources.

(C) Terms and conditions for new requirements that apply to sources with existing permits.

(D) Federally-enforceable caps on emissions from sources in a specified category.

(4) The DEQ may issue a general permit if it finds that:

(A) There are several permittees, permit applicants, or potential permit applicants who:

(i) Have the same or substantially similar

operations, emissions, activities, or facilities.

(ii) Emit the same types of regulated air pollutants.

(B) The operations, emissions, activities, or facilities are subject to the same or similar:

(i) Standards, limitations, and operating requirements.

(ii) Monitoring requirements.

(5) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source must apply for an individual Part 70 permit for all of its covered sources.

(6) Facilities located in areas that are federally designated as non-attainment are not eligible for coverage under a general permit.

(7) Sites that are not in compliance with all applicable State and Federal air regulations are eligible for a general operating permit only if:

(A) They submit to DEQ an approvable compliance plan, and

(B) The facility submits to Tier II public review.

(8) Facilities with existing state operating permits are eligible for coverage under a general operating permit.

(9) Facilities existing prior to the effective date of any applicable standard that would have created specific quantifiable and enforceable emission rates are eligible for coverage under a general operating permit.

(b) Authorization.

(1) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit in the form of an application for authorization to operate under the general permit. Such application shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.

(2) See 252:2-15 for Tier I permitting procedures and timelines for individual authorizations under general permits. The DEQ shall act to approve or deny the application within 90 days of filing.

(3) A final action approving an authorization to operate under a general permit shall not be subject to public comment or judicial review.

(4) The DEQ will publish, at least monthly, an updated list of sources approved for inclusion under the general permit and any aggrieved person may petition the DEQ to review the approval of any stationary source for inclusion under a general permit within 30 days after publication of the list.

(5) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the offices of the DEQ.

(c) Permit Shield. A general permit issued under this section shall provide that any source approved for coverage under a general permit shall be entitled to the protection of the permit shield for all operations, activities, and emissions addressed by the general permit, unless and to the extent that it is subsequently determined

that the source does not qualify for the conditions and terms of the general permit.

(d) Revisions.

(1) If an owner or operator of a source(s) makes a change to a source covered by a general permit that affects any applicability information supplied in the general permit application, but the source is still eligible for coverage under a general permit, the owner or operator must revise the general permit application and submit it to the DEQ within 60 days.

(2) After coverage is granted to a source under the general permit, physical changes to the facility which result in the addition of equipment new to the facility, either as a replacement (except like-kind replacements) or net addition, will require a construction permit or a new authorization. Any significant modification to a stationary source included under a general permit shall subject the source to a Tier II review.

(3) If equipment new to the facility is newly purchased or is relocated from another facility where a permit was issued with enforceable emissions limits on that equipment, then authorization under the general permit shall be modified or amended to include an emissions limit for the newly purchased or relocated equipment. "Grandfathered" emissions sources at the facility will retain only the equipment descriptions as permit conditions. "Grandfathered" means a unit that was in existence prior to the effective date of any applicable regulation that would have created specific quantifiable and enforceable emissions rate limits.

(4) For a general operating permit, if emissions change for any reason that subjects the facility to PSD permitting requirements, then the facility no longer qualifies for a general operating permit. However, the existing general operating permit will remain valid during the time period covered by the PSD construction permit until the facility receives a Part 70 site specific operating permit for the entire facility.

(e) Permit Content. Specific terms and conditions that will make the applicable rules and requirements enforceable shall be stipulated in the general permit.

(f) Renewal of general operating permits.

(1) The DEQ will initiate the renewal process for a general operating permit at least 180 days prior to the permit's expiration date and will follow the requirements in 252:100-8-7(a).

(2) Owners or operators shall apply to renew an authorization at least 60 days prior to expiration of the existing authorization. Upon submittal of a timely and administratively complete application, the applicant may continue to operate until such time as the DEQ grants or denies coverage under the general operating permit.

252:100-8-6.2 Temporary sources

The DEQ may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No

affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

- (1) Conditions that will assure compliance with all applicable requirements at all authorized locations;
- (2) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and
- (3) Conditions that assure compliance with all other provisions of this section.

252:100-8-6.3. Special provisions for affected (acid rain) sources

(a) Application binding until permit issuance or denial. A complete acid rain permit application is binding on the applicant and enforceable as a permit until an acid rain permit is issued or denied. For applicable permitting procedures, see 252:2-15.

(b) Exemption petitions. Applicants with small units that burn low sulfur fuel or sources that retire a unit can petition to have such units exempted from certain permitting and monitoring requirements under the acid rain regulations.

(c) Permit shield. The acid rain portion of every operating permit is covered by a permit shield. This shield assures that an applicant operating in accordance with a permit issued in accordance with Title IV of the Act, will be deemed to be operating in compliance with the Acid Rain Program.

(d) Modifications. See 40 CFR 72.82.

(e) Duration. Acid rain permits will have a term of five years commencing on the permits effective date. The DEQ may issue a permit with a future effective date.

(f) Right of intervention. The Administrator may intervene as a matter of right in any administrative appeal involving an Acid Rain permit or denial of an Acid Rain permit.

(g) Administrative appeal. The administrative appeal period shall be no more than 90 days following the issuance of the Acid Rain permit and the judicial appeal period shall be no more than 90 days following a final agency action.

(h) Adoption of 40 CFR Part 72 by reference. DEQ hereby adopts and incorporates by reference the provisions of 40 CFR Part 72, as published in the Federal Register on January 11, 1993, on March 23, 1993, and on October 24, 1997, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act. The term "permitting authority" shall mean the Oklahoma Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with or are not included in 252:100-8, the Part 72 provisions and requirements shall apply and take precedence.

252:100-8-7. Permit issuance, renewal, reopenings, and revisions

~~(a) Action on application, issuance/denial criteria.~~

~~(1)(a) Criteria for issuance. A permit, permit modification, or renewal may be issued only if the applicable requirements of 27A O.S.Supp. 1995, Section 2-14-101 et seq.; OAC 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and for applications subject to OAC 252:100-8-8, that~~

the requirements of that section have been satisfied.

~~(2)(b) Draft permits and notice thereof. See OAC-252:2-15. The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).~~

~~(3)(c) EPA review. See OAC-252:100-8-8.~~

~~(4)(d) DEQ final action. See OAC-252:2-15, and OAC-252:100-8-8 when applicable.~~

~~(5)(e) Timeline for technical review and issuance. See OAC 252:2-15 70 through 15 72. Except as provided in paragraphs (A) and (B) of this paragraph, the DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with 252:2-15-70 through 15-72 and OAC 252:100-8-5(b)(5) 252:100-8-4(b)(7).~~

~~(6)(f) Action priorities. See OAC 252:100-8-5(b) 252:100-8-4(b)(2) through (10) and 252:100-8-7.1(a).~~

~~(7)(g) No issuance by default. See 27A:2-5-112(D).~~

~~(b) Requirement for a permit. See OAC 252:100-8-4(b).~~

~~(c) Permit renewal and expiration.~~

~~(1) Applications for permit renewal after the transition period, and for permit for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection.~~

~~(2) Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under OAC 252:100-8-7(a).~~

~~(3) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration.~~

~~(4) If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time.~~

~~(5) Stationary sources operating under permits issued by the DEQ under this subchapter shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit.~~

~~(d) Administrative permit amendments.~~

~~(1) When used in this subsection "Administrative permit amendment" means a permit revision that:~~

- ~~(A) Corrects typographical errors;~~
 - ~~(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;~~
 - ~~(C) Requires more or less frequent monitoring or reporting by the permittee;~~
 - ~~(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;~~
 - ~~(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under OAC 252:100-7. Enhanced New Source Review (NSR) procedures apply to all major sources and all State Implementation Plan (SIP) minor source changes to majors.~~
- ~~(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act.~~
- ~~(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:~~
- ~~(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.~~
 - ~~(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.~~
 - ~~(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.~~
- ~~(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(f) for administrative permit amendments made pursuant to subparagraph (d)(1)(E) of this section.~~
- ~~(e) Permit modification. A permit modification is any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under subsection (d) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the federal Clean Air Act.~~
- ~~(1) Minor permit modification procedures.~~
- ~~(A) Criteria.~~
 - ~~(i) Minor permit modification procedures may be used only for those permit modifications that:~~
 - ~~(I) Do not violate any applicable requirement, or state-only requirements;~~
 - ~~(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;~~
 - ~~(III) Do not require or change a case by case determination of an emission limitation or other standard, or a~~

~~source specific determination for temporary sources of ambient impacts, or a visibility or increment analysis~~
~~(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, or state only requirement, and that the source has assumed to avoid an applicable requirement, or state only requirement, to which the source would otherwise be subject. Such terms and conditions include federally enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5) of the federal Clean Air Act; and~~
~~(V) Are not modifications under any provision of Title I of the federal Clean Air Act.~~

~~(ii) Notwithstanding OAC 252:100-8-7(e)(1)(A)(i) and OAC 252:100-8-7(e)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.~~

~~(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:~~

~~(i) A description of the change, the emissions resulting from the change, and any new applicable requirements, and state only requirements, that will apply if the change occurs;~~

~~(ii) The source's suggested modification language;~~

~~(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and~~

~~(iv) Completed forms for any notices required by OAC 252:2-15 and, regarding notice to EPA and affected states, as required under subparagraph (C) of this paragraph.~~

~~(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.~~

~~(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15 the DEQ shall:~~

~~(i) Issue the minor permit modification as approved;~~

~~(ii) Deny the minor permit modification application; or~~

~~(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.~~

~~(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to~~

~~make the change or changes proposed in the application. After the source makes the change allowed by the preceding sentence, and until the DEQ takes any of the actions specified in (1) (D) (i) through (iii) of this section, the source must comply with both the applicable requirements and state only requirements, governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.~~

~~(F) Permit shield. The permit shield under OAC 252:100-8-6(f) will not extend to minor permit modifications.~~

~~(G) Permittee's risk in commencing construction. The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.~~

~~(2) Significant modification procedures.~~

~~(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:~~

~~(i) Involve any significant amendment to existing monitoring, reporting, or recordkeeping requirements in the permit;~~

~~(ii) Require any amendment to establish or amend a permit condition that is required to be based on a case by case determination of an emission limitation or other standard, on a source specific determination of ambient impacts, or on a visibility or increment analysis;~~

~~(iii) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and state only requirement, and that the source has assumed to avoid an applicable requirement, and state only requirement, to which the source would otherwise be subject. Such terms and conditions include:~~

~~(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;~~

~~(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the federal Clean Air Act; and~~

~~(iv) Are modifications under any provision of Title I of the federal Clean Air Act; and,~~

~~(v) Do not qualify as minor permit modifications or administrative amendments.~~

~~(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements, and state only requirements, that will apply if the change occurs.~~

~~(C) Issuance.~~ The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

~~(f) Reopening for cause.~~

~~(1) Mandatory reopening.~~ Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:

~~(A) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original permit or any of its terms and conditions has been extended pursuant to the application shield provided at OAC 252:100 8-7(e)(4) beyond the 18 month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.~~

~~(B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.~~

~~(C) The agency or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.~~

~~(D) The administrator or the agency determines that the permit must be revised or revoked to assure compliance with the applicable requirements.~~

~~(2) Discretionary reopening.~~ The agency may reopen and amend a permit when:

~~(A) additional state only requirements become applicable to a permitted stationary source, and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;~~

~~(B) alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;~~

~~(C) the agency receives information previously unavailable to the agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;~~

~~(D) a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; and~~

~~(E) an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.~~

~~(3) Reopening procedures.~~ To reopen and amend a permit, the agency shall follow the procedures that apply to significant

~~permit amendments under this chapter, unless the amendment can be made as an administrative amendment under OAC 252:100-8-7(d). Mandatory reopenings under OAC 252:100-8-7(f)(1) shall be made as expeditiously as practicable. In lieu of an application, the significant permit amendment process will commence when the agency gives the permittee written notice of its intent to amend the permit. The agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the agency has given the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit which the agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.~~

~~(g) Reopenings for cause by EPA.~~

~~(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the permitting authority and the permittee of such findings in writing.~~

~~(2) The permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90 day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the permitting authority must require the permittee to submit additional information.~~

~~(3) The Administrator will review the proposed determination from the permitting authority within 90 days of receipt.~~

~~(4) The permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.~~

~~(5) If the permitting authority fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:~~

~~(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.~~

~~(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.~~

~~(h) Revocations.~~

~~(1) Permit revocation without reissuance. The agency may revoke permits and not reissue them when:~~

~~(A) there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;~~

~~(B) the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or the administrator;~~

~~(C) the permittee has failed to comply with any requirement~~

under OAC 252:100-9 to pay fees; or

(D) the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, or schedule of compliance.

(2) ~~Revocation procedures.~~ The agency shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the agency may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the agency shall hold the hearing in accordance with the Oklahoma Administrative Procedures Act.

(i) ~~Public participation.~~ See 27A O.S. Supp. 1995, § 2-14-101 et seq. and OAC 252:2-15.

(j) ~~Judicial review.~~ Any final action in granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to judicial review in the court of appropriate jurisdiction upon an application filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. Except for authorizations under General Permits, judicial review is available to all affected parties for all final permit actions including minor modifications and administrative actions. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.

(1) No application for judicial review may be filed more than 90 days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within 90 days of the date on which the grounds for review first arose and review shall be limited to such later arising grounds.

(2) Any application for judicial review shall be limited to issues that:

(A) were raised in written comments filed with the Agency or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and

(B) are germane and material to the permit action at issue.

(3) For purposes of this section, "final action" shall include a failure by the Agency to take final action to grant or deny an application within the time specified in this Chapter.

252:100-8-7.1. Permit renewal and expiration

(a) Timely application for permit renewal.

(1) Applications for permit renewal and for permits for new Part 70 sources or amendments, shall be considered timely if the applicant meets the requirements of this subsection.

(2) Stationary sources operating under permits issued by the DEQ under this Subchapter shall apply for permit reissuance at

least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The DEQ shall require in a permit that a reissuance application be submitted sooner if it determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The DEQ may make the determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than eighteen months prior to the expiration of the permit.

(b) Application content for renewal of expiring permit. In submitting an application for renewal of a Part 70 operating permit, a source may identify and incorporate by reference terms and conditions in its previous permit and permit application(s) that should remain unchanged. In addition, a renewal application must contain:

(1) information specified in 252:100-8-5(e) for those products, processes, operations, and emissions:

(A) That are not addressed in the existing permit;

(B) That are subject to applicable requirements or state-only requirements that are not addressed in the existing permit; or

(C) For which the source seeks permit terms and conditions that differ from those in the existing permit; and

(2) a compliance plan and certification as required in 252:100-8-5(e)(8) and (9).

(c) Issuance of renewal permit. Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance under 252:100-8-7(a).

(d) Expiration of permit.

(1) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least 180 days before the date of expiration.

(2) If a timely and complete application for a permit renewal is submitted, but the DEQ fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time.

252:100-8-7.2. Administrative permit amendments and permit modifications

(a) Administrative permit amendments.

(1) An administrative permit amendment:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(C) Requires more frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where no other change in the permit is necessary.

provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under this Part.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in 252:100-8-6(d) for administrative permit amendments made pursuant to subparagraph 252:100-8-7.2(a)(1)(E) of this section.

(b) Permit modification. A permit modification is any revision to a permit that cannot be accomplished under subsection (a) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(1) Minor permit modification procedures.

(A) Criteria.

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits approved pursuant to regulations promulgated under §§112(i)(5) of the Act; and

(V) Are not modifications under any provision of Title I of the Act.

(ii) Notwithstanding 252:100-8-7.2(b)(1)(A)(i) and 252:100-8-7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the State's implementation plan or in applicable requirements promulgated by EPA.

(B) Application. To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under 252:2-15 and shall include the following:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs;

(ii) The source's suggested modification language;

(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and

(iv) Completed forms for any notices required by 252:2-15 and subparagraph (C) of this paragraph.

(C) EPA and affected state notification. If the proposed minor modification is of a permit that underwent EPA review in accordance with 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) Timetable for issuance. Within 90 days of the DEQ's receipt of a complete application under 252:2-15 the DEQ shall:

(i) Issue the minor permit modification as approved;

(ii) Deny the minor permit modification application; or

(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) Source's ability to make change. Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this subsection, the source must comply with the applicable requirements and state-only requirements governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) Permit shield. The permit shield under 252:100-8-6(d) will not extend to minor permit modifications.

(G) Permittee's risk in commencing construction. T h e

permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) Significant modification procedures.

(A) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that:

(i) Involve any significant changes in existing monitoring requirements in the permit;

(ii) Relax any reporting or recordkeeping requirements.

(iii) Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

(iv) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act; and

(v) Are modifications under any provision of Title I of the Act; and,

(vi) Do not qualify as minor permit modifications or administrative amendments.

(B) Procedures for processing. Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs.

(C) Issuance. The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

252:100-8-7.3. Reopening of operating permits for cause

(a) ~~(1)~~ Mandatory reopening. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit. A permit shall be reopened and revised under any of the following circumstances:

(1) Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the

federal applicable requirement. Reopening is allowed if an applicable requirement becomes effective and the original permit or any of its terms and conditions has been extended pursuant to the application shield provided at 252:100-8-7.1(d)(2) beyond the 18-month timeframe for revision. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

(2) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(3) The DEQ or the EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

(4) The Administrator or the DEQ determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) Discretionary reopening. The DEQ may reopen and amend a permit when:

(1) additional state-only requirements become applicable to a permitted stationary source and the effective date of the requirement is at least 18 months prior to the date on which the permit is due to expire;

(2) alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;

(3) the DEQ receives information previously unavailable to the DEQ that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;

(4) a court of competent jurisdiction invalidates or modifies an Oklahoma or federal statute or rule or federal guideline upon which a condition of the permit is based; or

(5) an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit.

(c) Reopening procedures. To reopen and amend a permit, the DEQ shall follow the procedures that apply to significant permit modifications under this Subchapter, unless the amendment can be made as an administrative amendment under 252:100-8-7.2(a). Mandatory reopenings under 252:00-8-7.3(a) shall be made as expeditiously as practicable. In lieu of an application, the significant permit modification process will commence when the DEQ gives the permittee written notice of its intent to amend the permit. The DEQ shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least thirty days after the DEQ has given the permittee written notice of its intent to amend the permit, unless the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit that the DEQ proposes to amend shall be open for public comment or consideration at a meeting or hearing.

(d) Reopenings for cause by EPA.

(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit, the Administrator shall notify the DEQ and the permittee of such findings in writing.

(2) The DEQ shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the DEQ must require the permittee to submit additional information.

(3) The Administrator will review the proposed determination from the DEQ within 90 days of receipt.

(4) The DEQ shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.

(5) If the DEQ fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

(A) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action.

(B) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

252:100-8-7.4. Revocations of operating permits

(a) Revocation of a permit or authorization under a general permit without reissuance. The DEQ may revoke permits or authorizations under a general permit and not reissue them when:

(1) there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit or authorization, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;

(2) the permittee fails to disclose fully the facts relevant to issuance of the permit or authorization or submits false or misleading information to the DEQ or the Administrator;

(3) the permittee has failed to comply with any requirement under 252:100-5 to pay fees; or

(4) the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, or schedule of compliance.

(b) Revocation procedures. The DEQ shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the DEQ may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the DEQ shall hold the hearing in accordance with the Oklahoma Administrative Procedures Act.

252:100-8-7.5. Judicial review

Any final action in granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to judicial review in the court of appropriate jurisdiction upon an application filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. Except for authorizations under General Permits, judicial review is available to all affected parties for all final permit actions including minor modifications and administrative actions. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.

(1) No application for judicial review may be filed more than 90 days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within 90 days of the date on which the grounds for review first arose and review shall be limited to such later-arising grounds.

(2) Any application for judicial review shall be limited to issues that:

(A) were raised in comments filed with the DEQ or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and

(B) are germane and material to the permit action at issue.

(3) For purposes of this section, "final action" shall include a failure by the DEQ to take final action to grant or deny an application within the time specified in this Chapter.

252:100-8-8.. Permit review by EPA and affected states

(a) **Applicability.** This section applies only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the ~~federal Clean Air Act~~ or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.** For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See 27A O.S.Supp. 1995, § 2-5-112(E); 27A O.S.Supp. 1995, § 2-14-101 et seq.; and OAC-252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in OAC 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S. Supp. 1995, § 2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit (Tier II) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of OAC-252:2-15.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

(A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or

(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

(i) issue the amended or revised draft permit (Tier II) as final, or

(ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in ~~0AC-252:002-15~~, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in ~~0AC-252:100-8-7 through 252:100-8-7.5~~ except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with 27A O.S. Supp. 1995, Section 2-14-101 et seq., the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

252:100-8-9. Permit fees

~~(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~(1) "Actual emission" means the total amount of regulated pollutant (for fee calculation) emitted from a given facility during a particular calendar year, as determined by methods contained in~~

OAC 252:100-8-9(d).

~~(2) "Allowable emissions" means the total amount of regulated pollutant (for fee calculation) emitted based on limits contained in a federally enforceable permit or potential to emit.~~

~~(3) "Emission inventory" means a compilation of the total of all point source, storage and process fugitive air emissions for all regulated pollutant (for fee calculation) at a given facility.~~

~~(4) "Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.~~

~~(b) Fee required. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the part 70 program costs. The permitting authority shall ensure that any fee required by these rules will be used solely for part 70 program costs.~~

~~(c) Applicability. A Part 70 source shall be subject to fee requirements of this section on January 1, 1995, and as of this date shall no longer be subject to the major source annual operating fee specified in 252:100-7-4 (b) (1) (A).~~

~~(d) Fee schedule for Part 70 sources.~~

~~(1) Annual fees. The annual fee shall be calculated on a source specific basis and may be based on either actual or allowable emissions at the option of the owner or operator paying the fee as set forth in the facility emissions inventory. Fees shall be based on emission inventories submitted in the previous calendar year. (For example, fee invoiced during calendar year 1995 shall be based upon inventory data covering the calendar year 1993).~~

~~(A) Annual fees shall be determined according to the following:~~

~~(i) where only one basis for fee assessment, i.e. only actual, or only allowable is reflected by the inventory, that basis shall be used for invoicing; or~~

~~(ii) where both actual and allowable emission are reflected on the inventory, the lesser of the two shall be used.~~

~~(B) Annual fees shall be as follows:~~

~~(i) Effective January 1, 1995, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated air pollutant.~~

~~(ii) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the twelve month period ending on August 31 of each calendar year.~~

~~(iii) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a part 70 source shall not be considered in the calculation of the annual fee.~~

~~(2) Permit processing fees. Permit processing fees shall be as follows:~~

- ~~(A) Initial Part 70 permit \$2,000.~~
- ~~(B) Renewal Part 70 permit \$1,000.~~
- ~~(C) Significant Part 70 Permit Mod. \$1,000.~~
- ~~(D) Minor Part 70 Permit Modification \$ 500.~~
- ~~(E) The Part 70 Temporary Permit \$1,000.~~
- ~~(F) Part 70 Temporary Source Relocation \$ 500.~~

~~(3) Payment. Fees will be paid by check or money order made payable to the Oklahoma Air Quality fund or upon delegation, to the appropriate reviewing agency. Fees are due and payable upon receipt of invoice. Fees shall be considered delinquent 30 days from the date of billing, at which time simple interest shall accrue at the rate of one and one half percent (1 1/2%) per month on any amount unpaid. The Department shall allow a grace period of one hundred and twenty days from the date of billing before issuing any administrative order and assessing a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2 5 101 et seq., as amended.~~

~~(4) Emissions inventory. The owner or operator of any Part 70 source shall by April 1, 1994, and every succeeding year thereafter, submit a complete emission inventory on forms obtained from the Agency. These inventories, covering the previous calendar year, will be used for the purpose of calculating the annual operating fee. The methods of calculation to be utilized in the development of an emission inventory shall be in accordance with the methods described in OAC 252:100-7-4(e). [252:100-8-9(a), (b), (c), (d) (1), (d) (3) and (d) (4) amended and renumbered to 252:100-5. 252:100-8-9(d) (2) amended and renumbered to 252:100-8-1.7]~~

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-30. Applicability

The new source requirements of this Part, in addition to the requirements of Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all major stationary sources and major modifications as specified in 252:100-8-31 through 252:100-8-33. Sources subject to this Part are also subject to the operating permit provisions contained in Part 5 of 252:100-8.

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

- (A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of

normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility.

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m³ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date.

(Effective May 11, 1991)

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. (Effective May 11, 1991)

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide,

January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,
(B) for minor sources, the earliest date after the trigger date
on which a major source or major modification (subject to 40 CFR
52.21 or 252:100-8, Part 7) submits a complete application. The
trigger date is:

(i) in the case of particulate matter and sulfur dioxide,
August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988.
(Effective May 11, 1991)

"Best available control technology" means the control technology
to be applied for a major source or modification is the best that
is available as determined by the Executive Director on a case-by-
case basis taking into account energy, environmental, costs and
economic impacts of alternate control systems.

"Building, structure, facility or installation" means all of the
pollutant-emitting activities which belong to the same industrial
grouping, are located on one or more contiguous or adjacent
properties, and are under the control of the same person or persons
under common control. Pollutant-emitting activities shall be
considered as part of the same industrial grouping if they belong
to the same "Major Group" (i.e., which have the same two-digit
code) as described in the Standard Industrial Classification
Manual, 1972, as amended by the 1977 Supplement.

"Complete" in reference to an application for a permit, means
that the application contains all the information necessary for
processing the application. Designating an application complete
for purposes of permit processing does not preclude the reviewing
authority from requesting or accepting any additional information.

"Federal land manager" means the Secretary of the department with
authority over the Federal Class I area or his representative.

"Innovative control technology" means any system of air pollution
control that has not been adequately demonstrated in practice, but
would have a substantial likelihood of achieving greater continuous
emissions reduction than any control system in current practice or
of achieving at least comparable reductions at lower cost in terms
of energy, economics, or non-air quality environmental impacts.

"Major modification" means any physical change in or change in
the method of operation of a major source that would result in a
significant net emissions increase of any pollutant subject to
regulation.

(A) Any net emissions increase that is significant for volatile
organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation
shall not include:

(i) routine maintenance, repair and replacement.

(ii) use of an alternate fuel or raw material by reason of any
order under Sections 2(a) and (b) of the Energy Supply and
Environmental Coordination Act of 1974 (or any superseding
legislation) or by reason of a natural gas curtailment plan
pursuant to the Federal Power Act.

(iii) use of an alternate fuel by reason of an order or rule
under Section 125 of the Federal Clean Air Act.

(iv) use of an alternate fuel at a steam generating unit to
the extent that the fuel is generated from municipal solid

waste.

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or 252:100-8.

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(vii) Any change in source ownership.

"Major stationary source" means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(i) carbon black plants (furnace process),

(ii) charcoal production plants,

(iii) chemical process plants,

(iv) coal cleaning plants (with thermal dryers),

(v) coke oven batteries,

(vi) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,

(vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(viii) fuel conversion plants,

(ix) glass fiber processing plants,

(x) hydrofluoric, sulfuric or nitric acid plants,

(xi) iron and steel mill plants,

(xii) kraft pulp mills,

(xiii) lime plants,

(xiv) municipal incinerators capable of charging more than 250 tons of refuse per day,

(xv) petroleum refineries,

(xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(xvii) phosphate rock processing plant,

(xviii) portland cement plants,

(xix) primary aluminum ore reduction plants,

(xx) primary copper smelters,

(xxi) primary lead smelters,

(xxii) primary zinc smelters,

(xxiii) secondary metal production plants,

(xxiv) sintering plants,

(xxv) sulfur recovery plants, or

(xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by

itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. (Effective May 11, 1991)

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(i) carbon monoxide: 100 tons per year (tpy),

(ii) nitrogen oxides: 40 tpy,

(iii) sulfur dioxide: 40 tpy.

- (iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,
- (v) ozone: 40 tpy of volatile organic compounds,
- (vi) lead: 0.6 tpy,
- (vii) asbestos: 0.007 tpy,
- (viii) beryllium: 0.0004 tpy,
- (ix) mercury: 0.1 tpy,
- (x) vinyl chloride: 1 tpy,
- (xi) fluorides: 3 tpy,
- (xii) sulfuric acid mist: 7 tpy,
- (xiii) hydrogen sulfide (H₂S): 10 tpy,
- (xiv) total reduced sulfur (including H₂S): 10 tpy, and
- (xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 ug/m³ (24-hour average).

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

252:100-8-32. Source applicability determination

Proposed new sources and source modifications to which this Part is applicable are determined by size, geographical location and type of emitted pollutants.

(1) Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant and other associated definitions in 252:100-8-31, 252:100-8-1.1, and 252:100-1.

(B) When a source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the requirements of 252:100-8, Parts 1, 3, 5, and 7 shall apply to that source or modification as though construction had not yet commenced on it.

(2) Location.

(A) Sources and modifications which are major in size and proposed for construction in an area which has been designated as attainment or unclassified for any applicable ambient air standard are subject to the PSD requirements.

(B) Those sources and modifications locating in an attainment or unclassified area but impacting on a nonattainment area may also be subject to the requirements for major sources affecting nonattainment areas in 252:100-8, Part 9.

252:100-8-33. Exemptions

(a) Exemptions from PSD requirements. PSD requirements do not apply to a particular source or modification if:

- (1) It is a nonprofit health or educational institution.

(2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than:

(A) One of the categories listed in (A)(i) through (xxvi) under the definition of "Major stationary source" in 252:100-8-31, or

(B) A stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.

(3) The source or modification is a portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) Exemption from air quality impact evaluation.

(1) The requirements of 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of best available control technology, would be less than 50 tons per year.

(c) Exemption from monitoring requirements.

(1) The monitoring requirements of 252:100-8-35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

(A) Carbon monoxide - 575 ug/m³, 8-hour average,

(B) Nitrogen dioxide - 14 ug/m³, annual average,

(C) Particulate matter - 10 ug/m³, TSP, 24-hour average, or 10 ug/m³ PM-10, 24-hour average,

(D) Sulfur dioxide - 13 ug/m³, 24-hour average,

(E) Ozone - see (N) below,

(F) Lead - 0.1 ug/m³, 24-hour 3-month average,

(G) Mercury - 0.25 ug/m³, 24-hour average,

(H) Beryllium - 0.0005 0.001 ug/m³, 24-hour average,

(I) Fluorides - 0.25 ug/m³, 24-hour average,

(J) Vinyl chloride - 15 ug/m³, 24-hour average,

(K) Total reduced sulfur - 10 ug/m³, 1-hour average,

(L) Hydrogen sulfide - 0.04 0.2 ug/m³, 1-hour average, or

(M) Reduced sulfur compounds - 10 ug/m³, 1-hour average.

(N) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(2) The requirements for air quality monitoring in 252:100-8-35(b), (c) and (d)(2) shall not apply to a source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and

the Executive Director subsequently determined that the application was complete except for 252:100-8-35(b), (c) and (d)(2). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to such source or modification.

(3) The requirements for air quality monitoring in 252:100-8-35(b), (c), and (d)(2) shall not apply to a source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the Executive Director subsequently determined that the application as submitted was complete, except for the requirements in 252:100-8-35(b), (c) and (d)(2).

(4) The Executive Director shall determine if the requirements for air quality monitoring of PM-10 in 252:100-8-35(a) through 252:100-8-35(c) and 252:100-8-35(d)(2) may be waived for a source or modification when an application for a permit was submitted on or before June 1, 1988 and the Executive Director subsequently determined that the application, except for the requirements for monitoring particulate matter under 252:100-8-35(a) through 252:100-8-35(c) and 252:100-8-35(d)(2), was complete before that date.

(5) The requirements for air quality monitoring of PM-10 in 252:100-8-35(b), (c), (d)(2) and (d)(6) shall apply to a source or modification if an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of 252:100-8-33(b)(1), except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by 252:100-8-35(b)(1) and 252:100-8-35(c) shall have been gathered over that shorter period.

(d) Exemption from BACT requirements and monitoring requirements. If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for best available control technology in 252:100-8-34 and for monitoring in 252:100-8-35(a) through 252:100-8-35(c) and 252:100-8-35(d)(2) through 252:100-8-35(d)(4) are not applicable. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification.

(e) Exemption of modifications. As specified in the applicable definitions of 252:100-8-31, 252:100-8-1.1, and 252:100-1, the requirements of 252:100-8, Part 7 for PSD and 252:100-8, Part 9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right.

(f) Exemption from impact analyses. The requirements of 252:100-8-35 and 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988.

(g) Exemption from increment consumption. Excluded from increment consumption are the following cases:

(1) Concentrations from an increase in emissions from any

source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source.

252:100-8-34. Best available control technology

(a) A new source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein for each regulated pollutant that it would have the potential to emit in significant amounts).

(b) A major modification must demonstrate that the control technology to be applied is the best that is available for each regulated pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(c) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.

(d) For phased construction projects the determination of best available control technology shall be reviewed and modified at the discretion of the Executive Director at a reasonable time but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of best available control technology.

252:100-8-35. Air quality impact evaluation

(a) Application contents. Any application for a permit shall contain, as the Executive Director determines appropriate, an evaluation of ambient air quality in the area that the source or modification would affect for each of the following pollutants:

(1) for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;

(2) for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(b) Continuous monitoring data. For visibility and any pollutant, other than volatile organic compounds, for which an ambient air quality standard exists, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Executive Director determines is necessary to assess the ambient air quality for that pollutant

in that area. (Amended 7-9-87, effective 8-10-87)

(c) Increment consumption. The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Executive Director.

(d) Monitoring.

(1) Monitoring method. With respect to any requirements for air quality monitoring of PM-10 under 252:100-8-33(c)(4) and 252:100-8-33(c)(5), the owner or operator of the source or modification shall use a monitoring method approved by the Executive Director and shall estimate the ambient concentrations of PM-10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Executive Director.

(2) Monitoring period. The required monitoring data shall have been gathered for a time period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data collected for a time period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Executive Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment.

(3) Monitoring period exceptions.

(A) For any application which becomes complete except as to the monitoring requirements of 252:100-8-35(b) through 252:100-8-35(c) and 252:100-8-35(d)(2), between June 8, 1981 and February 9, 1982, the data that 252:100-8-35(b) and 252:100-8-35(c) require shall have been gathered over the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(i) If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(ii) If the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period, not to be less than four months, the data that 252:100-8-35(b) and 252:100-8-35(c) require shall have been gathered over that shorter period.

(iii) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the Executive Director may waive the otherwise applicable requirements of 252:100-8-35(d)(3)(A) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(B) For any application that becomes complete, except as to

the requirements of 252:100-8-35(b), (c) and (d)(2) pertaining to monitoring of PM-10, after December 1, 1988 and no later than August 1, 1989, the data that 252:100-8-35(b) and (c) require shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Executive Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period(not to be less than 4 months), the data that 252:100-8-35(b) and 252:100-8-35(c) require shall have been gathered over that shorter period.

(4) Ozone post-approval monitoring. The application for a source or modification of volatile organic compounds which satisfies all conditions of 252:100-8-54 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under 252:100-8-35.

(5) Post-construction monitoring. The applicant for a permit for a new source or modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Executive Director determines necessary to determine the effect its emissions may have, or are having, on air quality in any area. (Amended 7-9-87, effective 8-10-87).

(6) Monitoring system operation. The operation of monitoring stations for any air quality monitoring required under Part 7 of this Subchapter shall meet the requirements of 40 CFR 58 Appendix B.

(e) Air quality models.

(1) Any air quality dispersion modeling that is required under Part 7 of this Subchapter for estimates of ambient concentrations shall be based on the applicable air quality models, data bases and other requirements specified in the Guidelines on Air Quality Models, OAOPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.

(2) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Executive Director. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models.

(f) Growth analysis. Upon request of the Executive Director the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification.

(g) Visibility and other impacts analysis. The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Executive Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the

Executive Director deems necessary and appropriate. (Amended 7-9-87, effective 8-10-87)

252:100-8-36. Source impacting Class I areas

(a) Permits issuance. Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts.

(b) Impact analysis required. The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Executive Director shall notify the appropriate Federal Land Manager of the receipt of any such analysis and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Executive Director provided that the analysis is filed with the DEQ within 30 days of receipt of the application by the Land Manager. Where the Executive Director finds that such an analysis does not demonstrate to the satisfaction of the Executive Director that an adverse impact on visibility will result in the Federal Class I area, the Executive Director will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and sufficient information by a Federal Land Manager, the Executive Director may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be exceeded.

252:100-8-37. Innovative control technology

(a) An applicant for a permit for a proposed major source or modification may request the Executive Director in writing to approve a system of innovative control technology.

(b) The Executive Director may determine that the innovative control technology is permissible if:

(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(2) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for best available control technology under 252:100-8-34 by a date specified by the Executive Director. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

(3) The source or modification would meet the requirements equivalent to those in Parts 1 and 5 of this Subchapter and 252:100-8-36 based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the Executive Director.

(4) The source or modification would not, before the date specified, cause or contribute to any violation of the

applicable ambient air standards, or impact any Class I area or area where an applicable increment is known to be violated.

(5) All other applicable requirements including those for public review have been met.

(c) The Executive Director shall withdraw approval to employ a system of innovative control technology made under 252:100-8-37, if:

(1) The proposed system fails by the specified date to achieve the required continuous reduction rate; or,

(2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(3) The Executive Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with 252:100-8-37(c), the source or modification may be allowed up to an additional 3 years to meet the requirement for application of best available control technology through the use of a demonstrated system of control.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50. Applicability

The new source requirements of this Part, in addition to the applicable requirements of Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all major sources and major modifications affecting designated nonattainment areas as specified in 252:100-8-51 through 252:100-8-53.

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal

the potential to emit of the unit on that date.

"Building, structure, facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Installation" means an identifiable piece of process equipment.

"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement;

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or 252:100-7 or 8.

(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or

(vii) any change in source ownership.

"Major stationary source" means:

(A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,

(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if

the change would constitute a major source by itself.

(C) for ozone, a source that is major for volatile organic compounds shall be considered major.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under 252:100-8, Part 9, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) the reviewing authority has not relied on it in issuing any permit under State air quality rules; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

"Reconstruction" means the replacement of components of an existing source (which will then be treated as a new source for purposes of Part 9 of this Subchapter) to the extent that will be determined by the Executive Director based on:

(A) The fixed capital cost (the capital needed to provide all the depreciable components) of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source; and,

(B) The estimated life of the source after the replacements is comparable to the life of an entirely new source; and,

(C) the extent to which the components being replaced cause or contribute to the emissions from the source.

"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to

provide more than 50 percent of the heat input to be considered a resource recovery facility under Part 9 of this Subchapter.

"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (A) Carbon monoxide: 100 tons per year (tpy),
- (B) Nitrogen oxides: 40 tpy,
- (C) Sulfur dioxide: 40 tpy,
- (D) Particulate matter: 15 tpy of PM-10 emissions,
- (E) Ozone: 40 tpy of volatile organic compounds, or
- (F) Lead: 0.6 tpy.

252:100-8-52. Source applicability determination

Proposed new sources and source modifications to which Part 9 of this Subchapter are applicable are determined by size, geographical location and type of emitted pollutants:

(1). Size.

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in 252:100-8-51, 252:100-8-1.1, and 252:100-1.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Parts 1, 3, 5, and 9 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2). Location.

(A) Sources and modifications that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 7 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Concentration, ug/m³
Averaging Time (hours)

<u>Pollutant</u>	<u>Annual</u>	<u>24</u>	<u>8</u>	<u>3</u>	<u>1</u>
<u>SO₂</u>	<u>1.0</u>	<u>5</u>		<u>25</u>	
<u>PM-10</u>	<u>1.0</u>	<u>5</u>			
<u>NO₂</u>	<u>1.0</u>				
<u>CO</u>			<u>500</u>		<u>2000</u>

(B) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(C) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in 252:100-8-52(3) are exempted from the condition of 252:100-8-54(4) (A).

(D) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

(E) The determination as to whether a source would cause or contribute to a violation of applicable ambient air standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

(F) Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:

(i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.

(ii) The new emission limitations for the new source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.

252:100-8-53. Exemptions

(a) Nonattainment area requirements do not apply to a particular source or modification locating in or impacting on a nonattainment area if:

(1) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to emit and is a source other than one of the following categories:

- (A) carbon black plants (furnace process),
- (B) charcoal production plants,
- (C) chemical process plants,
- (D) coal cleaning plants (with thermal dryers),
- (E) coke oven batteries,
- (F) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,
- (G) fossil fuel-fired steam electric plant of more than 250 million BTU per hour heat input,
- (H) fuel conversion plants,
- (I) glass fiber processing plants,
- (J) hydrofluoric, sulfuric or nitric acid plants,
- (K) iron and steel mills,
- (L) kraft pulp mills,
- (M) lime plants,
- (N) municipal incinerators capable of charging more than 250 tons of refuse per day,
- (O) petroleum refineries,
- (P) petroleum storage and transfer units with a total storage exceeding 300,000 barrels,
- (Q) phosphate rock processing plants,
- (R) portland cement plants,
- (S) primary aluminum ore reduction plants,
- (T) primary copper smelters,
- (U) primary lead smelters,
- (V) primary zinc smelters,
- (W) secondary metal production plants,
- (X) sintering plants,
- (Y) sulfur recovery plants,
- (Z) taconite ore processing plants, or
- (AA) any other stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.

(2) A source or modification was not subject to 40 CFR Part 51, Appendix S (emission offset interpretative ruling) as in effect on January 16, 1979 and the source:

- (A) Obtained all final federal and state construction permits before August 7, 1980;
- (B) Commenced construction within 18 months from August 7, 1980 or any earlier time required by the State Implementation Plan; and,
- (C) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(b) Secondary emissions are excluded in determining the potential to emit (see definition of "potential to emit" in 252:100-8-1.1). However, upon determination of the Executive Director, if a source is subject to the requirements on the basis of its direct emissions, the applicable requirements must also be met for secondary emissions but the source would be exempt from the conditions of 252:100-8-52(3)(F) and 252:100-8-54(1) through 252:100-8-54(3). Also, the indirect impacts of mobile sources are excluded.

(c) As specified in the applicable definitions, the requirements of Part 7 for PSD and Part 9 for nonattainment areas of this Subchapter are not applicable to a modification if the existing

source was not major on August 7, 1980 unless the proposed addition to the existing minor source is major in its own right.

252:100-8-54. Requirements for sources located in nonattainment areas

In the event a major source or modification would be constructed in an area designated as nonattainment for a pollutant for which the source or modification is major, approval shall be granted only if the following conditions are met:

(1) The new source must demonstrate that it has applied control technology which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate (LAER) achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Act).

(2) If the Executive Director determines that imposition of an enforceable numerical emission standard is infeasible due to technological or economic limitations on measurement methodology, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed as the emission limitation rate.

(3) The owner or operator of the new source must demonstrate that all other major sources owned or operated by such person in Oklahoma are in compliance, or are meeting all steps on a schedule for compliance, with all applicable limitations and standards under Oklahoma and Federal Clean Air Acts.

(4) The owner or operator of the new source must demonstrate that upon commencing operations:

(A) The emissions from the proposed source and all other sources permitted in the area do not exceed the planned growth allowable for the area designated in the State Implementation Plan; or,

(B) The total allowable emissions from existing sources in the region and the emissions from the proposed source will be sufficiently less than the total emissions from existing sources allowed under the State Implementation Plan at the date of construction permit application so as to represent further progress toward attainment or maintenance of the ambient air quality standards in the problem area.

(5) The owner or operator may present with the application an analysis of alternate sites, sizes and production processes for such proposed source.

APPENDIX I. INSIGNIFICANT ACTIVITIES (REGISTRATION) LIST

Any Activity to which a State of federal applicable requirement applies is not insignificant even if it is included on this list.

COMBUSTION EQUIPMENT

* Stationary reciprocating engines burning natural gas, gasoline, aircraft fuels, or diesel fuel which are either used exclusively for emergency power generation or for peaking power service not exceeding 500 hours/year

Space heaters, boilers, process heaters, and emergency flares less than or equal to 5 MMBTU/hr heat input (commercial natural gas)

Emissions from stationary internal combustion engines rated less than 50 hp output

Emissions from gas turbines with less than 215 kilowatt rating of electric output

STORAGE TANKS/DISTRIBUTION

* Emissions from fuel storage/dispensing equipment operated solely for facility owned vehicles if fuel throughput is not more than 2,175 gallons/day, averaged over a 30-day period

* Storage tanks with less than or equal to 10,000 gallons capacity that store volatile organic liquids with a true vapor pressure less than or equal to 1.0 psia at maximum storage temperature

* Bulk gasoline or other fuel distribution with a daily average throughput less than 2,175 gallons per day, including dispensing, averaged over a 30-day period

Gasoline and aircraft fuel handling facilities, equipment, and storage tanks except those subject to New Source Performance Standards and standards in 252:100-37-15, 252:100-39-30, 252:100-39-41, and 252:100-39-48

Emissions from condensate tanks with a design capacity of 400 gallons or less in ozone attainment areas

Emissions from crude oil and condensate marine and truck loading equipment operations at crude oil and natural gas production sites where the loading rate does not exceed 10,000 gallons per day averaged over a 30-day period

* Emissions from crude oil and condensate storage tanks with a capacity of less than or equal to 420,000 gallons that store crude oil and condensate prior to custody transfer

* Emissions from storage tanks constructed with a capacity less than 39,894 gallons which store VOC with a vapor pressure less than 1.5 psia at maximum storage temperature

ANALYSIS/LABORATORY ACTIVITIES

Additions or upgrades of instrumentation or control systems that result in emissions increases less than the pollutant quantities specified in 252:100-8-3(e) (1)

EQUIPMENT

Alkaline/phosphate washers and associated burners

Cold degreasing operations utilizing solvents that are denser than air

* Welding and soldering operations utilizing less than 100 pounds of solder and 53 tons per year of electrodes

Wood chipping operations not associated with the primary process operation

* Torch cutting and welding of under 200,000 tons of steel fabricated per year

REMEDIATION

Site restoration and/or bioremediation activities of < 5 years expected duration

Hydrocarbon contaminated soil aeration pads utilized for soils excavated at the facility only

Emissions from the operation of groundwater remediation wells including but not limited to emissions from venting, pumping, and collecting activities subject to de minimis limits for air toxics (252:100-41-43) and HAPs (§112(b) of CAAA90)

SOLID WASTE

* Non-commercial water washing operations (less than 2,250 barrels/year) and drum crushing operations of empty barrels less than or equal to 55 gallons with less than three percent by volume of residual material

Hazardous waste and hazardous materials drum staging areas

Sanitary sewage collection and treatment facilities other than incinerators and Publicly Owned Treatment Works (POTW)
Stacks or vents for sanitary sewer plumbing traps are also included (i.e., lift station)

Emissions from landfills and land farms unless otherwise regulated by an applicable state or federal regulation

COATINGS

* Automobile body shops located in an ozone attainment area emitting less than 5 tons/year of volatile organic solvents

Electrophoretic-process coating application operations (i.e., paint bath positively charged, painted object negatively charged)

* Surface coating operations which do not exceed a combined total usage of more than 60 gallons/month of coatings, thinners, and clean-up solvents at any one emissions unit

MISCELLANEOUS

Exhaust systems for chemical, paint, and/or solvent storage rooms or cabinets, including hazardous waste satellite (accumulation) areas

Hand wiping and spraying of solvents from containers with less than 1 liter capacity used for spot cleaning and/or degreasing in

ozone attainment areas

* Activities having the potential to emit no more than 5 TPY (actual) of any criteria pollutant (see instructions in Title V application)

* Appropriate records of hours, quantity, or capacity must be kept on the activity to verify its insignificance.

APPENDIX J. TRIVIAL ACTIVITIES (DE MINIMIS) LIST

Any activity to which a State or federal applicable requirement applies is not trivial even if it is included on this list.

AGRICULTURAL

Lawn care (noncommercial)
Weed control (noncommercial)
Pest control (noncommercial)
Herbicide and pesticide activities except for manufacturing and formulation for commercial sale

ANALYSIS/TESTING

Hydraulic or hydrostatic testing
Analysis/laboratory activities emissions from the following: air contaminant detectors, air contaminant recorders, combustion controllers, combustion shut-off devices, product analyzers, laboratory analyzers, continuous emissions monitors, other analyzers (e.g., water quality), and emissions associated with sampling activities. Also, emissions from bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including assorted vacuum producing devices and vents but NOT lab fume hoods or vents
Site assessment work, including but not limited to, the evaluation of waste disposal or remediation sites
Emissions from instrument systems utilizing air or natural gas
Environmental field sampling operations
Sampling connections used exclusively to withdraw materials for testing and analysis, including air contaminant detectors and vent lines
Compressed gas cylinders and gases utilized for equipment calibration and testing

ANIMALS

Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized
Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating

BATTERY CHARGING

Industrial battery recharging and maintenance operations for batteries utilized within the facility only

BLOWDOWNS

Emissions from the depressurization during startup, shut down, maintenance or emergencies of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances

CLEANING

Acid washing (maintenance cleaning)
Caustic washing (maintenance cleaning)
Abrasive blasting
Steam cleaning
Carbon dioxide blasting equipment in degreasing or depainting
High pressure water depainting operations and aqueous industrial spray washers
Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes, except those systems used to collect particulate matter subject to 252:100 and hazardous and/or toxic air contaminants
Ultrasonic cleaning operations which do not utilize volatile organic compounds
Molten salt bath descaling operations
Natural gas water heating systems for fixed vehicle wash racks

COOLING TOWERS/BOILER WATER

Emissions from non-contact cooling towers (cooling water that has not been in contact with other materials or fluids containing regulated air pollutants)
Boiler water treatment operations
Deaerator units associated with boilers or hot water heating systems
Process water filtration systems and demineralizers
Demineralized water tanks and demineralizer vents

ELECTRIC POWER

Equipment associated with electrical power transmission which do not involve fuel-burning activities using transformers and substations
Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam

FIREFIGHTING

Emissions from fire or emergency response equipment and training to include use of fire control equipment including equipment for testing and training, engines used exclusively for firefighting, and open burning of materials or fuels associated with firefighting training. Buildings burned for firefighting training must still adhere to NESHAP for Asbestos.

Fire extinguishers and fire extinguishing systems

FUGITIVE EMISSIONS

- Seal replacement (i.e., manhole gaskets)
- Roof coating, service, and repair
- Paving of roads, parking lots, and other areas
- Vent emissions from gas streams used as buffer or seal gas in rotating pump and compressor seals
- Emissions from natural gas odorizing activities
- Emissions from pneumatic starters on reciprocating engines, turbines, compressors, or other equipment
- Gas flares or flares used solely to indicate danger to the public (e.g. road hazard)
- Warehouse activities including the storage of packaged raw materials and finished goods
- Non-routine clean out of tanks, lift stations, and equipment for the purposes of worker entry or in preparation for maintenance or decommissions
- Unpaved roadways and parking areas
- Gravel, sand and dirt storage for use in on-site construction projects
- VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) regulated by a fugitive monitoring program where the total increase is less than one ton per year of any criteria pollutant or the de minimis set forth in 252:100-41-43. The component additions must be identified in the next scheduled monitoring report required by the applicable requirements. VOC fugitive emissions from component additions (e.g. valves, flanges, connectors, pump seals, compressor seals, etc.) not regulated by a fugitive monitoring program provided that no applicable requirement is triggered when components are added.
- Fugitive emissions of jet fuels associated with aircraft fuel cell and fuel bladder repair
- Fugitive emissions related to movement of passenger vehicles provided the emissions are not counted for applicability purposes or any required fugitive dust control plan or its equivalent is submitted

INSULATION

- Insulation installing or removal (non-asbestos)
- Application of refractory & insulation (calcium silicate, etc.)

LUBRICATING

- Lubricating pumps, sumps, and systems
- Emissions from engine crankcase vents and equipment lubricating sumps

MAINTENANCE

- Welding, brazing, soldering for maintenance purposes
- Use of adhesives for maintenance purposes
- Grinding, cutting, sanding for maintenance purposes
- Emissions from pipeline maintenance pigging activities

Maintenance, upkeep, and replacement types of activities, including those not altering the capacity of process, combustion or control equipment, and which do not increase regulated pollutant emissions unless subject to NESHAP or NSPS

METALS

Equipment used for inspection of metal products

Die casting machines

Foundry sand mold forming equipment to which no heat is applied, and from which no organics are emitted

Equipment used exclusively to mill or grind coatings and holding compounds where all materials charged are in paste form (unless HAP emission)

Equipment used exclusively for rolling, forging, pressing, spinning, drawing, or extruding either hot or cold metals unless their emissions exceed any applicable regulated amount

Carbon monoxide lasers, used only on metals and other materials which do not emit HAP in the process

MISCELLANEOUS

Operations previously determined to be de minimis pursuant to 252:100-7-2(b)(3) or 252:100-41-43(a)(5)

Laser trimmers using dust collection to prevent fugitive emissions

Shock chambers

Humidity chambers

Solar simulators

MOBILE SOURCES

Mobile source emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, hydrostatic and hydraulic testing equipment, maintenance trucks, helicopters, locomotives, marine vessels, portable generators moveable by hand, portable pumps, portable air compressors, portable welding machines, and portable fuel tanks

Other on and off road mobile sources (i.e. coal stacker & reclaimer)

Well servicing/workover rigs and associated equipment

Well drilling rigs and associated equipment

Aircraft ground support (AGE) equipment, including but not limited to portable power generators, lights, and HVAC support

Vehicle exhaust from maintenance or repair shops

Road sanding and salting operations

OFFICE AND JANITORIAL

Janitorial services

Sweeping (Floor Sweep)

Office emissions (photocopying, blueprint copying, photograph processes)

OUTDOOR RECREATION

Outdoor recreational emissions (campfires, barbecue pits)
Open burning for the purpose of land management (must get permission from Air Quality Enforcement even though exempt from permitting)

Outdoor kerosene heaters

PLASTICS/FIBERGLASS

Plastic or fiberglass welding or repair
Sealing or cutting plastic film or foam with heat or wires
Processes used for the curing of fiberglass or paint products

REFRIGERANTS

Cold storage refrigerator equipment
De minimis refrigerant releases

RESIDENTIAL

Air conditioning or comfort ventilation systems not regulated under Title VI of the Clean Air Act

Emissions from residential housing units, dormitories, and multifamily dwellings to include fuel burning for the purposes of heating except prohibited open burning

SOLID WASTE

Solid waste landfill operations
RCRA Solid Waste Management Units subject to 40 CFR Part 265, Subparts AA, BB, and CC

SOLVENT

Emissions from laundry care equipment processing bedding, clothing or other fabric items. These include dryers, extractors, & tumblers. **NOT CLEANING OPERATIONS USING PERCHLOROETHYLENE OR PETROLEUM SOLVENTS (i.e., dry cleaning)**

Covered cold solvent degreasers not subject to federal emission standards (e.g. NESHAP or NSPS)

STORAGE TANKS/DISTRIBUTION

Emissions from lube oil, seal oil, or hydraulic fluid storage tanks and equipment as long as not emitting VOCs or HAPs

Storage and use of chemicals unless otherwise regulated by an applicable state or federal regulation. These chemicals include, but not limited to: alum, ammonia, biocides, corrosion inhibitors, dechlorination chemicals, inorganic salts, acids or bases to include caustic and sulfuric acid, coagulants, flocculants, precipitants, surfactants, anti-foam chemicals, sealing inhibitors, oxygen scavengers, phosphates, polyelectrolytes, limestone slurry, lime and lime slurry, flue gas desulfurization system slurry, and

sulfur slurry; propane and acetylene under pressure

Storage and use of products or equipment for maintaining motor vehicles operated at the site (including but not limited to antifreeze and fuel additives) not regulated under Title VI, CFC rules)

Emissions from tanks containing separated water produced from oil and gas operations

Commercial gasoline dispensing stations, including those located within the physical boundaries of a Title V source

Lubricants and waxes used for machinery and other equipment lubrication and emission from lubricating oil or hydraulic fluid storage tanks and equipment

Runway and aircraft de-icing activities, including de-icer storage tanks unless otherwise regulated

Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized

SURFACE COATING

Surface coating for maintenance purposes such as roll/brush/pad coating, painting with aerosol cans, spray airless, and conventional spray painting

Touch-up painting operations where paints/coatings are applied at less than one quart per hour

WASTEWATER

Removal of basic sediment & water from collection/storage systems (i.e., clarifiers)

Water and wastewater treatment and transportation system

Pit, ponds, sumps, or wastewater conveyance facilities

Emissions from skimmer pits, oil/water separators, and maintenance of filter separators

Emissions from the removal of sludge or sediment from pits, ponds, sumps, or wastewater conveyance facilities

Industrial and/or municipal wastewater treatment processes (excluding combustion or incineration equipment), storage silos for dry material (sludges), composting, or grease trap waste handling or treatment

Ozonization process or process equipment including ozone generation for water treatment processes

Sanitary sewerage and storm water runoff collection systems

Emissions from dredging pits, ponds, sumps, or other wastewater conveyance facilities

WOODWORKING

Wood working (saw-cutting, staining & varnishing) (noncommercial)

Woodworking utilized for hobby purposes or maintenance of grounds or buildings

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 8. OPERATING PERMITS (PART 70)

EXECUTIVE SUMMARY: The proposed amendments to Subchapter 8 include the incorporation of a new permit classification system; streamlining and simplifying the permit rules by moving the requirements for construction permits for Part 70 sources from Subchapter 7 to Subchapter 8, moving the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5, and reorganizing the material in Subchapter 8 for clarity and ease of use; the revisions necessary to meet the federal requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The new permit classification system introduces general permits for construction of Part 70 sources. The amendments to meet the requirements for final approval of the Title V program include the incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§ 63.40, 63.41, 63.43 and 63.44).

STATUTORY AUTHORITY: Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 *et seq.*, Oklahoma Clean Air Act.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: Part of the proposed revisions will be accomplished by incorporating the federal rules by reference. In general the other proposed revisions were not substantive, but changes in format and reorganization of material. There are no analogous federal rules for the inclusion of general construction permits for Part 70 sources. The use of general permits is expected to stream line the permitting program for both the regulated community and the DEQ. The purpose of the revisions required by EPA in their Notice of February 5, 1996, was to correct differences between the State rule and the analogous federal rule.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Letter of Comments from Charles R. Evans of Delhi Gas Pipeline Corporation.

1. **Comment:** DEQ should distinguish between insignificant activities and trivial activities in areas where there is overlap e.g., storage tanks constructed with a capacity less than 39,894 gallons which store VOC with a vapor pressure less than 1.5 psia at maximum storage temperature are included on the insignificant activities list and Fuel/VOC storage tanks with less than or equal to 1000 gallons capacity having a true vapor pressure at storage conditions less than 1.5 psia are on the trivial list. Mr. Evans suggested that items that overlap should be considered as trivial activities.

Response: Fuel/VOC storage tanks with capacities of 1000 gallons or less and vapor pressure less than 1.5 psia have been removed from the trivial activities list since AQD does

not regulate these tanks. Thus overlap is no longer a problem in this case.

2. **Comment:** "Emissions from residential housing units, dormitories, and multifamily dwellings to include fuel burning for the purposes of heating except prohibited open burning" is included on page 5 of the trivial activities list under Residential. The commenter recommends that offices or similar places of work be added to this item.

Response: Space heating for offices and similar places of work is already addressed on page 1 of the insignificant activities list under Combustion Equipment. The staff believes that this is a more appropriate place for space heating for commercial premises.

3. **Comment:** Mr. Evans suggested that the trivial activities list be modified to make clear that both electric motors and the units they operate (specifically natural gas compressors) are considered trivial.

Response: Since electric motors and electric powered generators, chillers, air compressors and pumps have essentially no air emissions, they are not subject to air quality rules and, therefore, it is not necessary to include them on the trivial activities list. The staff did not agree that other types of equipment powered by electric motors would have only trivial emissions.

4. **Comment:** It was suggested that the item in Appendix J that included emissions from the blowdown of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances be modified to include emissions from depressurization during startup, shut down, maintenance or other emergencies of such compressors or other vessels, since historically EPA has not regulated these emissions.

Response: Staff concurs. These changes were included in the list.

5. **Comment:** It was recommended that the language regarding fugitive emissions from component additions (e.g. valves, etc.) in Appendix J be clarified and that fugitive emissions from components not subject to a fugitive monitoring plan be added.

Response: The language was modified to make it clear that VOC fugitive emissions from component additions regulated by a fugitive monitoring program where the total increase is less than one ton per year of any criteria pollutant or the de minimis levels set forth in 252:100-41-43 are considered trivial. Staff concurred with the request to include VOC emissions from component additions not regulated by a fugitiv

monitoring program providing no applicable requirement is triggered when the components are added.

6. **Comment:** It was suggested that methanol storage tanks less than or equal to 10,000 gallons in volume with an annual throughput of no more than 50,000 gallons be added to the trivial activities list.

Response: Methanol storage tanks of 400 gallons or greater are subject to 252:100-37-15 since the as-stored vapor pressure should be greater than 1.5 psia. Since there is an applicable requirement for these tanks, they cannot be considered trivial activities.

7. **Comment:** It was suggested that cathodic protection systems be added to the trivial list.

Response: Staff felt that these systems are not regulated and, therefore, there is no need to include them on the trivial activities list.

Letter of Comments dated January 8, 1998, from Jole C. Luehrs, Chief, Air Permits Section, U. S. EPA, Region 6, Dallas, Texas.

1. **Comment:** It was stated that the language in item (B)(viii)(municipal incinerators) under the definition of "Major source" as found in 252:100-8, Part 5, and item (A)(xiv) (municipal incinerators) under the definition of "Major stationary source" as found in 252:100-8, Part 7 should be changed to reflect Part C, Prevention of Significant Deterioration of Air Quality, Subpart 1, Section 169, of the Clean Air Act Amendments of 1990. The language should read "municipal incinerators capable of charging more than 50 tons of refuse per day," instead of "municipal incinerators capable of charging more than 250 tons of refuse per day." This comment was reiterated by Mr. Rick Barrett of EPA Region 6 at the Hearing on January 9, 1998.

Response: Staff agreed to review Chapter 100 to determine all of the places where this change needs to be made, and then to propose appropriate rule revisions later this year. At this time, the only municipal waste combustor in Oklahoma that might be affected by such a rule change would only be impacted if it were modified so as to significantly increase its emissions. There are no indications that there are any plans to do so at this time. Therefore, EPA agreed that revising the rule later this year would be acceptable.

Comments made at the 1/9/98 Air Quality Council Meeting

1. **Comment:** Dr. Larry Canter asked, if incorporation by reference of a previous permit is allowed in the permit renewal, how the Department will insure that the previous permit(s) are not thrown away and the information thus becoming unavailable.

Response: Active permit files are never purged. They contain everything relating to the permit. When a permit ceases to be active, it is archived according to Department procedures and should not be thrown out.

2. **Comment:** Dole McWhirter was concerned that, if incorporation by reference of previous permit is allowed for permit renewals, it would then require both permits in order to know what the permit conditions are.

Response: The particular Subsection under discussion concerns the application content and simplifies permit applications by allowing the applicant to reference the previous permit when information is unchanged. All the standards, limitations, and conditions that remain pertinent to the facility will be repeated in the "new" permit. They will not be referenced. The "new" permit will stand alone.

3. **Comment:** Rick Barrett, EPA, Region 6, repeated the comment made in the 1/8/98 letter from Jole C. Luehrs.

RULE IMPACT STATEMENT: Attached.

ENVIRONMENTAL QUALITY BOARD
MARCH 5, 1999

AIR QUALITY DIVISION
CHAPTER 252:100 AIR POLLUTION CONTROL

Subchapters 5, 7 & 8

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 8. Permits for Part 70 Sources

252:100-8-1.7 Permit Application Fee [AMENDED]

252:100-8-4(a)(2)(C) Requirements for Construction and
Operating Permits [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Supp. 1998, §§ 2-2-101, 2-5-101, et seq.

DATES:

Comment period:

For 252:100-8-1.7, September 15, 1998 through December 8, 1998;
and December 15, 1998

For 252:100-8-4(a)(2), November 16, 1998 through December 15,
1998

Public hearing:

For 252:100-8-1.7, October 20 and December 15, 1998; and March
5, 1999

For 252:100-8-4(a)(2)(C), December 15, 1998; and March 5, 1999

Adoption:

March 5, 1999 (proposed)

Submitted to Governor:

Submitted to House:

Submitted to Senate:

Gubernatorial approval:

Legislative approval:

Final adoption:

Effective:

June 1, 1999 (proposed).

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The change to 252:100-8-1.7 will increase the fee for applicability determinations from \$100 to \$250. This fee change is consistent with the proposed applicability determination fee increase proposed in Subchapter 7.

The change to 252:100-8-4(a)(2)(C) updates the adoption by reference of the requirements for case-by-case MACT determinations contained in 40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 to July 1, 1998.

The Air Quality Advisory Council recommended these amendments for adoption at their meeting on December 15, 1998.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE
CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION
308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 1999.

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

- (1) **Applicability determination.** ~~\$100~~\$250, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.
- (2) **Construction permit application.** The fee is \$2,000.
- (3) **Operating permit application.**
 - (A) Initial Part 70 permit - \$2,000.
 - (B) Authorization under a general permit - \$900
 - (C) Renewal Part 70 permit - \$1,000.
 - (D) Significant modification of Part 70 permit - \$1,000.
 - (E) Minor modification of Part 70 permit - \$500.
 - (F) Part 70 Temporary Source Relocation - \$500.

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) **Construction permit required.** No person shall cause or allow the construction or installation of any new facility that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required for any physical change that would be a modification under 252:100-8-7.2(b). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) Requirement for case-by-case MACT determinations.

(A) **Applicability.** The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category

that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, ~~1997~~1998.

TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 8, Part 3 - Permit Application Fees
SUBCHAPTER 8, Part 5 - Permits for Part 70 Sources

Before the Air Quality Council, October 20 and December 15, 1998
Before the Environmental Quality Board, March 5, 1999

RULE IMPACT STATEMENT

1. **DESCRIPTION:** The proposed revision to 252:100-8-1.7, Permit Application Fees, will increase the fee for applicability determinations from \$100 to \$250. This fee change is consistent with the proposed applicability determination fee increase in Subchapter 7. The proposed revision to 252:100-8-4(a)(2)(C), Permits for Part 70 Sources, consists of updating the adoption by reference of the requirements for case-by-case MACT determinations contained in 40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 to July 1, 1998.
2. **CLASSES OF PERSONS AFFECTED:** Owners or operators of any facility that is a major source of air emissions that applies for an applicability determination along with those who construct or reconstruct a major source of hazardous air pollutants after June 29, 1998, may be affected.
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** Owners or operators of any facility that is a major source of air emissions that applies for an applicability determination along with those who construct or reconstruct a major source of hazardous air pollutants after June 29, 1998, who are required to determine case-by-case MACT.
4. **CLASSES OF PERSONS BENEFITTED:** The citizens of the State who will be protected from exposure to hazardous air pollutants.
5. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** For owners or operators of major source facilities who choose to apply for an applicability determination, the fee will be \$250 rather than \$100. The federal rules proposed for incorporation by reference are currently applicable to the affected classes of persons. Thus the state's adoption of these rules will not cause a new economic impact on such classes.
6. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** None.
7. **COOPERATION OF POLITICAL SUBDIVISION REQUIRED TO IMPLEMENT OR ENFORCE RULE:** No.
8. **COST TO DEQ TO IMPLEMENT AND ENFORCE:** None.
9. **COST TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** None. No other agencies will be implementing these rules.

10. PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: Facility owners and operators will be required to pay an additional upfront fee cost of \$150 for applicability determinations. If the requested applicability determination concludes that a permit is necessary, the \$250 fee will be credited toward the cost of the permit application fee. However, the total cost of the permitting process remains the same. If it is determined a permit is not necessary, the agency will realize a gain in revenues of \$150 per applicant. There is no projected net loss or gain in revenues for those required to determine case-by-case MACT.
11. LESS, COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE: None.
12. PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):

Quantitative impact: Facility owners and operators that request applicability determinations will pay \$150 more than they do now. The state's adoption of these federal rules, proposed for incorporation by reference, will not cause a new impact on such classes since they are currently applicable to the affected classes of persons.

Qualitative impact: The fee increase is needed to continue to perform this service at the present level of effectiveness. Therefore, facility owners and operators should not observe any qualitative impact if the applicability determination fee is increased.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: November 15, 1998.

MODIFIED: December 31, 1998.

**CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES**

EXECUTIVE SUMMARY: The proposed amendments to Subchapter 8, 252:100-8-1.7, Permit application fee, will increase the fee for applicability determinations from \$100 to \$250. This fee change is consistent with the proposed applicability determination fee increase in Subchapter 7. The proposed amendments to 252:100-8-4(a)(2)(C), Requirements for construction and operating permits, will update the adoption by reference of the requirements for case-by-case MACT determinations contained in 40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 to July 1, 1998.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: None.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because the rule is not more stringent than corresponding federal requirements.

SUMMARY OF COMMENTS AND RESPONSES:

NONE

AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100

Subchapters or Sections Involved – [new, amended or revoked]

OAC 252:100-5-2.2 Registration, Emission Inventory and Annual Operating Fees AMENDED]
OAC 252:100-7-3 Permits for Minor Facilities [AMENDED]
OAC 252:100-8-1.7 Permits for Part 70 Sources [AMENDED]

On DECEMBER 15, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S.Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

X permanent [take effect after legislative review]

emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Chair or Designee

Date signed: 12-15-98

VOTING TO APPROVE:

VOTING AGAINST:

ABSTAINING:

ABSENT:

**AIR QUALITY COUNCIL
RULEMAKING RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD**

Identification of Proposed Rulemaking:

Chapter Number and Title – OAC 252:100-8-4^(a)~~(2)~~(2)

PERMITS FOR PART 70 SOURCES [AMENDED]

Subchapters or Sections Involved – [new, amended or revoked]

On DECEMBER 15, 1998 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Supp. 1993, § 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

permanent [take effect after legislative review]

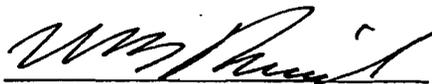
emergency [temporary, to take effect upon approval by the Governor because of time; and/or special reason: _____]

(mark as appropriate)

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,



Date signed: 12-15-98

Chair or Designee

VOTING TO APPROVE:

VOTING AGAINST:

ABSTAINING:

ABSENT:

REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, November 14, 2000
American Legion Hall
113 North Swem
Hooker, Oklahoma

1. Call to Order – Lee Paden, Chair
2. Roll Call - Lynda Finch
3. Approval of Minutes of the August 29, 2000 Regular Meeting
4. **Rulemaking – OAC 252:205 Hazardous Waste Management**
Two sets of changes are proposed:
 - The proposed amendments to 252:205-3-2 are clarifying and corrective. First, they delineate those non-delegable hazardous waste regulatory duties that remain with the U.S. Environmental Protection Agency, rather than being administered by the DEQ hazardous waste management program. Second, they correct errors and clarify requirements found in the adopted-by-reference portions of the July 1, 1999, version of Title 40 of the Code of Federal Regulations.
 - The purpose of the proposed amendments to 252:205-7-1, 7-3 and 21-3 is to revoke superseded hazardous waste transporter rules. The rules were superseded by legislation passed during the 2000 legislative session that transferred transporter registration responsibility from the DEQ to the Oklahoma Corporation Commission.
 - A. Presentation – Jody Reinhart, Hazardous Waste Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on emergency* adoption of amendments to 252:205-3-2, and on permanent and emergency* adoption of amendments to 252:205-7-1, 7-3 and 21-3
5. **Rulemaking – OAC 252:001, 002, 003 and 004 Rules of Practice and Procedure**
The proposed new Chapter 4 (Rules of Practice and Procedure) is a product of DEQ's re-right/de-wrong process. It represents a comprehensive and integrated rewrite of existing Chapter 1 (Procedures of the Environmental Quality Board), Chapter 2 (Procedures of the DEQ) and Chapter 3 (Procedures of the Environmental Quality Councils), in an effort to make the procedures easier to follow. Among the changes are: reorganization into more logical arrangements; language simplification; elimination of duplicative rules; updating of statutory citations; and deletion of statutory language. Chapter 4 also includes rules recommended by the Air Quality Council, which address hearings before that council. Chapters 1, 2 and 3 are proposed for revocation, subject to the adoption of proposed Chapter 4.
 - A. Presentation – Jimmy Givens, DEQ General Counsel
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption of Chapter 4 and permanent revocation of Chapters 1, 2 and 3

6. Rulemaking – OAC 252:100 Air Pollution Control

Six sets of changes are proposed:

- The amendments to Subchapter 4, New Source Performance Standards, update the incorporations by reference of the federal NSPS from July 1, 1999, to July 1, 2000.
- The proposed revocation of Subchapter 6, Permitting, is part of DEQ's effort to eliminate redundant or unnecessary language through its re-right/de-wrong process. Subchapter 6 is largely a summary of the permit programs contained in Subchapters 7 and 8, and a restatement of Oklahoma statutes on permitting. Only a few portions of the rule contain substantive language, and those portions will be placed into Subchapters 7 and 8.
- The proposed changes to Subchapter 7, Permits for Minor Facilities, also derive from the re-right/de-wrong initiative. In connection with the proposed revocation of Subchapter 6 (see above), three substantive provisions of Subchapter 6, relating to the requirement for and the implications of the signing of a permit application, are moved into Section 252:100-7-2.
- The proposed revisions to Subchapter 8, Permits for Part 70 Sources, generally correct errors or omissions, clarify language, and specify fee categories for construction permit authorizations and modifications. Other amendments include clarification of construction permit and best available control technology (BACT) requirements, slight modification of the reporting time for excess emissions caused by emergencies or upsets, and modification of the definition of "major stationary source" as it relates to charge rates of municipal incinerators. The incorporation by reference of 40 CFR 63.41, 63.43, and 63.44 is updated to July 1, 2000.
- Proposed amendments to Subchapter 29, Control of Fugitive Dust, clarify and simplify language as part of the re-right/de-wrong initiative. Substantive changes are proposed to clarify the precautions required to minimize or prevent pollution and the corrective measures required if fugitive dust is discharged beyond the property line.
- The proposed revisions to Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants, update the adoption by reference of specific National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR Part 61, and the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants in 40 CFR Part 63. The new adoption-by-reference date would be July 1, 2000.
 - A. Presentation – David Branecky, Air Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption of amendments to Subchapters 6, 7, and 8, on permanent and emergency* adoption of amendments to Subchapters 4 and 41, and on emergency* adoption of amendments to Sections 252:100-8-1.7 and 252:100-8-4

7. Rulemaking -- OAC 252:622 and 623 Pretreatment for Central Treatment Trusts

This rulemaking is part of the re-right/de-wrong process to eliminate outdated and unenforceable rules and simplify existing language. The changes are extensive enough that it is proposed that Chapter 622 be revoked and replaced by new Chapter 623.

- A. Presentation – Robert Johnston, Water Quality Council Chair
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption and revocation

8. **Rulemaking -- OAC 252:625 and 626 Public Water Supply Construction Standards**
This rule making is part of the re-right/de-wrong process to eliminate outdated and unenforceable rules and simplify existing language. The changes are extensive enough that it is proposed that Chapter 625 be revoked and replaced by new Chapter 626. The new chapter includes construction standards for technology that has been developed since the last revision of the rules.
 - A. Presentation – Robert Johnston, Water Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote(s) on permanent adoption and revocation

9. **Rulemaking -- OAC 252:645 Septage Tank Cleaners**
The majority of the changes in this rulemaking were done to reorganize, simplify and clarify the rules as part of DEQ's re-right/de-wrong process. However, there are a few substantive changes. These include specifying the amount of lime that must be added per volume of septage before application, designating phosphorus as a limiting factor in the amount of septage that may be applied, and increasing the minimum distance of a land application site from a public water supply well. The rulemaking also requires that applicants for a permit to land apply septage be licensed to pump and haul septage.
 - A. Presentation – Robert Johnston, Water Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on permanent adoption of amendments

10. **Rulemaking -- OAC 252:652 Underground Injection Control**
The purpose of the proposed amendments is to make the underground injection control rules correspond with recent statutory changes which clarify jurisdictional responsibilities between the DEQ and other state agencies, and to update the incorporation by reference of new federal underground injection well regulations to allow the state program to retain its "primacy" status with the U.S. Environmental Protection Agency.
 - A. Presentation – Robert Johnston, Water Quality Council Chair
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on emergency* adoption of amendments

11. **Consideration of the Environmental Quality Report**
The Oklahoma Environmental Quality Code requires the DEQ to prepare an "Oklahoma Environmental Quality Report" and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1st of each year. The statutorily prescribed purposes of this report are to outline the DEQ's two-year needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.
 - A. Presentation – Steve Thompson, DEQ Deputy Executive Director
 - B. Questions and discussion by the Board
 - C. Questions, comments and discussion by the public
 - D. Discussion by the Board
 - E. Roll call vote on approval

12. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)
13. Executive Director's Report
14. Adjournment

Public Forum: The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until June of 2001.

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 1. GENERAL PROVISIONS

252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

"A stack in existence" means for purposes of OAC 252:100-8-1.5 that the owner or operator had:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or
- (B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

"Actual emissions" except for Parts 7 and 9 of this Subchapter, means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

"Administrator" means the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Allowable emissions" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (A) the applicable standards as set forth in 40 CFR Parts 60 and 61;
- (B) the applicable State rule allowable emissions; or,
- (C) the emissions rate specified as an enforceable permit condition.

"Begin actual construction"

(A) for purposes of Parts 7 and 9 of this Subchapter means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(B) for purposes of Part 5 of this Subchapter, means that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"Best available control technology" or "BACT" means the control technology to be applied for a major source or modification is the best that is available as determined by the Director on a case-by-

case basis taking into account energy, environmental, and economic impacts and other costs of alternate control systems.

"Building, structure, facility, or installation" for purposes of Parts 7 and 9 of this Subchapter, means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code), as described in the Standard Industrial Classification manual, 1972, as amended by the 1977 Supplement.

"Commence" for purposes of Parts 7 and 9 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

"Dispersion technique" means for purposes of OAC 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"**Emission limitations and emission standards**" means for purposes of OAC 252:100-8-1.5 requirements that limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction. ~~(Amended 7-9-87, effective 8-10-87)~~

"**Emissions unit**" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation.

"**EPA**" means the United States Environmental Protection Agency.

"**Fugitive emissions**" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

"**National Emission Standards for Hazardous Air Pollutants**" or "**NESHAP**" means those standards found in 40 CFR Parts 61 and 63.

"**Necessary preconstruction approvals or permits**" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules.

"**New Source Performance Standards**" or "**NSPS**" means those standards found in 40 CFR Part 60.

"**Part 70 permit**" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"**Part 70 program**" means a program approved by the Administrator under 40 CFR Part 70.

"**Part 70 source**" means any source subject to the permitting requirements of Part 5 of this Subchapter, as provided in OAC 252:100-8-3(a) and ~~252:100-8-3(b)~~ (b).

"**Potential to emit**" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of

material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. ~~For the purpose of 252:100-8, Part 9, secondary~~ Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification.

"Stack" means for purposes of OAC 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100.

252:100-8-1.4. Cancellation or extension of a construction permit or authorization under a general construction permit

(a) **Cancellation of permit or authorization to construct or modify.** A duly issued permit or authorization to construct or modify will terminate and become null and void (unless extended as provided in Subsection (b) of this Section) if the construction is not commenced within 18 months after the date the permit or authorization was issued, or if work is suspended for more than 18 months after it has commenced.

(b) **Extension of permit or authorization to construct or modify.**

(1) Prior to the expiration date of the permit or authorization, a permittee may apply for extension of the permit or authorization by written request of the DEQ stating the reasons for the delay or suspension and providing justification for the extension. The DEQ may grant:

(A) One extension of 18 months or less, or

(B) One extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site, or

(C) One extension of up to 72 months will be granted to major industrial facilities (project cost greater than \$100,000,000.00), where the applicant proposes to construct at an existing site and demonstrates that the existing site was originally designed and constructed to accommodate the

proposed new facilities. The applicant shall show a commitment to the site by having purchased land necessary to construct facilities covered by this extension and expended \$1,000,000.00 or more on engineering and/or site development.

(2) If construction has not commenced within three (3) years of the effective date of the original permit or authorization, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(3) Upon formal request of any applicant whose permit has been denied for lack of increment, the DEQ may require any permittee under OAC 252:100:8-1.4(b)(1)(B) or ~~252:100-8-1.4(b)(1)(C)-(C)~~, to furnish a complete air quality analysis and/or an appropriate available control technology review if such review is required in order to provide new or current information.

252:100-8-1.5. Stack height limitations

(a) **Stack height exclusion.** Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) **Determination of good engineering practice (GEP) stack height.** GEP stack height shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either OAC 252:100-8-1.5(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under OAC 252:100-8 or 40 CFR Part 52, $H_g = 2.5H$, provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks, $H_g = H + 1.5L$, where:

(i) H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

(ii) H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

(iii) L = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c) **Nearby.**

(1) For the formulae in OAC 252:100-8-1.5(b)(2). A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

(2) For demonstration in OAC 252:100-8-1.5(b)(3).

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

- (i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height -(Ht) of the feature, and
- (ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in OAC 252:100-8-1.5(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

(3) **Measurement of height of structure or terrain.** The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d) **Excessive concentrations.** When utilized for the purpose of determining GEP stack height under OAC 252:100-8-1.5(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under ~~262:100-8-1.5(b)(2)~~ OAC 252:100-8-1.5(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of an ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 7 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the ~~Executive Director~~, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under OAC 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in OAC 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the ~~Executive Director~~; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under OAC 252:100-8-1.5(b)(2) where the ~~Executive Director~~ requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic

influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in OAC 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

PART 3. PERMIT APPLICATION FEES

252:100-8-1.7. Permit application fees

A permit application or a request for an applicability determination received after the effective date of this subsection will be assessed a one-time fee, which must accompany the application or request. Applications received without appropriate fees are administratively incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

- (1) **Applicability determination.** \$250, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.
- (2) **Construction permit application.** ~~The fee is \$2,000.~~
 - (A) New Part 70 source - \$2,000.
 - (B) Modification of a Part 70 source - \$1,500.
 - (C) Authorization under a general permit - \$900.
- (3) **Operating permit application.**
 - (A) Initial Part 70 permit - \$2,000.
 - (B) Authorization under a general permit - \$900
 - (C) Renewal Part 70 permit - \$1,000.
 - (D) Significant modification of Part 70 permit - \$1,000.
 - (E) Minor modification of Part 70 permit - \$500.
 - (F) Part 70 Temporary Source Relocation - \$500.

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this ~~section~~ Section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

"**Administratively complete**" means an application that provides:

- (A) All information required under OAC 252:100-8-5(c), (d), or (e);
- (B) A landowner affidavit as required by OAC 252:2-15-20(b)(3);
- (C) The appropriate application fees as required by OAC 252:100-8-1.7; and
- (D) Certification by the responsible official as required by OAC 252:100-8-5(f).

"**Affected source**" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"**Affected states**" means:

- (A) all states:

(i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and

(ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or

(B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

(A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

"Designated representative" means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the DEQ offers public participation under ~~27A O.S. Supp. 1995, §2 14 101 et seq.~~ 27A O.S. §§ 2-14-101 through 2-14-401 and OAC 252:100-2-15 or affected State review under OAC 252:100-8-8.

"Emergency" means, when used in OAC 252:100-8-6(a)(3)(C)(iii)(I) and OAC 252:100-8-6(e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"Final permit" means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by OAC 252:100-8-7 through ~~252:100-8-7.5-7.5~~ and OAC 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of OAC 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) through (C) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAP's, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

(C) 0.6 tons per year for any one category A substance, 1.2 tons per year for any one category B substance or 6 tons per year for any one category C substance as defined in OAC 252:100-41-40.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or

adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year ("tpy") or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or.

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (except TSP that fraction of particulate matter that exhibits an average aerodynamic particle diameter of more than 10 micrometers) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;

- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(C) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
- (iii) For carbon monoxide non-attainment areas:
 - (I) that are classified as "serious"; and
 - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
- (iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

"Permit" (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a Part 70 construction or operating permit that meets the requirements of OAC 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC 252:100-5-2.2 (whether such costs are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic compound (VOC), including those substances defined in OAC 252:100-1-3, 252:100-37-2, and 252:100-39-2, ~~or any Volatile Organic Solvent (VOS), as that term is defined in 252:100-37-2 and 252:100-39-2, or any organic material defined in 252:100-37-2~~ except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of

the Act; and,

(ii) any pollutant for which the requirements of section 112(g) (2) of the Act have been met, but only with respect to the individual source subject to the section 112(g) (2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Subchapter.

"Section 502(b) (10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (~~27A O.S. 1993 Supp. Sec. 2-5-101 et seq.~~ 27A O.S. §§ 2-5-101 through 2-5-118, as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or

any pollutant listed under section 112(b) of the Act.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J. ~~Any activity to which a State or federal applicable requirement applies is not trivial even if included on the trivial activities list.~~

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-3. Applicability

(a) **Covered sources.** Except as exempted from the requirement to obtain a permit under subsection (b) of this Section or elsewhere in this Subchapter, the sources listed below are subject to the permitting requirements under this Subchapter. A ~~covered major~~ source or major stationary source shall remain a Part 70 source until a federally enforceable permit is obtained which contains emission limitations and/or conditions to limit the operation of the facility to below that which would define it as a covered source pursuant to this section.

- (1) Any major source (as defined in OAC 252:100-8-2);
- (2) Any source subject to a NSPS;
- (3) Any source, including an area source, subject to a NESHAP;
- (4) Any affected source (as defined in OAC 252:100-8-2);
- (5) Any source in a source category designated by the Administrator pursuant to 40 CFR §70.3; and
- (6) Any major stationary source required to have a permit under Parts 7 or 9 of this Subchapter.

(b) Source category exemptions.

(1) All sources listed in subsection (a) of this section that are not major sources, major stationary sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so by appropriate implementation of EPA administrative rulemaking for non-major sources. Any such exempt source may opt to apply for a permit under these rules and shall be issued a permit if the applicant otherwise satisfies all of the requirements of this Chapter.

(2) If the Administrator determines after appropriate rulemaking that an exemption is applicable to non-major sources when adopting standards or other requirements under section 111 or section 112 of the Act after July 21, 1992, then at that time the exemption will apply.

(3) Unless otherwise required to obtain a Part 70 permit, the following source categories are exempted from the obligation to obtain a Part 70 permit:

(A) All sources in source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA -- Standards of Performance for New Residential Wood Heaters; and

(B) All sources in source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation.

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) **Construction permit required.** No person shall ~~cause or allow the begin~~ begin actual construction or installation of any new ~~facility source~~ that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required prior to reconstruction of a major affected source under 40 CFR Part 63, reconstruction of a major source if it would then become a major affected source under 40 CFR 63, or for any physical change that would be a significant modification under 252:100-8-7.2(b) OAC 252:100-8-7.2(b)(2). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) **Requirement for case-by-case MACT determinations.**

(A) **Applicability.** The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, ~~1998-2000~~.

(b) Operating permits.

(1) **Operating permits required.** Except as provided in subparagraphs (A) and (B) of this section, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a Part 70 permit submits a timely application for Part 70 permit issuance or renewal, that source's failure to have a Part 70 permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this

Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph (A) of this ~~section~~ Section. The source's failure to have a Part 70 permit shall be deemed a violation of this Subchapter.

(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) **Duty to apply.** For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in OAC 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) **Application submittal schedule.** The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

(I) Petroleum and Natural Gas, 1311;

(II) Natural Gas Liquids, 1321;

(III) Electric Services, 4911, 4961;

(IV) Natural Gas Transmission, 4922;

(V) Natural Gas Transmission and Distribution, 4923; and

(VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,
- (ii) Brick Plants, 3251, 3297,
- (iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

- (i) Refineries, 2911;
- (ii) Cement Plants, 3241;
- (iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;
- (iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;
- (v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) **Newly regulated sources.** A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least six months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit. Renewal periods greater than six months are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Uniform Permitting Rules, OAC 252:2-15-70 and the definition of ~~administratively complete~~ "administratively complete" in OAC 252:100-8-2.

252:100-8-5. Permit applications

(a) **Confidential information.** If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if

the DEQ requests that the source do so.

(b) **Duty to supplement or correct application.** ~~See 252:100-6-50(e).~~ Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information within 30 days unless the applicant's request for more time has been approved by the DEQ. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(c) **Standard application form and required information.** Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose in accordance with OAC 252:2-15. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to OAC 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the information required by OAC 252:100-8-5(d) and/or ~~252:100-8-5(e)~~ (e) be provided.

(d) **Construction permit applications.**

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include but not be limited to site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) **BACT determination.** To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case by case basis taking into account energy, environmental, ~~cost~~ and economic impacts and other costs of alternative control systems. Unless required under Part 7 of this Subchapter, a BACT determination is not required for a modification that will result in an increase of emissions of less than 100 tons per year of any regulated air pollutant.

(B) **Modeling.** Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant.

(C) **Sampling points.** If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment. ~~[NOTE: 252:100-8-1.4(b)(1) was taken from 252:100-7-15(b)]~~

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in OAC 252:100-8-5(e) to the extent they are applicable.

(e) **Operating permit applications.**

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under ~~this subsection 252:100-8-5(e)-(c)~~ of this Section or OAC 252:100-8-3(b).

(B) Identification and description of all points of emissions described in subparagraph (e) (3) (A) of this ~~section~~ Section in sufficient detail to establish the basis for fees and applicability of the Act's requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the Act).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements and all state-only requirements.

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the Act or of this Chapter or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to OAC 252:100-8-6(a)(9) or to define permit terms and conditions implementing OAC 252:100-8-6(f) or 252:100-8-6(a)(10).

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements as follows:

(i) For applicable requirements and state-only requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements and state-only requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(B) For sources not in complete compliance, a compliance schedule as follows:

(i) A schedule of compliance for sources that are not in compliance with all applicable requirements and state-only requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements and state-only requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

(ii) A schedule for submission of certified progress reports no less frequently than every 6 months.

(C) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements and state-only requirements by a responsible

official consistent with subsection (f) of this section and section 114(a)(3) of the Act;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement state-only requirements or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(f) **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

~~(g) Number of application copies. See Part 3 of 252:2-15.~~

252:100-8-6. Permit content

(a) **Standard permit requirements.** Part 70 permits issued under this Chapter shall include all applicable requirements and state-only requirements (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the following elements:

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements and state-only requirements and shall include those operational conditions and limitations necessary to assure compliance with all such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement or state-only requirement upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable,

enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) **Operating permits.** The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as provided in subparagraphs (i) and (ii) of this paragraph:

(i) Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) **Construction permits.** See OAC 252:100-8-1.4.

(3) **Monitoring and related recordkeeping and reporting requirements.**

(A) **Monitoring requirements.**

(i) All emissions monitoring and analysis procedures or test methods required under applicable requirements and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act;

(ii) Where an applicable requirement or state-only requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring during the relevant time period sufficient to yield reliable data that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(iv) Provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) **Recordkeeping requirements.** The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(i) Records of required monitoring information that include the following:

(I) The date, place as defined in the permit, and time of sampling or measurements;

(II) The date(s) analyses were performed;

(III) The company or entity that performed the analyses;

(IV) The analytical techniques or methods used;

(V) The results of such analyses; and

(VI) The operating conditions existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) **Reporting requirements.** The permit shall incorporate all applicable reporting requirements and require the following requirements:

(i) A permit issued under this Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C)(i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as follows:

(I) Any exceedance resulting from an emergency or upset conditions as defined in 252:100-8-6(e) OAC 252:100-8-2 or upset conditions as defined in the permit shall be reported within 24 hours of the date on which promptly but no later than 4:30 p.m. on the next working day after the permittee first becomes aware of the exceedance, if the permittee wishes to assert the affirmative defense authorized under said section, and the permittee shall submit a follow up written report within 10 working days of first becoming aware of the exceedance. The initial report must contain a description of the emergency or upset conditions, any steps taken to mitigate emissions, and corrective actions taken. Quantification of exceedances attributable to emergencies or upset conditions shall be made by the best available method. If the permittee wishes to assert the affirmative defense authorized under subsection (e) of this Section for emergencies, the permittee shall submit a followup written report within 10 working days of first becoming aware of the exceedance.

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable;

but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or ~~preventative~~ preventive measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of OAC 252:100-9.

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit need only specify that the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) **Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include provisions stating the following:

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

- (i) enforcement action;
- (ii) permit termination, revocation and reissuance, or modification; or
- (iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under OAC 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to ~~27A O.S. 1993 Supp. Section 2-5-105.18~~ 27A O.S. § 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under OAC 252:100-5-2:2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this ~~section~~ Section to determine compliance and shall satisfy all requirements of the applicable

requirements authorizing such trading or averaging.

(b) **Federally enforceable requirements.**

(1) Except as provided in paragraph (b)(2) of this ~~section~~ Section, all terms and conditions in a permit issued under this ~~section~~ Section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the Act.

(2) Notwithstanding paragraph (b)(1) of this ~~section~~ Section, the DEQ shall designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the Act.

(c) **Compliance requirements.** All permits issued under this Part shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this ~~section~~ Section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to perform the following:

(A) Enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) Inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) As authorized by the Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) A schedule of compliance if required under OAC 252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and OAC 252:100-8-5(e)(8), progress reports, to be submitted semiannually or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit that are federally

enforceable, including emission limitations, standards, or work practices. Each permit shall specify:

(A) The frequency (which shall be annually unless the applicable requirement or state-only requirement specifies submission more frequently) of submissions of compliance certifications;

(B) In accordance with paragraph (a)(3) of this ~~section~~ Section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices;

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The permittee's current compliance status, as shown by monitoring data and other information available to the permittee;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this ~~section~~ Section; and

(v) Such other facts as the DEQ may require to determine the compliance status of the source;

(D) A requirement that all compliance certifications be submitted to EPA as well as to the DEQ;

(E) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act; and

(6) Such other provisions as the DEQ may require.

(d) **Permit shield.**

(1) Each operating permit issued under this Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this ~~section~~ Section or in the permit shall alter or affect the following:

- (A) the provisions of section 303 of the Act, including the authority of the Administrator under that section;
- (B) the liability of an owner or operator of a source for any violation of applicable requirements or state-only requirements prior to or at the time of permit issuance;
- (C) the applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or
- (D) the ability of EPA to obtain information from a source pursuant to section 114 of the Act.

(e) **Emergencies.**

~~(1) When used in this Subsection, "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. Quantification of accidental releases shall be made by the best available method.~~

~~(2) (1)~~ An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (e) (3) of this ~~section~~ Section and the reporting requirements of OAC 252:100-8-6(a) (3) (C) (iii) (I) are met.

~~(3) (2)~~ The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that:

(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) The permitted facility was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit.

~~(4) (3)~~ In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

~~(5) (4)~~ The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

(f) **Operational flexibility.**

(1) **Applicant's duty to apply for alternative scenarios.** ~~Any operating scenario allowed for in an applicable Part 70 permit may be implemented by the A facility~~ may implement any operating scenario allowed for in its Part 70 permit without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make changes within the facility that:

- (A) Are not modifications under any provision of Title I of the Act;
- (B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; and
- (C) Result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in OAC 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

252:100-8-7. Permit issuance

(a) **Criteria for issuance.** A permit, permit modification, or renewal may be issued only if the applicable requirements of ~~27A O.S. Supp. 1995, 2-14-101 et seq.~~ 27A O.S. §§ 2-14-101 through 2-14-401; OAC 252:2-15; and this Chapter have been met and the DEQ has determined that the conditions of the permit provide for compliance with all applicable requirements and, for applications subject to OAC 252:100-8-8, that the requirements of that ~~section~~ Section have been satisfied.

(b) **Draft permits and notice thereof.** See OAC 252:2-15. ~~The draft permit shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions)~~ A statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions) shall accompany the draft permit.

(c) **EPA review.** See OAC 252:100-8-8.

(d) **DEQ final action.** See OAC 252:2-15, and 252:100-8-8 when applicable.

(e) **Timeline for technical review and issuance.** The DEQ shall take final action on each application for a permit within 18 months after beginning its technical review in accordance with OAC 252:2-15-70 through 15-72-72 and OAC 252:100-8-4(b)(7).

(f) **Action priorities.** See OAC 252:100-8-4(b)(2) through (10) and OAC 252:100-8-7.1(a).

(g) **No issuance by default.** See 27A O.S. § 2-5-112(D).

252:100-8-7.2. Administrative permit amendments and permit modifications

(a) **Administrative permit amendments.**

(1) An administrative permit amendment:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(C) Requires more frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control

of a source where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ;

(E) Incorporates into the permit the requirements from preconstruction review permits issued by the DEQ under this Part.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(3) An administrative permit amendment shall be made by the DEQ in accordance with the following:

(A) The DEQ shall take final action on a request for an administrative permit amendment within 60 days from the date of receipt of such a request, and may incorporate the proposed changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(B) The DEQ shall submit a copy of the revised permit to the Administrator upon the Administrator's request.

(C) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The DEQ shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAC 252:100-8-6(d) for administrative permit amendments made pursuant to ~~subparagraph 252:100-8-7.2(a)(1)(E)-7.2(a)(1)(E)~~ of this ~~section-Section~~.

(b) **Permit modification.** A permit modification is any revision to a permit that cannot be accomplished under subsection (a) of this ~~section-Section~~. A permit modification for purposes of the acid rain portion of the permit shall be governed by 40 CFR Part 72.

(1) **Minor permit modification procedures.**

(A) **Criteria.**

(i) Minor permit modification procedures may be used only for those permit modifications that:

(I) Do not violate any applicable requirement, or state-only requirements;

(II) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(III) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(IV) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include federally-enforceable emissions caps assumed to avoid classification as a modification under any provision of Title I and alternative emissions limits

approved pursuant to regulations promulgated under ~~§§112(i)(5)~~ § 112(i)(5) of the Act; and

(V) Are not modifications under any provision of Title I of the Act.

(ii) Notwithstanding OAC 252:100-8-7.2(b)(1)(A)(i) and ~~252:100-8-7.2(b)(2)(A)~~ 7.2(b)(2)(A), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the State's implementation plan or in applicable requirements promulgated by EPA.

(B) **Application.** To use the minor permit modification procedures, a source shall submit an application requesting such use which shall meet the permit application requirements of Tier I under OAC 252:2-15 and shall include the following:

i) A description of the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs;

(ii) The source's suggested modification language;

(iii) Certification by a responsible official, that the application and the proposed modification meet the criteria for use of minor permit modification procedures; and

(iv) Completed forms for any notices required by OAC 252:2-15 and subparagraph (C) of this paragraph.

(C) **EPA and affected state notification.** If the proposed minor modification is of a permit that underwent EPA review in accordance with OAC 252:100-8-8, the provisions of that section shall apply to the minor modification application unless waived by the Administrator.

(D) **Timetable for issuance.** Within 90 days of the DEQ's receipt of a complete application under OAC 252:2-15 the DEQ shall:

(i) Issue the minor permit modification as approved;

(ii) Deny the minor permit modification application; or

(iii) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures or administrative amendment procedures.

(E) **Source's ability to make change.** Immediately after filing an application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application. After the source makes the change and until the DEQ takes any of the actions specified in (1)(D)(i) through (iii) of this subsection, the source must comply with the applicable requirements and state-only requirements governing the change and the proposed permit terms and conditions. During this period, the source need not comply with the existing terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(F) **Permit shield.** The permit shield under OAC 252:100-8-6(d) will not extend to minor permit modifications.

(G) **Permittee's risk in commencing construction.** The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The DEQ will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor permit amendment.

(2) **Significant modification procedures.**

(A) **Criteria.** Significant modification procedures shall be used for applications requesting permit modifications that:

(i) Involve any significant changes in existing monitoring requirements in the permit;.

(ii) Relax any reporting or recordkeeping requirements.

(iii) Change any permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

(iv) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement or state-only requirement which the source has assumed to avoid some other applicable requirement or state-only requirement to which the source would otherwise be subject. Such terms and conditions include:

(I) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I;

(II) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act; and

(v) Are modifications under any provision of Title I of the Act; and,

(vi) Do not qualify as minor permit modifications or administrative amendments.

(B) **Procedures for processing.** Significant permit modifications shall meet all requirements of these rules that are applicable to Tier II applications. The application for the modification shall describe the change, the emissions resulting from the change, and any new applicable requirements or state-only requirements that will apply if the change occurs.

(C) **Issuance.** The DEQ shall complete review of significant permit modifications within nine months after receipt of a complete application, but shall be authorized to extend that date by up to three months for cause.

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This ~~section~~ Section applies only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator.

(b) **Format.** To the extent practicable, information provided to

the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this ~~section~~ Section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the Act or of this Chapter.

(d) **Transmission of Part 70 applications to EPA.** For Part 70 Tier II and III applications subject to this section, the DEQ shall require an applicant upon filing to also provide a copy to the Administrator or the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) **Transmittal of notice of draft permit to affected states.** See ~~27A O.S. Supp. 1995, § 2-5-112(E); 27A O.S. Supp. 1995, § 2-14-101 et seq.~~ 27A O.S. § 2-5-112(E); 27A O.S. §§ 2-14-101 through 2-14-401; and OAC 252:2-15.

(f) **Preparation and submittal of EPA review copy.**

(1) **Tier II applications.** For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in OAC 252:2-15-72 or, if none, by this Chapter.

(2) **Tier III applications.** For Tier III applications, the DEQ shall prepare a proposed permit according to ~~27A O.S. Supp. 1995, § 2-14-304~~ 27A O.S. § 2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity.

(g) **Notice of non-acceptance.** As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the revised draft permit or proposed permit that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or these rules.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.

(2) A proposed permit based on a Tier III application, the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** Except as specified in paragraph 5 of this subsection, no permit for which an application must be transmitted to the Administrator under subsection (a) of this ~~section~~ Section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the revised draft permit ~~(Tier I)~~ (Tier II) or proposed permit (Tier III) and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a

statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this ~~section~~ Section;

(B) Submit any information necessary to review adequately the revised draft permit (Tier II) or the proposed permit (Tier III); or

(C) Process the permit application according to the uniform permitting requirements of OAC 252:2-15.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

(A) **Amend permit.** Amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or

(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:

(i) issue the amended or revised draft permit (Tier II) as final, or

(ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the draft permit or proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part 70 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in ~~252:002-15~~ OAC 252:2-15, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAC 252:100-8-7 through ~~252:100-8-7.5~~ 7.5 except in unusual circumstances. If the

DEQ revokes the permit, it may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on Tier III administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit (Tier III) on which an administrative permit hearing has been requested in accordance with ~~27A O.S. Supp. 1995, Section 2-14-101 et seq.~~ 27A O.S. §§ 2-14-101 through 2-14-401, the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved or determined to be inconsistent with applicable laws.

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emission" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility.

"Baseline area" means any areas designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ~~ug/m³~~ ^{ug/m³}

$\mu\text{g}/\text{m}^3$ (annual average) of the pollutant for which the minor source baseline date is established.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. ~~(Effective May 11, 1991)~~

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any source occurring after the minor source baseline date. ~~(Effective May 11, 1991)~~

"Baseline date" means:

(A) for major sources,

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; and,

(B) for minor sources, the earliest date after the trigger date on which a major source or major modification (subject to 40 CFR 52.21 or OAC 252:100-8, Part 7) submits a complete application.

The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen oxides, February 8, 1988.

~~(Effective May 11, 1991)~~

~~"Best available control technology" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case by case basis taking into account energy, environmental, costs and economic impacts of alternate control systems.~~

~~"Building, structure, facility or installation" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.~~

"Complete" in reference to an application for a permit, means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing

authority from requesting or accepting any additional information.

"Federal land manager" means the Secretary of the department with authority over the Federal Class I area or his representative.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement.

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act.

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-8.

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975.

(vii) Any change in source ownership.

"Major stationary source" means any source which meets any of the following conditions:

(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:

(i) carbon black plants (furnace process),

(ii) charcoal production plants,

(iii) chemical process plants,

(iv) coal cleaning plants (with thermal dryers),

(v) coke oven batteries,

(vi) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input;

(vii) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

- (viii) fuel conversion plants,
- (ix) glass fiber processing plants,
- (x) hydrofluoric, sulfuric or nitric acid plants,
- (xi) iron and steel mill plants,
- (xii) kraft pulp mills,
- (xiii) lime plants,
- (xiv) municipal incinerators capable of charging more than 250-50 tons of refuse per day,
- (xv) petroleum refineries,
- (xvi) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (xvii) phosphate rock processing plant,
- (xviii) portland cement plants,
- (xix) primary aluminum ore reduction plants,
- (xx) primary copper smelters,
- (xxi) primary lead smelters,
- (xxii) primary zinc smelters,
- (xxiii) secondary metal production plants,
- (xxiv) sintering plants,
- (xxv) sulfur recovery plants, or
- (xxvi) taconite ore processing plants.

(B) Any other source not on the list in (A) of this definition which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(C) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) and (B) of this definition if the change would constitute a major source by itself.

(D) A major source that is major for volatile organic compounds shall be considered major for ozone.

"Natural conditions" mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the Executive Director has not relied on it in issuing a permit under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

~~(Effective May 11, 1991)~~

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(i) carbon monoxide: 100 tons per year (tpy),

(ii) nitrogen oxides: 40 tpy,

(iii) sulfur dioxide: 40 tpy,

(iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,

(v) ozone: 40 tpy of volatile organic compounds,

(vi) lead: 0.6 tpy,

(vii) asbestos: 0.007 tpy,

(viii) beryllium: 0.0004 tpy,

(ix) mercury: 0.1 tpy,

(x) vinyl chloride: 1 tpy,

(xi) fluorides: 3 tpy,

(xii) sulfuric acid mist: 7 tpy,

(xiii) hydrogen sulfide (H₂S): 10 tpy,

(xiv) total reduced sulfur (including H₂S): 10 tpy, and

(xv) reduced sulfur compounds (including H₂S): 10 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 $\mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$ (24-hour average).

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

252:100-8-33. Exemptions

(a) Exemptions from PSD requirements. PSD requirements do not apply to a particular source or modification if:

(1) It is a nonprofit health or educational institution.

(2) The source is major by virtue of fugitive emissions, to the extent quantifiable, included in calculating the potential to

emit and is a source other than:

(A) One of the categories listed in (A)(i) through (xxvi) under the definition of "Major stationary source" in OAC 252:100-8-31, or

(B) A stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.

(3) The source or modification is a portable stationary source which has previously received a permit under the PSD requirements and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(b) **Exemption from air quality impact evaluation.**

(1) The requirements of OAC 252:100-8-35 are not applicable if the emissions, with respect to a particular pollutant, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of OAC 252:100-8-35 are not applicable to the emissions, with respect to a particular pollutant, to a modification of a major source that was in existence on March 1, 1978 if the net increase in allowable emissions of each regulated pollutant, after the application of ~~best available control technology~~ BACT, would be less than 50 tons per year.

(c) **Exemption from monitoring requirements.**

(1) The monitoring requirements of OAC 252:100-8-35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.

(A) Carbon monoxide - $575 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 8-hour average,

(B) Nitrogen dioxide - $14 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, annual average,

(C) Particulate matter - $10 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, TSP, 24-hour average, or $10 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$ PM-10, 24-hour average,

(D) Sulfur dioxide - $13 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(E) Ozone - see (N) below,

(F) Lead - $0.1 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour 3-month average,

(G) Mercury - $0.25 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(H) Beryllium - 0.0005 - $0.001 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(I) Fluorides - $0.25 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(J) Vinyl chloride - $15 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 24-hour average,

(K) Total reduced sulfur - $10 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 1-hour average,

(L) Hydrogen sulfide - 0.04 - $0.2 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 1-hour average,

or

(M) Reduced sulfur compounds - $10 \text{ } \mu\text{g}/\text{m}^3$ - $\mu\text{g}/\text{m}^3$, 1-hour average.

(N) No de minimis air quality level is provided for ozone.

However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(b), (c) and (d)(2) shall not apply to a source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the Executive Director subsequently determined that

the application was complete except for OAC 252:100-8-35(b), (c) and (d)(2). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to such source or modification.

(3) The requirements for air quality monitoring in OAC 252:100-8-35(b), (c), and (d)(2) shall not apply to a source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the ~~Executive~~ Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(b), (c) and (d)(2).

(4) The ~~Executive~~ Director shall determine if the requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(a) through ~~252:100-8-35(e)-(c)~~ and OAC 252:100-8-35(d)(2) may be waived for a source or modification when an application for a permit was submitted on or before June 1, 1988 and the ~~Executive~~ Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(a) through ~~252:100-8-35(e)-(c)~~ and OAC 252:100-8-35(d)(2), was complete before that date.

(5) The requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(b), (c), (d)(2) and (d)(6) shall apply to a source or modification if an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-8-33(b)(1), except that if the ~~Executive~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(b)(1) and OAC 252:100-8-35(c) shall have been gathered over that shorter period.

(d) **Exemption from BACT requirements and monitoring requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for ~~best available control technology~~ BACT in OAC 252:100-8-34 and for monitoring in OAC 252:100-8-35(a) through ~~252:100-8-35(e)-(c)~~ and OAC 252:100-8-35(d)(2) through ~~252:100-8-35(d)(4)-(4)~~ are not applicable. Instead, the federal requirements at 40 CFR 52.21(j) and (n) as in effect on June 19, 1978 are applicable to any such source or modification.

(e) **Exemption of modifications.** As specified in the applicable definitions of OAC 252:100-8-31, 252:100-8-1.1, and 252:100-1, the requirements of OAC 252:100-8, Part 7 for PSD and OAC 252:100-8, Part 9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right.

(f) **Exemption from impact analyses.** The requirements of OAC 252:100-8-35 and OAC 252:100-8-36 do not apply to a source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted a completed application for a permit before February 8, 1988.

(g) **Exemption from increment consumption.** Excluded from increment

consumption are the following cases:

(1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-51. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.

(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

~~"Building, structure, facility" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.~~

~~"Installation" means an identifiable piece of process equipment.~~

"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a

source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act).

"Major modification" means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.

(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair and replacement;

(ii) use of an alternate fuel or raw material by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) use of an alternate fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternate fuel or raw material by a source which:

(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or,

(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 8.

(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or

(vii) any change in source ownership.

"Major stationary source" means:

(A) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,

(B) any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.

(C) for ozone, a source that is major for volatile organic compounds shall be considered major.

"Net emissions increase" means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the

increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if the ~~Executive Director~~ has not relied on it in issuing a permit under ~~252:100-8~~, Part 9 of this Subchapter, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable at and after the time that actual construction on the particular change begins;

~~(iii)~~ (iii) the reviewing authority has not relied on it in issuing any permit under State air quality rules; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

~~"Reconstruction" means the replacement of components of an existing source (which will then be treated as a new source for purposes of Part 9 of this Subchapter) to the extent that will be determined by the Executive Director based on:~~

~~(A) The fixed capital cost (the capital needed to provide all the depreciable components) of the new components exceeds 50% of the fixed capital cost of a comparable entirely new source; and,~~

~~(B) The estimated life of the source after the replacements is comparable to the life of an entirely new source; and,~~

~~(C) the extent to which the components being replaced cause or contribute to the emissions from the source.~~

~~"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under Part 9 of this Subchapter.~~

~~"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:~~

~~(A) Carbon monoxide: 100 tons per year (tpy),~~

~~(B) Nitrogen oxides: 40 tpy,~~

~~(C) Sulfur dioxide: 40 tpy,~~

~~(D) Particulate matter: 15 tpy of PM-10 emissions,~~

~~(E) Ozone: 40 tpy of volatile organic compounds, or~~

~~(F) Lead: 0.6 tpy.~~

Proposed new sources and source modifications to which Part 9 of this Subchapter ~~are~~ is applicable are determined by size, geographical location and type of emitted pollutants:

(1) **Size.**

(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant, and other associated definitions in OAC 252:100-8-51, 252:100-8-1.1, and ~~252:100-1~~ 252:100-1-3.

(B) At such time that a particular source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Parts 1, 3, 5, and 9 of this Subchapter shall apply to that source or modification as though construction had not yet commenced on it.

(2) **Location.**

(A) Sources and modifications that are major in size and proposed for construction in an area which has been designated as nonattainment for any applicable ambient air quality standard are subject to the requirements for the nonattainment area, if the source or modification is major for the nonattainment pollutant(s) of that area.

(B) In addition, the requirements of a PSD review (Part 7 of this Subchapter) would be applicable if any other regulated pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(3) **Location in attainment or unclassifiable area but causing or contributing to NAAQS violation.**

(A) A proposed major source or major modification that would locate in an area designated attainment or unclassifiable is considered to cause or contribute to a violation of the national ambient air quality standards when such source or modification would, as a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Pollutant	Concentration, ug/m³ <u>ug/m³</u>				
	Averaging Time (hours)				
	Annual	24	8	3	1
SO ₂	1.0	5	25		
PM 10	1.0	5			
NO ₂	1.0				
CO			500		2000

(i) SO₂:

(I) 1.0 ug/m³ annual average;

(II) 5 ug/m³ 24-hour average;

(III) 25 ug/m³ 3-hour average;

(ii) PM-10:

(I) 1.0 ug/m³ annual average;

(II) 5 ug/m³ 24-hour average;

(iii) NO₂: 1.0 ug/m³ annual average;

(iv) CO:

(I) 500 $\mu\text{g}/\text{m}^3$ 8-hour average;

(II) 2000 $\mu\text{g}/\text{m}^3$ one-hour average.

(B) A proposed major source or major modification subject to OAC 252:100-8-52(3)(A) may reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact where the proposed source or modification would otherwise cause or contribute to a violation of any national ambient air quality standard. In the absence of such emission reductions, a permit for the proposed source or modification shall be denied.

(C) The requirements of OAC 252:100-8-52(3)(A) and (B) shall not apply to a major source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated nonattainment.

~~(B)-(D) Sources of volatile organic compounds located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.~~

~~(C)-(E) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC 252:100-8-52(3) are exempted from the condition of OAC 252:100-8-54(4)(A).~~

~~(D)-(F) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air quality standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case by case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.~~

~~(E)-(G) The determination as to whether a source would cause or contribute to a violation of applicable ambient air quality standards will be made on a case by case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.~~

~~(F) Sources causing a new violation of applicable ambient air standards as determined by the Executive Director but not contributing to an existing violation, will be approved if both of the following conditions are met:~~

~~(i) The new source is required to meet a more stringent emission limitations and/or the control of existing sources below allowable levels so that the new violation of ambient standards does not occur.~~

~~(ii) The new emission limitations for the new source, as well as for any existing sources affected, are enforceable under the Oklahoma and Federal Clean Air Acts.~~

OAC 252:100-8
Additional Comments

**CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 8. OPERATING PERMITS (PART 70)**

EXECUTIVE SUMMARY: The proposed amendments to Subchapter 8 include the incorporation of a new permit classification system; streamlining and simplifying the permit rules by moving the requirements for construction permits for Part 70 sources from Subchapter 7 to Subchapter 8, moving the requirement to pay annual operating fees from Subchapter 8 to Subchapter 5, and reorganizing the material in Subchapter 8 for clarity and ease of use; the revisions necessary to meet the federal requirements for final approval of the Oklahoma Operating Permits Program under Title V of the federal Clean Air Act and 40 CFR Part 70. The new permit classification system introduces general permits for construction of Part 70 sources. The amendments to meet the requirements for final approval of the Title V program include the incorporation by reference of federal rules governing case-by-case MACT determinations (40 CFR §§ 63.40, 63.41, 63.43 and 63.44).

STATUTORY AUTHORITY: Environmental Quality Board, 27A O.S. Supp. 1993, §§ 2-2-101 and 2-5-101 et seq., Oklahoma Clean Air Act.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES: Part of the proposed revisions will be accomplished by incorporating the federal rules by reference. In general the other proposed revisions were not substantive, but changes in format and reorganization of material. There are no analogous federal rules for the inclusion of general construction permits for Part 70 sources. The use of general permits is expected to stream line the permitting program for both the regulated community and the DEQ. The purpose of the revisions required by EPA in their Notice of February 5, 1996, was to correct differences between the State rule and the analogous federal rule.

ENVIRONMENTAL BENEFIT STATEMENT: Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Letter of Comments from Charles R. Evans of Delhi Gas Pipeline Corporation.

- Comment:** DEQ should distinguish between insignificant activities and trivial activities in areas where there is overlap e.g., storage tanks constructed with a capacity less than 39,894 gallons which store VOC with a vapor pressure less than 1.5 psia at maximum storage temperature are included on the insignificant activities list and Fuel/VOC storage tanks with less than or equal to 1000 gallons capacity having a true vapor pressure at storage conditions less than 1.5 psia are on the trivial list. Mr. Evans suggested that items that overlap should be considered as trivial activities.

Response: Fuel/VOC storage tanks with capacities of 1000 gallons or less and vapor pressure less than 1.5 psia have been removed from the trivial activities list since AQD does

not regulate these tanks. Thus overlap is no longer a problem in this case.

2. **Comment:** "Emissions from residential housing units, dormitories, and multifamily dwellings to include fuel burning for the purposes of heating except prohibited open burning" is included on page 5 of the trivial activities list under Residential. The commenter recommends that offices or similar places of work be added to this item.

Response: Space heating for offices and similar places of work is already addressed on page 1 of the insignificant activities list under Combustion Equipment. The staff believes that this is a more appropriate place for space heating for commercial premises.

3. **Comment:** Mr. Evans suggested that the trivial activities list be modified to make clear that both electric motors and the units they operate (specifically natural gas compressors) are considered trivial.

Response: Since electric motors and electric powered generators, chillers, air compressors and pumps have essentially no air emissions, they are not subject to air quality rules and, therefore, it is not necessary to include them on the trivial activities list. The staff did not agree that other types of equipment powered by electric motors would have only trivial emissions.

4. **Comment:** It was suggested that the item in Appendix J that included emissions from the blowdown of compressors or other vessels containing natural gas or liquid hydrocarbons for the purpose of maintenance due to emergency circumstances be modified to include emissions from depressurization during startup, shut down, maintenance or other emergencies of such compressors or other vessels, since historically EPA has not regulated these emissions.

Response: Staff concurs. These changes were included in the list.

5. **Comment:** It was recommended that the language regarding fugitive emissions from component additions (e.g. valves, etc.) in Appendix J be clarified and that fugitive emissions from components not subject to a fugitive monitoring plan be added.

Response: The language was modified to make it clear that VOC fugitive emissions from component additions regulated by a fugitive monitoring program where the total increase is less than one ton per year of any criteria pollutant or the de minimis levels set forth in 252:100-41-43 are considered trivial. Staff concurred with the request to include VOC emissions from component additions not regulated by a fugitive

monitoring program providing no applicable requirement is triggered when the components are added.

6. **Comment:** It was suggested that methanol storage tanks less than or equal to 10,000 gallons in volume with an annual throughput of no more than 50,000 gallons be added to the trivial activities list.

Response: Methanol storage tanks of 400 gallons or greater are subject to 252:100-37-15 since the as-stored vapor pressure should be greater than 1.5 psia. Since there is an applicable requirement for these tanks, they cannot be considered trivial activities.

7. **Comment:** It was suggested that cathodic protection systems be added to the trivial list.

Response: Staff felt that these systems are not regulated and, therefore, there is no need to include them on the trivial activities list.

Letter of Comments dated January 8, 1998, from Jole C. Luehrs, Chief, Air Permits Section, U. S. EPA, Region 6, Dallas, Texas.

1. **Comment:** It was stated that the language in item (B)(viii) (municipal incinerators) under the definition of "Major source" as found in 252:100-8, Part 5, and item (A)(xiv) (municipal incinerators) under the definition of "Major stationary source" as found in 252:100-8, Part 7 should be changed to reflect Part C, Prevention of Significant Deterioration of Air Quality, Subpart 1, Section 169, of the Clean Air Act Amendments of 1990. The language should read "municipal incinerators capable of charging more than 50 tons of refuse per day," instead of "municipal incinerators capable of charging more than 250 tons of refuse per day." This comment was reiterated by Mr. Rick Barrett of EPA Region 6 at the Hearing on January 9, 1998.

Response: Staff agreed to review Chapter 100 to determine all of the places where this change needs to be made, and then to propose appropriate rule revisions later this year. At this time, the only municipal waste combustor in Oklahoma that might be affected by such a rule change would only be impacted if it were modified so as to significantly increase its emissions. There are no indications that there are any plans to do so at this time. Therefore, EPA agreed that revising the rule later this year would be acceptable.

Comments made at the 1/9/98 Air Quality Council Meeting

1. **Comment:** Dr. Larry Canter asked, if incorporation by reference of a previous permit is allowed in the permit renewal, how the Department will insure that the previous permit(s) are not thrown away and the information thus becoming unavailable.

Response: Active permit files are never purged. They contain everything relating to the permit. When a permit ceases to be active, it is archived according to Department procedures and should not be thrown out.

2. **Comment:** Dole McWhirter was concerned that, if incorporation by reference of previous permit is allowed for permit renewals, it would then require both permits in order to know what the permit conditions are.

Response: The particular Subsection under discussion concerns the application content and simplifies permit applications by allowing the applicant to reference the previous permit when information is unchanged. All the standards, limitations, and conditions that remain pertinent to the facility will be repeated in the "new" permit. They will not be referenced. The "new" permit will stand alone.

3. **Comment:** Rick Barrett, EPA, Region 6, repeated the comment made in the 1/8/98 letter from Jole C. Luehrs.

RULE IMPACT STATEMENT: Attached.

11/14/00 Board mtg

CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

EXECUTIVE SUMMARY:

The proposed revisions to Sections 1.1, 1.4, 1.5, 1.7, 2, 3, 4, 5, 6, 7, 7.2, 8, 31, 33, 51, and 52 of Oklahoma Administrative Code 252:100-8, Permits for Part 70 Sources, correct errors, clarify language, add definitions, delete definitions, and add fee categories for construction permit authorizations and modifications. Substantive changes include amending the definition of "trivial activities" in Section 2 by deleting the exception for activities that are subject to an applicable requirement. The amendments to Section 4(a)(1) clarify which modifications to Part 70 sources require construction permits. The changes in Section 5(d)(1)(A) clarify that best available control technology (BACT) is not required for modifications that result in emissions increases of less than 100 tons per year, unless the Prevention of Significant Deterioration rules in Part 7 would require it. The reporting time in Section 6(a)(3)(C) for excess emissions caused by emergencies or upsets would be changed from 24 hours to the end of the next working day to make it consistent with Subchapter 9 reporting requirements. A substantive change is proposed for the definition of "major stationary source" in Section 31, where paragraph (xiv) would be changed to read "municipal incinerators capable of charging more than 50 tons of refuse per day." This change is required by the 1990 amendment to section 169(1) of the federal Clean Air Act. The changes to Section 52 were adopted in 1989 but were accidentally excluded during codification of the rules. Section 4(a)(2)(C) updates the incorporation by reference of 40 CFR 63.41, 40 CFR 63.43, and 40 CFR 63.44 to July 1, 2000.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None of the changes that were made to this rule creates a difference from analogous federal rules.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because the revisions to this rule does not make the rule more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

Attached.

WRITTEN COMMENTS WITH STAFF RESPONSES

Trinity Consultants - memo received from Don Whitney via e-mail on June 27, 2000 (Comments on June 14, 2000 draft rule)

1. **COMMENT:** Trinity Consultants believes there is little logic in requiring a construction permit for routine replacement, repair and minor modification which involve only a few pounds per year increase in emissions or the addition of a few valves to an existing LDAR program. Trinity Consultants recommends that OAC 252:100-8-4(a) be rewritten as follows: "(1) Construction permit required. No person shall begin actual construction or installation of any new source that will require a Part 70 operating permit without first obtaining a DEQ-issued construction permit. A construction permit is also required in the following circumstances unless such construction or modification is specifically authorized in a Part 70 permit: (A) A piece of equipment or a process is added that is subject to NSPS or NESHAP except that the Director may waive this requirement for Subparts which are currently effective for similar equipment or processes at the facility such as leak checking. (B) Any physical change that would increase actual emissions from that unit or process more than 5 tons per year of any criteria pollutant, more than 2 tons per year of any one HAP or more than 5 tons per year of two or more HAPs. In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein."

RESPONSE: Staff agrees. It was not our intent to require construction permits for such routine replacement, repair, and minor modifications. The Section has been rewritten to more clearly reflect this, by deleting the construction permit requirement for physical changes based on increased emissions. Construction permits will be required only to the extent provided by federal regulation, as follows: "No person shall begin actual construction or installation of any new source that will required a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required prior to reconstruction of a major affected source under 40 CFR 63, reconstruction of a major source if it would then become a major affected source under 40 CFR Part 63, or for any physical change that would be a significant modification under OAC 252:100-8-7.2(b)(2). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein."

2. **COMMENT:** Trinity Consultants believes that minor change of operation, maintenance, construction and replacement can be anticipated for many activities at major facilities. Such changes will often result in a trivial increase of actual emissions but do not warrant a permit modification. The first sentence of Section OAC 252:100-8-6(f) should be amended as follows: "A permitted Part 70 source may make changes within the facility that are specifically authorized in the permit or that. . .".

RESPONSE: Staff understands this proposed change to be related to the construction permit requirement discussed in Comment 1. The rule has been rewritten to eliminate requirements for construction permits, except as required by federal regulation. See Response 1. Additional discretion to waive permit requirements is not consistent with the rule.

Conoco, Inc. - Letter of comments received on August 7, 2000 from Joel Wilson

3. **COMMENT:** The proposed language in OAC 252:100-8-4(a)(1) requires a construction permit "...to add a piece of equipment or a process that is subject to NSPS or NESHAP..." This language could require a construction permit for small physical changes, such as the addition of a valve. We do not believe that the AQD intended to require individual construction permits for these sources. Of greatest concern to us is that the term "actual emissions" could include those emissions attributable to a physical change, but not directly emitted by the equipment being changed. In addition, it is also unclear what opportunities are available to the source to avoid the burden of obtaining a permit by putting in place voluntary controls to stay below the 5 ton per year threshold or how and if offsets can be utilized without a permit. Conoco does not feel that a new construction permit nor any permit modification is needed, unless the change triggers an NSPS or causes the source to exceed existing permit limits.

RESPONSE: Staff agrees with this comment. After further reflection the Division concluded that the Part 70 construction permit requirement should be no broader than is required by federal regulation. Following this logic, OAC 252:100-8-4(a)(1) was redrafted to delete the proposed requirement that a construction permit be secured both for adding a piece of equipment or process that is subject to NSPS, and for physical changes that result in an increase in emissions of over 5 tons per year for criteria pollutants, 2 tons per year for one HAP, and 5 tons per year for more than one HAP.

EPA Region 6 - letter from Jole Luehrs dated August 14, 2000, received August 17, 2000.

4. **COMMENT:** EPA expressed concern that the elimination of the sentence "Any activity to which a State of federal applicable requirement applies is not trivial even if included on the trivial activities list." from the definition of "trivial activities" in OAC 252:100-8-2 might be a relaxation of the rule. However, EPA expressed approval of the proposed revisions to Subchapter 8 when assured that trivial activities remain limited to those emission units contained on a list approved by the Administrator and contained in Appendix J.

VERBAL COMMENTS RECEIVED AT THE JUNE 14, 2000 HEARING

5. **COMMENT:** Several attendees were concerned that the revisions to OAC 252:100-8-4(a)(1) could be interpreted to mean that a

construction permit would be required for extremely small modifications to a facility. For example, they felt that, as written this paragraph required that a construction permit be obtained prior to the addition of a valve at a refinery.

RESPONSE: This is not what was intended. This paragraph has been revised to require no more than is required by federal regulations.

6. **COMMENT:** Mr. Preston Petula of Hannover asked if the revisions to OAC 252:100-8-4(a)(1) meant that the AQD wanted to know every time there is a 5 ton increase in the emissions from regulated equipment.

RESPONSE: OAC 252:100-8-4(a)(1) has been redrafted to delete the 5 ton increase as a threshold.

7. **COMMENT:** Ms. Nadine Barton with Citizens Action for a Safe Environment (CASE), questioned whether the addition of the definition of "emergency" in OAC 252:100-8-2 would affect enforcement ability when lack of preventive maintenance, improperly designed equipment, careless or improper operation, or operator error results in noncompliance with a technology based emission limit.

RESPONSE: It will not. OAC 252:100-8-6(e) states that an emergency constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if certain criteria are met. The definition of emergency states that an emergency shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

8. **COMMENT:** Mr. Don Whitney, Trinity Consultants questioned the necessity of replacing covered source with both major source and major stationary source in OAC 252:100-8-3(a). He felt that the use of major stationary source was superfluous.

RESPONSE: Staff disagrees. OAC 252:100-8-3(a) lists covered sources. It includes major sources as defined in OAC 252:100-8-2 for Part 70 sources and major stationary sources as defined in Parts 7 or 9 of Subchapter 8 for PSD sources and nonattainment sources. These definitions are not identical and should not be used interchangeably.

9. **COMMENT:** Howard Ground with Central and South West questioned the need to codify the revisions to OAC 252:100-8-52(3) that were originally adopted in 1988, readopted in 1989 and never codified.

RESPONSE: These are changes that EPA requested be made so that we will to continue to have approved PSD and nonattainment area programs. The new language is almost identical to the language in 40 CFR 51, Section 165.

VERBAL COMMENTS RECEIVED AT THE August 16, 2000 HEARING

10. **COMMENT:** Mr. Tom Blatchley, environmental consultant, questioned whether the revisions to Subchapter 8 should be held up so that the problem of how to handle construction permits for exploration wells or production wells could be resolved. Until such a well is brought into production it is not possible to know what the hydrogen sulfide or sulfur dioxide emissions will be and it is very difficult to size equipment prior to this time. This makes the application for a construction permit difficult to prepare and might result in a PSD source being constructed without a PSD permit.

RESPONSE: Staff recognizes that this is a problem and in the past has been handled by a variance or consent order. However, with the advent of the Title V operating permit program, these two avenues may no longer be appropriate. Up to now this has not been a frequent problem. Workgroups have been established to work with staff in the revisions of Subchapter 7 and Subchapter 31. One of these workgroups could also address this issue, and the change offered for revision at a future date. Staff believes that the proposed revisions to Subchapter 8 should not be held up until this problem is solved.

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

1:00 P.M.

TUESDAY, OCTOBER 21, 1997

TULSA CITY-COUNTY HEALTH DEPARTMENT AUDITORIUM

TULSA, OKLAHOMA

PUBLIC HEARING

OAC 252:100-8

OPERATING PERMITS (PART 70)

(AMENDED)

Reported by: Deanna Szurgot, CSR
1012 Elm
Yukon, Oklahoma 73099

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MEMBERS OF THE COUNCIL:

MR. FISHBACK

MS. SLAGELL

MR. KILPATRICK

MS. MYERS

MR. BRANECKY

MR. BREISCH -- CHAIRMAN

MR. BYRUM -- PROTOCOL OFFICER

MS. MYRNA BRUCE -- SECRETARY

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PUBLIC HEARING:

MR. BYRUM: For the record, ladies and gentlemen, my name is Larry Byrum. I am the Director of the Air Quality Division. As such, I will act as the Protocol Officer for this hearing.

This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, Title 40 of the code of Federal regulations, Part 51, as well as the authority of Title 27 A of the Oklahoma Statutes, Sections 2:1-101 and the following.

This hearing was advertised in the Oklahoma Register for the purposes of receiving comment pertaining the proposed revision of the operating permits portion of OAC 252:100-8.

If you wish to make a statement, please complete the form at the registration table, and I will call upon you at the appropriate time.

At this time, I'd like to call upon Dr. Joyce Sheedy to give a Staff position on these proposed changes.

Dr. Sheedy.

DR. SHEEDY: Mr. Chairman, Members of the Council, ladies and gentlemen, the goals for the proposed revisions to Sub Chapter 8 were to correct

deficiencies that were listed in the approval of our interim Title 5 Program to incorporate case-by-case MACT requirements of 113 G contained in 40 CFR 63.40 through 63.44, to incorporate permit continuum to reorganize Sub Chapter 8 to include major source permitting as well as Part 70 operating permit program and Clarify, simplify, and streamline the rule as we worked with it.

The first goal is to correct deficiencies that were identified by EPA in their notice published on February the 5th, 1996. Approving our interim Title 5 Program was accomplished by revising the definition of major source, on Pages 15 through 17, make it consistent with Part 70 by removing the provisions for non-aggregation of criteria pollutants; revising the insignificant activities definition on Page 15 to make it consistent with Part 70; deleting the words "to the extent practicable" from 8-6 A, Standard Permit Requirements, on page 33; deleting the words "or less" from 8-7.2 a 1 C, Administrative Permanent Amendments, on Page 51; deleting the requirement for enhanced NSR in 8-7.2 A 1 E on Page 51; and construction permit requirements for Part 70 sources were moved to Sub Chapter 8, Pages 24 through 25, and we endeavor to make them more consistent with Part 70 requirements.

Our second goal was to incorporate the case-by-case

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1 incorporation of appropriate sections of Sub Chapter 10,
2 for general permits, that would be in 8-6.1 A 6 through
3 8-6.1 A 10, 8-6.1 B 4, 8-6.1 D, and 8-6.1 E; additional
4 requirements for renewal of permit for in 8-6.1 F;
5 deletion of emission trading, which was 8-6 H 3, and
6 8-6 A 9. Addition of trivial activities list in
7 Appendix "J"; addition of insignificant activities list,
8 Appendix "I"; and revisions previously outlined that are
9 required by EPA to correct the deficiencies in our
10 Title 5 Program.

11 Part 9 is Prevention of Significant Deterioration
12 Requirements for Attainment Areas. Basically, we did
13 some organization to 9, which was moved in total from
14 Sub Chapter 7. We deleted some definitions that were
15 duplicates of those in Sub Chapter 1. We corrected an
16 error in the major source definition, replacing the
17 word, "combustion" under fossil-fuel boilers with the
18 word, "combination," I believe.

19 And we reorganized 8-33, grouping the exemptions
20 into sub sections of like types of exemptions and adding
21 tag lines to make them easier to find.

22 And we moved 8-33 K and L from the exemption
23 section to the monitoring Section 8-35, since they
24 really are not exemptions, but speak to PM 10 monitoring
25 requirements. We intended to make no substantive

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1 changes, and we don't think we did.

2 Part 1 is, Major Sources Affecting Non Attainment
3 Areas. Again, we deleted definitions that were
4 duplicated in Sub Chapter 1. Again, we made no
5 substantive changes to this rule. We received one
6 letter of comment too late to be considered in the draft
7 of this rule. These comments concern the insignificant
8 activities list and the trivial activities list. We
9 would like to make those part of the record at this
10 time.

11 The Staff recommends that the hearing on the
12 revisions to Sub Chapter 8 be continued to the December
13 Council meeting.

14 MR. BYRUM: Questions for Dr. Sheedy from the
15 Council?

16 (No Response.)

17 MR. BYRUM: Nadine Barton is wanting to speak
18 to this issue.

19 MS. BARTON: My name is Nadine Barton with
20 CASE, Citizen's Action for a Safe Environment. And I
21 just want to make one comment, and that is to compliment
22 Staff on the monumental task that they have accomplished
23 here. I think that they've done a good job, and we
24 don't say that very often, and I just want to go on
25 record. You did a good job. I may not be happy with

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1 all of it after I look at it, but --

2 (Laughter.)

3 MR. BYRUM: Questions for Ms. Barton?

4 (No Response.)

5 MR. BYRUM: Others who wish to speak to the
6 issue?

7 (No response.)

8 MR. BYRUM: Mr. Chairman.

9 MR. BREISCH: The Staff has recommended that
10 we hold this or continue this item to our next meeting
11 on December 16th, and that means the comment period is
12 open.

13 MR. KILPATRICK: - I move that we continue it to
14 the 16th.

15 MR. BREISCH: I have a motion.

16 MR. BRANECKY: Second.

17 MR. BREISCH: I have a motion and second to
18 continue this item until the December 16th meeting.

19 Myrna.

20 MS. BRUCE: Mr. Fishback?

21 MR. FISHBACK: Aye.

22 MS. BRUCE: Ms. Slagell?

23 MS. SLAGELL: Aye.

24 MS. BRUCE: Mr. Kilpatrick?

25 MR. KILPATRICK: Aye.

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1 MS. BRUCE: Ms. Myers?

2 MR. MYERS: Yes.

3 MS. BRUCE: Mr. Branecky?

4 MR. BRANECKY: Yes.

5 MS. BRUCE: Mr. Breisch?

6 MR. BREISCH: Yes.

7 (Hearing concluded.)

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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
PROPOSED REVISIONS OF OAC 252:100-8,
OPERATING PERMITS (PART 70)
HELD ON DECEMBER 16, 1997
AT 2:00 P.M.
AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

ORIGINAL

MYERS REPORTING SERVICE
(405) 721-2882

MEMBERS OF THE COUNCIL

1. MR. KILPATRICK - MEMBER
2. MS. SLAGELL - MEMBER
3. MR. FISHBACK - MEMBER
4. DR. CANTER - MEMBER
5. MS. MYERS - MEMBER
6. MR. BRANECKY - MEMBER
7. MR. BREISCH - CHAIRMAN
8. MR. DYKE - PROTOCOL OFFICER
9. MS. BRUCE - SECRETARY

3

PROCEEDINGS

MR. DYKE: My name is David Dyke. I'm the Interim Director of the Air Quality Division. As such, I will act as the Protocol Officer for this hearing.

This hearing is convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act, in Title 40 of the Code of Federal Regulations, Part 51, as well as the Authority of Title 27A of the Oklahoma Statutes, Section 1 through 1801 and the following.

The hearing was advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the Proposed Revisions of OAC 252:100-8 Operating Permits (Part 70). If you wish to make a statement, please complete the form at the registration table, and you will be called upon at the appropriate time.

At this time, Dr. Joyce Sheedy stands ready to discuss the staff's proposal. Do you wish for us to continue

with the discussion and the proposal at this time?

MR. KILPATRICK: Mr. Chairman, I move that we continue this hearing on this subject to January the 9th at 1:00 P.M. in the Burgundy Room, at whatever this building is.

MR. BREISCH: Gary, are we going to have a briefing meeting in the morning and a hearing in the afternoon like we generally do or are you just --

MR. KILPATRICK: I would assume that we would want to follow the normal protocol. I was giving the time of the actual hearing as 1:00 P.M., does the Notice also have to require notice of the briefing time, also?

MS. MYERS: Is January 9th sufficient time to --

MR. KILPATRICK: We're just continuing the hearing.

MS. MYERS: Is that sufficient time to meet all of the other deadlines?

DR. SHEEDY: Yes. We have to have the Board pack -- the stuff to Linda

1 Finish by the 15th for Board packet. So
2 that should give us time to make the
3 changes to the Rule, and the Rule Impact
4 Statement, and the Executive Summary, and
5 all of that and get copies made for
6 everybody by the 15th.

7 MR. DYKE: We do not have to have
8 a briefing as part of this but we could if
9 the Council requests it.

10 MS. SLAGELL: If we're only going
11 to continue from this point without
12 adjourning, we just go directly into a
13 hearing. We wouldn't have a briefing.

14 MR. DOUGHTY: That's correct.
15 We've already had the briefing. And
16 actually there is nothing really binding as
17 far as the briefing is concerned. It's
18 just a tradition and a procedure that the
19 Council has had over the years and it's not
20 mandated by law anyway, is what I'm saying.
21 And since you've already had your briefing
22 and had all the informal discussion, you're
23 ready to go into the hearing. Just set
24 your hearing and go.

25 MR. BREISCH: Well, that's fine

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1 understand the timeliness that is necessary
2 for these revisions, 5, 7 and 8, to be
3 forwarded based on the interim approval and
4 conditions of the final Part 70 deadline of
5 January of '99. And we'll do all that we
6 can to be sure and attend here at that time
7 and review these revisions between now and
8 that time.

9 DR. SHEEDY: Rick, I know that
10 there were a number of changes made to
11 subchapter 8 since you got the previous --
12 the Council packet. But of those changes,
13 only about ten of them really have any
14 substantive quality at all. And the rest
15 are really required because of number
16 changes. So they're really just changing a
17 one point six (1.6) to a one point five
18 (1.5). It makes no -- as far as the
19 252:100-8-1.6 is now 252:100-8-1.5. It has
20 no real change in the meaning of what is
21 there. And if it will help you, I can give
22 you a list of the substantive changes and
23 where they are and what they are.

24 DR. CANTER: Is that something
25 that you could give to us as well?

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1 we because I'm not going to be able
2 attend the meeting, anyway.

3 MS. MYERS: Are we going to be
4 able to get a quorum?

5 DR. SHEEDY: We definitely
6 to have a quorum.

7 MR. BREISCH: How many people
8 available?

9 MS. MYERS: Six.

10 MR. BREISCH: Now, EPA made a
11 comment that they're going to have to
12 review this. And I would like to hear from
13 them whether this is -- this time frame
14 allows them to review what we've done the
15 far and be at that meeting so we can
16 finalize it.

17 MR. BARRETT: January 9th, is
18 that the very latest?

19 MR. DYKE: Please identify
20 yourselves for the court reporter.

21 MR. BARRETT: My name is Rick
22 Barrett. I'm with the Environmental
23 Protection Agency, in Region Six, Dallas,
24 Texas. I'm in the Air Permits Section of
25 the Planning and Permitting Division. We

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1 DR. SHEEDY: Yes. I can do that
2 and will.

3 MR. BARRETT: Thank you. That
4 will be helpful.

5 MS. MYERS: Did we just set a
6 meeting date?

7 MR. DYKE: We don't have a second
8 on the motion.

9 MR. BRANECKY: Second.

10 MR. BREISCH: Any further
11 comments or questions?

12 Myrna, call the roll.

13 MS. BRUCE: Mr. Kilpatrick.

14 MR. KILPATRICK: Aye.

15 MS. BRUCE: Ms. Slagell.

16 MS. SLAGELL: Aye.

17 MS. BRUCE: Mr. Fishback.

18 MR. FISHBACK: Aye.

19 MS. BRUCE: Dr. Canter.

20 DR. CANTER: Aye.

21 MS. BRUCE: Ms. Myers.

22 MS. MYERS: Aye.

23 MS. BRUCE: Mr. Branecky.

24 MR. BRANECKY: Aye.

25 MS. BRUCE: Mr. Breisch.

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MR. BREISCH: Ay:

(PROCEEDINGS CONCLUDED)

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C E R T I F I C A T E

STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings are the truth, the whole truth and nothing but the truth, in the case aforesaid; that the foregoing proceedings was taken by me in shorthand and thereafter transcribed under my direction; that said proceedings was taken on the 16th day of December, 1997 at Oklahoma City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 5th day of January, 1998.

Christy A. Myers
CHRISTY A. MYERS C.S.R.
Certificate No. 00310

Christy Myers
Oklahoma Certified Shorthand Reporter
Certificate No. 00310
Exp. Date: December 31, 1999

Christy A. Myers
Certified Shorthand Reporter

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 AIR QUALITY DIVISION
3 STATE OF OKLAHOMA

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8 * * * * *
9 TRANSCRIPT OF PROCEEDINGS
10 OF PUBLIC HEARING OAC 252:100-8
11 OPERATING PERMITS (PART 70) (AMENDED)
12 HELD ON JANUARY 9, 1998
13 AT 1:00 P.M.
14 AT 4545 LINCOLN BOULEVARD, BURGUNDY ROOM
15 IN OKLAHOMA CITY, OKLAHOMA
16 * * * * *

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22 REPORTED BY: Christy A. Myers, CSR,
23
24
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2 MEMBERS OF THE COUNCIL
3

- 4 1. MR. KILPATRICK - MEMBER
5 2. MS. SLAGELL - MEMBER
6 3. MR. FISHBACK - MEMBER
7 4. MS. MYERS - MEMBER
8 5. MR. BRANECKY - MEMBER
9 6. DR. CANTER - CHAIRMAN
10 7. MR. DYKE - PROTOCOL OFFICER
11 8. MS. BRUCE - SECRETARY
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1 PROCEEDINGS

2 DR. CANTER: I'd like to call our
3 meeting to order this afternoon. This will
4 be a meeting of the Air Quality Council
5 which is a continuation of our regular
6 meeting hearing which was held on December
7 16, 1997. I will be chairing the meeting
8 this afternoon in the absence of our
9 Chairman, who I understand is examining air
10 quality in Arizona, right now, on a golf
11 course, apparently, or where ever it is.

12 Let me ask first of all that Myrna,
13 you would call the roll, please.

14 MS. BRUCE: Mr. Fishback.

15 MR. FISHBACK: Here.

16 MS. BRUCE: Ms. Myers.

17 MS. MYERS: Here.

18 MS. BRUCE: Mr. Kilpatrick.

19 MR. KILPATRICK: Here.

20 MS. BRUCE: Ms. Slagell.

21 MS. SLAGELL: Here.

22 MS. BRUCE: Mr. Branecky.

23 MR. BRANECKY: Here.

24 MS. BRUCE: Dr. Canter.

25 DR. CANTER: Here.

1 MS. BRUCE: And for the record,
2 absent are Ms. Andrews and Mr. Breisch.
3 DR. CANTER: Thank you. Our
4 first order of business this afternoon is
5 the continuation of a public hearing on O
6 252:100-8. And I will turn the meeting
7 over to David Dyke at this point.

8 MR. DYKE: Ladies and gentlemen
9 my name is David Dyke. I'm the Interim
10 Director of the Air Quality Division. As
11 such, I will act as the Protocol Officer
12 for this hearing.

13 This hearing is convened by the Air
14 Quality Council in compliance with the
15 Oklahoma Administrative Procedures Act, 1
16 Title 40 of the Code of the Federal
17 Regulations, Part 51, as well as the
18 Authority of Title 27A of the Oklahoma
19 Statutes, Section 2-5-101 through 2-5-118.

20 The hearing was advertised in the
21 Oklahoma Register for the purposes of
22 receiving comments pertaining to the
23 proposed revisions of OAC 252:100-8,
24 Operating Permits Part 70 Amended. If yo
25 wish to make a statement, please complete

1 the form at the registra n table, and you
2 will be called upon at the appropriate
3 time.

4 At this time, I will call upon Joyce
5 Sheedy to give the staff position on these
6 proposed changes.

7 Dr. Sheedy.

8 DR. SNEEDY: Mr. Vice-Chairman,
9 Members of the Council, ladies and
10 gentlemen, my name is Joyce Sheedy and I
11 work in the Rules and Planning Unit of the
12 Air Quality Division. As you know, the
13 hearing for the proposed revisions to
14 Subchapter 8 was continued from the
15 December 16, 1997 hearing. The proposed
16 revisions to Subchapter 8, are to correct
17 the deficiencies in our interim Title V
18 Program as identified by EPA in their
19 notice of approval of our interim program
20 that was published on February 5, 1996,
21 and to incorporate case by case, maximum
22 achievable control technology, known as
23 MACT, requirements of 1-12 G, contained in
24 40 CFR 63.40 and 63.44 -- through 63.44, to
25 incorporate the permit continuum concept of

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1 DR. SNEEDY: The first one is on
2 page 13. And it's under the definition of
3 insignificant activities and it's about the
4 fifth line of that definition.

5 DR. CANTER: I've got it.

6 DR. SNEEDY: The "s" should be
7 stricken from the word definitions.

8 The second one is an Appendix I.
9 And it's on the first page of Appendix I,
10 under storage tank/distribution. About the
11 fifth item down, gasoline and aircraft fuel
12 handling facilities, it's the third line of
13 that, 252 colon 100 dash (252:100-) should
14 be in front of 39-30, 39-41 and 39-48. And
15 that's just a legal format thing that
16 they've informed us should be done that
17 way.

18 The Department is also requesting
19 two minor non-substantive additions to the
20 titles of Appendices I and J, in Subchapter
21 8. As you know, the Department as been
22 promoting the incorporation of the permit
23 continuum in all of its division's rules.
24 The proposed revisions to Subchapter 7 and
25 8 incorporate that concept. And it's been

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1 the 10 and to reorganize Subchapter 8 in
2 conjunction with reorganization of
3 Subchapters 5 and 7, moving annual fees an
4 emissions inventory to Subchapter 5, and
5 moving the construction permit requirem^{ent}
6 for Part 70 Sources from Subchapter
7 Subchapter 8.

8 Four changes have been proposed to
9 the draft revisions contained in the
10 Council packets and those are corrections
11 of typographical error. On page 13, line
12 of the definition of insignificant
13 activity, definitions should have been,
14 definition without the "s". And on page 1
15 of Appendix I, under storage
16 tank/distribution, item 4, for gasoline an
17 aircraft fuel handling facilities, on line
18 2 and 3 of that item, 252 colon 100
19 (252:100) should have been inserted before
20 39-30, 39-41, 39-48.

21 DR. CANTER: Joyce, could you ru
22 over those, again?

23 DR. SNEEDY: Yes, sir.

24 DR. CANTER: I got lost on the
25 first one.

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1 suggested that we can further promote the
2 incorporation and understanding of that
3 concept by correlating the titles of
4 Appendices I and J with the permit
5 Continuum terminology. Appendix I is the
6 insignificant activities list. Since
7 Subchapter 8, requires only that
8 insignificant activities be listed in Part
9 70 Permit Applications, that's very similar
10 to the registration requirement for permit
11 by rule facilities. Thus, the Department
12 would like to add the word registration in
13 parenthesis after insignificant activities,
14 on the title of that list in Appendix I.

15 And in addition, since trivial
16 activities are not included in the Part 70
17 Permit Application, they are very similar
18 to de minimis facilities which are not
19 required to obtain a permit. Therefore,
20 the Department would like to add the word,
21 de minimis in parenthesis after trivial
22 activities. We feel that using this
23 terminology would promote everyone's
24 understanding and use of the permit
25 continuum.

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1 And those are the only changes from
2 what's in the packet.

3 MR. DYKE: Is there questions of
4 the Council of Dr. Sheedy?

5 DR. CANTER: I had one question.
6 On page 57.

7 DR. SHEEDY: All right.

8 DR. CANTER: It's not a
9 substantive -- it's a procedural question,
10 really. It's the top three lines on page
11 57. This is where the issue is of
12 applications for renewal of an expiring
13 permit. And it says, you can incorporate
14 by reference, terms and conditions in the
15 previous permit, et cetera. It seems to me
16 government agencies often throw things away
17 routinely, and I guess my question is is
18 that -- government agencies and all people.
19 So -- but my question is, if you're
20 incorporating by reference a previous
21 permit, how do you do that? I mean, do you
22 have a file? I mean, is that going to be
23 perpetuated, you know, for ten or fifteen
24 years or is somebody going to come along in
25 three years and say everything, you know,

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11

1 stowed away somewhere, that you would have
2 to have both documents to know what you are
3 talking about. What I'm saying is, when
4 the new permit or the renewal procedures
5 did not contain all of the writings that
6 are necessary for that permit, what do you
7 do?

8 DR. SHEEDY: Of course, this
9 particular Subsection is talking about the
10 application content and it's giving a break
11 to applicants by saying, if it was in your
12 previous permit and you didn't change it,
13 then you may reference it in your
14 application instead of repeating it. It
15 doesn't really -- and I don't know that
16 anywhere in this rule actually speaks to
17 whether we will reiterate all that in your
18 permit renewal.

19 Ray, have you all thought about this
20 issue?

21 MR. BISHOP: Yes. I'm Ray
22 Bishop. Not all the previous permit
23 conditions will be put into the new permit
24 if they are applicable.

25 DR. SHEEDY: So they will be

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1 is thrown out. I guess, it's really a
2 procedural question in any way. I just want
3 to be sure that there is a reference to a
4 previous permit and no one can find the
5 previous permit.

6 DR. SHEEDY: In the past, in DEQ
7 and in the Health Department before, as far
8 as Air Quality was concerned, if a permit
9 file was active, it was never really
10 purged. It contained everything. And when
11 it ceased to be active, then there are
12 procedures for archiving. So it should not
13 be thrown out.

14 DR. CANTER: Thank you.

15 MR. DYKE: Any additional
16 questions at this point from Council? From
17 the public?

18 MR. MCWHIRTER: I'm Doyle
19 McWhirter. Along the same lines, are you
20 saying that these permit conditions and
21 terms that were being referenced in a
22 previous permit, will they or will they not
23 be included in that same document of the
24 permit that is issued as opposed to terms
25 and conditions in a previous permit being

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1 repeated in the new one?

2 MR. BISHOP: Right. This gives
3 the applicant the opportunity to say, I
4 have already requested this and it's in a
5 previous permit, and did not have to submit
6 that information again. But we will
7 include it into the new permit so the old
8 permit is not necessary to understand what
9 the new permit says.

10 DR. SHEEDY: So the new permit
11 will be -- it will include everything?

12 MR. BISHOP: It's total and
13 stands alone by itself.

14 DR. SHEEDY: Okay. Thank you,
15 Ray.

16 MR. DYKE: Is there additional
17 questions of Dr. Sheedy from the audience?
18 Is there anyone else who wishes to speak on
19 this matter?

20 MR. BARRETT: My name is Rick
21 Barrett, I'm with the EPA in Dallas, Region
22 6. And I have a minor comment to be made
23 about something in Subchapter 8. And first
24 of all, we'd like to commend ODEQ for their
25 efforts to correct all the deficiencies in

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1 the interim approval for t 70 Programs.
2 And a tremendous amount of work has gone in
3 to that. And we applaud that and would
4 like to mention that here at the hearing.

5 The minor comment I have to make is
6 that, in the Clean Air Act Amends of 1990,
7 a reference to municipal waste incinerators
8 regarding the size of the charge rate
9 process per day was changed from a
10 threshold of 250 tons per day to 50 tons.
11 And this is part of the 100 ton category
12 list also called a list of 28 Source
13 category. And this rule has not been
14 recodified, however, into 40 CFR 51-165 or
15 166, or Part 70 as of this time. And so,
16 we had made a comment by letter to the ODEQ
17 that the threshold that's listed in
18 Subchapter 8 for municipal waste
19 incinerators -- I think it's on -- for
20 example, under PSD, Part 7 Section of
21 Subchapter 8, page 73, again, that's the
22 list of the name categories or source
23 categories. There's a -- it's A 14, on
24 page 73. And so ODEQ, we discussed this
25 with them, and of course by letter, and

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1 ODEQ is going to make that correction as a
2 IBR in the near future. And so, we just
3 wanted to make that comment that that's the
4 only thing at this time we have, that I
5 know of, that we would like to come
6 about Subchapter 8.

7 DR. CANTER: What is an IBR?

8 MR. BARRETT: Incorporation by
9 Reference.

10 DR. SHEEDY: We won't actually
11 incorporate it by reference, but when we
12 have to re-open Subchapter 8 to update our
13 incorporation, then, we can address this at
14 the same time.

15 MR. BARRETT: Okay. I stand
16 corrected, sorry. It will be re-opened in
17 the near future, and we will make that
18 minor correction.

19 MR. DYKE: Are there any more
20 questions of Dr. Sheedy?

21 MR. FISHBACK: I didn't exactly
22 follow the comment. Is the 250 ton
23 reference to municipal incinerators
24 inconsistent with a threshold in another
25 rule?

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1 DR. SHEEDY: It's not
2 inconsistent with the federal rule in 40
3 CFR 51, 52 or 40 CFR 70 because EPA has not
4 yet made that change to their own rule.
5 They did include that in the 1990 Clean Air
6 Act Amendment. But they have not changed
7 their rule.

8 MR. FISHBACK: And this
9 threshold will change from 250 tons to 50.

10 DR. SHEEDY: 50. So what it
11 would mean is that at present, if you're an
12 incinerator and you emit more and you have
13 a capacity charge rate of 250 tons per day
14 or more, and you have emissions of 100 tons
15 per hour or more, then you are subject to
16 PSD. With the change, if the incinerator
17 has a charge rate of 50 tons per day or
18 more, and 100 tons emission, they would be
19 subject to PSD.

20 MR. FISHBACK: But, it would not
21 be retroactive?

22 DR. SHEEDY: At this point, we --
23 the only source we have that would fall
24 under that is already PSD.

25 MR. FISHBACK: They're above 250?

Christy A. Hunt
Certified shorthand reporter

1 DR. SHEEDY: Yes.

2 MR. FISHBACK: So, if you change
3 it to 50 it has no effect. But prior to
4 that change in the federal regulations, a
5 249 ton source would not be PSD after that
6 change, a 51 ton source would be PSD.

7 DR. SHEEDY: If they had
8 emissions of 100 tons per year. And of
9 course, the 250 tons a year emissions --
10 wouldn't make any difference.

11 MR. FISHBACK: Okay. But, I just
12 wanted to be clear that it's not proposed
13 to be implemented retroactively. It's just
14 a change that's incorporated when the
15 federal rule is changed; is that correct?

16 DR. SHEEDY: Yes.

17 MR. FISHBACK: Okay.

18 MR. DYKE: Any additional
19 questions of Dr. Sheedy?

20 MR. FISHBACK: Oh, I'm sorry.
21 Let me ask, is that change based on the
22 fact that there were municipal waste
23 incinerators with 50 ton charging range
24 that had more than 100 tons per year
25 emissions?

Christy A. Hunt
Certified shorthand reporter

1 DR. SHEEDY: Right.
 2 MR. FISHBACK: Is that the reason
 3 for that change in threshold?
 4 MR. BARRETT: I don't know.
 5 Probably. Okay. But, I really don't know
 6 for sure, why.
 7 MR. FISHBACK: Of course, the
 8 emission rate is going to be very dependent
 9 on the composition of the waste, not so
 10 much the actual --
 11 MR. BARRETT: Yes.
 12 MR. FISHBACK: Okay. Thank you.
 13 MR. DYKE: Any additional
 14 questions of Dr. Sheedy?
 15 DR. CANTER: Thank you. At this
 16 point, the Chair would entertain a motion
 17 for sotion with regard to Subchapter 8.
 18 MR. KILPATRICK: Mr. Chairman, I
 19 would move that we recommend approval of
 20 this Subchapter 8 rule to the DEQ for
 21 permanent and emergency adoption.
 22 DR. CANTER: Is there a second?
 23 MS. SLAGELL: I second it.
 24 MR. BRANECKY: Would that motion
 25 include what Dr. Sheedy said. The changes?

Christy A. Myers
 Certified Shorthand Reporter

C E R T I F I C A T E

2 STATE OF OKLAHOMA }
 3 COUNTY OF OKLAHOMA } ss:

4 I, CHRISTY A. MYERS, Certified
 5 Shorthand Reporter in and for the State of
 6 Oklahoma, do hereby certify that the above
 7 proceedings are the truth, the whole truth,
 8 and nothing but the truth, in the
 9 proceedings aforesaid; that the foregoing
 10 proceeding was taken by me in shorthand and
 11 thereafter transcribed under my direction;
 12 that said proceedings was taken on the 9th
 13 day of January, 1998, at Oklahoma City,
 14 Oklahoma; and that I am neither attorney
 15 for nor relative of any of said parties,
 16 nor otherwise interested in said
 17 proceedings.

18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 14th day of January, 1998.

Christy A. Myers
 CHRISTY A. MYERS, C.S.R.
 Certificate No. 00310

Christy Myers
 Oklahoma Certified Shorthand Reporter
 Certificate No. 00310
 Exp. Date: December 31, 1998

1 MR. KILPATRICK: Yes. Including
 2 the four changes that were proposed by the
 3 service.
 4 DR. CANTER: Any further
 5 questions? Hearing none, Myrna, would you
 6 please poll the Council.
 7 MS. BRUCE: Mr. Fishback.
 8 MR. FISHBACK: Yes.
 9 MS. BRUCE: Ms. Myers.
 10 MS. MYERS: Yes.
 11 MS. BRUCE: Mr. Kilpatrick.
 12 MR. KILPATRICK: Aye.
 13 MS. BRUCE: Ms. Slagell.
 14 MS. SLAGELL: Aye.
 15 MS. BRUCE: Mr. Branecky.
 16 MR. BRANECKY: Aye.
 17 MS. BRUCE: Dr. Canter.
 18 DR. CANTER: Aye.
 19 (PROCEEDINGS CONCLUDED)
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Christy A. Myers
 Certified Shorthand Reporter

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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF PUBLIC HEARING OAC 252:100-8-4(a)(2)
PERMITS FOR PART 70 SOURCES
HELD ON DECEMBER 15, 1998, AT 1:00 P.M.
AT 4545 NORTH LINCOLN BOULEVARD
BURGUNDY ROOM
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

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PROCEEDINGS

MR. DYKE: The next item on the hearing agenda is item -- listed as Item number 5, OAC 252:100-8-4(a)(2), Permits for Part 70 Sources.

At this time, I'll call on Dr. Joyce Sheedy.

DR. SHEEDY: Mr. Chairman, Members of the Council, ladies and gentlemen, my name is Joyce Sheedy and I work in the Rules and Planning Unit.

The proposed revisions to Subchapter F, Permits for Part 70 Sources, updates the adoption by reference of the requirements for case-by-case MACT determinations for Part 70 sources in 252:100-8-4(a)(2)(C) by adopting 40 CFR 63.41, 63.43, and 63.44 as they exist on July 1, 1998. The revision consists of deleting 1997 and inserting 1998. And although there have been no revisions to these paragraphs since their incorporation by reference as of July 1, 1997, the staff plans to update this 252:100-17-8-4(a)(2)(C) annually, as a matter of routine.

Staff proposes that this revision be recommended to the Environmental Quality Board for permanent adoption.

MR. DYKE: Questions and discussion from the Council? Is there anyone from the public wishing to make a statement on this particular item? Additional questions, anything from the Council?

MR. BREISCH: Okay. I'll entertain a motion to

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recommend this to the DEQ Board for permanent approval.

DR. GROSZ: So moved.

MR. WILSON: Second.

MR. BREISCH: We have a motion and a second. Any questions or comments? If not, Myrna, call the roll.

MS. BRUCE: Dr. Canter.

DR. CANTER: Aye..

MS. BRUCE: Ms. Myers.

MS. MYERS: Aye.

MS. BRUCE: Dr. Grosz.

DR. GROSZ: Aye.

MS. BRUCE: Mr. Braneky.

MR. BRANECKY: Aye.

MS. BRUCE: Mr. Wilson.

MR. WILSON: Aye.

MS. BRUCE: Mr. Breisch.

MR. BREISCH: Aye.

(PROCEEDINGS CONCLUDED)

Christy A. Myers
Certified Shorthand Reporter

5011

C E R T I F I C A T E

1 STATE OF OKLAHOMA)
) ss:
2 COUNTY OF OKLAHOMA)

3 I, CHRISTY A. MYERS, Certified Shorthand Reporter in
4 and for the State of Oklahoma, do hereby certify that the above
5 proceedings are the truth, the whole truth, and nothing but the
6 truth, in the proceedings aforesaid, that the foregoing
7 proceeding was taken by me in shorthand and thereafter
8 transcribed under my direction; that said proceedings was taken
9 on the 15th day of December, 1998, at Oklahoma City, Oklahoma,
and that I am neither attorney for nor relative of any of said
parties, nor otherwise interested in said proceedings.

9 IN WITNESS WHEREOF, I have hereunto set my hand and
10 official seal on this, the 23rd day of December, 1998.

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2 CHRISTY A. MYERS, C.S.R.
Certificate No. 00310
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Christy A. Myers
Certified Shorthand Reporter

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

TRANSCRIPT OF PROCEEDINGS

OAC 252:100-8

PERMITS FOR PART 70 SOURCES

[AMENDED]

HELD ON JUNE 14, 2000, AT 9:00 A.M.

OKLAHOMA STATE UNIVERSITY AT TULSA

TIERED LECTURE HALL (NORTH HALL 150)

700 NORTH GREENWOOD

IN TULSA, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, C.S.R.

- 1 COUNCIL MEMBERS
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- 4 Sharon Myers, Vice-Chair
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- 12 David Dyke, Protocol Officer
- 13 Myrna Bruce, Secretary

1 the version that was in your packet first,
 2 your packet version. Not the one I handed
 3 out. I handed it out.
 4 If you'll look in your packet
 5 version on page 6, we have proposed to add
 6 several subdivisions of construction fees -
 7 - construction permit fees to Section
 8 1.7(2). As it currently exists, this
 9 section requires an owner or operator to
 10 pay \$2,000.00 for every construction
 11 permit, regardless of whether it's a minor
 12 modification to an existing facility or
 13 whether it's a construction permit for a
 14 brand new major facility.
 15 Since we also offer general permits
 16 with the construction of certain
 17 facilities, it doesn't seem in keeping with
 18 the permit continuum to charge the same for
 19 an authorization under a general permit as
 20 we do for an individual facility
 21 construction permit. Therefore, we are
 22 proposing to expand the construction permit
 23 fee category and to add lower fees for
 24 modifications and for general permit
 25 authorizations of construction permits

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4 PROCEEDINGS

5 MR. DYKE: The next item on the
 6 hearing agenda this morning is Item 4C, OAC
 7 252:100-8, Permits for Part 70 Sources.
 8 I'll call on Barbara Hoffman.

9 MS. HOFFMAN: Subchapter 8 has
 10 already been through the re-right/de-wrong
 11 process, but it wasn't until after the
 12 industry and the Division really began
 13 using this rule that we discovered that
 14 there were certain errors and
 15 inconsistencies and issues that really need
 16 to be resolved. This is the first time we
 17 have brought these revisions before the
 18 Council. I am going to go through almost
 19 all of them, so here we go -- at least the
 20 ones that aren't just typographical errors.

21 On page 6, one of the more
 22 substantive changes is the proposal --

23 MR. BRANECKY: Barbara, which
 24 version are you using?

25 MS. HOFFMAN: We're looking at

1 issued by the Division.
 2 On page 9, another change is in the
 3 definition of "major source" and this is in
 4 Section 2 of the rule, on page 9. If
 5 you'll look at the definition of major
 6 source, we propose to substitute the phrase
 7 "that fraction of particulate matter that
 8 exhibits an average aerodynamic particle
 9 diameter of more than 10 micrometers" for
 10 the term "TSP". While this change is
 11 wordy, it is necessary because excepting
 12 TSP, which stands for total suspended
 13 particulates, from this definition also
 14 excepts PM-10, which we don't want to do
 15 and we never intended to do. In other
 16 words, total suspended particulates
 17 actually includes all the particulates,
 18 whether they are PM-10, 2.5, or whatever,
 19 and that was really not the intent. We
 20 just want to exclude those particulates
 21 that have greater than 10 micrometers
 22 particle size.
 23 Further on down in this definition
 24 of "major source" on page 10, you'll see
 25 that we added the phrase "which, as of

Page 6

1 August 7, 1980, are being". The reason for
2 this proposed addition is that EPA's
3 definition of "major source" in Part 70
4 does not include the underlying language
5 but EPA stated in their preamble to Part
6 71, which are the Title V rules under the
7 federal program, they stated in this
8 preamble that the Part 70 definition should
9 have contained that language and will be
10 revised. EPA acknowledged that it did not
11 follow the procedural steps necessary under
12 section 302(j) of the federal Clean Air Act
13 to expand the scope of sources in this
14 category for which fugitive emissions must
15 be counted in Part 70 major source
16 determinations. So this is one of those
17 fairly confusing -- well, it's not
18 confusing, it's just very -- it's a very
19 detailed point in this definition of major
20 source. And basically the only way EPA can
21 regulate fugitive emissions of major
22 sources is if they do a rule and make a
23 determination, and then redo this rule, and
24 they really didn't do it for all of these
25 sources. They've only, in the past, done

Page 7

1 it for sources that were subject to NSPS or
2 NESHAP as of August 7th, 1981.
3 The change to the definition of
4 "regulated air pollutant" in Section 2,
5 page 11, will delete the references to
6 "VOS" and "organic material". Those terms
7 were previously deleted from Subchapters 37
8 and 39 when we did the re-right/de-wrong on
9 those subchapters, so this change will
10 insure consistency with those subchapters.
11 Also, in Section 2, on page 12, we
12 are proposing to amend the definition of
13 "trivial activities" by deleting the
14 exception for activities that are subject
15 to an applicable requirement. This
16 restriction is not required by EPA's Part
17 70 program and as it is, it practically
18 eliminates any activity from actually
19 qualifying for this exception. Because
20 when you look at our rules, we have what we
21 call nuisance rules, like Subchapter 29,
22 for example, that's up today on fugitive
23 dust control, we look at that as sort of a
24 rule that handles nuisance-type conditions.
25 Well, it's applicable to everybody,

Page 8

1 including the de minimis sources. So
2 consequently, you could make the argument
3 that even if you are on the trivial
4 activities list, nevertheless it's subject
5 to an applicable requirement of Subchapter
6 29, fugitive dust, so it can't be trivial
7 activity. So that didn't make much sense
8 to us: We thought if you're on the list,
9 which is Appendix J, then we looked at it
10 pretty carefully, we feel that it's truly a
11 trivial activity and therefore we don't
12 need to have this exception for those that
13 would be subject to applicable
14 requirements.
15 In Section 3, pages 12 and 13, it is
16 proposed that we change the word "covered"
17 to "major" and "major stationary", since
18 the rule states that any covered source
19 remains a Part 70 source until a permit is
20 issued to cause the facility to limit its
21 operation to below that which would define
22 it as a covered source. Well, covered
23 sources include those that, regardless of
24 the amount of pollutants emitted, operate a
25 particular piece of equipment. So if a

Page 9

1 source eliminates that piece of equipment
2 and doesn't want to continue to be
3 regulated as a Part 70 covered source, it
4 really can't obtain a permit to limit its
5 operation below that which would define it
6 as a covered source. It's sort of like one
7 of those little technical problems that
8 permit writers came to us with and said we
9 can't write a permit like that. So,
10 anyway, we felt that therefore this rule
11 would make more sense if we changed the
12 word "covered" to "major", because if
13 you're a major source, then that's because
14 you emit a certain amount of pollutants.
15 And if you decided to emit less than that
16 amount, you can come in for a permit that
17 will lower your emissions to that amount.
18 Anyway, so we felt that this change might
19 make a little more sense in the actual
20 application of this rule.
21 Section 4(a)(1), on page 13, would
22 be changed to clarify that sources can't
23 begin construction until they obtain a
24 construction permit. That's always been
25 the way our program has been run, it's just

1 that when we created Subchapter 8, we sort
2 of forgot to make that as clear as it ought
3 to be. So we want to add that back in here
4 to show that you actually have to have a
5 construction permit before you can begin
6 actual construction of a source.

7 In addition, we found that using
8 Section 7.2(b) to determine if a change
9 would be a modification requiring a
10 construction permit proved difficult and
11 created some odd results. It was decided
12 that we should go back to the rather time-
13 honored tradition of seeing whether or not
14 a physical change would cause an increase
15 in emissions above de minimis amounts or
16 whether it involved the addition of
17 equipment or a process subject to NSPS or
18 NESHAP.

19 On page 16, in Section 5(d)(1)(A), a
20 clarification was added that BACT, Best
21 Available Control Technology, is not
22 required for modifications that will result
23 in an increase in emissions of less than
24 100 tons per year, unless of course BACT is
25 required under the PSD rules or under

1 so we changed this to the end of the next
2 working day.
3 On page 27, it is proposed to add
4 the phrase "processed under Tier II or Tier
5 III requirements and" so that only
6 requirements from construction permits that
7 had undergone Tier II or Tier III public
8 participation procedures could be
9 incorporated into Part 70 operating permits
10 as administrative amendments. We now think
11 that this proposal is not warranted, since
12 it would have the odd effect of requiring
13 Tier I modifications to obtain both a
14 construction permit and a Part 70 permit
15 modification, when a Tier II modification
16 would only require a construction permit.
17 So we think now that perhaps this proposed
18 rule was not such a good idea.

19 Let's see, on page 34, a substantive
20 change is proposed for the definition of
21 "major stationary source" in Section 31,
22 where paragraph XIV would be changed to
23 read "municipal incinerators capable of
24 charging more than 50 tons of refuse per
25 day." The existing rule sets the trigger

1 Subchapter 41, toxic air contaminants.
2 Again, this has always been our
3 practice and it wasn't clear when we redid
4 Subchapter 8 that that would continue to be
5 the practice, so we felt that we needed to
6 add this to the rule.

7 On page 21, in Section
8 6(a)(3)(C)(iii)(I), the reporting time for
9 excess emissions caused by emergencies or
10 upsets would be changed from 24 hours to
11 the end of the next working day to make it
12 consistent with the Subchapter 9 reporting
13 requirements.

14 You'll recall how we went through
15 this exercise when we did the re-right/de-
16 wrong on Subchapter 9 and how there was
17 noted there was this discrepancy between
18 the two. So this was our effort to now
19 change that inconsistency to be consistent
20 with Subchapter 9 so that a Title V source
21 doesn't have two separate reporting
22 requirements. Some things it would be
23 within 24 hours and for other things it
24 would be by the end of the next working
25 day, but we thought that was too confusing

1 at 250 tons of refuse per day. This change
2 is required by the 1990 amendment to
3 Section 169(1) of the federal Clean Air
4 Act. And I'll just note that we've been
5 asked by EPA about whether we had written
6 this change and so we asked them, have you
7 made it in your rules? And they said, no.
8 So we're a little ahead of the EPA in this
9 respect, because I don't think they have
10 yet changed their rules, nevertheless, this
11 is the federal law and we can -- and PSD
12 program is the program that we have
13 approval to run, and so we have to meet the
14 federal law when we issue a PSD permit. So
15 we felt we might as well go ahead and
16 change the rule so that people understood
17 when they looked at our rules what would be
18 required.

19 The additions and deletions proposed
20 on pages 39 and 40 which is in Section
21 52(3), are changes that were adopted in
22 1988 and, then, believe it or not, they
23 were readopted in 1989, and somehow or
24 another they were never codified. We don't
25 know how that happened and when we asked

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1 the Secretary of State's office if they
2 could just go ahead and make that change
3 and go ahead and codify it, they said no,
4 we're going to have to readopt them. So
5 for the third time, the Council gets to
6 look at these particular proposals for
7 additions and deletions. And I believe the
8 reason that these were required was because
9 they are part of the nonattainment new
10 source review rules and changes that were
11 required at the time by EPA.
12 And all the rest of the changes that
13 you might have noticed in there are changes
14 that were either typographical errors or
15 simply rewording for clarification, there
16 is absolutely no change to the meaning.
17 Now, we can switch to the version I
18 handed out this morning. It says on the
19 front of it, at the bottom, June 13, 2000
20 Draft.
21 All these proposed changes were issued for
22 public comment last month and after we did
23 that, we learned from the Office of
24 Administrative Rules that they want us to
25 put back the term "OAC", which stands for

Page 15

1 "Oklahoma Administrative Code", in front of
2 all the rules. We thought that they had
3 told us -- we swear that they told us to
4 take that out a few years ago and so we've
5 been trying to take it out of every rule
6 that we have done through re-right/de-
7 wrong, and now we find that they want it
8 in, so we're putting it back in.
9 MR. KILPATRICK: Did you get it
10 in writing this time?
11 MS. HOFFMAN: I wish. Also, in
12 this re-right, in this version right now,
13 we've capitalized the word "section" when
14 it came in front of our Subchapter 8
15 section numbers and we're trying to
16 eliminate the use of the phrase "et seq."
17 when used in describing rules or statutes
18 and we're trying to also delete any time we
19 put parenthesis, "effective dates", because
20 those aren't supposed to be in rules. In
21 other words, these are all just rule-
22 writing types of things that -- what do you
23 call them? Administrative rules, I
24 believe. These are the kind of changes
25 that they have in their rules that we're

Page 16

1 supposed to use in re-right rules. So
2 we'll try to make those changes.
3 There are a couple of other
4 substantive changes that I wanted to
5 propose to you today. We discovered that
6 the phrase "begin actual construction",
7 which we proposed to add to Section
8 4(a)(1), is defined in Section 1.1 for
9 purposes of PSD and new source review. In
10 other words, it specifically says "for
11 purposes of PSD and new source review,
12 here's what begin actual construction
13 means. Well, we're also using it in our --
14 we're proposing to put it in our sections
15 on Part 70 construction permits and so
16 what I proposed here is for that
17 definition, we add this sentence, "for
18 purposes of Part 5 of this Subchapter, the
19 term means that the owner or operator has
20 begun the construction or installation of
21 the emitting equipment on a pad or in the
22 final location at the facility."
23 MR. DYKE: Barbara, what page is
24 that on?
25 MS. HOFFMAN: That's on page 1.

Page 17

1 MR. DYKE: Thank you.
2 MR. BREISCH: In other words,
3 what we're saying here, incidental
4 construction that would receive the
5 equipment is not considered construction?
6 MS. HOFFMAN: Right. The PSD
7 definition of begin actual construction is
8 very restrictive. Basically you can do
9 some groundwork but you can't really do any
10 actual construction of the facility that
11 you're building. We have, as a state,
12 always had a slightly less restrictive
13 definition for things that weren't PSD or
14 nonattainment. What we've allowed is that
15 we've allowed construction of, say, the
16 foundations and that type of thing, we've
17 allowed anything except actually bringing a
18 piece of equipment on the pad or actually
19 drilling it on the location where it's
20 going to be, so that we would allow you to
21 pour foundations and that type of thing.
22 So since we're going to use this phrase or
23 if you agree that we're going to use this
24 phrase, "begin actual construction" in the
25 construction section for Part 70 permits,

1 then we thought we needed to expand the
2 definition of actual construction to
3 accommodate the way we've always treated
4 non-PSD construction.

5 MR. WILSON: Barbara, could you
6 read that again, what you're recommending
7 we insert here?

8 MR. BRANECKY: You should have a
9 copy.

10 MR. WILSON: Okay. Is it Part 5
11 you are talking about? I'm questioning why
12 that doesn't say Part 4.

13 MR. KILPATRICK: There is no Part
14 4.

15 MS. HOFFMAN: Part 5 starts on
16 page 6, it's the Permit for Part 70 sources
17 and as I was saying --

18 MR. WILSON: I'm clear on that,
19 thanks.

20 MS. HOFFMAN: All right. Also,
21 several minor changes are suggested to the
22 definition of "emergency" and the
23 paragraphs that use that phrase. If you'll
24 look first at the definition which is on
25 page 8 in Section 2, we added the cite "OAC

1 complete sentence of its own and was moved
2 down in the paragraph. Finally, the
3 reference to "accidental releases" was
4 changed to "exceedances attributable to
5 emergencies or upset conditions", since the
6 phrase "accidental releases" had not been
7 used previously in this rule nor is it
8 defined.

9 So really there weren't really any
10 substantive changes to this rule, it's just
11 that everything has gotten moved around a
12 little bit, hopefully to make it clearer.

13 We'll see.

14 And then on page 16, in Section
15 5(b), we added back the language that had
16 been there originally, but a few years ago
17 was moved to Subchapter 6. At the time
18 when they created Subchapter 6, it was seen
19 as the subchapter where all the procedural
20 permit requirements would be. And we're
21 starting to look at Subchapter 6 now for
22 the re-right/de-wrong process and we feel
23 that really it's not necessary. It just
24 repeats things that are found elsewhere and
25 we're not supposed to do that with our

1 252:100-8-6(a)(3)(C)(iii)(I)", since the
2 term "emergency" is used in that section,
3 too. So that was an oversight. We need to
4 add that reference. And then also, we
5 deleted the last section -- the last
6 sentence, I mean, about quantifying
7 releases and moved it to page 21, Section
8 6(a)(3)(C)(iii)(I), since definitions are
9 not supposed to contain substantive
10 requirements, and we thought that was
11 actually a substantive requirement. So we
12 moved that to the section that actually
13 talks about emergency releases.

14 Now, if you'll go to page 21,
15 Section 6(a)(3)(C)(iii)(I), you'll see that
16 a few minor changes have been proposed.
17 First, "upset conditions" is not defined in
18 the definition of emergency so that phrase
19 was moved to after the definition cite, and
20 the permittee is now referred to his permit
21 to see how the term is defined there. This
22 is how EPA's Part 70 rule refers to "upset
23 conditions". Then, since that sentence was
24 so long, it seemed confusing to me, so the
25 part about affirmative defense became a

1 rules. We're not supposed to keep
2 repeating things. So what we thought --
3 what we're thinking of doing, anyway, at
4 this point is revoking Subchapter 6 and
5 then moving the one or two substantive
6 requirements that are actually in it back
7 to where they came from, and this was one
8 that had been in Subchapter 8 previously
9 and it's required by the Part 70 program.
10 So we're moving it back to Subchapter 8.

11 We haven't received any comments on
12 this rule to date and I don't know if -- if
13 we receive some today and believe it needs
14 to be continued, that would be fine. If
15 there are no comments and everyone is in
16 agreement, then I would recommend that the
17 Council go ahead and recommend its approval
18 today. But we have noticed it both as an
19 emergency rule and permanent rule, and the
20 reason for that is because of the various
21 errors and inconsistencies, so we would
22 like this change made as quickly as
23 possible. Otherwise, if we just adopt it
24 as a permanent rule, it won't take effect
25 until a year from now. So whether we do it

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1 today or the next meeting, whichever, we
2 would like to have it passed as an
3 emergency rule simply because these are
4 things that both our industry and
5 permitting engineers are having to deal
6 with right now and these clarifications and
7 corrections would certainly help them.
8 MR. DYKE: We'll begin with
9 questions from the Council.
10 MR. WILSON: I have a question.
11 On the Rule Impact Statement, Item Number
12 18, determination on any detrimental effect
13 on the public health, safety and
14 environment, if the proposed rule is not
15 implemented, it says none. It says federal
16 law will still be applicable to new
17 municipal incinerators capable of charging
18 more than 50 but less than 250 tons of
19 refuse per day. What is the significance
20 of 250 and why would the federal law not
21 apply to those charging more than 250?
22 MS. HOFFMAN: It would. It
23 would. I was trying to indicate there that
24 those that were between 50 and 250, that it
25 would appear to not be considered major

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1 sources even if we didn't make this change,
2 it would still be considered major sources
3 under federal law.
4 MR. WILSON: Those are the
5 sources impacted by this rule?
6 MS. HOFFMAN: Exactly.
7 MR. WILSON: I have another
8 question. This is not proposed for change
9 by you, but my question is under 252:100-8-
10 5 -- excuse me, I'm sorry. 252:100-8-6,
11 permit content.
12 MS. HOFFMAN: Okay.
13 MR. WILSON: Item Number 3.
14 MR. KILPATRICK: What page are
15 you on?
16 MR. WILSON: Page 20. Monitoring
17 and related recordkeeping and reporting
18 requirements. Barbara, do you know if the
19 language in paragraph -- the (ii) is part
20 of EPA's Part 70 program?
21 MS. HOFFMAN: Word for word, I
22 don't know. I don't recall.
23 MR. WILSON: I believe that
24 paragraph imposes monitoring requirements?
25 MS. HOFFMAN: Yes.

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1 MR. WILSON: On sources that have
2 no applicable requirements or state-only
3 requirements to do the periodic testing?
4 MS. HOFFMAN: Yes.
5 MR. WILSON: And I don't recall,
6 but I believe that language is part of
7 EPA's guidance to the Part 70 program?
8 MS. HOFFMAN: Yes.
9 MR. WILSON: And that that
10 guidance was recently stricken out?
11 MS. HOFFMAN: But not for sources
12 that didn't have any requirements. I think
13 that what they did was they said if there
14 was already a monitoring requirement for a
15 source, then that was the monitoring
16 requirement. And Part 70 didn't allow or
17 didn't require that the states imposed a
18 more restrictive monitoring requirement.
19 But I believe they did to on to state that
20 if there were no monitoring requirements,
21 then the state or the permitting agency
22 could go ahead and impose monitoring
23 requirements in its permit. That was my
24 understanding of the Court's decision.
25 MR. WILSON: I'll defer to your

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1 understanding because I'm not a lawyer and
2 I can't read through a lot of those
3 renderings. But my thought was that the
4 Court said that EPA guidance was
5 unconstitutional and that it didn't apply
6 and that the states were not required as
7 part of their SIP to have that guidance
8 language in the regulations.
9 MS. HOFFMAN: Yes, that was the
10 general idea, yes.
11 MR. WILSON: Barbara, I have
12 another question. Under 252:100-8-4,
13 Requirements for Construction and Operating
14 Permits --
15 MR. DYKE: Page number?
16 MR. WILSON: Page 13, I'm sorry.
17 The first paragraph there, paragraph one,
18 under Rule A, Construction Permits, has
19 some language that I think could create a
20 lot of confusion for major sources that
21 need to install small pieces of equipment
22 that are subject to either an NSPS or a
23 NESHAP. The language, specifically, would
24 be the second sentence, a construction
25 permit is also required to any piece of

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1 equipment for a process that is subject to
2 NSPS or NESHAP. And then the sentence goes
3 on to talk about physical change, which I
4 have another question on. But an example
5 would be in a petroleum refinery where we
6 have process units that are subject to a
7 NESHAP -- well, the whole refinery is
8 subject to NESHAP, or a process unit that's
9 subject to NSPS, if we wanted to add a
10 valve, which is a fugitive emission piece
11 of equipment, this language would indicate
12 that we would be required to go and get a
13 permit for that. I don't think that's what
14 you all want, but it is there. Any
15 comments on that?
16 MS. HOFFMAN: Well, I agree. I
17 don't think that's what we want. I think
18 what we have in mind is that if you're
19 adding a piece of equipment that's subject
20 to a NSPS or to a NESHAP that you wouldn't
21 want to get a construction permit for
22 replacing a piece of equipment that's
23 already subject to NSPS and replacing it
24 with another, exactly the same piece.
25 That, of course, doesn't require a permit.

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1 But I see what you're saying, when you
2 start getting down to little valves, that
3 it would not be very -- it wouldn't make
4 much sense and it wouldn't be very
5 convenient to require a construction permit
6 for every valve that gets added to a
7 facility. It would seem to me that if
8 you're talking about a refinery that's
9 already subject to NSPS or to a NESHAP, and
10 you have to add some valves, that you
11 follow the rules under NSPS or NESHAP as
12 far as notification, or whatever you need
13 to do for those. But I don't believe that
14 our permit engineers, at this point,
15 require a construction permit to add a
16 little component like that. I mean, when
17 we say piece of equipment, I think we were
18 thinking of something --
19 MR. WILSON: Substantial?
20 MS. HOFFMAN: -- yes, something
21 that's -- you know, I'm not exactly sure
22 how to phrase it. I wonder if maybe Dawson
23 can help me.
24 MR. LASSETTER: This is Dawson
25 Lassetter. No, I don't know how to phrase

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1 it, either, but I know what you are talking
2 about and I agree with you. We don't
3 intend to write a construction permit for
4 every new valve you have at a refinery. I
5 think the concern, though, is whether there
6 is a piece of equipment added that might
7 trigger another NSPS rule that isn't
8 already triggered. But I don't know.
9 MR. WILSON: Well, we wouldn't
10 want to pay \$1,000.00 for a permit to put
11 in a \$50.00 valve.
12 MS. HOFFMAN: I can understand
13 that. I know that's not our intent.
14 Whether there is a way to write this to
15 make that perfectly clear, I don't know.
16 We would have to go back and work with the
17 permit engineers on that.
18 MR. WILSON: Set that one aside
19 for a second. Let's move on to the rest of
20 the sentence there. It says, or for any
21 physical change that would increase actual
22 emissions more than 5 tons per year of any
23 criteria of pollutant, and then it goes on
24 and talks about the hazardous air
25 pollutants. My question there is, when we

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1 talk about a physical change that would
2 increase the actual emissions, let's say
3 for example we put -- we took out an old
4 pump and replaced it with a larger pump and
5 this pump was used to pump material through
6 a grandfather heater, where that material
7 was being heated up by that heater and our
8 reasons for doing this was so that we could
9 get more material through that heater and
10 in order to heat up more material, we have
11 to crank up the heater. And cranking up
12 the heater would create emissions and let's
13 say that it did, first of all, did not
14 require any modification to the heater but
15 caused the heater to experience an increase
16 in emissions greater than 5 tons per year.
17 Is it the intent of the Department to
18 require a permit for a physical change that
19 in and of itself does not create an
20 increase in emissions but causes an
21 attributable emission increase of more than
22 5 tons per year?
23 MS. HOFFMAN: Well -- and Dawson,
24 I want you to jump in here if you disagree.
25 Here is what I thought about. The section

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1 starts off talking about source and the
 2 definition of stationary source means any
 3 building, structure, facility, or
 4 installation that emits or may emit any
 5 regulated air pollutant. And it seems to
 6 me that if the pump and the heater are part
 7 of a single source then, yes, I think you
 8 would have to get a construction permit.
 9 That's my position on that.

10 MR. LASSETTER: Yes.

11 MR. WILSON: If we did get a
 12 construction permit, what would we be
 13 permitting? As long as we don't make
 14 changes to a heater that trip an NSPS, we
 15 are entitled to operate that heater however
 16 we needed to operate that heater, we do not
 17 physically have to change that heater?

18 MR. LASSETTER: I guess the
 19 question becomes whether or not you changed
 20 the potential to emit.

21 MS. WILSON: If we didn't change
 22 the heater, we didn't change the potential
 23 to emit.

24 MR. LASSETTER: Well, if it's
 25 emitting more now and can emit more now

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1 because you changed something else, then
 2 you may have actually changed the potential
 3 to emit. I don't know. That's a tough
 4 question.

5 MS. BRADLEY: It isn't that you
 6 changed the process.

7 MR. WILSON: I made a physical
 8 change to a pump.

9 MS. BRADLEY: you made a physical
 10 change to the process but -- I mean, to the
 11 pump. But essentially you changed the
 12 production rate of the process itself, by
 13 making the physical change to that pump.

14 MR. WILSON: That's right. So
 15 what would be the point --

16 MS. BRADLEY: So the process
 17 change would change the -- or would result
 18 in the increase of emissions. Because
 19 permits are sometimes written to control
 20 production. The difference is, I do not
 21 work in the permitting process or in the
 22 permitting area, but it appears to me that
 23 it would be a process change which results
 24 in an increase in production.

25 MR. WILSON: Let's say this

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1 material then goes to a tank and because
 2 we've got more going to that tank, that
 3 tank experiences an increase in emissions
 4 of more than 5 tons per year. Would that
 5 require a permit?

6 MS. HOFFMAN: Say that again.

7 MR. WILSON: Since we are
 8 changing this pump and therefore changing
 9 throughput, then we would expect that
 10 product tank downstream of that to see more
 11 throughput. Let's assume that that
 12 throughput increases the emissions from
 13 this tank more than 5 tons per year. Would
 14 that require a permit?

15 MR. LASSETTER: Is there a limit
 16 on the tank to begin with?

17 MR. WILSON: Let's say there is a
 18 limit on the tank and we won't exceed the
 19 permitted limit, Dawson, but we will
 20 increase the actual emissions?

21 MR. LASSETTER: As long as you
 22 have a permitted limit, my opinion would be
 23 if you stay below the permitted limit, then
 24 it's fine.

25 MR. WILSON: So then the actual

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1 increase would apply only to nonpermitted
 2 units?

3 MR. LASSETTER: If you don't go
 4 over the permitted limit.

5 MR. WILSON: We couldn't do that,
 6 anyway. We would have to get a
 7 modification of that permit.

8 MR. LASSETTER: It's a tougher
 9 question than just what we're talking
 10 about, either way we look at it.

11 MR. WILSON: I accept that to
 12 mean it's not clear.

13 MR. LASSETTER: I'm not sure we
 14 could ever make it perfectly clear for all
 15 cases. We're just going to have to
 16 probably look at every case.

17 MR. DYKE: Can I ask a question?
 18 Your changes here that you are
 19 recommending, is that changing our process
 20 -- is that changing what we do today?

21 MS. HOFFMAN: No. It's basically
 22 intended to reflect what we do today, what
 23 we have done for years.

24 MS. WARRAM: May I say
 25 something? I'm Kim Warram with OG&E. The

1 way your regs used to be written was
2 anytime a change was made that triggered
3 requirements for a permit, it subjected the
4 entire facility.

5 MS. HOFFMAN: This is Part 70 and
6 the entire facility will be subject to a
7 Part 70 permit.

8 MS. WARRAM: I mean, Joel is
9 coming from a perspective that is to what
10 parts or what pieces of equipment would be
11 included in that permit if it required a
12 permit. That's the way the regs used to be
13 written.

14 MR. WILSON: Right.

15 MS. WARRAM: Any part of that
16 process.

17 MR. WILSON: The regulations of
18 the wording has changed over the last few
19 years and this represents another change in
20 the wording that quite frankly changes, in
21 my opinion, the meaning of what would
22 require a permit. We can interpret it the
23 old way, I believe, but it's more difficult
24 to do that because the language is a little
25 more specific. In our attempt to make it

1 are regulated. I guess with that, I would
2 like to hear from some other sources that
3 want to comment on this.

4 MR. BRANECKY: Joel, do you have
5 some suggestion on how we can fix that? I
6 guess we would really like to get this
7 passed today if we could, so if there is
8 some-ideas on how we could fix that
9 paragraph and get it done today, it would
10 be helpful. But if not, then we can
11 continue it.

12 MR. PETULA : I'm Preston Petula
13 with Hannover. I have a question.

14 MR. DYKE: Yes. Do you have a
15 business card?

16 MS. PETULA: I'm relatively new
17 at this, but what you said about being
18 regulated, it comes to my mind to -- does
19 the OAC want to know every time there is a
20 5 ton increase in regulated equipment?

21 MS. HOFFMAN: Yes. Unless it's
22 already part of the permit. In other
23 words, a lot of the Part 70 permits are now
24 being drafted with a cap, so that you can
25 emit up to that cap. So long as you stay

1 clear, it appears to me that we've made it
2 clear that I would have to go and get a
3 permit for a valve. Whereas before, I
4 could argue I didn't have to, and I don't
5 think I would have to argue very hard,
6 because I believe the Department would
7 agree that I didn't have to. You might say
8 that it is possible for us and other
9 sources -- and we can hear from other folks
10 here, that we could apply for permits where
11 we could make -- where we've made physical
12 changes and these changes would create, you
13 know, whether it was from the actual piece
14 of equipment that was changed or whether it
15 was an attributable emission increase, we
16 could apply for permits. But in my opinion
17 and at least from my facility, the number
18 of permits that we would submit would go up
19 drastically because we've not done this in
20 the past. And mostly because there is a
21 regulation under new source review that we
22 must apply to attributable emission
23 increases and that's new source review. So
24 those are regulated, granted the emission
25 thresholds are more than 5 tons but they

1 under the cap, you are fine. But if you
2 are going to do a physical change and you
3 are going to go over that, then you yes, we
4 want to know about it.

5 MR. DYKE: Don.

6 MR. WHITNEY: I'm Don Whitney
7 from Trinity Consultants and I have a
8 suggestion on wording that might help get
9 over this point and that is adding that the
10 physical change increase actual emissions
11 from that unit or from that specific
12 process of the 5 tons a year to clarify
13 that we're just talking about the valve and
14 not related processes upstream and
15 downstream that might be affected. Because
16 those upstream and downstream and
17 associated changes are already covered by
18 PSD regulations and new source review
19 things that are going to provide a cap on
20 this. So it's not like you can change a
21 little valve and increase 100 tons
22 somewhere else, those things -- safeguards
23 are already in place. So I think this --
24 we need to put in some kind of words that
25 talk about the change of that equipment,

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1 that valve or unit, so that we're just.
 2 talking about 5 tons from that unit, might
 3 give us what we want.
 4 MR. DYKE: So repeating, for any
 5 physical change from that equipment or
 6 process that would increase actual
 7 emissions?
 8 MR. WHITNEY: That would increase
 9 actual emissions from that unit or process
 10 and then back to the existing wording, more
 11 than actual emissions. So we just add,
 12 "from that unit or process more than 5 tons
 13 per year".
 14 MS. HOFFMAN: I'm not sure that
 15 we don't need to look at this some more
 16 back at the ranch.
 17 MR. BRANECKY: That's because
 18 you're leaving. This is Barbara's last
 19 Council meeting, by the way.
 20 MS. HOFFMAN: I think the permit
 21 engineers need a chance to look back over
 22 this just a little bit, because I can't
 23 tell you for sure, how they've been
 24 interpreting it. And Dawson and I were
 25 just discussing it and we think that.

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1 perhaps we don't make it that specific. So
 2 we would kind of like to go back and check
 3 on that and talk about it a little bit.
 4 MR. DYKE: Go ahead, Joel.
 5 MR. WILSON: I appreciate that.
 6 The scenarios that I've given here are
 7 really not at all uncommon.
 8 MR. DYKE: Could we go on with
 9 other questions on other parts of the rule
 10 before we go on?
 11 MR. BRANECKY: Do you have
 12 anything else, Joel?
 13 MR. WILSON: No.
 14 MS. WARRAM: I'm Kim Warram with
 15 OG&E. And over this specific paragraph 8-
 16 4, where you were talking about the NSPS
 17 and NESHAP requirements. While NSPS
 18 doesn't specifically require a construction
 19 permit, NESHAP does specifically in Part 61
 20 (inaudible).
 21 MR. WILSON: So you are
 22 suggesting if I had a valve and it's
 23 subject to a NESHAP, I would need to get a
 24 permit?
 25 MS. WARRAM: That's what NESHAP

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1 says. But now NESHAP regulates the
 2 pollutants rather than pollutants that are
 3 emitted from certain processes.
 4 MR. WILSON: And apply to
 5 specific equipment?
 6 MS. WARRAM: Right.
 7 MR. WILSON: Does NESHAP
 8 reference the state permitting program?
 9 MS. HOFFMAN: NESHAP basically
 10 requires a preconstruction permit and then
 11 the state is supposed to affirm to EPA
 12 whether or not certified (inaudible)
 13 whether or not we have preconstruction
 14 permit program that would cover those
 15 sources, so we did that, we said we'll
 16 handle that. So I guess we need to go back
 17 and see how that's worded to be sure how to
 18 write this section.
 19 MR. DYKE: Additional questions
 20 from the Council on this rule? Is there
 21 anyone wishing to speak on this rule or any
 22 other questions?
 23 MS. BARTON: I have a question.
 24 Nadine Barton, with CASE. And this has to
 25 do with your draft here on emergencies on

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1 page 6. And I just would like for my own
 2 clarification that what they are going to
 3 be voting on today, is that going to be the
 4 6-13-2000 draft? The second pass out --
 5 MS. HOFFMAN: Yes.
 6 MS. BARTON: So we're just kind
 7 of ignoring what's going on in this other
 8 one here, basically?
 9 MS. HOFFMAN: Right.
 10 MS. BARTON: Okay.
 11 MR. DYKE: Nadine, we have some
 12 other questions if you would like for me to
 13 go on and come back.
 14 MS. BARTON: Can you hear me?
 15 There is an exemption here about an
 16 emergency shall not include noncompliance
 17 to the extent caused by improperly designed
 18 equipment, lack of preventative
 19 maintenance, careless or improper operator
 20 or operation error. And then you reference
 21 it and you move that to a continuing
 22 section. I guess my question is, is that
 23 you know there are emergencies, if there is
 24 an upset, say, at a refinery and whether
 25 it's, you know, because of lack of

1 maintenance or it's just an accident, is
2 there something that addresses this for
3 noncompliance issues involved in an
4 emergency status and does it give you any
5 type of enforcement ability for that lack
6 of maintenance or control or whatever it
7 happens to be under an emergency situation
8 in another part of this section, since this
9 exempts that.

10 MS. HOFFMAN: I'm not sure I'm
11 following you, but we do have Subchapter 9,
12 which requires reporting of excess
13 emissions and if it doesn't qualify as an
14 emergency here in Subchapter 8, there are
15 certain defenses that can be used in
16 Subchapter 9. But if it doesn't qualify
17 for those defenses, then it's treated like
18 any other excess emission, as a violation
19 of the rules or the permit.

20 MS. BARTON: Well, my question
21 is, I guess what I'm getting at, since
22 you've exempted any kind of emergency
23 because of lack of control or design or
24 preventive maintenance, does that exempt an
25 industry from a compliance action because

1 exclusively referenced to Chapter 7, Minor
2 Sources. So when we're talking here in
3 Chapter 8, it seems that major source is
4 all you need to say. Major stationary
5 source is superfluous.

6 MS. HOFFMAN: I disagree. If you
7 look on page 13, where it lists the covered
8 sources, the first one says a major source
9 as defined in OAC 252:100-8-2, and I
10 believe that is the Part 70 major source
11 definition. And then if you go on down
12 that list, under 6, it says any major
13 stationary source as defined in Parts 7 and
14 9, major stationary sources specifically
15 defined in those parts which are for PSD
16 and for nonattainment, new source review.
17 And they are slightly different definitions
18 for a Part 70 major source and definition
19 for PSD major stationary source.

20 MR. DYKE: Barbara, I have a
21 question. Do you think it's possible to
22 propose passage of this rule, except for
23 that one section in question, the one
24 paragraph in question, could we leave those
25 recommended changes out at this time and

1 you've exempted them here?

2 MS. HOFFMAN: No, they're not
3 exempted here. In other words, they're
4 exempted if it's an emergency, but it says
5 an emergency shall not include those that
6 are caused by improperly designed
7 equipment, et cetera. So an emergency that
8 would be caused by an improper operation,
9 for example, wouldn't be -- (two people
10 talking at the same time). They would
11 still have to report it, but they wouldn't
12 be eligible for the permit.

13 MR. DYKE: Don Whitney.

14 MR. WHITNEY: Yes, Don Whitney
15 again. Just a minor clarification on the
16 bottom of page 12, they've inserted the
17 definition of major source or major
18 stationary source and I'm questioning
19 whether that second major stationary source
20 is really needed there, since if you go
21 back further in the definitions of Chapter
22 8, it says that a major source is a
23 stationary source. And going back further
24 into Chapter 1 definitions, I could find
25 major stationary source but that's

1 pass the rest of it? Would that make any
2 difference?

3 MS. HOFFMAN: I don't think we
4 can do that, because of the way that we've
5 noticed this proposal.

6 MR. DYKE: So strike all
7 recommendations for that paragraph --

8 MR. BRANECKY: All or nothing.

9 MS. HOFFMAN: We have to do it as
10 a whole proposal.

11 MR. DYKE: My concern is we're
12 going to have to reassign this rule to
13 somebody else to work on for the next --
14 someone who has not been working on these
15 changes, these comments will have to take
16 it over. I was just trying to get through
17 what we could.

18 MR. BREISCH: How many changes
19 are we talking about? Are we just talking
20 about the one that Joel elaborated on a
21 while ago, or are there others that we have
22 decided need to be changed?

23 MR. DYKE: It appears just the
24 one additional definition, elaboration of
25 the definition.

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1 MR. BREISCH: Barbara, I
2 understood that you all were under the
3 impression that this particular wording was
4 a little loose?
5 MS. HOFFMAN: As proposed to the
6 existing wording.
7 MR. BREISCH: As proposed here.
8 You a while ago said that yes, really it's
9 somewhat vague, the way I understood what
10 you said.
11 MS. HOFFMAN: See, we're always
12 having to weigh the pros and cons of making
13 a rule a lot longer so that it covers
14 everything and everyone is clear on what it
15 means and making it a little shorter so
16 it's a little more understandable right off
17 the bat. So when we drafted it, it was
18 just -- we were trying to cover it pretty
19 quickly and hopefully in a way that our
20 industry and our permit writers understood
21 that they could work out the details later.
22 But apparently I think Joel has raised some
23 good questions about exactly how it needs
24 to be fixed and frankly, this is real
25 important to everyone here with industry

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1 and the agency, as far as the exact wording
2 of it, so I would hate to try to come up
3 with a fix today without talking to our
4 permit engineers.
5 MR. BREISCH: I guess what I'm
6 suggesting maybe it doesn't need a fix.
7 That if what Joel said is something that
8 happens frequently and he came to the staff
9 and said I'd like to make a determination
10 of whether I need a permit, that you all
11 could probably work it out. And from the
12 scenario that he said, it probably wouldn't
13 require a permit.
14 MS. HOFFMAN: Right. I think his
15 interpretation and ours is the same, as far
16 as how it would actually be applied, yes.
17 MR. BREISCH: Then maybe a simple
18 change in this, given the authority of our
19 Director -- am I using the right term -- to
20 determine whether it needs a permit or not.
21 It might solve this.
22 MS. HOFFMAN: I agree.
23 MR. BREISCH: I would suggest
24 that if this happens to be a real problem
25 with industry, it's brought back and we

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1 make a change then so we can go ahead and
2 pass this, either with a simple language
3 change of who really intercedes in the
4 argument and makes the final decision, or
5 let it be like it is and see if it works.
6 MS. HOFFMAN: Sounds like a good
7 idea to me.
8 MR. BREISCH: I'm just suggesting
9 a way to get over this. We want to pass
10 it. If Joel can't see that working that
11 way, I'm going to agree with him. We just
12 -- we go ahead and continue this to another
13 time. But if he believes that he can work
14 this out with the staff and all other
15 industry can, I think we ought to go that
16 way.
17 MR. WILSON: Do we have others
18 here that want to comment on this? Can we
19 open this up?
20 MR. BRANECKY: Sure.
21 MR. KILPATRICK: I would just
22 comment that I think Bill has got a good
23 proposal, but it seems to me the only
24 reason that we're not taking -- that from
25 not taking action or postponing this for

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1 one meeting is simply that we have to
2 reassign it to someone else on the staff to
3 look at this one issue. I don't see much -
4 - since there is no hurry to pass it, why
5 don't we let it be reassigned and discuss
6 this issue and come back next meeting with
7 what we think would be a better proposal?
8 I don't know anything about the particular
9 permitting issues, but it seemed like the
10 issues that Joel brought up would probably
11 be ones that would be common to many
12 facilities and it doesn't make much sense
13 to me to go ahead and pass something we
14 know is going to create confusion and try
15 not to work it out.
16 MR. WILSON: Gary, I would agree
17 with that. Specifically, regarding the
18 issue of a physical change that increases
19 actual emissions. The state's response and
20 Dawson's response to that indicates that
21 the state does intend to require a permit
22 for that. Given that, and given that
23 that's part of this record, I would like to
24 have an opportunity to comment on that
25 because that is to submit comments formally

1 regarding that intent.
2 MR. KILPATRICK: Another point
3 along that line and, once again, I never
4 have submitted permits, I'm certainly not
5 an expert in this area, but I think in the
6 past we've had guidelines or
7 interpretations, I don't know what you call
8 them, which have now been basically decided
9 we're not going to use those. And this
10 almost sounds like an issue where we're
11 going beyond this just to settle
12 interpretation of what the rule says to
13 almost establishing a guideline, maybe an
14 unwritten guideline but establishing a
15 guideline which the DEQ has decided we
16 should not be doing, that should come
17 through the rule itself. So I think it
18 just argues to go ahead and fix the rule
19 rather than try to have an understanding in
20 the background about what the rule means.
21 MR. BRANECKY: I would agree. I
22 would rather have it in the rule because
23 personnel changes, as we know people leave,
24 different people come in and have different
25 interpretations, so I'd rather have it

1 written in the rule. And let me point out
2 one other thing, we only have five voting
3 members here today, so whatever we do
4 requires five votes. So we need to all be
5 in agreement on what we do in order for it
6 to pass.
7 MR. DYKE: Let me clarify the
8 reassignment of staff. Obviously, Dawson
9 and his staff can look at this particular
10 section, but Barbara has answered questions
11 today regarding this rule that cover
12 everything from quoting federal law and
13 guidance and other things, that's my
14 concern. Once we've announced the rule,
15 and we are going to post it again, it's
16 wide open one more time in addition to this
17 section. We can bring a lot of staff or
18 several people, I guess to replace Barbara.
19 So it would be our recommendation to
20 continue it until the August meeting.
21 MR. BREISCH: Yes, I can agree
22 with that. I just wanted Joel to say
23 whether he was strong enough in his
24 feelings to want to go ahead and continue
25 it, too.

1 MR. WILSON: I would like to see
2 us continue this.
3 MR. BROWN: Mr. Dyke, my name is
4 Howard Brown with Central and Southwest. I
5 was wondering if I could get a
6 clarification on another area, something I
7 don't think I quite understand. That is on
8 Part 9, page 39, the areas that Barbara
9 referenced were actually passed in '88 and
10 '89 and were never codified. I don't
11 understand why they were never --I don't
12 understand the reason from them so why
13 would you want to do it now.
14 MS. HOFFMAN: I don't think they
15 are really major changes from what was
16 there previously, just they are a little
17 more defined, I think, than what was there
18 originally. But I believe that it was
19 language changes -- they were language
20 changes that EPA requested to be made in
21 our program to continue to have approved
22 PSD nonattainment resource review
23 programs.
24 MR. BROWN: I guess the way I
25 read this, nonattainment areas, and this is

1 about building a source in an attainment
2 area that would have an effect on a
3 nonattainment areas?
4 MS. HOFFMAN: Right.
5 MR. BROWN: And if you meet these
6 significant levels you have to either get
7 offset or your permit denied or I have to
8 argue that I'm actually in a nonattainment
9 area and this doesn't apply at all.
10 MS. HOFFMAN: Right. Then you go
11 back to the nonattainment part of the
12 rules.
13 MR. BROWN: How can I argue that
14 I'm actually in a nonattainment area when
15 I'm in an attainment area and effecting a
16 nonattainment area?
17 MS. HOFFMAN: Actually, this is
18 almost word for word of what's in the Part
19 51, Section 165.
20 MR. BROWN: So I do understand
21 that correctly?
22 MS. HOFFMAN: Yes.
23 MR. DYKE: Is there anyone else
24 wishing to speak on this rule today? Any
25 additional questions from the Council?

1 MR. BRANECKY: At this point in
2 time, I'm ready for a motion. What are the
3 Council's wishes?

4 MR. WILSON: David, I would like
5 to make a motion that we continue this to
6 the next meeting.

7 MR. BRANECKY: I have a motion
8 that we continue Subchapter 8 to the August
9 meeting.

10 MR. KILPATRICK: Second.

11 MR. BRANECKY: Second. Myrna.

12 MS. BRUCE: Mr. Wilson.

13 MR. WILSON: Aye.

14 MS. BRUCE: Mr. Treeman.

15 MR. TREEMAN: I abstain.

16 MS. BRUCE: Mr. Breisch.

17 MR. BREISCH: Aye.

18 MS. BRUCE: Mr. Kilpatrick.

19 MR. KILPATRICK: Aye.

20 MS. BRUCE: Dr. Grosz.

21 DR. GROSZ: Aye.

22 MS. BRUCE: Mr. Branecky.

23 MR. BRANECKY: Yes.

24 (PROCEEDINGS CONCLUDED)

25

C E R T I F I C A T E

1 STATE OF OKLAHOMA)
2) ss:
3 COUNTY OF OKLAHOMA)

4 I, CHRISTY A. MYERS, Certified
5 Shorthand Reporter in and for the State of
6 Oklahoma, do hereby certify that the above
7 proceedings is the the truth, the whole
8 truth, and nothing but the truth; that the
9 foregoing proceedings were taken by me in
10 shorthand and thereafter transcribed under
11 my direction; that said proceedings were
12 taken on the 14th day of June, 2000, at
13 Tulsa, Oklahoma; and that I am neither
14 attorney for nor relative of any of said
15 parties, nor otherwise interested in said
16 action.

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand and official seal on this, the
19 11th day of July, 2000.

20

21 CHRISTY A. MYERS, C.S.R.
22 Certificate No. 00310

23

24

25

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

COPY

TRANSCRIPT OF PROCEEDINGS

OAC 252:100-8

AIR QUALITY COUNCIL HEARINGS

PERMITS FOR PART 70 SOURCES

[AMENDED]

HELD ON AUGUST 16, 2000

AT 9:00 A.M.

PIONEER TECHNOLOGY CENTER

EDUCATION BUSINESS CENTER

2101 NORTH ASH STREET

PONCA CITY, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, C.S.R.

COUNCIL MEMBERS

1
2
3 David Branecky, Chairman
4 Sharon Myers, Vice-Chair
5 Rick Treeman, Member
6 Joel Wilson, Member
7 Fred Grosz, Member
8 Gary Kilpatrick, Member
9 Leo Fallon, Member
10 Bill Breisch, Member
11 Eddie Terrill, Director
12 David Dyke, Protocol Officer
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1 forth in Barbara's testimony included in
2 the transcript of proceedings from the June
3 14th meeting, which is included in your
4 packets. I will walk through all changes
5 proposed in response to questions raised at
6 the June meeting and all new changes, which
7 are primarily non-substantive. I will also
8 briefly highlight the substantive changes
9 which were included in Barbara's
10 presentation.

11 Beginning at page 1, the definition
12 section, Section 1.1, are several relocated
13 defined terms. These are "actual
14 emissions", "best available control
15 technology", "begin actual construction",
16 and the term "building, structure,
17 facility, or installation". Of these, the
18 terms "best available control technology"
19 and "building, structure, facility, or
20 installation" have been deleted from Parts
21 7 and 9 and moved to the beginning of this
22 Subchapter 8, since the terms apply to more
23 than just PSD sources.

24 A new definition is included for the
25 term "actual emissions", for use only in

PROCEEDINGS

1
2 MR. DYKE: The next item on the
3 agenda is OAC 252:100-8, Permits for Part
4 70 Sources, Agenda Item 4C. I'll call on
5 staff attorney, Pam Dizikes.

6 MS. DIZIKES: Mr. Chairman,
7 Council Members, ladies and gentlemen,
8 Subchapter 8, covering permits for Part 70
9 sources, has already been through the re-
10 right/de-wrong process. Since that initial
11 go-around, industry and the Division have
12 identified certain errors and
13 inconsistencies that need to be resolved.

14 Barbara Hoffman presented these
15 proposed revisions to you at the June 14th
16 meeting in Tulsa. Following Barbara's
17 presentation, several questions were raised
18 with respect to the need to more clearly
19 spell out when construction permits are
20 required for Part 70 sources. Since that
21 June meeting, staff has recommended that
22 Subchapter 6 be revoked, but that portions
23 be moved into Subchapter 8.

24 I will not go through each of the
25 proposed changes, since they are amply set

1 connection with Part 70 sources that are
2 not PSD or nonattainment. The definition
3 is identical to that in Subchapters 7 and
4 5.

5 A new definition for the term "begin
6 actual construction" is proposed for
7 clarification, for use only in connection
8 with Part 70 sources that are not PSD or
9 nonattainment. The definition, which is
10 found in Section 4(a)(1), at page 14,
11 requires a construction permit at the time
12 that a person begins actual construction or
13 installation of the emitting equipment on a
14 pad or at the final location at the
15 facility. The definition is nearly
16 identical to the definition of the term
17 "commence" for state permits found in
18 Subchapter 7.

19 As Barbara explained to you in June,
20 staff is proposing to add several
21 subdivisions of construction permit fees to
22 Section 1.7(2), which is at page 6 in your
23 packet. As it currently exists, this
24 section requires an owner or operator to
25 pay \$2,000.00 for every construction

1 permit, regardless of whether it's a
 2 modification to an existing facility or
 3 whether it's a construction permit for a
 4 brand-new facility. At the June meeting,
 5 staff proposed separate fees for
 6 construction of new Part 70 sources, minor
 7 modifications to Part 70 sources,
 8 significant modifications to Part 70
 9 sources, and authorizations under a general
 10 permit. After further reflection, staff
 11 asks that fees for minor modifications and
 12 significant modifications to Part 70
 13 sources be treated in a like fashion for
 14 purpose of charging fees. As now proposed,
 15 Part 70 construction permit applications
 16 will carry the following fees: \$2,000.00
 17 for construction of a new source, \$1,500.00
 18 for modification of a source, and \$900.00
 19 for authorization under a general permit.
 20 Section 4(a)(1), on page 14, is
 21 changed to clarify that sources cannot
 22 begin construction until they obtain a
 23 construction permit. This change, together
 24 with the new definition for "begin actual
 25 construction", which I already mentioned,

1 emissions of over 5 tons per year for
 2 criteria pollutants.
 3 We have revised this sentence to
 4 require no more than is required by federal
 5 regulation. That is, a construction permit
 6 will be required for reconstruction of a
 7 major affected source under 40 CFR Part 63,
 8 reconstruction of a major source if it
 9 would then become a major affected source
 10 under 40 CFR Part 63, and for any physical
 11 change that would be a significant
 12 modification under Section 7.2(b)(2).
 13 Sources subject to Part 7 or Part 9 of this
 14 subchapter must also meet the applicable
 15 requirements for a permit, as is already
 16 spelled out in Part 7 and Part 9. Staff
 17 believes that these changes are responsive
 18 to all questions and comments received
 19 about Section 4(a)(1).
 20 Section 5(b), at page 16, titled
 21 "Duty to Supplement or Correct
 22 Application", has been relocated from
 23 Chapter 6. As Jeannette Buttram explained
 24 earlier this morning, staff proposes to
 25 revoke Chapter 6, but to relocate several

1 should eliminate further questions about
 2 the need to secure a permit before
 3 beginning construction.
 4 The second sentence of this same
 5 Section 4(a)(1), has been changed further
 6 since our June meeting. As you may recall,
 7 questions were raised during our meeting
 8 and written comments have been received
 9 since, as well, expressing disagreement
 10 with the need to secure a construction
 11 permit for small physical changes, such as
 12 the addition of a valve. I believe copies
 13 of these comments are on the table in the
 14 rear and I would also like to have the
 15 comments incorporated into the record.
 16 After further reflection, the
 17 Division has concluded that the Part 70
 18 construction permit requirement should be
 19 no broader than is required by federal
 20 regulation. Following this logic, we have
 21 deleted the proposed requirement that a
 22 construction permit be secured both for
 23 adding a piece of equipment or process that
 24 is subject to NSPS, and for physical
 25 changes that result in an increase in

1 requirements of that Chapter into the
 2 chapters to which those requirements
 3 relate. I think Jeannette also explained
 4 earlier that this particular subsection was
 5 already referenced in Subchapter 8.
 6 Staff has done some fine-tuning of
 7 Section 6(a)(3)(C)(iii)(1) at page 22. Our
 8 revisions makes clear that an initial
 9 report must be made for all emissions in
 10 excess of permit requirements. In order to
 11 qualify for the affirmative defense, the
 12 permit holder must submit a follow-up
 13 written report.
 14 Further fine-tuning to the emergency
 15 language is reflected in the insertion at
 16 line 10 of the sentence "quantification of
 17 exceedances attributable to emergencies or
 18 upset conditions shall be made by the best
 19 available method." This sentence was
 20 merely moved forward from the now deleted
 21 Subsection 6(e)(1) at page 26.
 22 Barbara explained to you that we are
 23 making a substantive change at page 35, in
 24 the definition of "major stationary
 25 source". The existing rule sets the

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1 trigger for municipal incinerators at 250
2 tons of refuse per day. The 1990
3 amendments to the Clean Air Act, Section
4 169(1), require this lower threshold of 50
5 tons of refuse per day.

6 At page 39, you will note that we
7 are adding several definitions to Section
8 8-51. This is part of our re-write of
9 Subchapter 1. Each one of these
10 definitions has been moved, verbatim, from
11 Subchapter 1, since the definitions apply
12 specifically to Subchapter 8, Part 9, for
13 major sources in nonattainment areas.

14 The very last change to this rule,
15 at pages 42 through 43, were explained by
16 Barbara at the June meeting. These changes
17 were actually adopted in 1988 and readopted
18 in 1989, but for some reason were never
19 codified. Our records show that the
20 changes were made for clarification at the
21 request of EPA.

22 Before I close, I would mention that
23 Ms. Myers has identified a couple of very
24 minor problems in the text that you have
25 before you. At page 13, Section

1 during a particular calendar year,
2 determined using methods contained in
3 252:100-5-2.1(d)". And my question is, why
4 the words "given facility" are used instead
5 of "emissions unit", as it's used back in
6 the definition under Part 9.

7 MS. DIZIKES: I'm going to have
8 to look, but I believe that this was a
9 definition that was relocated verbatim.
10 But let me check.

11 DR. SHEEDY: This is Joyce
12 Sheedy. I believe we copied that
13 definition out of Subchapter 5, 5-1.1, and
14 because we had in Subchapter 8 a definition
15 for "actual emissions" when we were talking
16 about PSD and when we were talking about
17 nonattainment area sources, but we had no
18 definition for "actual emissions" for other
19 major sources that were in Part 70 that
20 weren't PSD or nonattainment, and there was
21 no definition in the general definitions in
22 Subchapter 1, and we used -- we just used
23 the exact words that we had used in
24 Subchapter 5 and, I believe, perhaps in
25 Subchapter 7, as well.

1 3(b)(9)(2), it looks as though there was a
2 problem with the photocopier, and after the
3 word "sources", which is plural, there
4 should be a comma. Also, Section 52, in
5 the graphic presentation, and that's on
6 page 42 of your text, the graphic
7 presentation looks a little bit funny, when
8 it is typeset, it should be very clear and
9 actually as you read down following the
10 lines, it is accurate. So if you trace
11 down under the lines from top to bottom, it
12 reads correctly. With that, I would just
13 like to conclude that the staff recommends
14 these proposed changes to Subchapter 8 for
15 emergency and permanent adoption.

16 MR. DYKE: Questions from the
17 Council?

18 MR. WILSON: Pam, I have a
19 question regarding the definition of
20 "actual emissions", this is Part 1 in the
21 "General Provisions". On my copy it is
22 page 1. And it reads, "actual emissions,
23 except for Part 7 and 9 of this subchapter,
24 means the total amount of regulated air
25 pollutants emitted from a given facility

1 MS. DIZIKES: Is that a
2 sufficient explanation, or would you like
3 us to read the definition as it appears in
4 Subchapter 5?

5 DR. SHEEDY: It's identical to 7.

6 MR. WILSON: Well, a given
7 facility to me introduces a lack of clarity
8 and I'm not sure why I understand the words
9 "given facility" are in there instead of
10 "emissions unit", other than they were
11 carried forward from other subchapters.

12 MS. DIZIKES: I'll give you that.

13 DR. SHEEDY: Yes, I think this --
14 the whole thing about facilities and
15 sources and emitting units is something, I
16 think, we're going to have to come to grips
17 with in the future throughout the whole
18 subchapter -- I mean, throughout the whole
19 chapter.

20 MR. WILSON: The terminology,
21 "facility, source, emissions unit" has
22 always been confusing to me in these
23 regulations.

24 DR. SHEEDY: I think emissions
25 unit is the clearest of the three.

1 MR. WILSON: I think so, too.
2 That's why I'm suggesting, if there is no
3 other reasons that "given facility" is in
4 there, my suggestion would be to replace
5 those words with "emission units", or you
6 can say emission unit or emission units.

7 DR. SHEEDY: I'm not absolutely
8 certain there is no reason for it to be
9 there at this point.

10 MS. DIZIKES: Joel, I would
11 hesitate to make that change on the fly,
12 specifically because of that confusion over
13 each of those terms. For the most part,
14 the wording was deliberately chosen at some
15 point in time. But you are absolutely
16 right. In the future, we need to pay
17 attention to each of those terms.

18 MR. WILSON: And I appreciate
19 that. I'm not expecting us to make that on
20 the fly, because I think there may be -- I
21 think it's worth looking into why it's like
22 that.

23 Another comment I just want to make
24 is, I'm the one that submitted the comments
25 on the language in 8-4, the instructions

1 the burden on our permit writers. We've
2 all been told how heavy it is and we know
3 how heavy it is and that should, as well,
4 be one of our objectives whenever we write
5 these regulations.

6 MR. DYKE: Is there anyone
7 wishing to speak on this rule or any
8 comments from the public? Questions?
9 Please identify yourself.

10 MR. BLATCHLEY: My name is Tom
11 Blatchley, I'm an environmental consultant
12 out of Tulsa. I've had a client that's
13 raised an issue recently. Dawson is aware
14 of the situation. There has been some
15 preliminary discussions with him. This
16 goes back to 1995, when the OCC and the DEQ
17 signed some agreements about how the two
18 agencies interacted. There never was a
19 resolution of how a well, an exploration
20 well, a production well, when it's brought
21 on-site -- when it's brought into
22 production and it turns out to be a major
23 source. You find that fact after you
24 perforated the well and now you're in a
25 situation where you don't have your permits

1 for getting a construction permit. I just
2 wanted to note that the changes that have
3 been made satisfies the comments that I
4 submitted.

5 MS. DIZIKES: Thank you. No
6 other comments?

7 MR. WILSON: One last comment.
8 The way that I see the changes that have
9 been made in Subchapter 8 regarding when
10 you get a construction permit, it seems to
11 me like there is going to be less burden or
12 this should end up being less burdensome to
13 the permit writers. Has there been any
14 determination or discussion of that?

15 MS. DIZIKES: I think I'll have
16 to turn to the permit writers. Dawson.

17 MR. LASSETTER: I'm Dawson
18 Lassetter. It appears that way to us right
19 now. It's looking like it would be a lot
20 easier for us to make a determination
21 quicker.

22 MR. WILSON: Good. Well, I just
23 wanted to note that for the record because
24 it seems to me like one of the other
25 interests that we should have in this is

1 in place that are required under Chapter 8.
2 You're required to have a construction
3 permit, and an operating permit. So the
4 site is sort of a special case. The
5 industry wants to come back and propose
6 some language to be added to Chapter 8.
7 It's not clear to me whether we should
8 delay the revisions of Chapter 8 today or
9 merely recognize that that is an area of
10 concern that the industry needs to be
11 addressed at a later time.

12 There was a series of correspondence
13 that did take place between Mid-Continent
14 Oil and Gas Association and the DEQ that
15 appeared to resolve this problem. However,
16 there is nothing in place regulatory-wise
17 that really gives any protection in this
18 situation.

19 So, I guess it's partly a comment
20 and partly a question on my part, you know,
21 should we in fact put off the approval of
22 Chapter 8 today or could we go ahead and
23 approve it and somehow reserve the right
24 for additional language to be proposed in
25 the future? I don't really have any

1 language. This is such a new issue, we
2 really haven't come up with any language at
3 this point in time. However, we can tell
4 the Council that we will be working
5 diligently to come up with something in a
6 short-term basis that will resolve the
7 issue.

8 MR. BRANECKY: Does this affect a
9 lot of industry in Oklahoma?

10 MR. BLATCHLEY: I couldn't really
11 say, David. This really just comes up when
12 we go out and perforate a well and it turns
13 out you have a relatively high sulfur well
14 of H2S and then you get into sulfur
15 recovery or incineration of the H2S. And
16 if those emissions, in fact, are greater
17 than 100 tons, again, you're finding that
18 out after the fact. Texas has a way of
19 dealing with this. They've got some
20 specific language that I had a chance to
21 look at yesterday very briefly.

22 MS. MYERS: How frequently does
23 something like this come up, Dawson? Do
24 you have any idea of that?

25 MR. BLATCHLEY: I really don't

1 know. Dawson, maybe you've heard some
2 information.

3 MR. LASSETTER: This is the
4 second time in six years. It's relatively
5 rare, but it is an emergency kind of a
6 situation, naturally, for the company.

7 MS. MYERS: Is that something
8 that we can handle by some kind of an
9 appeal to the Council or is there some
10 other process that we could have other than
11 delaying this rule? Two times in six years
12 isn't a whole lot of frequency to think
13 about trying to delay passage of the rule
14 if it needs to be passed.

15 MR. LASSETTER: Right. I'm not
16 sure that we will hurry the process by
17 delaying this action today. I'm like Tom,
18 I'm not sure what the proper approach maybe
19 should be, but I think it will take a
20 little while for us to work out the answer.

21 MR. DYKE: Dawson, since we have
22 this work group on Subchapter 7, the Mid-
23 Continent Oil and Gas Group, isn't this --
24 and we're working with the jurisdictional
25 guidance document with the Corporation

1 Commission, isn't that a good place to --

2 MR. LASSETTER: That would be a
3 great place.

4 MR. DYKE: -- to throw this thing
5 in and try to work out something? This
6 issue has been around for as long as I've
7 worked for the State of Oklahoma.

8 MR. LASSETTER: It is important
9 enough that we need to address it.

10 MR. DYKE: And we're making
11 permitting changes in that area and the
12 guidance document has to be written. I
13 think that's a perfect place for this.
14 That's why I would suggest that -- we've
15 got Joel Howard here who is working on that
16 committee and chairing that thing up. I
17 would just recommend we take that issue up
18 in that committee.

19 MR. DOUGHTY: David. I'm Dennis
20 Doughty. I'm not sure that that will be
21 the complete cure for that problem, because
22 it raises some PSD issues that you're going
23 to have to address. Part of the problem,
24 as I understand it, is that some of these
25 wells, you really don't know what the

1 emissions are going to be until you allow
2 them to produce at full capacity for a
3 certain amount of time, and they measure
4 the amount of H2S that's coming out of
5 them. So they don't know how to size their
6 equipment, they don't know what their
7 permit is going to look like. So, indeed,
8 there is a problem there. We handled ones
9 quite a few years ago, I believe, with a
10 variance, before the Council or a consent
11 order. It's been quite a while. It's one
12 of the few instances that I know of, where
13 that came along. I don't think the
14 variance would be practical anymore,
15 because it would probably kick in Title V.
16 But I just wanted to make you aware that
17 there is some other issues that we'll have
18 to deal with.

19 MR. LASSETTER: To go along with
20 that, because of the H2S and water
21 problems, I'm not real interested in
22 anything that results in shutting the well
23 in for an extended amount of time, unless
24 they want to put stainless steel tubing
25 down the hole. So I think there is some

1 real concerns about that.

2 DR. SHEEDY: I guess, I have kind
3 of a question for -- because my memory is
4 so bad. I know that Part 70 requires that
5 we look at exploration and production for
6 the operating permit program. Is that true
7 of PSD? Does it cover exploration and
8 production, can anyone recall, for a
9 construction permit requirement?

10 MR. TERRILL: I don't know.
11 That's something we would have to address.
12 I think Dennis is right. I think that
13 we're going to have to -- this kind of cuts
14 across several different rules. But I do
15 think that getting a group of people that
16 are most effected by it, that are doing
17 this PBR and the re-right of 7, was a good
18 place to get some of the technical issues
19 to start formulating, and then we can move
20 and make the changes to the other sections
21 as we need to, to address this. I would
22 propose we go ahead and pass this rule,
23 that with, in the record we would come back
24 and address this as quickly as we can.

25 MR. DOUGHTY: Let me address your

1 would be we would request that we be able
2 to address it in the future, whether that
3 requires approving Chapter 8 language today
4 or not, as long as we reserve that right to
5 come back at a later time.

6 MS. DIZIKES: I just wanted to
7 remind Council that we are moving this rule
8 for both emergency and permanent adoption.
9 I believe a lot of the rationale is for a
10 different reason here, but to allow a
11 timely relief on permit fees and we
12 hesitate to lose that benefit for our
13 community.

14 MR. DYKE: Any additional
15 questions from the Council?

16 MR. WILSON: If we're going to
17 pass this now, we need to address the issue
18 of the actual emission definition.

19 MR. TERRILL: We're going to come
20 back and fix -- as we probably will, just
21 fix that then.

22 MR. WILSON: Fix it then?

23 MR. TERRILL: Just because we
24 pass this, doesn't mean it's concrete
25 forever.

1 question. Joyce, if it's going to be a
2 major source for PSD, somebody is going to
3 have to permit it, whether it's us or
4 whether it's EPA. It falls into a Title V
5 situation. I know of absolutely no
6 exemptions under the Federal Clean Air Act
7 except for aggregating toxic sources.

8 DR. SHEEDY: I understand about
9 Title V for an operating permit. I just
10 wonder is there a requirement for a
11 construction permit under any of the
12 federal laws?

13 MR. DOUGHTY: Well, the federal
14 system doesn't split them between a
15 construction and an operating permit. They
16 basically get -- their first permit is
17 rolled all into one. You do all of your
18 public input into the operating permit like
19 we do in construction permits. So for us,
20 hopefully, the operating permit is rather
21 (inaudible) until the tests and everything
22 are done. For EPA, my understanding is
23 they rolled it up all into one, and it's
24 all done in one fell swoop.

25 MR. BLATCHLEY: Our position

1 MR. WILSON: Well --

2 MR. TERRILL: Either that or not
3 pass it all, because I'm not willing to
4 change this without making absolutely sure
5 it's not going to effect something else.
6 We can come back and fix that when we come
7 back and address this issue that Mr.
8 Lassetter brought up. I've got a note to
9 do that.

10 MR. WILSON: I agree.

11 MR. DYKE: Anyone else wishing to
12 speak on this matter? Any additional
13 questions from the Council?

14 MR. BRANECKY: We've heard the
15 recommendation of staff that this be passed
16 as an emergency and a permanent. I would
17 like to hear the wishes of the Council at
18 this time through the form of a motion.

19 MR. KILPATRICK: I move that we
20 adopt the modifications to Chapter 8 for
21 emergency and permanent, as they have been
22 proposed and in addition to the -- I think
23 there were two corrections made in the
24 presentation.

25 DR. GROSZ: Second.

5035

1 MR. BRANECKY: I have a motion
 2 and a second. Any further discussion by
 3 the Council? Myrna.
 4 MS. BRUCE: Mr. Wilson.
 5 MR. WILSON: Aye.
 6 MS. BRUCE: Dr. Grosz.
 7 DR. GROSZ: Aye.
 8 MS. BRUCE: Mr. Kilpatrick.
 9 MR. KILPATRICK: Aye.
 10 MS. BRUCE: Mr. Breisch.
 11 MR. BREISCH: Yes.
 12 MS. BRUCE: Ms. Myers.
 13 MS. MYERS: Yes.
 14 MS. BRUCE: Mr. Branecky.
 15 MR. BRANECKY: Aye.

16
 17 (PROCEEDINGS CONCLUDED)
 18
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 25

1 C E R T I F I C A T E

2 STATE OF OKLAHOMA)
 3) ss:
 4 COUNTY OF OKLAHOMA)

5 I, CHRISTY A. MYERS, Certified
 6 Shorthand Reporter in and for the State of
 7 Oklahoma, do hereby certify that the above
 8 proceedings is the truth, the whole truth,
 9 and nothing but the truth; that the
 10 foregoing proceedings were taken by me in
 11 shorthand and thereafter transcribed under
 12 my direction; that said proceedings were
 13 taken on the 16th day of August, 2000, at
 14 Ponca City, Oklahoma; and that I am neither
 15 attorney for nor relative of any of said
 16 parties, nor otherwise interested in said
 17 action.

18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand and official seal on this, the
 20 11th day of September, 2000.

21
 22 CHRISTY A. MYERS, C.S.R.
 23 certificate No. 00310
 24
 25

TO: Whom it May Concern
CC:
FROM: Don Whitney
DATE: June 27, 2000
RE: OAC 252:100-8 Changes

Revisions to Subchapter 8 are scheduled to be presented for a second time at the Air Quality Council meeting on August 16, 2000. The following areas should be addressed since they have been a cause of considerable confusion for both the AQD Staff and industry. Suggested wording and rationale are provided below.

OAC 252:100-8-4 (a) Construction Permits

(1) **Construction permit required.** No person shall begin actual construction or installation of any new source that will require a Part 70 operating permit without first obtaining a DEQ-issues construction permit. A construction permit is also required in the following circumstances unless such construction or modification is specifically authorized in a Part 70 permit:

- (A) A piece of equipment or a process is added that is subject to NSPS or NESHAP except that the Director may waive this requirement for Subparts which are currently effective for similar equipment or processes at the facility such as leak checking.
- (B) Any physical change that would increase actual emissions from that unit or process more than 5 tons per year of any criteria pollutant, more than 2 tons per year of any one HAP or more than 5 tons per year of two or more HAPs.

In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

RATIONALE:

Major facilities with Part 70 sources have a great many processes which require routine replacement, repair, and minor modifications. Under the old definitions, such activities could require a permit for trivial items such as a valve addition or change which might increase fugitive emissions by a very slight amount or make the valve subject to a requirement such as leak-check monitoring under NSPS Subpart GGG. There is little logic in requiring a construction permit for such a change with only a few pounds per year of emissions or the addition of a few valves to an existing LDAR program. If possible, such situations will be anticipated by the Title V permit conditions and specifically excluded from notification or permit modification requirements.

There is no danger of this being a significant "loop-hole" for several reasons:

1. Parts 7 and 9 exclude such changes from exceeding PSD significance levels
2. Upstream and downstream processes will frequently have their own emission limits
3. The Title V permit will be updated every 5 years.

Subject: Subchapter 8 Rule Changes
Author: "Don_Whitney@trinityconsultants.com"
<SMTP:Don_Whitney@trinityconsultants.com>
Date: 6/27/00 4:06 PM

Attached document contains suggested wordings of two areas of OAC 252:100-8. The very worthwhile and needed clarification of this area was proposed at the last AQC mtg and will likely be proposed again in August. Please also forward to other members of the AQD staff who may be considering changes to Subchapter 8. If you like, I would be glad to meet with you to discuss these areas and/or alternative wordings.

The potential impact of not incorporating flexibility for changes of this type is significant for both industry and DEQ. If the wording proposed at the June mtg were strictly followed, numerous facilities such as refineries and gas plants would be faced with submitting perhaps dozens of permit modifications or construction permit applications every year. Besides the burden on industry, such paperwork would do nothing to enhance or protect air quality and would be a tremendous burden on DEQ to process. Another danger of the status quo is that it leaves many facilities in jeopardy of compliance/enforcement action over trivial changes. Again, this area of minor changes is very important to large (Ch 8) and small (Ch 7) facilities and needs to be crystal clear to avoid misunderstanding. Unfortunately, there are many possible scenarios of changes which need to be addressed to prevent the need for "interpretation" of what the rule really means.

(See attached file: OK-Rules8.doc)

OAC 252:100-8-6 (f) Operational Flexibility

Changes resulting in no emissions increases. A permitted Part 70 source may make changes within the facility that are specifically authorized in the permit or that:

- (A) Are not modifications under any provision of Title I of the Act.
- (B) Do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded; and
- (C) Result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit.....

RATIONALE:

Minor changes of operation / maintenance / construction / replacement can be anticipated for many activities at major facilities. Such changes will often result in a trivial increase of actual emissions but do not warrant a permit modification.

Oklahoma Administrative Code, Title 252. Department of Environmental Quality,
Chapter 100. Air Pollution Control

OAC 252:100-7[1] Permits and Appendix H

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¹ Page numbers are in the lower right corner of odd numbered pages. Even numbered pages do not have page numbers. Even numbered blank pages have been deleted.

OAC 252:100-7[1]
SIP Revision

REGULATION 1.4
[PRESENTLY REFERRED TO AS 252:100-7]

COUNCIL MEETING DATES

MARCH 17, 1987

MAY 19, 1987

JULY 21, 1987

SEPTEMBER 22, 1987

BOARD MEETING DATE

JANUARY 28, 1988

SUMMARY OF RULE CHANGE:

Regulation 1.4 – revise permit regulations for both new and existing sources of air pollution by (1) substantially increasing construction and operating permit fees for new sources; and (2) requiring all permits to be renewable on an annual basis. Renewal fees, or renewal equivalents, ranging from \$50 to \$500 per facility, are also assessed annually on all regulated sources.

REGULATION 1.4

Air Resources Management Permits Required

Permits

1.4.1 General Permit Requirements

1.4.1 (a) Scope and Purpose

~~— (1) Pursuant to the Oklahoma Clean Air Act as amended, this regulation is adopted to define Air Resource Management Requirements to protect and enhance Oklahoma Clean Air Resources and assure attainment/ maintenance of the ambient air quality through the utilization of a construction/operation permit system.~~

1.4.1 (a)(b) General Requirements Permitting System

(1) The Air Quality Service shall operate for the State of Oklahoma a dual permitting system for all new stationary/portable facilities/sources to be established in Oklahoma. The first permit is authorization to construct and is issued upon a determination by the Commissioner that the new source is so designed as to assure that the emission limitations of the several control regulations will be met. The second permit is a permit to operate and is issued by the Commissioner upon demonstration that the source was constructed as designed and the facility does meet the requirements of those several control regulations. Issuance of a permit is evidence that the source has met all requirements; however, upon proper showing this can be refuted by the State or a third party and in such a case the permit does not relieve the source of the responsibility to comply with all local, state or federal laws. All operating permits, for sources having emissions above de minimis levels under Section 1.4.1(c)(4)(C)(i) including those issued prior to the effective date of this subsection, shall be for the term of one year, renewable annually as provided herein.

1.4.1 (c) Necessity to Obtain Permit

(b) Applicability

(1) Except as provided herein, no person may commence construction of, or operate any new source, or relocate any source without obtaining a permit from the Air Quality Service.

~~(1)(2)~~ (2) Permits are required when the addition of a new source, or modification of an existing source, results in a net increase in air contaminant emissions as the Commissioner determines appropriate.

(2) Transfer of a source to a new owner or operator is not considered an increase in emissions and does not require new permits. However, any transfer shall be subject to existing permit conditions and/or compliance schedules. Notification of such transfers shall be made promptly in writing to the State Air Quality Service.

~~(3) The Commissioner may determine that a source is of minor significance and that permits are not required.~~

(3) Upon the effective date of this subsection, no permit shall be required for any new or modified source when it can be shown to the satisfaction of the Commissioner that:

- (A) Emissions will not exceed one pound (1 lb.) per hour for any one criteria pollutant, and
- (B) Emissions of toxics will not exceed the de minimis requirements set forth under Regulation 3.8.4(i)(1)(E).

1.4.1 (c) (d) Permit fees

~~(1) The applicant for a permit to construct, operate or relocate will attach a check or money order in the amount of thirty five dollars (\$35.00) as an initial processing fee.~~

~~(2) After evaluation and prior to issuance of the construction permit, an additional fee will be charged and collected in accordance with the following schedule~~

- ~~(A) Each major source operation – \$300.00~~
- ~~(B) Each minor source operation – no fee~~
- ~~(C) Relocation fee – no fee~~

(1) Definitions. For the purposes of section 1.4.1(c):

(A) Major Source – means any new or modified stationary source which directly emits or has the capability at maximum design capacity, and if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant.

(B) Facility – means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.

Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same “Major Group” (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

(C) Minor Source – means any source for which a permit is required, but is not a major source.

(D) Permit Renewal – means the process whereby operating permits are extended for another one year term. In no case shall the term “permit renewal” be construed to allow the imposition of additional permit requirements not otherwise required or authorized by law or regulation.

(E) Relocate – means to move a source from on geographical location to another. The term shall not include de minimis moves within the proximity of the original site, or convenience moves to contiguous areas when such moves are readily observable by inspectors.

(F) Annual Permit Renewal Fee Equivalent – means the annual fee assessed on facilities which, because of the date of start-up or construction, are exempt from the requirements to have a permit.

(2) Construction and Operating Permit Fees – New Sources

(A) All new permits, the construction permit application for which is received after the effective date of this subsection, will be assessed a fee, which must accompany the application, in accordance with the following schedule:

- (i) Major Source

Construction Permit	\$2,000
Operating Permit	\$1,500

(ii) Minor sources actually emitting 25 tons but less than 10 tons per year of any one pollutant; and minor NSPS sources.

	<u>Construction Permit</u>	<u>\$1,000</u>
	<u>Operating Permit</u>	<u>\$250</u>
(iii)	<u>Minor sources emitting more than one pound per hour but less than 25 tons per year of any one pollutant.</u>	

	<u>Construction Permit</u>	<u>\$200</u>
	<u>Operating Permit</u>	<u>\$100</u>
(iv)	<u>Relocation Permits</u>	<u>\$50</u>

(3) Review to Determine Applicability – New Sources

(A) Upon submittal of a written request, a \$100 determination fee and any relevant information needed to make a permit determination, the Air Quality Service will make a determination whether or not a permit is required. If a determination is made that a permit is required the \$100.00 fee will be credited against the construction and operation permit fees. If it is determined that a permit is not required the \$100.00 fee will be retained by the AQS to cover the cost of making the determination.

(4) Permit Renewal and Renewal Equivalents

(A) Applicability

(i) The Air Quality Service shall annually assess and collect a permit renewal fee or permit renewal fee equivalent from all facilities in the State according to their classification as set forth in Table I. Assessments for existing facilities grandfathered from permit requirements (i.e., permit renewal fee equivalents) shall be made in the same manner and on the same basis as a new facility of the same type (permit renewal fees).

(ii) New facilities shall not be subject to a permit renewal fee until a minimum of one year shall have elapsed from the operating permit application due date.

(B) Facility Classification

(i) Any new facility for which an appropriate classification does not exist shall be assigned a classification and class number in Table I as a permit condition.

(ii) Any existing facility for which an appropriate classification does not exist shall be assigned a facility classification and class number in the same manner as

(B)(i) above except that:

(a) Such assignment shall be made in writing, setting forth the reasons why the facility has been assigned to any particular category, and

(b) Any person aggrieved by such assignment shall be entitled to a hearing on the reasonableness of the assignment.

(C) De Minimis

(i) A permit renewal fee or renewal fee equivalent shall not be required, regardless of the requirement to have a permit, provided that total emissions from the facility do not exceed ten (10) tons per year for any one criteria pollutant.

(D) Assessments

(i) Fees established under this section shall be assessed and paid on the basis of facility classification as identified in Table I. The annual fee collected for a facility in any class shall be determined by multiplying the class number for the facility, as determined by Table I, by fifth (\$50) dollars. In no case shall more than one fee per source be assessed unless such source shall constitute two or more facilities as defined herein.

(ii) On or before the first working day of each year, the Air Quality Service will mail fee assessments to all facilities subject to this regulation. Such assessments shall be made pursuant to the date contained in the emissions inventory and shall set forth:

(a) The facility classification

(b) The class number assigned to the facility, and

(c) The amount of the fee that is to be remitted to the Service.

(iii) For the calendar year 1988, fee assessments will be mailed on or about the effective date of this regulation and shall be due in the offices of the Air Quality Service 30 days from the date of receipt of the assessment.

(3)(5) Fees will be paid by check or money order (no cash will be accepted) made payable to the reviewing agency, e.g., Oklahoma State Department of Health, Air Quality Service. Fees shall be due in the offices of the Air Quality Service 30 days from the date of postmark. A ten (10) calendar-day grace period will be given before any enforcement action will be taken. Upon the expiration of the ten-day grace period, notices of violation (NOV) may be issued and civil penalties, in addition to other remedies, may be sought as authorized under 63 O.S. 1986 Supp. Section 1-1701.1A.

(6) The fee provisions set forth in this regulation shall apply to those permits, renewals and renewal fee equivalents processed by the State Air Quality Service and are not intended to preempt any local fee program.

OAC 252:100-7[1]
Oklahoma Register

THE

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REGISTER

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PUBLIC HEALTH AND SAFETY

Department of Health

Air Quality Service
Oklahoma State Department of Health
January 30, 1987

The Oklahoma Air Quality Council, acting under the authority of 63 O.S. 1981, Sections 1-1802, et.seq., hereby gives notice of its regular meeting and public hearing as follows:

Date: March 17, 1987

Time: Briefing: 9:30 a.m.
Meeting: 1:00 p.m.

Place: Oklahoma State Department of Health
1000 N.E. 10th
Room 314
Oklahoma City, Oklahoma

The Council is scheduled to hear:

1. Proposed revision to Regulation 1.4.2(g), "Source Impacting Class I Areas", to include authority of the Commissioner to require pre-construction monitoring of visibility;
2. Proposed revision to Regulation 1.4.2 (a) "Standards Required", to provide a definition of excessive emission;
3. Proposed revision to Regulation 1.4.1 (d), "Permit Fees", to raise the permit fees; and require renewal and inspection fees;
4. Proposed revision to Regulation 1.4.1(b), "General Requirements", to require annual permit;
5. Staff recommendation for the Council to recommend the Regulation 3.4, "Control of Emission of Sulfur Compounds", to the Board of Health for adoption.

Any inquiry regarding these matters may be made to the Air Quality Service, Oklahoma State Department of Health, 1000 Northeast 10 Street, Oklahoma City, OK 73152, within 30 days prior to the meeting.

[Okla. Reg. 87-37; filed January 30, 1987, 11:35 a.m.]

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Department of Veterans Affairs
Board of Veterinary Medical Examiners
Wildlife Conservation Commission

Incompatible Operations. The need for this rule has been negated by the expanded independence rule.

[Okla. Reg. 87-145; filed March 30, 1987, 8:35 a.m.]

PUBLIC HEALTH AND SAFETY

Department of Health

Air Quality Service
Oklahoma State Department of Health
March 27, 1987

The Oklahoma Air Quality Council, acting under the authority of 63 O.S. 1981, Sections 1-1802, et. seq., hereby gives notice of its regular meeting and public hearing as follows:

Date: May 19, 1987

Time: Briefing: 9:30 a.m.
Meeting: 1:00 p.m.

Place: Tulsa City-County Health Department
Auditorium
4616 East 15th
Tulsa, Oklahoma

(1) There will be a public hearing to receive oral and/or written comments concerning amendments to the Oklahoma Air Pollution Control Regulations as follows:

(a) Regulation 1.4 Air Resources Management Permits Required. Proposed changes would require permits for both new and existing sources; increase fees for construction and operating permits, and establish annual renewal and inspection fees.

(b) Regulation 1.5 Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment. Proposed changes would require reporting of all excess emissions; define releases and toxic chemicals and require that releases of toxic chemicals be reported immediately.

(2) The Council is also scheduled to hear the staff recommendation for adoption of revisions to Regulation 1.4, which would give the Commissioner authority to require preconstruction monitoring of visibility prior to permitting of sources impacting Class I areas. Other changes are calculated to assure the opportunity for participation by the federal land manager. Public hearing on these changes was held March 17, 1987.

Any inquiry concerning these matters may be made to the Air Quality Service, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152, within thirty (30) days prior to the meeting. Proposed changes to the above-referenced regulations will be made available to the public at that time.

01189

[Okla. Reg. 87-146; filed March 30, 1987, 11:40 a.m.]

4 OK Reg. 01189
March 6, 1987

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1.4
1.5

THE OKLAHOMA REGISTER

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Used Motor Vehicle and Parts Commission
Department of Veterans Affairs
Board of Veterinary Medical Examiners
Board of Vocational-Technical Education
Wildlife Conservation Commission

PUBLIC HEALTH AND SAFETY

Department of Health

Air Quality Service
Oklahoma State Department of Health
May 27, 1987

The Oklahoma Air Quality Council, acting under the authority of 63 O.S. 1981, Sections 1-1802, et. seq., hereby gives notice of its regular meeting and public hearing as follows:

Date: July 21, 1987

Time: Briefing: 9:30 a.m.
Meeting: 1:00 p.m.

Place: Oklahoma State Department of Health
1000 Northeast 10th Street,
Oklahoma City, Oklahoma
Room 314

The public hearings on amendments to Oklahoma Air Pollution Control Regulation 1.4, Air Resources Management, Permits Required, and Regulation 1.5, Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment, were continued from the May, 1987 Council meeting. Anticipated is the conclusion of these hearings, recommendations of the staff, and possible approval by the Council for recommendation to the Board of Health.

Proposed changes to Regulation 1.4 would increase fees for construction and operating permits and establish annual fees for both new and existing sources.

Proposed changes to Regulation 1.5 would require at a minimum, that releases of toxic chemicals be reported to the Air Quality Service or the Oklahoma Civil Defense in certain circumstances.

Any inquiry concerning these matters may be made to the Air Quality Service, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152, within thirty (30) days prior to the meeting. Proposed changes to the above-referenced regulations will be made available to the public at that time.

[Okla. Reg. 87-281; filed May 29, 1987, 11:25 a.m.]

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NUMBER 10
AUGUST 3, 1987
PAGES 2254 - 2714

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REGISTER



IN THIS ISSUE

Board of Agriculture
Corporation Commission
Board of Education
Governor
Department of Health
Health Planning Commission
Horse Racing Commission
Department of Human Services
Council on Law Enforcement Education
and Training

Board of Medical Licensure and
Supervision
Office of Personnel Management
Public Employees Retirement System
Department of Public Safety
State Employees Group Insurance Board
Tax Commission
Department of Tourism and Recreation
Transportation Commission
Water Resources Board
Wildlife Conservation Commission

PUBLIC HEALTH AND SAFETY

Department of Health

July 29, 1987

The Oklahoma Air Quality Council, acting under the authority of 63 O.S. 1981, Sections 1-1802, et. seq., hereby gives notice of its regular meeting and public hearing as follows:

Date: September 22, 1987

Time: Briefing: 9:30 a.m.
Meeting: 1:00 p.m.

Place: Tulsa City-County Health Department
Auditorium
4616 East 15th
Tulsa, Oklahoma

(1) There will be a public hearing to receive oral and/or written comments concerning amendments to the Oklahoma Air Pollution Control Regulations as follows:

(a) Regulation 1.4 Air Resources Management Permits Required. Proposed changes would require permits for new sources and establish annual renewal fees (Note this regulation was continued from the May, July 1987 Council meeting).

(b) Regulation 1.1 Defining Terms Used in Oklahoma Air Pollution Control Regulations. Proposed changes would incorporate the necessary revisions to adopt the Federal PM-10 Standard as a state standard.

(c) Regulation 1.2 Air Quality Standards and Increments. Proposed changes would adopt the Federal PM-10 standard as a state standard.

(2) The Council is scheduled to hear the staff recommendation for adoption of revisions to Regulation 1.4. This revision would require fees for new and existing sources.

(3) The Council is also scheduled to hear a variance request for the WEYCO Co., Valliant Plant. This variance was continued from the July meeting and would result in a one-year study of precipitator problems. This action would result in an increase in emissions from this plant during the term of the variance.

(4) The Council will hear a variance request from the Sheffield Steel Company, Sand Springs Plant. This request will be for a period of one year. The plant is requesting a continuation of their variance to Regulation 1.6 Alternative Emissions Reduction Permits. This request was expected and would continue the program the company committed to in their original variance request.

Any inquiry concerning these matters may be made to the Air Quality Service, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152, within thirty (30) days prior to the meeting. Proposed changes to the above-referenced regulations will be made available to the public at that time.

10/25/87 2563
8/3/89
#10 2563

THE

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JANUARY 4, 1988
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OKLAHOMA

THE OKLAHOMA DEPARTMENT OF LIBRARIES, LEGISLATIVE REFERENCE DIVISION
200 NORTHEAST 18th STREET, OKLAHOMA CITY, OKLAHOMA 73105

REGISTER



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JAN 8 1988

OFFICE OF THE
COMMISSIONER

IN THIS ISSUE

Board of Tests for Alcohol and Drug
Influence
Board of Education
Election Board
Board of Health
Health Planning Commission
Horse Racing Commission
Commission for Human Services
Commissioner, State Insurance Fund
Director, Department of Libraries

Department of Libraries Board
Board of Nurse Registration and Nursing
Education
Director, Office of Public Affairs
State Regents for Higher Education
Department of Public Safety
Secretary of State
Water Resources Board
Wildlife Conservation Commission

BOARD OF HEALTH

NOTICE OF RULEMAKING INTENT

NAME OF RULEMAKING AGENCY/ENTITY:

Oklahoma State Board of Health

INTENDED RULEMAKING ACTION:

Adoption by the Board of Health, of revisions to the permitting system and increases in the permit/renewal fees under Regulation 1.4, Air Resources Management - Permits Required.

Summary

This proposal would revise permit regulations for both new and existing sources of air pollution by (a) substantially increasing construction and operating permit fees for new sources; and (b) requiring all permits to be renewable on an annual basis. Renewal fees, or renewal equivalents, ranging from \$500 to \$50 per facility, are also assessed annually on all regulated sources.

Background

Amendments to the permit fee structure were first publically proposed at the March 17, 1987 Air Quality Council meeting. A proposed revision was presented for public hearing at the May 19, 1987 Council meeting. The proposal was vigorously debated and questioned by industry with the result that the hearing was continued until July 21, 1987.

In accordance with special instructions from the Council, the staff prepared and mailed out over 200 special notices calculated to give actual notice to certain affected sources. As a result, industry was well represented at the July public hearing and Council meeting. The staff proposal was again vigorously debated and the hearing was again continued until the September 22, 1987 Council meeting.

The staff was requested to try to resolve conflicts by holding two workshops prior to the next public hearing. These workshops were held on August 5th and 12th wherein different approaches were discussed. As a result of these workshops, the staff prepared and distributed, on August 21, 1987, an amended proposal.

The new proposal was presented again at public hearing on September 22, 1987. With major conflicts resolved, the Air Quality Council voted to recommend the proposal to the State Board of Health. Certain changes suggested by industry were incorporated, resulting in the proposal presented herein.

Need and Effect of the Rule:

Operating funds for the State Air Quality Service have been reduced annually for the past several years. The existing fee system cannot begin to cover the cost of permit service and other efforts expended by the Department annually in conjunction with the permit system. This new system should recoup those funds lost in previous years and provide a source of funds in the future. The new system, as devised, should place a more equitable portion of the regulatory costs on those facilities emitting air pollutants.

Contents of the Rules:

09/24/87

REGULATION 1.4

Air Resources Management
Permits Required

Permits

(Note: the Department of Libraries declined to publish the proposed amendments)

AUTHORITY FOR RULEMAKING:

63 O.S. 1981 Section 1-1801 et seq.
63 O.S. Supp. 1986, Section 1-106.1

COST/BENEFIT ANALYSIS:

A cost/benefit analysis will be prepared and will be available for inspection in Room 905 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

DATE, TIME & PLACE FOR COMMENT:

Thursday, January 28, 1988, commencing on or about 1:00 p.m. at the regularly scheduled meeting of the Oklahoma State Board of Health, in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

MANNER IN WHICH INTERESTED PARTIES MAY PRESENT VIEWS:

Interested parties may present their views in writing in advance of the meeting by mailing same to the Air Quality Service, State Health Department, P.O. Box 53551, Oklahoma City, Oklahoma 73152; or in writing at the meeting or may request an opportunity at the meeting to make an oral presentation.

[Okla. Reg. 87-555; filed December 29, 1987, 4:58 p.m.]

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THE OKLAHOMA

THE OKLAHOMA DEPARTMENT OF LIBRARIES, LEGISLATIVE REFERENCE DIVISION
200 NORTHEAST 18th STREET, OKLAHOMA CITY, OKLAHOMA 73105

REGISTER



Commission of Human Services
Legislature
Department of Libraries Board
Department of Libraries, Director
Mining Commission
Board of Nursing Homes
Board of Osteopathic Examiners
State Regents for Higher Education
Department of Securities, Administrator
Tax Commission
Water Resources Board

BOARD OF HEALTH

STATEMENT OF SUBMISSION OF RULES
TO THE ADMINISTRATIVE RULE REVIEW COMMITTEE

NAME OF RULEMAKING AGENCY/ENTITY:
Oklahoma State Board of Health

TITLE(S) OF FINALLY ADOPTED RULE(S):
Regulation 1.4, Air Resources Management - Permits Required.

AUTHORITY FOR RULEMAKING:
63 O.S. 1981 Sections 1-1801 et seq;
63 O.S. Supp. 1986, Section 1-106.1

DATE ADOPTED BY THE RULEMAKING AGENCY/ENTITY:
January 28, 1988.

DATE SUBMITTED TO THE ADMINISTRATIVE RULE REVIEW COMMITTEE:
February 5, 1988.

[Okla. Reg. 88-48; filed February 5, 1988, 4:45 p.m.]

BOARD OF HEALTH

FINAL ADOPTION OF RULES

NAME OF RULEMAKING AGENCY/ENTITY:

Oklahoma State Board of Health

TITLE(S) OF FINALLY ADOPTED RULE(S):

Oklahoma Air Pollution Control Regulations; Regulation 1.4, Air Resources Management - Permits Required. A true and correct copy of the adopted rules are hereto annexed as Exhibit B, following the Attestation of the Commissioner of Health which is annexed as Exhibit A.

AUTHORITY FOR RULEMAKING:

63 O.S. 1981, Sections 1-1801 et seq.

63 O.S.Supp. 1986, Section 1-106.1

DATE OF PUBLIC COMMENT: (if applicable)

January 28, 1988

November 17, 1987

September 22, 1987

July 21, 1987

May 19, 1987

DATE OF SUBMISSION TO ADMINISTRATIVE RULE REVIEW COMMITTEE:

(if applicable)

February 5, 1988

DATE OF FINAL ADOPTION:

May 6, 1988

ANALYSIS OF RULE(S):

These rules revise permit requirements for both new and existing sources of air pollution by (a) substantially increasing construction and operating permit fees for new sources; and (b) requiring all permits to be renewable on an annual basis. Renewal fees or renewal equivalents, ranging from \$50 to \$500 per facility are also assessed annually. De minimis levels are also set for both permitting requirements and applicability of fees. Operating funds for the State Air Quality Service have been reduced annually for the past several years. The existing fee system cannot begin to cover the cost of permit service and other efforts expended by the Department annually in conjunction with the permit system. This new system should recoup those funds lost in previous years and provide a source of funds in the future. The new system, as devised, should place a more equitable portion of the regulatory costs on those facilities emitting air pollutants.

REGULATION 1.4

Air Resources Management
Permits RequiredPermits1.4.1 General Permit Requirements~~1.4.1~~ (a) Scope and Purpose

~~(1)~~ Pursuant to the Oklahoma Clean Air Act as amended, this regulation adopted to define Air Resource Management Requirements to protect and enhance Oklahoma Clean Air Resources and assure attainment maintenance of the ambient air quality through the utilization of a construction/operating permit system.

1.4.1 (a) ~~(b)~~ General Requirements Permitting System

(1) The Air Quality Service shall operate for the State of Oklahoma a dual permitting system for all new stationary/portable facilities/sources to be established in Oklahoma. The first permit is authorization to construct and issued upon a determination by the Commissioner that the new source is designed as to assure that the emission limitations of the several control regulations will be met. The second permit is a permit to operate and issued by the Commissioner upon demonstration that the source was constructed as designed and the facility does meet the requirements of the several control regulations. Issuance of a permit is evidence that the source has met all requirements; however, upon proper showing this can be refuted by the State or a third party and in such a case the permit does not relieve the source of the responsibility to comply with all local, state or federal laws. All operating permits, for sources having emissions above de minimis levels under Section 1.4.1(c)(4)(C)(i) including those issued prior to the effective date of this subsection, shall be for the term of one year, renewable annually as provided herein.

~~1.4.1~~ (c) Necessity to Obtain Permit(b) Applicability

(1) Except as provided herein, no person may commence construction of, or operate any new source, or relocate any source without obtaining a permit from the Air Quality Service.

~~(1)~~ (2) Permits are required when the addition of a new source, or modification of an existing source, results in a net increase in air contaminant emissions if the Commissioner determines appropriate. Transfer of a source to a new owner or operator is not considered an increase in emissions and does not require new permits. However, any transfer shall be subject to existing permit conditions and/or compliance schedules. Notification of such

transfers shall be made promptly in writing to the State Air Quality Service.

~~(2)~~ The Commissioner may determine that a source is of minor significance and that permits are not required.

(3) Upon the effective date of this subsection, no permit shall be required for any new or modified source when it can be shown to the satisfaction of the Commissioner that:

(A) Emissions will not exceed one pound (1 lb.) per hour for any one criteria pollutant, and

(B) Emissions of toxics will not exceed the de minimis requirements set forth under Regulation 3.8.4(i)(1)(E).

1.4.1 ~~(c)~~ (d) Permit Fees

~~(1)~~ The applicant for a permit to construct, operate or relocate will attach a check or money order in the amount of thirty-five dollars (~~\$35.00~~) as an initial processing fee.

~~(2)~~ After evaluation and prior to issuance of the construction permit, an additional fee will be charged and collected in accordance with the following schedule:

~~(A)~~ Each major source operation - \$300.00

~~(B)~~ Each minor source operation - no fee

~~(C)~~ Relocation fee - no fee

(1) Definitions. For the purposes of section 1.4.1(c):

(A) Major Source - means any new or modified stationary source which directly emits or has the capability at maximum design capacity, and if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant.

(B) Facility - means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

(C) Minor Source - means any source for which a permit is required, but is not a major source.

(D) Permit Renewal - means the process whereby operating permits are extended for another one year term. In no case shall the term

"permit renewal" be construed to allow the imposition of additional permit requirements not otherwise required or authorized by law or regulation.

(E) Relocate - means to move a source from one geographic location to another. The term shall not include de minimis moves within the proximity of the original site, or convenience moves in contiguous areas when such moves are readily observable by inspectors

(F) Annual Permit Renewal Fee Equivalent - means the annual fee assessed on facilities which, because of the date of start-up or construction, are exempt from the requirements to have a permit.

(2) Construction and Operating Permit Fees - New Sources

(A) All new permits, the construction permit application for which received after the effective date of this subsection, will be assessed a fee, which must accompany the application, in accordance with the following schedule:

(i) Major Source

Construction Permit \$2,000

Operating Permit \$1,500

(ii) Minor sources actually emitting 25 tons but less than 100 tons per year of any one pollutant; and minor NSPS sources.

Construction Permit \$1,000

Operating Permit \$250

(iii) Minor sources emitting more than one pound per hour but less than 25 tons per year of any one pollutant.

Construction Permit \$200

Operating Permit \$100

(iv) Relocation Permits \$50

(3) Review to Determine Applicability - New Sources

(A) Upon submittal of a written request, a \$100 determination fee and any relevant information needed to make a permit determination, the Air Quality Service will make a determination whether or not a permit is required. If a determination is made that a permit is required the \$100.00 fee will be credited against the construction and operating permit fees. If it is determined that a permit is not required the \$100.00 fee will be retained by the AQS to cover the cost of making the determination.

(4) Permit Renewal and Renewal Equivalents

(A) Applicability

(i) The Air Quality Service shall annually assess and collect a permit renewal fee or permit renewal fee equivalent from all facilities in the State according to their classification as set forth in Table L. Assessments for existing facilities grandfathered from permit requirements (i.e., permit renewal fee equivalents) shall be made in the same manner and on the same basis as a new facility of the same type (permit renewal fees).

(ii) New facilities shall not be subject to a permit renewal fee until a minimum of one year shall have elapsed from the operating permit application due date.

(B) Facility Classification

(i) Any new facility for which an appropriate classification does not exist shall be assigned a classification and class number in Table I as a permit condition.

(ii) Any existing facility for which an appropriate classification does not exist shall be assigned a facility classification and class number in the same manner as (B)(i) above except that:

(a) Such assignment shall be made in writing, setting forth the reasons why the facility has been assigned to any particular category, and

(b) Any person aggrieved by such assignment shall be entitled to a hearing on the reasonableness of the assignment.

(C) De Minimis

(i) A permit renewal fee or renewal fee equivalent shall not be required, regardless of the requirement to have a permit, provided that total emissions from the facility do not exceed ten (10) tons per year for any one criteria pollutant.

(D) Assessments

(i) Fees established under this section shall be assessed and paid on the basis of facility classification as identified in Table I. The annual fee collected for a facility in any class shall be determined by multiplying the class number for the facility, as determined by Table I, by fifty (\$50) dollars. In no case shall more than one fee per source be assessed unless such source shall constitute two or more facilities as defined herein.

(ii) On or before the first working day of each year, the Air Quality Service will mail fee assessments to all facilities subject to this regulation. Such assessments shall be made pursuant to data contained in the emissions inventory and shall set forth:

(a) The facility classification

(b) The class number assigned to the facility, and

(c) The amount of the fee that is to be remitted to the Service.

(iii) For the calendar year 1988, fee assessments will be mailed on or about the effective date of this regulation and shall be due in the offices of the Air Quality Service 30 days from the date of receipt of the assessment.

(5) Fees will be paid by check or money order (no cash will be accepted made payable to the reviewing agency, e.g., Oklahoma State Department of Health, Air Quality Service. Fees shall be due in the offices of the Air Quality Service 30 days from the date of postmark. A ten (10) calendar-day grace period will be given before any enforcement action will be taken. Upon the expiration of the ten-day grace period, notices of violation (NOV) may be issued and civil penalties, in addition to other remedies, may be sought as authorized under 63 O.S. 1986 Supp. Section 1-1701.1A.

(6) The fee provisions set forth in this regulation shall apply to those permits, renewals and renewal fee equivalents processed by the State Air Quality Service and are not intended to preempt any local fee program.

OAC 252:100-7[1]
Air Quality Council

BRIEFING

Air Quality Council
State Health Department
1000 N.E. 10th Street
Room 314
Oklahoma City, Oklahoma
9:30 a.m., March 17, 1987

Hearing Briefing

Proposed Revision to Regulation 1.4	Ning
Aluminum Services Variance	Drake

Meeting Briefing

Election of Officers	Doughty
Approval of CY '87 Schedule	Parry
Recommendation on Proposed Revision to Regulation 3.4	Marburger
Title III of CERCLA	Doughty
Revision of Regulation 1.5	Dr. Coleman
Air Toxic Emission Inventory Status Report	Dr. Coleman
Alternative Funding Approaches	Drake
Status Report on Enforcement	Drake
Service Chief's Report	Drake

MEETING

Air Quality Council
State Health Department
1000 N.E. 10th Street
Room 314
Oklahoma City, Oklahoma
1:00 p.m., March 17, 1987

Hearing

Proposed Revision to Regulation 1.4	Ning
Aluminum Services Variance	Drake

Meeting

Call to Order	Chairman
Approval of Minutes	Chairman
Election of Officers	Doughty
Approval of CY '87 Meeting Schedule	Parry
Recommendation on Proposed Revision to Regulation 3.4	Marburger
Other Business	Chairman
Next Meeting - May 19, 1987 in Tulsa	
Adjournment	Chairman

Joan K. Leavitt, M.D.
Commissioner

**OKLAHOMA STATE
DEPARTMENT OF HEALTH**



Board of Health

James A. Cox, Jr., M.D.
President
Linda M. Johnson, M.D.
Vice President
Robert D. McCullough, II D.O.
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Wallace Byrd, M.D.
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W. A. "Tate" Taylor

**P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152**

AN EQUAL OPPORTUNITY EMPLOYER

February 27, 1987

MEMORANDUM

To: Air Quality Council
From: John W. Drake, Chief *John Drake*
Air Quality Service
Subject: Alternative Funding Mechanisms

The funding for the Oklahoma air program has diminished over the past several years, however, the workload and cost of operations has not. The AQS established a goal to revise permit fees this fiscal year to offset the eroding State appropriations. Towards this end, the AQS advertised for a hearing on revision to Regulation 1.4.

However, when the staff attempted to draft proposed revisions several questions were presented that could not be readily answered. The first being what "target" should the fee system go for. That is, what amount of monies should the fee system be designed to take in. If the fees were increased under the current system to the maximum amount, the revenue intake would not cover the erosion that has occurred. Further, based on media reports, this erosion in appropriations will continue. The Department, therefore, felt it would be more appropriate to have a discussion of this subject before formal proposals were submitted for hearing.

JWD/pjl

1885

Draft 2/18/87

Proposed Revision to Regulation 1.4
Air Resources Management Permits Required

1.4.1 General Permit Requirements

1.4.1 (a) Scope and Purpose

(1) Pursuant to the Oklahoma Clean Air Act as amended, this regulation is adopted to define Air Resource Management Requirements to protect and enhance Oklahoma Clean Air Resources and assure attainment/maintenance of the ambient air quality through the utilization of a construction/operation permit system.

1.4.1 (b) General Requirements is amended as follows:

1.4.1 (b) General Requirements

(1) No person may commence construction of, or operate any new or existing source, or relocate any source without obtaining a permit from the Air Quality Service.

~~(1)~~ (2) New Sources

~~(1)~~ A. The Air Quality Service shall operate for the State of Oklahoma a dual permitting system for all new stationary/portable facilities/sources to be established in Oklahoma. The first permit is authorization to construct and is issued upon a determination by the Commissioner that the new source is so designed as to assure that the emission limitations of the several control regulations will be met. The second permit is a permit to operate and is issued by the Commissioner upon demonstration that the source was constructed as designed and the facility does meet the requirements of the several control regulations. Issuance of a permit is evidence that the source has met all requirements; however, upon proper showing this can be refuted by the State or a third party and in such a case the permit does not relieve the source of the responsibility to comply with all local, state or federal laws.

~~(2)~~ (3) Existing Sources

A. The Air Quality Service shall operate for the State of Oklahoma an annual permit system for all source operations within Oklahoma. For this section and section 1.4.1 (d) a new source shall become an existing source on the 1st day of March following the third anniversary of the date of issuance of an operating permit.

B. The Air Quality Service will present each permittee with a permit renewal application on or about the first of each calendar year. That application must be completed and returned to the AQS with appropriate fees no later than the last calendar day of the month of March. Failure of a facility to comply with this subpart is to be considered a surrender of the existing permit.

1.4.1 (c) Necessity to Obtain Permit

(1) Permits are required when the addition of a new source, or modification of an existing source, results in a net increase in air contaminant emissions as the Commissioner determines appropriate.

(2) Transfer of a source to a new owner or operator is not considered an increase in emissions and does not require new permits. However, any transfer shall be subject to existing permit conditions and/or compliance schedules. Notification of such transfers shall be made promptly in writing to the State Air Quality Service.

(3) The Commissioner may determine that a source is of minor significance and that permits are not required.

Section 1.4.1 (d) is revised to read as follows:

1.4.1 (d) Permit Fees

~~(1) The applicant for a permit to construct, operate or relocate will attach a check or money order in the amount of thirty-five dollars (\$35.00) as an initial processing fee.~~

~~(2) After evaluation and prior to issuance of the construction permit, an additional fee will be charged and collected in accordance with the following schedule:~~

~~(A) Each major source operation - \$300.00~~

~~(B) Each minor source operation - no fee~~

~~(C) Relocation permit - no fee~~

(1) New Sources. All sources requesting permits as required by subsection 1.4.1(b)(1) will be assessed in accordance with the following fee schedule.

A. Major Source

(i) Construction Permit \$ 500

(ii) Operating Permit \$ 250

(iii) Late Processing \$ 250

(Late processing occurs upon failure to comply with the requirements of Section 1.4.2(a)(1)).

B. Major source subject to PSD NSPS or NESHAPS Requirements

(i) Construction Permit \$ 500

(ii) Operating Permit \$ 500

(iii) Combined Permit \$1250

C. Minor Sources

<u>(i)</u>	<u>Construction Permit</u>	<u>\$250</u>
<u>(ii)</u>	<u>Operating Permit</u>	<u>\$125</u>
<u>(iii)</u>	<u>Late Processing</u>	<u>\$125</u>

D. Minor Sources subject to NSPS or NESHAPS

<u>(i)</u>	<u>Construction Permit</u>	<u>\$250</u>
<u>(ii)</u>	<u>Operating Permit</u>	<u>\$250</u>
<u>(iii)</u>	<u>Late Processing</u>	<u>\$125</u>

2. Existing sources - All existing source operations shall be assessed an annual fee of \$50 per source in accordance with the provisions of subsection 1.4.1(b)(3).

3. Permit to relocate existing sources within the state shall be assessed a \$50.00 fee.

4. Asbestos renovation/demolition projects as required in Air Pollution Control Regulation 3.8 Control of Emission of Hazardous and Toxic Air Contaminants will be assessed a processing fee of \$100 for each source.

~~(3)~~ 5. Fees will be paid by check or money order (no cash will be accepted) made payable to the reviewing agency, e.g., Oklahoma State Department of Health, Air Quality Service.

Minutes
Air Quality Council
Hearing and Meeting
March 17, 1987

Council Members

William B. Breisch, Chairman	Present
William H. Skeith, Vice Chairman	Present
Transportation Representative Position	Vacant
Larry Canter, Ph.D.	Absent
John Pettis	Absent
Charles Y. Pyle	Present
James F. Quinlan	Present

Staff

John W. Drake, Chief
Larry Byrum
Nancy Pees Coleman, Ph.D.
D. G. Doughty
Grant Marburger
John R. Parry
Glenn Diehl

Guests Present
(see attached list)

The public hearing for considering the proposed revisions to Regulation 1.4 was announced in the February 2, 1987 issue of The Oklahoma Register as required by EPA regulations and also published in newspapers and media throughout the State.

Public Hearing

Proposed Revision to Regulation 1.4

The testimony offered regarding these proposed revisions was transcribed by a Court Reporter. The official transcripts are available for review at Air Quality Service's office during normal working hours.

Aluminum Services Variance

Grant Marburger, Director, Permits and Enforcement Division, presented staff position regarding this variance (copy of his statement is attachment D). Mr. Bill Bean, representing Aluminum Services, was present to answer Council queries. Mr. Breisch requested comments from all present.

Mr. Skeith moved that a variance from Regulation 3.1 and 3.3 be granted to Aluminum Services for 12 months. Mr. Pyle seconded. Council voted as follows: Mr. Quinlan - aye; Mr. Skeith - aye; Mr. Pyle - aye; and Mr. Breisch - aye.

Mr. Breisch closed the hearing.

Public Meeting

Notice of the public meeting was forwarded to the Secretary of State's Office and prior to the meeting news releases were sent to newspapers giving time, date, place and content of the meeting. Agendas were posted at the basement entrance, first floor entrance and door of the meeting room.

Call to Order

The meeting was called to order by Mr. Breisch.

Approval of Minutes

Mr. Quinlan moved to approve the September 16, 1986 minutes as written. Mr. Pyle seconded. All Council members voted aye.

Election of Officers

Mr. Skeith moved that the incumbent slate of officers be reelected - that is, Mr. Breisch continue as Chairman and Mr. Skeith as Vice Chairman. Mr. Quinlan seconded. All Council members voted aye.

Approval of CY '87 Schedule

John Parry, staff, stated that the attached Schedule of Council Meetings (Attachment II) was forwarded to the Secretary of State's Office in December, 1986, as required by the Oklahoma Open Meeting Law. Council made no revisions to the schedule and Mr. Quinlan moved to approve the 1987 Council Meeting Schedule. Mr. Skeith seconded and all Council members present voted aye.

Recommendation on Proposed Revisions to Regulation 3.4

Grant Marburger, staff, presented the changes resulting from the public hearing held on September 16, 1986. A copy of his comments delineating these changes is attached to these minutes (attachment III). After considerable discussion by Council, Mr. Skeith moved to approve the proposed revisions to Regulation 3.4 and forward it to the Board of Health for their consideration. Mr. Quinlan seconded. Council voted as follows: Mr. Quinlan - aye; Mr. Skeith - aye; Mr. Pyle - aye; and Mr. Breisch - aye. A copy of revised Regulation 3.4 as will be presented to the Board of Health is attached to these minutes (attachment IV).

Other Business

Mr. Pyle expressed Council's desire to recognize Mr. Jess Crook's many years of faithful service to the citizens of Oklahoma as a member of the Council, representing the Transportation Industry. Mr. Drake stated that staff will have the proper recognition prepared for Council to present to Mr. Crook at its May meeting in Tulsa.

Mr. Breisch requested that staff make every effort to secure Federal approval of the Tulsa ozone SIP.

Next Meeting - May 19, 1987 - Tulsa

Approved. Briefing at 9:30 a.m. and Meeting at 1:00 p.m. at the Tulsa City-County Health Department.

Adjourn

Meeting adjourned by acclamation.

APPROVED:

CHAIRMAN

DATE

CHIEF

DATE

AIR QUALITY COUNCIL
PUBLIC MEETING
MARCH 17, 1987

NAME	REPRESENTING	ADDRESS	ORAL STATEMENT
BW Craft	SHEFFIELD STEEL	Box 218, SAND SPRINGS ⁷⁴⁰⁶³	NO
Anna Clapper	OK Coalition for Clean Air	12104 Camelot Pl. OKC	NO
David Branecky	OG&E	P.O. Box 321 OKC	NO
Curt Goeller	OCCHD		NO
Royce Bentley	Public Service Co. of OKLA	P.O. Box 201, TULSA 74102	NO
Tom HENDON	U.S. REDUCTIONS CO	9200 CAL. AVE, MUNSTER	NO
Bill Bean	"	"	"
GILL Luton	Ft. Howard Paper Co	P.O. Box 1712 Muskogee	NO
Dewey White	Western Francis	P.O. Box 429 Anadarko	NO

Meeting

Air Quality Council
Auditorium
Tulsa City-County Health Department
4616 East 15th
Tulsa, Oklahoma
1:00 p.m., May 19, 1987

Hearing

Proposed Revision to Regulation 1.5	Doughty
Proposed Revision to Regulation 1.4	Doughty

Meeting

Call to Order	Chairman
Approval of Minutes	Chairman
Recognition for Mr. Jess Crook	Chairman
Recommended Action on Proposed Revision to Regulation 1.4	Ning
Other Business	Chairman
Next Meeting - July 21, 1987 State Department of Health, Oklahoma City	
Adjournment	Chairman

Joan K. Leavitt, M.D.
Commissioner

OKLAHOMA STATE
DEPARTMENT OF HEALTH



P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152

AN EQUAL OPPORTUNITY EMPLOYER

Board of Health

James A. Cox, Jr., M.D. President	Wallace Byrd, M.D. John B. Carmichael, D.D.S.
Linda M. Johnson, M.D. Vice President	Ernest D. Martin Walter Scott Mason, III
Robert D. McCullough, II D.O. Secretary/Treasurer	Edwin L. Pointer, M.D. W. A. "Tate" Taylor

April 30, 1987

MEMORANDUM

To: Air Quality Council

From: Alwin Ning, Head
Analysis Section

Subject: Visibility SIP

In view of EPA's disapproval of Oklahoma's SIP on the protection of visibility in the Wichita Mountains Wilderness Area the staff is attempting to remedy the deficiency by adding some language in our existing permit regulation. This revision relates to the following items:

1. Adding **visibility** as a distinctive monitoring parameter distinguished from other pollutants;
2. Specific language empowering the Commissioner to require visibility monitoring;
3. Notification to the Federal Land Manager (FLM) prior to the public notice of pre-construction hearing and including FLM's comment for public review.

The staff has discussed this amendment with EPA and believes that in conjunction with some modifications in the SIP narrative, these changes should suffice to meet EPA's requirement for approval.

after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in 1.4.2(b)(1)(D)(ii), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

Section 1.4.2 (b)(1) is amended to add a new Paragraph G as follows:

(G) Emission limitations and emission standards means a requirement which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction.

1.4.2 (c) Permit Applications

(1) Required applications shall be made on a form to be supplied by the Commissioner and signed by the applicant. The signature of the applicant shall constitute an agreement that the application and all supplemental data is true and correct and that the applicant is responsible for assuring construction in accordance with the application and operation in accordance with all rules and regulations.

(2) Attached to the application form and considered a part thereof will be supplemental data as prescribed in application instructions provided by the Commissioner. This supplemental data shall include, but is not limited to, site information, process description, emission data, ambient air modeling data, etc., as specified in this regulation and the aforementioned instructions.

(3) The application and supplemental data will be provided three copies to the Air Quality Service or its delegatee for evaluation.

1.4.2 (d) Action on Applications

(1) The applicant will be notified of any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date all required information for a complete application has been received. The Commissioner will evaluate the permit application based on information provided by the applicant and other available information, and make a determination whether the application will be approved, approved with condition or disapproved. No permit to construct or modify will be issued unless the applicant demonstrates to the satisfaction of the Commissioner that the new source has complied with all pertinent requirements and the proposed source conforms to the general intent of applicable laws and regulations.

(2) For permit applications that are subject to the requirements of Section 1.4.4, the Commissioner will make a determination whether the application will be approved, approved with condition or disapproved within 180 days after the date that all required information for a complete application has been received.

1901

(C) A temporary increase of sulfur dioxide or particulate matter by order or authorized variance from any source.

1.4.4 (e) Control Technology

(1) A new source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein for each regulated pollutant that it would have the potential to emit in significant amounts).

(2) A major modification must demonstrate that the control technology to be applied is the best that is available for each regulated pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(3) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.

(4) For phased construction projects the determination of best available control technology shall be reviewed and modified at the discretion of the Commissioner at a reasonable time but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of best available control technology.

Section 1.4.4(f) is amended to read as follows:

1.4.4 (f) Air Quality Impact Evaluation

(1) Any application for a permit shall contain, as the Commissioner determines appropriate, an evaluation of ambient air quality in the area that the source or modification would affect for each of the following pollutants:

(A) For a new source, each regulated pollutant that it would have the potential to emit in a significant amount;

(B) For a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(2) For visibility and any such pollutant, other than volatile organic compounds, for which an ambient air standard does exist, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Commissioner determines is necessary to assess the ambient air quality for that pollutant in that area.

(3) The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or

contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Commissioner.

(4) The required monitoring data shall have been gathered for a time period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data collected for a time period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Commissioner to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment.

(5) For any application which becomes complete except as to the monitoring requirements of 1.4.4(f) (2)-(4), between June 8, 1981 and February 9, 1982, the data that 1.4.4(f) (2) and (3) require shall have been gathered over the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(A) If the source or modification would have been major for that pollutant under Federal 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(B) If the Commissioner determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period, not to be less than four months, the data that 1.4.4(f) (2) and (3) require shall have been gathered over that shorter period.

(C) If the monitoring data would relate exclusively to ozone and would not have been required under Federal 40 CFR 52.21 as in effect on June 19, 1978, the Commissioner may waive the otherwise applicable requirements of this subsection 1.4.4(f) (5) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(6) The application for a source or modification of volatile organic compounds which satisfies all conditions of 1.4.5(e) may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under 1.4.4(f).

(7) Post-construction monitoring. The applicant for a permit for a new source or modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Commissioner determines necessary to determine the effect its emissions may have, or are having, on air quality in any area.

(8) The operation of monitoring stations for any air quality monitoring required under Section 1.4.4 shall meet the requirements of 40 CFR 58 Appendix B.

(9) Air Quality Models

(A) Any air quality dispersion modeling that is required under Section 1.4.4 for estimates of ambient concentrations shall be based on the applicable air quality models, data basis and other requirements specified in the Guidelines on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.

(B) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Commissioner. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models.

(10) Upon request of the Commissioner the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification.

(11) The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Commissioner may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Commissioner deems necessary and appropriate.

Section 1.4.4 (f) is amended to read as follows:

1.4.4 (g) Source Impacting Class I Areas

(1) Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts.

(2) The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Commissioner shall notify the appropriate Federal Land Manager of the receipt of any such analysis and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Commissioner provided that the analysis is filed with the Air Quality Service within 30 days of receipt of the application by the Land Manager. Where the Commissioner finds that such an analysis does not demonstrate to the satisfaction of the Commissioner that an adverse impact on visibility will result in the Federal Class I area, the Commissioner will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and

sufficient information, by a federal land manager, the Commissioner may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be exceeded.

1.4.4 (h) Innovative Control Technology

(1) An applicant for a permit for a proposed major source or modification may request the Commissioner in writing to approve a system of innovative control technology.

(2) The Commissioner may determine that the innovative control technology is permissible if:

(A) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(B) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for best available control technology under 1.4.4(e) by a date specified by the Commissioner. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

(C) The source or modification would meet the requirements equivalent to those in 1.4.2 and 1.4.4(e) based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the Commissioner.

(D) The source or modification would not, before the date specified, cause or contribute to any violation of the applicable ambient air standards, or impact any Class I area or area where an applicable increment is known to be violated.

(E) All other applicable requirements including those for public review have been met.

(3) The Commissioner shall withdraw approval to employ a system of innovative control technology made under this section 1.4.4(h), if:

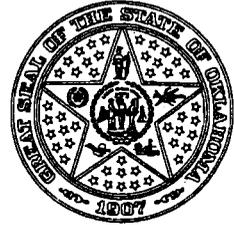
(A) The proposed system fails by the specified date to achieve the required continuous reduction rate; or,

(B) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(C) The Commissioner decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

Joan K. Leavitt, M.D.
Commissioner

OKLAHOMA STATE
DEPARTMENT OF HEALTH



P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152

AN EQUAL OPPORTUNITY EMPLOYER

Board of Health

James A. Cox, Jr., M.D.
President

Linda M. Johnson, M.D.
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Secretary/Treasurer

Wallace Byrd, M.D.

John B. Carmichael, D.D.S.

Ernest D. Martin

Walter Scott Mason, III

Edwin L. Pointer, M.D.

W. A. "Tate" Taylor

April 30, 1987

MEMORANDUM

To: Air Quality Council

From: D. G. Doughty *DGD*

Subject: Proposed Revision to Regulation 1.4 Permit Fees

Attached is a proposed amendment to Regulation 1.4 which would change the existing permit fee structure. Major changes are as follows:

1. All sources (new and existing) would be required to obtain a permit;
2. Permit renewal and fee payments would be required on a yearly basis;
3. Asbestos reno/demo projects would require permits and payment of a \$100.00 fee;
4. Fees are assessed in proportion to effort required for review and inspection and subject to statutory limitations set forth under current law.

DGD/pjl
Attachment

1967

after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in 1.4.2(b)(1)(D)(ii), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

Section 1.4.2 (b)(1) is amended to add a new Paragraph G as follows:

(G) Emission limitations and emission standards means a requirement which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction.

1.4.2 (c) Permit Applications

(1) Required applications shall be made on a form to be supplied by the Commissioner and signed by the applicant. The signature of the applicant shall constitute an agreement that the application and all supplemental data is true and correct and that the applicant is responsible for assuring construction in accordance with the application and operation in accordance with all rules and regulations.

(2) Attached to the application form and considered a part thereof will be supplemental data as prescribed in application instructions provided by the Commissioner. This supplemental data shall include, but is not limited to, site information, process description, emission data, ambient air modeling data, etc., as specified in this regulation and the aforementioned instructions.

(3) The application and supplemental data will be provided three copies to the Air Quality Service or its delegatee for evaluation.

1.4.2 (d) Action on Applications

(1) The applicant will be notified of any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date all required information for a complete application has been received. The Commissioner will evaluate the permit application based on information provided by the applicant and other available information, and make a determination whether the application will be approved, approved with condition or disapproved. No permit to construct or modify will be issued unless the applicant demonstrates to the satisfaction of the Commissioner that the new source has complied with all pertinent requirements and the proposed source conforms to the general intent of applicable laws and regulations.

(2) For permit applications that are subject to the requirements of Section 1.4.4, the Commissioner will make a determination whether the application will be approved, approved with condition or disapproved within 180 days after the date that all required information for a complete application has been received.

(C) A temporary increase of sulfur dioxide or particulate matter by order or authorized variance from any source.

1.4.4 (e) Control Technology

(1) A new source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein for each regulated pollutant that it would have the potential to emit in significant amounts).

(2) A major modification must demonstrate that the control technology to be applied is the best that is available for each regulated pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(3) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.

(4) For phased construction projects the determination of best available control technology shall be reviewed and modified at the discretion of the Commissioner at a reasonable time but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of best available control technology.

Section 1.4.4(f) is amended to read as follows:

1.4.4 (f) Air Quality Impact Evaluation

(1) Any application for a permit shall contain, as the Commissioner determines appropriate, an evaluation of ambient air quality in the area that the source or modification would affect for each of the following pollutants:

(A) For a new source, each regulated pollutant that it would have the potential to emit in a significant amount;

(B) For a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(2) For visibility and any such pollutant, other than volatile organic compounds, for which an ambient air standard does exist, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Commissioner determines is necessary to assess the ambient air quality for that pollutant in that area.

(3) The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or

contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Commissioner.

(4) The required monitoring data shall have been gathered for a time period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data collected for a time period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Commissioner to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment.

(5) For any application which becomes complete except as to the monitoring requirements of 1.4.4(f) (2)-(4), between June 8, 1981 and February 9, 1982, the data that 1.4.4(f) (2) and (3) require shall have been gathered over the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(A) If the source or modification would have been major for that pollutant under Federal 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(B) If the Commissioner determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period, not to be less than four months, the data that 1.4.4(f) (2) and (3) require shall have been gathered over that shorter period.

(C) If the monitoring data would relate exclusively to ozone and would not have been required under Federal 40 CFR 52.21 as in effect on June 19, 1978, the Commissioner may waive the otherwise applicable requirements of this subsection 1.4.4(f) (5) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(6) The application for a source or modification of volatile organic compounds which satisfies all conditions of 1.4.5(e) may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under 1.4.4(f).

(7) Post-construction monitoring. The applicant for a permit for a new source or modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Commissioner determines necessary to determine the effect its emissions may have, or are having, on air quality in any area.

(8) The operation of monitoring stations for any air quality monitoring required under Section 1.4.4 shall meet the requirements of 40 CFR 58 Appendix B.

(9) Air Quality Models

(A) Any air quality dispersion modeling that is required under Section 1.4.4 for estimates of ambient concentrations shall be based on the applicable air quality models, data basis and other requirements specified in the Guidelines on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.

(B) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Commissioner. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models.

(10) Upon request of the Commissioner the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification.

(11) The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Commissioner may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Commissioner deems necessary and appropriate.

Section 1.4.4 (f) is amended to read as follows:

1.4.4 (g) Source Impacting Class I Areas

(1) Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts.

(2) The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Commissioner shall notify the appropriate Federal Land Manager of the receipt of any such analysis and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Commissioner provided that the analysis is filed with the Air Quality Service within 30 days of receipt of the application by the Land Manager. Where the Commissioner finds that such an analysis does not demonstrate to the satisfaction of the Commissioner that an adverse impact on visibility will result in the Federal Class I area, the Commissioner will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and

sufficient information, by a federal land manager, the Commissioner may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be exceeded.

(3) Definitions

(A) Adverse impact on visibility means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the Air Quality Service on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

(B) Natural conditions mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration.

(C) Visibility impairment means any humanly perceptible reduction in visibility (visual range, contrast and coloration) from that which would have existed under natural conditions.

(D) Federal land manager means the Secretary of the department with authority over the Federal Class I area or his representative.

(E) Installation means an identifiable piece of process equipment.

1.4.4 (h) Innovative Control Technology

(1) An applicant for a permit for a proposed major source or modification may request the Commissioner in writing to approve a system of innovative control technology.

(2) The Commissioner may determine that the innovative control technology is permissible if:

(A) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(B) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for best available control technology under 1.4.4(e) by a date specified by the Commissioner. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

Draft

Minutes
Air Quality Council
Hearing and Meeting
May 19, 1987

Council Members

William B. Breisch, Chairman	- present
William H. Skeith, Vice Chairman	- absent
Transportation Representative Position	- vacant
Larry Canter, Ph.D.	- present
John Pettis	- absent
Charles Y. Pyle	- present
James F. Quinlan	- present

Staff

Larry Byrum, Act. Chief
Nancy P. Coleman, Ph.D.
D. G. Doughty
Alwin Ning
John Parry

Guests Present
(see attached list)

The public hearing for considering the proposed revisions to Regulations 1.4 and 1.5 was announced in the April 1, 1987 issue of The Oklahoma Register as required by EPA regulations and also published in newspapers and media throughout the State.

Public Hearing

Proposed Revisions to Regulations 1.5 and 1.4

The testimony offered regarding these proposed revisions was recorded and transcribed by Air Quality Service staff. These recordings and transcripts are available for review at Air Quality Service's office during normal working hours.

Mr. Breisch closed the hearing.

Public Meeting

Notice of the public meeting was forwarded to the Secretary of State's Office and prior to the meeting news releases were sent to newspapers giving time, date, place and content of the meeting. Agendas were posted on the entrances and the auditorium doors at the Tulsa City-County Health Department. They were also posted at the Air Quality Service office and the doors to the State Health Department parking garage.

Call to Order

The meeting was called to order by Mr. Breisch.

Approval of Minutes

Dr. Canter moved to approve the March 17, 1987 minutes as written. Mr. Pyle seconded. All Council members voted aye.

Recognition for Mr. Jess Crook

Mr. Breisch requested that Mr. Crook come to the Council platform for presentation of awards honoring his 13 years of service to the citizens of Oklahoma as a Council member. Dr. Jerry Cleveland, assistant director, TCCHD presented a certificate of appreciation from the State Health Department. Mr. Breisch presented three awards - a resolution from the Air Quality Council; a plaque from the Council and staff for services rendered; and a framed letter of appreciation from the Governor.

After a brief appreciation speech from Mr. Crook, he received a standing ovation as he left the auditorium.

Recommended Action on Proposed Revision to Regulation 1.4

Alwin Ning, staff, presented to Council the changes deemed necessary to the permit regulation to obtain EPA's approval of the visibility SIP. This revision relates to the following items: 1. adding "visibility" as a distinctive monitoring parameter distinguished from other pollutants; 2. specific language empowering the Commissioner to require visibility monitoring; and 3. notification to the Federal Land Manager (FLM) prior to the public notice of pre-construction hearing and including FLM's comment for public review.

Mr. Pyle moved to approve the proposed visibility revisions to Regulation 1.4 and forward it to the Board of Health for their consideration. Dr. Canter seconded. All Council members present voted aye. A copy of revised Regulation 1.4 as will be presented to the Board of Health is attached to these minutes.

AQC
Recommended
05/19/87

Other Business

There was none.

Next Meeting - July 21, 1987

Approved. Briefing at 9:30 a.m. and meeting at 1:00 p.m.

Adjourn

Meeting adjourned by acclamation.

APPROVED: _____

(Chairman)

(Date)

(Chief)

(Date)

AIR QUALITY COUNCIL
PUBLIC HEARING AND MEETING
MAY 19, 1987

NAME	REPRESENTING	ADDRESS	ORAL STATEMENT
Wayne Workman	Western Farmers Elec Coop	PO Box 429 Anadarko, OK	No
Ray Russell	Sinclair Oil Corp	PO Box 970 Tulsa, OK 74101	No
Patrick Binkley	Total Petroleum, Inc	PO Box 188 Ardmore, OK 73401	NO
m Pollard	OG+E	PO Box 321 OKC	Yes
David Braneky	"	"	No
B.W. Proft	SHEFFIELD STEEL	P.O. Bx 288 Sad Spring	No
Ray Hedrick	PSO	P.O. Box 201 Tulsa	No
Mike Rast	Weyerhaeuser Company	Hwy. 70 West, Wagon, OK.	No
William R Clarke	SUN RAM	PO BOX 2039 74107	No
R.H. Bentley	PSO	POB 201 TULSA, OK 74102	Yes
F.W. Mulloy	Phillips Petroleum	12 A 3 Phillips Bldg Partlesville 74004	NO
G. CLEVELAND	TCCND	—	YES
MATT ROBINSON	Assoc. Motor Carriers	PO Box 14607 OKC, OK 73102	
Scott Dupy	Assoc. Motor Carriers	P.O. Box 14607 OKC 73102	NO
PAUL SHEFFERT	DOKES R	PO BOX 677 73111	NO
Dave Bradshaw	Agnico Chemical	P.O. Box 456 Catoosa, OK 74015	Yes
JOHN RAMSEY	BECKER CORP	PO Box 1050 EL DORADO KS 67042	NO
Bob Phillips	OKLA OIL MARKETERS	5115 N. WESTERN OKC.	NO.
S. Down	Tiles		
MANK POWERS	KRMG		
Kay Todd	Ames Lung Assoc.	5553 S Road	NO
McCooney	Stoughton Transport	2222 S 57th Ave.	NO
John M. ...	Dun Rest. Tulsa	1700 ...	NO

MEETING

Air Quality Council
State Health Department
1000 N.E. 10th Street
Room 314
Oklahoma City, Oklahoma
1:00 p.m., July 21, 1987

Hearing

Proposed Revision to Regulation 1.4 Permit Fees	Doughty
Proposed Revision to Regulation 1.5 Excessive Emissions	Dr. Coleman
Proposed Variance 87-2 Weyerhaeuser Valliant	Drake

Meeting

Call to Order	Chairman
Approval of Minutes	Chairman
Other Business	Chairman
Next Meeting - 9/15/87 in Tulsa	Chairman
Adjournment	Chairman

BRIEFING

Air Quality Council
State Department of Health
1000 N.E. 10th Street
Room 314
Oklahoma City, Oklahoma
9:30 a.m., July 21, 1987

Hearing Briefing

Proposed Revision to Regulation 1.4 (Permit Fees) Continuation	Doughty
Proposed Revision to Regulation 1.5 (Excess Emission Reports)	Dr. Coleman
Proposed Variance 87-2 Weyerhaeuser Valliant	Drake

Meeting Briefing

PM ₁₀ Ambient Standard	Byrum
Mid-Year Report	Drake
Clean Air Act Revision Activities	Byrum/Randolph
Service Chief's Report	

Joan K. Leavitt, M.D.
Commissioner

OKLAHOMA STATE
DEPARTMENT OF HEALTH



Board of Health

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W. A. "Tate" Taylor

P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152

AN EQUAL OPPORTUNITY EMPLOYER

July 1, 1987

MEMORANDUM

To: Air Quality Council
From: D. G. Doughty *DGD*
Subject: Revisions to Regulation 1.4

*Define
de minimis
② GAP on
renewal fee*

Attached is the staff's proposed revision to Regulation 1.4 resulting from the May 19, 1987 public hearing.

The first major change (section 1.4.1(b)(5)) makes it clear that only permitted sources would be subject to the permit renewal requirement. Grandfathered facilities must pay comparable fees, but no permit will be required (1.4.1(d)(1)).

The second major change was to add a definition section (1.4.1(e)(1)) to further clarify the proposal. For example, the definition of "permit renewal" has been added. This definition makes it clear that renewal entails the additional burden of fee payment only, not to include any added permit restrictions.

Thirdly, for applications received after the effective date, permit fees were restructured to require \$2,000 for new major source construction and \$750 for new minor source construction. No fees will be assessed facilities for operating permits initially, but they will be required to pay an annual renewal. Renewals and annual renewal equivalents would be assessed at the rate of \$65 per source operation.

Lastly, asbestos demolition/renovation projects would be assessed \$100 per year for each project. Separate notifications would constitute separate projects.

As the Council may recall, the staff was also requested to prepare and send out special notices to some of the smaller operations which may not be aware of this proposal. The staff prepared and mailed some 204 of these special notices on June 12. All regulated sources, as reflected by the Service's records, have thus been notified directly; many have requested copies of the proposal as of this writing and may be expected to submit comments. A copy of this notice is attached (attachment #2).

Attachment no. 3 includes a summary of public comments and the staff response; attachments nos. 4 and 5 include, respectively, permit fee information obtained from surrounding states and several examples of affected facilities.

DGD/pjl

*Prepared by
DGD & pjl
Staff for AQP.*

*Recommend Council
Take Action to approve
- DGD/pjl B. D. H. 1923*

Draft 6/29/87

Proposed Revision to Regulation 1.4
Air Resources Management Permits Required

1.4.1 (a) Scope and Purpose

(1) Pursuant to the Oklahoma Clean Air Act as amended, this regulation is adopted to define Air Resource Management Requirements to protect and enhance Oklahoma Clean Air Resources and assure attainment/maintenance of the ambient air quality through the utilization of a construction/operation permit system.

1.4.1 (b) General Requirements

(1) Except as provided herein, no person may commence construction of, or operate any new source, or relocate any source without obtaining a permit from the Air Quality Service.

~~(1)~~(2) Permits are required when the addition of a new source, or modification of an existing source, results in a net increase in air contaminant emissions as the Commissioner determines appropriate.

~~(2)~~(3) Transfer of a source to a new owner or operator is not considered an increase in emissions and does not require new permits. However, any transfer shall be subject to existing permit conditions and/or compliance schedules. Notification of such transfers shall be made promptly in writing to the State Air Quality Service.

~~(3)~~(4) The Commissioner may determine that a source is of minor significance and that permits are not required.

(5) Upon the effective date of this subsection, all operating permits, including those issued prior to the effective date, shall be for the term of one year, renewable on the first working day of February of each calendar year. Fee assessments shall include the year 1988.

(6) Any source for which the permit renewal fee or the annual permit renewal fee equivalent has not been received in the offices of the Air Quality Services by close of business on the first working day of March, shall be deemed to be operating without a permit.

1.4.1 (c)~~(1)~~ New Sources

(1) The Air Quality Service shall operate for the State of Oklahoma a dual permitting system for all new stationary/portable facilities/sources to be established in Oklahoma. The first permit is authorization to construct and is issued upon a determination by the Commissioner that the new source is so designed as to assure that the emission limitations of the several control regulations will be met.

The second permit is a permit to operate and is issued by the Commissioner upon demonstration the source was constructed as designed and the facility does meet the requirements of the several control regulations. Issuance of a permit is evidence that the source has met all requirements; however, upon proper showing this can be refuted by the State or a third party and in such a case the permit does not relieve the source of the responsibility to comply with all local, state or federal laws.

(2) Operating permits, issued subsequent to construction permit applications received on or after January 1, 1988, shall be subject to permit renewal fee payment on the first day of January following the first anniversary of the operating permit application due date.

1.4.1 (d) Existing Sources

(1) Any facility exempt from the requirement to obtain a permit based on date of construction or start-up shall be subject to an annual permit renewal fee equivalent. Permit renewal fee equivalents shall be equal to comparable permit renewal fees and shall be processed in the same manner and on the same basis as provided herein.

1.4.1 (e) Necessity to Obtain Permit

~~(1) Permits are required when the addition of a new source, or modification of an existing source, results in a net increase in air contaminant emissions as the Commissioner determines appropriate.~~

~~(2) Transfer of a source to a new owner or operator is not considered an increase in emissions and does not require new permits.~~

~~(3) The Commissioner may determine that a source is of minor significance and that permits are not required.~~

1.4.1 ~~(d)~~ (e) Permit Fees

(1) Definitions. For the purposes of section 1.4.1(c):

Major Source - shall have the same meaning as set forth in subsection 1.4.2(a)(2).

Minor Source - means any source for which a permit is required, but is not a major source.

Permit Renewal - means the yearly process of assessing and collecting permit renewal fees. In no case shall such term be construed to require any formal permit review.

Relocate - means to move a source from one geographical location to another. The term shall not include de minimis moves within the proximity of the original site, or convenience moves to contiguous areas when such moves are readily observable by inspectors.

Source Operation - means the last operation preceding the emission of an air contaminant, which operation (a) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and (b) is not a pollution abatement operation. The term shall not be construed to include a source operation which is of minor significance and would not be permittable if it were a new source.

Annual Permit Renewal Fee Equivalent - means the annual fee assessed on source operations at facilities which, because of the date of start-up or construction, are exempt from the requirements to have a permit.

(2) All construction permits, the application for which is received after the effective date of this subsection, will be assessed a fee, which must accompany the application, in accordance with the following schedule:

(A) Major Source

- | | |
|--------------------------------|----------------|
| <u>(i) Construction permit</u> | <u>\$2,000</u> |
| <u>(ii) Operating permit</u> | <u>No fee</u> |

(B) Minor Source

- | | |
|--------------------------------|---------------|
| <u>(i) Construction permit</u> | <u>\$750</u> |
| <u>(ii) Operating permit</u> | <u>No fee</u> |

(3) A fee for the annual renewal of operating permits shall be assessed at the rate of sixty-five dollars (\$65) per source operation and payable in accordance with the provisions of subsection 1.4.1(b). Annual permit renewal fee equivalents shall be assessed at the same rate and be payable in the same manner.

(4) Except for the calendar year 1988, the Air Quality Service will, on or before the first working day of January of each year, present persons subject to annual permit renewal fees and annual permit renewal fee equivalents with a fee assessment. Fee assessments for 1988 renewals shall be presented on or about the effective date of this part.

(5) Permits to locate existing sources within the state shall be assessed a fifty dollar (\$50) fee payable upon application.

(6) Asbestos renovation/demolition projects as required under Air Pollution Control Regulation 3.8, Control of Emission of Hazardous and Toxic Air Contaminants, shall be assessed a one hundred dollar (\$100) permit fee per project. For the purposes of this subsection, the term "project" shall be defined to mean any renovation/demolition operation at any one facility submitted under separate notification. Any project not completed within one year from the date of notification shall pay a permit renewal fee of \$100 per year or part of a year until such time as the project is completed.

(7) Fees will be paid by check or money order (no cash will be accepted) made payable to the reviewing agency, e.g., Oklahoma State Department of Health, Air Quality Service.

(8) The fee provisions set forth in this regulation shall apply to those permits, renewals and renewal fee equivalents processed by the State Air Quality Service and are not intended to preempt any local fee program.

1.4.2 Construction Permit

1.4.2 (a) Standards Required

(1) No person shall cause or allow the construction or modification of any source without first obtaining an authority to construct or modify from the Commissioner as to comply with all applicable air pollution rules and regulations, and not to exceed ambient air quality standards or applicable federal new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS), Sections 111 and 112 of the Federal Clean Air Act.

(2) Major Sources. For purposes of this Section 1.4.2 (a), a major source is defined as any new or modified stationary source which directly emits or has the capability at maximum design capacity and, if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant. A major source must demonstrate that the control technology to be applied is the best that is available for each pollutant controlled under air pollution control regulations if such pollutant would cause the source to be defined as a major source. This determination will be made by the Commissioner on a case by case basis taking into account energy, environmental, costs and economic impacts of alternative control systems.

(3) Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the Commissioner and accomplished by the applicant.

(4) If required by the Commissioner, the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing facilities.

1.4.2 (b) Stack Height Limitation

(1) Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques as defined in the following:

(A) Stack means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

(B) A stack in existence means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable

Minutes
Air Quality Council
Hearing and Meeting
July 21, 1987

Council Members

William B. Breisch, Chairman	- Present
William H. Skeith, Vice Chairman	- Present
Transportation Representative Position	- Vacant
Larry Canter, Ph.D.	- Absent
John Pettis	- Present
Charles Y. Pyle	- Present
James F. Quinlan	- Present

Staff

John W. Drake, Chief
Larry Byrum
Nancy P. Coleman, Ph.D.
D. G. Doughty
Grant Marburger
John R. Parry

Guests Present
(see attached list)

The public hearing for considering the proposed revisions to Regulations 1.4 and 1.5 was announced in the June 1, 1987 issue of The Oklahoma Register as required by EPA regulations and also published in newspapers and media throughout the State.

Public Hearing

Proposed Revision to Regulation 1.4 - Permit Fees

Proposed Revision to Regulation 1.5 - Excessive Emissions

The testimony offered regarding these proposed revisions was transcribed by a Court Reporter. The official transcript is available for review at Air Quality Service's office during normal working hours.

Proposed Weyerhaeuser Valliant Variance 87-2

John Drake acted as protocol officer for this proposed variance from Regulations 3.1, 2.4 and, also, presented staff position.

Air Quality staff received the petition for variance on June 29, 1987 and, after a cursory review, decided further study and understanding was necessary, suggesting a September presentation to Council by Weyerhaeuser Company representatives. Staff met with WeyCo, a fair explanation of the problem was presented and they expressed eagerness to be placed on the July Council agenda.

Currently, the company is allowed to emit .185# of particulates per million BTUs of heat input. They request this limit be revised to a limit of 1.0# of particulates per million BTUs heat input. They request this allowance for a one year time period until July 1988. During this time, the company will conduct a study to determine cause of excess mechanical failures and develop a corrective action plan to be implemented during 1988-89 time frame.

The electrostatic precipitator has two sides and 1/2 flue gas passes through each side. Each side has four units. Each unit removes 90 percent of the particulate in the gas stream. When an electrical wire inside a unit breaks, then the unit must be deactivated. When a unit is deactivated, the efficiency is cut. When this occurs, the source operation is not in compliance with the control regulation. To repair a malfunctioning unit, the entire side must be deactivated. To do this the company cuts the source operation to half of normal, diverts all flue gas through the remaining up side, thus staying in compliance. This procedure requires about eight hours.

Jim Odendahl and Bill Dawson, Weyerhaeuser Co., presented the operational and economic problems that are occurring at the plant. As the bottom line, WeyCo is requesting help to allow scheduling of repairs, try to keep a cost-effective operation and time to engineer an effective one-year solution to the breakdown problem.

Mrs. Anna Clapper, Chairperson of the Oklahoma Coalition for Clean Air, was concerned about the increase in particulates in the air if WeyCo was allowed to operate at variance for one year. It was her recommendation that Council keep in mind the health effects of increased air pollution and structure their action to keep careful control of WeyCo emissions during the period of study and correction. (A copy of Mrs. Clapper's statement is attached to these minutes).

Mr. Drake stated that staff is very concerned about the prudence of recommending a variance without knowing more about the impact of these emissions on the atmosphere. Staff has computed a five fold increase and the information from WeyCo indicates a ten fold increase. The staff recommends that Council take no action on this variance petition at this time giving the company an opportunity to provide additional justification and information before the next Council meeting. With this recommendation and after considerable questioning by Council of staff and WeyCo representatives, Mr. Pyle moved to delay action on this variance request until the next Council meeting (9/22/87). Mr. Quinlan seconded. Council members voted as follows: Mr. Quinlan - aye; Mr. Pyle - aye; Mr. Skeith - aye; Mr. Pettis - aye; and Mr. Breisch - aye.

Mr. Breisch closed the public hearing.

Public Meeting

Notice of the public meeting was forwarded to the Secretary of State's office and prior to the meeting news releases were sent to newspapers giving time, date, place and content of the meeting. Agendas were posted on the building entrance doors, the hall window of the Air Quality Service and the door to the meeting room.

Call to Order

The meeting was called to order by Mr. Breisch.

Approval of Minutes

Mr. Pettis moved to approve the May 19, 1987 minutes as written. Mr. Quinlan seconded. All Council members present voted aye.

Other Business

There was none.

Next Meeting - 9/15/87 in Tulsa

Confirmed. NOTE: On July 22, 1987, because of a conflict in scheduling, the meeting date was changed to September 22, 1987. Notice of scheduling change was mailed to the office of the Secretary of State.

Adjourn

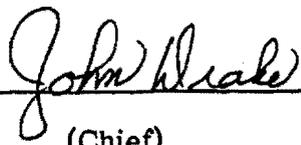
Meeting adjourned by acclamation.

APPROVED:



(Chairman)
9/22/87

(Date)



(Chief)
9/22/87

(Date)

AIR QUALITY COUNCIL
PUBLIC HEARING AND MEETING
JULY 21, 1987

NAME	REPRESENTING	ADDRESS	ORAL STATEMENT
S R Pappworth	Witro Corp	PO Box 42187, Houston, TX 77242	YES
John Bailey	" "	P.O. Box 551, Ponca City	NO
C Huck ADAMSON	APPE-OKLAHOMA	Box 580670 TULSA	NO
B. W. PROFT	SHEFFIELD STEEL	P.O. Box 218 SAND SPRINGS, OK	NO
Anna Clapper	OK Coalition For Clean AIR	12104 Camelet Pl. OKC	YES
Clark Evans	Oklahoma Natural Gas	Box 871 Tulsa 74102	NO
R King-Mans	Cities, Towns, Oil & Gas & Gas Processors Assoc	Box 300 Tulsa 74102	YES
Doug Farry			
Doug FARRY	KELCO-DIV. OF MERCIL	1280 W. 20 TH ST OKMULBEE OK	NO
Len Horsch	Public Service Co.	P.O. BOX 201 Tulsa, OK 74102	NO
Ken Lloyd	Blue Circle Inc	2609 N 145 TH E AVE	NO
JOHN R. FLYNN	AMERICAN AIRLINES	PO BOX 582009 TULSA OK	NO
Clyde JONES	NATIONAL ZINC	11 TH & VIRGINIA B'VILLE OK	YES
ANTON BOSCH	OCCHO	23 Kelly	NO
Ive Brodshaw	Agrico	CA7005a, OK	NO
Harold Wall	OTL	4312 Lakeside, OK	NO
JIM BURKETT	SUN PIPE LINE	P.O. 141 TULSA	NO.
Ray Shen.	Mobil Chem. Co.	555 Wolverine Rd, Shawnee	NO.
MATT RABISIN	ASSOCIATED WATER CONTRACTORS	P.O. BOX 14607 OKC OK 73113	NO
Don Mears	SUN PIPE LINE	PO BOX 141 TULSA, OK	NO
Jeff Beightle	Texasco Trading	4401 N Fern OKC	NO
Bill PRICE	OKLA. TANK LINES	4312 S Georgia OKC.	NO
Gill Luton	Ft. Howard Paper	PO BOX 1888 MUSKOGEE	NO
FRANK CONDON	WEYERHAEUSER	PO BOX 890 VALLANT	NO
DAVE GAHLINGER	"	"	"
ROBERT DECARRETTA	"	"	"
Bill DAWSON	"	"	"
Ken Downer	Kerr McGee Corp	OKC OK	NO
DAVE HUFFMAN	MANUOLUM OIL & GAS	Box 430 MANUOLUM OK	NO
R. L. THORSTENBERG	CONOCO INC.	P.O. Box 1267, Broken Arrow 74623	NO
Jon E. Brightman	Public Service Co.	1500 Mass Life, Tulsa	YES
J Pollard	OG&E	P.O. Box 321, OKC 73101	YES
David Branceley	"	"	NO
Ray D Hedrick	Public Service Co	P.O. Box 201 Tulsa, OK 74102	YES
DeWayne Workman	Western Farmer Elec	PO Box 429 Ardmore 73005	YES
Norbert Hoffmann	3M Co	Bldg. #1, Waltham, OK	NO. 1933

PAGE II

NAME	REPRESENTING	ADDRESS	ORAL STATEMENT
Jim Oden dahl	Weyco	Hot Springs AR	YES
EVE CLYMER	POWER MILL CONTR INC	1808 W MAIN OKC	NO
DORIS RANDOLPH	TULSA CITY CO HEALTH	74101	NO
RAY RUSSELL	SINCLAIR OIL CO.	PO BOX 970 TULSA	NO
J. Balentine	Producers Co-op	PO Box 26907	NO
Lufius Kalin	State Member	4020 N Lincoln	NO
Theresa Putter	EPA	Dallas, TX	NO
PAT ASHBY	ENOGEX	Box 24300 OKC	NO
BOB GILMORE	WEYCO	"	"
HARRY LAGO	OK. BUS. NEWS	P.O. 1177 OKC	NO
Art Goeller	OCCHD	921 NE 23 rd OKC	NO

Please Note: Council Briefing has been rescheduled from 9/15/87 to 9/22/87.

Briefing

Air Quality Council
Auditorium
Tulsa City-County Health Department
4616 East 15th Street
Tulsa, Oklahoma
9:30 a.m., September 22, 1987

Hearing Briefing

Proposed Revision to Regulations 1.1 and 1.2 Defining PM-10	Byrum
Proposed Revision to Regulation 1.4 Concerning Fees	Doughty
Proposed Variance 87-2 Weyerhaeuser - Valliant	Marburger
Proposed Variance 85-1 Sheffield Steel Co. - Renewal	Marburger

Meeting Briefing

PM-10	Byrum
Service Chief's Report	Drake

Please Note: Council Meeting has been rescheduled from 9/15/87 to 9/22/87.

Meeting

Air Quality Council
Auditorium
Tulsa City-County Health Department
4616 East 15th Street
Tulsa, Oklahoma
1:00 p.m., September 22, 1987

Hearing

Proposed Revision to Regulations 1.1 and 1.2 Defining PM-10	Byrum
Proposed Revision to Regulation 1.4 Concerning Fees	Doughty
Proposed Variance 87-2 Weyerhaeuser - Valliant	Marburger
Proposed Variance 85-1 Sheffield Steel - Sand Springs	Marburger

Meeting

Call to Order	Chairman
Approval of Minutes	Chairman
Other Business	Chairman
Next Meeting - November 17, 1987 State Health Department	
Adjournment	Chairman

K. Leavitt, M.D.
Commissioner

OKLAHOMA STATE
DEPARTMENT OF HEALTH

Director of Health

Dr. A. Cox, Jr., M.D.
Assistant Commissioner

Dr. M. Johnson, M.D.
President

Dr. D. McCullough, II D.O.
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P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152

AN EQUAL OPPORTUNITY EMPLOYER



September 1, 1987

MEMORANDUM

To: Air Quality Council
From: D. G. Doughty *DGD*
Subject: Regulation 1.4 - Permit Fees

Attached for the Council's information is the staff's latest draft of an acceptable permit fee regulation. As the Council is well aware, this proposal will be the subject of a public hearing at the Council meeting September 22nd. You may also recall that hearings were previously held last May and again in July. The July meeting resulted in the scheduling of two workshops which were held August 5th and August 12th.

The first workshop addressed the legal issues, alternative approaches and various industry concerns such as de minimis and renewal fee cap (see attachment #2, minutes of the August 5th workshop).

The second workshop was a work session, broken into three groups. The groups addressed, respectively, de minimis; alternative A (the approach seemingly favored by Oklahoma public utilities) and alternative B (the Kansas approach). The minutes of this workshop are also attached for your review, as is a memorandum summarizing the consensus of each work group.

Summary of Staff Proposal

- (1) The current draft regulation incorporates the so-called Kansas approach. It places all sources into one of 10 categories, ranked in order of the amount of fee payable. The actual fee is calculated by multiplying the class number for the source by \$50; e.g., a category 10 facility would pay \$500 yearly (\$50 X 10). See section 1.4.1(c)(4)(C).
- (2) A de minimis for purposes of permit renewal fees is set at 10 tons per year for any one criteria pollutant. See section 1.4.1(c)(4)(B).
- (3) Construction and operating permits would be assessed as set out below. See section 1.4.1(c)(2).

	<u>Construction</u>	<u>Operation</u>
Major source	\$2,000	\$1,500
Minor source > 25 T/yr; < 100 and minor NSPS	\$1,000	\$250
Minor source > 1 lb/hr; < 25T/yr	\$200	\$100

(4) Grandfathered sources would be required to pay the same fee as a "permit renewal equivalent". Section 1.4.1(c)(4)(A).

(5) It will be the duty of the AQS to mail out assessments at the first of every year, based on the emissions inventory. Section 1.4.1(c)(4)(C)(ii).

Based on the two previous public hearings and input at the workshops, the staff believes that this approach will be acceptable by industry. The present draft addresses, we believe, all of the major concerns of industry. The approach is simple, easily understood and equitable. It should not create unacceptable administrative burdens for either industry or staff, and more importantly, it should provide revenue approaching the amount needed to provide a viable state air program.

DGD/pjl
Attachments

REGULATION 1.4

Air Resources Management
Permits Required

Permits

1.4.1 General Permit Requirements

~~1.4.1~~ (a) Scope and Purpose

(1) Pursuant to the Oklahoma Clean Air Act as amended, this regulation is adopted to define Air Resource Management Requirements to protect and enhance Oklahoma Clean Air Resources and assure attainment maintenance of the ambient air quality through the utilization of a construction/operation permit system.

1.4.1 (a) ~~(b)~~ General Requirements Permitting System

(1) The Air Quality Service shall operate for the State of Oklahoma a dual permitting system for all new stationary/portable facilities/sources to be established in Oklahoma. The first permit is authorization to construct and is issued upon a determination by the Commissioner that the new source is so designed as to assure that the emission limitations of the several control regulations will be met. The second permit is a permit to operate and is issued by the Commissioner upon demonstration that the source was constructed as designed and the facility does meet the requirements of the several control regulations. Issuance of a permit is evidence that the source has met all requirements; however, upon proper showing this can be refuted by the State or a third party and in such a case the permit does not relieve the source of the responsibility to comply with all local, state or federal laws. All operating permits, for sources having emission above de minimis levels under Section 1.4.1(c)(4)(B)(i) including those issued prior to the effective date of this subsection, shall be for the term of one year, renewable annually as provided herein.

~~1.4.1~~ (c) Necessity to Obtain Permit

(b) Applicability

(1) Except as provided herein, no person may commence construction of, or operate any new source, or relocate any source without obtaining a permit from the Air Quality Service.

(1) (2) Permits are required when the addition of a new source, or modification of a existing source, results in a net increase in air contaminant emissions as the Commissioner determines appropriate. Transfer of a source to a new owner or operator is not considered an increase in emissions and does not require new permits. However, any transfer shall be subject to existing permit conditions and/or compliance schedules. Notification of such

transfers shall be made promptly in writing to the State Air Quality Service.

~~(2) The Commissioner may determine that a source is of minor significance and that permits are not required.~~

(3) Upon the effective date of this subsection, no permit shall be required for any new or modified source when it can be shown to the satisfaction of the Commissioner that:

(A) Total emissions will not exceed one pound (1 lb.) per hour for any one criteria pollutant, and

(B) Total emissions of toxics will not exceed the de minimis requirements set forth under Regulation 3.8.4(i)(1)(E).

1.4.1 (c) ~~(d)~~ Permit Fees

~~(1) The applicant for a permit to construct, operate or relocate will attach a check or money order in the amount of thirty-five dollars (\$35.00) as an initial processing fee.~~

~~(2) After evaluation and prior to issuance of the construction permit, an additional fee will be charged and collected in accordance with the following schedule:~~

~~(A) Each major source operation - \$300.00~~

~~(B) Each minor source operation - no fee~~

~~(C) Relocation fee - no fee~~

(1) Definitions. For the purposes of section 1.4.1(c):

(A) Major Source - means any new or modified stationary source which directly emits or has the capability at maximum design capacity, and if appropriately permitted, authority to emit 100 tons per year of a given pollutant.

(B) Facility - means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

(C) Minor Source - means any source for which a permit is required, but is not a major source.

(D) Permit Renewal - means the process whereby operating permits

are extended for another one year term. In no case shall the term "permit renewal" be construed to allow the imposition of additional permit requirements not otherwise required or authorized by law or regulation.

(E) Relocate - means to move a source from one geographical location to another. The term shall not include de minimis moves within the proximity of the original site, or convenience moves to contiguous areas when such moves are readily observable by inspectors.

(F) Annual Permit Renewal Fee Equivalent - means the annual fee assessed on facilities which, because of the date of start-up or construction, are exempt from the requirements to have a permit.

(2) Construction and Operating Permit Fees - New Sources

(A) All new permits, the construction permit application for which is received after the effective date of this subsection, will be assessed a fee, which must accompany the application, in accordance with the following schedule:

(i) Major Source

Construction Permit \$2,000

Operating Permit \$1,500

(ii) Minor sources actually emitting 25 tons but less than 100 tons per year of any one pollutant; and minor NSPS sources.

Construction Permit \$1,000

Operating Permit \$250

(iii) Minor sources emitting more than one pound per hour but less than 25 tons per year of any one pollutant.

Construction Permit \$200

Operating Permit \$100

(iv) Relocation Permits \$50

(3) Review to Determine Applicability - New Sources

(A) Upon request, the Commissioner will make a determination of whether or not a permit is required. Upon the determination that a permit is not required, the original permit application fee will be returned upon submission of a \$100 determination fee.

(4) Permit Renewal and Renewal Equivalents

(A) Applicability

(i) The Air Quality Service shall annually assess and collect a permit renewal fee or permit renewal fee equivalent from all sources in the State according to their classification as set forth in Table L. Assessments for existing sources grandfathered from permit requirements (i.e., permit renewal fee equivalents) shall be made in the same manner and on the same basis as a new source of the same type (permit renewal fees).

(ii) New sources shall not be subject to a permit renewal fee until a minimum of one year shall have elapsed from the operating permit application due date.

(B) De Minimis

(i) A permit renewal fee or renewal fee equivalent shall not be required, regardless of the requirement to have a permit, provided that total emissions from the source do not exceed ten (10) tons per year for any one criteria pollutant.

(C) Assessments

(i) Fees established under this section shall be assessed and paid on the basis of source classification as identified in Table L. The annual fee collected for a source in any class shall be determined by multiplying the class number for the source, as determined by Table L, by fifty (\$50) dollars. In no case shall more than one fee per source be assessed unless such source shall constitute two or more facilities as defined herein.

(ii) On or before the first working day of each year, the Air Quality Service will mail fee assessments to all sources subject to this regulation. Such assessments shall be made pursuant to data contained in the emissions inventory and shall set forth:

(a) The source classification

(b) The class number assigned to the source, and

(c) The amount of the fee that is to be remitted to the Service.

(iii) For the calendar year 1988, fee assessments will be mailed on or about the effective date of this regulation and shall be due in the offices of the Air Quality Service 30 days from the date of receipt of the assessment.

(3) (5) Fees will be paid by check or money order (no cash will be accepted) made payable to the reviewing agency, e.g., Oklahoma State Department of Health, Air Quality Service. Fees shall be due in the offices of the Air Quality Service on the first working day of February. A ten (10) calendar-day

grace period will be given before any enforcement action will be taken. Upon the expiration of the ten day grace period, notices of violation (NOV) will be issued and civil penalties, in addition to other remedies, may be sought as authorized under 63 O.S. 1986 Supp. Section 1-1701.1A.

(6) The fee provisions set forth in this regulation shall apply to those permits, renewals and renewal fee equivalents processed by the State Air Quality Service and are not intended to preempt any local fee program.

(D) Source Classification

(i) Any new source for which an appropriate source classification does not exist shall be assigned a classification and class number in Table I as a permit condition.

(ii) Any existing source for which a permit is not required, and for which an appropriate source classification does not exist shall be assigned a source classification and class number in the same manner as (D)(i) above except that:

(a) Such assignment shall be made in writing, setting forth the reasons why the source has been assigned to any particular category, and

(b) Any person aggrieved by such assignment shall be entitled to a hearing on the reasonableness of the assignment.

Minutes
Air Quality Council
Hearing and Meeting
September 22, 1987

Council Members

William B. Breisch, Chairman
William H. Skeith, Vice Chairman
Transportation Representative Position
Larry Canter, Ph.D.
John Pettis
Charles Y. Pyle
James F. Quinlan

Staff

- Present John W. Drake, Chief
- Present Larry Byrum
- Vacant Nancy Pees Coleman, Ph.D.
- Present D. G. Doughty
- Absent Grant Marburger
- Present John R. Parry
- Present

Guests Present
(See attached list)

The public hearing for considering the proposed revisions to Regulations 1.1, 1.2 and 1.4 and variances for Weyerhaeuser and Sheffield Steel was announced in the August 3, 1987 issue of The Oklahoma Register as required by EPA regulations and also published in newspapers and media throughout the State.

Public Hearing

Proposed Revision to Regulations 1.1 and 1.2
Defining PM-10

Proposed Revision to Regulation 1.4
Concerning Fees

The testimony offered regarding these proposed revisions was transcribed by a Court Reporter. The official transcript is available for review at Air Quality Service's office during normal working hours.

Proposed Variance 87-2
Weyerhaeuser - Valliant

John Drake acted as protocol officer for this proposed variance from Regulations 3.1 and 2.4. This proposed variance is a carry over from the July 21, 1987 Council meeting where Council requested additional justification and information. Grant Marburger, staff, presented staff position (a copy of his presentation is attached as Addendum I). WeyCo provided additional written information in support of its variance request to AQS and this information was provided to Council members (Addendum II). Messrs. Mark Coldiron and Jim Odendahl, representing WeyCo. were present to answer Council's inquiries. Mr. Bill Hickman, representing the Oklahoma Wildlife Federation, read a letter (copy attached, Addendum III) that stated the Executive Committee of OWF opposed the proposed variance to WeyCo. After considerable questioning by Council members, Dr. Canter moved that WeyCo. be granted a one-year variance and this recommendation be forwarded to the Board of Health. Mr. Quinlan seconded. Council voted as follows: Mr. Quinlan - aye; Mr. Skeith - aye; Dr. Canter - aye; Mr. Pyle - aye and Mr. Breisch - aye.

Proposed Variance 85-1
Sheffield Steel, Sand Springs

John Drake acted as protocol officer for this proposed variance from Alternative Emission Regulation 1.6. Grant Marburger, staff, presented staff position (Addendum IV). Mr. Charles Rearden, representing Sheffield Steel Co., was present to answer Council queries. He stated that this would be the last time to ask for a variance and all phases of the operation are on the time schedule. On May 1, 1988 Sheffield will shut down for 16 days to install the hoods over the furnaces. This should eliminate all visible emissions out the top of the furnace building. Roger Randolph, TCCHD, read a statement concerning the Sheffield variance - recommending approval as this will be the last variance (Addendum V). Mr. Skeith moved to grant the variance to Sheffield Steel and forward it to the Board of Health. Mr. Quinlan seconded. Council voted as follows: Mr. Quinlan - aye; Mr. Skeith - aye; Dr. Canter - aye; Mr. Pyle - aye and Mr. Breisch - aye.

Mr. Breisch closed the public hearing.

Public Meeting

Notice of the public meeting was forwarded to the Secretary of State's Office and prior to the meeting news releases were sent to newspapers giving time, date, place and content of the meeting. Agendas were posted at the building entrance and the auditorium door.

Call to Order

The meeting was called to order by Mr. Breisch.

Approval of Minutes

Mr. Skeith moved for approval of the July 21, 1987 minutes as written. Mr. Quinlan seconded. All Council members present voted aye.

Other Business

There was none.

Next Meeting - November 17, 1987
State Health Department

Confirmed.

Adjournment

Meeting adjourned by acclamation.

APPROVED:

_____	_____
(Chairman)	(Date)
_____	_____
(Chief)	(Date)

AIR QUALITY COUNCIL
PUBLIC HEARING & MEETING
SEPTEMBER 22, 1987

NAME	ADDRESS	REPRESENTING	ORAL STATEMENT
Jim Odenbach	PO Box 1060 Hot Springs	Weyerhaeuser Co.	
B. W. Proft	P.O. Box 204 Sand Springs	SHEFFIELD STEEL	No
Mike Rast	P.O. Box 890 Tallant	Weyerhaeuser	No
Mark Coldiron	Main & Broadway, OKC	Mckinney, Stringer, Hubbs	Yes
Doug Vore	P.O. Box 609 Clinton, ⁷⁴⁴³⁷	GRDA	No
R. L. Thorstensen	P.O. Box 1267 Ponca City ⁷⁴⁵⁶⁴	Canoco Inc.	No
C. R. Rearden	P.O. Box 218 Sand Springs	Sheffield	Yes
Edward Robertson	#1 Goodyear Blvd	GOODYEAR TIRE	No
Nicholas Wronosoff Jr	1700 Pacific Hwy. Dallas Tx	Texas Oil & Gas Corp	No
Chyde Jones	Bartlesville, OK	STATE C of C & I	Yes
" "	" "	Zinc Corporation of America	No
" "	7135 S. Braden Tulsa	AMERICAN LUNG ASSN	Yes
Bruce Ford	3013 T. Ave.	Tulsa World	No
Fred Mulloy	1213 Phillips Bldg Bartlesville	Phillips Pet.	No
1800 Miller	Waco Park 551 Ponca City	WITCO	No
K. Downey		Kerr-McGee Corp	No
Curt Goeller	OCCHD		No
Royce H. Bentley	P.O. Box 201 Tulsa, OK	Public Service Co. of OKA.	No
David Braneky	P.O. Box 321 OKC	OG&E	Yes
Bill Wickens	16 E 16 #300 Tulsa	Okla Wildlife Federation	Yes
Roger Ranopolan	TCCHD		Yes Sierra
Ray Hedrick	750 P.O. Box 201 Tulsa	PSO	Yes
Charles M. Goodwin	Cities Service, P.O. 8300 Tulsa 74102	Cities Service	No
A. Cing Marx	" " " "	" " & GPA	Yes
Hill Luten	P.O. Box 1888 Muskogee 74402	Fort Howard Paper Co	No
" "	P.O. Box 7401 Tulsa 74101	KTUL-TV	No
Edd Tork	4616 E 15	TCCHD	No
Lynn Ross	P.O. Box 897	Warren Petrol	No
M F Rencu		T & H D	No
JERRY G. CLEVELAND	4616 E 15 th St,	TCCHD	No
GRACE COX	7037 E 59th St. Tulsa	SIERRA CLUB	No
Ray Russell	P.O. Box 770 Tulsa 74101	Synthetic Oil Corp	No

OAC 252:100-7[1]
Environmental Quality Board

OAC 252:100-7[1]
Additional Comments

1 APPEARANCES:

2
3 MR. JOHN DRAKE, Presiding Official

4 MR. WILLIAM BREISCH

5 MR. CHARLES PLYE

6 MR. WILLIAM SKEITH

7 MR. JAMES QUINLAN

8 MR. PETTIS

9 MR. ALWIN NING

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P R O C E E D I N G S

1:00 p.m.

THE REPORTER: On record.

MR. BREISCH: We will call the Air Quality Council Meeting to order, and first, we will proceed with our hearing. And, John Drake will act as Hearing Officer.

MR. DRAKE: Yes, I will act as Protocal Officer for this hearing. This is proposed division regulation 1.4 was appropriately advertised in the Oklahoma Register.

As will be our custom, we will leave the hearing record open for ten days to receive any written comments. If anyone cares to make a statement concerning this regulation, there are slips, there are not slips available at the back of the room.

If you care to make a statement, fill out a slip, they will be handed me and we will call on you after the staff has made it's presentation.

I would ask Mr. Alwin Ning to present the position of the staff concerning these proposed revisions.

MR. NING: Members of the Air Quality Council, and ladies and gentlemen, my name is Alwin Ning.

1 THE REPORTER: Please spell that
2 first name.

3 MR. NING: A-l-w-i-n, last name, N,
4 as in Nancy, i-n-g.

5 THE REPORTER: Thank you.

6 MR. NING: I am the head of the
7 analysis section of the Air Quality Service. EPA in
8 1986 has approved Oklahoma's state incrementation
9 plans under the protection of visibility in the
10 Wichita Mountains wilderness area.

11 The staff is attempting to remedy
12 some ^{deficiencies} ~~efficiencies~~ by adding some language into our
13 existing permit regulation, 1.4.4.

14 In this 1.4.4, E-2, on page 23 of 32,
15 Section 7, we added visibility and and visibility
16 monitoring as a distinctive monitoring perimeter
17 distinguished from other groups.

18 Second, in Section 1.4.4 G-2 on page
19 25 of 32, we've inserted specific language for the
20 Commissioner to notify the Federal Land Manager of
21 a permit application. Any comment by the Federal Land
22 will be available for public review, prior to any
23 hearing.

24 - The inserted language to read, as
25 follows: The Commissioner shall notify the appropriate

1 Federal Land Manager of the receipt of any such
2 analysis, and include a complete copy of the permit
3 application. Any analysis performed by the Land
4 Manager, shall be considered by the Commissioner,
5 provided that the analysis is filed with the Air
6 Quality Service, within 90 days of the receipt of the
7 application, by the Land Manager.

8 Where the Commissioner finds that
9 such an analysis does not demonstrate to the satisfaction
10 of the Commissioner, that an adverse impact of
11 visibility will result in the Federal Class 1 area,
12 the Commissioner will, in any notice of a public hearing
13 on the permit application, either explain his decision,
14 or give notice as to where the explanation can be
15 obtained.

16 Third, at the request of EPA we also
17 added the definition of "emission limitations", and
18 "emission standards of fact", which was previously
19 thought unnecessary.

20 A new paragraph 1.4.2 B-1G, reads,
21 "Emission Limitations and Emission Standards means
22 requirement which limits the quantity, rate or concentra-
23 tion of emissions of air pollutants on a continuous
24 basis, including any requirements which limit the level
25 of opacity, prescribe equipment, set fuel specifications,

1 or prescribe operations, or maintenance procedures..."
2 We have a misspelling on the word "maintenance",
3 insert the letter "n", to correct it -- "...for a source
4 to assure continuous reduction."

5 The Staff of the Air Quality Service
6 respectfully urges the Council to recommend these
7 changes to the Board of Health, for approval.

8 MR. DRAKE: Alwin, would you -- oh,
9 go ahead.

10 MR. PYLE: On my page 25 of 32, you
11 are reading the insertion about the Federal Land Manager,
12 and my copy says, "within 30 days" and you mentioned,
13 within 90 days.

14 MR. NING: I did?

15 MR. PYLE: Yes.

16 MR. NING: I'm sorry, correction,
17 30 days.

18 MR. DRAKE: Are there any questions
19 from the Council?

20 (No oral response)

21 MR. DRAKE: Thank you, Alwin.

22 Is there anyone in the audience who
23 would like to make a statement concerning this proposed
24 revision?

25 (No oral response)

1 MR. DRAKE: Is there anyone who would
2 like to make a statement on this proposed revision?

3 (No oral response)

4 MR. DRAKE: The third time; is there
5 anyone who would like to make a comment concerning this
6 proposed revision?

7 (No oral response)

8 MR. DRAKE: Apparently, no one cares
9 to comment on this. As I stated in my opening statement,
10 we will hold the record opened for ten days, to receive
11 further comments, and we will bring this back to you
12 at your next council meeting, with the proposed
13 recommendations for action.

14 That's, apparently, it.

15 (Whereupon, the hearing in the above-
16 entitled matter was concluded.)
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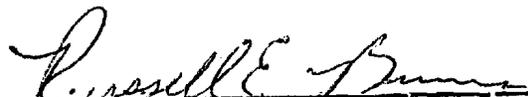
C E R T I F I C A T E

1
 2 STATE OF OKLAHOMA)
 3 COUNTY OF OKLAHOMA) SS:
 4
 5

6 I, RUSSELL E. BURNS, C.E.R.
 7 a Certified Electronics Reporter/Notary Public within
 8 and for the State of Oklahoma, do hereby certify
 9 that the foregoing transcript is a true, correct
 10 and complete verbatim transcription of the proceedings
 11 held at said time and place.

12 I further certify that I am
 13 not an attorney or counsel for, nor related to or
 14 employed by any of the parties to which this action
 15 is taken, and further that I am not a relative or
 16 employee of any attorney or counsel employed by the
 17 parties hereto, or financially interested in the
 18 action.

19 IN WITNESS WHEREOF, I have
 20 hereunto set my hand and official seal this, 21st
 21 day of APRIL, 1987.

22
 23 
 24 RUSSELL E. BURNS, C.E.R.
 Notary Public within & for
 The STATE OF OKLAHOMA

25 My Commission Expires: 3/24/89



May 15, 1987

Oklahoma Air Quality Council
Oklahoma State Department of Health
P. O. Box 53551
Oklahoma City, OK 73152

PROPOSED CHANGES TO REGULATION 1.4

Sinclair Oil Corporation-Tulsa Refinery appreciates the opportunity to present its point of view on the proposed changes to Regulation 1.4 of the "Oklahoma Clean Air Act Air Pollution Control Regulations and Guidelines".

Sinclair Oil Corporation-Tulsa Refinery is opposed to the permitting of "existing sources". However, if a permit requirement for existing sources is passed, we would have the following comments:

1. Instead of a fee of \$50 per source, we would propose a lump sum fee for each facility.
2. The regulations should clearly state that the permitting of existing sources will not subject us to performance testing, monitoring, or any other standards other than those currently in effect.

In addition to our comments above, we believe that proposed Regulation 1.4.1(d)4 should be better defined. For example, what would constitute an "asbestos renovation/demolition project"? We wish to strongly recommend that removal of asbestos for routine maintenance, such as valve or pipe repair or replacement not be included.

Again, we thank you for your time and consideration.

H. M. Connell
Refinery Manager

CRR:jfh

cc: Members, Oklahoma Air Quality Council

Sinclair Oil Corporation

P.O. BOX 970, TULSA, OKLAHOMA 74101 918/584-5025

1961



May 18, 1987

Sun Refining and
Marketing Company
P O Box 2039
Tulsa OK 74102

Mr. John Drake
Chief, Air Quality Service
Oklahoma State Health Department
P. O. Box 53551
Oklahoma City, Oklahoma 73152

Dear Mr. Drake:

Sun Refining and Marketing Company appreciates the opportunity to comment on the proposed changes to regulations 1.4 and 1.5.

Regulation 1.4 (Permits), Section 1.4.1.(d)(2), concerns fees for existing sources. We feel that the fee of \$50 per source is overkill in facilities such as ours. We presently have approximately 70 sources under the definition of sources. We feel that the paperwork alone for each source is not worth the \$50 per source fee. A fee such as \$500 per facility, for any facility with more than ten sources would be much more reasonable, require less paperwork, and therefore require less administrative burden on industry and the AQS. These fees do nothing to improve or maintain environmental quality, which is our primary purpose.

We also feel that some wording should be inserted to prevent the existing sources issued a permit under 1.4.1(b)(3) from being placed under the same testing and data gathering requirements as for a new permit application.

Section 1.4.1.(d)(4) on asbestos fees can turn into a paperwork and administrative nightmare greater than the asbestos problem already is. We again feel that everyday asbestos removal in a facility should be permitted on an annual basis, with a fee such as \$500 per facility. Any major renovation/demolition projects could then be handled on a case-by-case basis.

We recognize the necessity for the AQS to issue permits and collect fees, but do not believe that is Industry's duty alone to fund the AQS.

Sincerely,

A handwritten signature in cursive script that reads "William R. Clarke".

William R. Clarke, P.E.
Chief Environmental Engineer

WRC:d1

May 19, 1987



DENNIS CALL
WHEN YOU KNOW
ABOUT WHAT YOU
WANT TO WRITE
ROGER

MEMORANDUM

TO: ~~Air Quality Council~~

Dennis DOTY

SUBJECT: Revision to Regulation 1.4, Permit Fees
Oklahoma Clean Air Act

In general, we support the proposed revision, however, the Tulsa City-County Health Department **does** feel that the permit fee system for new construction now in use in Tulsa County, is more equitable than the proposed revision to Section 1.4.1.

Our fee for a major source would cost the company 0.2% of actual construction costs to a maximum of \$10,000. We anticipate few, if any, new plants of this size in the foreseeable future. On the other hand, the majority of our permits are in the \$100 price range. It does not seem as fair to charge service stations, dry cleaners and small paint booths the \$250 suggested.

We are currently charging a double fee for late filing of construction permits. We prefer this to the 50% additional late filing fee.

We do like the proposed annual fee as shown in 1.4.1(d)2. The \$50 charge per point seems reasonable, but we would like to see a \$2,500 maximum annual charge. As an example, a major source would have to pay approximately \$5,000 per year on an estimated 100 point sources as the proposed regulation is now written.

JHVS:RDR:kcc

BEFORE THE
OKLAHOMA STATE DEPARTMENT OF HEALTH
AIR QUALITY COUNCIL

In the Matter of:)

PROPOSED REVISION 1.5)
PROPOSED REVISION 1.4)

Tulsa City-County Health Dept.
4616 East 15th Street
Auditorium
May 19, 1987

The above-entitled matter came on for hearing, pursuant
to Notice.

BEFORE: Mr. Larry Byrum, PRESIDING OFFICIAL
Director, Air Monitoring & Analysis Division
Air Quality Service
State Health Department

APPEARANCES:

AIR QUALITY COUNCIL MEMBERS: Mr. William B. Breisch, Mr. James F. Quinlan, Dr. Larry Canter, and Mr. Charles Pyle.

WITNESSES:

1. Dennis Doughty
2. Royce Bentley
3. Jim Pollard
4. Ray Bishop
5. Jerry Cleveland
6. David Bradshaw

P R O C E E D I N G S

PRESIDING OFFICIAL BYRUM: Ladies and gentlemen, my name is Larry Byrum and I am acting as the Chief of Air Quality Service today for the State Health Department and as such will act as protocol officer for the hearing. For the record, I would state this hearing is convened by the Air Quality Council in compliance with Title 75 O.S. Section 301-325 and the requirements entitled 40 Part 51 Code of Federal Regulations and under the authority of Title 63 O.S. Section 1-1802 and following. I would advise you that the Oklahoma Register advertised this meeting for a hearing in its May 1987 issue. Copies of the proposed regulation were mailed to all known interested parties. The advertised purpose of the hearing was to receive public comments on regulations 1.4 and 1.5. A transcript of this hearing will be made. We do not normally provide copies, but if you for some specific reason would need one, you can contact our office and anyone who makes an oral statement and does not have a written statement today, we would appreciate it if you would provide us with a written statement during the proposed hearing comment period. It is the practice of the Council to keep the record open for 10 days to receive further comments. As protocol officer I will call the names of the people who have signed sheets of paper at the rear of the room indicating they wish to make a statement. If anyone wishes to fill out one of these slips, they are available and will be passed up to us here. I would call on Mr. Dennis Doughty at this time. He is the staff attorney for Air Quality Service and will present the staff position on Regulation 1.5.

MR. DOUGHTY: Thank you, Mr. Byrum. As you may recall, there was a proposal to amend Regulation 1.5 brought before the last Council meeting and we were anticipating a public hearing at this time. The basic impact of these changes is that it would require that all excess emissions be reported, and number two, that releases of toxics with a potential for public exposure would be required to be reported immediately. There were certain lists of chemicals which comprised the definition of toxic chemicals. The original regulation was changed to incorporate by reference those particular lists which would come under this regulation rather than attach them as an appendix. The term release has been defined in the context of air releases, and there has also been a provision added which would add the local emergency response organization to the list of persons to be notified.

On the first page of the proposed change under the definition of toxic chemical, under sub-paragraph (i) you will find that one of the lists which has been incorporated by reference is the so-called EPA 402 list. Under subsection (ii) the list which would be incorporated is the OSHA hazardous communications standard. Under subsection (iii) the definition incorporates the so-called Maryland and New Jersey list of chemicals. Also, under subsection (iv) the definition incorporates the superfund list of hazardous substances. The term release has been defined here and it would include a release from any source. Here is [holds up] a compilation of the lists which come under the definition of hazardous chemicals which would come under that definition. If anyone of you don't have these references, if they will contact the Air Quality Service, we will make copies of these available for a fee.

SOMEONE: What is the fee?

MR. DOUGHTY: Whatever the copying fee is.

MR. BYRUM: Fifteen cents a page I believe.

MR. DOUGHTY: There is also a reference book here which is copyrighted so I am not going to copy these materials out of there, but they take the definition of the OSDH hazardous substances and compile a list of those materials which they believe fit this definition, but if you will call me or someone at the Air Quality Service, we'll give you a citation on this.

SOMEONE: What is the date of that [unintelligible] you just had?

MR. DOUGHTY: Well, this is only one. This is the EPA 402 list and it's November 17, 1986. I'll go through these if you would like. It's volume one, number 221, page 14582 of the Federal Register, November 17, 1986. This [second document] is the Maryland and New Jersey lists and I don't know what to cite you on that. This is the list of hazardous substances and reportable quantities and that is found in 40 CFR Part 302.4. This [third document] is the OSHA hazardous, is it substances or materials Nancy, what's the ... [unintelligible] 29 CFR 1910.1200. And judging from the comments and response this morning it would be our recommendation that this regulation, this proposal be held over for comments and brought back to the Council at the next meeting. So, if there are any oral or written comments, we can throw the meeting open for those at this time. Larry.

BYRUM: Thank you, Dennis. Royce Bentley, Public Service.

MR. BENTLEY: We would like to endorse the staff's recommendation that the record be held open and we could work with them and continue our discussions of this morning and formalize the written comments.

MR. BREISCH: We generally leave this open for 10 days. Do we want to extend this a little more than that?

MR. BYRUM: That's a true ... question.

MR. BREISCH: All right, I would recommend we extend it ...

MR. DOUGHTY: If we decide to go back to public hearing, we'll need enough lead time to get it in the Oklahoma Register.

MR. BYRUM: About the most we can extend it ...

MR. BREISCH: When is the next Board of Health meeting?

MR. BYRUM: They were going to have one the 27th of May but it was postponed ... we don't receive ... Board of Health meetings. We don't perceive they will have another Board of Health meeting until after the legislature adjourns.

SOMEONE: We need to ... by April.

MR. BYRUM: Fifteen days I think is ...

MR. DOUGHTY: Yes, it would have to go in the Register by the first of June if we decide to ...

SOMEONE: What, the first of June?

MR. DOUGHTY: Well, we have to have it ready in the June first issue of the Oklahoma Register in order for us to meet our legal notification requirements if it comes back to public hearing.

SOMEONE: That's the assumption that there was a substantial change.

MR. DOUGHTY: That's if there is a substantial change. If we can take the comments and incorporate them into the regulation with no substantive change, then all we will have to do is bring it back and ask the Council for their recommendation on it.

MR. BREISCH: Well, we wouldn't have much over 10 days if we need to get it in by then. About all I can say as just one member of the Council, if there is something that is brought to our attention at the next public hearing, well we'll have to play that by ear at that point. So, we'll just leave it open then for the normal 10 days.

MR. BYRUM: That's kind of what our options are if you have 10 days. If you go longer, then we can't hear it until the next meeting. So, ... we can do it in 10 days and get it through and it's acceptable next time ...

MR. BYRUM: Any questions for Royce? Jim Pollard.

MR. POLLARD: My name is Jim Pollard and I represent Oklahoma Gas and Electric Company. Based on my review of these regulations and of the discussions at this morning's briefing, I would respectfully request that no action be taken today and that the ... I would recommend that the hearing stay open for 30 days. I think 10 days is too close to the time and I understand the constraints that you all are operating under. We will prepare and submit written comments in whatever time you indicate, however long that hearing will be open concerning what we discussed today. Thank you.

MR. BYRUM: Any questions for Jim? Jerry Cleveland.

[something about Cleveland] [Jerry's comments were for 1.4 later]

MR. BYRUM: No problem. Ray Bishop.

MR. BISHOP: My name is Ray Bishop. I'm with the Tulsa City-County Health Department. I just wanted to say that the Health Department supports the intent of the regulation. We understand there are some changes and modifications that need to be made, but we still support the intent and we feel it will be a good regulation when it is passed.

MR. BYRUM: Any questions of Ray? Anyone else wishing to speak? Again, anyone else wishing to speak? Okay, I have no one else who wishes to speak at this time.

MR. BREISCH: Our options are to leave it open for 10 days of comments or take some other action.

MR. BYRUM: If you leave it open longer than 10 days, it will probably necessitate skipping the next meeting and ... [something about the reasons for leaving it open for longer than 10 days and anticipating substantive changes]

MR. BYRUM: We're talking about 1.4 now, right? No, 1.5.

MR. BREISCH: Well, if there are substantive changes, then the hearing takes care of that and then if there are enough that we're not satisfied, we shouldn't take action ...

MR. BYRUM: Yes, you can continue it next time.

MR. BREISCH: I think we gain the same thing by having a hearing as we would by lengthening out the open period of more than 10 days. You ...

MR. PYLE: I move that we proceed normally. Have a 10 days open period for statements. See if there are substantive changes and review the thing at our next meeting. Is that too complicated?

MR. BREISCH: His motion is that we move to leave it open for comments for 10 days and set it for a second public hearing on our next regular meeting. Is there a second?

MR. BYRUM: Second?

DR. CANTER: Second.

MR. BREISCH: It has been moved and seconded. Would you call the roll, John?

MR. PARRY: Mr. Quinlan - aye; Dr. Canter - aye; Mr. Pyle - aye;
and Mr. Breisch - aye.

MR. BYRUM: I will call on Mr. Dennis Doughty, staff attorney for Air Quality Service to present the staff's position on regulation 1.4.

MR. DOUGHTY: On the proposed revisions to regulation 1.4, the primary thrust is the increase of permit fees; the proposal which we have come here with today. The amendments would change the existing fee structure as I said and it would require that all sources whether new or existing sources would be required to have a permit. Permits would be renewable on a yearly basis. Fee payments would be required on a yearly basis. There would be a \$100 permit fee for the asbestos renovation/demolition projects: these would also require permits. The fee system that we have set forth here would not, is not meant to preempt the fee system that is set up in Tulsa City-County or Oklahoma City-County and we do not ..., the intent of this regulation is to not impose any additional permit requirements on the regulated community with the exception of the fees.

On the first page of the proposed amendment under the definition of "existing sources," you will see on the second line there, "source operations;" the permit system would apply to source operations and that the Air Quality Service would present each permittee with a permit renewal application on or about the first of each calendar year. On the next page you'll see the fee systems as they are set forth for the major sources subject to PSD or NSPS or NESHAPs requirements. On the last page you'll see some mention of minor sources. Under "existing sources" the annual renewal fee for an existing source would be \$50. The permit to relocate would be \$50. and those asbestos renovation/demolition projects would be assessed a fee of \$100. If there are any questions on this, I would be glad to try and answer them for you right now.

MR. BREISCH: Dennis.

MR. DOUGHTY: Yes?

MR. BREISCH: Do I understand that if you issue a construction permit that you issue an operating permit on an interim basis and then finally it takes a \$50 renewal takes effect?

MR. DOUGHTY: That's my understanding of the intent. The way the permit system has worked in the past is that they would be issued a construction permit and then after the construction was done and the source was operating and checked out, then an operating permit would be issued. My interpretation of this section is that there would be, I believe a three year reprieve after paying your construction and operating permit fees, before they would be deemed an existing source and therefore subject to the \$50 yearly renewal.

MR. BREISCH: It really doesn't say that the operating permit at ... is discontinued does it? In those words? You know it could be explained that that does happen.

MR. DOUGHTY: OK. Well, we're talking about a definition problem then as to the difference between an operating permit that's issued for a new source and a continual operating permit for existing sources.

MR. BREISCH: Maybe it just wasn't clear to me ...

MR. DOUGHTY: That was not the intent to stack these, no.

SOMEONE: OK, then on the second page was that supposed to be ... rather than ... permit?

MR. DOUGHTY: That's correct, that was just an error that was carried through.

SOMEONE: Why so high on that?

MR. BREISCH: All the other ... permits, it just doesn't seem to be that multiple ...

MR. BYRUM: I think it has to do with PSD, NSPS and NESHAPs. Those are all federal ... you're going to be dealing with big, big sources.

MR. BREISCH: I agree to that, but the concept of this thing among other things is based on a time/cost to the Service and is this in line with the others and if it is, fine and if not, I'd like you to look at that and see if it bears that quite a bit higher of a fee.

MR. DOUGHTY: OK. Mr. John Drake has made some, done some calculations on this and I don't have his figures here or his rationale for it, but this is backed up with John's figures as to the effort that is put into processing these.

MR. BREISCH: I know we are hurt a little bit without this explanation, but it does seem a little out of line.

MR. BYRUM: There is a lot of work involved doing all the modeling analysis and when they come in late, we quite frequently have to drop everything else to get ... in time. You're probably looking at having to put several people on that to get it out on time.

MR. BREISCH: Yes, an explanation would probably clear that up.

MR. DOUGHTY: What happens sometimes is that people may not realize they have to have a permit and they are partially through their construction before we ever know anything about it, so then it causes us some problems in that regard. Here again on this proposal, we would recommend it to be held over for action on a later date and if there's any comments or questions, we will address those at this time.

MR. BYRUM: Any questions of Dennis?

[a question from someone.]

MR. DOUGHTY: I'm saying that staff would recommend that this regulation be held over for action not today, but at a later date.

MR. BYRUM: Any questions for Dennis?

SOMEONE: Where in the regulation are sources defined?

MR. DOUGHTY: Well, who could answer that? We've got sources in our air quality regs, we've got a regulation that speaks to definitions, ok? As came out of the briefing, there is an EPA definition of a minor source. A major source emits greater than 100 tons per year or greater Larry?

MR. BYRUM: Without control.

MR. DOUGHTY: Without control. And there is a EPA definition of minor source which as near as I could gather this morning is a source which is less than 100 tons per year. So the real question arises as to what a de minimis source that drops out underneath the minor source. So that's a definition which will have to be addressed also.

MR. BYRUM: Any other questions of Dennis? Thank you Dennis.
Jerry Cleveland.

MR. CLEVELAND: I am Assistant Director of the Tulsa City-County Health Department. TCCHD air pollution staff generally supports the revisions to the state regulation pertaining to permits. As you are well aware, we went through this about two or three years ago in developing a new permit system that included a change of fee structures. We worked quite some time on it before we came up with the regulation that we have which is essentially a permit to construct followed by a permit to operate one time charge. We have no annual operating permit fee at the present time. We realize

that the time has come and the state must modify their permit regulation and I hoped I would have an opportunity to present this information and permit regulations to our environmental advisory council and let them have some input to the development of this if possible. I think it would be very important from my point of view since they work long and hard on what they come up with locally, even though at the present time the state has indicated their permit system would have no impact on what we might want to do locally or have done locally. I think it would be very important that I coordinate this with our environmental advisory council. Overall, I think we do support the development of the revised permit system.

MR. BREISCH: Jerry, about what are your fees compared with these?

MR. CLEVELAND: I haven't set down and done calculations as far as the comparison goes, of course, our concept of how we charge fees is a little bit different from the state because we take a percentage of the construction cost as our fee up to a maximum and it seems to be working pretty good and we've had two years of experience with it and we know the ins and outs of it where you run into some problems with it, so I can't compare the amounts.

SOMEONE: Did we do any of that type of comparison rate?

SOMEONE: Jim did a little of it in some cases we'd be sliding and some cases ... it was just individual.

SOMEONE: It's not necessarily based on the construction of the pollution control equipment, but covers the whole plant?

MR. CLEVELAND: What, this percentage of construction cost? It was modeled after a permit regulation in Texas a number of years ago. Of course, since we have two years experience with it, we have been generating some funds to offset the costs ... system and we want to be for sure that

whatever the state develops, it wouldn't impact us or we figured in such a way that it's a benefit to everyone.

MR. BYRUM: Any further questions of Jerry? Jim Pollard.

MR. POLLARD: My name is Jim Pollard and I represent OG&E. I concur with the staff's recommendations that we do need 10 days to submit additional comments based on our discussions at this morning's briefing. I do have one or two questions that came up. I would like to address to the staff if I may at this time. The \$100 fee for asbestos ... is that paid to the state or is it to go back to the city-county? We have facilities in Oklahoma County and we submit our applications to the city-county now. How is that fee in this regulation, does that go to you, does that go to the state or?

MR. BYRUM: We envision it as going to the area of jurisdiction that you are under. In other words, if you are in Oklahoma County, then you are under the OCCHD. They do the enforcement, they do the permit and all that, so fees generated would be the fees that they charge. If they choose to use our regulation, then it would be based on our regulation. If they choose to use a local regulation, which Oklahoma City and Tulsa have the priority to do, it would be based on whatever they charge.

MR. POLLARD: But this would not be an addition to a fee that they might charge?

MR. BYRUM: We would be administering this in the 75 other counties.

MR. POLLARD: One other question. I was noticing we don't have a lot of people represented here of industry who might be subject to this permit fee for existing sources. Do you have some figure in mind of how many new sources will be covered by this annual permit?

MR. BYRUM: Are you talking about additional to what we have, sources we have now?

MR. POLLARD: Sources who do not have permits now. How many additional ones we will ...

MR. BYRUM: I really don't have that, but I can tell you we are talking in the neighborhood of 4,000 point sources. How many facilities, roughly 300 maybe, something in that neighborhood that would be on the state level and then you've got, how many sources do you have Ray? About 200?

MR. BISHOP: I think there's a little bit more than 200.

SOMEONE: Unless the question of definition of sources is resolved, do you use the same definition in Tulsa County?

MR. POLLARD: My recommendation to the Council would be that it might have a big impact on some people who have never had any permits before, have never had to pay any money out on this kind of thing before, that will come as a big shock to them. And it could be a very substantial amount of money for some smaller operators. It wouldn't be for my company, but it might be for some smaller ones, it would be. If you had some way of notifying them if you know who they are, I think they and yourselves would be well served.

MR. BYRUM: I would state that we do make a mail out of our agenda items to a very significant number of the industries who have representatives who usually come to our meetings. I can't speak as to why there aren't any more of them here.

MR. BREISCH: Jim's right. They might not have known about it, heard about it.

MR. BYRUM: That's true.

SOMEONE: Do you know, for example, that everyone who is on this list of 3,000 ...

MR. BYRUM: I don't know who all her list encompasses. I know there are many, many mailouts made, but I don't know who all it encompasses, but it does cover anyone who has ever requested to be on that list is mailed to.

SOMEONE: But the most immediate target group it would seem to me, would be those who currently have some kind of permit.

MR. BYRUM: We, what we are using as a basis for this, is the emissions inventory system that we have and a lot of those people are either represented by groups that we do make a mailout to or who have representatives come to the meetings and that type of thing. I would think there is a fairly sizable number of people who ... and of course we mentioned at the last meeting and some of the meetings before that.

MR. POLLARD: One additional thought. To me this is a very significant step the Council is taking to require permits from existing facilities. I understand the need for fees to cover the administration of air programs and I support that, but when you require a permit, an operating permit on existing sources, what will happen is that now people who do not have a permit are no longer legally allowed to operate. Whereas before there was no requirement on them. I think that is a significant point of regulation on them that you need to consider very carefully as to how that is implemented. How they are notified to know if they are, because now you are requiring them to have a permit to operate or they are ...

MR. BYRUM: It may be that we address a different class of permit or something, I'm not sure. Any comments for Jim? Questions? Royce Bentley.

MR. BENTLEY: Royce Bentley of Public Service Company of Oklahoma. I think it's pretty evident from the questions generated both this morning and this afternoon that there are very few of us who either entirely understand the regulation as it's proposed now or after some of the explanations we have received, we have really changed an opinion of the regulation itself and I would just simply ask that we do in fact have a comment period that in this case we might want to consider a 30 day comment period. The impact of this regulation is tremendous beyond the fee generation stage and I don't think any of us here have much hesitation in supporting the program financially, it's the impact it may have in other areas that concerns us. Thank you.

MR. BYRUM: Any questions for Royce? David Bradshaw.

MR. BRADSHAW: My name is David Bradshaw and I represent the Agrico Chemical Verdigris Plant. We do not support the idea of an annual permit renewal process. We suggest the substitution of an annual inspection fee as used by many other states. As with the proposed regulation, this inspection fee could be geared to the number of point sources at a facility and would result in the same revenue. Alternatively, if an inspection fee is unacceptable, then we suggest that the permit renewal process be clearly defined within the regulation itself. That is, we would like to know what may or may not be required. As the regulation is proposed, we feel the process is open to arbitrary requirements and could be used unfairly and selectively at some future time. Again, we are not opposed at all to the raising of revenue for the purpose, but we would like a different approach.

MR. BYRUM: Any questions of David? Thank you. Anyone else who wishes to speak? Again, anyone else who wishes to speak? I find no one else who wishes to speak.

MR. BREISCH: [unintelligible]

SOMEONE: Could I ask about the urgency of acting upon this item?

MR. BYRUM: There's no urgency since there's no Board of Health meeting before the legislature goes out of session, so you have the rest of the year.

SOMEONE: This is what I started to say earlier, it seems to me this would bring some major contributions ... and maybe it would make sense to have a longer comment period ...

MR. BREISCH: I don't know what other effort could be made to notify unsuspecting industry permittees, but we sure ought to make an additional effort since Jim and Royce seem to think there might be.

MR. DOUGHTY: Mr. Chairman, we could leave this open. Set it for public hearing again at the next Council meeting and leave the comment period open until that time. We can make some effort to identify those people who we think would be impacted by this regulation and send out special notices. That's not unheard of, we've done that before.

MR. BREISCH: You wouldn't be publishing any new regulation ...

MR. DOUGHTY and MR. BYRUM: Oh no.

MR. DOUGHTY: We could bring it back to public hearing again at the next Council meeting.

MR. BREISCH: Could you at that time have a suggested regulation?

MR. DOUGHTY: That's a real possibility and the Council could also act on it at that time. I'm saying there's no real ...

MR. BREISCH: We couldn't act on it unless it had been published could we? Unless you said we were going to act on it.

MR. DOUGHTY: Well, we could publish it. I don't see any problem with that. We could publish a public hearing and continuation of public hearing and possible action. Or we could set it for Council and the Council could either accept it or reject it based on the proposal and what comes out at the public hearing.

MR. BREISCH: Well, then what you're saying we don't need to close this for comment.

MR. DOUGHTY: Since the Board of Health meeting has been canceled, then there's no use to require any urgency.

MR. BREISCH: I think we can just leave it open then until our next meeting.

[someone seconded]

MR. BREISCH: It has been moved and seconded to continue the hearing on 1.4 through our next regular meeting and then take appropriate action at that time.

Mr. Quinlan - aye; Dr. Canter - aye; Mr. Pyle - aye; and Mr. Breisch - aye.

MR. BREISCH: That will conclude our hearing portion of the meeting.

28 April 1987

Mr. Dennis Doughty
Oklahoma Air Quality Service
Oklahoma State Department of Health
P. O. Box 53551
Oklahoma City, Oklahoma 37152



Dear Mr. Doughty:

Thank you very much for the advanced copies of Regulations 1.4 and 1.5. Both Jim Schellhorn and I have reviewed them and we offer the following comments:

Regulation 1.4 -- Instead of an annual permit renewal we suggest implementation of an annual recertification contingent upon a facility meeting three requirements: (1) Payment of an annual inspection fee (this could be based on number of point sources), (2) Completion of the Annual Emissions Inventory and, (3) Completion of a Toxic Emission Inventory as requested by the AQS. We feel that by limiting the intent of the regulation to these (or other) statements that the purpose of the modification becomes clear to the regulated community. As proposed, the renewal requirement appears to be a club which could be used at some future date in an arbitrary fashion. The approach which we have suggested makes clear the intent of the AQS and makes it much less likely that the above listed tasks will have to be spelled out to some members of the regulated community.

Regulation 1.5 -- We feel that this proposed revision presents a considerable improvement! We do suggest that language be added to

1.5(e)(2) to clarify the source of the toxic chemical. For example, if all sources are considered (as we suspect) then we feel that the regulation should read, "If the release of a toxic chemical from any source: point or non-point, regulated or non-regulated, has the...". If the scope of the regulation is not this broad then the source type or applicable regulation(s) should be specified.

Very truly yours,

THE VERDIGRIS PLANT

A handwritten signature in cursive script that reads "David Bradshaw". The signature is written in dark ink and is positioned below the typed name of the sender.

David Bradshaw
Environmental Chemist

*copy
Walter
Nance
Og Dennis*

RECEIVED
MAY 19 1987
AIR QUALITY
SERVICE

**OKLAHOMA
STATE
CHAMBER
OF COMMERCE
& INDUSTRY**

Air Quality Council
P. O. Box 53551
Oklahoma City, OK 73152

Gentlemen:

Your proposed amendments to the Air Quality Standards of 1.4 and 1.5 raise several questions and you are entitled to several compliments.

1.4 (1) - What is a source? - Should be clarified to include the facility particularly as "source" applies to the asbestos situation. As written, a permit could be required for each valve in a facility. One permit should cover the facility.

1.4.1 (b)(1) - What does "relocate mean?" It could mean moving a machine a few feet inside a facility. One should not need a new permit as long as one is just rearranging within a facility.

1.4.1 (c)(2) - after word "operator" insert "at the time of transfer."

1.5 (b)(1)&(2) - The use of "Release" is confusing. However, would suggest that the section be left as is and a group be formed to study the most effective and efficient way to interpret and implement.

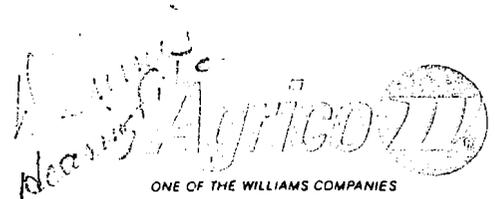
We would like to compliment the Council on the requirement of public notification. We believe it is in the right direction and would suggest the group also study the most efficient definition and enlargement of such for the public protection.

Sincerely,

Julius E. Kubier
Julius E. Kubier
Vice President -
Industrial Division

JEK:kb

20 May 1987



Mr. John Drake
Oklahoma Air Quality Service
Oklahoma State Department of Health
P. O. Box 53551
Oklahoma City, Oklahoma 37152



Dear Mr. Drake:

At the May 19th meeting of the AQS in Tulsa I delivered oral comments at the Hearing Briefing concerning the proposed revisions to Regulation 1.4. Following is the text of those comments with only minor changes.

We do not support the idea of an annual permit renewal process as proposed by the revision. We suggest the substitution of an annual inspection fee as used by many other states. As with the proposed regulation, this inspection fee could be based on the number of point sources at a facility thus producing the same amount of revenue and much less paperwork for the AQS and the regulated facility.

Alternatively, if the inspection fee approach is unacceptable, we request that the permit renewal process be clearly defined. That is, we would like to have what may and may not be required stated in the regulation. As the proposal now stands the purpose and the method of the renewal is undefined. We feel that this leaves the process open to misunderstanding and abuse at some future date when the present staff is no longer with the AQS.

Very truly yours,

THE VERDIGRIS PLANT

David Bradshaw
Environmental Chemist



Weyerhaeuser Company

P.O. Box 1060
Hot Springs, Arkansas 71902

May 27, 1987

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MAY 28 1987

AIR QUALITY
SERVICE

Mr. John Drake, Chief
Air Quality Service
Oklahoma Dept. of Health
P. O. Box 53551
Oklahoma City, OK 73152

Dear Mr. Drake:

On behalf of Weyerhaeuser Company, I am submitting the following comments on the proposed changes to regulations 1.4 and 1.5.

- 1.4.1(b)(1) - The term "relocate" as used could lead to a lot of confusion. I suggest that the definition of relocate should be as follows:
Relocate means moving the source from one described geographical site to another. An example would be the relocation of an asphalt or cement mixing plant.
- 1.4.1(b)(3) - The intent of this section appears to be that of providing a means for assessing and collecting the annual fees as described in section 1.4.1(d). It should not be necessary to reissue permits each year for this purpose. The required annual Air Emissions Inventory lists all emissions at each facility. Billings could be sent with the inventory sheets and the fees collected at the time the completed inventories are submitted. This would eliminate a lot of unnecessary paper work both for permittee and the Air Quality Service Staff.
- 1.4(1) - Source - How is this defined? Is a contiguous geographic area a "source" or is each emission point at a facility? If each stack or vent is considered a "source", then a maximum fee per "facility" must be set. The fees for asbestos permits/approvals projects should be an "annual fee per facility".
- 1.4.1(d) - The fee schedule would not be considered a major issue if "source" is defined as a "single entire industrial complex" or "facility". If each vent or stack is a "source" then a maximum cap for the permit fees must be set. As noted above, a single "facility" could have 25 or more vents or "sources" and permit fees could run from \$4,000 to \$10,000 per year.

May 27, 1987
Page Two

1.5(b)(E) & (F) and 1.5(e)(2) - I urge that these proposed changes not be added to the regulations at this time for these reasons:

- . New EPA regulations under Title III of the 1986 CERCLA amendments are just now taking effect. The first reporting date under the Community Right-to-Know provisions was May 17, 1987.
- . Each state must set up local emergency planning commissions by October, 1987. Reports of "emissions" must then be made to there local commissions along with lists of "toxic" or "hazardous" chemicals stored or used.
- . Proposed additions are duplicative of the mandated federal regulations and unnecessary. The reporting of "spills" to the local and/or state agencies will have to be made absence the proposed changes.
- . Federal regulations are still evolving and being refined. Until such time as the current program has been fully implemented there is no way to be sure that the proposed additions would not be either duplicative or in conflict with the final federal regulations.
- . The proposed additions apply to "air emissions" while the existing Federal regulations apply to all spills of "toxic" and/or "hazardous" materials. Adding this to the Air regulations only adds to the present confusion.

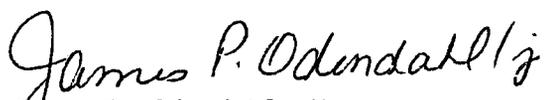
I urge that these proposed additions be dropped from regulations 1.5(b) on the basis that these requirements are already in place and these changes are an unnecessary duplication.

I appreciate the opportunity to submit these comments and respectively request that they be made a part of the official record of the hearings held on 5/19/87.

May 27, 1987
Page Three

If I can clarify any of the above comments or answer any questions,
please give me a call at 501-624-8569.

Very truly yours,


James P. Odendahl, Manager
Environmental & Regulatory Affairs

/jlf

cc: Wayne Plummer - Wright City
Julius Kubier - Okla. City
Scott Jenkins - Valliant
Dick Reagan - Craig
Jerry Seitz - Wright City
Larry Byrum - OAQS
William Breisch - Chairman OAQ Council
Mike Rast - Valliant

St. Clair



CAVALIER BRAND

Lime Company

P.O. BOX 160

MARBLE CITY, OKLAHOMA 74946

(918) 775-4405

June 23, 1987

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JUN 20 1987

AIR QUALITY
SERVICE

Air Quality Service
P. O. Box 53551
Oklahoma City, Oklahoma 73152

Gentlemen:

RE: Proposed Amendments to
Regulation 1.4

We oppose the above referenced amendments as burdensome and excessive to an already difficult business climate.

Sincerely yours,

ST. CLAIR LIME COMPANY


S. F. Dunlap
General Manager

SFD/cmo



Oklahoma Coalition for Clean Air

Affiliated with

OKLAHOMA TUBERCULOSIS AND RESPIRATORY DISEASE ASSOCIATION
P.O. BOX 53303 OKLAHOMA CITY, OKLAHOMA 73105 AC 405 524-8471

To: Air Quality Council Public Hearing
State Health Department, 1000 N.E. 10th St.
Room 314
Oklahoma City, OK

Date: July 21, 1987 1: 00 PM

From: Anna Clapper, 12104 Camelot Place, OkC, OK 73120

Re: Proposed Variance 87-2, Weyerhaeuser, Valliant

Mr. Chairman, Members of the Air Quality Council, Ladies and Gentlemen:

My name is Anna Clapper. I live at 12104 Camelot Place, Oklahoma City, OK 73120. I am representing the Oklahoma Coalition for Clean Air and I serve on the Board of the American Lung Assn. of Oklahoma as environmental chairman. Over the years, since 1969 I have monitored meetings of the Oklahoma Air Quality Council and have followed the development of the Oklahoma Clean Air Act through all its regulations. As a citizen interested in the quality of life, it was a shock to me to find a location in this state listed on the cover of the brochure "Warning: Breathing in these cities may be hazardous to your health". Tulsa, OK has this dubious distinction.

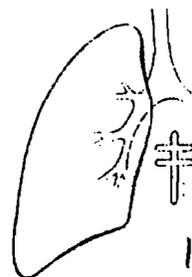
Just in case you may wonder why the request for variance made by Weyerhaeuser causes me concern, let me refresh your recollection of the magnitude of the people sensitive to air pollution in the state of Oklahoma. From the 1980 census we learned that Oklahoma has three and three-quarters million people. Of these, one-quarter million are under the age of five; one-half million are over age fifty, and one-half million suffer from chronic respiratory ailments. Then add to this $1\frac{1}{2}$ million, the large numbers of persons suffering from coronary heart disease, and lung cancer, and you realize that there are indeed many who live in our state who could have serious health effects from an increased air pollution.

Furthermore, Weyerhaeuser is requesting a possible five-fold increase in the emission of particulates for one year. Particulates are the solid matter on which other pollutants adhere and travel, so this is indeed a serious consideration.

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JUL 27 1987

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1999



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OKLAHOMA TUBERCULOSIS AND RESPIRATORY DISEASE ASSOCIATION
P.O. BOX 53303 OKLAHOMA CITY, OKLAHOMA 73105 AC 405 524-8471

Another cause for concern is the occurrence of acid rain in the eastern part of the state. There are already readings at Clayton Lake at 4.76 to 4.23 acidity, and readings in other locations ranging from 5.63 to 4.49 (ph), so the addition of greater amounts of particulates to the existing condition is something to consider.

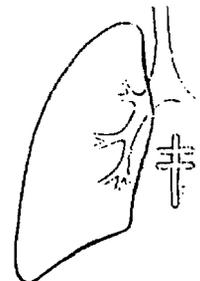
I realize that electronic precipitators can and do break down. However, to take one year to study the breakdown process seems a bit too long. My question is, once Weyerhaeuser gets the variance, how long will it be before they get into compliance?

It is my recommendation that Council keep in mind the health effects of added air pollution and structure their action on a way to keep careful control on Weyerhaeuser emissions during the period of study and correction while being aware of the ambient impact on the area.

Thank you for this opportunity to share my observations with you.

Respectfully,

Anna Clapper
Anna Clapper



Comments Pursuant to Public Hearing
on Revisions to Regulation 1.4
Concerning Permit Fees

Comment #1

We are opposed to permitting "existing sources".

Staff Response

Under the proposal set forth for hearing, grandfathered sources will not be required to obtain permits.

Comment #2

We do not support the idea of an annual permit renewal process as proposed by the revision. We suggest the substitution of an annual inspection fee as used by many other states. As with the proposed regulation, this inspection fee could be based on the number of point sources at a facility thus producing the same amount of revenue and much less paperwork for the AQS and the regulated facility.

Staff Response

The regulation must be written to be in concert with the enabling legislation. This legislation is couched in terms of permit fee, annual permit fees and permit fee equivalents; thus, these are the terms used in the regulation.

Comment #3

Instead of an annual permit renewal we suggest implementation of an annual recertification contingent upon a facility meeting three requirements: (1) Payment of an annual inspection fee (this could be based on number of point sources), (2) Completion of the Annual Emissions Inventory and, (3) Completion of a Toxic Emission Inventory as requested by the AQS. We feel that by limiting the intent of the regulation to these (or other) statements that the purpose of the modification becomes clear to the regulated community. As proposed, the renewal requirement appears to be a club which could be used at some future date in an arbitrary fashion. The approach which we have suggested makes clear the intent of the AQS and makes it much less likely that the above listed tasks will have to be spelled out to some members of the regulated community.

Staff Response

As stated above, the wording of the regulation must conform to the legislation, but the commentor's suggested intent is the intent of the

material that we presented. Several commentors expressed concern about the term "permit" and the implication or connotation of "permit application," "testing," etc., associated with new or modified source permits. Thus, new wording has been included to make this intent more obvious.

Comment #4

Section 1.4.1(d)(4) on asbestos fees can turn into a paperwork and administrative nightmare greater than the asbestos problem already is. We again feel that everyday asbestos removal in a facility should be permitted on an annual basis, with a fee such as \$500 per facility. Any major renovation/demolition projects could then be handled on a case-by-case basis.

In addition to our comments above, we believe that proposed Regulation 1.4.1(d)4 should be better defined. For example, what would constitute an "asbestos renovation/demolition project"? We wish to strongly recommend that removal of asbestos for routine maintenance, such as valve or pipe repair or replacement not be included.

Staff Response

The intent of this requirement was not to require additional reporting. The current NESHAPs reporting requirements are not expanded by this regulation. Those projects that can be encompassed on an annual report may still be done with a \$100 fee for each facility and those projects, that meet the requirements, must be reported individually with a \$100 fee. Clarifying language has been inserted.

Comment #5

1.4.1(b)(1) - What does "relocate mean?" It could mean moving a machine a few feet inside a facility. One should not need a new permit as long as one is just rearranging within a facility.

Staff Response

See below.

Comment #6

1.4.1(b)(1) - The term "relocate" as used could lead to a lot of confusion. I suggest that the definition of relocate should be as follows: Relocate means moving the source from one described geographical site to another. An example would be the relocation of an asphalt or cement mixing plant.

Staff Response

Language similar to the above has been inserted for clarification.

Comment #7

The regulations should clearly state that the permitting of existing sources will not subject us to performance testing, monitoring, or any other standards other than those currently in effect.

Staff Response

See comment 3. (The requirement for permitting grandfathered sources has been dropped from the current proposal).

Comment #8

Some wording should be inserted to prevent the existing sources issued a permit under 1.4.1(b)(3) from being placed under the same testing and data gathering requirements as for a new permit application.

Staff Response

See comments 2 and 7.

Comment #9

1.4.1(b)(3) - The intent of this section appears to be that of providing a means for assessing and collecting the annual fees as described in section 1.4.1(d). It should not be necessary to reissue permits each year for this purpose. The required annual Air Emissions Inventory lists all emissions at each facility. Billing could be sent with the inventory sheets and the fees collected at the time the completed inventories are submitted. This would eliminate a lot of unnecessary paper work both for permittee and the Air Quality Service staff.

Staff Response

This is the intent, see comment 2.

Comment #10

Regulation 1.4 (Permits), Section 1.4.1(d)(2), concerns fees for existing sources. We feel that the fee of \$50 per source is overkill in facilities such as ours. We presently have approximately 70 sources under the definition of sources. We feel that the paperwork alone for each source is not worth the \$50 per source fee. A fee such as \$500 per facility, for any facility with more than ten sources would be more reasonable, require less paperwork, and therefore require less administrative burden on industry and the AQS. These fees do nothing to improve or maintain environmental quality, which is our primary purpose.

Staff Response

The enabling legislation limits annual permits to \$250. Thus, if the permit is for a facility, as suggested, sufficient revenues would not generate. Further, to charge all sources the same fee, i.e., \$250, is not considered equitable.

Comment #11

Instead of a fee of \$50 per source, we would propose a lump sum fee for each facility.

Staff Response

See comment 10.

Comment #12

We do like the proposed annual fee as shown in 1.4.1(d)(2). The \$50 charge per point seems reasonable, but we would like to see a \$2,500 maximum annual charge. As an example, a major source would have to pay approximately \$5,000 per year on an estimated 100 point sources as the proposed regulation is now written.

Staff Response

This is true and a 100 point source will consume more staff time than a 10 point source.

Comment #13

We are currently charging a double fee for late filing of construction permits. We prefer this to the 50% additional late filing fee.

Staff Response

While we see an advantage to late filing fee and/or penalties for late filing, review of the enabling legislation does not seem to authorize such.

Comment #14

The permit fee system for new construction now in use in Tulsa County, is more equitable than the proposed revision to section 1.4.1.

Staff Response

See comment 13.

Comment #15

1.4.1 - Source - How is this defined? Is a contiguous geographic area a "source" or is each emission point at a facility? If each stack or vent is considered a "source", then a maximum fee per "facility" must be set. The fees for asbestos permits/approvals projects should be an "annual fee per facility".

Staff Response

"Source operation" has been defined in this regulation. See section 1.4.1(e)(1).

Comment #16

1.4.1(d) - The fee schedule would not be considered a major issue if "source" is defined as a "single entire industrial complex" or "facility". If each vent or stack is a "source" then a maximum cap for the permit fees must be set. As noted above, a single "facility" could have 25 or more vents or "sources" and permit fees could run from \$4,000 to \$10,000 per year.

Staff Response

Yes. See also comment #12.

Comment #17

1.4.1 - What is a source? - Should be clarified to include the facility particularly as "source" applies to the asbestos situation. As written, a permit could be required for each valve in a facility. One permit should cover the facility.

Staff Response

See comment #4.

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BEFORE THE
AIR QUALITY CONTROL COUNCIL

In the Matter of:)
)
PROPOSED REVISION OF)
REGULATION 1.4)
AIR RESOURCES MANAGE-)
MENT PERMITS REQUIRED)
_____)

DEPARTMENT OF HEALTH
3rd FLOOR CONFERENCE ROOM
Oklahoma City, Oklahoma

Tuesday, July 21, 1987

The above-entitled matter came on for
hearing, pursuant to Notice at 1:30 PM.

BEFORE: MR. DRAKE, CHAIRMAN
Air Quality Control Council
Oklahoma City, Oklahoma

REPORTED BY: Patricia R. Burns, C.E.R.
Notary Public within & for
The State of Oklahoma

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APPEARANCES:

AIR QUALITY CONTROL COUNCIL:

MR. JOHN PARRY, MR. DRAKE, CHAIRMAN, MR.
BREISCH, MR. PETTIS, MR. SKEITH, MR. PYLE, MR. QUINLAN.

SPEAKERS:	PAGE:
Mr. Dennis Doughty	3
Mr. Robert J. Cinq-Mars	11
Mr. Ray Hedrick	21
Mr. Jim Pollard	23
Ms. Rachael Pappworth	24
Mr. Clyde Jones	26

P R O C E E D I N G S

2:00 PM

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2
3 MR. BREISCH: We'll continue our
4 hearing, now, and go on with the rule making. Again,
5 John Drake will act as our Hearing Officer. John.

6 MR. DRAKE: Okay, this is a continuation
7 of the public hearing that was commenced at the May
8 Council Meeting, in Tulsa. At that time the Air Quality
9 Council directed the staff to leave, to continue the
10 hearing to this meeting, and to continue to receive
11 public comments.

12 Therefore, this hearing was appropriately
13 advertised, before May. It was readvertised, again,
14 to this meeting. And, we won't go through the normal
15 -- set the record information. However, the -- if you
16 want to make a comment concerning Regulation 1.4, that
17 is the hearing pertaining to Permit Fees, fill out a
18 slip of paper at the back, and pass it up here, and we
19 will give you an opportunity to speak.

20 At this time I want to ask Mr. Dennis
21 Doughty to give the staff's presentation, and indicate
22 what revisions and regulations were made, as a result
23 of the May hearing. Dennis.

24 MR. DOUGHTY: Ladies and gentlemen,
25 members of the Council, and Mr. Chairman, my name is

1 Dennis Doughty, and I am the Staff Attorney for the Air
2 Quality Service. And, as Mr. Drake said, the hearing
3 on the revision to this regulation was continued from
4 the last Council meeting, to this time.

5 At the end of the last Council Meeting,
6 the Council requested the staff make a special mail-out
7 on notices to those persons who might not have recieved
8 notice.

9 The staff did this. Dr. Coleman, and some
10 others from the staff, spent a lot of time putting to-
11 gether these sources, and making special mail-outs,
12 or special notices.

13 I've attached a copy of the text of
14 this special notice, next to the regulation. Also,
15 the staff has compiled a document, whereby we took the
16 comments and the staff response, and put them altogether,
17 and this document is appended to the regulation, to
18 the proposal.

19 Also, Larry Byrum and some of his staff
20 has put together some fee information from the
21 surrounding states. This is included, as are also
22 several examples of how facilities were being -- how
23 facilities would be affected.

24 I would like to go through the regulation
25 much as I did in the briefing, and sort of paraphrase

1 the new language, so we'll know what's been added, and
2 how this would affect.

3 Under -- one page 1 of the Proposal,
4 under 1.4.1b, Sub-Section 1, basically says that you
5 can't "commence construction or operate any new source,
6 or relocate any source without obtaining a permit."

7 Sub-Section 3, says, when you transfer
8 a source the new owners are going to be subject to the
9 existing conditions, and also any compliance schedules
10 that they are subject to, at the time of transfer.

11 The new language in Sub-Section 5,
12 on the same page, indicates that the term of all permits
13 is going to be for one year.

14 Under Sub-Section 6, it says if the
15 fees are not in by March 1st, that the facility is going
16 to be in violation of the "b-1", which requires a permit
17 to operate.

18 On the next page, on 1.4.1c, Sub-Section
19 2, this says that for construction permit applications,
20 which are received after January 1st, 1988, you have
21 at least one year's grace before you have to pay a
22 renewal fee.

23 Under 1.4.1d, "Existing Sources",
24 Sub-Section 1, there, basically says, if you have a
25 grandfather facility, and you don't have a permit, you

1 are going to have to pay the same renewal that you would
2 pay, if you had a permit. We've added the "Definition"
3 section, under 1.4.1e, "Permit Fees", and it's been
4 pointed out to me that under Sub-Section 1, "Definitions",
5 that 1.4.1c is not appropriate. And, I believe that
6 the staff intended that this was 1.4.1e. In other words,
7 these definitions, were to apply to a permit fee sub-
8 section, here.

9 We've added a definition of major source,
10 And, basically, all this does is to point out that a
11 major source shall have the same definition as set forth
12 elsewhere, in this same regulation.

13 A minor source, for the purposes of
14 permit fees, means any source for which a permit is
15 required, is not a major source.

16 We've added the definition "permit
17 renewal", and this was added to make sure, to make it
18 clear that the only consequence of renewing the permit,
19 is that the fees have to be paid. That there are no
20 special reviews, that a permit will have to undergo,
21 during a permit renewal.

22 The definition, "relocate", has been
23 added, and this has been added to make it clear that
24 relocate is not meant to include some de minimis moves
25 within the facility area. That is't really meant to

1 include a genuine relocation.

2 On the next page, we've added the
3 definition, "source operation". This was added to
4 show that only permitable point sources are going to
5 be subject to the fee renewal requirement.

6 We've added another definition, "annual
7 permit renewal fee equivalent", and this explains, or
8 defines the fact that the fees which are going to be
9 assessed on grandfather facilities.

10 If you go down to Sub-Section 2, here,
11 this sub-section talks about the fees which will be
12 assessed on sources, at the time of permitting.
13 Construction permit for a major source, a new source,
14 will be \$2,000.00. And, there will be no operating
15 permit fee for a new major source.

16 A minor source construction permit,
17 will be \$750.00.00, and no fee for the operating permit.

18 I might add that the no fee for an
19 operating permit, is only at the time that the permit
20 is applied for, during the initial permitting process,
21 that after the grace period they would be required to
22 pay a renewal fee.

23 We go to Sub-Section 3, and the renewal
24 fees will be assessed at the rate of \$65.00 per source
25 operation. That's for a renewal, permit renewal fee

1 or the equivalent.

2 Sub-Section 4 says, basically, that
3 the service will present assessments the first of every
4 year, to the facility, except for the year 1988. And,
5 during this year, these assessments will be presented,
6 as close as we can make it, to the effective date, which
7 would be -- we anticipate, might be in January.

8 So, the practical matter, we don't anticipate
9 that there's going to be a lot of difference between
10 the 1988 assessment, and any subsequent assessment.

11 Under Sub-Section 5, and this should
12 say, "permits to relocate", instead of "permits to locate".
13 That's a typographical, there -- will be assessed a
14 \$50.00 fee.

15 Under Sub-Section 6, this speaks to
16 the asbestos renovation demolition projects. The fee
17 permit is defined in terms of notification. In other
18 words, a project will comprise those activities submitted
19 under one notification. If the project lasts any longer
20 than a year, then you would be assessed a \$100.00 renewal
21 fee, for that project. Any new project encompassing
22 other activities, like another renovation, another
23 part of the facility, would become a new permit, and
24 a new fee.

25 On the next page, Sub-Section 8, under

1 1.4.1e, was added to make it clear that these permit
2 fee provisions would be applicable to the State Air
3 Program, and would not pre-empt any City/County program.

4 The staff comes prepared to recommend
5 that the Council take action on this today, for
6 recommendation to the Board of Health. But, I'm sure
7 the staff will consider -- well, let me just say that,
8 certainly, the Council is free to do whatever they want
9 to, on this. And, that's all I have to say, unless
10 there are some questions.

11 MR. DRAKE: Any questions for Mr.
12 Doughty?

13 (No oral response)

14 MR. DRAKE: We have several people who
15 have indicated they would like to make a response to
16 this. Are there any more slips? Have I got them all?

17 Do you want to say something?

18 MR. SKEITH: Yeah, Mr. Chairman, and
19 gentlemen of the Council, at the appropriate time, and
20 I hope this will have some bearing on the records, the
21 comments by those who take the time to come and talk.
22 At the appropriate time, Mr. Chairman, I will make the
23 following motion, that this particular item be...

24 THE REPORTER: Excuse me. Could we
25 go off the record for a moment?

(A short break was taken.)

1 THE REPORTER: Back on the record.

2 MR. SKEITH: Do you want me to start
3 over?

4 THE REPORTER: I got the first part.

5 MR. SKEITH: The first part is, that
6 we take this item up for consideration at the September
7 meeting, in Tulsa, Oklahoma. Can you still hear?

8 THE REPORTER: Yes, sir.

9 MR. SKEITH: The second thing is that
10 we direct it be the will of the counsel to direct Mr.
11 Drake and his staff to allot as many days as they deem
12 appropriate to hear the recommendations, and suggested
13 changes, for those people who have voiced their feelings,
14 at the earlier period of the day, in the briefing, that
15 those be taken into full consideration in making your
16 final recommendation. That you send out another letter,
17 I guess, Dr. Coleman, to the folks that are on the
18 mailing list, and anyone else who wants to add their
19 name, in hopes that this time, which will extend this
20 consideration of this item, into, I believe, close to
21 six months.

22 In hopes that everyone will have their
23 say, with the idea in mind that the Council will then
24 attempt to, at the Tulsa meeting, take final action
25 on it. That's my observation, Mr. Chairman.

1 MR. BREISCH: We have some seven requests
2 here, with the knowledge that Mr. Skeith intends to
3 make such a motion, this might warrant these various
4 comments to be shortened, and not done away with. But,
5 that's up to the people who have the slips.

6 If you do want to make comments, and
7 if you hear somebody preceding you, to say something,
8 don't repeat. Let's make this as short as possible,
9 and again, if for any reason, with knowledge that Mr.
10 Skeith intends to make the motion, it might change
11 your mind in having to comment, at this time.

12 John, go ahead.

13 MR. DRAKE: Okay, Mr. Brightmyre,
14 Joe. E.

15 MR. BRIGHTMYRE: No comment.

16 MR. DRAKE: I beg your pardon?

17 MR. BRIGHTMYRE: No, we won't comment,
18 at this time.

19 MR. DRAKE: Robert J. Cinq-mars.

20 MR. CINQ-MARS: Cinq-mars.

21 MR. DRAKE: How did you pronounce that?

22 AUDIENCE SPEAK: Very carefully.

23 MR. DRAKE: Very quickly, is what I heard.

24 MR. CINQ-MARS: My name is R. J.

25 Cinq-mars, that's C-i-n-q hyphen m-a-r-s. For those

1 of you who are French scholars, that means the 5th of
2 March, in French. However, it's not the French equivalent
3 of Smith.

4 I'm an employee of City Service Gas
5 & Oil Corporation, but I'm basically appearing here
6 on behalf of the Gas Processors Association. I do wish,
7 however, to take the opportunity, perhaps, to change
8 hats in the middle of this, since I have some extemporaneous
9 comments that I've observed.

10 The Gas Processors Association is an
11 incorporated non-profit trade association, representing
12 approximately 195 members, each of which is engaged
13 in one of several activities, in the production, gathering,
14 treating, processing and transportation of natural gas.

15 Collectively, member companies process
16 over 90% of all the gas liquids produced in the United
17 States. From my review of companies and facilities
18 in Oklahoma, and also the GPA staff, we know this is
19 more than true for Oklahoma, probably 95% or greater,
20 of our companies are -- we have 95% or greater of the
21 capacity for such processing in Oklahoma, as well.

22 The GPA believes these regulations,
23 as proposed, can have a fairly major impact on it's
24 member companies, and so we appreciate the opportunity
25 to talk to you today.

1 As a procedural matter, we believe today's
2 hearing to be somewhat premature. Now, I know this
3 has been beaten to death earlier today, but we don't
4 feel that we had the 30 days notice of the meeting,
5 or, especially, of the availability of the materials
6 for the meeting. Our first understanding of it was
7 Mr. Drake's letter that, I believe, came to a member
8 of my staff, dated June 17th. And, the drafts that we
9 received were dated 6/29/87, which is considerably less
10 than 30 days.

11 We also consider this draft to be, if
12 not a first pass, at least a second pass of what is
13 an ongoing process. And, we've already stated, and I
14 think the sentiment is obvious here today, that it should
15 probably be rewritten or substantially remodified, before
16 possible adoption.

17 We would submit that this hearing should
18 only be the first of a couple of hearings on the topic,
19 or at least a couple of workshops. Mr. Skeith has
20 already recommended, and we, certainly, support that.
21 Because of the experience that members of the GPA have
22 had in dealing with other states, with regards to similar
23 kinds of permitting, and permit fee processings over
24 the last couple of years; and, it's been that long.
25 We would greatly like the opportunity to meet with you,

1 here, or in Tulsa, if you have set up a workshop there
2 of some kind, either in a workshop forum, or any other
3 forum that you deem acceptable, to give you our views,
4 specifically, as a group.

5 turning to the main comments on
6 regulations, I would like to go through them somewhat
7 systematically, 1.4.1b, the General Requirements, I
8 understand from listening to the staff that this requires
9 every source in the State to have a permit.

10 I will probably be a little heretical,
11 and say, I'm not sure you really intend to do so. We
12 don't think you have the resources to do it, and certainly
13 you odn't have the dollars, which is probably the reason
14 you are trying to raise these -- or set up these
15 proposed regulations, at any rate.

16 But, secondly, the particular provision,
17 very definitely conflicts with the next provision, in
18 which it says, permits are required when emissions
19 increase, as the commissioner determines to be
20 appropriate.

21 There is an inherent contradiction
22 between these two items here. 1.4.1(b)(4), this provision
23 allows exemptions from permit for those facilities that
24 are minor significance. There is, I believe, one
25 policy statement that exempts stationary internal

1 combustion, or turbine engine, compressor engines. And,
2 we strongly support continuing of this type of policy.
3 In fact, we recommend a great expansion of this policy,
4 to set up whole categories of exemptions, as I will
5 discuss shortly.

6 1.4.1(b)(5), as such, we don't have
7 a comment on this particular segment, but we find reading
8 through the rest of the text that it's very confusing,
9 concerning the effective date of the regulation. If
10 you propose the effective date to be January 1st, then,
11 we would suggest that you say so. I think it would
12 make things a lot clearer, and easier to handle.

13 1.4.1(b)(6), the way it's written, we
14 believe you probably mean this to say, "any source for
15 which the invoiced permit renewal fee has not been
16 received in the offices of the Air Quality Service,
17 on the first working day in March." Since you are
18 going to send out the fees, or you are going to send
19 out the assessments, if the people haven't been invoiced,
20 we assume there isn't a question of not being in com-
21 pliance if you haven't gotten such a fee. That's
22 something, really, you have to make that call, obviously.

23 1.4.1(c)(2), in our meeting the other
24 day the Gas Processors had, we were really puzzled over
25 this paragraph, for a long time. We got all said and

1 done, we think we understand it, and we liked it, but
2 we had a hard time getting to it. We understand it
3 to mean we would not end up paying a construction permit
4 fee, and an operating permit fee, in the first 12 month
5 period. That's our understanding, and I think that's
6 been substantiated here today.

7 I think it can be reworded to say that.
8 Mr. Doughty's presentation, this morning, maybe if you
9 just paraphrased what he said, in the regulation, it
10 would make it so much easier to understand.

11 1.4.1(e)(1), "Permit Fees and Definitions",
12 the definition I think we have the most trouble with,
13 and probably the majority of people in the room, is
14 "minor source". We have a real problem with this
15 definition, as I said. It seems that "minor source"
16 is virtually any emission to the atmosphere, no matter
17 how small, that can possibly occur in the State.

18 For example, at our gas processing
19 plants, we might need to install a hot water heater,
20 or a small space heater. We shouldn't even have to ask
21 you for any determination, on a situation like this.
22 We feel this is such a small item that the idea of having
23 to get a permit for something like this, really borders
24 on the ridiculous.

25 As I mentioned, earlier, we believe

1 the policy of exemption for internal combustion engine
2 is to be expanded to include a variety of exempted
3 sources. This list of sources, in some states, is
4 quite numerous. I heard previous mention today of the
5 fact that regulations of other states have been obtained
6 by some members of your staff. I refer you to the
7 exemption list of the Texas Air Control Board, which,
8 I believe, has some 90 different exemptions.

9 On the definition of "relocate", we
10 just have a question. We are not sure what de minimis
11 move means. I think that maybe you've tried to help,
12 and maybe added more problems.

13 On "source operation", we understand,
14 and we are aware the source operation is otherwisely
15 defined in your regulation, except for the last sentence,
16 as used here.

17 We definitely believe there should be
18 some de minimis exemptions from the definition of source
19 operation. We also feel a need to clarify, for our
20 industry, and the purpose of these fees, what source
21 operation is. We consider emission points, that's
22 engine exhaust stacks, heater stacks, flare stacks,
23 and so on, to be source operations. We do not believe
24 it should include such things as emergency relief vent
25 valves, or valve vents, I should say, that may never

1 emit to the atmosphere, except in the situation where
2 such a relief valve might blow, which may be never.
3 It shouldn't include small sampling points, that may
4 be as small as a quarter inch align, for sampling.
5 And, there are probably other small individual possible
6 emission points in the facility, that are either very
7 intermittent, or very small, as I said before.

8 Again, we would be happy to give our
9 ideas, specifically, in writing, as to what some of
10 these sources should or should not be.

11 On construction permit fees, unless
12 you greatly reduce the number of minor sources, we
13 strongly suggest you eliminate this concept of construction
14 fees for minor sources.

15 I can foresee a situation that may seem
16 ridiculous in the extreme, where we pay more for a permit
17 fee than we would for the equipment, itself. A big
18 hot water heater is an example.

19 Annual permit renewal fee equivalence,
20 again, I refer to my previous comments under minor
21 sources. Not all individual source operations should
22 have to pay a fee equivalent. And, again, I point out
23 what we envision as the source operations in our
24 facilities, the engine stacks, the heater stacks, and
25 flare stacks.

1 As has been mentioned here, earlier,
2 and as the Chairman indicated, we strongly suggest that
3 these regulations need additional workshop type
4 activities. And, we support that concept, and we would
5 like to participate with it -- in this with you.

6 I would like to finally close by pointing
7 out some of the problems, and trying to come up with
8 a system based on emission points, or emission quantities.

9 I heard something mentioned earlier,
10 that they've been working -- you've been working on
11 these permit fees, or you will be, for six months.

12 Texas has gone through a two year
13 process. And, we've participated in it. And, the first
14 two years, the system was based on emissions. And, the
15 system has been a source of great deal of controversy.

16 It's been a system that's probably
17 unfairly penalized certain segments of industry, or
18 at least those segments of industry that most consciously
19 try to comply with it.

20 Even though the system was based on
21 relatively simplistic emissions information, the collection
22 of such data, proved to be very time consuming, and
23 difficult. And, I believe they had a much larger staff
24 capability, than you people have.

25 Texas also found out that, to it's amazement,

1 it's emission information was very incomplete. Most
2 interestingly, Texas is now in the process of finalizing
3 a set of regulations, that will, basically, go to an
4 SIC code concept.

5 And, an SIC code concept set up in such
6 a way that some concept of through put or size of
7 facility is brought into it, as well.

8 These regulations are going to effectively
9 broaden the basis for fee collection in the State of
10 Texas, and at the same time make it more equitable,
11 and easier to administer.

12 And, the word, "equitability" is one
13 that I haven't heard too much of here today. It seems
14 to me that I have heard that we need a certain amount
15 of money raised, in the State, and that's all good and
16 well. However, it seems to me that it needs to be
17 equitably raised across all segments of industry, and
18 that is probably the advantage of going to something
19 like an SIC code concept.

20 Finally, we believe that a system based
21 on the number of source operations in the facility,
22 is an unwieldy situation. We suggest that some approach
23 to this SIC code system, or an alternative system, as
24 an example of relatively simplistic one used in the
25 State of Kansas. I'm not sure of the number, but Kansas

1 has some 20 or 30 categories for which standard fees
2 are collected. It's somewhat analogous to an SIC code
3 system. I realize the dollar amounts you need to raise
4 may be different than those raised in other states,
5 but the use of systems that are proven to be administratively
6 useful, such as an SIC code, or standardized list of
7 facilities is something that Oklahoma should, very
8 seriously, consider doing.

9 And, again, I thank you for the
10 opportunity to comment, and look forward to working
11 with you at workshops, or hearings, or whatever, further
12 on it. And, I will be happy to answer any questions
13 that I might be able to answer.

14 MR. DRAKE: Any questions?

15 (No oral response)

16 MR. DRAKE: Thank you.

17 MR. CINQ-MARS: Thank you.

18 MR. DRAKE: Ray Hedrick.

19 MR. HEDRICK: My name is Ray Hedrick.
20 I'm with Public Service Company of Oklahoma, and we
21 made many of our feelings known in the meeting this
22 morning, so I will just briefly touch on those, and
23 if you have any questions, I'll be glad to speak further.

24 Our company, in the past, has not
25 argued against fees. We realize the economic climate

1 we work in, and so any comments we made this morning
2 were not intended to be an objection to a fee system,
3 in principle.

4 However, we do have some concerns with
5 the fee system, as presented by the staff, at this time.
6 We believe that by law, as passed by the State Legis-
7 lature, that these fees are to be based on services
8 rendered by the department, for licensing and inspection
9 fees. And, we believe that the current concept does
10 not fully adhere to that.

11 We also have concerns as to the clarity
12 in the system, in that we have some questions in our
13 minds, just what source operations that we have at our
14 facilities, that would be subject to fee, particularly
15 in reference to our source operations at facilities
16 that are grandfathered under the existing regulations.

17 And, we believe that changes could be
18 made to improve that situation. We also have some more
19 technical concerns, procedural concerns, and I'll forego
20 those, at this time. But, again, PSO and its staff is
21 willing to work for the Air Quality Service, in any
22 way, through the workshop system, and through any other
23 type of meeting, and we have some ideas on some other
24 systems, we would be happy to work with the staff.

25 And, we believe, again, a more equitable system, and

1 different system is possible, and would balance the
2 functional operation of the system, with the amount
3 of money that needs to be raised by the Air Quality
4 Service.

5 MR. DRAKE: Any questions?

6 (No oral response)

7 MR. DRAKE: Wayne Workman.

8 Jim Pollard?

9 MR. POLLARD: My name is Jim Pollard,
10 and I represent Oklahoma Gas & Electric Company. I
11 concur with what Mr. Hedrick said, so I won't address
12 anything that he's already said.

13 There is one other section that has
14 not been addressed, that I would like to draw your
15 attention to. That's Section 1.4.1(d)(5). And, it
16 states, "Upon the effective date of this section all
17 operating permits, including those issued prior to the
18 effective date, shall be for the term of one year,
19 renewable on the first working day of February of
20 each calendar year. The assessment shall include the
21 year, 1988."

22 The issuance of an operating permit
23 falls under 75 Section 309 of the Administrative
24 Procedures Act. This section addresses individual
25 proceedings. The issuance of a permit is an individual

1 proceeding. Section 309 requires that before a permit
2 can be changed, prior notice and opportunity for
3 hearing must be given to the permit holder. The
4 proposed rule change, in 1.4.1(d)(5) does not fulfill
5 the requirement for individual proceedings, found in
6 Title 75.

7 This section could be rewritten, to
8 allow for the duration of operating permits to be
9 for one year, but cannot unilaterally change all
10 existing permits, which have no expiration terms
11 presently, to a one-year duration permit.

12 And, that's the only additional
13 comment that I have to make on 1.4. I do support the
14 collection of fees, and I think we can work a system
15 out, and would be happy to have my company participate
16 in that, and support it.

17 Thank you all, very much.

18 MR. DRAKE: Any questions?

19 (No oral response)

20 MR. DRAKE: S.S. Rachael Pappworth.

21 MS. PAPPWORTH: Mr. Chairman, Members
22 of the Council, ladies and gentlemen. My name is
23 Rachael Pappworth, and I'm Regional Environmental
24 Engineer for Witco Corporation.

25 THE REPORTER: Would you spell your

1 name?

2 MS. PAPPWORTH: Which one? Oh, the last
3 one? P-a-p-p-w-o-r-t-h. And, it's not French.

4 Having attended the briefing this
5 morning, I was actually impressed by the Council's
6 desire to impose an equitable fee system. I think it
7 was an impression, which, at least, I obtained, that
8 several of you said that that was one of the things
9 you were looking for.

10 Like many other potentially affected
11 companies, we were actually unaware of the proposed
12 amendments to Regulation 1.4, until late June, this
13 year.

14 This morning it became apparent, and
15 we heard again, this afternoon, that several of the
16 attendees had ideas for a potentially more equitable
17 system. And, we would, therefore, like to urge the
18 Council to agree with Mr. Skeith, to go for, or at
19 least to attempt to come up with a different system.

20 I, in particular, would like to suggest
21 that we go for a workshop environment. The advantage
22 of a workshop, over a hearing, is that the workshop
23 is a cooperative effort, towards and accepted goal.
24 As opposed to a hearing, which can become adversal,
25 as we saw this morning. And, I think from the sentiment

1 out here, while people understand that a fee is
2 inevitable, we're not fighting that. What we are trying
3 to do is come up with the best fee we can. That's
4 what I understand your staff and the Council wants
5 to do. And, I think a workshop is the most appropriate
6 place to do that.

7 And, as to other points of the workshop,
8 we would be very happy to discuss definitions of minor
9 sources, which, I think, really is an essential part.

10 I understand what you are saying about
11 if you tie it down too much, that can work against
12 us. But, on the other hand we understand you're
13 reasonable, but we don't know what's going to happen
14 in the future, and we would like to -- we need to be
15 able to go through, review our operations, and have
16 a good understanding of what the liability is. That's
17 our responsibility to our management, as well.

18 So, those are the issues we would be
19 very happy to work with you, at the work shop. Looking
20 forward to seeing you then; thank you.

21 MR. DRAKE: Any questions?

22 (No oral response)

23 MR. DRAKE: Thank you. Clyde Jones?

24 MR. JONES: My name is Clyde Jones,
25 I represent National Zinc Company, Bartlesville, Oklahoma.

1 And, I'll just touch on a couple of comments, I think
2 were not made.

3 And, those are in reference to 1.4.1(b)(5)
4 and (c)(2), the renewal dates. I think there was
5 reference to it, but I don't think it was pinpointed.
6 I think there's a conflict as to what is the renewal
7 dates. And, what's the purpose of renewal dates if for
8 the new permits that are issued after 1988, and the
9 ones already existing.

10 We have a date for February, the existing
11 ones, and a date set in January for the new permits.
12 I would like to see that clarified, myself.

13 Also, putting a little bit more perspective,
14 I think there is a misunderstanding as to whether this
15 is a permit renewal fee, a point source removal fee,
16 or source operation renewal fee.

17 We have a misunderstanding of that
18 definition. I don't think there is a definition for
19 source, point source, in your rules and regulations.
20 An example is, we have a source operation, which has
21 five point sources, its cooling towers. And, is that
22 a source operation, five of them, or is that one source
23 operation, therefore are reliable for one fee or five
24 times that amount.

25 So, I think there is definition problems.

1 My company also believes there should
2 be some type of cap, fee cap for each facility, you
3 know, whether it be \$2,000.00, or whatever, but we would
4 like to see some type of cap, in order that this thing
5 wouldn't get out of hand.

6 And, finally, the purpose of the renewal
7 fee equivalent, again, the lack of definition for minor
8 sources, are insignificant sources, we are not sure
9 if we are going to be liable for a lot more point sources
10 that is available in our facility, for a fee assessment,
11 under your definitions of 1.4.1(d)(1), the renewal
12 fee equivalent.

13 So, there is a large concern. With
14 that, I had other comments, but they have been covered.
15 That's all I have to say.

16 MR. DRAKE: Questions?

17 MR. PETTIS: Mr. Chairman, if Mr. Skeith
18 is in a position to make his motion, I'll second it.

19 MR. DRAKE: Well, is there anyone else
20 that -- that's all the slips that I had. Is there
21 anyone else who would like to make a comment?

22 (No oral response)

23 MR. DRAKE: Apparently, that's all of
24 the comments.

25 MR. BREISCH: Is there any other

1 questions from the Council? Are we ready for a motion?

2 MR. SKEITH: Mr. Chairman, I think what
3 I said awhile ago is pretty much what I meant. I would
4 like to say if I didn't include the idea that it ought
5 to be a workshop fashion, I would strongly urge that,
6 John. I don't want to straight jacket you, and your
7 staff, but what this member of the Council feels is
8 there is something to be gained by hearing from these
9 people who are going to be paying these fees, and
10 getting their input. And, if they can build a better
11 mouse trap than we come up with on staff, and in this
12 Council, then it behooves us to consider every bit of
13 their recommendation.

14 I'd hope that you could have one or
15 two workshops. Maybe one here, and one at Tulsa, and
16 get the comments by the people who are interested, and
17 see what could be done to write a revision that we
18 would, hopefully, the next time be able to pass. I
19 know we are not going to get, and I hope the people
20 in the audience understand that I'm satisfied we are
21 never going to pull this together to a place you will
22 be tickled to death to pay the additional fees, knowing
23 that you are not really getting a whole lot more for
24 it.

25 But, as we discussed, briefly, at lunch,

1 the four of us that were together, the Legislature saw
2 fit to check the deal to us. And, we can sit here as
3 a public minded bunch, that, as I indicated this morning,
4 don't get any money for this, some of us would just
5 as soon be off. But, by the same token, as long as
6 we are on here, we think that it is best for Oklahoma
7 to have an Air Quality Service.

8 And, without the appropriate amount
9 of personnel, and enough income to have the equipment
10 and the manpower to do the job, I'm satisfied that the
11 Environmental Protection Agency will make their demands
12 on us to vacate certain areas of concerns. And, I don't
13 think it would be in the best interest of the people
14 of our State, nor you who represent different corporations
15 and entities. So, I make those, Mr. Chairman, those
16 remarks, hoping to justify some of the things that we
17 said earlier, and was pointed out by the young lady
18 who testified awhile ago. The morning meeting did get
19 in a rather adversarial position. I regret that, if
20 I said anything that offended anyone, it was not my
21 intention.

22 But, we can't get into a posture, on
23 the Council, as I see it, trying to defend what the
24 Legislature did, or did not do. We've got to try to
25 do our job, the best way we can. And, that's what we

1 are going to keep trying to do. And, if you all have
2 got any persuasion with Governor Bellman, well, I'm
3 sure most of us come up for reappointment, and we
4 can hardly wait for the day he either tells us we can
5 serve some more here, or get a chance to get paroled.
6 And, that will come soon for this member of the Council,
7 after about 12 or 15 years. And, I know for Mr. Pettis,
8 his parole is already due.

9 And, so, in all candor, we are going
10 to do the best we can. I want the staff to know that
11 I expect, hopefully, that you will let these people
12 be heard, and I know you will. And, in defense of the
13 staff, I think you've done everything we've asked you
14 to, up to this point, you've come out with the best
15 setup you thought you could get.

16 But, in difference to that, I think
17 even you recognize that there are people in the audience,
18 who will be bearing a rather substantial load of this
19 burden, who feel like it is not in the best equity to
20 enact the one we've got before us.

21 Therefore, that's my position, Mr.
22 Chairman, and I apologize for the time it's taken, but
23 I think, I'd like to see these kinds of meetings end
24 on a note that people feel like any Board or Commission
25 they are appearing in front of, is going to listen to

1 their concerns. We may not be able to satisfy your
2 requests, but I don't like to serve in the capacity
3 of attempting to just run over somebody, because we
4 have the votes here to enact this if we wanted to, and
5 say, "Well, your better idea is not well accepted."

6 So, that's the place we are coming from.

7 MR. DRAKE: Bill, do I understand your
8 motion is to continue this hearing, until our next
9 meeting, and during that we've instructed the staff
10 to hold meetings with interested parties, to the extent,
11 possibly, of workshops?

12 MR. SKEITH: Well, I'd rather say that
13 it ought to have that format, hopefully.

14 MR. DRAKE: Okay.

15 MR. SKEITH: You can call it whatever
16 name you want to, but I don't want to envision John
17 and his staff setting up shop here, Mr. Chairman, or
18 over at Tulsa, in this kind of deal we've got going
19 here, where we have to not allow these people to bring
20 in -- for instance, John, to me, I would invite these
21 people to give suggested changes, in advance of the
22 first one of these meetings, by mail, so that your
23 staff and you can get into those, rather than losing
24 that two or three weeks in there, before you set the
25 first meeting.

1 That's not part of my motion, I'm not
2 trying to run this office over here. But, I just feel
3 obligated to the point that these people ought to get
4 their pick in the ground in this final decision we make.

5 MR. DRAKE: All right.

6 MR. BREISCH: I was attempting to word
7 this properly, John, and Bill, do you say that the staff
8 has the leeway of having workshop type meetings, or
9 other meetings, whereby the input will be...

10 MR. SKETIH: Yes, that's right.

11 MR. BREISCH: ..had by the interested
12 parties.

13 MR. SKEITH: Hopefully, with the
14 recommendation for a decision on this, at the 15th of
15 September meeting in Tulsa. I said, "hopefully". I'm
16 not going to box myself in by saying to these people,
17 here, that day it's in cement, and we have to, that
18 day, vote up or down on any proposal. Because I don't
19 think we have to.

20 MR. BREISCH: Okay.

21 MR. PETTIS: Second it.

22 MR. BREISCH: Okay, the motion is to
23 continue this hearing, instructing the staff to hold
24 meetings, such as workshop meetings, between now and
25 the next meeting. Hopefully, to have a recommendation

1 to us, that is concurred with by the majority of the
2 parties.

3 Okay, call the roll.

4 MR. PARRY: Mr. Quinlan?

5 MR. QUINLAN: Aye.

6 MR. PARRY: Mr. Pyle?

7 MR. PYLE: Aye.

8 MR. PARRY: Mr. Skeith?

9 MR. SKEITH: Aye.

10 MR. PARRY: Mr. Pettis?

11 MR. PETTIS: Aye.

12 MR. PARRY: Mr. Breisch?

13 MR. BREISCH: Aye.

14 John, you are still up...

15 MR. DOUGHTY: John, could I make one
16 point. Those people who made comments today, I would
17 request that they please reduce them to writing, and
18 submit us a copy of those for our records, please.

19 MR. DRAKE: Yes.

20 (Whereupon, the hearing in the above-
21 entitled matter was concluded.)
22
23
24
25

DEPARTMENT OF ENVIRONMENT
NATURAL RESOURCES
P.O. BOX 530
BARTLESVILLE, OKLAHOMA 74005-0530
TELEPHONE 918-336-7100

July 23, 1987

RECEIVED
JUL 28 1987
AIR QUALITY
SERVICE

Dennis Doughty
Oklahoma State Health Dept.
Air Quality Service
1000 N.E. 10th Street
P.O. Box 53551
Oklahoma City, OK 73152

Dear Sir:

Below are the comments prepared for the Air Quality Council Hearing of July 21, 1987 on proposed Regulation 1.4.

1. Re: Paragraphs 1.4.1(b)(5) and 1.4.1(c)(2)

Comments: Clarification is needed on the term of duration for all permits.

There are two different renewal dates proposed in the regulation. One for permits issued prior to the effective date of proposed 1.4 amendments with the term ending on first working day in February and fees due on the first working day of March. The other for permits issued subsequent to construction permit applications received after January 1, 1988 with term ending on first day of January following the first anniversary of the operating permit application due date.

2. Re: Paragraphs 1.4.1(d)(1) existing sources, 1.4.1(e)(1) minor source, 1.4.1(e)(1) source operation and source operation of minor significance.

Comments: There is a general lack of definition concerning source assessment.

(1) Does the word source in major, minor, and existing sources have the same meaning as the word source in source operation or are they point sources (stack sources)?

(1.1) For an operation of cooling process solution with 5 cooling towers (only four used at a time), is there one source operation as recorded in the existing annual inventory or is it redefined to 4 or 5 point sources?

(1.2) There are no definitions for either source or point sources. Are we therefor, to assume that all use of the term source means source operation?

(2) To which sources does existing sources, minor sources and source operations of minor significances refer? No minimum emissions or process rates are defined. Are there as yet undefined minor sources, such as process radiant heater/dryers, to be included in the definition?

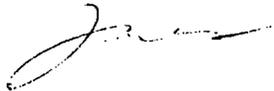
(3) The major concern is that there will be no limitations to the definition of minor sources, which are now-existing, that will be added for renewal fee equivalent assessments. Also it is unclear which minor sources will, in the future, require permitting.

3. Re: Paragraph 1.4.1(e)(3)

Comments: There are no limitations to the source inventory, and therefore a potential method for unlimited fee collections. An assessment cap should be considered to allay these concerns.

We recommend a facility (total operating plant) maximum renewal fee of \$2000 per year be included in the regulation.

Best regards,



C.W. Jones
Environmental & Safety Engineer

cc: JRK

PUBLIC SERVICE COMPANY OF OKLAHOMA
A CENTRAL AND SOUTH WEST COMPANY

P.O. BOX 201 / TULSA, OKLAHOMA 74102-0201 / (918) 599-2000

*Copy
Drake
ORG Dennis*



July 29, 1987

RECEIVED
AUG 3 1987
AIR QUALITY
SERVICE

John W. Drake, Chief
Air Quality Service
Oklahoma State Department of Health
Post Office Box 53551
Oklahoma City, OK 73152

RE: Proposed Revision to Regulation 1.4
Permit Required

Dear Mr. Drake:

Enclosed are the comments of Public Service Company of Oklahoma on the Air Quality Service's June 29, 1987, proposed revisions to Oklahoma Air Pollution Control Regulation 1.4, "Air Resources Management, Permits Required". PSO understands the need of the OAQS to seek alternative methods of funding and is generally supportive of the permit fee concept. However, we do not believe the revisions, as proposed, are consistent with the intent of the legislature or the authority granted by the enabling legislation. Our concerns are expressed in the enclosed comments.

We are supportive of the concept of public briefings or workshops, as discussed at the July 21, 1987, Air Quality Council meeting, and would be willing to work with you, your staff, and other interested parties to develop an alternative fee program.

We appreciate the opportunity to provide comments on the proposed revisions to Regulation 1.4 and respectfully submit them for your consideration.

Sincerely,



Louis O. Hosek, Manager
Environmental & Occupational Health

LOH:RDH:dt

Enclosure



CENTRAL AND SOUTH WEST SYSTEM

Central Power and Light
Corpus Christi, Texas

Public Service Company of Oklahoma
Tulsa, Oklahoma

Southwestern Electric Power
Shreveport, Louisiana

West Texas Utilities
Arlene, Texas

2045

COMMENTS OF PUBLIC SERVICE COMPANY OF OKLAHOMA ON THE JUNE 29, 1987
PROPOSED REVISION OF OKLAHOMA AIR POLLUTION CONTROL REGULATION NO. 1.4
AIR RESOURCE MANAGEMENT, PERMITS REQUIRED

The following comments are submitted on behalf of Public Service Company of Oklahoma (PSO) on the Oklahoma Air Quality Service's (OAQS) June 29, 1987 proposed revision of Oklahoma Air Pollution Control Regulation No. 1.4. PSO understands the desire of the OAQS to seek alternative methods of funding and is generally supportive of the permit fee concept. However, we believe the revised regulation, as proposed, is inconsistent with the intent of the legislature and the authority granted by the enabling legislation. We also believe that the OAQS and the Air Quality Council have failed to fully adhere to the provisions of the Oklahoma Administrative Procedures Act.

ABSENCE OF STATUTORY AUTHORITY

The enabling legislation only provides authorization to assess fees to recover the costs of administering a permit program, not to generate monies for support of the general programs of the OAQS. The enabling legislation allowing the OAQS to establish a fee system is found in 63 O.S. Sec. 1-106.1, as recently amended by House Bill No. 1135. Section 1-106.1(C) provides that "(t)he board shall base its schedule of licensing or permitting fees upon the reasonable costs of review and inspection services rendered in connection with each license and permit program. . . ." (emphasis added). The legislature very clearly intended that the revenue produced by permit fees be tied to the cost incurred for review and inspection services actually rendered. Under the present proposal, there is no service being rendered in conjunction with a permit or license renewal. Section 1.4.1(e) (1) of the proposed regulation de-

finer permit renewal as simply a collection of the fee. Thus, the OAQS has overstepped its authority in proposing to assess permit fees in excess of the reasonable costs of review and inspection services.

Quite simply, the OAQS is unauthorized in assessing permit fees in excess of the reasonable costs of review and inspection services rendered in connection with each license and permit program.

FAILURE TO COMPLY WITH ADMINISTRATIVE PROCEDURE ACT

It is also our position that the enactment of the proposed revisions requires an individual hearing. The Administrative Procedures Act, 75 O.S. Sec. 301 et seq., defines "rule" as "any agency statement of general applicability and future effect that implements, interprets or prescribes substantive law or policy, or prescribes the procedure or practice requirements of the agency. The term includes the amendment or repeal of a prior rule but does not include (A) the issuance, renewal or denial of licenses; * * * ." 75 O.S. Sec. 301 (2) (emphasis added). "License" is defined to include "the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law;" while "licensing" is defined to include "the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license." 75 O.S. Sec. 301 (3) and (4) (emphasis added). Because the proposed change in Regulation 1.4 would include the amendment of licenses and permits by the State Health Department, the action proposed by the OAQS would fall under exception (A) of the definition of "rule", and therefore would be an order requiring an individual proceeding.

Moreover, individual permits will be affected by the OAQS proposal. The authority to collect the fees as proposed in Regulation 1.4 is found at 63 O.S. Sec. 1-106.1. Paragraph C of Sec. 1-106.1 provides that licensing and permitting fees are to be based upon the reasonable cost of review and inspection services rendered by the agency. Because the fee is to reflect the reasonable

cost of review and inspection services, an evidentiary hearing is necessary to determine what the costs of these review and inspection services will be. An evidentiary hearing requires an individual proceeding on the record.

In addition, the issuance of a permit is an individual proceeding. Individual proceedings are addressed in 75 O.S. Sec. 309. Pursuant to this section, proper notice and opportunity for hearing must be given. The Council did not follow the requirements of 75 O.S. Sec. 309 with respect to the proposed rule change in Regulation 1.4. In particular, it should be noted that the proposed regulation was not drafted until June 29, 1987, less than 30 days before the hearing. All substantive changes to be considered and ruled upon by a meeting of the Council should be available at least 30 days before the meeting.

We believe that it is possible to develop an alternative fee system that will comply with the law and also fulfill the needs of the OAQS and industry. The public briefings/workshop currently being arranged by the OAQS should provide a suitable forum for development of an improved fee system. We have additional comments and ideas that we would be glad to share during those sessions.

COMMENTS ON

Proposed Adoptions of Revisions to

Oklahoma Air Pollution Control Regulation 1.4
Air Resources Management - Permits Required

Submitted by

Public Service Company of Oklahoma
Environmental & Occupational Health Department

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I. INTRODUCTION

Public Service Company of Oklahoma (PSO) is a public utility engaged in production, purchase, transmission, distribution, and sale of electricity in eastern and southwestern Oklahoma. PSO is a wholly-owned operating subsidiary of Central and South West Corporation. Central and South West Corporation, a public utility holding company, owns all of the common stock of four operating subsidiaries: Central Power and Light Company, West Texas Utility Company, Southwestern Electric Power Company, and Public Service Company of Oklahoma. These companies provide electric service to a population of approximately 3.5 million people in a widely-diversified area covering 152,000 square miles in Oklahoma, Arkansas, Louisiana, and Texas.

PSO currently operates five principle generating stations designated as Northeastern Station (Oologah, OK), Riverside Station (Jenks, OK), Weleetka Station (Weleetka, OK), Southwestern Station (Washita, OK) and Comanche Station (Lawton, OK) with a currently inactive powerplant (Tulsa Power Station) located in Tulsa. Of these facilities, portions of Weleetka Station and Northeastern Station were constructed subsequent to the initial adoption of permitting regulations and currently operate under life-of-the-facility permits granted by the Oklahoma State Department of Health's Air Quality Service.

We, at PSO, recognize our responsibility as an Oklahoma Corporation, and more importantly as a group of individual Oklahoma citizens, to maintain and preserve the atmospheric purity for the protection and enjoyment of

not only this, but future generations. We are prepared to support the Board's efforts whether they are funded by Legislative appropriations derived from the taxes we pay or they are supported, in part, by reasonable direct assessment of operating permit fees. Our comments are, however, the result of our concern over the method to be imposed by the proposal under review; we believe that the permit scheme before the Board fails to meet either the letter or the intent of the law and exceeds the statutory authority granted by the legislature. Adoption of a void, unenforceable regulation in reality helps no one and, in fact, impedes our shared objective of meeting the intent and purpose of the Legislature reflected in the Oklahoma Clean Air Act.

We would urge that the present proposal be returned to the Air Quality Council with directions to make those modifications necessary to assure that the Board is not put in the position of exceeding its statutory authority in adopting any such proposal.

II. ADOPTION WOULD EXCEED THE SCOPE OF THE BOARD'S STATUTORY AUTHORITY

Administrative agencies may only exercise powers granted by the legislative in the statutes.(1) Our review of the statutes addressing the powers and duties of the Board revealed that the Legislature did not authorize the agency to "institute a system of permit fees simply to recoup those funds lost in previous years" on an annual basis in order to "provide a source of funds in the future."

A. The Proposed Fee System Fails to Satisfy Statutory Requirements

Section 1-104.(b)(2) of Title 63 empowers the Board to adopt rules and regulations to carry out the provisions of the Public Health Code. With respect to the provisions of the Oklahoma Clean Air Act, the Board may adopt or amend its rules only upon public hearings and the written recommendation of the Air Quality Council. Okla. Stat. Tit. 63 sections 1-802.(D)and (F). While this authorization includes the ability to adopt, amend or repeal rules and regulations which address permit fees, the Legislature has imposed a number of limitations on these powers.

Among the statutory limitations imposed upon the Board's delegated powers is one that restricts permits issued subsequent to May 1, 1984, the effective date of Okla. Stat. Tit. 63 section 1-106.1.F., to an effective term of one year. Thus, for permits issued after May 1984 an annual renewal may, in fact, be required to authorize continued operation. With respect to the authority to establish fees for renewal of these annual permits, the Legislature chose to

restrict the amount charged to that of reasonable cost of services actually rendered in connection with the (i) review, (ii) inspection and (iii) training of those personnel actually involved in either the review or inspection necessary to review applications for renewal of annual permits. Okla. Stat. Tit. 63 section 1-106.1.C. Moreover, the Legislature found it necessary to further restrict the amount of fees assessed for annual review and inspection associated with permit renewal, notwithstanding the reasonable cost associated with the annual renewal process. Both a maximum and minimum limit is imposed on annual permit renewal fees. Okla. Stat. Tit. 63 section 1-106.1.A.2.

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The Air Quality Service (AQS) has chosen to ignore those statutory restrictions tying the schedule of fees for the annual permit renewal program to the reasonable cost for services actually rendered during the process of permit renewal. The AQS has simply dismissed public comments highlighting the need to base its schedule of permit renewal fees only upon the reasonable costs of services actually rendered during the year in connection with the annual permit renewal program. From its inception the basis of the AQS fee schedule has instead relied solely on recovery of "eroding State appropriations" rather than the reasonable cost of services actually rendered annually in the (i) review, (ii) inspection and (iii) training of that portion of its staff dedicated to renewing annual permits. See Exhibit "A". In the first of two "workshops" held to develop a fee system, the AQS continued to maintain that the proper basis was one

which would recapture all previously lost legislative appropriation. See Exhibit "B". In its open letter of August 21, 1987, the fees were publicly acknowledged by AQS as being designed solely to make up for \$100,000 in "erosion" plus the total reduction in legislative appropriations to the AQS. See Exhibit "C". There has been no retreat from this approach even after the proposal was presented to the Air Quality Council for review. Even before this Board, the AQS does not contend that the fee system is designed to recover that portion of the reasonable cost of review, inspection and training of permit renewal staff which is equal to or less than the statutory ceiling of Section 1-106.1. The only acknowledged basis is to "recoup those funds lost in previous years and (thus) provide a source of funds in the future." See Exhibit "D".

if so, can justify new charge

At no time during public meetings was the actual cost of services rendered presented on other than a total departmental budget; no breakdown delineated the actual expenditures for permit renewal application review, no breakdown was presented for expenditures of permitted facilities, no breakdown was presented for either the permitting or the enforcement sections of the staff. This may be due in part to the fact that the regulation itself defines "permit renewal" as "the process whereby operating permits are extended for another one year term" and stating that "(i)n no case shall the term "permit renewal" be construed to allow the imposition of additional permit requirements not otherwise required or authorized by law or regulation." Under the proposal, the review and inspec-

to be done to assure industry con. to the Renewal Arbitrarily imposed to new Emission Requirements.

tion services for renewal amount to no more than preparing and mailing fee assessments and the deposit of the fee received. See also Section 1.4.1 (C)(5) of the proposed revision. At one point the AQS contended informally that all its activity was directly related to the permit system but this argument is overshadowed by the department's mandate under the Oklahoma Clean Air Act., Okla. Stat. Tit. 63 section 1-1802 (1985).

The concerns expressed thus far have been directed to that part of the proposal addressing the permit system for renewal of annual permits. The independent permitting system for issuing construction and initial operating permits for new facilities appears to represent a much more blatant attempt to circumvent the statutory restrictions placed on that permit program. These programs are currently being funded by federal grants, as well as legislative appropriations. As a result, we simply cannot envision the purpose of the AQS's statement in the "Cost/Benefit Analysis" which states:

"Failure to secure these funds in this manner will require either a supplemental appropriation or the (Air Quality) Service will close out."

Emphasis supplied. In the current economic climate, we all are forced to become more efficient in our use of limited financial resources.

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at losses
at reserves
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III. INDIVIDUAL PROCEEDINGS ARE REQUIRED TO AMEND EXISTING PERMITS

Our review of the proposed amendment to Regulation 1.4 has revealed certain fatal flaws in its basic design. The following sections detail our concerns which were submitted to the Air Quality Service early in the development of the proposal but to this date remain unaddressed.

A. EXPRESS LEGISLATIVE AUTHORITY FOR RETROACTIVE APPLICATION OF ANNUAL APPLICATION OF ANNUAL PERMITS IS LACKING

The Board undoubtedly has the power under the Public Health Code to adopt rules and regulations to carry out the provisions of the Code. Okla. Stat. Tit. 63 section 1-104(b)(2). Under this power the Board has adopted numerous regulations which require permits for certain activities under its oversight. However, in 1984 the Legislature restricted the Board's authority with respect to the issuance of permits and licences when it mandated that permits issued by the Commissioner be limited to no longer than one year terms. Okla. Stat. Tit. 63 section 1-106.1.F. Prior to the May 1, 1984 effective date of this enactment, the Commissioner of Health had, under authority granted by the Board, issued permits to operate under the Oklahoma Clean Air Act for the-life-of-the-facility; no expiration date or provision for renewal was included. Adoption of this proposed amendment to OAPC Regulation 1.4 attempts to make this a retroactive application of the May 1984 enactment to prior vested rights by declaring "(a)ll operating permits...shall be for the term of one year, renewable annually as provided herein." See Section 1.4.1(a)(1) of the proposed revision.

→
March
second
as failed
to verify
his report
issue.

→
see
106.1(2)(F)

Generally, statutes are presumed to operate prospectively. A clear expression of legislative purpose is required to justify a retroactive application, and in the case of doubt, the doubt must be resolved against a retroactive effect.(2), (3), (4), (5). Without express legislation, a statute may not be applied retroactively if it alters the rights and duties under an existing contract, especially if the enactment would affect vested rights or the legal character of past transactions would be prejudiced.(6) A "vested right" is the power to do certain actions or possess certain things lawfully and is substantially a property right. "Vested Rights" can be created either by common law or by statute and once created become absolute; vested rights are constitutionally protected from legislative invasion.(7)

The principle has obvious application to the amendment under consideration and its effect upon operating permits issued prior to May 1984. Any retroactive application of the amendment would certainly change the value of the owner/operator's interest. The life-of-the-facility permit holder has legitimately relied on the provisions of his permit, making, as the case with Public Service Company of Oklahoma, major investments in the construction, operation and maintenance of air pollution control equipment.

Simply stated, life-of-the-facility operating permits issued prior to the enactment of Okla. Stat. Tit. 63 section 1-106.1.F. repre-

sent vested rights which may not be overturned by subsequent action of the Board through amendment of OAPC Regulation 1.4. ←

*Just as
it goes -
What Rights?
only Right
Right not
have to
pay annual
fee -*

B. ADMINISTRATIVE PROCEDURES ACT REQUIRES INDIVIDUAL PROCEEDINGS TO AMEND EXISTING PERMITS

The Oklahoma Legislature extensively revised and strengthened the Administrative Procedures Act (APA) in House Bill 1493. This Act was signed by the Governor June 30, 1987, and became effective September 1, 1987. Among the amendments made were those related to certain administrative procedures for promulgation of rules and regulations. The present proposal to amend OAPC Regulation 1.4 fails to comply with the mandates of the APA.

The Administrative Procedures Act must be followed by the Board of Health and the Air Quality Council in adopting any rule or regulation pursuant to 63 O.S. Section 1-106-1. Section 1-106.1 specifically states that "(t)he Board must follow the procedures required by Section 305 through 325 of title 75 of the Oklahoma Statutes for adoption of rules and regulations in establishing or amending any such schedule of fees...." 63 O.S. Section 1-106-1 (A) (1). Moreover, 63 O.S. section 1-106. (b) (3) states that "(a)ll rules and regulations adopted by the State Board of Health are subject to the terms and conditions of the Administrative Procedures Act." The APA itself provides, with limited exception, that "all agencies shall comply with the provision of Article I and Article II of the Administrative Procedures Act." 75 O.S. section 250.1.B. The Board is

not among those agencies excused from compliance with the APA. 75 O.S. section 250.4. Thus, in adopting the proposed changes, the Board must comply with the APA.

The Administrative Procedures Act itself defines "rule" as

any agency statement of general applicability and future effect that implements, interprets or prescribes law or policy or describes the procedure or practice requirements of the agency. The term includes the amendment or repeal of a prior rule but does not include: a. the issuance, renewal or denial of an individual, specific license.

75 O.S. section 250.3.1. (emphasis supplied). The license referred to, is also defined by the APA to include "the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law;" while "licensing" is defined to include "the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of license." 75 O.S. Section 250.3.3 and 250.3.4.

Because the proposed change to Regulation 1.4 would amend the term of each of our individual and specific permits from life-of-the-facility to that of one year, action by the Board would fall under exception of 75 O.S. 250.3.2. and would constitute an order requiring an individual proceeding in order to amend each of our

existing separate individual permits. No opportunity for individual proceedings have been undertaken by the AQS.

Simply misconstrues the law.
This is a rule change

position is absurd - is equivalent to requiring a hearing for each and every permit holder - in fact hundreds or perhaps thousands of individual proceedings. It is our position that the same thing can be accomplished and DUE PROCESS given through a rulemaking hearing & proceeding.

IV. SUMMARY AND CONCLUSIONS

While not opposed to establishment of a system of direct fee assessment as a supplement to legislative appropriations, we are concerned over the method to be imposed by the current proposal. We believe that the permit scheme before the Board, fails to meet either the letter or the intent of the law and unnecessarily places the Board in a position of exceeding its statutory authority. Adoption of a void, unenforceable regulation in reality helps no one and, in fact, only impedes our shared objective of meeting the intent and purpose of the Legislature reflected in the Oklahoma Clean Air Act.

We would urge that the present proposal be returned to the Air Quality Council with directions to make those modifications necessary to assure that the Board is not put in the position of exceeding its statutory authority in adopting any such proposal.

REFERENCES

- (1) Boydston v. State, 277 P.2d 138, 142 (Okla. 1954).
- (2) Hammons v. Muskogee Medical Center Authority, 697 P.2d 539, 542 (Okla. 1985).
- (3) Trinity Broadcasting Corp. v. Leeco Oil Co., 692 P.2d 1364, 1366 (Okla. 1984).
- (4) Wickham v. Gulf Oil Corp., 623 P.2d 613, 615 (Okla. 1981).
- (5) Wilson v. State ex rel. Okla. Tax Com'n, 594 P.2d 1210, 1212 (Okla. 1979).
- (6) Wickham, 623 P.2d at 616.
- (7) Oklahoma Water Res. Bd. v. Central C.M. Dist., 464 P.2d 748, 755 (Okla. 1969).

We would ask that the Board consider our comments and after doing so, return the proposal to the Air Quality Council for those modifications necessary to assure that the Board is not placed in the position of exceeding its statutory authority when adopting systems of permit fees. We trust this submittal to be satisfactory for your immediate needs; however, should you, or any member of the Board have questions, please do not hesitate to contact us.

Public Service Company of Oklahoma

By:



Louis O. Hosek, Manager
Environmental & Occupational Health

Attachment

xc: Joan K. Leavitt, Commissioner of Health
Robert D. Kellogg, OSDH Staff Attorney
John Drake, Chief-OAQS
Bill Breisch, Chairman-OAQC
John Brightmire, Attorney-DSSD&A
Lee Paden
R.H. Bentley
Ray Hedrick

THIS COPY FOR

RHB:sd

Witco

Witco Corporation, P. O. Box 42817, Houston, TX 77242 Telephone 713-975-5800

September 18, 1987

RECEIVED
SEP 21 1987
AIR QUALITY
SERVICE

Mr. John W. Drake
Air Quality Service
Oklahoma State Department of Health
100 N. E. Tenth
Oklahoma City, Oklahoma 73152

Re: Revision of Regulation 1.4 Concerning Permit Fees.

Dear John:

Witco understands the need for the Oklahoma Air Quality Service (AQS) to raise funds by charging annual fees, and supports the AQS in its attempt to develop an equitable fee schedule.

Witco representatives participated in the July 21, 1987 hearing and both workshops on the fee schedules. The company supports the AQS choice of a "Kansas" style approach to annual fees. However, Witco wishes to express its opposition to including carbon black plants in Class Number 10.

The Industrial Classification Classes are supposed to represent groups of industries whose size and emissions are similar. AQS is proposing including carbon black in the same category as coal fired electric power plants and petroleum refineries. This is inappropriate due to the benign nature and smaller volume of emissions from carbon black plants. Texas, which employs a similar classification system, charges carbon black plants less than 50% of the annual fee for petroleum refineries.

A concern was expressed by AQS staff, at the second workshop, that the carbon monoxide emissions from carbon black plants are a precursor to benzene. Witco wishes to go on record as categorically denying that carbon monoxide emissions lead to the formation of benzene.

Witco supports the AQS in its endeavors to develop an equitable fee system and respectfully requests that carbon black plants be placed in a lower Industrial Classification Class.

2065

Mr. John W. Drake
Page 2
September 18, 1987

If you require any additional information, please contact the undersigned at (713) 975-5850.

Yours sincerely,

WITCO CORPORATION

S.S.R. Pappworth

S. S. R. Pappworth
Regional Environmental Engineer

SSRP/dm
L918A

cc: T. N. Miller
J. C. Pettry

DONNIS



September 18, 1987

Mr. John Drake, Chief
Air Quality Service
Oklahoma State Department of Health
1000 N.E. 10th Street
Oklahoma City, OK 73152

RECEIVED
SEP 18 1987
AIR QUALITY
SERVICE

Dear Mr. Drake:

We have reviewed the proposed changes to Regulations 1.1, 1.2 and 1.4 and have several comments that we feel will both clarify and improve these regulations.

Regulation 1.1:

- 1) The proposed location of the definition of Particulate Matter - 10 micrometers (PM-10) is inappropriate. It would be more appropriate to list the definition of Particulate Matter - 10 micrometers (PM-10) in alphabetical order as #99 following the definition of Particle Board than to place it at the end of the list as #151.
- 2) Adopt the current EPA definition for PM-10 instead of creating a new definition. It is:

PM-10 - Particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

One definition would be much simpler in all respects.

Regulation 1.2:

- 1) The footnote for the annual standard states that it is an "Annual Arithmetic Mean", but in fact it is much more than that. We suggest that the footnote be changed to the following:

The standard is attained when the expected annual arithmetic mean concentration, as determined in accordance with Appendix K for Part 50 of Chapter I, Title 40 of the Code of Federal Regulations, is less than or equal to 50 $\mu\text{g}/\text{m}^3$.

2067

Regulation 1.4:

1) Section 1.4.1(b)(3)(A) states:

(3) Upon the effective date of this subsection, no permit shall be required for any new or modified source when it can be shown to the satisfaction of the Commissioner that:

(A) Total emissions will not exceed one pound (1 lb.) per hour for any one criteria pollutant, and

We are not sure of the definition of "Total emissions". We suggest the following wording:

(A) Emissions for any one criteria pollutant will not exceed one pound (1 lb) per hour.

2) Section 1.4.1(c)(1)(A) states:

(A) Major Source - means any new or modified stationary source which directly emits or has the capability at maximum design capacity, and if appropriately permitted, authority to emit 100 tons per year of a given pollutant.

This would indicate that one must emit 100 tons exactly in order to be classified a major source. We propose the following wording:

(A) Major Source - means any new or modified stationary source which directly emits or has the capability at maximum design capacity, and if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant.

3) Section 1.4.1(c)(3)(A) states:

(A) Upon request, the Commissioner will make a determination of whether or not a permit is required. Upon the determination that a permit is not required, the original permit application fee will be returned upon submission of a \$100 determination fee.

This section assesses a \$100 fee for the determination if a permit is needed or not. As written now the applicant must submit an application plus the appropriate construction permit fee. If no permit is required the applicant must then submit a \$100 determination fee in order to get his application fee returned. When this idea was originally suggested it was the intent to get away from having to submit a full blown application along with the appropriate fee just to see if a permit was needed. It

would be much easier and simpler if a minimum amount of information was submitted along with the \$100 determination fee in the first place. We suggest the following wording:

OK.
USE ALL!

(A) Upon submittal of a written request, a \$100 determination fee and any relevant information needed to make a permit determination, the Air Quality Service will make a determination whether or not a permit is required. If a determination is made that a permit is required the \$100.00 fee will be credited against the construction and operation permit fees. If it is determined that a permit is not required the \$100.00 fee will be retained by the AQS to cover the cost of making the determination.

OK

4) Section 1.4.1(c)(5) states:

(5) Fees will be paid by check or money order (no cash will be accepted) made payable to the reviewing agency, e.g., Oklahoma State Department of Health, Air Quality Service. Fees shall be due in the offices of the Air Quality Service on the first working day of February. A ten (10) calendar-day grace period will be given before any enforcement action will be taken. Upon the expiration of the ten day grace period, notices of violation (NOV) will be issued and civil penalties, in addition to other remedies, may be sought as authorized under 63 O.S. 1986 Supp. Section 1-1701.1A.

The date that the fees are due in the offices of the AQS should be tied to the actual date of mailing rather than the fixed date of the first working day of February. As presently worded the AQS will mail on or before the first working day of each year. This is good in theory but not always attainable. Tying the due date to the mailing date would assure adequate time for payment. We suggest the following wording:

THIS IS OK
~~the first working day of February~~
~~30 days from the date of postmark~~
OK

(5) Fees will be paid by check or money order (no cash will be accepted) made payable to the reviewing agency, e.g., Oklahoma State Department of Health, Air Quality Service. Fees shall be due in the offices of the Air Quality Service ~~on the first working day of February~~ 30 days from the date of postmark. A ten (10) calendar-day grace period will be given before any enforcement action will be taken. Upon the expiration of the ten day grace period, notices of violation (NOV) will be issued and civil penalties, in addition to other remedies, may be sought as authorized under 63 O.S. 1986 Supp. Section 1-1701.1A.

But user need to change ~~the first working day of February~~ 1.4.1(c)(4)(ii)
No need to ~~change~~

- 5) There should be some appeals process allowed for in the fee assessment in case of any mistakes or discrepancies. We suggest the following wording:

1.4.1(c)(7)

Any person aggrieved by such fee assessment shall be entitled to a hearing on the reasonableness of the fee assessment.

ALSO →
CATEGORIES
ARE HERE
BEING SET BY
RULE.

To challenge
any enforcement
action is
class. 1.

- 6) The term "source" is used in 1.4.1(c)(4) Permit Renewal and Renewal Equivalents. We believe, as concluded in the workshops, that the fees are intended to be assessed per facility as is the Kansas system. We suggest replacing the term "source" with the term "facility" where it is used in this section.

7) Section 1.4.1(c)(6)(D)

We believe this section is incorrectly placed in the regulations. Currently it is at the very end of the regulation. We believe it would be more properly placed after Section 1.4.1(c)(4)(A). Section 1.4.1(c)(4) would then read as follows:

(A) Applicability

(i) The Air Quality Service shall annually assess and collect a permit renewal fee or permit renewal fee equivalent from all sources in the State according to their classification as set forth in Table I. Assessments for existing sources grandfathered from permit requirements (i.e., permit renewal fee equivalents) shall be made in the same manner and on the same basis as a new source of the same type (permit renewal fees).

(B) Source Classification

(i) Any new source for which an appropriate source classification does not exist shall be assigned a classification and class number in Table I as a permit condition.

(ii) Any existing source ~~for which a permit is not required,~~ and for which an appropriate source classification does not exist shall be assigned a source classification and class number in the same manner as (D)(i) except that:

(a) Such assignment shall be made in writing, setting forth the reasons why the source has been assigned to any particular category, and

(b) Any person aggrieved by such assignment shall be entitled to a hearing on the reasonableness of the assignment.

EXCEPT →

(C) De Minimis

(i) A permit renewal fee or renewal fee equivalent shall not be required, regardless of the requirement to have a permit, provided that total emissions from the source do not exceed ten (10) tons per year for any one criteria pollutant.

(D) Assessments

(i) Fees established under this section shall be assessed and paid on the basis of source classification as identified in Table I. The annual fee collected for a source in any class shall be determined by multiplying the class number for the source, as determined by Table I, by fifty (\$50) dollars. In no case shall more than one fee per source be assessed unless such source shall constitute two or more facilities as defined herein.

(ii) On or before the first working day of each year, the Air Quality Service will mail fee assessments to all sources subject to this regulation. Such assessments shall be made pursuant to data contained in the emissions inventory and shall set forth:

(a) The source classification

(b) The class number assigned to the source, and

(c) The amount of the fee that is to be remitted to the Service.

(iii) For the calendar year 1988, fee assessments will be mailed on or about the effective date of this regulation and shall be due in the offices of the Air Quality Service 30 days from the date of receipt of the assessment.

- 8) As stated in John Drake's letter of August 21, 1987, these fees are being implemented as a result of "erosion" and reduced appropriations. The magnitude of the fees in the proposed regulation are based on, in part, the budgetary deficit faced by the AQS for FY-88 as compared to FY-87. Since these fees are tied to appropriations then the magnitude of the fees should decrease with increased appropriations. It was stated by Mr. Drake in the first workshop of August 5, 1987 that public hearings would be held to reduce the fees in the event that the appropriations increase to previous levels. Therefore we recommend that the multiplication factor in Section 1.4.1(c)(4)(C)(i) (currently

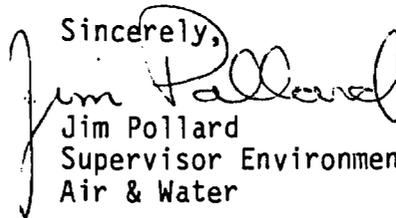
CANNOT ACCEPT THIS.

proposed at \$50) come under review each year and adjusted based on the appropriated amount by the legislature as compared to FY-87. We suggest the following wording in that regard:

Section 1.4.1(c)(8) After the Air Quality Service has determined its appropriation for the coming fiscal year, Section 1.4.1(c)(4)(C)(i) shall be reviewed and the multiplication factor adjusted as necessary to reflect the ~~increase~~ or ~~decrease~~ in appropriations.

We would be happy to discuss the above comments with you at your convenience.

Sincerely,



Jim Pollard
Supervisor Environmental Control
Air & Water

DAB:11t



Oklahoma Coalition for Clean Air

Affiliated with

OKLAHOMA TUBERCULOSIS AND RESPIRATORY DISEASE ASSOCIATION
P.O. BOX 53303 OKLAHOMA CITY, OKLAHOMA 73105 AC 405 524-8471

To: Air Quality Council, Tulsa City-County Health Dept
Date: September 22, 1987
From: Anna Clapper, 12104 Camelot Place, Oklahoma City, OK
Re: Public Hearing, Regulation 1.4 Permits (Draft 8-20-87)

Mr. Chairman, Members of the Air Quality Council, Ladies and Gentlemen:

My name is Anna Clapper. I live at 12104 Camelot Place, Oklahoma City, Oklahoma. I am a member of the board of directors of the American Lung Assn. of Oklahoma and have been a member of the Oklahoma Coalition for Clean Air for 18 years, having attended meetings of the Council during this period as a concerned citizen.

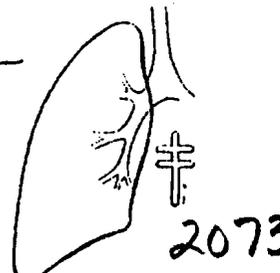
On page 2, paragraph (3) which states that "... no permit shall be required..." there is concern that there needs to be a record regardless of emission amount, just in case an exceedence might occur.

I need clarification in this regard: since a source having one pound per hour of one criteria pollutant comes under this ruling, this means a total of 8,760 lbs. per year, or 4.38 tons emission does not need a permit, as I understand the regulation. Is this correct?

Also on page 4, (B) De Minimis (1) it is my understanding that if "total emissions from the source do not exceed ten (10) tons per year for any one critical pollutant", a permit renewal fee is not required. Since no permit is required for 4.38 tons per year, then it follows that a "minor source" falls between 4.38 T/Yr and 100 T/yr. Is then the 10 ton per year a "shady" area, or is there a specific reason for selecting this unit? Do sources between 4.38 tons per year and 10 tons per year therefore require no permit fee? Kindly clarify.

Thank you for this opportunity to present my concern on this regulation.

Anna Clapper
Anna Clapper



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BEFORE THE
AIR QUALITY CONTROL COUNCIL

In the Matter of:)
)
PROPOSED REVISION TO)
REGULATION 1.4,)
CONCERNING FEES)
_____)

Air Quality Council
Auditorium
Tulsa City-County Health Dept.
4616 East 15th Street
Tulsa, Oklahoma

September 22nd, 1987

The above-entitled matter came on
for hearing, pursuant to Notice at 1:00 p.m.

BEFORE: MR. JOHN DRAKE, HEARING OFFICER

REPROTED BY: MR. RUSSELL E. BURNS, C.E.R.
Notary Public within & for
The State of Oklahoma

BOARD MEMBERS:

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MR. JOHN DRAKE, MR. BREISCH, MR. PYLE, DR. CANTER,
MR. SKEITH, MR. QUINLAN, Board Members, present.

MR. PETTIS, Board Member, absent.

P R O C E E D I N G S

1:25 p.m.

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3
4 HEARING OFFICER DRAKE: Okay, we
5 have another hearing. This is the continuation of
6 the hearing initiated at the May Council Meeting,
7 continued the July Council Meeting, and again,
8 continued to this council Meeting.

9 I would reiterate that this hearing
10 is convened by the Air Quality Council, in compliance
11 with 75 OS 301 through 325, and under the Federal
12 requirements of Title 40, Code Federal Regulations,
13 Section 51.

14 I would add that this rule making
15 was advertised in the August 1st, Oklahoma Register,
16 the purpose of the hearing is to receive comments
17 concerning proposed changes to the Air Pollution
18 Control Regulation 1.4, Air Resource Management,
19 permits required. The proposed change is to establish
20 a new fee structure, or new source permits in
21 establishing annual permit/equivalent fee program.

22 Any person making an oral statement
23 today, we would appreciate it if you would supply us
24 with the original and one copy of the record -- for
25 the record.

1 While it is the past practice of the
2 Council to leave the record opened for ten days, after
3 a hearing, the Staff would request that the Council;
4 if it does not feel in excess, discomfort, should make
5 the decision on this item, at this hearing.

6 I would advise you that this regulation
7 cannot be presented to the Board of Health, until the
8 Legislature returns to session. However, the
9 Department desires to nail down the changes, wherein,
10 and proceed with accomplishing the administrative
11 action to put the program into place, as soon as the
12 requirements of the Oklahoma Administrative Procedures
13 Act is complied with.

14 As the Protocol Officer, I will call
15 upon persons who have indicated a desire to speak for
16 this regulation, by filling out a form in the rear
17 of the room. At this time I will call on Mr. Dennis
18 Doughty to give the Staff's position on each
19 proposed change.

20 MR. DOUGHTY: Okay, thank you.

21 Mr. Chairman, members of the Council,
22 ladies and gentlemen, my name is Dennis Doughty. And,
23 I will present the Staff's position, on this proposed
24 change.

25 As you're aware, this is a proposal

1 to change Regulation 1.4, to raise permit fees, and
2 yearly renewal fees. This particular issue was brought
3 before the Council, back in March. At that time there
4 had been certain budget cuts, and spectre of raising
5 more money, came before the Council..

6 A public hearing was set for May,
7 a proposal was presented by the Staff, at that time.
8 And, I might say that industry participated very
9 vigorously. And, so the hearing was continued until
10 July.

11 The Council also directed the staff,
12 at that time, to send out a supplemental mailing
13 to make sure that some of the smaller operations had
14 notice of this hearing. The Staff did this, and sent
15 out some 200 supplemental mailings.

16 The continued hearing in July was
17 also vigorously attended, and opposed by industry.
18 At that time it was proposed that a series of workshops
19 be held in order to reach some sort of agreeable
20 approach for this particular regulation. And, there
21 were two work shops held, one on August 5th, and one
22 on August 12th.

23 The Staff has incorporated as many
24 of the suggestions and proposals that came from these
25 workshops, into the draft, that we have presented here

1 today.

2 The approach we have taken is the
3 approach that was presented by the Gas Processing
4 Industry. And, it is basically, the Kansas approach
5 for implementing a fee, and permit renewal fee system.

6 Now, there are copies of this proposal
7 available, and they were also presented to the Council
8 packet, -- in the Council packet.

9 I would also like to say that we have
10 received some written comments from OG&E, and the staff
11 is going to recommend adoption of these changes, some
12 of these changes, as proposed by OG&E.

13 And, with the Council's indulgence,
14 I will go through some of these proposals, and for
15 the record, the letter is from OG&E, dated September
16 18th, 1987, to Mr. John Drake. And, our Reporter has
17 a copy of that.

18 So, if you will turn to the second
19 page. The first comment basically says Section 1.4.1
20 (b)(3)(A), they would like to have the word "total"
21 removed. And, the Staff finds no problem with removing
22 it. This change will not substantially affect the
23 implementation of this regulation.

24 Their comment No. 2, in the
25 definition of "Major Source", they wanted to add the

1 words, "or more" after "authority to emit 100 tons per
2 year", which would somewhat make the definition a
3 little bit more clear. And, we would suggest that the
4 Council adopt this, also.

5 The third proposal, is a complete
6 rewriting of the portion which would enable the
7 Staff to collect a \$100.00 fee, for determining the
8 applicability of a permit, or whether or not a permit
9 was required.

10 And, the Staff would recommend that
11 the language, as proposed here by OG&E be adopted.
12 It's a minor change, and we find that this language
13 is probably better.

14 Their fourth suggestion changes the
15 language under 1.4.1(c)(5), which would make, the
16 Staff proposal would make the fees due on the first
17 working day of February. This language has been
18 stricken, and they have inserted "30 days from the
19 date of postmark, and that postmark being the assessment.
20 And, we found this to be a minor change, and a little
21 bit easier to calculation, so we would also recommend
22 that this particular change be accepted by the Council.

23 On page 4 of 6, their comment No. 5,
24 Section 1.4.1(c)(7), they are asking that we insert
25 a sentence here, which we believe would allow a hearing

1 on the reasonableness of the fee assessments. And,
2 we would have to oppose this particular addition, of
3 this particular language, because the hearings are
4 guaranteed by the Administrative Procedures Act, and
5 we feel that the categories as set by the public hearing,
6 would be enough to implement this.

7 Under their 6th proposal, they are
8 asking, where the term "source" is used in 1.4.1(c)(4)
9 that the word "source" be replaced with the term,
10 "facility". And, we find that this is certainly in
11 keeping with the intent of what the regulation is meant
12 to do, and it would have no substantial change. And,
13 if it makes it clearer for industry, then we support
14 this change, also.

15 Their 7th suggestion concerns Section
16 1.4.1(c)(6)(D), and what they're saying here is that
17 a little rearrangement of the regulation, might make
18 it a little easier to read, and a little neater. And,
19 we certainly would agree with that, and have no
20 objection, and would recommend that the Council
21 accept it, in that manner. Except that under
22 Subsection "B" "Source Classification", Subsection "II"
23 we would recommend the words, "for which a permit is
24 not required", be stricken from this sentence, in order
25 to make it clear that the source classification will

1 be applied whether or not it is a permitted source,
2 or unpermitted source.

3 And, the very last recommendation
4 talks about connecting, administratively adjusting
5 fees as the appropriations change for the service.
6 And, we find that this would be a real administrative
7 burden, and we cannot recommend that the Council
8 adopt this particular addition to the regulation, as
9 proposed.

10 So, if there are any questions that
11 I can answer.

12 HEARING OFFICER DRAKE: Yes, sir,
13 can you identify yourself?

14 MR. JONES: My name is Clyde Jones.

15 Concerning the ^{NEW} LV statement in May,
16 was that to be included, also, that we discussed this
17 morning?

18 MR. DENNIS DOUGHTY: That's true.
19 I had overlooked that, and we would suggest that,
20 on the last page of the Staff's proposal, where it
21 talks about the Notice of Violation, the word , "will"
22 which follows the abbreviation ^{NOV} NOB, we would suggest
23 and recommend that this word, "will" be stricken and
24 replaced by the word, "may".

25 HEARING OFFICER DRAKE: Are there

1 any other questions?

2 We have several people that's
3 indicating a desire to speak to this. Let's go to
4 Mr. David Branecky, of OG&E first.

5 MR. BRANECKY: My name is David
6 Branecky. I'm Senior Environmental Control Specialist
7 with Oklahoma Gas & Electric.

8 I can't say that OG&E supports the
9 proposed revisions in 1.4, but being resigned to the
10 fact that it looks like it is inevitable, we did submit
11 comments, hoping to improve the clarity of the
12 regulation. And, there are two -- we do appreciate
13 the receptiveness of the Air Quality Service.

14 But, there are a couple of things that
15 I would like to emphasize, at this time. One thing
16 I felt that we left out was a change to 1.4.1(b)(3)(B).
17 We did make reference to 1.4.1(b)(3)(A), where it
18 talked about "total emissions". The total emissions
19 is also referenced in Part "B" of that same section.
20 We would suggest that that also be changed to the
21 wording we suggested for the Part "A".

22 One thing that I would like to ask
23 again for the Council to consider, is our suggestion
24 No. 8, in our written comments. That is, that the
25 fees come under review each year. We feel that the fees

1 were initiated or came about because of reduced
2 appropriations. The only reason we have these fees
3 is because of reduced appropriations. We feel that,
4 if in the future, the appropriations are increased,
5 since these fees are tied to the appropriations, then,
6 the fees ought to be decreased, with increased appropri-
7 ations.

8 And, it was our understanding, from
9 the first workshop that was held August 5th, and Mr.
10 Drake stated if the appropriations were increased, that
11 these fees would be decreased, appropriately.

12 So, we would ask, at this time, that
13 the Council would reconsider that No. 8 on our comments,
14 and incorporate that into the revision.

15 And, I do have, for those in the
16 audience, I did make some copies, since a lot of our
17 comments were incorporated into the proposed revision.
18 I do have ten copies of our comments if anybody would
19 like to have those, to see what, actually, we said.

20 HEARING OFFICER DRAKE: Does anyone
21 have a question of Mr. Branecky?

22 THE REPORTER: Would you spell your
23 last name, please?

24 MR. BRANECKY: B-r-a-n-e-c-k-y.

25 THE REPORTER: Thank you.

1 HEARING OFFICER DRAKE: Clyde Jones.

2 MR. JONES: My name is Clyde Jones.

3 I'm with Zinc Corporation of America, and I will be
4 speaking for Julius Kubbe, whose with the State
5 Chamber of Commerce and Industries.

6 Basically, what we would like to say
7 is that we have two objections, and then comments after
8 that.

9 The first objection, philosophically,
10 we feel that most members are opposed to this method
11 of selective taxation.

12 Section objection, members feel that
13 these fees are in excess of the services rendered.

14 Finally, the comment, we feel that
15 the battle has been lost, but the Chamber is willing
16 to work with the Agency, in seeking ways to implement
17 this regulation.

18 Finally, we realize the Agency is not
19 in it for profit, but there are systems of checks and
20 balances, and we are concerned with that check. This
21 is the reason that we would need to know what the costs
22 are, for the Agency, along these lines.

23 We have complete confidence in the
24 Agency. Mr. Drake, we feel like we have complete
25 confidence in him and the administration, and the

1 application of these fees. We have no problem along
2 these lines. But, this is for the future, as far as
3 I'm concerned. Thank you.

4 HEARING OFFICER DRAKE: Any questions?
5 Laura Baker?

6 MS. BAKER: Again, my name is Laura
7 Baker, I'm with the American Lung Association, and I
8 will be reading a statement from Anna Clapper.

9 "Mr. Chairman, Members of the Air
10 Quality Council, and ladies and gentlemen:

11 My name is Anna Clapper, I live at
12 12104 Camelot Place, Oklahoma City, Oklahoma. I am
13 a member of the Board of Directors of the American
14 Lung Association of Oklahoma, and have been a member
15 of the Oklahoma Coalition For Clean Air, for 18 years,
16 having attended meetings of the Council during this
17 period, as a concerned citizen.

18 On page 2, paragraph 3, which states
19 that "No permit shall be required..", there is concern
20 that there needs to be a record, regardless of emission
21 amount, just in case an exceedence might occur.

22 I need clarification in this regard,
23 since a source having one pound per year of one criteria
24 pollutant comes under this ruling, this means a total
25 of 8,760 pounds per year, or 4.38 tons emission does

1 not need a permit, as I understand the regulation.
2 Is this correct?

3 Also, on page 4, (Part "B", "De
4 Minimis" (1), it is my understanding that if total
5 emissions from the source do not exceed ten tons per
6 year for any one critical pollutant, one permit
7 renewal fee is not required. Since no permit is required
8 for 4.38 tons per year, then it follows that a minor
9 source falls between 4.38 tons per year, and 100 tons
10 per year. Is, then, the ten ton per year a shady
11 area, or is there a specific reason for selecting this
12 unit?

13 Do sources between 4.38 tons per year
14 and 10 tons per year, therefore, require no permit
15 fee? Kindly clarify.

16 Thank you for this opportunity to
17 present my concern on this regulation. Anna Clapper."

18 HEARING OFFICER DRAKE: Any questions?

19 (No oral response)

20 HEARING OFFICER DRAKE: Mr. R. J.

21 Cinq-Mars?

22 MR. CINQ-MARS: My name is R. J.
23 Cinq-Mars. That's C-i-n-q, hyphen, M-a-r-s. I work
24 for City Service Oil & Gas Corporation, Natural Gas
25 Liquid Group, but I'm also here today on behalf of

1 the Gas Processors Association. As Mr. Doughty has
2 already mentioned, EPA has already worked with you,
3 I believe, at the State, on this matter. We support
4 the system as proposed in the 820-87 draft, with the
5 minor changes proposed, as we understand them.
6 Obviously, we haven't seen all of them in print.

7 We believe it will be an equitable
8 and efficient way to raise the needed funds with the
9 minimum administrative burden to both industry and the
10 state. And, as you will recall, that was one of our
11 concerns, when we first appeared before you, back in
12 I guess it was July, now, I lose track.

13 Again, we wish to thank both the
14 Council and the Staff for their openness to suggestions,
15 the suggestions of the regulated industry and the
16 general public. And, especially, we feel that the work
17 shops held in Oklahoma City were an excellent means
18 of bringing about communication, and putting lots of
19 things on the table, in a relatively non-confrontative
20 way, and in a way that fostered communications.

21 Again, thank you.

22 HEARING OFFICER DRAKE: Any questions?

23 (No oral response)

24 HEARING OFFICER DRAKE: Ray Hedrick.

25 MR. HEDRICK; My name is Ray Hedrick,

1 and I supervise environmental programs for Public
2 Service Company of Oklahoma. We, too, participated
3 in workshop programs, and we feel like this has resulted
4 in a much better structured program, than what we
5 intitially started with.

6 We also concur with the changes that are
7 proposed to be adopted or submitted by OG&E. We
8 have some additional technical comments that we are
9 also presenting in writing. We also have some addtional
10 questions, some additional concerns. Specifically,
11 if the Oklahoma Legislature extensively revised and
12 strengthened the Administrative Procedures Act, in
13 House Bill 1493. The Act was signed by the Governor
14 on June 30th, of this year, and became effective
15 September 1, 1987.

16 Among the amendments to the Administra-
17 tive Procedures Act, was a requirement for a cost
18 benefit analysis of all new proposed regulations. And,
19 we feel that this aspect of the Administrative
20 Proceure act should be complied with, at this level,
21 prior to the approval of the new rule by the Board.

22 And, so, therefore, we believe that
23 the Council should put off action on this proposal,
24 until such time as compliance of the -- full complaince
25 of the Administrative Procedures Act has been obtained.
And, therefore we recommend that the action ought to

1 be put off until the next meeting, in November, and
2 pending this, we would ask the consideration of our
3 technical comments.

4 Thank you, very much.

5 HEARING OFFICER DRAKE: No questions?

6 Mr. Roger Randolph.

7 MR. RANDOLPH: I would like to say
8 that given the constraints and the mandates from the
9 State Legislature, and the requirements and budget
10 problems, that the State Health Department has done
11 a fine job in developing a fee regulation that is
12 simple, straight forward, and reasonably equitable,
13 and we recommend approval for that reason.

14 I want to say, again, that there are
15 a lot of "what ifs", that might rear their head, and
16 we've gone through this without the regulation, here
17 in the County, and they've just not proven to be a
18 big problem. I would, however, echo some of the
19 industry's comments, and recommend that the Staff
20 bring before this Council, an annual report about the
21 fees collected, and what projections are, that sort
22 of thing, so that they can be reviewed.

23 That's it's.

24 HEARING OFFICER DRAKE: Any questions?

25 (No oral response)

1 HEARING OFFICER DRAKE: I believe
2 that's all the slips that I have. Was there someone
3 else that wanted to make a comment, in regard to this
4 proposed revision?

5 (No oral response)

6 HEARING OFFICER DRAKE: My last call.
7 Is there anyone else that would care to make a comment?

8 MR. BREISCH: John, I would like to
9 ask, when the Staff could bring to the Council their
10 newest estimate each year, of the funds needed above
11 the appropriations, so at least we have an opportunity
12 to review these. Is there a time period you can do
13 this?

14 HEARING OFFICER DRAKE: There is a
15 rule, the Legislature is rather late in the session
16 before it makes its appropriations. Therefore, as
17 was this year, it was July before they actually made
18 the appropriations for the State Health Department.

19 The Staff would be in a position,
20 generally, I will either be prepared to, or have a good
21 excuse for not giving such a report, at the July
22 Council Meeting.

23 One thing to keep in mind in this,
24 tough, is if there is an adjustment in the fee
25 schedule, then, it has to come back through the hearing

1 process, and therefore, it would be March of the
2 following year before the change could be made. So,
3 I have no objections to making a report to the Council,
4 on appropriations, and fees, and I have enough respect
5 for this Council to know that it will do what is
6 appropriate, as to changing them, if they're necessary.

7 Does that answer your questions?

8 MR. BREISCH: Yes. I don't know that
9 that needs to be part of the regulation, though.

10 HEARING OFFICER DRAKE: I would
11 recommend that it not be a part of the record --
12 regulation.

13 But, you can beat upon my head
14 severely, if I -- I would hope you would remind me
15 in May, and then beat on me in September, if I don't
16 do it.

17 MR. BREISHCH: Well, we'll make it
18 a matter of record, in this hearing, that we did
19 request that you do that.

20 HEARING OFFICER DRAKE: All right.

21 Any other questions or comments from
22 the Council?

23 I understand then, at this time it's
24 in order to either postpone approval of this, or
25 make a recommendation to the Board of Health for

1 acceptance.

2 MR. BREISCH: Council, if they care
3 to, could leave the record opened for a few more days?
4 Have a Staff present a report at the next Council
5 Meeting, or are they to take action today; it's their
6 pleasure.

7 MR. SKEITH: Mr. Chairman, I move
8 that the proposed revision of Regulation 1.4 be
9 recommended to the Board of Health, for approval.

10 HEARING OFFICER DRAKE: Does that
11 include the amendments...

12 MR. SKEITH: Oh, it includes everything
13 that was talked about here today, and all the amendments
14 and the conversation, and everything you want to put
15 in it, just send it over to the Board of Health.

16 MR. PYLE: Second.

17 HEARING OFFICER DRAKE: Any more
18 comments. We have moved and seconded, call roll now.

19 MR. BREISCH: Mr. Quinlan?

20 MR. QUINLAN: Aye.

21 MR. BREISCH: Mr. Skeith?

22 MR. SKEITH: Aye.

23 MR. BREISCH: Dr. Canter.

24 DR. CANTER: Aye.

25 MR. BREISCH: Mr. Pyle?

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MR. PYLE: Aye.

MR. BREISCH: Mr. Breisch?

MR. BREISCH: Aye.

HEARING OFFICER DRAKE: Okay, that closes the hearing portion concerning the regulations, and we will take a few mintues.

(Whereupon, the hearing in the above-entitled matter was concluded.)

2095

C E R T I F I C A T E

1
2 STATE OF OKLAHOMA)
3 COUNTY OF OKLAHOMA) SS:

4
5
6 I, Russell E. Burns, a Certified
7 Electronics Reporter/Notary Public within and for the
8 State of Oklahoma, do hereby certify that the foregoing
9 transcript is a true, correct and complete verbatim
10 transcription of the proceedings held at said time
11 and place.

12 I further certify that I am not an
13 attorney for or counsel for, nor related to or employed
14 by any of the parties to which this action is taken,
15 and further that I am not a relative or employee of
16 any attorney or counsel employed by the parties hereto,
17 or financially interested in the action.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand and official seal this, 15th day of
20 October, 1987.

21
22 
23 RUSSELL E. BURNS, C.E.R.
24 Notary Public within & for
25 THE STATE OF OKLAHOMA

My Commission Expires: 3/24/89

Joan K. Leavitt, M.D.
Commissioner

**OKLAHOMA STATE
DEPARTMENT OF HEALTH**



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**P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152**

AN EQUAL OPPORTUNITY EMPLOYER

July 27, 1987

Dear Sir:

Subject: Workshop on Permit Fee Schedules

Upon recommendation by the Air Quality Council a workshop to discuss methods of scheduling permit fees has been set for August 5, 1987 from 10:00 A.M. until 3:30 P.M. to be held at the Southwestern Bell Auditorium, Room 426, 800 N. Harvey, Oklahoma City, Oklahoma. The scope of this workshop will be restricted to the goal of deriving an appropriate approach to allow the collection of permit and renewal fees of approximately \$228,000.00 per year. Please bear in mind that any fee regulation must conform to the authority set out in the permit fee statute which is attached for your review. This is a copy of the 1987 amendments to the fee authorizations of the Public Health Code effective July 20, 1987.

There will be a \$10 registration fee which can be made payable to the Oklahoma State Chamber of Commerce and Industry. You may mail your check along with the registration form below to the Oklahoma State Chamber of Commerce and Industry, 4020 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105. Registration will be open through the close of business Friday, July 31, 1987.

Sincerely,

John W. Drake, Chief
Air Quality Service

Name _____

Company/Organization _____

Address _____



Oklahoma State
Department of Health

1000 Northeast Tenth
Oklahoma City, OK 73152

Joan K. Leavitt, M.D.

Commissioner of Health

NEWS

FOR RELEASE: July 28, 1987
CONTACT: Dick Gunn
405/271-5601

NOTICE OF WORKSHOP

The State Chamber of Commerce, in conjunction with the Air Quality Service of the Oklahoma State Department of Health, has scheduled a workshop on the collection of permit and renewal fees industries must pay for air quality permits in Oklahoma.

The workshop will be held Wednesday, August 5, from 10 a.m. until 3:30 p.m. at the Southwestern Bell Auditorium, Room 426, 800 N. Harvey, in Oklahoma City.

Registration is \$10 and checks should be made payable to the State Chamber of Commerce, 4020 N. Lincoln Blvd., Oklahoma City, OK 73105. Registration is open to the public, but reservations must be made by Friday, July 31. For more information, contact Julius Kubier, Oklahoma State Chamber of Commerce, 405/424-4003; or Marsha Sweazy, Air Quality Service, 405/271-5220.

###

Permit and Renewal Fees Workshop

Sponsored by: Oklahoma State Chamber of Commerce
and Industry

In Conjunction with
Air Quality Service
State Department of Health

Time and Place: 10:00 A.M.
August 5
The Auditorium, Room 426
Southwestern Bell
800 N. Harvey
Oklahoma City

10:00 A.M.	Welcome	Bill Breisch, Chairman Air Quality Council
10:10 A.M.	Introduction/Moderator	S.S.R. Pappworth, Witco Corporation Houston, Texas
10:15 A.M.	Parameters	Dennis Doughty, Staff Attorney Air Quality Service Oklahoma State Department of Health
10:40 A.M.	Alternative A	Dave Branecky, Oklahoma Gas and Electric
11:10 A.M.	Alternative B	The Kansas Approach Robert Cinq-Mars, Association of Gas Processors
11:30 A.M.	State's Proposed Approach	John Drake, Chief Air Quality Service
12:00	Lunch	
1:00 P.M.	Discussion of Alternatives	
2:30 P.M.	Consensus Determination	
3:30 P.M.	Adjourn	

PERMIT & RENEWAL FEES WORKSHOP

August 5, 1987

A T T E N D E E S

1. Charles Pyle, Kiowa Bend Ranch, Pauls Valley
2. B. W. Proft, Sheffield Corp., Sand Springs
3. F. W. Mulloy, Phillips Petroleum Company, Bartlesville
4. Ray Hedrick, Public Service Company, Tulsa
5. Royce Bentley, Public Service Company, Tulsa
6. Nicholas Worontsoff, Jr., Texas Oil & Gas Corp., Garland, TX
7. Chuck Adamson, Standard Industries, Tulsa
8. Robert J. Cinq-Mars, Cities Service Oil & Gas Corp., Tulsa
9. Charles M. Goodwin, Cities Service Oil & Gas Corp., Tulsa
10. Harlan R. Chance, Agrico Chemical Co., Catoosa
11. Dewayne Workman, Western Farmers Electric Co-op, Anadarko
12. Patrick E. Binkley, Total Petroleum, Ardmore
13. Bud McMullen, General Motors Corporation, OKC
14. Mike Seney, Zapata Industries, Broken Arrow
15. Don Mears, Sun Pipeline Co., Tulsa
16. Dr. Nora Tripathy, General Motors Corporation, OKC
17. Jim Burkett, Sun Pipeline Co., Tulsa
18. Paul Sheffert, Dolese Company, OKC
19. Bill Manett, Dolese Company, OKC
20. John Knapp, St. Joe Resources, Bartlesville
21. Bill Jones, St. Joe Resources, Bartlesville
22. Sidney Cabiness, Sun Refining, Tulsa
23. Ken Downey, Kerr Mc-Gee Corp., OKC
24. Chuck Reardon, Sheffield Steel, Sand Springs
25. Dave Branecky, O G & E, OKC
26. Rachel Pappworth, Witco Corp., Houston, TX
27. Bill Breisch, Air Quality Service, OKC
28. John W. Drake, Air Quality Service, OKC
29. Dennis Doughty, Air Quality Service, OKC
30. Marsha Sweazy, Air Quality Service, OKC
31. Chuck Evans, Oklahoma Natural Gas Company, Tulsa
32. Grant Marburger, Air Quality Service, OKC
33. Larry Byrum, Air Quality Service, OKC

PERMIT & RENEWAL FEES WORKSHOP

August 5, 1987

A T T E N D E E S (CONT.)

34. Todd Miller, Witco Corp., Ponca City
35. Suzanne Moore, ACOG, OKC
36. Frank McGilbra, PSO, Tulsa
37. Ronn W. Cupp, OCCI, OKC
38. Jules Kubier, OCCI, OKC

Welcome by Julius Kubier - As requested by Air Quality Council we are having this workshop. Introduced Bill Breisch.

Bill Breisch - Need fees because in 1987 we had \$360,000.00 from the general fund. In 1988 we are going to get \$232,000.00, leaving a deficit of \$128,000.00. Erosion fees, as John Drake calls it, we are adding \$100,000.00 to it and will come up with \$228,000.00 to be the total needed to be collected. A proposed regulation to collect these fees was presented at the last public hearing. At this public hearing we became aware that alot of industries were not aware of this propose change, so the Air Quality Council requested that this workshop be held. Introduced Rachel Pappworth. She has a degree in Environmental and Civil Engineering from the University of Newcastle, England. Worked with Conoco for nine years, state-side and in England. She is now employed at Witco Corporation in Houston, Texas as the Regional Environmental Engineer and has a Ph.D.

Rachel Pappworth - At the public hearing it became well apparent that some were opposed to regulations requiring them to pay fees. We are going to have to start with this premise - that we are going to have to pay these fees, and we are going to have to come up with a method of paying them. Introduced Dennis Doughty, AQS Staff Attorney.

Dennis Doughty - Title 63, Section 1-1802 of the Oklahoma Clean Air Act, Subsection D talks about the Board of Health and the AQC passing rules and regulations. The Clean Air Act itself speaks of permit fees and the authority to promulgate rules and regulations. A copy of the latest statutory authority for permit fees was included in the invitational packet sent to and, hopefully, received by everyone here. This is in Title 63 Sect. 1-106.1 originally passed in 1984. It was recently ammended as house bill 1473 and signed by the Governor July 17, 1987. 106.1a - allows the Board of Health to establish a system of fees to be charged for environmental and other health services. There are some limitations. The first one says that these rules will be passed according to the administrative procedures act. Thus, these rules and regulations will be passed via these procedures, not through individual proceedings as was suggested. Secondly, ranges were established for permit issuance. The range for permit issuance would be from \$50 to \$2000 and for renewal of a permit the range would be from \$10 to \$500. Another clause added states that a grandfather facility still has to pay renewal fees. Subsection C - addresses the reasonable cost of review and inspection which John Drake will address. Subsection D - addresses exemption due to unreasonable hardship. Subsection F - liscenses and permits issued by the Board of Health shall be for a one year period. That is basically the statutory authority with which we have to work. The law gives us the authority to establish this permit and fee schedule.

Dave Braneky of DG&E - Presented information using overheads and passed out a copy of this information. I will discuss our alternative where it gets its authority in the law and where it gets its authority in the regulation. The AQS has a dual permitting system - where you have a construction permit and then an operating permit. In

formulating our alternative we tried to bear in mind "reasonable cost for services rendered". Fees for construction and operating permits - there is work done by the service. There is much more work done for a major source, and even more work done for a major source that is subject to PSD reviews. For a minor source there may not be as much work done. Where there is more work done the AQS deserved more money. Where a bubble permit is concerned - there is more work done, therefore they (the AQS) should receive more money. We question the legality of changing the permit to a one year renewable for those facilities already permitted. We propose a flat fee for a major source and a minor source, and establishing a maximum charge per facility. We do not feel that it is equitable to, for example, charge \$2000 for an initial permit and then have the facility pay \$4000 to renew. We feel that the cost for renewal of permits should not exceed the cost of the initial permit. Licensing and permitting of existing sources that are not currently permitted - the fee for these facilities could be no greater than the construction and operating permits could possibly be. Finally, there should be some difference in the permit and permit renewal fees for those facilities already permitted and opposed to those facilities not permitted previous to the implementation of this regulation. We propose that a base fee for each facility be set. There a fee could be set for each source at that facility. There should be a de minimus level. Also, we feel that there should be a maximum fee set for each facility. All invoices issued by AQS should be derived from their emission inventory. Limit the increase in these fees to a percent increase per year. People who live in the state also benefit from the air program - therefore we would like to see it set that the fees cannot exceed the fees set by the Oklahoma legislature. Remove the asbestos program from the fee schedule.

Charles Rupert - ??? - Kansas approach - January 1, 1984 fee schedule was in place. Handout was given and discussed. Monies to be raised by Oklahoma are close what Kansas has collected. If you do not meet the minimum level for a permit, then you will not need a permit and you will not be entered into the system. As a business you provide the Kansas air division with information about your facility, and they evaluate it. However, if they have any question about a part, the state may come back to you and require you to provide more information. Major facilities to be constructed in a nonattainment area would require a PSD permit. You do have the potential of paying \$5500 in Kansas if you are constructing a major facility, in a PSD area, and costs \$8 million. Billing dates - Bills mailed out January 1 of each year. You have until April 1 to pay, and thereafter you pay a \$5 per day fee that you pay on top of the renewal fee for 60 days. After June 1 you will receive another letter declaring your facility inactive and cancelling your permit rights. You now have to have your facility re-permitted. The chart provided in the handout is the system used to classify facilities.

John Drake, Chief AQS - The law, which we have already heard about, was written for the Health Department, not the AQS specifically. It does require a reasonable relationship between the cost of the service and the fee to be charged. We are looking for three things: to collect a specified amount; doing it within the authority of the law; and

collecting these fees with as much equity as possible. We have reviewed several approaches and none of them would have allowed us to collect fees within the confines of our three requirements. Under the old law the max we could charge for renewable permits was \$500. We anticipated 60 permits per year. If we charge \$500 for every construction permit and the charge \$500 for every operating permit and then assign \$100 one-time fee per facility, then we could collect the needed amount of money. We are looking for a rational multiplier by which we can multiply a set dollar amount that would provide us with the monies we need, and would be equitable. The number of emission points is the multiplier with which we ought to be working. It should be multiplied with a number calculated by figuring manhours and costs. \$65 per point source was derived. Considering that an actual cost of \$188 per point source was figured, the AQS feels that this is well within the confines of the law and is fair and equitable.

Questions/Answers -

Rachel Pappworth moderating - We are not here to fight for our own ideas, but to come to a meeting of the minds.

Are we talking dollars or methodology? John Drake responded by pointing out that in the course of talking methodology we cannot separate it from dollars. Rachel Pappworth also pointed out that while coming up with the method most desirable to the majority, we cannot lose sight of the ultimate goal - \$228,000.00.

Royce Bently - Had an argument with regard to the need to collect \$228,000.00. He feels that the AQS is "double dipping" by collecting that amount this year and in future years. John Drake explained about the \$100,000.00 and the \$128,000.00. (I don't think he was convinced.) Royce was concerned that if our appropriation increases, would we go through this process again and reduce the fees? The answer was "Yes."

The definition of a source was questioned. Some confused the definition with that of a facility. The point was made that there was a definite need for some better, more technical definitions.

Source operation is equivalent to emission point.

It was explained to the audience that the Annual Report was written for the public and not for technical reference. Further technical definitions could be found in the 0550.

The definitions for major and minor sources were questioned.

There was some concern that we were bringing in monies through the back door, and some still felt that the \$228,000.00 was unjustified. The legality of us collecting fees was again questioned. It was stated that if it was not legal we did not want to adopt it.

The emission inventory was questioned - we feel it is 90% correct. How would we collect information for the purpose of collecting fees? It was pointed out that we did not intend to change our method of

operation. We would still send out our inventory and rely on the information provided, which we feel is accurate for the most part. The inventory would be updated to cover sources that are periodically inactive.

Charges per source operation - 80 storage tanks in some operations - hard to believe that 6 hours are spent of each point source. That is an estimate based on the total hours spent divided by the total number of sources we have. There is some concern that that is not equitable. The numbers were again explained.

Question on statute - costs on review and permit - not the entire AQS.

One party was concerned that any modification to a major source would cost him an additional \$2,000.00. It was explained that it would not.

It was suggested that we put a cap on the renewal fees. A cap limit would decrease our income by about \$10,000.00 and we could stand that. The actual cost of doing a new source permit is more than \$2,000, but that is all the law allows. Therefore we have to make up the cost later.

Is it equitable without a cap set on these fees?

OKLAHOMA
STATE
CHAMBER
OF COMMERCE
& INDUSTRY

M E M O

TO: Natural Resources Committee

FROM: Julius E. Kubier

We have arranged two workshops with the staff of the Air Quality Service to exchange views and consider alternatives to the proposed amendments of 1.4 - etseq. (proposal attached).

Questions have been raised as to definitions, the approach and a possible cap.

The first workshop will be:

10:00 a.m.
August 5
The Auditorium, Room 426
Southwestern Bell
800 N. Harvey
Oklahoma City

The second workshop will be August 12, same time and place as the first. There will be a \$10 charge to cover lunch, coffee breaks and materials.

Please let us know if you are attending so we can make proper arrangements.

If enough of you are interested, we will try and arrange a tour for you of the refurbished Central High School which is now the headquarters here for Southwestern Bell.

The first session will be devoted to exploring the possible avenues and approaches. The second session will be reviewing and commenting on the revised proposal.

Draft 6/29/87

Proposed Revision to Regulation 1.4
Air Resources Management Permits Required

1.4.1 (a) Scope and Purpose

(1) Pursuant to the Oklahoma Clean Air Act as amended, this regulation is adopted to define Air Resource Management Requirements to protect and enhance Oklahoma Clean Air Resources and assure attainment/maintenance of the ambient air quality through the utilization of a construction/operation permit system.

1.4.1 (b) General Requirements

(1) Except as provided herein, no person may commence construction of, or operate any new source, or relocate any source without obtaining a permit from the Air Quality Service.

~~(2)~~ (2) Permits are required when the addition of a new source, or modification of an existing source, results in a net increase in air contaminant emissions as the Commissioner determines appropriate.

~~(3)~~ (3) Transfer of a source to a new owner or operator is not considered an increase in emissions and does not require new permits. However, any transfer shall be subject to existing permit conditions and/or compliance schedules. Notification of such transfers shall be made promptly in writing to the State Air Quality Service.

~~(4)~~ (4) The Commissioner may determine that a source is of minor significance and that permits are not required.

(5) Upon the effective date of this subsection, all operating permits, including those issued prior to the effective date, shall be for the term of one year, renewable on the first working day of February of each calendar year. Fee assessments shall include the year 1988.

(6) Any source for which the permit renewal fee or the annual permit renewal fee equivalent has not been received in the offices of the Air Quality Services by close of business on the first working day of March, shall be deemed to be operating without a permit.

1.4.1 (c)~~(1)~~ New Sources

(1) The Air Quality Service shall operate for the State of Oklahoma a dual permitting system for all new stationary/portable facilities/sources to be established in Oklahoma. The first permit is authorization to construct and is issued upon a determination by the Commissioner that the new source is so designed as to assure that the emission limitations of the several control regulations will be met.

The second permit is a permit to operate and is issued by the Commissioner upon demonstration the source was constructed as designed and the facility does meet the requirements of the several control regulations. Issuance of a permit is evidence that the source has met all requirements; however, upon proper showing this can be refuted by the State or a third party and in such a case the permit does not relieve the source of the responsibility to comply with all local, state or federal laws.

(2) Operating permits, issued subsequent to construction permit applications received on or after January 1, 1988, shall be subject to permit renewal fee payment on the first day of January following the first anniversary of the operating permit application due date.

1.4.1 (d) Existing Sources

(1) Any facility exempt from the requirement to obtain a permit based on date of construction or start-up shall be subject to an annual permit renewal fee equivalent. Permit renewal fee equivalents shall be equal to comparable permit renewal fees and shall be processed in the same manner and on the same basis as provided herein.

1.4.1 (e) Necessity to Obtain Permit

~~(1) Permits are required when the addition of a new source, or modification of an existing source, results in a net increase in air contaminant emissions as the Commissioner determines appropriate.~~

~~(2) Transfer of a source to a new owner or operator is not considered an increase in emissions and does not require new permits.~~

~~(3) The Commissioner may determine that a source is of minor significance and that permits are not required.~~

1.4.1 ~~(d)~~ (e) Permit Fees

(1) Definitions. For the purposes of section 1.4.1(c):

Major Source - shall have the same meaning as set forth in subsection 1.4.2(a)(2).

Minor Source - means any source for which a permit is required, but is not a major source.

Permit Renewal - means the yearly process of assessing and collecting permit renewal fees. In no case shall such term be construed to require any formal permit review.

Relocate - means to move a source from one geographical location to another. The term shall not include de minimis moves within the proximity of the original site, or convenience moves to contiguous areas when such moves are readily observable by inspectors.

Source Operation - means the last operation preceding the emission of an air contaminant, which operation (a) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and (b) is not a pollution abatement operation. The term shall not be construed to include a source operation which is of minor significance and would not be permittable if it were a new source.

Annual Permit Renewal Fee Equivalent - means the annual fee assessed on source operations at facilities which, because of the date of start-up or construction, are exempt from the requirements to have a permit.

(2) All construction permits, the application for which is received after the effective date of this subsection, will be assessed a fee, which must accompany the application, in accordance with the following schedule:

(A) Major Source

<u>(i) Construction permit</u>	<u>\$2,000</u>
<u>(ii) Operating permit</u>	<u>No fee</u>

(B) Minor Source

<u>(i) Construction permit</u>	<u>\$750</u>
<u>(ii) Operating permit</u>	<u>No fee</u>

(3) A fee for the annual renewal of operating permits shall be assessed at the rate of sixty-five dollars (\$65) per source operation and payable in accordance with the provisions of subsection 1.4.1(b). Annual permit renewal fee equivalents shall be assessed at the same rate and be payable in the same manner.

(4) Except for the calendar year 1988, the Air Quality Service will, on or before the first working day of January of each year, present persons subject to annual permit renewal fees and annual permit renewal fee equivalents with a fee assessment. Fee assessments for 1988 renewals shall be presented on or about the effective date of this part.

(5) Permits to locate existing sources within the state shall be assessed a fifty dollar (\$50) fee payable upon application.

(6) Asbestos renovation/demolition projects as required under Air Pollution Control Regulation 3.8, Control of Emission of Hazardous and Toxic Air Contaminants, shall be assessed a one hundred dollar (\$100) permit fee per project. For the purposes of this subsection, the term "project" shall be defined to mean any renovation/demolition operation at any one facility submitted under separate notification. Any project not completed within one year from the date of notification shall pay a permit renewal fee of \$100 per year or part of a year until such time as the project is completed.

(7) Fees will be paid by check or money order (no cash will be accepted) made payable to the reviewing agency, e.g., Oklahoma State Department of Health, Air Quality Service.

(8) The fee provisions set forth in this regulation shall apply to those permits, renewals and renewal fee equivalents processed by the State Air Quality Service and are not intended to preempt any local fee program.

1.4.2 Construction Permit

1.4.2 (a) Standards Required

(1) No person shall cause or allow the construction or modification of any source without first obtaining an authority to construct or modify from the Commissioner as to comply with all applicable air pollution rules and regulations, and not to exceed ambient air quality standards or applicable federal new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS), Sections 111 and 112 of the Federal Clean Air Act.

(2) Major Sources. For purposes of this Section 1.4.2 (a), a major source is defined as any new or modified stationary source which directly emits or has the capability at maximum design capacity and, if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant. A major source must demonstrate that the control technology to be applied is the best that is available for each pollutant controlled under air pollution control regulations if such pollutant would cause the source to be defined as a major source. This determination will be made by the Commissioner on a case by case basis taking into account energy, environmental, costs and economic impacts of alternative control systems.

(3) Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the Commissioner and accomplished by the applicant.

(4) If required by the Commissioner, the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing facilities.

1.4.2 (b) Stack Height Limitation

(1) Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques as defined in the following:

(A) Stack means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

(B) A stack in existence means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable

Joan K. Leavitt, M.D.
Commissioner

**OKLAHOMA STATE
DEPARTMENT OF HEALTH**



Board of Health

James A. Cox, Jr., M.D.
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Ernest D. Martin
Walter Scott Mason, III
Edwin L. Pointer, M.D.
W. A. "Tate" Taylor

**P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152**

AN EQUAL OPPORTUNITY EMPLOYER

July 28, 1987

**S. S. R. Pappworth
Witco Corporation
P.O. Box 74187
Houston, TX 77242**

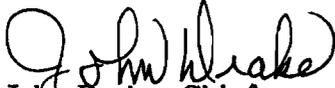
Dear Ms. Pappworth:

As per our recent telephone conversation this is to confirm that you will serve as our moderator at the workshop on collecting permit and renewal fees scheduled for August 5, 1987.

In order for us to introduce you as a speaker, we are requesting that you forward us a biographical outline.

We appreciate your interest in this area and are looking forward to seeing you at the workshop.

Sincerely,


John Drake, Chief
Air Quality Service

Joan K. Leavitt, M.D.
Commissioner

**OKLAHOMA STATE
DEPARTMENT OF HEALTH**

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**P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152**

AN EQUAL OPPORTUNITY EMPLOYER



July 28, 1987

Dave Branecky
Oklahoma Gas and Electric Company
P.O. Box 321
Oklahoma City, OK 73101

Dear Mr. Branecky:

As per our recent telephone conversation this is to confirm that you will present an alternative method of collecting permit and renewal fees at our up-coming workshop to be held August 5, 1987.

In order for us to introduce you as a speaker, we are requesting that you forward us a biographical outline.

We appreciate your interest in this area and are looking forward to seeing you at the workshop.

Sincerely,

John Drake, Chief
Air Quality Service

2115

Joan K. Leavitt, M.D.
Commissioner

OKLAHOMA STATE
DEPARTMENT OF HEALTH

Board of Health

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W. A. "Tate" Taylor

P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152

AN EQUAL OPPORTUNITY EMPLOYER



July 28, 1987

R. Cinq-Mars
Cities Service Oil and Gas Company
P.O. Box 300
Tulsa, OK 74102

Dear Mr. Cinq-Mars:

As per our recent telephone conversation this is to confirm that you will present an alternative method of collecting permit and renewal fees at our up-coming workshop to be held August 5, 1987.

In order for us to introduce you as a speaker, we are requesting that you forward us a biographical outline.

We appreciate your interest in this area and are looking forward to seeing you at the workshop.

Sincerely,

John Drake, Chief
Air Quality Service

C. g.
Wense
March 2

RECEIVED

MINUTES OF THE NATURAL RESOURCES WORKSHOP

AUGUST 5, 1987

AUG 19 1987

AIR QUALITY
SERVICE

Attached is the list of attendees and the agenda.

After a welcome by Bill Breisch, chairman of the Air Quality Council, and an explanation of the reasons for the fee schedule, Rachel Pappworth of Witco was introduced and became the moderator of the meeting. Rachel explained the purpose and procedure the meeting would follow. Presentations would be made suggesting possible alternative methods of levying the fees which individuals felt would be more equitable. Then John Drake would explain how and why the fee schedule was arrived at.

Mr. Doughty, legal counsel for the service, would explain the legal basis for the proposal.

The participants were asked not to interrupt until the presentations were completed in order to give the presentors ample time to make a full explanation.

Several alternatives were discussed. After the presentations, questions were asked, discussion ensued. Several participants objected to the fee increases, particularly those facilities which are grandfathered and do not now require a permit.

It was pointed out that the legislature had authorized such increases and the Governor's office had advised that the fees be levied to maintain a least current level operations (\$228,000 needed). The only thing left was what method would produce the most equitable method of raising the \$228,000.

Discussion continued to lunch.

After lunch, there was considerable discussion without a lot of agreement.

Three points seemed to be on everyone's mind: (1) Deminimis sources; (2) Definition of a source; and (3) A cap on yearly renewal fees.

It was agreed to meet on the 12th of August and attempt to work out language and other particulars to see if common ground could be found for recommended action.

PERMIT & RENEWAL FEES WORKSHOP

August 5, 1987

A T T E N D E E S

1. Charles Pyle, Kiowa Bend Ranch, Pauls Valley
2. B. W. Proft, Sheffield Corp., Sand Springs
3. F. W. Mulloy, Phillips Petroleum Company, Bartlesville
4. Ray Hedrick, Public Service Company, Tulsa
5. Royce Bentley, Public Service Company, Tulsa
6. Nicholas Worontsoff, Jr., Texas Oil & Gas Corp., Garland, TX
7. Chuck Adamson, Standard Industries, Tulsa
8. Robert J. Cinq-Mars, Cities Service Oil & Gas Corp., Tulsa
9. Charles M. Goodwin, Cities Service Oil & Gas Corp., Tulsa
10. Harlan R. Chance, Agrico Chemical Co., Catoosa
11. Dewayne Workman, Western Farmers Electric Co-op, Anadarko
12. Patrick E. Binkley, Total Petroleum, Ardmore
13. Bud McMullen, General Motors Corporation, OKC
14. Mike Seney, Zapata Industries, Broken Arrow
15. Don Mears, Sun Pipeline Co., Tulsa
16. Dr. Nora Tripathy, General Motors Corporation, OKC
17. Jim Burkett, Sun Pipeline Co., Tulsa
18. Paul Sheffert, Dolese Company, OKC
19. Bill Manett, Dolese Company, OKC
20. John Knapp, St. Joe Resources, Bartlesville
21. Bill Jones, St. Joe Resources, Bartlesville
22. Sidney Cabbiness, Sun Refining, Tulsa
23. Ken Downey, Kerr Mc-Gee Corp., OKC
24. Chuck Reardon, Sheffield Steel, Sand Springs
25. Dave Branecky, O G & E, OKC
26. Rachel Pappworth, Witco Corp., Houston, TX
27. Bill Breisch, Air Quality Service, OKC
28. John W. Drake, Air Quality Service, OKC
29. Dennis Doughty, Air Quality Service, OKC
30. Marsha Sweazy, Air Quality Service, OKC
31. Chuck Evans, Oklahoma Natural Gas Company, Tulsa
32. Grant Marburger, Air Quality Service, OKC
33. Larry Byrum, Air Quality Service, OKC

PERMIT & RENEWAL FEES WORKSHOP

August 5, 1987

A T T E N D E E S (CONT.)

34. Todd Miller, Witco Corp., Ponca City
35. Suzanne Moore, ACOG, OKC
36. Frank McGilbra, PSO, Tulsa
37. Ronn W. Cupp, OCCI, OKC
38. Jules Kubier, OCCI, OKC

A G E N D A

Permit & Renewal Fees Workshop

August 5, 1987

10:00 a.m.	Welcome	Bill Breisch, Chairman Air Quality Council
10:10 a.m.	Introduction/ Moderator	S.S.R. Pappworth Witco Corporation Houston, Texas
10:15 a.m.	Parameters	Dennis Doughty, Attorney Air Quality Service Okla. State Dept. of Health
10:40 a.m.	Alternative A	Dave Branecky O G & E
11:10 a.m.	Alternative B	The Kansas Approach Robert Cinq-Mars Assn. of Gas Processing
11:30 a.m.	State's Proposed Approach	John Drake, Chief Air Quality Service Okla. State Dept. of Health
12:00	LUNCH	
1:00 p.m.	Discussion of Alternatives	
2:30 p.m.	Consensus Determination	
3:30 p.m.	Adjourn	

A Summary of the Permit/Fee Workshop

August 5, 1987

The group was welcomed by Julius Kubier. It was at the request of the Air Quality Council that we are holding this workshop. He then introduced Mr. Bill Breisch, Chairman of the Air Quality Council.

On taking the floor, Bill Breisch explained the need for fees, and consequently, the need for this workshop. In 1987 we had \$360,000 from the general fund. In 1988 we are going to get \$232,000, leaving a deficit of \$128,000. To make up this erosion of funds, we are adding \$100,000, "Erosion Fees", as John Drake calls it, and will come up with \$228,000 as the total needed. A proposed regulation to collect these fees was presented at the last public hearing. At this public hearing it became apparent that some industries were not aware of this proposed change. As a result, the Air Quality Council requested that this workshop be held. Rachel Pappworth will be our moderator. She has a degree in Environmental and Civil Engineering from the University of Newcastle, England and has worked with Conoco for nine years, state-side and in England. She now has a Ph.D. and is employed at Witco Corporation in Houston, Texas as the Regional Environmental Engineer.

Our moderator, Rachel Pappworth, stated that at the previous public hearing it was apparent that some were opposed to regulations requiring them to pay fees. "We are going to have to start with this premise—that we are going to have to pay these fees, and we are going to have to come up with a method of paying them." She then introduced Dennis Doughty, the AQS Staff Attorney.

Dennis Doughty discussed the regulation as it applies to fees. In Title 63, Section 1-1802 of the Oklahoma Clean Air Act, Subsection D addresses authority of the Board of Health and the Air Quality Council to pass rules and regulations. The Clean Air Act itself addresses permit fees and the authority to promulgate rules and regulations. A copy of the latest statutory authority for permit fees was included in the invitational packet sent to and, hopefully, received by everyone here. This is in Title 63 Section 1-106.1 originally passed in 1984. It was recently amended as House Bill 1473 and signed by the Governor on July 17, 1987. Section 106.1a - allows the Board of Health to establish a system of fees to be charged for environmental and other health services. There are some limitations. The first one says that these rules will be passed according to the administrative procedures act. Thus, these rules and regulations will be passed via these procedures, not through individual proceedings as was suggested. Secondly, ranges were established for permit issuance. The range for permit issuance would be from \$50 to \$2000 and for renewal of a permit the range would be from \$10 to \$500. Another clause added states that a grandfather facility still has to pay renewal fees. Subsection C - addresses the reasonable cost of review and inspection which John Drake will discuss. Subsection D addresses exemptions due to unreasonable hardship. Subsection F explains licenses and permits issued by the Board of Health shall be for a one year period. That is basically the statutory authority with which we have to work. The law gives us the authority to establish this permit and fee schedule.

Dave Branecky, O G & E, presented information using overheads and passed out a copy of O G & E's position. He discussed an alternative fee structure, its authority under the Oklahoma Clean Air Act, and our regulation. He stated that the Air Quality Service has a dual permitting system - where you have a construction permit and then an operating permit. In formulating our alternative we tried to

bear in mind "reasonable cost for services rendered". There is work done by the service for construction and operating permits. There is much more work done for a major source that is subject to PSD reviews. Where there is more work done, the AQS deserves more money. Where a bubble permit is concerned, there is more work done, therefore, they, the AQS, should receive more money. We question the legality of changing the permit to a one year renewable for those facilities already permitted. We propose a flat fee for a major source and a minor source, and establishing a maximum charge per facility. We do not feel that it is equitable to, for example, charge \$2000 for an initial permit and then have the facility pay \$4000 to renew. We feel that the cost for renewal of permits should not exceed the cost of the initial permit. He said that O G & E felt that the fees for extant facilities which are not currently permitted should be no greater than the present construction or operating permit fees. Finally, there should be some difference in the permit and permit renewal fees for those facilities already permitted as opposed to those facilities not permitted previous to the implementation of this regulation. We propose that a base fee for each facility be set. Then a fee should be set for each source at that facility. There should be a de minimis level. Also, we feel that there should be a maximum fee set for each facility. All invoices issued by AQS should be derived from their emission inventory. We would like to see a limit on any increase in these fees to a percent increase per year. People who live in the state also benefit from the air program, therefore, we would like to see it set that the fees cannot exceed the fees set by the Oklahoma legislature. We also recommend that the asbestos program be removed from the fee schedule.

Charles Goodwin, Cities Service Company representing the Oklahoma Gas Processors - appealed for a permit fee program similar to the permit system used by the State of Kansas since January 1, 1984. He stated that the monies needed by the Oklahoma AQS were comparable to that amount collected by the Kansas permit fees. He pointed out that in Kansas, if you do not meet the minimum level for a permit, you will not need a permit and you will not be entered into a system. As a business you must provide the Kansas Air Division with information about your facility, and they evaluate it. However, if they have any question about your facility the State may come back to you and require you to provide more information. Major facilities to be constructed in a nonattainment area are required to have a PSD permit. Under these circumstances and if the facility costs eight million dollars or more, then the PSD permit may cost as much as \$5500. Mr. Goodwin stated that bills are mailed out on January 1 of each year. You have until April 1 to pay, and thereafter you pay a \$5 per day fee on top of the renewal fee for 60 days. After June 1 you will receive another letter declaring your facility inactive and cancelling your permit rights. You now have to have your facility re-permitted. The chart provided in the handout, presented at the beginning of this presentation, details the facility classification system used by Kansas to classify facilities by process.

John Drake, Chief AQS, replied that the law, which we have already heard about, was written for the Health Department, not the AQS specifically. It does require a reasonable relationship between the cost of the service and the fee to be charged. We are looking for three things: to collect a specified amount; doing it within the authority of the law; and collecting these fees with as much equity as possible. We have reviewed several approaches and none of them would have allowed us to collect fees within the confines of our three requirements. Under the old law the maximum fee we could charge for new permits was \$500. We anticipated 60 permits per year. If we charge \$500 for every construction permit and charge \$500 for every operating permit and then assign \$100 one-time fee per facility,

then we could collect the needed amount of money. We are looking for a rational multiplier by which we can multiply a set dollar amount that would provide us with the monies we need, and would be equitable. The number of emission points is the multiplier with which we ought to be working. It should be multiplied with a number calculated by figuring manhours and costs. \$65 per point source was derived. Considering that an actual cost of \$188 per point source was figured, the AQS feels that this is well within the confines of the law and is fair and equitable.

Questions/Answers -

Rachel Pappworth began by stating we are not here to fight for our own ideas, but to come to a meeting of the minds.

An unidentified participant asked, "Are we talking dollars or methodology?"

John Drake responded by pointing out that in the course of talking methodology we cannot separate it from dollars. Rachel Pappworth also pointed out that while coming up with the method most desirable to the majority, we cannot lose sight of the ultimate goal - \$228,000.

The Public Service Co. of Oklahoma representative argued the need to collect \$228,000. He felt that the AQS is "double dipping" by collecting that amount this year and in future years. John Drake explained about the \$100,000. and the \$128,000. ,discussion continued in this vein.. The representative was concerned that if the AQS appropriations increase, would these public hearings be repeated to reduce the fees? The answer was "Yes".

Some participants were confused with regard to the definitions of a "source" and a "facility". The point was made that there was a need for some better, more technical definition of these terms. It was explained to the audience that the Annual Report was written for the public and not as a technical reference. Technical definitions can be found in the 0550.

A participant felt that the AQS was bringing to monies "through the back door". Some still felt that the \$228,000 was unjustified. The legality of us collecting fees was again questioned. It was stated that if it was not legal we did not want to adopt it.

The emission inventory was questioned. John Drake replied that, "we feel it is 90% correct". He was then asked how the AQS intended to collect information for the purpose of collecting fees? He replied that the AQS did not intend to change its method of operation. "We would still send out our inventory and rely on the informaton provided, which we feel is accurate for the most part", he said. The inventory would be updated to cover sources that are periodically inactive.

A participant expressed some concern with regard to the equity of the states approach since he had as many as 80 sources at some facilities. He found it hard to believe that 6 hours were spent on each point source. It was pointed out that this was an estimate based on the total hours spent divided by the total number of sources that we have. There is some concern that that is not equitable. The numbers were again explained.

One party was concerned that any modification to a major source would cost him an additional \$2,000. It was explained that it would not.

One participant suggested that we put a cap on the renewal fees. John Drake pointed out that "A cap limit would decrease our income by about \$10,000, however, we could stand that." He also stated that the actual cost of doing a new source permit is more than \$2,000, but that could be made up later.

The cap, once set, would not be changed unless it came back to the AQC and the council changed the rule. A suggestion was made to put it into the rule that it would not be any more than the legislature would allow. That, according to the person making the suggestion, would cover it. John Drake pointed out that this would be a futile action, since the AQC puts things into these rules and therefore can take them out. Thus, if, in the future, there was a need to increase the fees, the AQC would do so.

What takes more time for the AQS to process - a new permit, a construction permit, or a permit renewal? It was explained that more time is actually spent on a new permit than on a permit renewal. A participant pointed out that there was no review involved in a permit renewal, making the inspection the only basis for fees. Dennis Doughty pointed out that we do not want renewable operating permits.

It was suggested by Rachel Pappworth that we look at the Kansas approach, because it does have some merit. A comment from the floor indicated that we could be years developing an approach such as the one Kansas uses because of categorizing various industries with regard to simpler methods of categorizing operations such as using SIC codes.

The question was raised as to who would receive the fee payments, the State or the City-County. It was explained that the system, as proposed, would be applicable only to the state. The City-County, however, would be free to adopt either their own fee schedule or this one, but not both.

Rachel Pappworth suggested that between today and August 12, 1987 (the next workshop) the AQS run some numbers with reference to the different approaches suggested here today. These numbers would be presented at the next workshop.

The comment was made that the setting up of the categories for the Kansas approach was at times somewhat a judgment call because of having to take into consideration the type of operation, the number of inspections, etc. It basically comes down to trying to figure out how much agency resources are involved and categorizing them from there.

It was pointed out that the Texas Air Control Board was recently told by their legislature that it would raise 50% of their revenues by fees. They have an annual budget of \$13 million, \$3 million of which is for research, so they have to raise \$10 million. Texas is holding its breath thinking that the legislature may come back and say "ok you can raise 80% of your budget through fees". The comment was made that, that same thing just happened in Louisiana. However, their monies can be raised through fines and fees, not fees only.

SIC codes were looked upon favorably with respect to the development of this fee system and creating the classification groups.

The question was raised about what class would be chosen should a facility fall between two classes. The gas processor representative pointed out that the

higher numbered class would prevail.

Several expressed concern with regard to where the de minimis level would be set.

It was suggested that the categories would not have to be numbered in the order 1, 2, 3, 4, 5, etc., but they could be numbered 1, 3, 7, etc. This would allow the collection of more money and still remain within the cap limit.

One participant suggested that we may have to go out looking for more sources, because there are those out there that the AQS knows nothing about. There are plenty out there who don't pay their fees. This in turn puts the burden on those companies that do pay their fees.

There will be a follow-up workshop on August 12, 1987 here at One Bell Central, 800 N. Harvey, Oklahoma City, Oklahoma at 10:00 A.M. At this workshop we will break up into groups and work on specific aspects of this issue.

MINUTES OF THE NATURAL RESOURCES WORKSHOP

AUGUST 5, 1987

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AUG 19 1987

AIR QUALITY
SERVICE

Attached is the list of attendees and the agenda.

After a welcome by Bill Breisch, chairman of the Air Quality Council, and an explanation of the reasons for the fee schedule, Rachel Pappworth of Witco was introduced and became the moderator of the meeting. Rachel explained the purpose and procedure the meeting would follow. Presentations would be made suggesting possible alternative methods of levying the fees which individuals felt would be more equitable. Then John Drake would explain how and why the fee schedule was arrived at.

Mr. Doughty, legal counsel for the service, would explain the legal basis for the proposal.

The participants were asked not to interrupt until the presentations were completed in order to give the presentors ample time to make a full explanation.

Several alternatives were discussed. After the presentations, questions were asked, discussion ensued. Several participants objected to the fee increases, particularly those facilities which are grandfathered and do not now require a permit.

It was pointed out that the legislature had authorized such increases and the Governor's office had advised that the fees be levied to maintain a least current level operations (\$228,000; needed). The only thing left was what method would produce the most equitable method of raising the \$228,000.

Discussion continued to lunch.

After lunch, there was considerable discussion without a lot of agreement.

Three points seemed to be on everyone's mind: (1) Deminimis sources; (2) Definition of a source; and (3) A cap on yearly renewal fees.

It was agreed to meet on the 12th of August and attempt to work out language and other particulars to see if common ground could be found for recommended action.

A Summary of the Permit/Fee Workshop

August 5, 1987

The group was welcomed by Julius Kubier. It was at the request of the Air Quality Council that we are holding this workshop. He then introduced Mr. Bill Breisch, Chairman of the Air Quality Council.

On taking the floor, Bill Breisch explained the need for fees, and consequently, the need for this workshop. In 1987 we had \$360,000 from the general fund. In 1988 we are going to get \$232,000, leaving a deficit of \$128,000. To make up this erosion of funds, we are adding \$100,000, "Erosion Fees", as John Drake calls it, and will come up with \$228,000 as the total needed. A proposed regulation to collect these fees was presented at the last public hearing. * * *

* * *

Dennis Doughty discussed the regulation as it applies to fees. In Title 63, Section 1-1802 of the Oklahoma Clean Air Act, Subsection D addresses authority of the Board of Health and the Air Quality Council to pass rules and regulations. The Clean Air Act itself addresses permit fees and the authority to promulgate rules and regulations. A copy of the latest statutory authority for permit fees was included in the invitational packet sent to and, hopefully, received by everyone here. This is in Title 63 Section 1-106.1 originally passed in 1984. It was recently amended as House Bill 1473 and signed by the Governor on July 17, 1987. Section 106.1a - allows the Board of Health to establish a system of fees to be charged for environmental and other health services. There are some limitations. The first one says that these rules will be passed according to the administrative procedures act. Thus, these rules and regulations will be passed via these procedures, not through individual proceedings as was suggested. Secondly, ranges were established for permit issuance. The range for permit issuance would be from \$50 to \$2000 and for renewal of a permit the range would be from \$10 to \$500. Another clause added states that a grandfather facility still has to pay renewal fees. Subsection C - addresses the reasonable cost of review and inspection which John Drake will discuss. Subsection D addresses exemptions due to unreasonable hardship. Subsection F explains licenses and permits issued by the Board of Health shall be for a one year period. That is basically the statutory authority with which we have to work. The law gives us the authority to establish this permit and fee schedule.

* * *

John Drake, Chief AQS, replied that the law, which we have already heard about, was written for the Health Department, not the AQS specifically. It does require a reasonable relationship between the cost of the service and the fee to be charged. We are looking for three things: to collect a specified amount; doing it within the authority of the law; and collecting these fees with as much equity as possible. We have reviewed several approaches and none of them would have allowed us to collect fees within the confines of our three requirements. Under the old law the maximum fee we could charge for new permits was \$500. We anticipated 60 permits per year. If we charge \$500 for every construction permit and charge \$500 for every operating permit and then assign \$100 one-time fee per facility, then we could collect the needed amount of money. We are looking for a rational multiplier by which we can multiply a set dollar amount that would provide us with the monies we need, and would be equitable. The number of emission points is the multiplier with which we ought to be working. It should be multiplied with a number calculated by figuring manhours and costs. \$65 per point source was derived. Considering that an actual cost of \$188 per point source was figured, the AQS feels that this is well within the confines of the law and is fair and equitable.

* * *

BOARD OF HEALTH

NOTICE OF RULEMAKING INTENT

NAME OF RULEMAKING AGENCY/ENTITY:
Oklahoma State Board of Health

INTENDED RULEMAKING ACTION:

Adoption by the Board of Health, of revisions to the permitting system and increases in the permit/renewal fees under Regulation 1.4, Air Resources Management - Permits Required.

Summary

* * *

Background

* * *

Need and Effect of the Rule:

Operating funds for the State Air Quality Service have been reduced annually for the past several years. The existing fee system cannot begin to cover the cost of permit service and other efforts expended by the Department annually in conjunction with the permit system. This new system should recoup those funds lost in previous years and provide a source of funds in the future. The new system, as devised, should place a more equitable portion of the regulatory costs on those facilities emitting air pollutants.



Contents of the Rules:

09/24/87

REGULATION 1.4

Air Resources Management
Permits Required

Permits

(Note: the Department of Libraries declined to publish the proposed amendments)

AUTHORITY FOR RULEMAKING:

63 O.S. 1981 Section 1-1801 et seq.
63 O.S. Supp. 1986, Section 1-106.1

COST/BENEFIT ANALYSIS:

A cost/benefit analysis will be prepared and will be available for inspection in Room 905 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

* * *

[Okla. Reg. 87-555; filed December 29, 1987, 4:58 p.m.]

OKLAHOMA
STATE
CHAMBER
OF COMMERCE
& INDUSTRY

M E M O

TO: Natural Resources Committee
FROM: Julius E. Kubier
DATE: August 6, 1987

We will meet:

10:00 a.m.
Wednesday, August 12, 1987
Cardinal Room
Lower Lobby
One Bell Center
800 North Harvey
Oklahoma City

RECEIVED
AUG 7 1987
AIR QUALITY
SERVICE

This meeting will break into work groups to come up with actual language to implement suggestions made and try to arrive at a consensus opinion.

A charge of \$10 per person will be made for lunch, coffee and soft drinks. You can pay at the door but we need to know how many will be attending.

PLEASE CALL THE OCCI OFFICE IF YOU PLAN TO ATTEND SO WE CAN KNOW HOW MANY TO PLAN FOR. (405/424-4003)

Shell Pipe Line Corporation



8500 North Michigan Road
P.O. Box 68099
Indianapolis, Indiana 46268

August 11, 1987

Oklahoma State Department of Health
Air Quality Service
P. O. Box 53551
Oklahoma City, OK 73152

RECEIVED
AUG 17 1987
AIR QUALITY
SERVICE

Gentlemen:

PROPOSED REVISION TO REGULATION 1.4 OKLAHOMA CLEAN AIR ACT AIR RESOURCES
MANAGEMENT PERMITS REQUIRED

Shell Pipe Line Corporation operates and maintains crude oil storage tanks in the State of Oklahoma. This letter is to express our opposition to that portion of the proposed revision of Regulation 1.4 of the Oklahoma Clean Air Act, which would require an annual permit renewal fee for each existing operating source.

Shell Pipe operates approximately 43 crude oil storage tanks which are properly permitted under the Oklahoma Clean Air Act and are the source of minor air contaminant emissions, if any. The annual fee for these minor emission sources is a tax which we believe should not be levied as long as we are in compliance with the regulations and file the required annual reports.

Shell Pipe Line Corporation shares the State of Oklahoma's goal to protect and enhance Oklahoma clean air resources and assure attainment of the ambient air quality. However, we believe that this should not be accomplished through an annual tax on facilities which have emissions well below the limitations of the Clean Air Act.

Sincerely,

A handwritten signature in cursive script that reads "G. H. Sherwin".

G. H. Sherwin, Manager
Mid-Continent Division

Joan K. Leavitt, M.D.
Commissioner

OKLAHOMA STATE
DEPARTMENT OF HEALTH



Board of Health

James A. Cox, Jr., M.D.
President

Linda M. Johnson, M.D.
Vice President

Robert D. McCullough, II D.O.
Secretary/Treasurer

Wallace Byrd, M.D.
John B. Carmichael, D.D.S.

Ernest D. Martin
Walter Scott Mason, III

Edwin L. Pointer, M.D.
W. A. "Tate" Taylor

P.O. BOX 53551
1000 N.E. TENTH
OKLAHOMA CITY, OK 73152

AN EQUAL OPPORTUNITY EMPLOYER

August 19, 1987

MEMORANDUM

To: John W. Drake, Chief
Air Quality Service

From: D. G. Doughty *DGD*

Subject: Permit Fee Workshop, August 12, 1987
Summary of Work Groups

(1) De Minimis

The de minimis work group consisted of representatives from the following companies:

Oklahoma Gas and Electric
Agrico
Dolese Brothers
Public Service Co. of Oklahoma
Western Farmers Co-op

The consensus was as follows:

Separate de minimis levels should be established both for permitting and for permit fee purposes. The levels should be established on individual pollutants (including fugitive emissions for the purpose of permit fees) and should be below 25 tons/year/pollutant.

(2) Alternative A

Representatives:

Sun Pipeline
Texas Oil & Gas
Oklahoma Gas & Electric
Total Petroleum

Consensus:

Annual fees should be invoiced based on emission inventory. Agree that a de minimis for fees is necessary and some method is needed to exempt small sources

Memorandum
John W. Drake

- 2 -

August 19, 1987

from permit requirements. Need definition of Minor Source. Also wanted provision which would not allow fees to generate more money than legislature appropriates.

Major aspect of this approach: all facilities renewals be charged a base rate of \$100 plus \$50 added per each source up to \$500 maximum.

Construction permit = Major \$2,000
Minor \$1,000

Operating permit = Major \$1,500
Minor \$750

(3) Alternative B (Kansas Approach)

Representatives:

St. Joe Resources
Sheffield Steel
Witco
Public Service Co. of Oklahoma
Okla. City-County Health Dept.
Cities Service
General Motors

Consensus:

Reaffirmed the Kansas approach of several categories, ranked in order of fee rate, and a multiplier assigned. Fee to equal \$50 per class number (classes 1 through 10). Renewal annually; assessment on a facility basis using the definition of facility found in Regulation 1.4 (#6).

New sources which have no predetermined category would be assigned a category based on the same criteria used to establish original categories. This assignment written into permit; such assignment appealable to Council. Existing sources not otherwise classified negotiated in same manner subject to appeal.

Renewals billed on January 1 with the payment due in 30 days. No enforcement action taken if received in offices within 10 days of due date.

Staff Analysis:

Without addressing the merits of either A or B, it would seem that nearly all of the suggestions of all three work groups can be incorporated into a final rule. The one suggestion not acceptable to the staff is the one which would link the amount of money obtained from fees to the amount of appropriations from the legislature. This is unworkable from several aspects.

Memorandum
John W. Drake

- 3 -

August 19, 1987

It is the intent of the AQS to raise only that amount of money necessary to make up for losses incurred by recent budget cuts. We believe this is what the legislature intended. The Service, however, has no control over what the legislature mandates. We believe that equating the income from fees to appropriations would not succeed in coercing the legislature, and could put us in the unenviable position of having to refund or refuse fees in a time of legislative cuts. We can think of no equitable way of refunding fees after the fact. We believe that the most manageable way of increasing or decreasing fees is at public hearing before the Council. In short, this recommendation is self-serving and would place an intolerable burden on the AQS.

The Kansas approach, in my opinion will be the easiest to administer and the easiest understood by both us and industry. I predict the greatest problem associated with this approach is objections based on particular classifications; it is however, my recommended approach.

DGD/pjl

Copy by Marsha
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MINUTES OF THE NATURAL RESOURCES COMMITTEE WORKSHOP II
AUGUST 12, 1987

AUG 19 1987
AIR QUALITY
SERVICE

The following attended:

C.R. Rearden, Sheffield Steel Corp.
B.W. Proft, Sheffield Steel Corp.
Nicholas Worontsoff, Jr., Texas Oil & Gas Corp.
Todd Miller, Witco Corp.
Royce Bentley, Public Service Co.
Ray Hedrick, Public Service Co.
Jim Burkett, Sun Pipe Line Co.
David Bradshaw, Agrico Chemical Co.
Anton Bosch, Okla. City County Health Dept.
Charles M. Goodwin, Cities Service Oil & Gas Corp.
W.S. Manatt, Dolese Bros. Co.
David Branecky, O G & E
Jim Pollard, O G & E
Dr. Nora Tripathy, General Motors Corp.
D.G. Doughty, OSDH Air Quality Service
John Drake, OSDH Air Quality Service
Marsha Sweazy, OSDH Air Quality Service
Larry Trent, OSDH Air Quality Service
Grant Marburger, OSDH, Air Quality Service
Angelo DeGiacomo, OSDH Air Quality Service
Clyde Jones, St. Joe Resources
Patrick Bentley, Total Petroleum
Dewayne Workman, Western Farmers Electric Co-op
Bill Skeith, Associated General Contractors

Absent were:

Mike Seney, Zapata Industries
Ron Bechtel, Halliburton Service
R.L. Thorstenberg, Conoco, Inc.
Ed Sexton, Midwest Carbide Corp.
Dave Blankenship, Rockwell International
Tom Carlile, Fansteel Metals
Jack Gallion, E.I.E. Associates, Inc.
S.S. Gambino, Ford Motor Co.
Paige Graening, Occidental Oil & Gas Corp.
Mike Rowten, Kerr-McGee Corp.
Jim Odendahl, Weyerhaeuser Company
Eldridge Lubber, ONG
Joe Klimoski, Waste Management
John Hughes, USPCI, Inc.
Joe Hodges, Occidental Oil & Gas Corp.
Guy Berry, American Nat'l Bank & Trust Co.

John Drake recapped Workshop I and provided statistical background on the two alternate proposals A and B.

The group then broke into 3 workgroups:

1. Deminimus definition
2. Outline and refine Alternate A
3. Outline and refine Alternate B

The workgroups, particularly the deminimus group, worked til report time.

The deminimus group did not reach a final conclusion, but made the following recommendations:

1. There should be a deminimus category.
2. The amount should be less than 25 tons. (What the precise number should be was not determined)
3. Each of the pollutants should have its own limits.

Alternative A was refined and a cap suggested.

Alternative B (copied from Kansas) using 10 classes instead of 20 was studied; recommended that a provision for new or industrial classes that had not been provided for in the 10 classes.

Several urge that the billing take place on the emission inventory which the department now has. There seemed to be a feeling that there were a number of sources and facilities which have not gotten into the system.

The Department will take the reports and come up with a proposed regulation by August 22, so a hearing can be held at the Tulsa meeting of the Air Quality Council on September 22, 1987.

Summary of the Permit/Fee Workshop Part II

August 12, 1987

Julius Kubier opened the workshop with comments and a brief summary of the previous workshop held on August 5, 1987. He stated that there were three points that needed to be addressed. The first one was the need for a de minimis to be set; the second was a need for a renewal amount to be set. It seemed that most at the previous workshop leaned toward the Kansas plan. As a result Mr. Drake and his staff were asked to apply numbers to each of the plans presented on August 5, 1987, and present them today.

The program was then turned over to John Drake. He pointed out that the staff did not have a great deal of time to work on this, but they were able to come up with some workable numbers.

The attached handout was passed out and discussed.

A participant raised the question with regard to those sources that are out there and are not reporting to us. John Drake responded that we would be naive to say that there were none out there. However, efforts would be made to locate such sources. There are also those out there that have not been contacted in several years, as the comment from the floor was made, and John Drake, responded that those facilities would in fact also receive an emission inventory update request as well as an invoice.

There was substantial concern that there were sources which would not accurately report their sources in order to avoid paying their fair share of fees. John Drake stated that we cannot send the facility on anything that we have not discussed with that facility. He invited the groups to come up with wording to be considered that would insure that such facilities did pay their part. We (the AQS) do not have an answer for this at the present time, and we need money by March. If we go out and look for these other sources, we won't have money by March. Dennis Doughty pointed out that once we become aware of a facility that is not in the system, we would send them a request for an emission inventory, which is standard procedure.

The alternatives A and B were reviewed briefly. Afterwards the participants broke up into three groups - one to work on the de minimis, one to work on the alternative A, and one to work on the alternative B. Grant Marburger of the Permit and Enforcement Division of the AQS worked with the de minimis group, while Angelo DeGiacomo of the Emission Inventory Section worked with the group on alternative A, and Larry Trent of the Emission Inventory Section worked with the group involved with alternative B.

Jim Pollard as the Chairman of the de minimis group stated that this is a very complicated issue. It was concluded that there should be a de minimis set, and that it should be set by type of pollutant. This group also felt that a category of class "O" should be added to the classification list and would include those industries with pollutant emissions which fell below the de minimis level. These facilities would in turn be charged no fee. The de minimis should be set below 25 tons per

year, but the group could not determine what that number should be. This de minimis would only apply to the fees. A comment from a participant suggested that this de minimis be tied to the Permit Division, because confusion could arise if we ended up trying to use two separate de minimis levels for separate issues. The question was asked if the zero category would still be needed, and the answer was "Yes". Dennis Doughty pointed out that it appeared that the criteria for assessing a fee might not be the same criteria for requiring a permit. Therefore, the two might be separate at first, but the common goal would be to use the same criteria in both instances. John Drake stated that he would not make a commitment then, but would go back to the office and think on it. He also pointed out that we were there to get as much input as possible from industry representatives in order to establish these fees in an equitable manner. It was pointed out that, although things were a little more set at the time of the next hearing, they could still come back and speak further.

Group A's presentation was not picked up by the recorder well enough to be deciphered.

The Kansas Approach was discussed. The first thing that was done was to set a billing date of January 1. The due date was set as thirty days after the billing date and late fees were deleted in favor of making the fees due to the AQS 10 days after the due date or enforcement action would be taken. This was proposed because there is wording in the law to cover that. They proposed that \$50 be set per class number. Regulation 1.4 definition 6 is the best definition the group could come up with for facility. The group decided that an annual renewal system would be acceptable. The concern was expressed that there be a way left to add to these classes in the event that a facility is found out there that does not fit into a class in our permitting system. Enforcement action would be taken in the form of notice of violation, if that was ignored we could come out with an administrative order and assess some fines for nonpayment. It was pointed out that we would need to drop the wording from the Kansas approach that would deem a facility to be "operating without a permit" for not paying fees.

Someone pointed out that it would simplify things if those facilities that were grandfathered were given a permit. Another party stated that it would be easier that way, but that seemed to be a gift that no one wanted to accept.

Dennis Doughty stated that the draft regulation presented would make a facility in violation of that regulation if they were operating without a permit.

It was explained that the due date was set to be 10 days after the billing date to avoid getting involved with the "we put it in the mail" excuses.

John Drake again explained that the regulation had to be made available to the public 20 days before the hearing, and as a policy the AQS has tried to make them available to the public 30 days before the hearing date for review. Then the Council holds the hearing and leaves the comment period open for 10 days after that. Then action would be taken in November. However, if the Council feels comfortable with it, they may take action in September.

Upon conclusion of the workshop, a form was provided for individuals to make their own comments and to express their preference of fee collection methodology. Seven preferred Alternative A, six preferred Alternative B, and one recommended the Alternative C. There were concerns expressed about the de minimis and the cap to be set on fees.

I. BACKGROUND

(A) AT THE MARCH 17, 1987, COUNCIL MEETING THE STAFF GAVE A PRESENTATION ON THE ERODING FUNDS OF THE AIR QUALITY SERVICE. AT THAT TIME, OUR BUDGET HAD BEEN CUT APPROXIMATELY \$100,000. THE STAFF PROPOSED TO RAISE THE CURRENT FEE SCHEDULE TO MAKE UP THESE LOSSES.

(B) THE FY-88 FUNDS WERE AGAIN REDUCED ANOTHER \$128,500 FROM THE FY-87 APPROPRIATIONS. AT THE MAY COUNCIL MEETING A PROPOSED REVISION TO REGULATION 1.4 WAS PRESENTED AT PUBLIC HEARING. THIS PROPOSAL, WHICH WAS CALCULATED TO RAISE APPROXIMATELY \$228,000 IN FEES, WAS VIGOROUSLY CHALLENGED AND CRITICIZED BY INDUSTRY. THIS HEARING WAS CONTINUED UNTIL THE JULY COUNCIL MEETING. THE COUNCIL ALSO INSTRUCTED THE STAFF TO MAIL OUT SUPPLEMENTAL NOTICES TO SMALLER OPERATIONS WHICH MAY NOT HAVE BEEN AWARE OF THESE PROPOSALS.

THE STAFF PREPARED AND MAILED OUT OVER 200 OF THESE SPECIAL NOTICES ON JUNE 12.

(C) A REVISED PROPOSAL WAS PRESENTED AT PUBLIC HEARING IN JULY. INDUSTRY WAS WELL REPRESENTED AND AGAIN VIGOROUSLY CHALLENGED THE STAFF PROPOSAL.

AFTER THE HEARING WAS CONCLUDED, THE COUNCIL AGAIN CONTINUED THE HEARING UNTIL SEPTEMBER. THE COUNCIL ALSO DIRECTED THE STAFF TO CONDUCT SUFFICIENT WORKSHOP MEETINGS TO INVESTIGATE ALTERNATIVE APPROACHES WHICH MIGHT RESOLVE THE INDUSTRY CONCERNS.

TWO WORKSHOPS WERE CONDUCTED ON AUGUST 5th AND AUGUST 12th. THESE WORKSHOPS WERE HOSTED BY THE STATE CHAMBER OF COMMERCE.

(D) WORKSHOP RESULTS

(1) AT THE FIRST WORKSHOP, THE STAFF PRESENTED THEIR APPROACH.

OG&E PRESENTED ALTERNATIVE "A", WHICH WOULD HAVE SET A BASE FEE FOR EACH FACILITY AND AN ADDITIONAL CHARGE FOR EACH POINT SOURCE UP TO A SET MAXIMUM.

ALTERNATIVE "B" WAS PRESENTED BY THE GAS PROCESSORS; THIS METHOD IS THE ONE CURRENTLY IN USE IN THE STATE OF KANSAS.

THE KANSAS METHOD CLASSIFIES ALL FACILITIES INTO ONE OF 20 CLASSES AND A DOLLAR AMOUNT IS MULTIPLIED BY THE CLASS NUMBER TO DETERMINE THE ANNUAL FEE.

(2) AT THE SECOND WORKSHOP, THREE WORK GROUPS WERE FORMED, EACH GROUP ADDRESSING RESPECTIVELY, THE ISSUES OF DE MINIMIS, ALTERNATIVE "A" AND ALTERNATIVE "B".

ALTHOUGH NO SPECIFIC LANGUAGE WAS FORTHCOMING FROM THESE WORK GROUPS, EACH GROUP TACKLED THE PROBLEMS ASSOCIATED WITH THEIR GROUP AND PRESENTED A CONSENSUS AT THE CONCLUSION OF THE SESSION. THE STAFF HAS ATTEMPTED TO INCORPORATE ALL OF THE SUGGESTIONS INTO THE PROPOSAL PRESENTED HERE TODAY. THE ONE SUGGESTION NOT ACCEPTABLE TO THE STAFF IS THE ONE WHICH WOULD NOT ALLOW FEES TO GENERATE MORE MONEY THAN THE LEGISLATURE APPROPRIATES. WE BELIEVE THIS WOULD BE

ADMINISTRATIVELY VERY DIFFICULT AND MORE APPROPRIATELY HANDLED BY A RULE CHANGE SETTING THE FEES BY REGULATION.

(3) SUMMARY OF WORKSHOP RESULTS

THE CONSENSUS OF THE WORK GROUPS IS AS FOLLOWS:

(a) SEPARATE DE MINIMIS LEVELS SHOULD BE ESTABLISHED BOTH FOR PERMITTING AND FOR PERMIT FEE PURPOSES. THE LEVELS SHOULD BE ESTABLISHED ON INDIVIDUAL POLLUTANTS AND SHOULD BE BELOW 25 T/YR. THIS SUGGESTION WAS INCORPORATED INTO THE STAFF PROPOSAL AT 1.4.1(b)(3)(A) WHICH SETS AN EMISSION RATE OF 1 LB/HR BEFORE THE REQUIREMENT FOR A PERMIT IS TRIGGERED, AND SECTION 1.4.1(c)(4)(B) WHICH SETS A DE MINIMIS RATE OF 10 TONS/YEAR FOR THE PURPOSES OF PERMIT RENEWAL FEES.

Consensus #2

(b) ANNUAL FEES SHOULD BE INVOICED BASED ON EMISSIONS INVENTORY. THIS IS SET FORTH IN THE STAFF PROPOSAL UNDER SECTION 1.4.1(c)(4)(C)(ii).

Consensus #3

(c) NEED DEFINITION OF MINOR SOURCE
THE STAFF PROPOSAL SETS FORTH A DEFINITION AT SECTION 1.4.1(c)(1)(C). THE DEFINITION IS THE SAME AS WAS PROPOSED IN JULY, BUT IS MORE MEANINGFUL BECAUSE OF THE DE MINIMIS QUANTITIES SET OUT IN THE CURRENT VERSION.

Consensus #4

AN UPPER LIMIT SHOULD BE SET FOR RENEWAL FEES.

THE STAFF PROPOSAL, AT SECTION 1.4.1(c)(4)(C) WOULD SET A MAXIMUM RENEWAL FEE OF \$500 PER YEAR. THIS WOULD BE A MAXIMUM PER FACILITY; A DEFINITION OF FACILITY HAS BEEN PROVIDED, AS WAS ALSO SUGGESTED.

II. STAFF PROPOSAL

(A) THE STAFF PROPOSAL WAS DISTRIBUTED AUGUST 21st, 1987. IT BASICALLY FOLLOWS THE KANSAS, OR ALTERNATIVE "B".

MAJOR SOURCE CONSTRUCTION PERMITS ARE SET AT \$2,000 AND OPERATING PERMITS AT \$1,500.

MINOR SOURCES GREATER THAN 25 TON/YEAR BUT LESS THAN 100 TON/YEAR WOULD BE ASSESSED A CONSTRUCTION PERMIT FEE OF \$1,000 AND AN OPERATING PERMIT FEE OF \$250.

MINOR SOURCES EMITTING ^{GREATER} ~~LESS~~ THAN 1 LB/HOUR BUT ^{LESS} ~~MORE~~ THAN 25 TON/YEAR WOULD BE ASSESSED A CONSTRUCTION PERMIT FEE OF \$200 AND AN OPERATING FEE OF \$100.

SHOULD THE STAFF REVIEW A PERMIT APPLICATION AND DETERMINE THAT A PERMIT IS NOT REQUIRED, THE ORIGINAL FEE WILL BE RETURNED UPON SUBMISSION OF A \$100 DETERMINATION FEE.

(B) PERMIT RENEWAL FEES AND RENEWAL EQUIVALENTS ARE BASED ON THE 10 CATEGORIES OF FACILITIES SET FORTH IN THE TABLE. EACH CLASS IS ASSIGNED A NUMBER FROM 1 TO 10. THE RENEWAL FEE IS DETERMINED BY MULTIPLYING \$50 TIMES THE CLASS NUMBER. EXAMPLE: IF THE SOURCE TYPE WERE A PETROLEUM REFINERY OR A COAL-FIRED ELECTRIC POWER GENERATING FACILITY, THE CLASS NUMBER ASSIGNED IS 10. $\$50 \times 10 = \500 RENEWAL PER YEAR. THIS IS THE MAXIMUM PER FACILITY.

(C) SELECTION OF APPROACH

THE STAFF BELIEVES THAT ALL OF THE APPROACHES HAVE MERIT. BASED ON THE WORKSHOP RESULTS, THERE WAS NO CLEAR CUT CONSENSUS AS TO WHICH APPROACH WAS FAVORED. IT SEEMED CLEAR THAT THE ORIGINAL STAFF APPROACH WAS FAVORED THE LEAST, AND THE KANSAS APPROACH, IF NOT A UNANIMOUS FAVORITE, WAS AT LEAST ACCEPTABLE TO INDUSTRY AS A WHOLE. THE APPROACH IS PERFECTLY ACCEPTABLE TO THE STAFF AND WE BELIEVE WILL SIMPLIFY THE ADMINISTRATION OF THE REGULATION FOR BOTH THE SERVICE AND INDUSTRY. THE STAFF, THEREFORE, CHOSE TO BASE TODAY'S PROPOSAL ON THE KANSAS APPROACH, OR THE ALTERNATIVE "B".

Staff recommends that the Council take action on this Reg. today.

Joan K. Leavitt, M.D.
Commissioner

OKLAHOMA STATE
DEPARTMENT OF HEALTH



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AN EQUAL OPPORTUNITY EMPLOYER

August 21 1987

MEMORANDUM

To Oklahoma Patrons

From: John W. Drake, Chief
Air Quality Service

John Drake

Subject: Revision of Regulation 1.4 Air Resource Management,
Permits Required Concerning Permits Fees

At the March 1987 Air Quality Council meeting, the Air Quality Service made a presentation showing that the funds to operate the Service had been "eroding" each year and the work was increasing. The conclusion of the presentation indicated the staff would present a proposed revision to the fee schedule to make up the approximately \$100,000 in erosion plus any FY-88 reductions in appropriations. When the legislature made the OSDH appropriation for this fiscal year, the AQS was reduced \$128,500 from the FY-87 appropriations. Thus, the staff presented at the May and July meetings a revision to the Council at public hearing designed to secure \$228,000 per year in fees.

At the July hearing, the regulated industry challenged all aspects of the staff's proposal concerning annual fees including equity, legality and the substance of the proposal. There was also concern expressed about the New Source fees and their reasonableness. The Council, after this hearing, decided to continue the hearing until the September Council meeting. Further, they directed the staff to conduct workshop-type meetings with the regulated community to investigate alternative approaches that might achieve the goal. The State Chamber of Commerce was also requested to host such meeting with the staff. These workshops were conducted on August 5th and 12th.

At the first workshop, presentations were made on the staff's approach and two alternatives. Alternative "A" presented by OG&E suggested that there should be one fee for every facility being directly regulated by the Service and an additional charge for each point (source operation) within the facility up to a maximum. Alternative "B" was presented by the Gas Processors Association and is the Kansas method of charging annual fees. This approach classifies all facilities into one of 20 classes and then a dollar amount is multiplied by the class number to determine the annual fee. In Kansas, this system is applied against about 1400 facilities and raises approximately \$200,000 per year.

The staff was requested to expand on these approaches and have the second workshop to further discuss the detail. The format of the second workshop was a brief presentation by the staff recapping each alternative; three work groups to discuss alternative A, alternative B and de minimis; reports from the work groups; and an individual report of preferences and concerns.

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The individual reports did not give a clear consensus as to the preferred approach. Alternative "A" was preferred by six, alternative "B" was preferred by five, the State's approach was preferred by one and two indicated either A or B would be appropriate.

Without a clear consensus, the staff elected to develop and present the B alternative in the proposed regulation revision to the Council for hearing in September. The use of facilities from the AQS emission inventory data base unrelated to emission points (source operations) will be the most convenient from the AQS administrative standpoint.

We are also including proposed revisions to Regulation 1.1 Defining Terms Used in Oklahoma Air Pollution Control Regulations wherein a definition of PM-10 is added, and 1.2 Air Quality Standard and Increments to adopt the recently promulgated National Ambient Air Standard for PM-10 and deleting the current standard for total suspended particulate (TSP). These are necessary as part of the State's requirement to develop a State Implementation Plan (SIP) for PM-10.

I would also advise you that the September Air Quality Council meeting originally scheduled for September 15 has been rescheduled for September 22, but still to be held in Tulsa at the City-County Health Department.

JWD/pjl